

January 14, 2010
Fremont, California

The regular monthly meeting of the Board of Directors of ALAMEDA COUNTY WATER DISTRICT was held on January 14, 2010 at the hour of 6:00 P.M. in the Directors' Room of the District Office Building, 43885 South Grimmer Boulevard, Fremont, California.

Present: Directors Huang (arrived at 6:09 P.M.), Gunther, Reynolds, Weed, and Koller

Staff members present: General Manager Walt Wadlow, Engineering Manager Bob Shaver, Finance and Administration Manager Will Ligh, Operations Manager Steve Peterson, Water Resources Manager Eric Cartwright, Human Resources Manager Altarine Vernon, Financial Services Manager Michael Yee, Sr. Water Resources Engineer Thomas Niesar, Attorney Patrick Miyaki, and District Secretary Gina Markou.

President Martin Koller presided.

Director Gunther led in the Salute to the Flag.

On behalf of the Board, President Koller clarified the process for public comment including the designation of a three-minute time limit to assist members of the public who wish to participate in the District's meetings.

3 – PUBLIC COMMENTS

- Ms. Wynn Grich, a Hayward resident, addressed the Board and voiced her concerns regarding the chemicals that are used in the water treatment process and the potential effects on human health.

4 – CONSENT CALENDAR

A motion was made by Director Gunther to add items 5.1 through 5.5 to the Consent Calendar, seconded by Director Reynolds.

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

A motion was made by Director Gunther, seconded by Director Huang to approve the following items on the Consent Calendar as amended.

- 4.1 Approval of Minutes – Regular Meeting of December 10, 2009
- 4.2 Ratification of Payment of Audited Demands dated December 11, December 18, December 23, December 31, 2009 and January 8, 2010

- 5.1 Authorization of Purchase Order for Consultant Services for Alameda Creek Fisheries Workgroup Flow Studies
- 5.2 Authorization of Purchase Order for Consultant Services for Treatment Process Technical Support
- 5.3 Authorization of Change Order No. 1 for Newark Brackish Water Desalination Facility Expansion Project
- 5.4 Resolution Finding the Removal, Disposal, and Installation of Filter Media at WTP No. 2 Categorically Exempt from CEQA and Approving the Project
- 5.5 Authorization of Purchase Order for Engineering Services for a Pipeline Relocation Feasibility Study

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

5 – ACTION CALENDAR (*Consent Calendar Items are indicated with an asterisk**)

5.1* AUTHORIZATION OF PURCHASE ORDER FOR CONSULTANT SERVICES FOR ALAMEDA CREEK FISHERIES WORKGROUP FLOW STUDIES

In 2006, ACWD, together with the other stakeholders in the Alameda Creek Fisheries Workgroup, entered into a Memorandum of Understanding (MOU) for conducting baseline flow studies to support the steelhead restoration efforts. Under this agreed-upon approach, a consultant (McBain and Trush, Inc.) has worked with the Workgroup members to conduct the initial flow and habitat studies. ACWD has also agreed to administer the contract with the Workgroup consultant. The first task (Phase 1) which included a review of all available data and recommendations for additional data collection was completed in 2007. A second phase (Phase 2) is currently underway, and consists of data collection and evaluation with the goal of estimating the range of additional flows (timing, location and quantity) needed in the watershed to support a steelhead fishery. The MOU (as amended in 2009) includes provisions for cost-sharing for the Workgroup’s consultant costs between ACWD, SFPUC, Zone 7 Water Agency, Alameda County Flood Control and Water Conservation District and PG&E.

On March 4, 2009 the Board authorized a purchase order to McBain and Trush, Inc. to begin the field work in support of the Alameda Creek Fishery Workgroup’s Instream Flow and Habitat Sampling and Analysis Plan (“Sampling and Analysis Plan”). This field work included: 1) completing basemap photography and production; 2) assembling and calibrating a habitat mapping team; 3) completing the spawning habitat assessment; and 4) initiating the field habitat mapping of the three mainstem study reaches in upper Alameda Creek. This initial work was completed in 2009 within budget at a total cost of \$57,000. Based on the funding and cost-sharing commitments provided for in the Workgroup’s MOU, ACWD’s share of these costs was \$12,667. In addition, in August 2009, ACWD authorized a separate purchase order with McBain and Trush to conduct a hydrologic assessment of Alameda Creek and assist in the development

of hydrologic and water temperature models of the Watershed. This work was recently completed on budget at a cost of \$21,600. Under the MOU's cost-sharing agreement, ACWD's share of these costs was \$4,800.

At the request of the Workgroup, McBain and Trush, Inc. has recently submitted a new proposal to: 1) complete the flow-habitat mapping at the three upper Alameda Creek locations that was initiated in 2009; and 2) continue with the hydrologic analyses and reporting task to evaluate potential scenarios for future flow releases from the SFPUC's facilities in the upper Watershed. The total cost of this additional work is estimated to be \$58,000. Based on the funding commitments provided for in the MOU amendment, ACWD's share of these costs will be \$12,905. There are sufficient funds in the FY09/10 budget for this expenditure.

A motion was made by Director Gunther, seconded by Director Huang to 1) authorize a Purchase Order to McBain and Trush, Inc. in an amount not to exceed \$58,000 for consulting services for the Alameda Creek Flow Studies, with a net ACWD cost of \$12,905 after cost-sharing; and 2) authorize the General Manager to execute a services agreement with McBain and Trush, Inc. for the proposed consultant services.

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller

NOES: None

ABSENT: None

5.2* AUTHORIZATION OF PURCHASE ORDER FOR CONSULTANT SERVICES FOR TREATMENT PROCESS TECHNICAL SUPPORT

The FY 09/10 and FY 10/11 budgets include several projects and studies that require environmental engineering technical support. These projects and studies include media replacement in Filters 4, 5, and 6 at WTP2, conversion from air-preparation equipment to liquid oxygen (LOX) fed ozonation at WTP2, full plant scale cationic polymer pre-qualification testing to expand the list of pre-qualified chemical bidders, and multiple studies related to plant optimization and regulatory drinking water compliance. District staff requested Water Quality & Treatment Solutions, Inc. (WQTS) to submit a priced proposal for the consultant services needed for treatment process technical support.

WQTS is particularly qualified for the work given their water treatment expertise and the recently completed Bromate Formation Reduction Study for WTP2. The scope of work for WQTS includes, 1) support services for the conversion to LOX at WTP2; 2) polymer testing; 3) a tracer study of the WTP2 clearwell needed to receive California Department of Public Health (CDPH) approval for chemical injection point modifications; 4) investigation of N-nitrosodimethylamine (NDMA) formation potential and control at the MSJWTP; and 5) specialized technical support for other treatment process related work.

WQTS's estimate for this work is projected to be \$86,950. The services will be performed on a time-and-materials basis as directed by the District. There is adequate funding in the FY 09/10 and FY 10/11 budgets for these expenditures.

A motion was made by Director Gunther, seconded by Director Huang to 1) authorize a purchase order to Water Quality & Treatment Solutions, Inc. for consultant services in an amount not to exceed \$86,950; and 2) authorize the General Manager to execute a consultant services agreement.

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

5.3* AUTHORIZATION OF CHANGE ORDER NO. 1 FOR NEWARK BRACKISH WATER DESALINATION FACILITY EXPANSION PROJECT

The construction contract for the Newark Brackish Water Desalination Facility Expansion project was awarded to C. Overaa & Company on February 12, 2009, in the amount of \$7,895,000. The contract specifies completion within 450 calendar days after the contractor's receipt of the District's Notice to Proceed. Work is approximately 25% complete.

Change Order No. 1 in the amount of \$54,413.99 has been prepared and includes the following additional work items requested by or agreed to by the District: 1) furnish and install a 12-inch pipe manifold to facilitate construction and start-up and to allow future treatment of water in the intertie pipeline (\$44,737.02); 2) relocate an existing air relief valve (\$4,477.13); 3) install landscaping improvements at the entrance road (\$2,123.21); 4) relocate two buried sample drain lines in conflict with the new concrete pads for the reverse osmosis equipment skids (\$1,245.90); 5) repair an existing damaged sample drain line (\$971.18); 6) install a 2-inch isolation valve on the plant domestic water line (\$502.86); and 7) upgrade a pressure control valve (\$356.69).

The contractor has provided notice that there is no time delay associated with the additional work. Staff has reviewed the costs for the additional work and has determined that they are fair and reasonable. There is adequate funding in the current budget for this work.

A motion was made by Director Gunther, seconded by Director Huang to approve Change Order No. 1 in the amount of \$54,413.99 to C. Overaa & Company for the Newark Brackish Water Desalination Facility Expansion, Job 6350.

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

5.4* RESOLUTION FINDING THE REMOVAL, DISPOSAL, AND INSTALLATION OF FILTER MEDIA AT WTP NO. 2 CATEGORICALLY EXEMPT FROM CEQA AND APPROVING THE PROJECT

WTP No. 2 was constructed in 1993 and is equipped with 6 filter beds. The media in Filters 1, 2, and 3 is anthracite/sand and the media in Filters 4, 5, and 6 is granular activated carbon (GAC)/sand.

In April 2009, the media in Filters 1, 2, and 3 was reconditioned by removing degraded anthracite material at the top of the media and replacing it with new anthracite to restore the performance of the filters. The reconditioned media is performing well. The GAC media in Filters 4, 5, and 6 has deteriorated to a depth that requires complete replacement of the media.

To determine the optimum filter media, the District conducted a filter media pilot study from August 2009 through December 2009. The purpose of the filter media pilot was to identify a dual media configuration capable of increased production with lower life cycle cost while maintaining filtered water quality. Since the cost of GAC is significantly greater than anthracite and performance has been similar, GAC was not considered. Results from the pilot demonstrated that a deep media configuration of 42-inches of anthracite over 9-inches of sand was superior in production and filter runtimes and equivalent in life cycle costs.

Accordingly, the existing GAC/sand media in Filters 4, 5, and 6 should be removed and legally disposed of and replaced with new anthracite/sand media. This project is subject to the California Environmental Quality Act (CEQA).

Certain project categories have been identified by CEQA to have no significant effect on the environment. These project categories are exempt from the environmental review process.

CEQA Section 15301 addresses Class 1 Categorical Exemptions and states “Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.” Section 15301 provides specific examples of Class 1 Categorical Exemption to include, “Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety.”

The Removal, Disposal, and Installation of Filter Media at WTP No. 2 Project qualifies for a Class 1 Categorical Exemption for the following reasons: 1) the media being replaced does not change the existing capacity; 2) the media replacement ensures that current standards of public health and safety are maintained; and 3) the project does not result in any significant environmental impacts.

Funds for the project were allocated in the FY 09/10 adopted budget. The project bid period is planned to begin in January 2010 and award of the project is anticipated to occur at the February 2010 Board Meeting.

A motion was made by Director Gunther, seconded by Director Huang to 1) adopt a resolution that finds the Removal, Disposal, and Installation of Filter Media at WTP No. 2 Project to qualify for CEQA Section 15301 Class 1 Categorical Exemption, and 2) approve the project, Job 6420.

RESOLUTION NO. 10-001

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT FINDING THE REMOVAL, DISPOSAL, AND INSTALLATION OF FILTER MEDIA AT WTP NO. 2 CATEGORICALLY EXEMPT FROM CEQA AND APPROVING PROJECT, JOB 6420

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

5.5* AUTHORIZATION OF PURCHASE ORDER FOR ENGINEERING SERVICES FOR
A PIPELINE RELOCATION FEASIBILITY STUDY

The San Francisco Public Utilities Commission (SFPUC) Bay Division Pipeline (BDPL) Nos. 3 and 4 Seismic Upgrade Project includes seismic modifications to the existing 78-inch BDPL No. 3 and 96-inch BDPL No. 4 at the Hayward Fault crossing, located at South Mission Boulevard and I-680 in Fremont. The BDPL No. 3 project includes the construction of a new 78-inch pipeline in a new 20' x 20' x 330' articulating concrete vault that is designed to accommodate a 6.5 feet earthquake-induced displacement. SFPUC's design, which is being performed by URS Corporation, is approximately 65% complete and the total project cost estimate is \$50 million. Two District water mains will be impacted by the SFPUC project: a 30-inch Zone 1 transmission main that serves Alameda Reservoir and a 12-inch Zone 2 main.

Two qualified consultants were invited to submit proposals to prepare a feasibility study for the relocation of the District's 30-inch and 12-inch pipelines. Both consultants submitted proposals to perform the work based on information and requirements presented by District staff at project briefing meetings. Based on a comprehensive evaluation of the proposals, URS Corporation was the firm determined to have the qualifications, staff, and proposed approach that best meets the District's needs. URS' estimated cost based on a time and expense basis for the work is \$59,500. There is adequate funding in the project for this expenditure. This item was reviewed with the Engineering and Capital Projects Committee on December 17, 2009.

A motion was made by Director Gunther, seconded by Director Huang to 1) authorize a purchase order to URS Corporation for engineering services in an amount not to exceed \$59,500; and 2) authorize the General Manager to execute a services agreement with URS Corporation for this work, Job 6448.

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

5.6 PUBLIC HEARING TO CONSIDER AMENDING SCHEDULE OF DISTRICT
RATES AND CHARGES; CONSIDERATION AND ADOPTION OF RESOLUTION
AMENDING RATES AND CHARGES

Mr. Wadlow reported that at the meeting of November 12, 2009, the Board received staff recommendations and called for a Public Hearing on January 14, 2010, to receive and consider comments on proposed revisions to certain District rates and charges.

Notices were mailed to all property owners who receive water service from the District on November 27, 2009 notifying them of a proposed 8.8 percent water rate and service charge increase. Two legal notices were published in The Argus on January 4, 2010 and January 9, 2010, and notices of the public hearing were posted at the city hall and main library of each of the Tri-Cities and on the District’s web site. An article publicizing the rate increase and public hearing was published in The Argus on December 9, 2009.

Mr. Yee presented a brief summary of the following rates and charges for which a change is recommended:

COMMODITY RATE

It is proposed that the base commodity rate for all customers within the District’s service area be increased by 8.8% effective February 1, 2010 to help recover the cost of increased operating expenses as well as to help fund capital projects needed to comply with state and federal drinking water regulations and to maintain the reliability of the water system. One capital project example is the addition of Phase 1 of the Seismic Improvement Program into the CIP. Among other factors, the District has had to face this year an unusual combination of dramatically decreased water demand, economic uncertainty, increased labor related costs, and increased purchased water costs. The financial impact of purchased water costs includes a greater reliance on expensive Hetch Hetchy water over the past several years due to cutbacks in Delta water deliveries.

Staff also proposes an 8.8% increase for those customers who are outside the District’s boundaries and for customers who only receive San Francisco Water. For the reasons detailed above, staff is also projecting the need for a 6.0% increase in 2011, but will come back to the Board next year once new data is available.

The proposed base commodity rates are summarized below.

	<u>Current</u>	<u>Proposed Eff. 2/1/10</u>
Base Commodity Charge (per HCF):		
Inside District	\$ 2.531	\$ 2.754
Outside District	2.910	3.166
San Francisco Water Service	2.682	2.918

February 1 is proposed as the effective date to ensure compliance with Proposition 218 notification requirements.

BIMONTHLY SERVICE CHARGE

The bimonthly service charge is set to recover certain fixed costs, including meter reading and customer service, meter and service line maintenance and replacement, and an increased portion of the annual debt service on bonds issued to finance Water Treatment Plant No. 2 capital costs. The bimonthly service charge was last adjusted in February 2009. It is proposed that the bimonthly service charge be increased by 8.8% for all meter sizes and customer types. This means that for a 5/8 inch or 3/4 inch meter, the bimonthly charge would be increased from \$10.68 to

\$11.62. Staff is also preliminarily considering a 6.0% increase in 2011, but will come back to the Board next year once new data is available.

COST COMPARISON - AVERAGE WATER BILL

The net effect of the proposed increase to the base commodity rate, and service charge, would increase the total bi-monthly water bill (commodity and service charge) for an average residential customer who uses 23 units of water (approximately 283 gallons per day) by 8.8% or \$6.07 from \$68.89 to \$74.96, which would mean a \$3.04 increase per month, or about 10 cents a day.

The \$6.07 bi-monthly increase for the average customer is made up of the following cost components:

Purchased Water	\$1.42	24%
Operating Expenses	\$1.37	22%
Capital	\$1.06	17%
Maintenance Expenses	\$0.95	16%
Admin & General	\$0.79	13%
Power	\$0.25	4%
Debt Service	<u>\$0.23</u>	<u>4%</u>
Total	\$6.07	100%

This would continue to place the District’s average residential water bill in the lower third of the 30 other Bay Area agencies surveyed. However, note that this is comparing the District’s proposed 2010 rates with the current 2009 rates of all the other surveyed agencies. A number of these agencies are projecting double-digit increases next year, and by next July, it is anticipated that the District will rank even lower in total cost in the survey, reflecting the District’s efforts to control costs while providing a high level of service to our customers.

DEVELOPMENT RELATED FEES AND CHARGES

The facilities acreage and connections charges are collected from developers and deposited into the Facilities Improvement Fund to pay for the growth related portion of new capital facilities. The Facilities Connection Charge (FCC), Facilities Acreage Charge (FAC), Standard Acreage Charge (SAC), and Front Foot Charges (FFC) are typically set one year in advance to enable developers to budget fee changes well in advance of the effective date. Charges effective February 1, 2010 were previously adopted by the Board on January 8, 2009.

Based on the Financial Planning Model’s latest projection of growth-related capital projects and projected revenue, staff is proposing a 9.0% increase to both the general Facilities Acreage Charge and potable Facilities Connection Charges effective February 1, 2011.

All of the above-proposed changes are shown below.

	<u>Adopted</u> <u>Eff. 2/1/10</u>	<u>Proposed</u> <u>Eff. 2/1/11</u>
Facilities Acreage Charge:		
General	\$ 6,645	\$ 7,243
New Non-District	1,250	1,449
Non-Potable	1,250	1,449

Facilities Connection Charge (Residential Meters):

	<u>Adopted</u> <u>Eff. 2/1/10</u>	<u>Proposed</u> <u>Eff. 2/1/11</u>
Single Family Dwelling Units	\$ 5,823/du	\$ 6,347/du
Multiple Dwelling Units	4,661/du	5,080/du
Residential Dormitory	3,495/du	3,810/du

Facilities Connection Charge (Nonresidential, Municipal and Irrigation Meters):

<u>Meter Size</u>	<u>Adopted</u> <u>Eff. 2/1/10</u>	<u>Proposed</u> <u>Eff. 2/1/11</u>
3/4"	\$ 8,215	\$ 8,955
1"	12,420	13,538
1½"	18,202	19,840
2"	22,236	24,237
3"	36,807	40,119
4"	61,131	66,633
6"	89,908	98,000
8"	137,576	149,958

WELL STANDARDS ORDINANCE ADMINISTRATION FEE

The District charges permit fees for the construction or destruction of production wells, monitoring wells, cathodic protection wells and exploratory holes. These fees were last adjusted in 2009. Fees are set to recover the cost of service. The proposed changes are as follows:

President Koller opened the public hearing at 6:41 P.M. and called for comments on the proposed revisions to the District's rates and charges,

Mr. Ken Nishimura, a Fremont resident, addressed the Board and seeing as it was his first meeting he has attended in person with the new General Manager he congratulated and welcomed Mr. Wadlow.

Mr. Nishimura asked the Board to carefully consider how to minimize the impact of rising costs and mitigate them as much as possible. Mr. Nishimura indicated that he understood the impending increase in water rates is partly a result of San Francisco Public Utilities Commission and the cost of Hetch Hetchy water.

Mr. Nishimura did not formally object to the proposed rate increase but encouraged the District to institute a tiered rate structure.

Ms. Pat Franco, a Fremont resident, addressed the Board. She described her personal circumstances and asked why the District is raising the rates during these tough economic times. The Board thanked Ms. Franco for attending the meeting and sharing her concerns. The Board indicated that they recognize the challenge that increasing rates presents to individuals on fixed incomes. The Board detailed the reasons that the rate increases are needed to continue providing the community with a reliable supply of high quality water. Mr. Wadlow provided additional information to Ms. Franco.

Discussion ensued and staff responded to questions from the Board. In response to Board questions about the establishment of a "life-line" rate, Mr. Wadlow, assisted by Counsel, explained the reasons that Proposition 218 did not support establishing such a rate. Mr. Wadlow indicated that a tiered rate or "conservation rate" structure could be established which would have lower volumetric rates for customers using less water as many individuals on fixed incomes do. The Board expressed support for that approach and directed staff to investigate such a structure.

There being no other comments from the audience on the proposed changes, President Koller closed the public hearing at 6:49 P.M.

A motion was made by Director Gunther, seconded by Director Weed to 1) make the finding that the rate changes are for one or more of the purposes listed above in regard to the California Environmental Quality Act, and authorize the General Manager to file a Notice of Exemption with the County Clerk; and 2) adopt a resolution implementing the recommended revisions to the rates and charges.

RESOLUTION NO. 10-002

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
MODIFYING VARIOUS RATES AND CHARGES

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

5.7 AUTHORIZATION OF PURCHASE ORDER AMENDMENT FOR DESIGN AND CONSTRUCTION SERVICES FOR THE NILES BOULEVARD PIPELINE PROJECT

Director Weed stated that as an owner of commercial property in the Niles district of Fremont located in close proximity to the project, he would, as required by law, recuse himself from any participation in or discussion of Item 5.7. Director Weed left the Director's Room at 7:25 P.M.

Mr. Shaver then reported that on October 8, 2009, the Board authorized a purchase order to HMH for design services in the amount of \$59,940 for the design and construction support for the Niles Boulevard Pipeline Project. The purpose of the project is to relocate and replace the existing water main to avoid conflicts with the City of Fremont's Niles Boulevard Roadway Improvement Project. The project consists of design and installation of 2,000 linear feet of 12-inch water main.

HMH's original scope included provisions for four (4) pothole locations. Because existing utility record drawings are incomplete, additional potholing is required to accurately assess underground utility locations. Accordingly, staff requested HMH to submit a proposal for four (4) additional pothole locations. HMH's proposal of \$5,000 was evaluated by staff and was determined to be fair and reasonable for the work required. There is currently sufficient funding in the budget for this expenditure.

A motion was made by Director Reynolds, seconded by Director Gunther to authorize a purchase order amendment for additional design services to HMH in the amount of \$5,000 for the Niles Boulevard Pipeline Project, Job 6438.

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, and Koller
NOES: None
ABSENT: Director Weed

Director Weed returned to the Director's Room at 7:29 P.M.

5.8 AUTHORIZATION FOR PARTICIPATION IN THE 2010 RESIDENTIAL HIGH EFFICIENCY CLOTHES WASHER REBATE INITIATIVE AND FOR ADDITIONAL FUNDS FOR THE 2009 PROGRAM

Director Koller reported that he attended the Union Sanitary District (USD) Board Meeting to urge USD to provide additional funding for the cooperative clothes washer rebate program. The presentation was well received by the USD Board who had a few questions on how the water savings are derived and Mr. Wadlow described the details. The General Manager of USD indicated they would pursue adoption of the program into their annual budget. The USD Board

also approved an additional \$25,000 to add to their existing participation in ACWD's 2010 program.

Mr. Cartwright reported that during 2008 and 2009, ACWD participated in the Bay Area Water Agency and Pacific Gas and Electric Company (PG&E) Cooperative Clothes Washer Rebate Initiative Program ("Program"). PG&E acted as the Program administrator. The intent of the Program was to encourage customers to purchase high efficiency clothes washers, as well as encourage manufacturers to develop and market these washers, by providing rebates for the most water-efficient clothes washers available. The Program has been very successful, resulting in over 5000 high efficiency washers installed within ACWD's service area during the last two years.

Staff proposes to continue the existing Program for another year, through December 31, 2010. During the 2010 Program, rebates will be provided for Consortium for Energy Efficiency Tier 3 Clothes Washers only, the most water-efficient washers on the market today. Tier 2 washers will no longer be supported. Tier 3 washers will be eligible for a \$100 rebate (\$50 from PG&E and \$50 from ACWD). Based on an estimated 3000 rebates for ACWD's service area for 2010, the total estimated cost of rebates for ACWD is \$150,000. ACWD will also be responsible for PG&E Program administration fees. These administration fees are estimated at \$32,500 for a total annual ACWD program cost of \$182,500. There may be an opportunity to reduce ACWD's net cost for the program through a cost-share arrangement with Union Sanitary District (USD), as was done for the 2009 program. The USD Board is scheduled to consider this at their January 11, 2010 Board meeting.

An agreement between ACWD and PG&E for Program administration has been drafted to continue the Program through December 31, 2010, with an option to amend the contract to continue the Program for another year through December 31, 2011. Sufficient funds are contained within the FY 09/10 and FY 10/11 budgets to cover the cost of this Program.

In addition, the number of rebate applications submitted for the 2009 Program, especially during the last six weeks, exceeded ACWD staff expectations (which were based on the 2008 Program participation). PG&E has also decided to extend the 2009 application cut-off date by 60 days, to March 1, 2010. As a result, funding for the Program will be depleted before all eligible applications are received. About 2400 rebates have been issued since January 1, 2009. Total expenditures for the 2009 Program are estimated at \$320,000. Of that ACWD has expended \$275,000 and USD cost-share funds have covered approximately \$45,000. Staff proposes to continue the Program for purchases made through December 31, 2009, and honor the extension of the 60 day application deadline, at an estimated additional cost of \$95,000. This includes approximately 725 additional rebates and Program administration fees. Sufficient funds are contained within the FY 09/10 budget to cover the additional cost of this Program.

Mr. Ken Nishimura informed the Board that there is pending legislation in Congress for "cash for clunkers" for appliances and that may result in a much higher than expected demand on rebates and the Board may want to consider a coordination of benefits provision in order to extend the lifetime of the funds. He also asked the Board to request staff to prepare an analysis of the marginal cost of providing water that would enable members of the public to more easily gauge the cost benefit of conservation programs that are brought before the Board.

Discussion ensued and staff responded to questions from the Board. During discussion, the Board inquired what the cost was for each acre foot of water conserved by the program. Mr. Wadlow indicated that, based on the cost of the program to date and the estimated amount of water conserved, the cost was in the range of \$250/AF, which is very cost effective.

A motion was made by Director Reynolds, seconded by Director Gunther to 1) approve ACWD's participation in the 2010 Bay Area Water Agency and PG&E Cooperative Clothes Washer Rebate Initiative until the end of 2010, effective January 1, 2010; 2) authorize the General Manager to enter into an agreement with PG&E, for Program administration; 3) authorize a Purchase Order to PG&E in an amount not to exceed \$182,500 for ACWD's portion of the rebates and related fees for the Program; and 4) authorize an amendment to the existing purchase order with PG&E for the 2009 Program for an additional \$95,000, for rebates and related fees, to cover rebates for washers purchased through the end of the 2009 Program.

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

5.9 RESOLUTION AWARDING CONTRACTS FOR WATER MAIN RELOCATIONS TO ACCOMMODATE THE SAN FRANCISCO PUBLIC UTILITIES COMMISSION BAY DIVISION PIPELINE NO. 5 PROJECT

Mr. Shaver reported that the San Francisco Public Utilities Commission's (SFPUC's) Bay Division Pipeline (BDPL) No. 5 Project consists of the construction of a 72-inch welded steel pipeline adjacent to the existing BDPL No. 1 and 2 pipelines through the cities of Fremont and Newark. BDPL No. 5 will cross 55 existing District water mains, most of which are within SFPUC right of way under revocable permits. The SFPUC awarded construction on October 27, 2009, and construction is scheduled to begin in March 2010.

On November 12, 2009, staff informed the Board of the following: 1) a total of 19 asbestos cement pipeline (ACP) segments need to be relocated and replaced with steel pipe; 2) the complexity, level of effort required, and schedule to accommodate the SFPUC project requires contractors to supplement District forces; and 3) the contractor-performed work will be divided into three separate projects, and it may be necessary to award these three separate projects to different contractors. Accordingly, the Board waived Procurement Policy No. 1 and authorized staff to proceed with an abbreviated process that would involve soliciting written bids from a predetermined list of contractors that have satisfactorily performed similar work for the District in the recent past. To date, nine relocations have been completed by District forces.

On December 14, 2009, the project (consisting of five pipeline relocations grouped into three separate Schedules) was advertised for bids. Five (5) Contractors were invited to bid: McGuire & Hester, MJB, Mountain Cascade, Inc., R. J. Gordon, and Ranger Pipelines, Inc. These contractors have either satisfactorily completed a District pipeline project within the past four (4) years or, in the case of Ranger Pipelines, Inc., will be constructing SFPUC's BDPL No. 5 Project.

On January 5, 2010, the District received and opened 3 bid proposals for the project. All bids were checked arithmetically and for compliance with the bidding requirements. The lowest responsive bidder for each Schedule is as follows:

- Schedule A: R.J. Gordon - \$254,450
- Schedule B: McGuire & Hester - \$128,000
- Schedule C: McGuire & Hester - \$134,000

District staff subsequently contacted the low bidder for each Schedule and confirmed that the contractor plans to dedicate the appropriate resources to meet the required 60 calendar day schedule.

The current estimated cost to complete of all of the required relocations to accommodate the SFPUC project is \$1,550,000, which is significantly greater than the funding currently allocated in the adopted budgets: \$500,000 for FY 09/10 and \$200,000 for FY 10/11. These additional costs are primarily due to the level of relocation effort (based on SFPUC's preliminary design), which is greater than what was initially anticipated.

Since all of the relocation work is required to be completed in this fiscal year, \$1,050,000 in additional funding is required during FY 09/10. To address a portion of the shortfall, staff recommends a reserve appropriation in the amount of \$200,000 to account for accelerated work that was initially programmed for FY 10/11. The FY 10/11 budget will be appropriately adjusted during the mid-cycle budget review process. To address the balance of funding shortfall (\$850,000), staff recommends two intra-budget transfers: \$300,000 from the Mission San Jose Water Treatment Plant Upgrade Project and \$550,000 from the Water Main Replacement Program. This is appropriate because the MSJWTP FY 09/10 funding will not be required as a result of recent settlements and the relocation work is consistent with the planned main replacement program.

Director Huang commented that it is unfortunate that due to SFPUC's revocable permit the District has no choice but to spend the money to fix something that San Francisco should have fixed a long time ago.

A motion was made by Director Reynolds, seconded by Director Gunther to 1) authorize a reserve appropriation in the amount of \$200,000 to Main Relocations for SFPUC Bay Division Pipeline No. 5 Project (CIP Project No. MM4005); 2) authorize budget transfers in the amounts of \$300,000 and \$550,000 from WTP1- Modifications (CIP Project No. PJ0106B) and the Water Main Replacement Program (CIP Project No. MM8001), respectively, to Main Relocations for SFPUC Bay Division Pipeline No. 5 Project (CIP Project No. MM4005); and 3) adopt a resolution to award contracts as follows: Schedule A to R.J. Gordon in the amount of \$254,450, Job Nos. 6397 and 6409; Schedule B to McGuire & Hester in the amount of \$128,000, Job Nos. 6400 and 6401, and Schedule C to McGuire & Hester in the amount of \$134,000, Jobs 6398 and 6399, for the Water Main Relocations to Accommodate the San Francisco Public Utilities Commission Bay Division Pipeline No. 5 Project.

RESOLUTION NO. 10-003

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
ACCEPTING PROPOSAL OF, AND AWARDING SCHEDULE A OF THE
CONTRACT TO R.J. GORDON CONSTRUCTION, INC, AND SCHEDULES
B AND C TO MCGUIRE & HESTER, FOR WATER MAIN RELOCATIONS
TO ACCOMMODATE THE SAN FRANCISCO PUBLIC UTILITIES
COMMISSION BAY DIVISION PIPELINE NO. 5 PROJECT

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller

NOES: None

ABSENT: None

5.10 AUTHORIZATION OF CHANGE ORDER NOS. 3 AND 4 AND RESOLUTION
ACCEPTING COMPLETION OF THE BUNTING POND FISH SCREEN SITE
CONSTRUCTION AND RUBBER DAM NO. 2 DECOMMISSIONING PROJECTS

Mr. Shaver reported that on April 14, 2009, the Board awarded the construction contract for the Bunting Pond Fish Screen and Rubber Dam No. 2 Decommissioning and Foundation Modification Projects to Valentine Corporation in the amount of \$767,369.00.

Change Order No. 1 in the amount of \$47,799.53 for Rubber Dam No. 2 foundation modification was authorized by the Board on August 13, 2009. As previously described to the Board, Change Order No. 2 in the amount of \$47,369.00 (Job 6386) was required to expedite structural modifications required to complete the meter test bench installation at the District's Headquarters facility.

Change Order No. 3 in the amount of \$5,932 has been prepared to cover the following work requested by the District: 1) modification of the fish passage exit pool for Rubber Dam No. 2 in accordance with National Oceanic and Atmospheric Administration (NOAA) requirements (\$3,042); 2) addition of vinyl coating for the fish screen fence (\$2,968); 3) installation of additional subbase material, grading and compaction for the Bunting Pond site (\$1,639); 4) additional electrical work required to install new conduit and cable; 5) modification of the galvanized steel ladder to access the fish screen and hoist box (\$1,000); and 6) a credit for the deletion of grouting the existing 42-inch bypass pipe, which was not necessary as it was filled with gravel (-\$4,000). Staff has reviewed the costs associated with the additional work and has determined that they are fair and reasonable for the work performed.

As reviewed with the Engineering and Capital Projects Committee on December 17, 2009, significant erosion was recently observed by District staff below the Rock Pond inlet/outlet structure in the Quarry Lakes recharge area. The pipeline outlet structure is currently above the pond water line, and repair work needs to be completed before the seasonal water level in the pond rises. Although the erosion is unrelated to the Bunting and Rubber Dam 2 projects, staff requested Valentine Corporation to perform the erosion repair work on a cost plus basis of compensation in order to expedite the work. Change Order No. 4 in the amount of \$15,520.98 is for the following work: 1) hand excavation and compaction of the existing surface around the outlet structure; 2) installation of geotextile fabric; and 3) installation of rock rip rap.

All work is now substantially completed. The total project cost for the site construction contract, including all change orders and quantity adjustment for unit price items is \$882,790.51. There is adequate funding in the current budget for these expenditures.

Mr. Shaver refreshed the Board's memory with regards to the notch issue associated with the Rubber Dam No. 2 removal project. In summary, as indicated previously to the Board, the design consultant, CH2MHill incorrectly transposed survey coordinates on the construction drawings. This was not the contractor's problem but resulted in a change order of almost \$48,000. Initially the consultant, CH2MHill agreed to contribute \$13,000 of services to the District. The Board made it clear to staff that the amount was not sufficient. Staff has since renegotiated with CH2MHill and Mr. Shaver gave a detailed breakdown of the construction and delay costs and CH2MHill has agreed to the following: \$11,000 will be credited for work already performed by the District and \$21,500 will be a credit for future service to the District. That totals \$32,500 of the \$47,799.54 change order. Staff and District Counsel believe this to be a fair resolution. The Board thanked staff for renegotiating with CH2MHill.

A motion was made by Director Reynolds, seconded by Director Weed to 1) approve Change Order No. 3 in the amount of \$5,932.00; 2) approve Change Order No. 4 in the amount of \$15,520.98; 3) adopt a resolution accepting the completion of the Bunting Pond Fish Screen Site Construction Project and Rubber Dam No. 2 Decommissioning and Foundation Modification Project, Jobs 4313.2 and 6320.

RESOLUTION NO. 10-004

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
ACCEPTING COMPLETION OF CONTRACT NO. 3638, VALENTINE
CORPORATION, JOBS 4313.2 & 6320

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

5.11 RESOLUTION ADOPTING THE JANUARY 2010 WATER SUPPLY ASSESSMENT
FOR THE MASONIC HOMES FLATLANDS PROJECT

The City of Union City has requested a Water Supply Assessment for the Masonic Homes Flatlands Project ("Project"). The Project includes up to 1,750 housing units of mixed density, three acres of agriculture and institutional use, and 100,000 square feet of retail commercial building area. The Project site covers approximately 67 acres and is located in northeastern Union City along Mission Blvd.

The Project is located within the boundary of the Union City Hillside Area Plan, which is part of the General Plan. The Project will require voter approval of General Plan and Zoning amendments to remove the specific location from the defined Hillside Area Plan. The City anticipates that an initiative to remove the Project site from the Hillside Area Plan boundary will be considered in the November 2010 election. The current schedule anticipates the Project to be

built out in three phases over the next five to ten years. This Project requires a water supply assessment under the California Water Code Section §10910.

Staff has prepared a water supply assessment for the Masonic Homes Flatlands Project, in response to a request by the City of Union City, received on September 28, 2009. The current zoning and approved use of the Project site allows for development of a 110 acre 18-hole golf course, as described in the 2002 General Plan EIR. The assessment estimated the Project water demands to be approximately 440 acre feet per year and to be consistent with the water demands of the previously approved golf-course.

The assessment also provides a comparison of ACWD water supplies and projected future demands, which includes the demands associated with the proposed Project. In order to account for future Delta pumping restrictions, the assessment relies on State Water Project reliability data received by personal communications from Department of Water Resources Delta Office Chief, Katherine Kelly, rather than the last published data from 2007. ACWD staff believes that this communication better reflects the anticipated Draft 2009 State Water Project Reliability Report data, which has been delayed but is expected to be released during the month of January 2010. The 2009 Report is understood by ACWD staff to include reduced deliveries stemming from the biological opinions for endangered species (Delta smelt and salmonids), sufficiently provided for candidate species the longfin smelt, and includes updated climate change impacts. Using the 2009 data is more conservative and more accurately reflects the data anticipated to be publically available later in the year when the Project EIR is published.

Because the Project's demands are consistent with those of the existing zoning, the Project will not result in increased shortages from that which are already factored into ACWD's planning. However, in order to minimize the additional demands on ACWD's potable water system, the water supply assessment requires that the Project be constructed with the latest appropriate water conservation technology measures.

Mr. Niesar provided a detailed overview of the Water Supply Assessment.

Mr. Ken Nishimura thanked Mr. Niesar for the presentation and asked for clarification of the logic of the conclusion. Staff clarified that the water use anticipated for the proposed development was similar to that of the previously identified land use as a golf course.

Ms. Pat Franco inquired as to where the fault line is in relation to the project.

Ms. Carmela Campbell, Planning Manager for City of Union City, responded to Ms. Franco's question with regards to the fault line. The City is working with a consultant and is conducting an environmental report as well as geotechnical investigations to insure that the development will meet all requirements relative to seismic safety.

Director Koller inquired as to how the City will insure that this particular complex will utilize the latest technology in water conservation measures and what role the District might have to take. Ms. Campbell responded by stating that the water conservation mitigation measures as outlined in the Water Supply Assessment will be closely monitored by the City to insure that the fixtures will be installed and maintained.

Discussion ensued and staff responded to questions from the Board.

A motion was made by Director Reynolds, seconded by Director Gunther to 1) adopt a resolution adopting the January 2010 Water Supply Assessment for the Masonic Homes Flatlands Project and 2) authorize and direct the General Manager to submit the January 2010 Water Supply Assessment for the Masonic Homes Flatlands Project to the City of Union City.

RESOLUTION NO. 10-005

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
ADOPTING THE JANUARY 2010 MASONIC HOMES FLATLANDS
PROJECT WATER SUPPLY ASSESSMENT

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

5.12 RESOLUTION AUTHORIZING THE ENTERING INTO A MEMORANDUM OF
UNDERSTANDING WITH THE BAY AREA REGIONAL CONSORTIUM FOR
MUSSEL PREVENTION

Mr. Peterson reported that quagga and zebra mussels are an invasive aquatic nuisance species that pose serious economic, environmental, recreational and agricultural risks to Bay Area waterways. Quagga mussels were discovered in Southern California in January 2007. In January 2008, the related zebra mussel was discovered in nearby San Justo reservoir in San Benito County. Recreational boating has been identified as the primary method which can introduce mussels to a waterway. The threat of introduction of zebra and quagga mussels is a multi-jurisdictional problem. The Bay Area Regional Consortium for Mussel Prevention (Consortium) was organized in 2009 to facilitate inter-agency coordination on quagga and zebra mussel prevention activities. The group, led by the Santa Clara County Parks and Recreation Department, has cooperatively developed the *Bay Area Consortium Zebra and Quagga Mussel Coordinated Prevention Plan*. Cornerstone elements of the plan include regional standardized protocols, reciprocal vessel banding, shared real-time database tracking, reservoir monitoring and other control measures.

A cooperative Memorandum of Understanding (MOU) has been developed to formalize agency participation in the Consortium. By signing the MOU, the Consortium members agree to make best efforts to prevent the introduction of zebra and quagga mussels by implementing the applicable portions of the *Coordinated Prevention Plan* to the member's operations. The MOU is for a term of 5 years, with a 30 day termination notice. While participating in the Consortium, ACWD would: continue to monitor monthly for the presence of mussels in Horseshoe Lake and Shinn and Kaiser Ponds; continue working with East Bay Regional Park District (EBRPD) on vessel inspection programs consistent with the regional approach; continue cooperating with the Department of Fish and Game and EBRPD on veliger (juveniles) monitoring at Quarry Lakes; post mussel information and links on the ACWD Web site; and notify the other Consortium members of any suspected or confirmed detection of mussels. Benefits of participating in the

Consortium include an opportunity to coordinate on outside funding requests, cooperation with other agencies on standard monitoring and inspection protocols, sharing of inspection data and notification of suspected mussel detections by other Consortium members, and development of reciprocal boat banding programs and real-time data sharing between agencies.

Other agencies participating in the Consortium include: Santa Clara County Parks and Recreation Department, Contra Costa Water District, Monterey County Water Resources Agency, San Benito County Water District, East Bay Regional Park District, Zone 7 Water Agency, and the Santa Clara Valley Water District.

Discussion ensued and staff responded to questions from the Board.

A motion was made by Director Gunther, seconded by Director Huang to adopt a resolution authorizing the General Manager to enter into a Memorandum of Understanding to participate in the Bay Area Regional Consortium for Mussel Prevention.

RESOLUTION NO. 10-006

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
AUTHORIZING THE GENERAL MANAGER TO ENTER INTO A
MEMORANDUM OF UNDERSTANDING WITH THE BAY AREA
REGIONAL CONSORTIUM FOR MUSSEL PREVENTION

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

5.13 AUTHORIZATION OF GENERAL MANAGER TO EXECUTE TWO AGREEMENTS
REGARDING THE 2010 QUAGGA AND ZEBRA MUSSEL PREVENTION
PROGRAMS AT THE QUARRY LAKES REGIONAL RECREATION AREA AND
LAKE DEL VALLE

Mr. Peterson reported that on July 10, 2008, the Board authorized the General Manager to negotiate an agreement with the East Bay Regional Park District (EBRPD) for a pilot watercraft inspection program for quagga and zebra mussel prevention at the Quarry Lakes Regional Recreational Area. On March 12, 2009, the Board authorized the General Manager to execute a new agreement with EBRPD to continue the inspection program at Quarry Lakes for 2009. The program includes cost-sharing for one full-time seasonal (nine-month) park ranger to cover watercraft inspections. Because EBRPD has elected to allow boating seven days per week on a year-round basis, the additional costs for staffing to provide inspection coverage throughout the year are the sole responsibility of EBRPD.

On June 12, 2008, the Board authorized the General Manager to negotiate a four-way agreement that shares costs equally among the EBRPD, Zone 7 Water Agency, Santa Clara Valley Water District (SCVWD) and ACWD to fund a pilot watercraft inspection program for quagga and zebra mussel prevention at Lake Del Valle. On March 12, 2009, the Board authorized the

General Manager to execute a new agreement with EBRPD to continue the program for 2009. Due to the high boating volume at Lake Del Valle, the program includes two year-round full time rangers and two seasonal (nine-month) park rangers to cover year-round inspections seven days per week.

The purpose of these two programs is to prevent the introduction of quagga or zebra mussels into Quarry Lakes and Lake Del Valle by watercraft. The potential consequences of an infestation include damage to the aquatic ecosystem and reduction in recreational opportunities. In addition, an infestation at Lake Del Valle would result in a loss of South Bay Aqueduct transmission capacity, fouling of water treatment plant intakes and process equipment, impairment of hydropower generation, and reduction of water diversion capacity for groundwater recharge operations. An infestation at Quarry Lakes would have similar consequences resulting in impaired groundwater recharge operations and greatly increased costs for additional maintenance and new capital improvements. An active prevention program is considered to be cost-effective since it reduces the risk of an infestation thereby avoiding significantly higher costs for maintenance and capital investments in SBA and water utility infrastructure.

ACWD and EBRPD continue to share concerns over the potential consequences of an invasive species infestation at Quarry Lakes and Lake Del Valle. Fortunately, there has been no indication to date of a species invasion at either location. Watercraft inspection programs continue to be the best proactive management practice for lakes open to recreational watercraft activities.

Between January and November 2009, EBRPD inspected 1,453 and 12,595 boats at Quarry Lakes and Lake Del Valle, respectively. The average inspection failure rate at all EBRPD lakes combined was 6%, with Lake Del Valle having the highest failure rate of 7% and the other lakes having a 1% failure rate. Failures are generally due to the presence of water in the boat or outboard motor rather than suspected mussel contamination, and a few failures are due to boats having been previously used in infested waters. The EBRPD inspection program includes banding of trailered boats so that return visitors do not have to be re-inspected if they have not been in another water body; at Lake Del Valle, approximately 48% of boats arriving are banded return visitors. The program also includes inspection of all car-top boats and float tubes that access the lakes, which ensures a high level of protection. To date, the program has been successful in educating boaters, inspecting all watercraft that use the lakes, and preventing an infestation.

For 2010, EBRPD is proposing to continue the current inspection programs at Quarry Lakes and Lake Del Valle, including ACWD's participation in covering 50% and 25% of the cost of the programs, respectively. The new agreements also include an option for a one year extension. EBRPD will continue to collect inspection fees (at the same rate) at each location and share the revenue on a pro rata basis with its partners. The inspection fees effectively reduce the cost of the inspection programs. Through September 2009, ACWD has been reimbursed approximately \$512 from Quarry Lakes and \$5,786 from Lake Del Valle inspection programs. Although outside funding is being pursued for these programs at the State and Federal level, at this time adequate funding is not available to continue the programs without water agency participation. ACWD's cost of the 2010 Quarry Lakes inspection program would increase slightly (by 2%) from 2009 to a maximum of \$32,000. ACWD's share of the 2010 Lake Del Valle program cost would decrease by 12% to a maximum amount of \$79,320. These amounts include anticipated

2010 revenues from inspection fees. Funds have been included in the FY 09/10 and FY 10/11 budgets to cover these expenses. This item was reviewed with the Operations & Water Quality Committee on January 6, 2010.

Mr. Peterson informed the Board that the Department of Fish and Game is planning to award a total of \$250,000 for quagga mussel prevention programs. The award will be \$50,000 per county. In Alameda County the funds will be divided up between East Bay Regional Park District, Zone 7 Water Agency, East Bay Municipal Utility District and ACWD. The plan is to have East Bay Regional Park District execute the necessary agreement with the Department of Fish and Game to receive the award and then have East Bay Regional Park District in turn redistribute the funds four ways (\$12,500 each).

Mr. Ken Nishimura addressed the Board and indicated that he agrees that this is going to be a “when” not an “if” scenario with regard to quagga mussel infestation, but with respect to the motion at hand he stated that this should be funded 100% by user fees. He offered his opinion that there is no valid reason to burden the ratepayer who does not own watercraft and will never introduce watercraft in waters of the District to bear the burden of those who choose to bring watercraft into District waters.

Mr. B.J. Bunting, a Fremont resident, inquired as to where the infestation is located in the State of California. Mr. Wadlow responded by stating that a number of reservoirs in Southern California have been infested and San Justo reservoir in San Benito County also has an existing infestation. Mr. Bunting also inquired if the infestation has reached the Delta and Mr. Wadlow advised him that there have been no identified infestations in the Delta.

Further discussion ensued and staff responded to questions from the Board.

A motion was made by Director Gunther, seconded by Director Huang to authorize the General Manager to execute the two agreements with EBRPD to fund the 2010 watercraft inspection programs at Quarry Lakes and Lake Del Valle for quagga and zebra mussel prevention at costs not to exceed \$32,000 and \$79,320, respectively.

The motion was passed by the following vote:

AYES: Directors Huang, Gunther, Reynolds, Weed, and Koller
NOES: None
ABSENT: None

5.14 BOARD MEMBER ATTENDANCE AT AMERICAN WATER WORKS ASSOCIATION CONFERENCES

Mr. Wadlow reported that at the December 10, 2009, Board meeting, President Koller requested that a discussion of reimbursement for Board member attendance at American Water Works Association (AWWA) conferences be agendaized for the January Board meeting.

Alameda County Water District’s “Policy for Compensation for Board Members” as described in Resolution 06-037 includes a list of meetings which “...shall be considered service rendered at the request of the Board and shall not require specific pre-approval by the Board...” All

activities other than regular and special Board meetings, standing committee meetings, and those meetings specifically listed in the policy require approval by the Board in advance and compensation specifically authorized, with some exceptions for unexpected circumstances.

AWWA has been in existence since 1881. Their Articles of Incorporation state that “The purpose for which the Association is formed is to promote public health, safety, and welfare through the improvement of the quality and quantity of water delivered to the public...” The organization functions at the local, regional, national, and international levels. ACWD continues to be very active in the California-Nevada Section of AWWA.

Discuss the addition of AWWA conferences to the list of meetings which shall not require specific pre-approval and, by motion, direct staff accordingly with regard to potential amendment of the “Policy for Compensation for Board Members” as described in Resolution 06-037 and the “Policy for Expense Reimbursement” as described in Resolution 06-038.

The Board members all supported the recommendation and Director Weed also suggested that travel be authorized within the California-Nevada region. Currently if you are to travel out of state to Nevada it would require a separate approval.

Staff was directed to make the necessary changes and to bring the item back to the Board at the next meeting.

6 – REPORTS

6.1 BOARD COMMITTEE REPORTS

- Legal & Legislative Meeting of December 9, 2009: (1) Review of Federal and State Legislation
- Operations & Water Quality Meeting of December 15, 2009: (1) Tour and Demonstration of New Water Meter Testing Equipment
- Water Resources Planning Meeting of December 16, 2009: (1) Recycled Water Feasibility Study Update; (2) Semitropic Banking Program Update; (3) Water Supply Assessment Update; (4) Alameda Creek Fisheries Update
- Engineering & Capital Projects Meeting of December 17, 2009: (1) Creekside Landing Development Update; (2) San Francisco Public Utilities Commission Bay Division Pipeline Nos. 3 & 4 Seismic Upgrade Project; (3) Rock Pond (Pit J) Erosion Repair
- Administrative & Finance Meeting of December 22, 2009: (1) Update on Rates and Charges and Ending Reserves

6.2 OPERATIONAL REPORTS

- Rainfall Report
- Water Production Report

- Quarterly Groundwater Recharge Report
- Investment Report

6.3 STAFF REPORTS – None

6.4 GENERAL MANAGER’S REPORTS

- Mr. Wadlow distributed copies to the Board of an e-mail that was sent to all District staff relative to the recent earthquake in Haiti. The e-mail outlined some of the options available to staff to personally assist the earthquake victims financially. Mr. Wadlow distributed to the Board an AWWA statement on the earthquake disaster that covers AWWA’s initial response. Mr. Steve Dennis, the District’s Emergency Services Supervisor, who is in the progression to become chair the California-Nevada AWWA Section, spoke with AWWA in Washington D.C. who have been in consultation with the Department of Homeland Security. At this point in time, they have not organized any technical assistance around water system assessment. Once that stage has been reached agencies in the local areas will be contacted through Cal WARN (Water Agency Response Network).
- 2010 Water Bond - Mr. Wadlow responded to a number of questions which the Board directed staff to investigate at the last board meeting and indicated to the Board that if there were any additional questions, Mr. Wadlow would report back on those in February.
- Mr. Wadlow informed the Board that the total cost of the program is estimated at \$40 to \$50 billion. \$11.14 billion is the amount for the Bond. Of that about \$7.25 billion heads towards water supply conservation, storage or recycling with the remaining of \$3.8 billion targeted towards primarily at those environmental activities which support either the work in the Delta or work in local regional areas.
- A question that was raised at the previous board meeting was “Would regional money flow to the SFPUC to help build the Hetch Hetchy projects?” It has been definitely confirmed that the SFPUC is not in the regional water management plans so they would not be in line for any of the regional money that is included in the 2010 Water Bond.
- Another question that was raised was “would the disbursement of these bond funds use the same process (as in Proposition 50)?” and Mr. Wadlow informed the Board that the answer is no. Proposition 84 revamped the Proposition 50 approach to funding and the indications are that the Proposition 84 process is what would be institutionalized. Under Proposition 50 initially there were a number of ACWA members who had supported that Proposition and ended up not being able to qualify for funding. That was largely rectified in Proposition 84 through the way it was structured. In response to inquiries, Mr. Wadlow indicated that the Proposition 84 process will be followed.
- A question was also raised regarding the entire package. The question of State Water Resources Control Board’s approach to using the public trust doctrine to examine instream flow requirements for the Delta. It is relevant to the entire package and

therefore relevant to the Board. Mr. Bob Maddow made a presentation on this topic at the fall ACWA conference. Mr. Wadlow queried Mr. Maddow directly to understand the difference between the statements he made and the way that the press has characterized the State Board's process and the way that some members of the environmental community have characterized it. Mr. Wadlow stated that Mr. Maddow responded at length with citations of the State Board Notification and the legislation itself and in summary he said "the main purpose of my presentation at the ACWA conference was to indicate that the instream flow criteria proceeding that is now underway is not a water rights proceeding. No water right holder and no federal or state water contractors are placed in jeopardy during the proceeding which is purely informational and does not have precedential value. What the legislation told the State Board to do is to look at the Delta through one lens, the public trust doctrine, and to develop new flow criteria for the Delta ecosystem necessary to protect public trust resources. No other factors are to be taken into account. The criteria are solely for the purpose of informing the planning processes underway with regard to comprehensive looks at the Delta especially the BDCP. In CEQA terms, it is my opinion that the new criteria are intended to help the BDCP team write the project description for the EIR that emerges along with the plan. In this way, ecosystem preservation and protection will be a co-equal part of the recommendations that emerge from the planning process. Using the State Board to do that part of the project description makes sense in that they have concurrent jurisdiction with the courts concerning the public trust doctrine." Mr. Maddow also stated that the Legislature was looking for something beyond just what the consultants might offer as to how the State Water Resources Control Board or a court might view the public trust doctrine in relationship to the recommendations emerging from the BDCP plan. If there is a petition to the State Board to change a point of diversion for example, for the State or Federal projects in conjunction with any type of Delta conveyance, the Legislature has instructed the State Board that any water right order it adopts must include appropriate flow criteria. Mr. Maddow stated that "appropriate" is a huge word in this context. The State Board will be informed by the public trust criteria that emerge from the current proceedings, but the criteria are for informational purposes only and carry no precedential or pre-decisional weight and the eventual water right process must consider the full range of issues."

Mr. Wadlow summarized that in essence it Mr. Maddow's presentation asks for public trust doctrine examination of instream flow criteria in the Delta. It is not however, either a water rights proceeding or the sole determinant that would be used in a water rights proceeding.

Director Weed expressed his concern that this would also imply to other streams including Alameda Creek. It was Director Weed's understanding that the intent of the legislation is a plan to take those same criteria and apply it to evaluating a number of other water flowing bodies in the State of California.

Mr. Wadlow responded that Director Weed's understanding is essentially correct. In Section 85087 of SB 7X1 (the same piece of legislation which follows the section that discusses instream flow criteria for the Delta) it provides that the State Water Resources Control Board by December 31, 2010, shall submit to the Legislature a prioritized

schedule and estimate of costs to complete instream flow studies for the Delta and for high priority rivers and streams in the Delta watershed not otherwise covered by Section 85086 by 2012 and for all major rivers and streams outside the Sacramento River watershed by 2018. It is unclear whether Alameda Creek would be deemed to be one of the high priority rivers and streams in the Delta watershed but even if it wasn't it certainly would fall into the second category of major rivers and streams outside of the Sacramento River watershed. So in either 2012 or 2018 there would be instream flow studies. Again, while it doesn't say water rights proceedings certainly that would be the basis for information which could go in to either water rights proceedings or determination by one of the resource agencies. In what has already been passed there is an indication that the State Board has to develop a schedule and costs of actually completing this work so that is definitely an item that the District we will follow up with regards to the flow situation in Alameda Creek.

- In response to a question whether the other billions of dollars in the package not included in the bond are subject to the initiative process – there is nothing that specifies that there would be.
- A question was raised as to realistically how much would ACWD recognize from the bond funding either through the hydrologic region funding or the other sections relative to our specific projects. Mr. Wadlow indicated that staff is still investigating that question and will bring a response back to the Board at a future board meeting.

7 – DIRECTOR'S COMMENTS AND/OR AGENDA ITEM REQUEST

- Director Huang requested that staff present the latest research on quagga mussel eradication to the Board in the context of its usefulness to the District's efforts.
- Director Koller acknowledged the Union Sanitary District Operations Manager who was in attendance at the Board meeting.
- Director Koller advised the Board of a Federal hearing that is scheduled to take place in Sacramento in February as a round table with the State local agencies, State Water Contractors, Department of Water Resources, Department of Public Health and Federal agencies on the upcoming water conservation efforts that will be developed around the whole Delta issue.
- Director Koller commented on the length of the board meeting and urged that efforts be made to limit the meeting's length.

Minutes – January 14, 2010

There being no further business to come before the Board, President Koller adjourned the meeting at 9:40 P.M.

Gina Markou, District Secretary

Attest:

Martin L. Koller, President