

NOTICE OF REGULAR MEETING OF BOARD OF DIRECTORS

DATE: March 17, 2010

TIME: 7:00 p.m.

LOCATION: Zone 7 Administration Building

100 North Canyons Parkway, Livermore, California

Any member of the audience desiring to address the Board on an item under discussion may do so upon receiving recognition from the President. After receiving recognition, please step to the podium and state your name and address.

In compliance with the Americans with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available at the Zone 7 Administrative Building lot. If you are a person with a disability and you need disability-related modifications or accommodations to participate in this meeting, please contact the Acting Zone 7 Board Secretary, Judy Rector, at (925) 454-5053 or fax (925) 454-5727. Notification 48 hours prior to the meeting will enable Zone 7 to make reasonable arrangements to ensure accessibility to this meeting. {28 CFR 35.102-35, 104 ADA Title II}

A G E N D A

1. Call Meeting to Order
2. Salute to Flag
3. Citizens Forum

This is an opportunity for members of the audience to speak on an item not listed on the agenda. The Board cannot deliberate or take action on a non-agenda item unless it is an emergency as defined under Government Code Section 54954.2.

4. Minutes of the Regular Meeting of February 17, 2010
5. Consent Calendar

- a) Request by Director Quigley for Authorization to Attend ACWA's Legislative Symposium in Sacramento

Recommended action: Adopt resolutions approving items as presented.

6. Staffing Updates:

- a. Employee of the Month Recognition

7. Support for Friends of Shadow Cliffs

Recommended action: Discuss and consider providing support by either adopt resolution or approving letter.

8. Acceptance of Deed and Easements from Bay Area Rapid Transit District (BART) for the Altamont Pipeline Livermore Reach Project

Recommended action: Adopt resolution.

9. Amendment 3 to Agreement for Dry Year Water Purchase Associated with Yuba Accord (A08-98-CAL)

Recommended action: Adopt resolution.

10. New Flood Protection and Storm Water Drainage Development Impact Fee Ordinance, Second Reading and Adoption

Recommended action: Adopt the new ordinance.

11. Committees

12. Items for Future Agendas—Directors

13. Reports—Directors

- a. Written report by Director Quigley
- b. Verbal reports

14. Staff Reports (Information items. No action will be taken.)

- a. General Manager's Report
- b. Recent & Upcoming Public Outreach Activities
- c. Legislative Update
- d. Foley Road Status Update
- e. Verbal Reports

15. CLOSED SESSION

- a) Conference with Legal Counsel – Existing litigation pursuant to Subdivision (a) of Government Code Section 54956.9: 1 case

Homebuilders Association of Northern California v. Alameda County Flood Control and Water Conservation District – Zone 7, et al.; Alameda County Superior Court Case No. VG09474043

- b) Conference with Legal Counsel – Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9: 3 cases

- c) Conference with Labor Negotiators:

Agency Negotiator: G.F Duerig

Employee Organizations: Alameda County Management Employees Association; Alameda County Building and Construction Trades Council, Local 342, AFL-CIO; International Federation of Professional and Technical Engineers, Local 21, AFL-CIO; Local 1021 of the Service Employees International Union, CTW; Unrepresented Management

Local 1021 of the Service Employees International Union

Maintenance Coordinator

16. Open Session and Report Out of Closed Session

17. Upcoming Board Schedule:

(All meeting locations are 100 North Canyons Parkway, Livermore, unless otherwise noted)

- a) Special Board Meeting and Workshop: March 31, 2010, 5 p.m.
- b) Regular Board Meeting: April 21, 2010, 7:00 p.m.

18. Adjournment

Materials related to an item on this agenda that have been provided to the Board less than 72 hours prior to the meeting are available for public inspection at the Zone 7 office at the time of, and prior to, the meeting and at www.zone7water.com. All other material otherwise provided to the Board will be available at the public meeting.

ORDINANCE NO. 2010-01

**AN ORDINANCE OF ALAMEDA COUNTY FLOOD CONTROL &
WATER CONSERVATION DISTRICT, ZONE 7 AMENDING
FLOOD PROTECTION AND STORM WATER DRAINAGE
DEVELOPMENT IMPACT FEE SCHEDULE**

BE IT ORDAINED by the Board of Directors of Zone 7 of the Alameda County Flood Control & Water Conservation District ("Zone 7"), that an ordinance amending the Agency flood protection and storm water drainage development impact fee is hereby adopted to read as follows:

SECTION 1: BACKGROUND, PURPOSE AND AUTHORITY.

On March 18, 2009, the Zone 7 Board of Directors adopted Ordinance No. 2009-01 to establish and adopt the flood protection and storm water drainage development impact fee ("Fee"). In approving the Fee, Zone 7 approved an escalating Fee schedule with graduated increases to take effect on January 1st of each year from 2010 through 2014. (See Ordinance No. 2009-01, Appendix A)

The purpose of this ordinance is to amend only the Fee schedule by repealing the Fee increases that were approved to take effect on January 1, 2013 and January 1, 2014.

This ordinance is enacted pursuant to Section 12.1 of the Alameda County Flood Control & Water Conservation District Act and other applicable law.

SECTION 2: FEE SCHEDULE AMENDMENT.

Appendix A of Ordinance No. 2009-01 is hereby amended to read as shown on Appendix A – Revised, which is attached hereto and incorporated herein.

SECTION 3. EFFECTIVE DATE.

This ordinance shall take effect 30 days following the date of adoption by the Zone 7 Board of Directors.

SECTION 4. POSTING.

Within 15 days from the date of passage of this ordinance, the Clerk of the Zone 7 Board shall post a copy of it in at least three public places within the Zone 7 Service Area.

Adopted by the Board of Directors of the Alameda County Flood Control & Water Conservation District, Zone 7 on the ____ day of _____ 2010 by the following roll call vote:

AYES:

NOES:

ABSENT:

EXCUSED:

Richard L. Quigley, President of the Board of Directors of Zone 7 of the Alameda County Flood Control & Water Conservation District

Judy Rector, Acting Clerk of the Board of Directors

**APPENDIX A – REVISED
OF ORDINANCE NOS. 2009-01 & 2010-01**

**ZONE 7 FLOOD PROTECTION AND STORM WATER DRAINAGE
DEVELOPMENT IMPACT FEE SCHEDULE**

1. The flood protection and storm water drainage development impact fee payable by each Developer of a Development Project within the Zone 7 Service Area shall be equal to the product of the number of square feet of impervious surface created (as determined pursuant to Ordinance No. 2009-01) and
 - Before January 1, 2010 \$0.783 per square foot
 - After January 1, 2010 \$0.87 per square foot
 - After January 1, 2011 \$0.96 per square foot
 - After January 1, 2012 \$1.10 per square foot
2. In addition to the Fees set forth above, on January 1 of each calendar year, the Fees shall also be adjusted by the annual increase in the Engineering News Record, Construction Cost Index for the calendar year as of December 1 from the prior year to the current year.

ORIGINATING SECTION: ADMINISTRATION
CONTACT: JILL DUERIG

AGENDA DATE: March 17, 2010

ITEM NO.

**SUBJECT: REQUEST BY DIRECTOR QUIGLEY FOR AUTHORIZATION TO ATTEND
ACWA'S LEGISLATIVE SYMPOSIUM IN SACRAMENTO**

SUMMARY:

- ACWA is holding its Annual Legislative Symposium on March 17, 2010 in Sacramento, California.
- This year's Symposium has three main topics for discussion, the Delta Legislative Package, diversifying local water supplies (with special emphasis on desalination) and the California state budget.
- Director Quigley has expressed an interest in attending the Annual Legislative Symposium.
- Zone 7's current board policy is to allow directors to attend one ACWA conference per year without seeking approval from the Board for reimbursement of travel and registration expenses. If directors wish to attend additional conferences, Board authorization must be obtained. However the Zone 7 Board has already approved Director Quigley's participation in ACWA's Energy Committee, Legislative Committee and sitting on the Region 5 Board, along with attending any meetings which such participation entails. This Symposium does not fall within any of these previous approvals; however attendance is in keeping with Director Quigley's role on the Region 5 Board and membership in two of ACWA's committees.
- The Symposium will be held before the Board meeting so he will have already attended and now seeks reimbursement of expenses.

FINANCIAL:

Registration costs for the annual symposium is \$190. There will be additional miscellaneous expenses associated with attendance, i.e., mileage and parking. Total miscellaneous expenditures are estimated at an additional \$75. Funds are available from Fund 52-Water Enterprise.

RECOMMEND ACTION:

Approve Director Quigley's request by adopting attached Resolution.

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

RESOLUTION NO

INTRODUCED BY
SECONDED BY

WHEREAS, Director Dick Quigley has expressed an interest in ACWA's Annual Legislative Symposium on March 17, 2010, in Sacramento, California;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Zone 7 of Alameda County Flood Control & Water Conservation District does hereby authorize Director Dick Quigley's attendance at said symposium;

BE IT FURTHER RESOLVED that Director Quigley be reimbursed for actual and necessary expenses associated with his attendance at this event.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution Adopted by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District on

March 17, 2010

By: _____
President, Board of Directors

ORIGINATING SECTION: HUMAN RESOURCES
CONTACT PERSON: TOM HUGHES

AGENDA DATE: March 17, 2010

ITEM NO:

SUBJECT: Employee of the Month Recognition

SUMMARY:

The Employee Recognition Program Nomination Committee met in February and selected the Employee of the Month for January 2010 according to the established Program Guidelines. The individual chosen out of the submitted nominations is recommended to Management for approval and subsequent announcement to all Agency employees.

Jesse Sanchez, Maintenance Materials Planner/Buyer, was chosen as the January 2010 Employee of the Month. Jesse joined Zone 7 in February 2004 in the Maintenance Section at Del Valle Water Treatment Plant. As Maintenance Materials Planner/Buyer, Jesse sought out and found a substantially lower cost for solids (sludge) landfill disposal. At his instigation, and thanks to his subsequent follow through, a new contract has been negotiated, approved by the Board and is now in force. This nomination is to express recognition of his money-saving efforts in this particular case and his effort to get the biggest 'bang for the buck' as a part of the Maintenance Section's daily efforts.

RECOMMENDED ACTION:

It is recommended that the Zone 7 Board of Directors recognize and congratulate Jesse Sanchez as January 2010 Employee of the Month.

ORIGINATING SECTION: ENVIRONMENTAL PERMITTING AND PLANNING
CONTACT: ELKE RANK

AGENDA DATE: March 17, 2010

ITEM NO.

SUBJECT: Support for Friends of Shadow Cliffs

SUMMARY:

- East Bay Regional Parks District (EBRPD) is currently preparing a Land Use Plan Amendment (LUPA) for Shadow Cliffs Regional Recreational Area.
- *Friends of Shadow Cliffs* is a community group that includes a wide range of neighbors and park users wanting to improve the park for year round use. See: <http://www.FriendsOfShadowCliffs.com>
- EBRPD expects to release the draft LUPA document this year.
- EBRPD staff have expressed concerns to Zone 7 staff about the recommendations received from the *Friends of Shadow Cliffs*.
- *Friends of Shadow Cliffs* Steering Committee member Dolores Bengston spoke during the Citizen's Forum at the Zone 7 Board meeting in February 2010, requesting Board support for *Friends of Shadow Cliffs*' recommendations concerning the East Bay Regional Parks District's land use plan amendment for Shadow Cliffs.
- At that same meeting, Director Dick Quigley asked that this be added to the March agenda for further discussion and consideration.

FUNDING:

N/A

RECOMMENDED ACTION:

Discuss and consider supporting the Friends of Shadow Cliffs' recommendations to EBRPD for EBRPD's Shadow Cliffs Land Use Plan Amendment either by letter or by the adoption of a resolution.

ATTACHMENTS:

1. Letter of Support
2. Resolution
3. Background Memorandum

Interoffice Memo

Date: March 17, 2010
To: Jill Duerig, General Manager
From: Elke Rank, Assistant Water Resources Planner
Subject: Support for Friends of Shadow Cliffs

The following provides additional background and discussion on the above-referenced agenda item:

BACKGROUND:

On May 5, 2009, Zone 7 Staff attended a scoping meeting held by East Bay Regional Parks District on their Land Use Plan Amendment (LUPA) and associated California Environmental Quality Act (CEQA) document for Shadow Cliffs Regional Recreational Area. The plan amendment was spurred by the failed proposal to expand the existing water park. Park District staff acknowledged that no funds are earmarked for any major projects at Shadow Cliffs. Resource specialists will conduct various feasibility studies in support of the plan, and for this meeting they identified a summary list of issues/goals:

- o improve park setting overall
- o offer recreation
- o preserve/improve natural resources at the park
- o reduce traffic/parking problems
- o improve interpretive signage/ educational opportunities
- o improve staff facilities
- o improve trail connection

In May to July of 2009, Staff met one on one with the Park District twice and also responded to several detailed data requests made by the Park District's hydrological consultant. Additional meetings and correspondence is expected in spring/summer of 2010.

At the February 17, 2010 Zone 7 Regular Board Meeting, a member of the Friends of Shadow Cliffs' Steering Committee appeared during the Citizens Forum and shared both a letter and a brochure with the Zone 7 board (See: <http://www.FriendsOfShadowCliffs.com>). These documents requested Zone 7's support for Friends of Shadow Cliffs' recommendations including: adding a young family activity area featuring water elements, improving the park's aesthetic value, and enhancing the park for fishermen, hikers, dog owners and trail users. They also recommend building an Interpretive Center that will: explain all aspects of water (history, source, water treatment, conservation techniques, flood control, biology), provide nature education of flora and fauna, tell the history of Shadow Cliffs and the surrounding area (farming, brick making, gravel mining and reclamation), and explain conservationist energy power sources and practices.

Director Dick Quigley requested that this item be added to the March agenda for discussion. In

particular, the possibility of an Interpretive Center that includes a water component could be considered a future opportunity for partnership.

In preparation for tonight's meeting, Zone 7 staff had additional discussions with EBRPD staff. Apparently, EBRPD staff concerns about having an interpretive center (specifically a new building) at Shadow Cliffs include:

- Space: public has also expressed desire for more trails, a separate children's area, and an off-leash area; and there's lack of parking during summer months -- EBRPD staff aren't sure that it all fits on the site
- Science and learning opportunities can also be incorporated at Shadow Cliffs without a new building; in particular, EBRPD staff envision a "science center on wheels" that could be moved to have maximum community exposure
- Funding (could be left to the future but doesn't change the fact that a building is an expensive alternative)
- Existing imbalance of EBRPD recreational amenities between Alameda and Contra Costa counties (Alameda is way ahead)

RECOMMENDATION:

Staff recommends that the board discuss the request received from the *Friends of Shadow Cliffs* and determine whether or not they wish to grant the request for support. If the board decides to support *Friends of Shadow Cliffs'* recommendations, such support could be provided by either authorizing the President to sign and transmit a draft letter or by adopting a draft resolution (samples are attached).



ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

100 NORTH CANYONS PARKWAY LIVERMORE, CA 94551 PHONE (925) 454-5000 FAX (925) 454-5727

March 17, 2010

East Bay Regional Park District
2950 Peralta Oaks Court
P.O. Box 5381
Oakland, CA 94605-0381

Letter of Support for Recommendations from *Friends of Shadow Cliffs*

Representatives from *Friends of Shadow Cliffs* spoke to the Board of Directors of the Zone 7 Water Agency (Zone 7) at our February 2010 Board meeting. *Friends of Shadow Cliffs* supports maximizing opportunities for recreational value and science education at Shadow Cliffs Regional Recreation Area, among their other recommendations.

As our mission, Zone 7 is committed to providing a reliable supply of high quality water and an effective flood control system to the Livermore-Amador Valley. In fulfilling our present and future commitments to the community, we will develop and manage the water resources in a fiscally responsible, innovative, proactive, and environmentally sensitive way. As part of our operations, Zone 7 supplies water to Shadow Cliffs as part of our valley-wide groundwater recharge program. We believe this has been a mutually beneficial relationship for many years.

Zone 7, in cooperation with other local water and wastewater agencies, offers several water-science programs designed to help local teachers meet the California science standards and bring environmental science to life. These programs expand students' knowledge of water issues in California and include a special focus on the Livermore-Amador Valley to help students here better understand the role of water in their own community. We also support certain educational programs aimed at adults, including the Public Television series, "California's Water" and the Tri-Valley Water-Wise Gardening website and related workshops. We believe that such educational opportunities promote imagination, understanding, and appreciation of this precious resource.

We support efforts to add additional opportunities for recreational value and science education at Shadow Cliffs Regional Recreation Area. Further, we encourage collaboration between Zone 7 and East Bay Regional Parks District staff during this important effort.

Sincerely,

Dick Quigley
President, Board of Directors

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO

INTRODUCED BY
SECONDED BY

Resolution of Support for Friends of Shadow Cliffs' Recommendations

WHEREAS, Friends of Shadow Cliffs has appeared before the Board of Alameda County Flood Control and Water Conservation District, Zone 7, and said board has reviewed these recommendations; and

WHEREAS, the Zone 7 Board supports including these recommendations in the East Bay Regional Park District's Land Use Plan Amendment under study for Shadow Cliffs Regional Recreation Area; and

WHEREAS, Friends of Shadow Cliffs support the inclusion of an Interpretive Center in the Land Use Plan that will, as part of its program, interpret all aspects of water, history, source (aquifers, imports), water treatment, conservation techniques, flood control and biology; and

WHEREAS, Friends of Shadow Cliffs support an Interpretive Center that will provide a convenient regional opportunity for needed "hands on" environmental science education for students of all ages and academic levels; and

WHEREAS, Zone 7 supports and encourages programs that provide water science education and promote water conservation techniques that will assist the citizens of the region in supporting programs and actions that will result in a protected and sustainable water supply.

NOW, THEREFORE, BE IT RESOLVED that the Zone 7 Board of Directors supports the recommendation of Friends of Shadow Cliffs to include an Interpretive Center in the Shadow Cliffs Regional Recreation Area Land Use Plan Amendment understanding that it would be an unfunded component of the Land Use Plan and partners would need to participate to provide operational support.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a resolution
Adopted by the Board of Directors of Zone 7 of Alameda
County Flood Control and Water Conservation District on

March 17, 2010

By _____
President, Board of Directors

ORIGINATING SECTION: WATER SUPPLY ENGINEERING
CONTACT: RHETT ALZONAJARNAIL CHAHAL

AGENDA DATE: MARCH 17, 2010

ITEM NO.

SUBJECT: Acceptance of Deed and Easements from Bay Area Rapid Transit District (BART)
for the Altamont Pipeline Livermore Reach Project

SUMMARY:

- As part of the Altamont Pipeline Livermore Reach Project, Zone 7 needs to acquire property from BART.
- Real property needs include fee property for a rate control station facility and perpetual/permanent easements for an associated drainage pipeline and the Altamont Pipeline.
- The Zone 7 Board approved a purchase and sale agreement with BART in the amount of \$409,310. The Grant Deed for the fee property and easements for the pipelines have been prepared and are ready to be accepted and recorded.
- Staff recommends adoption of the attached resolution authorizing the General Manager to accept and record the Grant Deed and permanent easements from BART.

FUNDING:

Zone 7 has already negotiated and settled payment in the amount of \$409,310 for said property interests with BART. Funding was provided from Fund 73 – Expansion.

RECOMMENDED ACTION:

Adopt the attached resolution authorizing the General Manager to accept and record the Grant Deed and permanent easements from BART

ATTACHMENTS:

- Memo providing additional discussion of the item
- Location Map and Plats
- Resolution

Interoffice Memo

Date: March 17, 2010
To: Jill Duerig, General Manager
From: Rhett Alzona, Associate Engineer, Water Supply Engineering
Subject: Acceptance of Deed and Easements from Bay Area Rapid Transit District (BART) for the Altamont Pipeline Livermore Reach Project

BACKGROUND

As part of Zone 7's 1999 Water Supply Planning Program Study, a new water treatment plant was recommended to be constructed north of Livermore to provide Zone 7 with the combined treated water production capacity to meet the municipal and industrial needs through planned build-out conditions. This study also identified the need for new raw water conveyance and potable water transmission facilities. Subsequently, the Treated Water Facilities Master Plan (February 2000) identified an Altamont Water Treatment Plant (AWTP) and the transmission pipeline (Altamont Pipeline) project that would be needed to provide adequate and reliable treated water supply to current and future Zone 7 customers.

The EIR for the Altamont Pipeline was certified by the Zone 7 Board in February of 2005. An addendum to the EIR, which addressed minor project changes to the Altamont Pipeline, was certified by the Zone 7 Board in February 2006.

It was necessary for Zone 7 to acquire a variety of property interests including fee property, permanent pipeline easements, access easements and property licenses for the Altamont Pipeline Project.

The first phase of the Altamont Pipeline is the Livermore Reach. This reach of 42-inch diameter pipeline is approximately 5.6 miles in length from Airway Blvd near Kittyhawk Road to Northfront Road, just west of Vasco Road.

DISCUSSION:

Zone 7 wished to obtain property interests within and along the Altamont Pipeline Livermore Reach alignment on a parcel owned by BART at Airway Blvd near Kittyhawk Road. The specific interests desired were fee ownership of the Airport Rate Control Station (RCS), a permanent easement for the Altamont Pipeline and a permanent easement for the Airport RCS drainage pipeline. Zone 7 prepared the right-of-way documents for negotiation of the property acquisition from BART. A purchase-sale settlement was agreed upon in the amount of \$409,310 and approved by the Zone 7 Board.

While the right-of-way documents were being finalized, in order to accommodate the construction of the Livermore Reach of Altamont Pipeline, BART provided Zone 7 with a "Permit to Enter". The Livermore Reach pipeline construction started in June 2008 and was complete and operational in August 2009.

The property documents have now been finalized. Per the attached location map and plats, these documents include:

1. The Grant Deed (No. 70076) for fee title in and to a portion of real property for the Airport RCS. This fee parcel is approximately 0.195 acres.
2. The permanent waterline easement (No. 70074) gives Zone 7 the right to use the BART property to construct, operate and maintain a pipe or pipelines for the purpose of transmitting water as well as ingress and egress over and across the easement land. This permanent waterline easement will be used for the

Altamont Pipeline routing along E. Airway Blvd through the Airport RCS. The waterline easement is approximately 0.154 acres and 0.199 acres on the west and east sides, respectively, of the Airport RCS fee parcel.

3. The permanent drainage easement (No. 70077) gives Zone 7 the right to use the BART property to construct, operate and maintain a pipe or pipelines and outfall structure for the transmission and discharge of water as well as ingress and egress over and across the easement land. This permanent drainage easement of approximately 0.046 acres will be used for the Airport RCS drainage pipeline. The drainage pipeline will be used for periodic controlled Altamont Pipeline discharges to the Arroyo Las Positas.

The deed and easements have been signed by BART. Zone 7 Board approval is needed for the General Manager to accept and record the Grant Deed and permanent easements from BART.

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

RESOLUTION NO

INTRODUCED BY
SECONDED BY

ACCEPT AND RECORD GRANT OF EASEMENTS

WHEREAS, the Bay Area Rapid Transit District is granting a deed for a portion of real property used for a rate control station facility, a permanent waterline easement, and a permanent drainage pipeline easement, to Alameda County Flood Control and Water Conservation District, Zone 7 for the purposes of constructing, operating and maintaining the Altamont Pipeline on the lands designated and described to this Board, and by said reference is made a part hereof as though fully set forth herein.

NOW, THEREFORE, BE IT RESOLVED, that the General Manager be authorized to accept said deed and easements from BART and to execute a certificate of acceptance causing the same to be recorded at the office of the Recorder of Alameda County.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

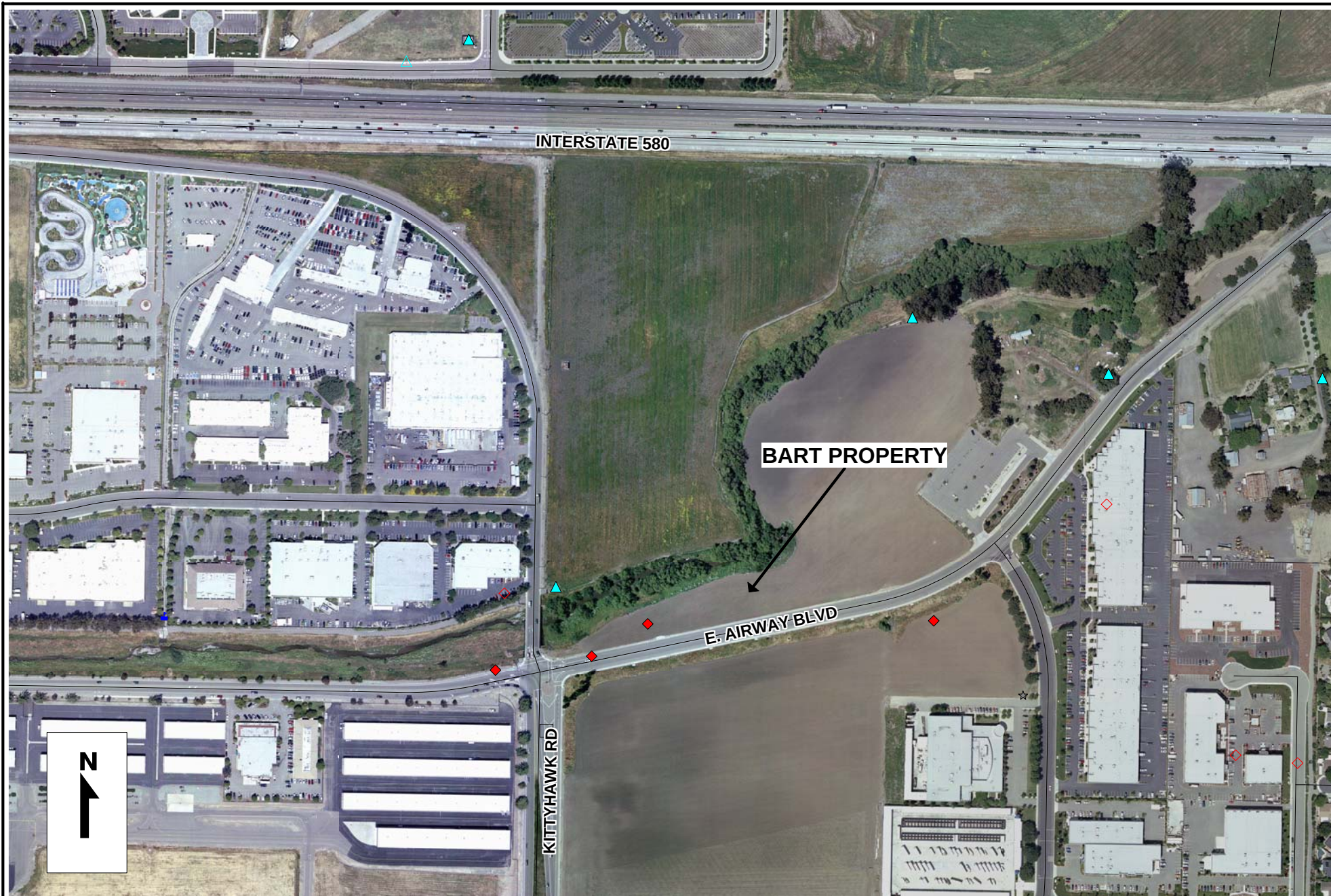
ABSTAIN:

I certify that the foregoing is a correct copy of a resolution
Adopted by the Board of Directors of Zone 7 of Alameda
County Flood Control and Water Conservation District on

March 17, 2010

By _____
President, Board of Directors

Altamont Pipeline Project
No. 70074, 70076 and 70077



ZONE 7 WATER AGENCY
100 NORTH CANYONS PARKWAY
LIVERMORE, CA 94551

LOCATION MAP

SCALE: 1"= 400 ft

DATE: 3/17/10

BART PROPERTY

EXHIBIT "B"

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA ANGLE
C1	42.86	964.09	2°32'50"

LINE TABLE		
LINE	LENGTH	BEARING
L1	105.01'	S78°15'15"W
L2	81.01'	N11°44'45"W
L3	105.01'	N78°15'15"E
L4	81.01'	S11°44'45"E

APN 904-0005-003-29

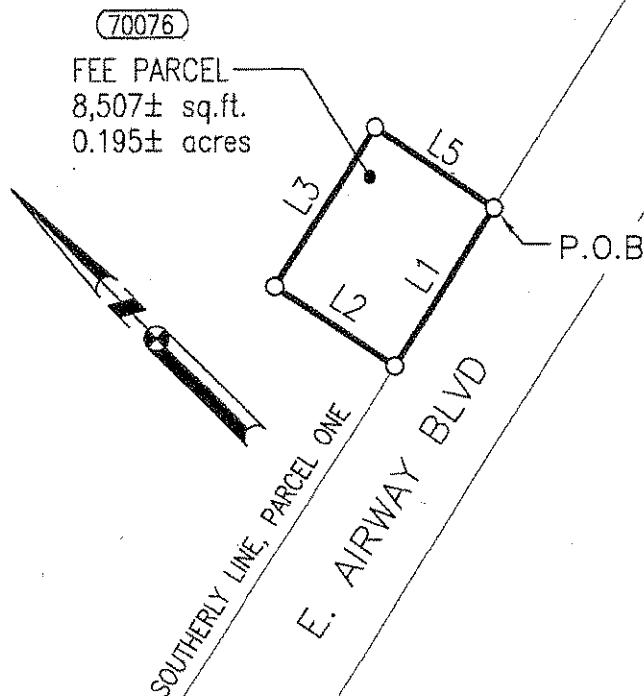
SAN FRANCISCO BAY AREA

RAPID TRANSIT DISTRICT

88-213828 O.R.

PARCEL ONE

PROPERTY SITUATED IN THE CITY
OF LIVERMORE, COUNTY OF
ALAMEDA, STATE OF CALIFORNIA



LEGEND

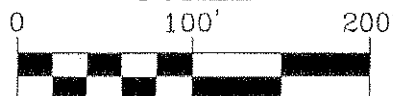
P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING
SQ. FT. SQUARE FEET
(R) RADIAL BEARING

P.O.C.
MOST
SOUTHERLY
SOUTHEAST
CORNER OF
PARCEL ONE

PM 4847



SCALE



1" = 100'



ZONE 7

ALAMEDA COUNTY FLOOD CONTROL
AND
WATER CONSERVATION DISTRICT

ALTAMONT PIPELINE
FEE PARCEL
TO BE ACQUIRED FROM
SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

DRAWN: KJF	TRACED:	DATE: APRIL, 2007	
CHECKED: RB		SCALE: 1" = 100'	
APVL. REC:		FILE NO.	SHEET NO. OF
APPROVED: KP		RF-10047	1 1

EXHIBIT "B"

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA ANGLE
C1	42.86'	984.09'	2°32'50"

LINE TABLE		
LINE	LENGTH	BEARING
L1	193.41'	S78°15'15"W
L2	301.22'	S78°15'15"W
L3	30.00'	N11°44'45"W
L4	277.19'	N78°15'15"E
L5	38.44'	S50°26'39"E
L6	105.01'	S78°15'15"W
L7	194.04'	S78°15'15"W
L8	30.09'	N07°15'58"W
L9	161.69'	N78°15'15"E
L10	31.00'	N11°44'45"W
L11	30.00'	N78°15'15"E
L12	61.01'	S11°44'45"E

APN 904-0005-003-29

SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

88-213828 O.R.

PARCEL ONE

PROPERTY SITUATED IN THE CITY
OF LIVERMORE, COUNTY OF
ALAMEDA, STATE OF CALIFORNIA

(70074)
WATERLINE
EASEMENT (A)
8,676 sq.ft.
0.199 acres

(70074)
WATERLINE
EASEMENT (B)
6,716± sq.ft.
0.154± acres

P.O.C.
MOST
SOUTHERLY
SOUTHEAST
CORNER OF
PARCEL ONE

P.O.B.
(A)

PM 4847

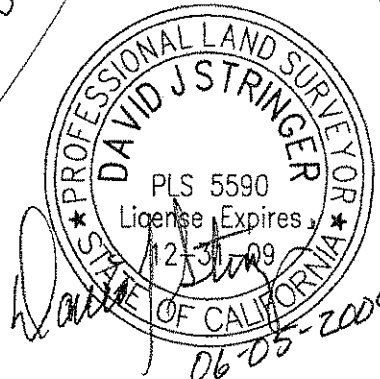
E. AIRWAY BLVD

SOUTHERLY LINE, PARCEL ONE

P.O.B.
(B)

LEGEND

P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING
SQ. FT. SQUARE FEET
(R) RADIAL LINE



SCALE



1" = 100'



ZONE 7

ALAMEDA COUNTY FLOOD CONTROL
AND
WATER CONSERVATION DISTRICT

ALTAMONT PIPELINE
WATERLINE EASEMENT AREA
TO BE ACQUIRED FROM
SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

DRAWN: KJF	TRACED:	DATE: OCTOBER 2008	
CHECKED: HD		SCALE: 1" = 100'	
APVL. REC:		FILE NO.	SHEET NO. OF
APPROVED: HD		RF-10046	1 1

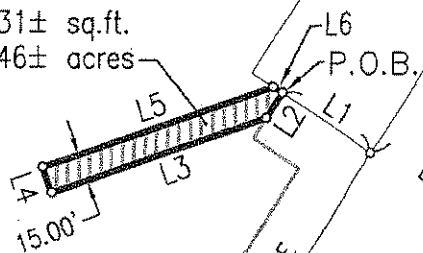
CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA ANGLE
C1	42.86'	964.09'	2°32'50"

LINE TABLE		
LINE	LENGTH	BEARING
L1	61.01'	N11°44'45"W
L2	16.62'	S78°15'15"W
L3	127.30'	N64°02'29"W
L4	15.00'	N25°57'31"E
L5	136.71'	S64°02'29"E
L6	6.11'	S11°44'45"E

APN 904-0005-003-29
SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT
88-213828 O.R.
PARCEL ONE

PROPERTY SITUATED IN THE CITY
OF LIVERMORE, COUNTY OF
ALAMEDA, STATE OF CALIFORNIA

(70077)
DRAINAGE EASEMENT
2,031± sq.ft.
0.046± acres



SOUTHERLY LINE, PARCEL ONE

LEGEND

P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING
SQ. FT. SQUARE FEET
(R) RADIAL BEARING

EXHIBIT "B"

P.O.C.
MOST
SOUTHERLY
SOUTHEAST
CORNER OF
PARCEL ONE

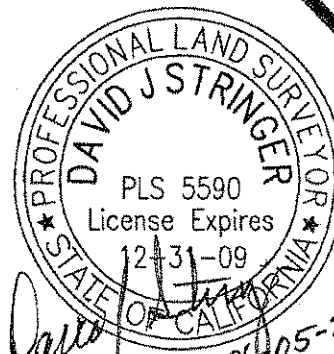
TRACT
5325

N14°17'34"W (R)

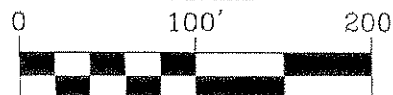
S78°15'15"W 599.64'
(S77°35'26"W
PM 4847

E. AIRWAY BLVD

PM 4847



SCALE



1" = 100'



ZONE 7

ALAMEDA COUNTY FLOOD CONTROL
AND
WATER CONSERVATION DISTRICT

ALTAMONT PIPELINE
DRAINAGE EASEMENT AREA
TO BE ACQUIRED FROM
SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

DRAWN: KJF	TRACED:	DATE: OCTOBER 2008	
CHECKED: HD		SCALE: 1" = 100'	
APVL. REC:		FILE NO.	SHEET NO. OF
APPROVED: DJS		RF-10046	1 1

ORIGINATING SECTION: WATER SUPPLY ENGINEERING
CONTACT: SAL SEGURA/JARNAIL CHAHAL

AGENDA DATE: March 17, 2010

ITEM NO.

SUBJECT: Amendment 3 to Agreement for Dry Year Water Purchase Associated with Yuba Accord (A08-98-CAL)

SUMMARY:

- The Yuba Accord Water Purchase Agreement allows Yuba the option to sell “Component 4” Water to the Department of Water Resources which in turn, makes the acquired water available to State Water Project (SWP) Contractors who want to buy the available water.
- Zone 7, along with 20 other SWP Contractors and the San Luis & Delta-Mendota Water Authority, participate in the “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the Participating State Water Project Contractors under the Dry Year Water Purchase Program” (“Agreement”) associated with the Yuba River Accord.
- Amendment 3 approves an increase in the price of Component 4 groundwater substitution water from \$125 per acre-foot to \$200 per acre-foot for 2010 to reflect market conditions.
- Zone 7 might purchase about 500 acre-foot of Component 4 water if the final allocation for State Water Project (SWP) water delivery for 2010 does not increase significantly from the current 15% allocation. Zone 7 has until May 15, 2010 to decide whether to proceed with the purchase of said water.
- In order for DWR to make this water available for 2010, all participating contractors must execute the amendment regardless of whether they plan to request Component 4 water.
- Staff recommends adoption of the attached resolution authorizing the General Manager to negotiate and execute the Amendment.

FUNDING:

The purchase of any additional water will be funded from Fund 52 –Water Enterprise.

RECOMMENDED ACTION:

Adopt the attached resolution authorizing the General Manager to negotiate and execute Amendment 3 to Agreement for Dry Year Water Purchase Associated with Yuba Accord (A08-98-CAL).

Attachments:

- Draft Amendment 3 to Agreement (A08-98-CAL) for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the Participating State Water Project Contractors under the Dry Year Water Purchase Program.
- Resolution
- Memorandum providing additional background information

Interoffice Memo

Date: March 17, 2010
To: Jill Duerig, General Manager
From: Sal Segura, Associate Civil Engineer, Water Supply Engineering
Subject: Amendment 3 to Agreement for Dry Year Water Purchase Associated with Yuba Accord (A08-98-CAL)

The following provides additional background and discussion of the above-referenced agenda item.

BACKGROUND:

The Yuba Accord Water Purchase Agreement allows Yuba County Water Agency (Yuba) the option to make Component 4 Water available for purchase to the Department of Water Resources (DWR). Yuba can make Component 4 water available from either a surface Storage Component or Groundwater Substitution Component of transfer water. Yuba makes the Groundwater Substitution water available through Conjunctive Use Agreements with its Member Units.

The Yuba Member Units may produce groundwater substitution water up to as much as 90,000 acre-feet if the yield of the groundwater aquifer is not impacted. However, the Member Units are unwilling to make this water available to Yuba under the Accord Water Purchase Agreement because they prefer to sell this groundwater to the 2010 Drought Water Bank. Representatives of the Participating Contractors of the Yuba Accord (21 SWP Contractors and the San Luis & Delta-Mendota Water Authority) met with Yuba representatives to discuss obligations under the Accord Agreements and options to address the pricing issues so that additional water could be made available this year, given the current drought conditions.

On March 31, 2008, Zone 7 signed the Agreement for Supply and Conveyance of Water under the Dry-Year Water Purchase program, which allows Zone 7 to participate in the Yuba River Accord. In 2009, two amendments to that Agreement were negotiated and approved – Amendment No. 1 to approve technical change to Yuba River reservoir accounting procedures, and Amendment No. 2 to approve a Component 4 groundwater substitutions price of \$250 per acre-foot for 2009 only. In 2010, a third amendment is being proposed for approval and signature by all program participants.

The Yuba Accord Management Committee, established by the Accord Water Purchase Agreement and consisting of representatives of DWR, Yuba, and the Participating Contractors, have proposed another one-year resolution of the Component 4 price issue by offering an increased price for the Groundwater Substitution Component water for 2010 as incentive to Yuba's Member Units to produce groundwater substitution water that Yuba will offer as Component 4 Water, currently estimated at 65,000 to 71,000 acre-feet. The proposed Amendment 3 covers changes the Component 4 pricing and certain other terms of the Accord Water Purchase Agreement and Participation Agreements and does not affect Component 2 and Component 3 water pricing. This amendment will be effective for 2010 only and terminate on March 1, 2011.

Discussion

If the 2010 State Water Project allocation remains at 15%, Zone 7 will request approximately 500 AF of Component 4 water. Negotiations regarding the interpretation and pricing of Component 4 water are on-going; and this year the parties have agreed to adopt a Component 4 price of \$200/acre-foot. The Yuba Agreement provides for a Component 4 price of \$125/acre-foot, but Member Units of Yuba County Water Agency are not obligated to make groundwater substitution water available at that price. All Participating Contractors must

sign the Amendment in order for DWR to amend its Water Purchase Agreement with Yuba for the revised Component 4 water price and other scheduling and invoicing terms.

DWR is requesting that Zone 7 (and all Participating Contractors) sign the Amendment whether or not they need additional water or are willing to pay an additional amount for the Component 4 water made available from the Yuba groundwater substitution water pumping program. Contractors who do not wish to pay the higher price for Component 4 water have no obligation to request any of this water. As provided by the Yuba Accord Participation Agreement, Participating Contractors who elect to “not” request some or all of the water offered under their Participation Agreement can notify DWR, and it will re-allocate the water to other Participating Contractors.

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

FINAL DRAFT AMENDMENT 3 TO THE
AGREEMENT FOR THE SUPPLY AND CONVEYANCE OF WATER
BY THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF CALIFORNIA
TO THE PARTICIPATING STATE WATER PROJECT CONTRACTORS
UNDER
THE DRY YEAR WATER PURCHASE PROGRAM
SWPAO NO. 10-804

THIS AMENDMENT 3 (Amendment 3) to the March 31, 2008, "Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California Under the Dry Year Water Purchase Program" (Participation Agreement) is entered into as of the _____ day of _____, 2010 pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the Department of Water Resources of the State of California, herein referred to as DWR, and the Alameda County Flood Control and Water Conservation District, Zone 7, a public agency in the State of California, herein referred to as the AGENCY. DWR and the AGENCY are herein referred to separately as the Party and collectively as the Parties.

RECITALS

- A. In 2009 severe drought conditions worsened and California experienced its third consecutive year of drought. Although 2010 is not as dry, reservoir storage is depleted and 2010 supplies are projected to be well below average in 2010.
- B. At this time in 2010, the DWR allocation for the State Water Project (SWP) is 15 percent of requested deliveries and the U.S. Department of the Interior's Bureau of Reclamation (Reclamation) has allocated 5 percent of requested deliveries to the Central Valley Project (CVP) agricultural water service contractors south of the Delta based on a forecast of dry conditions (90% exceedance forecast).
- C. Under the December 4, 2007 "Agreement for the Long-Term Purchase of Water from Yuba County Water Agency by the Department of Water Resources," (DWR/Yuba Water Purchase Agreement) Yuba County Water Agency (YCWA) makes surface water available for delivery and purchase by DWR, some of which is made available through substitution of groundwater for surface flows that would otherwise be used by a number of water districts within Yuba County (Member Units). YCWA and its Member Units have established a groundwater substitution water transfer program (groundwater substitution pumping program) through their Conjunctive Use Agreements to provide water for the DWR/Yuba

Water Purchase Agreement. The DWR/Yuba Water Purchase Agreement, Exhibit 1, defines the amount of surface flows made available from the groundwater substitution pumping program as the Groundwater Substitution Component, and is the quantity of Released Transfer Water that YCWA makes available from releases from New Bullards Bar Reservoir as a result of YCWA's groundwater substitution pumping program, and that is not related to releases from the Storage Component of Released Transfer Water."

- D. In 2007 and 2008, under the Participation Agreements, 21 SWP contractors and the San Luis & Delta-Mendota Water Authority (AUTHORITY) (SWP contractors and the AUTHORITY together referred to as Participating Contractors) agreed on terms with DWR for purchase and delivery of the water made available under the DWR/Yuba Water Purchase Agreement.
- E. In 2009, YCWA and DWR executed Amendment 2 to the DWR/Yuba Water Purchase Agreement to resolve for 2009 only a disagreement among YCWA, its Member Units, DWR and the Participating Contractors over the interpretation of obligations in the DWR/Yuba Water Purchase Agreement for making groundwater substitution water available to DWR for purchase as Components 2, 3, and 4 water. The above disagreement was resolved for 2009 only when DWR

executed Amendment 2 with each of the Participating Contractors and the
AUTHORITY.

- F. DWR, the Participating Contractors, YCWA and its Member Units dispute whether, under the terms of the DWR/Yuba Water Purchase Agreement, YCWA may authorize its Member Units to sell water from YCWA's groundwater substitution water transfer program to third parties (for example, under subsection F of section 11 of the DWR/Yuba Water Purchase Agreement) without first making this quantity of groundwater substitution water available for purchase by DWR under the water pricing provisions set forth in the DWR/Yuba Water Purchase Agreement (for example, under subsection B of sections 6, 7, or 8 of the DWR/Yuba Water Purchase Agreement).
- G. In accordance with the dispute resolution provisions of section 22 of the DWR/Yuba Water Purchase Agreement, YCWA, DWR, and representatives of the Participating Contractors presented the dispute to the Management Committee but the Management Committee has not agreed on terms to resolve the dispute. However, in consideration of the residual effects of the 2009 severe drought conditions and the need to facilitate water transfers, the Management Committee has recommended adoption of an Amendment to the DWR/Yuba Water Purchase Agreement for 2010 only and that discussion continue among

YCWA, its Member Units, DWR, the Participating Contractors to resolve the

dispute for the remaining term of the DWR/Yuba Water Purchase Agreement.

- H. Without waiving any rights or obligations under the DWR/Yuba Water Purchase Agreement and recognizing that the above dispute has not been resolved, and consistent with the above Recitals, DWR and YCWA desire for 2010 to amend their DWR/Yuba Water Purchase Agreement by modifying the price of Component 4 Water that is offered from the groundwater substitution program, and other provisions of the DWR/Yuba Water Purchase Agreement.

- I. Without waiving any rights or obligations under the Participation Agreement and recognizing that the above dispute has not been resolved, and consistent with the above Recitals, the Parties desire for 2010 to amend the Participation Agreement by modifying the price of Component 4 Water that is offered from the groundwater substitution program, and other provisions of the Participation Agreement.

AMENDMENT 3

Now Therefore, in accordance with the Recitals and in consideration of the terms and conditions herein, the Parties hereby amend the Participation Agreement as follows:

1. DEFINITION

When used herein, the term Accrued Groundwater Substitution Component water means the amount of surface water in New Bullards Bar Reservoir that results from YCWA's groundwater substitution pumping program established by YCWA and its Member Units under their Conjunctive Use Agreements for making available Groundwater Substitution Component water.

2. TERM OF AMENDMENT 3

This Amendment 3 of the Participation Agreement will become effective upon execution by the Parties, execution of the same or substantively similar amendment of all the other Participation Agreements by the other Participating Contractors, and execution of a substantively similar amendment of the DWR/Yuba Water Purchase Agreement between DWR and YCWA. This Amendment 3 terminates on March 31, 2011 or after final payment by the AGENCY for any Component 4 water that it requested in 2010 as provided under this Amendment 3, whichever is later.

3. CHANGES TO THE PARTICIPATION AMENDMENT 3 IN 2010

Notwithstanding any other provision to the contrary of the Participation Agreement, the following provisions will apply only to Groundwater Substitution Component water and Accrued Groundwater Substitution Component made available by YCWA, through DWR, to the AGENCY during the 2010 Water Accounting Year.

A. PRICE OF COMPONENT 4 WATER

In 2010, for Component 4 water that is requested by the AGENCY, the AGENCY will pay \$200 per acre-foot for the amount of Component 4 water made available from Accrued Groundwater Substitution Component water and that is allocated to the AGENCY by DWR according to the allocation formula in Section 3.A of the Participation Agreement, unless this amount is: (1) reduced pursuant to a notice provided by DWR to YCWA under subsection 2.h of the Amendment 3 of the DWR/Yuba Water Purchase Agreement, (2) reduced because YCWA does not provide the requested quantity of Groundwater Substitution Component water, or (3) reduced pursuant to the terms of the Participation Agreement.

B. SPECIAL TERMS REGARDING GROUNDWATER SUBSTITUTION WATER

- a. During 2010, groundwater substitution water will be available only as Component 4 water.

- b. During 2010, to enable maximum amounts of available groundwater substitution water to be used for Component 4 water, Exhibit 1 Sections 7.2.2, 7.2.3, and 7.2.4 of the DWR/Yuba Water Purchase Agreement are inapplicable as to Groundwater Substitution Component water for the term of this Amendment 3 and the parties acknowledge that a deficit in delivery of Component 2 and Component 3 water could occur in 2010 due to amending this provision.

- c. The AGENCY will provide DWR not less than 24 hours notification for suspension or termination of groundwater pumping due to limitations on the ability of the AGENCY to divert and use the Groundwater Substitution Component water. In the event of such a suspension or termination of Groundwater Substitution Component water, the AGENCY will pay for its allocated share of the quantity of Accrued Groundwater Substitution Component water, up to and including through a 72-hour period commencing after DWR notifies YCWA to suspend or terminate pumping related to the amount of Groundwater Substitution Component water requested by the AGENCY (i.e., the AGENCY will pay for the quantity of Accrued Groundwater Substitution Component water through the 72 hour notice period to YCWA irrespective of whether the AGENCY was able to divert and use the Accrued Groundwater Substitution Component water),

unless another Participating Contractor will purchase the Accrued
Groundwater Substitution Component water.

C. REQUESTS, SCHEDULING, AND CONVEYANCE

- a. DWR will notify the Participating Contractors on or before April 3, 2010 of the amount of Groundwater Substitution Component water that YCWA's Member Units will make available during the 2010 Water Accounting Year.
- b. On or before April 15, the AGENCY will commit to the quantity of Groundwater Substitution Component water to be purchased, however, the AGENCY may adjust this amount, up or down, on or before May 13, and on May 13 the AGENCY will commit to the final quantity of Groundwater Substitution Component water to be purchased in 2010, but such amount will not be less than the AGENCY'S share of the Accrued Groundwater Substitution Component water in New Bullards Bar made available between April 1 and May 13. This provision is intended to be consistent with, and not modify, provisions of subsection 2.h in the Amendment 3 of the DWR/Yuba Water Purchase Agreement. If necessary, the dates herein may be adjusted if approved in writing by the AGENCY, DWR, and YCWA to allow the Member Units to maximize the

quantities of Groundwater Substitution Component water that could be made available during 2010.

- c. The AGENCY will schedule any Groundwater Substitution Component water requested under this Amendment 3 with a higher Delta conveyance priority over any other transfer water that DWR conveys at the Harvey O. Banks Pumping Plant for the AGENCY, provided that the 2010 Groundwater Substitution Component water will not have a higher priority than Storage Component water provided under the DWR/Yuba Water Purchase Agreement.

D. INVOICING AND PAYMENTS

- a. On or before the eighth day of the month following the month that the groundwater substitution pumping program makes Accrued Groundwater Substitution Component water available, YCWA will submit an invoice to DWR for the amount of Accrued Groundwater Substitution Component water that was made available under this Amendment 3 during that prior month with the payment due within 60 days.

- b. On or about the tenth day of the month that YCWA submits an invoice to DWR, DWR will submit to the AGENCY an invoice showing its allocated share of the Accrued Groundwater Substitution Component water made available in the prior month.
- c. DWR will reduce the payment invoiced to the AGENCY by 10 percent each month to allow accounting adjustments (if necessary) in the final payment for the Accrued Groundwater Substitution Component water. The final payment for Accrued Groundwater Substitution Component water will reflect any adjustments necessary to account for the total quantity of Accrued Groundwater Substitution Component water made available under this Amendment 3 and any adjustments due to subsections 2.d or 2.h in the Amendment 3 of the DWR/Yuba Water Purchase Agreement.
- d. The AGENCY will submit payment to DWR for the invoiced amount of Accrued Groundwater Substitution Component water within 30 days of receipt of DWR's invoice in order to allow timely payment by DWR to YCWA.

E. PAYMENTS FOR ADJUSTMENTS TO GROUNDWATER O&M COSTS

In 2010, the cost of Groundwater Substitution Component water or the Accrued Groundwater Substitution Component water will not be increased to cover YCWA's costs for any annual increases above actual 2006 Groundwater O&M Costs and therefore DWR will not invoice the AGENCY for such costs identified in Section 12.C. of the DWR/Yuba Water Purchase Agreement and Section 5.E. of the Participation Agreement.

4. NOT A PRECEDENT

This Amendment 3 is applicable only to Groundwater Substitution Component water made available by YCWA during the 2010 Water Accounting Year, and will not constitute a precedent that binds either of the Parties or the SWP contractors or the AUTHORITY as to the future interpretation of the DWR/Yuba Water Purchase Agreement.

5. NO OTHER CHANGES

Except as otherwise provided herein, Groundwater Substitution Component water and Accrued Groundwater Substitution Component water will be accounted for in accordance with the provisions of the Participation Agreement and all remaining provisions of the Participation Agreement will remain in full force and effect.

6. AMENDMENTS

This Amendment 3 may be amended or modified only by written agreement approved and executed by the Parties.

7. COUNTERPARTS OF THIS AMENDMENT 3

This Amendment 3 may be signed in any number of counterparts by the Parties, each of which will be deemed to be an original, and all of which together will be deemed to one and the same instrument. This Amendment 3, if executed in counterparts, will be valid and binding on a Party as if fully executed all in one copy.

FINAL DRAFT AMENDMENT 3 TO THE
AGREEMENT FOR THE SUPPLY AND CONVEYANCE OF WATER BY THE
DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA TO THE
PARTICIPATING STATE WATER PROJECT CONTRACTORS
UNDER THE DRY YEAR WATER PURCHASE PROGRAM

IN WITNESS WHEREOF, the Parties hereto, by their authorized representatives,
have executed this Amendment 3 on the last date set forth below.

Approved as to legal form
and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

David A. Sandino,
Chief Counsel

Mark W. Cowin,
Director

Date _____

Date _____

Approved as to legal form
and sufficiency:

ALAMEDA COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT,
ZONE 7

Amy Naamani,
General Counsel

G. F. Duerig,
General Manager

Date _____

Date _____

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

**Amendment 3 to Agreement for Supply and Conveyance of Water
Under the Dry Year Water Purchase Program**

WHEREAS, Zone 7 has approved a water supply and conveyance agreement, A08-98-CAL, known as the "Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the Participating State Water Project Contractors under the Dry Year Water Purchase Program" associated with the Yuba River Accord; and

WHEREAS, the Agreement needs to be amended in 2010 to allow participating contractors to purchase additional supplies in 2010 as part of the Lower Yuba River Accord;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District does hereby authorize the General Manager to negotiate and execute Amendment 3 to the "Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the Participating State Water Project Contractors under the Dry Year Water Purchase Program".

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a resolution
Adopted by the Board of Directors of Zone 7 of Alameda
County Flood Control and Water Conservation District on

March 17, 2010

By _____
President, Board of Directors

ORIGINATING SECTION: ENGINEERING
CONTACT: KURT ARENDS

AGENDA DATE: March 17, 2010

ITEM NO.

SUBJECT: New Flood Protection and Storm Water Drainage Development Impact Fee Ordinance, Second Reading and Adoption

SUMMARY:

- On March 18, 2009, Zone 7 adopted Ordinance 2009-01, which established the development impact fee necessary to collect the proportionate share of Stream Management Master Plan project costs attributable to future development.
- As part of the adoption, Zone 7 staff also recommended beginning a collaborative re-evaluation and update of the SMMP program costs with the cities of Dublin, Livermore, and Pleasanton in early 2012 to help address some of the issues raised by these three cities during development of the Study.
- Staff now recommends adopting a new ordinance, Ordinance 2010-01, which revises the fee schedule for the Development Impact Fee.
- The proposed fee structure within the new ordinance is as follows:
 - Existing Fee: \$0.783
 - Year 1 (1/1/10) - \$0.87 + ENR
 - Year 2 (1/1/11) - \$0.96 + ENR
 - Year 3 (1/1/12) - \$1.10 + ENR

FUNDING:

Revenue collected from the Flood Protection and Storm Water Drainage Impact fees will be deposited into Fund 76 - Flood Protection and Storm Water Drainage Development Impact Fee Fund.

RECOMMENDED ACTION:

Adopt the New Ordinance

ATTACHMENTS:

- New Ordinance

3/17/10 Board Written/Narrative Comments By Dick Quigley
Recent activity and involvement worth sharing.

Thursday 2 /18

I was a speaker at the Hayward Democratic Club meeting on February 18.
Interesting: A learning experience! -Maybe some lessons learned!
Two of the speakers, Matthew Heberger, a Research Associate with the Pacific Institute's Water Program **was "60/40" in favor of the water bond.** Adam Scow, who currently serves on the Planning Committee for the Annual California Water Policy Conference sponsored by Public Officials for Water and Environmental Reform, seemed to endorse change and infrastructure investment, and articulated crisis point, but **did not suggest bond support, nor did he suggest opposition.**

Hayward City Council Member [Bill Quirk](#), a retired LLNL colleague, was adamantly opposed, and stated his reasoning as *why should Hayward and people on EBMUD, or SFPUC service with their peripheral canal already in, pay for others that they don't need.* Bill and another councilman, ex-EBMUD employee, felt state bond would cost them 600K (the number they used).

I spoke last, first declaring that I was speaking for myself and not for Zone 7 or ACWA, and openly supportive of the bond measure, need for an infrastructure fix to the current and growing crisis of one of our most important resources. *I spoke of my life history in the Bay Area, demographics, and the need for education and study of the common ground and co-equal values solution theme for a fix.*

Thursday 2 /18

Participated in an ACWA Energy Committee teleconference meeting on the Direct Access PG&E program. We a revived an offering to potentially save through PG&E program. More will be coming soon.

Monday 2/22 --Thursday 2/25

I attended ACWA's Washington DC conference with Kurt Arends.

Monday (2/22)-Travel

Tuesday (2/23)

We broke into small issue groups and visited legislators and their staff. I was assigned with Group Leader Paul Kelly, Tim Quinn, Glen Peterson, Gene Harris, and Greg Zolitnick on the Comprehensive Water Package Group#1. Our main message points included: California Bay-Delta Legislation, Water Bonds and BDCP. We all carried very well-organized attendee packets or briefing binders thanks to ACWA staff.

We met with California Legislators who seemed interested and ready and willing to help. We hit offices of Reps. Dan Lungren, Lyn Woolsey, Mike Thompson, Zoe Lofgren, Mike Honda, George Miller, Jackie Speier, and Staff Finance pro Roger Cockrell. Learned a lot.

6-8pm: Opening reception for legislators and a good many came. **Our own Chris Moore made a stop and was welcomed! It was also great running into Carl Morrison in the halls in his Air Force uniform.** He was on the way to see Feinstein as Kurt and I were on our way to see McNerney (D-11) and Garamendi. I am glad we have capable folks protecting our country, and looking out for California in our Nations Capitol! Some were talking about a salary roll back of 8.5K a year or no pay increase as public sector pay has outpaced private and they seem to be addressing the issue. Sounded close to our board and agency issues to me! Unfunded mandates were also discussed particularly when detrimental to protecting jobs and investment. They seemed to be sensitive to our permitting quagmire.

Wed (2/24) -Speakers came to us all day: EPA, Dept of the Interior, Public projects roundtable forum, Congressman Devin Nunes, David Wegner, Staff Director Water & Power for Chair Grace Napolitano, Rep Ken Calvert and Rep Tom McClintock. 6-8PM a reception in the Rayburn house office building.

Thursday (2/25) Congressman Jim Costa gave a presentation, followed by an Issue Group Leader's Panel on observations and lessons learned from the Tuesday legislator visits, and planning for the future.

Thursday afternoon Kurt and I met with Jerry McNerney and John Garamendi to discuss issues specific to Zone 7 including the need to fix the delta as well as other water supply options.

Both meetings were very insightful. McNerney, while very opposed to a P canal, may look at other options like a tunnel or pipe. Garamendi seemed to have a solution in his mind for us involving our Chain of Lakes. He suggested we should look long and hard at Title 16 funding and recycling utilizing some of our current resources. He seemed ready and willing to help us.

Take away Very productive trip. May pay dividends if we stay engaged with the leaders we met, particularly on Bureau of Reclamation grant funding calls? Many spoke of the sound bite versus substance dilemma congress is in. Our California delegation seems ready and willing to work for us if we stay engaged. **We need to hold their feet to the fire to bring a solution to the California Water Crisis! Kurt can attest to the 12-14 hour non-stop days! It was a privilege and honor carrying the torch from the Zone 7 Board of Directors and staff.**

Working Pictures:





Reminder- Mark your calendars for the 20th Anniversary Banquet of the Alameda County Chapter, California Special Districts Association.

March 25, 2010, at the Pleasanton Marriott. See www.cstda.net

Local chapters are independent groups of special districts formed to create local networks of special district leaders. Chapter functions and meeting schedules vary by location with some meeting only annually to elect LAFCO representatives and some meeting as often as monthly to transact business, share ideas, and engage in educational opportunities.

Also note ACWA Region 5 has an event scheduled:

ACWA Region 5

Dinner and Speaker Presentation

Vandenberg Air Force Base Tour

Please join us at the April 12 ACWA Region 5 Tour of the Vandenberg Air Force Base Museum and Shuttle Launch area. Lunch will be at Vandenberg's Pacific Coast Club where we will hear from Base Utilities Engineer, Brad King, on water use on the base.

The one-day tour will be preceded by a dinner at the Embassy Suites Lompoc the evening of April 11 with a presentation by featured speaker, Roger Briggs, Executive Officer, Central Coast Regional Water Quality Control Board. Mr. Briggs will speak on water quality issues in the Central Coast and the potential affect on future water supply.

Dinner: **Sunday, April 11, 7:00 p.m.**
Embassy Suites Lompoc
1117 North H Street, Lompoc

Breakfast: **Monday, April 12, 6 a.m. – 9 a.m.**
Complimentary cook-to-order breakfast included with Embassy Suites room fee for hotel guests

Tour: **Monday, April 12, 9:45 a.m. – 1:30 p.m.**
Bus tour of Vandenberg Air Force Base Museum and Shuttle Launch Area with a buffet lunch and Base Utilities Engineer, Brad King, speaking on base water usage included. Car pooling from the hotel to Vandenberg Air Force Base is suggested as transportation to and from the base is not provided.

Hotel accommodations are available at the Embassy Suites Lompoc, 1117 North H Street, Lompoc, CA 93435, 805-735-8311. Room rates are \$119 plus tax per night. Room rate, tax, and incidentals are to be arranged and paid for by the attendee.

REGISTRATION INFORMATION:

Registration Deadline: April 1, 2010 (limited to 40 registrants)

If there are any questions on this report please give me a call.

Thanks!

Dick Quigley

ORIGINATING SECTION: ADMINISTRATION

CONTACT: Jill Duerig

AGENDA DATE: March 17, 2010

ITEM NO.

SUBJECT: GENERAL MANAGER'S REPORT - CORRECTED

SUMMARY: The following highlights a few of the key activities which occurred during the month of February. Also attached is a list of the GM contracts executed during the month.

Environmental & External Affairs:

- During February, DWR announced an increase in this year's water allocation from 5% to 15%. As the rainy season continues, additional increases are likely.
- DWR also informed staff that this summer's week-long Tesla/Patterson Pass road closures, planned in connection with the South Bay Aqueduct Improvement and Enlargement Project, have been pushed to 2011 due to delays in advertising for contractor procurement. DWR had previously done extensive public outreach on these road closures, which require a permit from Alameda County, and is in the process of notifying affected property owners, businesses and the county about the delay. It is our understanding that this delay does not significantly affect other aspects of the SBA Improvement and Enlargement project.
- The BDCP Steering Committee confirmed support for a focused analysis of the tunnel or pipeline conveyance approach for the purpose of performing additional analysis on this relatively new alternative to effectively compare it with canal alignments which have already received significant review and analysis. While this decision is not and should not be equated with the final selection of the conveyance elements of the plan or a "preferred alternative," it does allow the BDCP process to go forward as expeditiously as possible.

Engineering and Flood Control:

- DWR began making flood releases from Lake Del Valle via the Conservation Outlet Works (COW) tunnel into the Arroyo Valle. With the Del Valle Branch Pipeline out of service, Zone 7 is losing about 50-60 AF/day of "free" water that would otherwise be taken at the Del Valle Plant.
- Staff co-signed a comment letter to the Central Valley RWQCB concerning a white paper they had prepared concerning Sacramento Regional Wastewater Treatment Plant's application for an NPDES Permit Renewal, which included a request for an increase in its discharge capacity. The letter, also signed by ACWD, SCVWD, CCWD, the State Water Contractors and the Metropolitan Water District of Southern California, emphasized the long-standing concerns about the discharge from the SRWTP and its effects on drinking water quality and public health.
- The continuing wet weather has resulted in another three bank slides located along Line F-4 in Dublin. With the 14 slides found previously, there are a total of 17 slides that staff will plan to repair this summer.

Operations and Maintenance:

- Patterson Pass Conventional Water Treatment Plant was brought back on line to allow for the annual maintenance shutdown of the Del Valle Plant. The UF plant remains offline until summer. The Mocho Demineralization Facility is still in use to make up any production shortfall.
- Among the projects that was completed at PPWTP was the vacuum ammonia project. Maintenance and Engineering worked together on an excellent project, completed almost exclusively with in-house labor. The final touches will include integrating the softened water booster system on SCADA. County Environmental Health came out and inspected, finding the project to their satisfaction. Not only will this project provide enhanced safety, it is a very clean and professional installation.

Finance & Administration

- Documents were prepared and executed for the first draw on the ISA. This draw will be nearly \$31 million which will, in effect, temporarily reimburse Zone 7's expansion fund for costs already incurred on the Altamont Pipeline – Livermore Reach Project until the full amount of the draw comes due for repayment.
- On January 26, 2010, the County Board of Supervisor modified the "Reasonable Accommodation and Temporary Modified Work policy and procedures, reducing the maximum timeline for modified assignments from nine months down to three months. This could be an issue if someone's recovery from a serious injury takes more than three months. There is no flexibility for Zone 7 to have a different policy/procedure at this time.

Monthly List of GM Contracts

February 2010

Contracts:

Nossaman LLP	\$50,000	Legal Services
Russell A. Lund	<u>\$10,000</u>	Metallurgical Engineering Services
Total	\$60,000	

Total February 2010

ORIGINATING SECTION: OFFICE OF THE GENERAL MANAGER
CONTACT: BONI BREWER

AGENDA DATE: March 17, 2010

ITEM NO.

SUBJECT: Recent & Upcoming Public Outreach Activities

Recent Public Outreach Activities

E-Rebates for High-Efficiency Toilets

A new, environmentally friendly electronic application process for rebates is now available on Zone 7's website, streamlining the rebate process both for applicants and for water conservation staff. Also, the HET rebate program has been expanded to include commercial and multi-family residential customers.

Upcoming Public Outreach Activities

7th Annual Water Conservation Showcase, March 23

Zone 7 will again be among several co-sponsors of this event, to be held at the Pacific Energy Center in San Francisco. The event provides information on water-conserving strategies for building designers, managers and operators through presentations and table-top displays. Zone 7 staff will provide Agency-specific water conservation materials for distribution, attend workshops about opportunities for commercial and residential conservation practices, and network with other water-conservation professionals as well as consumers.

Spring Water-Wise Gardening Workshops, March 27, April 3 & April 24

We will co-sponsor with our retailers three separate Saturday workshops on drought-tolerant gardening, with participation from local experts in the areas of water-wise plant types and irrigation practices. We also plan to provide indoor water-saving tips and information on rebates for high-efficiency washing machines and toilets:

- **Saturday, March 27, from 2 to 3:30 p.m. at the Livermore Civic Center Library,** 1188 S. Livermore Ave., Livermore, co-hosted by Livermore Municipal Water and the California Water Service Company.
- **Saturday, April 3, from 11 a.m. to 12:30 p.m. at the Pleasanton Library,** 400 Old Bernal Ave., Pleasanton, co-hosted by Zone 7 and the City of Pleasanton.
- **Saturday, April 24, from 2 to 3:30 p.m. at the Dublin Library,** 200 Civic Plaza, Dublin, co-hosted by Zone 7 and Dublin San Ramon Services District as part of Dublin Pride Week.

Livermore Science Odyssey, March 18

Zone 7 is providing several hundred copies of the first two editions of *Water for Tomorrow*, a joint publication of the Association of California Water Agencies and National Geographic Publishing, to be distributed during this annual science fair for Livermore students. We will be listed as a sponsor on the fair brochure and other promotional materials.

Tri-Valley Science & Engineering Fair, March 30-April 2

As in past years, Zone 7 staff will serve as judges on water-related projects during the Tri-Valley Science & Engineering Fair. This event, geared to high school and middle school students, is sponsored by the Lawrence Livermore National Laboratory. The judging itself will take place on March 31.

Earth Day, April 17

Zone 7 and the City of Pleasanton will cosponsor an Earth Day event to be held at the Saturday morning Farmers' Market at Main and West Angela streets. We will have a large space for tables with activities, games and education about water conservation and water pollution. We also will have a table at Livermore's Earth Day celebration, to be held from around 10 a.m. to 4 p.m. at Robertson Park.

ORIGINATING SECTION: Administration
CONTACT: Jill Duerig/Tim Hunt

AGENDA DATE: March 17, 2010

ITEM NO.

SUBJECT: Legislative Update

SUMMARY:

- Zone 7 staff, with the support of the agency's lobbying firm, The Gualco Group, Inc., and the agency's legislative support consultant, Tim Hunt, monitors legislation that is being considered in Sacramento.
- Staff, with recommendations of the agency's lobbying firm, determines a number of bills of interest to Zone 7 for the legislative session. Of particular interest to Zone 7 are bills regarding specific water issues, such as those related to the Delta.
- February 19th was the deadline for introduction of new bills. There are a number of spot bills that were introduced so they can be amended later—several coming from Delta-area legislators. Gualco is following 15 bills and one resolution urging the U.S. Department of the Interior to expedite study and installation of the Two-Gates project.
- Joint legislative hearing March 9 checking implementation of the water package. Legislators were updated on BDCP and Fish & Game Commission announced it will consider rules allowing taking more striped bass, the main predator of juvenile salmon.
- Analysis of the bills resulted in staff recommending support for two:
 - o AB 2336 (sponsored by the Modesto Irrigation District) that would eliminate all legal restrictions to taking striped bass, a non-native fish that is a primary predator of juvenile salmon.
 - o AB 1929, dealing with a "safe harbor" for agencies that have taken all appropriate procedures to control Quagga Mussels should the mussels show up in a water system. Zone 7 is part of a Bay Area coalition working on this issue. Hearing is set for March 23.
- Staff is also recommending opposing two bills:
 - o AB 2049 would add a new section to the Water Code forbidding the transfer of State Water Project contracted rights from an agricultural user to a municipal contractor for more than 10 years. Hearing is set for March 23.
 - o AB 1594 would require a Legislative vote and analysis by Legislative Analyst Office before construction of any conveyance in the Delta. Hearing date April 13.

FUNDING: No funding necessary.

RECOMMENDED ACTION: Information only.

ATTACHMENT: Executive Summary of tracked bills

ORIGINATING SECTION: FINANCE
CONTACT: DENNIS GAMBS/JOHN YUE

AGENDA DATE: March 17, 2010

ITEM NO.

SUBJECT: FOLEY ROAD STATUS UPDATE

SUMMARY:

- In 1975, Zone 7 constructed a paved access road to its Del Valle Water Treatment Plant; this private road has been referred to as Foley Road.
- Other users of Foley Road include Vineyard Estates homeowners, Olivina Ranch Group (Crohare, et al.), Foley, Kurtzer, Moir, LARPD and PG&E.
- In 1996, the Vineyard Estates development created a number of 20 acre lots and constructed a private road known as Kalthoff Common which connects to Foley Road, at the eastern terminus, and Vallecitos Road (SR 84) at the western terminus.
- This development initiated discussions on a maintenance agreement but none was reached as the estimated maintenance costs on Kalthoff Common and Foley Road were estimated to be reciprocal. While traffic did increase on Foley Road, Zone 7 employees were allowed to use Kalthoff Common as a safer means of access to the water treatment plant.
- In 2004, Signature Properties' (developer of Vineyard Estates) traffic consultant developed an estimate for the share of each user's usage of Foley Road. Assuming Olivina Ranch is developed, Zone 7 share would be 71%, Olivina Ranch 14% and Vineyard Estates 10%. The other users of the road, comprising of 5%, was either minor or negligible in comparison.
- Recently, the City of Livermore has initiated a project to signalize the intersection of Vallecitos Road and Vineyard Avenue. An extension of Foley Road to the proposed intersection would provide safer access to the treatment plant and Zone 7's need to use Kalthoff Common will be minimal.
- As a result of Mr. Charles Crohare's interest to enter into an agreement with Zone 7 for sharing the cost of maintaining Foley Road, staff is planning to schedule a meeting with all users of the road to begin discussion.

RECOMMENDED ACTION:

For information

ATTACHMENTS:

Memo
Map of Foley Road

Interoffice Memo

Date: March 17, 2010
To: Jill Duerig/John Yue
From: Dennis Gambs
Subject: Foley Road – Del Valle Water Treatment Plant Access Road

Zone 7 Access Road

In 1975, Zone 7 completed construction of its Del Valle Water Treatment Plant. As part of this project, a paved access road, approximately 5,400 feet in length, was constructed from Vallecitos Road to the treatment plant. This paved road overlies or replaced portions of the “old Foley Road.” The old Foley Road property, originally owned by the Foley family, connects the Foley ranch property (located south of the treatment plant site) to Wetmore Road. The newer paved roadway section has been referred to, and for the purposes of this report, will be referred to as Foley Road.

Zone 7 has either fee property ownership or easement rights over the paved Foley Road. Zone 7’s fee ownership is over the northerly (near Vallecitos Road) and the southerly (near the water treatment plant) portions of the road, and easement rights in between. Other users of Foley Road also have property rights which allow them to use the road. These other users include: Vineyard Estates homeowners (along Kalthoff Common), Olivina Ranch Group (Crohare, et al.), Foley, Kurtzer, Moir, LARPD and PG&E.

Foley Road is a private road; neither the City nor County has any ownership or maintenance responsibilities for the road. Thus, maintenance responsibilities have largely fallen to Zone 7 as the major user of the road.

Vineyard Estates Development

In 1996, the Vineyard Estates development was approved by the City of Livermore. This development, located west of the treatment plant and Foley Road, created a number of 20 acre lots and included the construction of a private road known as Kalthoff Common which is approximately 8,200 feet in length. Each lot includes a 2-acre home site surrounded by vineyards. The primary access for this development is Kalthoff Common off Vallecitos Road (SR 84) on the western edge of the development. However, one of the City’s conditions of approval was a secondary access road for emergency vehicles. This secondary access is from Foley Road. The Vineyard Estates homeowners’ right to use Foley Road stem from a number rights along various portions of the road including property ownership (fee), easement rights, agreements with roadway property owners and through asserting prescriptive rights (past usage). Another requirement by the City was for the developer to widen the portion of Foley Road between Kalthoff Common to Vallecitos Road from 20 to 24 feet in width. The City did not desire to own or maintain Foley Road, which would have required further upgrades to meet city standards, and would not have fit the rural nature of the development.

Zone 7 and Signature Properties, the developer of Vineyard Estates, entered into discussions regarding the respective use and maintenance of Foley Road and Kalthoff Common. The development would result in increased usage of Foley Road with 23 new lots fronting Kalthoff Common. However, Zone 7 desired to use Kalthoff Common as a safer access route to the treatment plant for Zone 7 employees as a significant increase in traffic volume has occurred along Vallecitos Road making safe access to and from Foley Road more difficult. The intersection of Kalthoff Common with Vallecitos Road (SR 84) was signalized as opposed to the intersection of Foley Road with Vallecitos Road which was not.

Signature proposed that Zone 7 be responsible for the maintenance of Foley Road while the Vineyard Estates Home Owners be responsible for the maintenance of Kalthoff Common. Under current usage conditions the proposed sharing of maintenance costs appeared equitable, but these conditions would be subject to change in the future due to evolving use. Moreover, a new signalized intersection being contemplated at Vallecitos and Foley Road would all but eliminate the need for Zone 7 to use Kalthoff Common. While no formal maintenance agreement was reached as a result of these discussions, Signature did give permission to Zone 7 for staff's use of Kalthoff Common.

PG&E Settlement Agreements

In July of 2002, PG&E filed an action in eminent domain in the Superior Court seeking certain right of way for its electric transmission line project which had overlapping interest on Foley Road. Zone 7, Vineyard Estates and Olivina Ranch Group were all named in this action. By 2004, settlement agreements were reached between PG&E and each of the parties to assure compatibility in the use of Foley Road. Each agreement included a stipulation that each party meet in good faith and enter into an appropriate cost sharing and maintenance agreement with regard to the use of Foley Road. While PG&E's use of Foley road is minimal, a couple of trips per month, the understanding reached as a result of the settlement agreements set a basis for working with other users of the road in developing an agreement for sharing the costs of its maintenance.

Traffic Study

In August of 2004, Zone 7 entered into discussions with Signature to develop an agreement for the maintenance responsibilities of Foley Road and Kalthoff Common. At this point, most of the Vineyard Estate lots had been sold to individual owners and Signature indicated that any agreement would need to be acceptable to the Vineyard Estates HOA. Signature's Traffic Engineer, TJKM, estimated usage of Foley Road based on the classifications of users of the road (e.g. residence, winery and vineyard) and determined the pro-rata share of traffic for each user of each roadway. The usage volume would be used to determine the share of maintenance costs of each user of each roadway. The users included in this study were Vineyard Estates homeowners, Zone 7, Kurtzer, Olivina Ranch Group, Moir, Pacific Gas & Electric, and Foley.

TJKM estimated Zone 7's share of use was approximately 71% (of total use) assuming a developed Olivina Property, and 83% without a developed Olivina Ranch property. Vineyard Estates' share of use was 10% and 11% respectively under the two assumptions. The other

users, Kurtzer, Moir, Pacific Gas & Electric, and Foley, were determined to have only minor or negligible share of road usage while the Olivina Ranch Group was estimated to have approximately 14% usage with their property developed. This number could vary depending on what commercial development occurs on Olivina Ranch. While these estimated usages do not appear unreasonable, they are subject to change based on actual developed uses.

Zone 7's use of Kalthoff Common was 8% with or without development of Olivina Ranch. Vineyard Estates home owners use of Kalthoff Common was approximately 92% with or without the development of Olivina Ranch.

According to the estimate developed by TKJM and Peachtree Community Association Services (property manager for the HOA), the yearly maintenance costs for the Vineyard Estates home owners share for the use of Foley Road was similar to Zone 7's share for the use of Kalthoff Common. Signature's preference was that the Vineyard Estates HOA maintain Kalthoff Common while Zone 7 maintains Foley Road without formalizing a cost sharing agreement between the parties due to the relatively small differences in the amount of monies.

Proposed Olivina Ranch Development - Sycamore Ridge

In September of 2006, an application for Sycamore Ridge development (Tentative Tract Map 7907) was submitted to the City of Livermore to subdivide the 120-acre Olivina Ranch Group property into six parcels of approximately 20 acres each. Each parcel would have a 2-acre building envelope to be used for a single family residence with the remaining acreage planted in agriculture as required by the South Livermore Plan. The South Livermore Plan (Zoning) would also allow for one of the parcels to be used as a commercial site such as an inn, restaurant, or winery. However, a request for commercial use was not made with the application. Zone 7 reviewed the proposed development and requested the City to require that the development share in the maintenance costs of the access road. The project has not been approved by the City and the submittal is incomplete.

Foley Road Rehabilitation Study

In October of 2007, Zone 7 retained a consultant, Bellecci and Associates, to evaluate and recommend pavement repair options for a number of Zone 7 paved areas including the approximately 5,400 feet of Foley Road from Vallecitos Road to the treatment plant parking lot. The portion of Foley Road from Vallecitos Road to Kalthoff Common is 3,800 feet and is the predominant portion shared by the users, whereas the portion from Kalthoff Common to the Zone 7 parking lot is almost exclusively used by Zone 7. The consultant found that the roadway had a number of cracks, areas are missing seal coat, inadequate slope for drainage (leading to standing water and pavement deterioration) and potential settlement and cracks on the portion of road constructed on embankment. The lowest costs pavement rehabilitation plan alternative is \$535,000, based on *present value*, for a 25 year period. This rehabilitation alternative includes a slurry seal with minor repairs and maintenance every 5 years and a 1½ inch overlay in 10 years. This road rehabilitation project has been added to Zone 7's Capital Improvement Program and is scheduled for an in-service date of 2011.

Intersection Project and Foley Road Realignment

Since completion of the Del Valle Water Treatment Plant in 1975, traffic volume has increased significantly on Vallecitos Road making safe access to and from Foley Road more difficult. For example, between 1984 and 2000 Zone 7 employees and visitors were involved in seven accidents at the intersection. The City of Livermore identified a signalized intersection project at Vallecitos Road and Vineyard Avenue and included it in its Capital Improvement Program. The new intersection would include a traffic signal to improve traffic flow and safety. In 2000, Zone 7 offered to advance funding so the City could accelerate this project; however, the City required a funding of \$1,000,000 in order to proceed. Although the monies would have been reimbursed over time, the dollar amount and uncertainty as to when the monies would be repaid discouraged Zone 7's participation. In the interim, staff has been using Kalthoff Common off of Vallecitos Road (SR 84) as a safer access route to and from the treatment plant.

In October 2009, the City of Livermore informed Zone 7 that the project to construct a new intersection at Vallecitos Road was proceeding with funding identified. The project proposes that Vineyard Avenue be realigned to intersect Vallecitos Road about 400 feet southwesterly of the existing intersection as shown on the attached map. Foley Road would have to be extended approximately 400 feet to utilize the new intersection. However, the City indicated it could not fund the Foley Road extension as it is private. Nevertheless, Zone 7 and the City are working on an agreement wherein Zone 7 would reimburse the City for design, construction and other costs associated with realigning Foley Road to the new intersection. The City's preliminary plans called for the start of construction this summer with completion by June 2011. The cost of the new road is estimated by the City to be approximately \$400,000. The final costs would be based on the actual bid amount. An agreement to reimburse the City for the Foley Road realignment is in discussions and would be brought to the Board for approval when finalized.

A signalized intersection and realigned Foley Road provides Zone 7 employees, visitors and vendors as well as other users, a safer access to Foley Road. Access by vendors, such as chemical deliveries which do not have permission to use Kalthoff Common, would have safer access. The project also provides the certainty that Zone 7 will have safe access on an ongoing basis as the use of Kalthoff Common is not a permanent right. As a consequence, Zone 7's need to use Kalthoff Common in the future should be minimal. Zone 7's share of road usage, as previously estimated by TKJM would need to be reassessed with this change for an updated assessment on the maintenance costs share of the roadways.

Maintenance Agreement

Recently Mr. Charles Crohare, part owner of Olivia Ranch Group property, expressed a renewed interest to enter into an agreement with Zone 7 for sharing in the maintenance costs of Foley Road. He has expressed this interest to a number of Zone 7 Board members and staff indicating he would like the issue resolved soon.

Formalizing a maintenance agreement calls for cooperative participation by the road users with varied perspectives. In the case of Vineyard Estates, the homeowner's share of maintenance costs for the use of Foley Road was not markedly different from Zone 7's share of maintenance

costs for the use of Kalthoff Common. Signature Properties concluded that formalizing a cost sharing agreement between the various users was not worth the effort. Signature Properties also expressed concern that Foley Road needed to be in a serviceable condition before entering into any agreement to share the costs of maintenance. They did not want to have to pay for any deferred road maintenance cost. Kalthoff Common is in better condition than Foley Road.

At present, the use of Foley Road attributable to the Olivina Ranch Property is negligible. The property has not been developed. Any future commercial use and the resulting traffic usage is uncertain as would be any estimate for the share of maintenance costs.

Zone 7 recently sent a letter to the users of Foley Road informing them of the City of Livermore's project to construct a new intersection at Vallecitos Road and a realigned Vineyard Avenue as well as the related project to extend Foley Road to the realigned intersection. Zone 7 also requested to work with the parties to develop an equitable cost sharing agreement to cover the costs of extending Foley Road. A number of users expressed a disinterest in sharing costs while no users indicated a willingness to share in funding the costs.

In developing a maintenance agreement, Zone 7 would want to work with all the users of the road as potential parties to the agreement. The same principles for sharing maintenance costs would apply to all users of the road. As Zone 7 and the City of Livermore develop the realignment project agreement, staff is planning to invite the users of Foley Road to a meeting to discuss developing an agreement for sharing maintenance costs. This meeting would include providing background on Foley Road and the proposed intersection/Foley Road realignment projects as well as any concerns that the users of Foley Road may have. It would also include a discussion of potential factors that could be considered in determining costs sharing. A goal will be to develop a consensus with the users on any maintenance agreement, and to gauge the interest and timing for developing the agreement.