



# BOARD OF DIRECTORS MEETING AGENDA

**July 1, 2021 Regular Meeting  
6:30 p.m.**

Meeting link:

<https://sweetwaterspringswaterdistrict.my.webex.com/sweetwaterspringswaterdistrict.my/j.php?MTID=m45155c695444b623349b6eb684d82094>

Meeting number: 182 741 9267

Password: 6unU5drj4sy

OR

Join by phone: +1-415-655-0001 US Toll

Access code: 182 741 9267

Password: 68685375

***All guests that join the virtual meeting will be muted with their camera/ video turned off. Guest(s) will be unmuted and video turned on when they are speaking. Proper decorum including appearance is required.***

NOTICE TO PERSONS WITH DISABILITIES: It is the policy of the Sweetwater Springs Water District to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request made at least 48 hours in advance of the need for assistance, this Agenda will be made available in appropriate alternative formats to persons with disabilities. This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).

Any person who has any questions concerning any agenda item may call the General Manager or Assistant Clerk of the Board to make inquiry concerning the nature of the item described on the agenda; copies of staff reports or other written documentation for each item of business are on file in the District Office and available for public inspection. All items listed are for Board discussion and action except for public comment items. In accordance with Section 5020.40 et seq. of the District Policies & Procedures, each speaker should limit their comments on any Agenda item to five (5) minutes or less. A maximum of twenty (20) minutes of public comment is allowed for each subject matter on the Agenda unless the Board President allows additional time.

## I. CALL TO ORDER ***(Est. time: 2 min.)***

- A. Board members Present
- B. Board members Absent
- C. Others in Attendance

II. CHANGES TO AGENDA and DECLARATIONS OF CONFLICT  
**(Est. time: 2 min.)**

III. CONSENT CALENDAR **(Est. time: 5 min.)**

***(Note: Items appearing on the Consent Calendar are deemed to be routine and non-controversial. A Board member may request that any item be removed from the Consent Calendar and added as an “Administrative” agenda item for the purposes of discussing the item(s)).***

- A. Approval of the Minutes of the June 3, 2021 Board Meeting
- B. Approval of Operations Warrants/Online payments/EFT payments
- C. Receipt of Item(s) of Correspondence.

*Please note: Correspondence received regarding an item on the Administrative Agenda is not itemized here, but will be attached as back-up to that item in the Board packet and addressed with that item during the Board meeting*

IV. PUBLIC COMMENT: The District invites public participation regarding the affairs of the District. This time is made available for members of the public to address the Board regarding matters which do not appear on the Agenda, but are related to business of the District. Pursuant to the Brown Act, however, the Board of Directors may not conduct discussions or take action on items presented under public comment. Board members may ask questions of a speaker for purposes of clarification.

V. ADMINISTRATIVE

- A. Public Hearing; Discussion/Action re Resolution 21-11, Approving the Local Hazard Mitigation Plan *(Est. time 10 min.)*
- B. Discussion/Action re Update on CDBG Application for Grant Funding for the CIP 2020-21 project *(Est. time 15 min.)*
- C. Discussion/Action re COVID-Related Re-Opening Issues *(Est. time 15 min.)*
- D. Discussion/Action re Update on Monte Rio Bridge Project *(Est. time 10 min.)*
- E. Discussion/Action re Drought Emergency Declaration, Flow Reduction in the Russian River, and Curtailment Order *(Est. time 15 min.)*
- F. Discussion/Action re Proposed Subsidy Program for Flume Meter Leak Detection and Drought Pilot Program for Flume Leak Detection and Usage Devices *(Est. time 15 min.)*
- G. Discussion/Action re CSDA Election *(Est. time 10 min.)*
- H. Discussion/Action re LAFCO Election *(Est. time 10 min.)*
- I. Discussion/Action re Resolution 21-12, Approving the Master Professional Services Agreement with The Law Offices of Matthew Emrick *(Est. time 10 min.)*

VI. GENERAL MANAGER'S REPORT

VII. BOARD MEMBERS' ANNOUNCEMENTS

VIII. ITEMS FOR NEXT AGENDA

IX. CLOSED SESSION

- A. Pursuant to Gov. Code Section 54957(b)(1) – Public Employee Performance Evaluation  
Title: General Manager

ADJOURN

## **Sweetwater Springs Water District Mission and Goals**

The mission of the Sweetwater Springs Water District (SSWD) is to provide its customers with quality water and service in an open, accountable, and cost-effective manner and to manage District resources for the benefit of the community and environment. The District provides water distribution and maintenance services to five townships adjacent to the Russian River:

- Guerneville
- Rio Nido
- Guernewood Park
- Villa Grande
- Monte Rio

**GOAL 1: IMPLEMENT SOUND FINANCIAL PRACTICES TO ENSURE EFFECTIVE UTILIZATION OF DISTRICT RESOURCES**

**GOAL 2: PROVIDE RELIABLE AND HIGH QUALITY POTABLE WATER WITH FACILITIES THAT ARE PROPERLY CONSTRUCTED, MANAGED AND MAINTAINED TO ASSURE SYSTEM RELIABILITY**

**GOAL 3: HAVE UPDATED EMERGENCY PREPAREDNESS PLANS FOR ALL REASONABLE, FORESEEABLE SITUATIONS**

**GOAL 4: DEVELOP AND MAINTAIN A QUALITY WORKFORCE**

**GOAL 5: PROVIDE EXCELLENT PUBLIC OUTREACH, INFORMATION AND EDUCATION**

**GOAL 6: ENHANCE BOARD COMMUNICATIONS AND INFORMATION**



## BOARD MEETING MINUTES\*

Meeting Date: June 3, 2021

(\*In order discussed)

June 3, 2021  
6:30 p.m.

**Board Members Present:**

Tim Lipinski  
Gaylord Schaap  
Larry Spillane  
Sukey Robb-Wilder  
Rich Holmer

**Board Members Absent:**

(None)

**Staff in Attendance:**

Ed Fortner, General Manager  
Nicole King, Acting Secretary to the Board

**Others in Attendance:**

Rachel Hundley, Legal Counsel

### I. CALL TO ORDER (6:30 p.m.)

The properly agendized meeting was called to Order by President Robb-Wilder at 6:30 p.m.

### II. CHANGES TO AGENDA and DECLARATION OF CONFLICT (6:31 p.m.)

(None.)

### III. CONSENT CALENDAR (6:32 p.m.)

President Robb-Wilder reviewed the items on the Consent Calendar. Director Holmer moved to approve the Consent Calendar. Director Spillane seconded the motion. Motion carried 5-0. The following items were approved:

- A. Approval of the Minutes of the April 1, 2021 Board Meeting and May 6, 2021 Board Meeting and the May 13, 2021 Special Board Meeting
- B. Approval of Operations Warrants/Online payments/EFT payments.
- C. Receipt of items of Correspondence (None)

### IV. PUBLIC COMMENT (6:33 p.m.)

None.

## V. ADMINISTRATIVE (6:33 p.m.) \*

*\*in the order discussed*

- V-A. (6:33 p.m.) Public Hearing; Discussion/Action re Resolution 21-07, Adopting Water Rates for FY 2020-21 and Analysis of protests received.** The GM provided an overview of this item. At 6:34 President Robb-Wilder opened the Public Hearing. There were no comments. At 6:35 p.m. the Public Hearing was closed. Discussion ensued. Director Holmer moved to approve Resolution 21-07, Adopting Water Rates for Fiscal Year 2021-2022. Director Spillane seconded. Motion carried 5-0.
- V-B. (6:58 p.m.) Public Hearing; Discussion/Action re Resolution 21-08, Adopting the FY 2021-22 Operating and Capital Improvement Budget.** The GM provided an overview of this item. President Robb-Wilder opened the Public Hearing at 7:09 p.m. There were no comments. The Public Hearing closed at 7:09 p.m. Brief discussion ensued. Director Lipinski moved to approve Resolution 21-08, Adopting the FY 2021-2022 Operating and Capital Improvement Budget. Director Holmer seconded. Motion carried 5-0.
- V-C. (7:13 p.m.) Public Hearing; Discussion/Action re Resolution 21-09, Adopting the 2020 Urban Water Management Plan and Water Shortage Contingency Plan.** The GM provided an overview of this item. Discussion ensued, including comments from Legal Counsel Rachel Hundley. President Robb-Wilder opened the Public Hearing at 7:47 p.m. There were no comments. The Public Hearing was closed at 7:47 p.m. Further discussion ensued. Director Schaap moved to approve Resolution 21-09, Adopting the Updated 2020 Urban Water Management Plan and the Updated 2020 Water Shortage Contingency Plan. Director Lipinski seconded the motion. Motion carried 5-0.
- V-D. (7:50 p.m.) Discussion/Action re COVID Related Reopening Issues.** The GM provided an overview of this item. Discussion ensued. No action was taken.
- V-E. (8:24 p.m.) Discussion/Action re Resolution 21-10, Approval of CDBG Application for FY 2020-2021 CIP.** The GM provided an overview of this item. Board questions and discussion ensued. Director Holmer moved to approve Resolution 21-10, Approving the General Manager to Apply for Community Development Block Grant (CDBG) Funding for Construction of the FY 2020-2021 Capital Improvement Project. Director Spillane seconded. Motion carried 5-0.

**\*\*\* At 8:29 p.m. the Board took a break. The meeting reconvened at 8:37 p.m.**

## VI. GENERAL MANAGER'S REPORT (8:37 p.m.)

The GM provided a report on the following items:

1. Laboratory testing
2. Water production and sales
3. Leaks
4. Guerneville rainfall
5. In-House Construction Projects
6. Lower Russian River Community Advisory Group Governance Meeting
7. Monte Rio Bridge project
8. Personnel
9. Grants Update
10. Gantt Chart
11. Local Hazard Mitigation Plan
12. Tax Lien List Approval

13. Economic Impact of No Disconnects for Non-payment

VII. BOARD MEMBERS' ANNOUNCEMENTS/COMMENTS  
(8:53 p.m.)

(None.)

VIII. ITEMS FOR THE NEXT AGENDA (8:55 p.m.)

1. Tax Lien list
2. Local Hazard Mitigation Plan approval
3. FY 2020-21 Capital Improvement Project
4. COVID restrictions
5. Duplex issue
6. Outreach for water conservation
7. Drought issues

IX. CLOSED SESSION (9:00 p.m.)

At 9 p.m. President Robb-Wilder announced the item for discussion in Closed Session. At 9:01 p.m. the Board went into Closed Session. At 9:49 p.m. the meeting reconvened and the following action was announced:

- A. Pursuant to Gov. Code Section 54957(b)(1) – Public Employee Performance Evaluation**  
**Title: General Manager**  
Direction was given to staff.

ADJOURN

The meeting adjourned at 9:49 p.m.

Respectfully submitted,

Nicole King  
Acting Clerk to the Board of Directors

APPROVED:

Gaylord Schaap: \_\_\_\_\_  
Sukey Robb-Wilder: \_\_\_\_\_  
Tim Lipinski: \_\_\_\_\_  
Rich Holmer \_\_\_\_\_  
Larry Spillane \_\_\_\_\_

# SWEETWATER SPRINGS WATER DISTRICT

**TO:** Board of Directors

**AGENDA NO. V-A**

**FROM:** Ed Fortner, General Manager

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**Meeting Date: July 1, 2021**

**SUBJECT: APPROVAL OF LOCAL HAZARD MITIGATION PLAN**

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**RECOMMENDED ACTION:**

- A. Hold a public hearing on the Local Hazard Mitigation Plan.
- B. Approve Resolution 21-11, which establishes the Sweetwater Springs Water District Local Hazard Mitigation Plan.

**FISCAL IMPACT:** Allows the District to apply for FEMA disaster mitigation grants.

**DISCUSSION:**

At the August 6, 2020, Board meeting, the Board approved Harris and Associates to undertake and complete a Local Hazard Mitigation Plan (LHMP) to help the District qualify for FEMA grants. Eric Vaughan, with Harris and Associates, Jack Bushgen, Julie Kenny, and I participated in the process as the Planning Committee beginning on September 4, 2020.

CalOES and FEMA have now approved the final draft of the LHMP. The Sweetwater Board now needs to give final approval of the plan by approving Resolution 21-11 after the Public Meeting tonight as the last step in the process.

The timeline of the LHMP project is attached.



**HARRIS AND ASSOCIATES**  
**LOCAL HAZARD MITIGATION PLAN**  
**PROJECT SCHEDULE**

<b>Months</b>	<b>Key Tasks</b>	<b>Meetings &amp; Workshops</b>	<b>Key Milestones/ Deliverable</b>
<b>July 2020</b>	-Pre-Meeting with Project Manager -Existing Document Review -Identify Required Participants -Invite Plan Participants -Establish Planning Committee -Document the Planning Process -Identify and Review District Assets	Pre-Meeting	Fully Executed Professional Services Agreement
<b>September 2020</b>	Assess and Select Hazards of Concern	Planning Committee Meeting #1: Kickoff and Select Hazards of Concern (September 4 <sup>th</sup> )	Draft Element A: Planning Process
<b>September October 2020</b>	Conduct Risk Assessment for Selected Hazards	Planning Committee Meeting #2: Solicit Feedback on Risk Assessment (October 22 <sup>nd</sup> )	Draft Element B: Risk Assessment
<b>December 2020</b>	-Develop Mitigation Goals -Develop and Launch Online Survey -Prioritize Mitigation Actions -Develop Action Plan	-Planning Committee Meeting #3: Solicit input on Mitigation Actions (December 10th)  -Public Workshop #1: Solicit Public Input on Risk Assessment & Mitigation Actions (December 10th)	-Public Survey  -List of Mitigation Strategies from Planning Committee
<b>January 2020</b>	-Draft Element C	-Planning Committee Meeting #4: Plan Maintenance, Evaluation and Updates	-Draft Element C: Mitigation Strategies
<b>February 2021</b>	-First Draft Plan submitted to Planning Committee -Integrate feedback from Planning Committee and Board		-Submit first draft Plan to Planning Committee
<b>March 2021</b>	-Public Review Draft -Revise Public Review Draft as necessary to include public input	Public Workshop #2: Solicit Public Input on Public Review Draft (March)	- Post Public Review Draft

<b>April 2021</b>	Cal OES Review		Cal OES Review Draft
<b>May-June 2021</b>	FEMA Review		FEMA Review Draft
<b>June-July 2021</b>	SSWD Board Adoption	SSWD Board Meeting	Approved and Adopted LHMP

# Resolution No. 21-11

## **A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SWEETWATER SPRINGS WATER DISTRICT APPROVING THE LOCAL HAZARD MITIGATION PLAN**

**WHEREAS**, the District contracted with Harris and Associates to create a Local Hazard Mitigation (LHMP) Plan beginning in August of 2020; and

**WHEREAS**, the Board and the public has reviewed and discussed the LHMP in public input meetings; and

**WHEREAS**, the LHMP was reviewed and approved by Cal OES and FEMA; and

**WHEREAS**, the District will be applying for FEMA grant funding for various disaster mitigation projects; and

**WHEREAS**, the District will be qualified to apply for FEMA grant funding for hazard mitigation projects with the approved LHMP.

**NOW, THEREFORE BE IT RESOLVED** by the District Board of Directors of the Sweetwater Springs Water District hereby approves the Local Hazard Mitigation Plan.

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted and passed by the Board of Directors of the SWEETWATER SPRINGS WATER DISTRICT, Sonoma County, California, at a meeting held on July 1, 2021, by the following vote.

<b>Director</b>	<b>Aye</b>	<b>No</b>
Sukey Robb-Wilder	_____	_____
Tim Lipinski	_____	_____
Richard Holmer	_____	_____
Gaylord Schaap	_____	_____
Larry Spillane	_____	_____

\_\_\_\_\_  
Sukey Robb-Wilder  
President of the Board of Directors

\_\_\_\_\_  
Attest: Julie A. Kenny  
Clerk of the Board of Directors

# SWEETWATER SPRINGS WATER DISTRICT

**TO:** Board of Directors

**AGENDA NO. V-B**

**FROM:** Ed Fortner, General Manager

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Meeting Date: July 1, 2021

**SUBJECT: DISCUSSION/ACTION RE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING FOR CONSTRUCTION OF FY 2020-2021 CAPITAL PROJECT ON OLD RIVER RD AND WOODLAND DRIVE**

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**RECOMMENDED ACTION:** Update the Board on CDBG funding for Construction for the FY 2020-2021 Capital Project

**FISCAL IMPACT:** \$1,013,230.00

**DISCUSSION:**

We applied for CDBG funding recently within the FY 2021-2022 cycle for construction for the FY 2020-2021 Capital Project. This project includes 3,400 feet of 6" HDPE water main replacement with thirty-one services on Old River Road and 1,900 feet of 6" HDPE water main replacement on Woodland Drive with twenty-seven services. The grant we are applying for is for \$1,013,230.00 with a District match of \$1,013,230.00. We were successful last year receiving funds from CDBG for \$115,920.00 for this Capital project's design and planning phase.

The grant awards this year will occur in August. I attended the virtual County Community Development Commission (CDC) meeting on June 16, 2021. I presented a narrative of the project and the need for funding. These needs include the fact that the project is in a disadvantaged community in West Sonoma County. Also, West County projects have not received proportional funding historically. The project also improves fire protection, improved flows and pressures, and includes the removal of the last remaining District lead services. Marc Chandler with CDC stated, "We were happy to fund the Phase I engineering and environmental work associated with this project, and I am hopeful this important Phase II work is funded and able to commence and complete soon."

The CDC will decide which projects receive CDBG funding on July 21, 2021 (tentative date). Ultimately, the Sonoma County Board of Supervisors will make the final funding decisions on August 16, 2021. The timeline for the FY 2021-2022 CDBG funding window is attached.

CAPITAL PROJECTS  
FUNDING APPLICATION PROCESS TIMELINE  
FISCAL YEAR 2021-2022  
SONOMA COUNTY COMMUNITY DEVELOPMENT COMMISSION

*The Funding Application Process for fiscal year 2021-2022 includes applications for Community Development Block Grant (CDBG) for capital projects and HOME Investment Partnerships Act (HOME) Programs.*

Date	Description
Monday, May 10, 2021	Notice of FY 2021-2022 CDBG and HOME funding availability (NOFA) issued inviting submission of Capital Project funding applications
Monday, June 7, 2021, 1pm Virtual Meeting	Technical Assistance Session for applicants interested in submitting a Capital Project funding application in FY 2021-2022
Friday, June 11, 2021, 3pm	<b>Capital Project Funding Applications are due at the Commission Office</b>
Wednesday, June 16, 2021, 10am	Workshop for Community Development Committee and Cities and Towns Advisory Committee Review and Feedback on FY 2020-2021 Capital Project Funding Applications. <b>All applicants must be present to be considered for funding.</b>
Wednesday, July 21, 2021, 10am	Community Development Committee and Cities and Towns Advisory Committee make funding recommendations for FY 2021-2022 Capital Project Funding Applications. <b>All applicants must be present to be considered for funding.</b>
Tuesday July 26, 2021 (Special Mtg. date Subject to Change)	Draft FY 2021-2022 Action Plan Presented to CD Committee at Public Hearing.
Tuesday August 3, 2021	Community Development Commission to make CD Committee and Cities and Towns Advisory Committee funding recommendations for FY 2021-2022 Capital Project Funding Applications to Board of Supervisors for Final Approval.
Monday, August 16, 2021	<b>Deadline for Action Plan to be received at HUD office.</b>
July 1, 2021	<b>Beginning of fiscal year 2021-2022 (through June 30, 2022)</b>

**Contact Information**

Valerie Johnson  
Program Compliance Specialist  
Sonoma County Community Development Commission  
(707)565-7514, Valerie.Johnson@sonoma-county.org

# SWEETWATER SPRINGS WATER DISTRICT

**TO:** Board of Directors

**AGENDA NO. V-C**

**FROM:** Ed Fortner, General Manager

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Meeting Date: July 1, 2021

**SUBJECT: DISCUSSION/ACTION RE COVID RELATED REOPENING ISSUES**

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**RECOMMENDED ACTION:** Discussion and direction from Board.

**FISCAL IMPACT:** none

**DISCUSSION:**

The District has followed Public Health direction from Federal, State, and Local Health Agencies. These guidelines are referenced in our Emergency Response Plan and Resolution 21-06. California relaxed many guidelines on June 15, including relaxing mask requirements. The California Cal OSHA met on June 17 and approved similar relaxed requirements for the workplace. Vaccinated employees can now choose not to wear masks outside or inside. Non-vaccinated employees must continue to wear masks outside when near others and wear masks in the office. The District will document vaccination status through self-attestation. The District will need to navigate these new guidelines and apply them to the District workplace and workforce.

Among these issues is virtual vs. in-person Board meetings. The Governor issued an Executive Order that ends the waiver of Brown Act Public Meeting requirements on September 30.

Governor Newsom's [Executive Order N-42-20](#), known as the water shutoff moratorium, prevented public agencies from discontinuing water service during the COVID-19 pandemic. Under the Governor's reopening plan, the shutoff moratorium provisions within Executive Order N-42-20 will also be lifted on September 30. Local agencies will still be required to adhere to all existing state laws and regulations related to utility shutoffs. This lifting of the moratorium might preclude the need for the District to implement the tax lien procedure to collect delinquent bills.

# SWEETWATER SPRINGS WATER DISTRICT

**TO:** Board of Directors

**AGENDA NO. V-D**

**FROM:** Ed Fortner, General Manager

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**Meeting Date:** July 1, 2021

**SUBJECT:** Discussion/ Action re Monte Rio Bridge Replacement Project

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**RECOMMENDED ACTION:** Receive report on the Monte Rio Bridge Replacement Project.

**FISCAL IMPACT:** \$50,000 Initially for Design; \$800,000 to complete the entire project.

**DISCUSSION:** The District was informed that the Monte Rio Bridge replacement project was at 35% design completion in late January. The District, Coastland Engineering, Sonoma County Public Works, and BKF Engineering met on February 5<sup>th</sup> to discuss the bridge design, placement, and the attachment of a new water main on the new bridge. Coastland will be designing the District's new water main attachment at an approximate cost of \$50,000. This design is due by the end of the calendar year. The tentative schedule to begin construction of the new bridge is 2024.

The District has continued to explore funding options for the water main attachment for the new Monte Rio Bridge. The total cost of the District project is estimated at over \$800,000. Rich Holmer, Gaylord Schapp, and I met for a second time with Elise Weiland with Supervisor Hopkins office on June 29<sup>nd</sup> to discuss funding options.

I have given Notice of Interest and pre-application to the State Water Board for State Revolving Funds and will pursue all other possible grant funding possibilities.

# SWEETWATER SPRINGS WATER DISTRICT

**TO:** Board of Directors

**AGENDA NO. V-E**

**FROM:** Ed Fortner, General Manager

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**Meeting Date:** July 1, 2021

**SUBJECT: Discussion/ Action re Drought Emergency Declaration, Flow Reduction in the Russian River, and Curtailment Order**

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**RECOMMENDED ACTION:** Receive report on the drought conditions, and the Drought Emergency Declaration declared for Sonoma and Marin Counties, the State Water Board approved reduction in Russian River flows, and the Curtailment Order issued by the State Water Board.

**FISCAL IMPACT:** unknown

## **DISCUSSION:**

The last two years have been record drought years. Guerneville rain totals in 2019/2020 were just over sixteen inches, and in the 2020/2021 rain year (October 2020 – October 2021) have been just over fifteen inches. The average annual rainfall for Guerneville is forty-four inches. These record dry conditions have resulted in record low levels in Lake Sonoma and Lake Mendocino, the two primary lakes that release into the Russian River. These conditions are the worst on record, dating back to the 1930s dust bowl era. Sweetwater Springs pumps from the underflow of the Russian River in Guerneville at the el Bonita well station and the Monte Rio well station.

Due to the record two-year drought, Governor Newsome issued a drought emergency declaration on April 21, and the Sonoma County Board of Supervisors declared a drought emergency on April 27. Therefore, there are no mandatory water use restrictions at this time.

The California State Water Resources Control Board ordered reductions on June 14 on minimum instream flows and (diversions on the Upper Russian River) from the Russian River as drought conditions worsen in the river's watershed. The temporary order lowers instream flow requirements to 35 cfs in the lower and 25 cfs in the upper Russian River through the end of the calendar year. It requires the Sonoma County Water Agency and its contractors to reduce diversions from the river by 20 percent from last year's usage between July 1 and mid-December 2021.



DROUGHT EMERGENCY DECLARATION, FLOW REDUCTION, AND  
CURTAILMENT ORDER

2

July 1, 2021

The State Water Board meeting on June 16 approved a Resolution to adopt Emergency Regulations to address water shortages in the Russian River Watershed. The approved Curtailment Order is attached. The final order should be issued the first week of July. I am speaking with Sam Boland-Brien, the chief Engineer in the Water Rights group working on this issue, to discuss the impacts on Sweetwater and help them understand our unique situation. The curtailment order does include the lower Russian River but does have exemptions for minimum human health and safety usage. There are references to 55 gallons per capita per day limits on this type of usage. I have been discussing this issue with Steve Mack and Matt Emrick, our Water Rights Lawyer. I will give further updates as this situation unfolds.

**Curtailment of Diversions to Protect Water Supplies and Threatened and  
Endangered Fish in the Russian River Watershed**

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In Title 23, Division 3, Chapter 2, Article 24, add Sections 877, 877.1, 877.2, 877.3, 877.4, 877.5, 877.6, 878, 878.1, 879, 879.1 and 879.2 to read:

**Article 24. Curtailment of Diversions to Protect Water Supplies and  
Threatened and Endangered Fish in the Russian River Watershed**

**§ 877 [Reserved]**

**§ 877.1 Definitions**

- (a) “Curtailment Order” refers to an order from the Deputy Director of the Division of Water Rights ordering a water right holder to cease diversions.
- (b) “Deputy Director” refers to the Deputy Director of the Division of Water Rights, or duly authorized designee, at the State Water Resources Control Board.
- (c) “Flood Control District” refers to the Mendocino County Russian River Flood Control and Water Conservation Improvement District.
- (d) “Lower Russian River” refers to the surface waters, including underflow and subterranean streams, of the Russian River downstream of the confluence of Dry Creek and the Russian River.
- (e) “Lower Russian River Watershed” refers to the area in Sonoma County that drains towards Dry Creek and the area downstream of the confluence of the Russian River and Dry Creek that drains towards the outlet of the Russian River to the Pacific Ocean.
- (f) “Mainstem of the Upper Russian River” refers to the surface waters, including underflow and subterranean streams, of the Upper Russian River downstream of Lake Mendocino and upstream of the confluence of Dry Creek and the Russian River.

(g) “Minimum human health and safety needs” refers to the amount of water necessary for prevention of adverse impacts to human health and safety, for which there is no feasible alternate supply. “Minimum human health and safety needs” include:

- (1) Indoor domestic water uses including water for human consumption, cooking, or sanitation purposes. For the purposes of this article, water provided outdoors for human consumption, cooking, or sanitation purposes, including but not limited to facilities for unhoused persons or campgrounds, shall be regarded as indoor domestic water use. As necessary to provide for indoor domestic water use, water diverted for minimum human health and safety needs may include water hauling and bulk water deliveries, so long as the diverter maintains records of such deliveries and complies with the reporting requirements of Section 879, and so long as such provision is consistent with a valid water right.
- (2) Water supplies necessary for energy sources that are critical to basic grid reliability, as identified by the California Independent System Operator, California Public Utilities Commission, California Energy Commission, or a similar energy grid reliability authority.
- (3) Water supplies necessary to prevent tree die-off that would contribute to fire risk to residences, and for maintenance of ponds or other water sources for fire fighting, in addition to water supplies identified by the California Department of Forestry and Fire Protection or another appropriate authority as regionally necessary for fire preparedness.
- (4) Water supplies identified by the California Air Resources Board, a local air quality management district, or other appropriate public agency with air quality expertise, as necessary to address critical air quality impacts to protect public health.
- (5) Water supplies necessary to address immediate public health or safety threats, as determined by a public agency with health or safety expertise.
- (6) Other water uses necessary for human health and safety which a state, local, tribal or federal health, environmental, or safety agency has determined are critical to public health and safety or to the basic infrastructure of the state. Diversers wishing to continue diversions for these uses must identify the health and safety need, include approval or

similar relevant documentation from the appropriate public agency, describe why the amount requested is critical for the need and cannot be met through alternate supplies, state how long the diversion is expected to continue, certify that the supply will be used only for the stated need, and describe steps taken and planned to obtain alternative supplies.

- (h) "State Water Board" refers to the State Water Resources Control Board.
- (i) "Upper Russian River" refers to the surface waters, including underflow and subterranean streams, of the Russian River upstream of the confluence of the Russian River and Dry Creek and includes both the East and West Forks of the Russian River.
- (j) "Upper Russian River Watershed" refers to the area located in Mendocino and Sonoma Counties that drains towards the confluence of Dry Creek and the Russian River.

Authority: Sections 1058, 1058.5, Water Code

Reference: Cal. Const., Art., X § 2; Sections 100, 100.5, 104, 105, 106.3, 275, 1058.5, Water Code; *Environmental Defense Fund v. East Bay Muni. Util. Dist.* (1980) 26 Cal.3d 183.

## **§ 877.2 Emergency Curtailments Due to Lack of Water Availability in the Lower Russian River Watershed**

- (a) This section applies to water diversions in the Lower Russian River Watershed.
- (b) After the effective date of this regulation, when flows in the Lower Russian River Watershed are insufficient to support all diversions, the Deputy Director may issue curtailment orders to water right holders, requiring the curtailment of water diversion and use.
- (c) In determining the extent to which water is available under a diverter's priority of right or when rescinding curtailment orders, the Deputy Director ~~may rely upon~~ shall consider:
  - (1) Relevant available information regarding date of priority, including but not limited to claims of first use in statements of water diversion and use, judicial and State Water Board decisions and orders, and other

information contained in the Division of Water Rights files;

(2) Monthly water right demand projections based on reports of water diversion and use for permits and licenses, or statements of water diversion and use, from 2017 through 2019.

(3) Water availability projections based on one or more of the following:

(A) Outputs from a United States Geological Survey's Precipitation Runoff Modeling System model, calibrated by State Water Board staff to estimate current or historical natural cumulative runoff throughout the watershed, as well as forecasts of monthly supplies;

(B) Climatic estimates of precipitation and temperature from the Parameter-elevation Regressions on Independent Slopes Model, commonly referred to as PRISM;

(C) Historical periods of comparable conditions with respect to daily temperatures, precipitation, or surface flows;

(D) Outputs from the Santa Rosa Plain Hydrologic Model developed by United States Geological Survey; or

(E) Stream gage data, where available.

(4) ~~To the extent that it is available and staff resources permit, the~~ The Deputy Director may also consider additional pertinent and reliable information when determining water right priorities, water availability, and demand projections.

(5) Evaluation of available supplies against demands may be performed at the downstream outlet of the Lower Russian River, or at a smaller sub-watershed scale using the Drought Water Rights Allocation Tool or comparable tool.

(d) Water users and water right holders are responsible for checking the State Water Board's drought announcements website and signing up for the email distribution list referenced in subdivision (e)(2) to receive updated water supply forecasts. It is anticipated that forecasts of water supplies available to meet water rights demands will be updated on a monthly basis until cumulative rainfall of greater

than 0.5 inches occurs as measured at Healdsburg, California. Following this precipitation event, it is anticipated that forecasts of supplies will be updated on a weekly basis until rescission of all curtailment orders under this section.

(e) (1) Initial curtailment orders will be sent to each water right holder or the agent of record on file with the Division of Water Rights. The water right holder or agent of record is responsible for immediately providing notice of the curtailment order(s) to all diverters exercising the water right(s) covered by the curtailment order(s).

(2) The State Water Board has established an email distribution list that water right holders may join to receive drought notices, water supply forecasts, and updates regarding curtailments. Notice provided by email or by posting on the State Water Board's drought web page shall be sufficient for all purposes related to drought notices and updates regarding curtailment orders.

(f) Rescission of curtailment orders shall be announced using the email distribution list and web page described in subdivision (e).

Authority: Sections 1058, 1058.5, Water Code

Reference: Cal. Const., Art. X, § 2; Sections 100, 100.5, 104, 105, 275, 1058.5, Water Code; *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419; *Stanford Vina Irrigation District v. California* (2020) 50 Cal.App.5th 976.

### **§ 877.3 Emergency Curtailment Where Insufficient Flows are Available in the Upper Russian River Watershed**

(a) This section applies to water diversions in the Upper Russian River Watershed.

~~(b) Urgent action is needed to protect releases of stored water to support minimum human health and safety needs and threatened and endangered fish, and to ensure sufficient storage in Lake Mendocino to meet minimum human health and safety needs in the event of prolonged drought conditions.~~

~~Under these conditions, the State Water Board has determined that, except for uses described in sections 878 and 878.1 of this article, diversion of surface water, underflow, or a subterranean stream in the Upper Russian River Watershed constitutes a waste and unreasonable use of water under~~

~~Article X, section 2 of the California Constitution when Sonoma County Water Agency is making Supplemental Storage Releases to satisfy Inbasin Uses, as described in subdivision (d).~~

~~(b)~~ ~~(e)~~(1) The Deputy Director may issue a curtailment order upon a determination that the conditions in subdivision ~~(d)~~ are occurring. Curtailment orders shall be effective the day after issuance.

(2) If maintaining minimum flows required for the protection of minimum human health and safety needs, fish and wildlife, or further preserving stored water in Lake Mendocino for human health and safety needs would require curtailment of uses otherwise exempt from curtailment under this article, then the Deputy Director ~~may decide~~shall consider whether those uses should be allowed to continue based on the most current information available regarding fish populations, human health and safety needs, and the alternatives available to protect both human health and safety and threatened or endangered fish. Curtailment of water uses under this subdivision (b)(2) and any updates regarding such curtailments shall be noticed as described in subdivision (d).

~~(c)~~ ~~(d)~~ When storage levels in Lake Mendocino are below those specified in section 877.4, and Sonoma County Water Agency is making Supplemental Storage Releases to satisfy Inbasin Uses, diversion of water within the Upper Russian River Watershed that does not meet an exemption identified in section 878 or section 878.1 constitutes ~~a waste and~~an unreasonable use of water and is prohibited.

(1) Inbasin Uses are defined as diversions from the Mainstem of the Upper Russian River to meet minimum human health and safety needs, Reach Losses, and minimum flows required for protection of fish and wildlife as required by a water right permit or license term, including any enforceable modifications of the foregoing. Export diversions, deliveries scheduled by the Flood Control District pursuant to License 13898, and Reach Losses associated with those exports and deliveries are specifically excluded from the definition of Inbasin Uses.

(2) Supplemental Storage Releases are defined as water released from Lake Mendocino which is in excess of inflows to Lake Mendocino, as calculated on a daily basis, to satisfy Inbasin Uses.

(3) Reach Losses are defined as water that is lost from the Mainstem of the Upper Russian River due to riparian habitat, evaporative losses, or

percolation to groundwater.

~~(e)~~ (d) (1) Initial curtailment orders will be sent to each water right holder or the agent of record on file with the Division of Water Rights. The water right holder or agent of record is responsible for immediately providing notice of the curtailment order(s) to all diverters exercising the water right(s) covered by the curtailment order(s).

(2) The State Water Board has established an email distribution list that water right holders may join to receive drought notices, water supply forecasts, and updates regarding curtailments. Notice provided by email or by posting on the State Water Board's drought web page shall be sufficient for all purposes related to drought notices and updates regarding curtailment orders.

Authority: Sections 1058, 1058.5, Water Code

Reference: Cal. Const., Art. X, § 2; Sections 100, 100.5, 104, 105, 275, 1058.5, Water Code; *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463; *Stanford Vina Irrigation District v. California* (2020) 50 Cal.App.5th 976.

#### **§ 877.4 Lake Mendocino Storage Levels**

Curtailment orders [for diversions in the Upper Russian River Watershed](#) shall not be issued unless storage levels in Lake Mendocino fall below the following levels prior to the specified dates:

- (a) 29,315 acre-feet before July 1.
- (b) 27,825 acre-feet before July 15.
- (c) 26,109 acre-feet before August 1.
- (d) 24,614 acre-feet before August 15.
- (e) 22,745 acre-feet before September 1.
- (f) 21,251 acre-feet before September 15.
- (g) 20,000 acre-feet on any date while the regulation is in effect.



Authority: Sections 1058, 1058.5, Water Code

Reference: Cal. Const., Art. X, § 2; Sections 100, 100.5, 104, 105, 109, 275, 1058.5, Water Code; *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419; *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224; [Stanford Vina Irrigation District v. California \(2020\) 50 Cal.App.5th 976.](#)

## § 877.5 Rescission of Curtailment Orders in Upper Russian River Watershed

- (a) Following issuance of curtailment orders pursuant to section 877.3, the Deputy Director will notify water right holders of the extent to which curtailment orders will be rescinded following a determination by the Deputy Director that Sonoma County Water Agency is no longer making Supplemental Storage Releases to satisfy Inbasin Uses and natural or abandoned flows are available.
- (b) In determining the extent to which water is available under a diverter's priority of right when rescinding curtailment orders, the Deputy Director ~~may rely upon~~ [shall consider](#):
  - (1) Relevant available information regarding date of priority, including but not limited to claims of first use in statements of water diversion and use, judicial and State Water Board decisions and orders, and other information contained in the Division of Water Rights files;
  - (2) Monthly water right demand projections based on reports of water diversion and use for permits and licenses, or statements of water diversion and use, from 2017 through 2019.
  - (3) Water availability projections based on one or more of the following:
    - (A) Outputs from a United States Geological Survey's Precipitation Runoff Modeling System model, calibrated by State Water Board staff to estimate current or historical natural cumulative runoff throughout the watershed, as well as forecasts of monthly supplies.
    - (B) Climatic estimates of precipitation and temperature from the Parameter-elevation Regressions on Independent Slopes Model, commonly referred to as PRISM.

(C) Historical periods of comparable conditions with respect to daily temperatures, precipitation, or surface flows.

(D) Outputs from the Santa Rosa Plain Hydrologic Model developed by United States Geological Survey; or

(E) Stream gage data, where available.

(4) ~~To the extent that it is available and staff resources permit, the~~ The Deputy Director may also consider additional pertinent and reliable information when determining water right priorities, water availability and demand projections.

(5) Evaluation of available supplies against demands may be performed at the downstream outlet of either the Upper Russian River or the Lower Russian River, or at a smaller sub-watershed scale using the Drought Water Rights Allocation Tool or comparable tool.

(c) Water users and water right holders are responsible for checking the State Water Board's drought announcements website and signing up for the email distribution list referenced in section 877.3, subdivision (e)(2), to receive updated water supply forecasts. It is anticipated that forecasts of water supplies available to meet water rights demands will be updated on a monthly basis until cumulative rainfall of greater than 0.5 inches occurs as measured at Ukiah Municipal Airport precipitation stations within the watershed. Following this precipitation event, it is anticipated that forecasts of supplies will be updated on a weekly basis until rescission of all curtailment orders under this section.

(d) Rescission of a curtailment order shall be announced using the email distribution list and web page described in section 877.3, subdivision (e)(2).

Authority: Sections 1058, 1058.5, Water Code

Reference: Cal. Const., Art. X, § 2; Sections 100, 100.5, 104, 105, 275, 1058.5, Water Code; *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463; *Stanford Vina Irrigation District v. California* (2020) 50 Cal.App.5th 976.

## **§ 877.6 Rediversion of Water Previously Stored in Lake Mendocino**

- (a) Rediversion by the Flood Control District of previously stored water released from Lake Mendocino shall be an unreasonable use of water and subject to the enforcement provisions described in section 879.2 unless such rediversion meets the requirements of this section.
- (b) The Flood Control District shall schedule all deliveries of water pursuant to License 13898 at least one week in advance of release of the water.
- (c) The timing of rediversion activities relative to release of water shall be based on a travel time of water along the Russian River agreed upon between the Flood Control District and Sonoma County Water Agency.
- (d) The Flood Control District shall provide a monthly schedule of rediversions by the first day of each month and shall confirm by noon on Friday of each week whether those diversions will occur in the following week or have changed.
- (e) No rediversions shall occur following September 1 unless Sonoma County Water Agency and the Flood Control District have jointly submitted an executed agreement to the Deputy Director specifying the amount of water stored in Lake Mendocino pursuant to License 13898, the amount of water that will remain stored in Lake Mendocino for use in 2022, and a methodology acceptable to the Deputy Director for determining how inflows to Lake Mendocino are attributed to the Flood Control District and SCWA's respective water rights.

Authority: Sections 1058, 1058.5, Water Code

Reference: Cal. Const., Art. X, § 2; Sections 100, 100.5, 104, 105, 275, 1058.5, Water Code; *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463; *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224.

## **§ 878. Non-Consumptive Uses**

Diversion and use described in this section under any valid basis of right may continue after issuance of a curtailment order without further approval from the Deputy Director, subject to the conditions set forth in this section. Diversions described in this section may not be required to curtail in response to a

curtailment order under this article if their diversion and use of water does not decrease downstream flows. Any diverter wishing to continue diversion under this subdivision must submit to the Deputy Director a certification, under penalty of perjury, which describes the non-consumptive use and explains, with supporting evidence, how the diversion and use do not decrease downstream flows in the applicable watershed. The Deputy Director may request additional information or disapprove any certification if the information provided is insufficient to support the statement or if more convincing evidence contradicts the claims. If a certification submitted pursuant to this section is disapproved, the diversions are subject to any curtailment order issued for that basis of right. This section applies to:

- (a) Direct diversions solely for hydropower if discharges are returned to the Russian River or its tributaries and water is not held in storage.
- (b) Direct diversions dedicated to instream uses for the benefit of fish and wildlife pursuant to Water Code section 1707, including those that divert water to a different location for subsequent release, provided the location of release is hydraulically connected to the Russian River.
- (c) Direct diversions where the Deputy Director, the California Department of Fish and Wildlife, and the Executive Officer of the North Coast Regional Board have approved a substitution of releases of either stored water or groundwater into the Russian River or a tributary thereof for the benefit of fish and wildlife such that there is not a net decrease in stream flow as a result of the diversion at the next downstream USGS gage. The rate of releases made pursuant to this subdivision must be measured daily using a device or measurement method approved by the Deputy Director and provided to the Deputy Director on a monthly basis. Proposals involving the release of groundwater shall provide sufficient data and information to reasonably quantify any depletions of surface water caused by the groundwater pumping, the potential time lags of those depletions, and if additional groundwater releases beyond the diversion amounts are able to offset those depletions. The release of water does not have to be conducted by the owner of the water right proposed for the continued diversions, provided an agreement between the water right holder and the entity releasing the water is included in the proposal.
- (d) Other direct diversions solely for non-consumptive uses, if those diverters file with the Deputy Director a certification under penalty of perjury demonstrating

that the diversion and use are non-consumptive and do not decrease downstream flows in the watershed.

Authority: Sections 1058, 1058.5, Water Code

Reference: Cal. Const., Art. X, § 2; Sections 100, 187, 275, 348, Water Code

### **§ 878.1 Minimum Human Health and Safety Needs**

(a) Diversions described in this section under any valid basis of right may be authorized to continue after issuance of a curtailment order, subject to the conditions set forth in this section. A diversion that would otherwise be subject to curtailment may be authorized if:

- (1) The diversion is necessary for minimum human health and safety needs; and therefore,
- (2) The diversion is necessary to further the constitutional policy that the water resources of the state be put to beneficial use to the full extent they are capable, and that waste and unreasonable use be prevented, notwithstanding the effect of the diversions on more senior water rights or instream beneficial uses.

(b) (1) Diversions for minimum human health and safety needs under any valid basis of right of not greater than 55 gallons per person per day may continue after issuance of a curtailment order without further approval from the Deputy Director, subject to the conditions set forth in this section. Any diverter wishing to continue diversion under this subdivision must submit to the Deputy Director certification, under penalty of perjury, of compliance with the requirements of subdivisions (b)(1)(A)-(E), below. The Deputy Director may request additional information or set additional requirements on continued diversion.

(A) Not more than 55 gallons per person per day will be diverted under all bases of right.

(B) The diversion is necessary to serve minimum human health and safety needs as defined in section 877.1, subdivision (g), after all other alternate sources of water have been used. To the extent other water sources are available, those sources will be used first and the total used will not exceed 55 gallons per person per day.

- (C) The diverter and all end users of the diverted water are operating under the strictest existing conservation regime for that place of use, if such a plan exists for the area or service provider, or shall be operating under such regime within 30 days. If additional approvals are required before implementation of the conservation regime, the diverter must certify that all possible steps will be taken immediately to ensure prompt approval.
  - (D) If the diverter is distributor of a public water supply under Water Code sections 350 et seq., that it has declared a water shortage emergency condition and either already has adopted regulations and restrictions on the delivery of water or will adopt conservation and water delivery restrictions and regulations within a timeframe specified by the Deputy Director as a condition of certification.
  - (E) The diverter has either pursued steps to acquire other sources of water, but has not yet been completely successful, as described in an attached report, or the diverter will pursue the steps in an attached plan to identify and secure additional water.
- (2) To the extent that a diversion for minimum human health and safety needs requires more than 55 gallons per person per day, the continued diversion of water after issuance of a curtailment order for the diversion requires submission of a petition demonstrating compliance with the requirements of subdivisions (b)(2)(A)-(F), below, and approval by the Deputy Director. The Deputy Director may condition approval of the petition on implementation of additional conservation measures and reporting requirements. Any petition to continue diversion to meet minimum human health and safety needs of more than 55 gallons per person per day must:
- (A) Describe the specific circumstances that make the requested diversion amount necessary to meet minimum human health and safety needs, if a larger amount is sought.
  - (B) Estimate the amount of water needed.
  - (C) Certify that the supply will be used only for the stated need.
  - (D) Describe any other additional steps the diverter will take to

reduce diversions and consumption.

- (E) Provide the timeframe in which the diverter expects to reduce usage to no more than 55 gallons per person per day, or why minimum human health and safety needs will continue to require more water.
  - (F) As necessary, provide documentation that the use meets the definition of minimum human health and safety needs provided in subdivision (g) of section 877.1.
- (c) For public water systems with 15 or greater connections and small water systems of 5 to 15 connections, gallons per person per day shall be calculated on a monthly basis and the calculation methodology shall be consistent with the State Water Board's "Guidance for Estimating Percentage Residential Use and Residential Gallons Per Capita Daily" dated September 22, 2020.
  - (d) Diversions for minimum human health and safety needs that cannot be quantified on the basis of an amount per person per day require a petition and approval from the Deputy Director. The Deputy Director may approve a such a petition under this subdivision or subdivision (b)(2) upon a finding that the petition demonstrates that the requested diversion is in furtherance of the constitutional policy that the water resources of the state be put to beneficial use to the full extent they are capable, and that waste and unreasonable use be prevented, notwithstanding the effect of the diversion on senior water rights or instream beneficial uses, and may condition approval as appropriate to ensure that the diversion and use are reasonable and in the public interest.
  - (e) To the extent necessary to resolve immediate public health or safety threats, a diversion subject to a curtailment order may continue while a petition under subdivision (b)(2) or (d) is being prepared and is pending. The Deputy Director may require additional information to support the initial petition, information on how long the diversion is expected to continue, and a description of other steps taken or planned to obtain alternative supplies.
  - (f) Notice of certification, petitions, and decisions under this section and section 878 will be posted as soon as practicable on the State Water Board's drought webpage. The Deputy Director may issue a decision under this article prior to providing notice.

(g) Diversion and use within the Russian River Watershed that deprives water for minimum human health and safety needs in 2021, or which creates unacceptable risk of depriving water for minimum human health and safety needs in 2022, is an unreasonable use of water. The Deputy Director shall prevent such unreasonable use of water by implementing the curtailment methodology described in section 877.2 for diversions in the Lower Russian River Watershed and sections 877.3, 877.4, 877.5, and 877.6 for diversions in the Upper Russian River Watershed.

Authority: Sections 1058, 1058.5, Water Code

Reference: Cal. Const., Art. X, § 2; Sections 100, 100.5, 104, 105, 106.3, 275, 1058.5, Water Code; *Environmental Defense Fund v. East Bay Muni. Util. Dist.* (1980) 26 Cal.3d 183; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463; *Stanford Vina Irrigation District v. California* (2020) 50 Cal.App.5th 976.

## **§ 879. Reporting**

- (a) All water right holders issued a curtailment order under this article are required, within seven calendar days, to submit under penalty of perjury a certification of one or more of the following actions taken in response to the curtailment order, certifying, as applicable, that:
- (1) Diversions under the water right(s) identified have ceased;
  - (2) Any continued use is under other water rights not subject to curtailment, specifically identifying those other rights, including the basis of right and quantity of diversion;
  - (3) Diversions under the water right(s) identified continue only to the extent that they are non-consumptive uses for which a certification for continued diversion has been submitted as specified in section 878;
  - (4) Diversions under the water right(s) identified continue only to the extent that they are to provide for minimum human health and safety needs, a certification has been filed as authorized under section 878.1, subdivision (b)(1), and the subject water right authorizes the diversion in the absence of a curtailment order; or



(5) Diversions under the water right(s) identified continue only to the extent that they are consistent with a petition filed under section 878.1, subdivision (b)(2) or (d), and diversion and use will comply with the conditions for approval of the petition.

(b) All water users or water right holders whose continued diversion may be authorized under section 878.1 are required to submit, under penalty of perjury, information identified on a schedule established by the Deputy Director as a condition of certification or petition approval. The required information may include, but is not limited to, the following:

(1) The water right identification numbers under which diversions continue.

(2) How the diverter complies with any conditions of continued diversion, including the conditions of certification under section 878.1, subdivision (b)(1);

(3) Any failures to comply with conditions, including the conditions of certification under section 878.1, subdivision (b)(1), and steps taken to prevent further violations;

(4) Conservation and efficiency efforts planned, in the process of implementation, and implemented, as well as any information on the effectiveness of implementation;

(5) Efforts to obtain alternate water sources;

(6) If the diversion is authorized under an approved petition filed pursuant to section 878.1, subdivision (b)(2), progress toward implementing the measures imposed as conditions of petition approval;

(7) If the diversion is authorized under section 878.1, subdivision (d):

(A) The rate of diversion if it is still ongoing;

(B) Whether the water has been used for any other purpose; and

(C) The date diversion ceased, if applicable.

(8) The total water diversion for the reporting period and the total population

served for minimum human health and safety needs. The total population must include actual or best available estimates of external populations not otherwise reported as being served by the water right holder, such as individuals receiving bulk or hauled water deliveries for indoor water use.

(9) Diversion amounts for each day in acre-feet per day, maximum diversion rate in cubic feet per second, and anticipated future daily diversion amounts and diversion rates.

(c) The Deputy Director, or delegee, may issue an order under this article requiring any person to provide additional information reasonably necessary to assess their compliance with this article. Any person receiving an order under this subdivision shall provide the requested information within the time specified by the Deputy Director, but not less than five (5) days.

Authority: Sections 1058, 1058.5, Water Code

Reference: Sections 100, 187, 275, 348, 1051, 1058.5, 1841 Water Code

### **§ 879.1. Conditions of permits, licenses and registrations**

Compliance with this article, including any conditions of certification or approval of a petition under this article, shall constitute a condition of all water right permits, licenses, certificates and registrations for diversions in the Russian River Watershed.

Authority: Sections 1058, 1058.5, Water Code

Reference: Cal. Const., Art. X, § 2; Sections 275, 1253, 1058.5, Water Code; *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.

### **§ 879.2. Compliance and Enforcement**

(a) A diverter must comply with a curtailment order issued under this article, any conditions of certification or approval of a petition under this article, and any water right condition under this article, notwithstanding receipt of more than one curtailment order. To the extent of any conflict between applicable requirements, the diverter must comply with the requirements that are the most stringent.

(b) Diversion or use of water in the Upper Russian River Watershed in violation of

this article constitutes ~~a waste and~~an unreasonable use of water and is subject to any and all enforcement proceedings authorized by law.

- (c) Diversion or use of water in the Lower Russian River Watershed in violation of this article is a trespass under Water Code section 1052 and shall constitute evidence of diversion or use in excess of a water user's rights.
- (d) All violations of this article shall be subject to any applicable penalties under Water Code section 1058.5. Nothing in this section shall be construed as limiting the enforceability of or penalties available under any other applicable provision of law.

Authority: Sections 1058, 1058.5, Water Code

Reference: Cal. Const., Art. X, § 2; Sections 275, 1052, 1055, 1058.5, 1825, 1831, Water Code; *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.

# SWEETWATER SPRINGS WATER DISTRICT

**TO:** Board of Directors

**AGENDA NO. V-F**

**FROM:** Ed Fortner, General Manager

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**Meeting Date:** July 1, 2021

**SUBJECT: Discussion/ Action re Drought Emergency and Subsidies for Flume Meter Leak Detection and Usage Devices**

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**RECOMMENDED ACTION:** Receive report on the drought conditions and approve \$10,000 to begin a pilot subsidy program for Flume leak detection and usage devices.

**FISCAL IMPACT:** \$10,000

**DISCUSSION:**

Considering the drought, water flow reduction in the Russian River, impending curtailments, and mandatory conservation measures, I recommend we undertake a pilot program to incentivize individual customer leak detection and water usage devices. The Flume brand products are currently being subsidized by Healdsburg and show promise as lowering usage and detecting leaks at individual customer locations. I met with Flume personnel on June 21 and saw great potential in this device. Healdsburg subsidizes their purchases of the \$200 devices by contributing \$100 towards each customer purchase. I recommend we subsidize \$75 toward each purchase. A \$10,000 budget would encourage purchasing up to 133 devices. If the pilot program is successful, the District could revisit the possibility of expanding the program.

The program would be coordinated by Flume with little administrative work for the District. The District would be able to see each customer's usage for each customer that purchases a unit.

# **SWEETWATER SPRINGS WATER DISTRICT**

**TO:** Board of Directors

**AGENDA NO. V-G**

**FROM:** Ed Fortner, General Manager

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**Meeting Date: July 1, 2021**

**SUBJECT: DIRECT GENERAL MANAGER TO VOTE CANDIDATE FOR THE  
CSDA BOARD ELECTION**

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**RECOMMENDED ACTION:** Authorize the General Manager to vote for the recommended Candidate.

**FISCAL IMPACT:** none

**DISCUSSION:**

The California Special District Association is requesting that the District vote for a CSDA Bay Area representative candidate. The candidates and their qualifications are listed in the attachments.

Each of CSDA's six (6) networks has three seats on the Board, and the candidates are either a board member or management-level employee of a member district located in our Network. Each Regular Member (district) in good standing shall be entitled to vote for one (1) person to represent its Network in Seat A.



## 2021 CSDA BOARD CANDIDATE INFORMATION SHEET

The following information **MUST** accompany your nomination form and Resolution/minute order:

**Name:** Chad Davisson

**District/Company:** Ironhouse Sanitary District

**Title:** General Manager

**Elected/Appointed/Staff:** Staff

**Length of Service with District:** 6-years

**1. Do you have current involvement with CSDA (such as committees, events, workshops, conferences, Governance Academy, etc.):**

I am currently a Boardmember of CSDA, I serve as the Chair of the Professional Development Committee, am a member of the CSDA Finance Committee and serve on the SDRMA Board.

**2. Have you ever been associated with any other state-wide associations (CSAC, ACWA, League, etc.):**

I have been involved with the California Assoc. of Sanitation Agencies, serving on the State Leg. Committee, as well as the California Water Environment Association.

**3. List local government involvement (such as LAFCo, Association of Governments, etc.):**

I have worked closely with Contra Costa LAFCo, participating in the Municipal Service Review process, as well as chairing the East CC County Water Management Association looking at regional Water sustainability.

**4. List civic organization involvement:**

I am on the Executive Committee for the Contra Costa Chapter of CSDA. I also serve on the Exec Committee of the Bay Area Consortium of Water and Wastewater Education, as well as teach college level Water and Wastewater Courses preparing the future industry workforce.

**\*\*Candidate Statement** – Although it is not required, each candidate is requested to submit a candidate statement of no more than 300 words in length. **Any statements received in the CSDA office after March 29, 2021 will not be included with the ballot.**



## 2021 CSDA BOARD CANDIDATE INFORMATION SHEET

The following information **MUST** accompany your nomination form and Resolution/minute order:

Name: Ric Lohman

District/Company: Montara Water and Sanitary District

Title: Director, Secretary

Elected/Appointed/Staff: Elected

Length of Service with District: 3 years. 13 with Granada Comm. Serv. Dist.

1. Do you have current involvement with CSDA (such as committees, events, workshops, conferences, Governance Academy, etc.):

Former president and current member of San Mateo County CSDA Chapter.

Attend state conferences

2. Have you ever been associated with any other state-wide associations (CSAC, ACWA, League, etc.):

Member of ACWA, Cal-LAFCo, CASA

3. List local government involvement (such as LAFCo, Association of Governments, etc.):

Current LAFCo representative for county Special Districts. Member Coastside Sewer

Authority JPA 15 years. Former member Midcoast Community Council

4. List civic organization involvement:

Director, California State Parks Assoc., Resource Conservation District SOI Committee.

Active in County infrastructure and Sea Level Rise committees.

**\*\*Candidate Statement** – Although it is not required, each candidate is requested to submit a candidate statement of no more than 300 words in length. **Any statements received in the CSDA office after March 29, 2021 will not be included with the ballot.**

My name is Chad Davisson. I am asking for your support in my efforts running for re-election to the CSDA Board of Directors. It has been my privilege to have spent my entire 35-year career serving California Special Districts. I have built my career in the field of water and wastewater, working for different Districts throughout California. I am currently the General Manager of Ironhouse Sanitary District in Contra Costa County.

Reflecting back on my career in Special Districts, I have had the unique opportunity to see first-hand, the value these singly focused agencies have in delivering our services efficiently and cost effectively, while maintaining the highest service levels. Building my career from entry level to executive management within Special Districts has given me both an understanding of day-to-day operational and resource needs as well as providing me with a deeper understanding of what I believe is critically important to an organization in terms of organizational culture and support of our communities.

I am passionate about issues of organizational sustainability and succession planning, fiscal responsibility and workforce diversity. As a current CSDA Board member, I am currently the chair of the Professional Development Committee and a member of the Fiscal Committee. Participation on these committees provides me the opportunity to work with the CSDA staff to develop relevant, cutting edge professional development content to educate and assist our Special District members.

Serving on the Executive Committee for the Contra Costa Chapter of CSDA, I have worked with my colleagues to interactively provide interesting, relevant content to our local Special District members on a myriad of important local issues.

Again, it has been an honor to serve on the CSDA Board and I appreciate your consideration in my re-election to a second term.

Respectfully,

Chad Davisson

General Manager, Ironhouse Sanitary District





## Candidate Statement

Ric Lohman

### Open Seat A on the BAY NETWORK Board

Dear Bay Network Colleagues,

I have a unique position in our Special Districts on the San Mateo County Coastside. I currently serve on the Montara Water and Sanitary District and manage both water and sewage issues. This area is also unique in that the three Sanitary agencies work together through a complex facilities-sharing agreement. I have served the local public in elected positions for over 25 years. These positions have been challenging, since much of our area is in San Mateo County's unincorporated region. I have had to deal with County laws and processes, demands from the City of Half Moon Bay, and the needs of our local unincorporated citizens. I have also been active in our county LAFCo for years, defending 7 attempts to merge local districts out of existence.

I feel that smaller districts have been under-represented in regional Boards, and their needs are different than the larger districts that are traditionally represented on our regional and state boards. Even though we are a small district, we still have to deal with all the larger issues, such as, affordable housing developments, sea level rise, ocean pollution, and regulators.

I would like to bring my broad political skills to our regional network and represent the often under-represented districts. I feel our smaller districts have unique issues in staffing, funding, and compliance that are often overlooked by the larger districts

I would appreciate your vote in the upcoming election.

Looking forward to seeing everyone live again in Monterey in the Fall.

Sincerely,

Ric Lohman

Cheryl Sudduth

CANDIDATE STATEMENT

At a time when our society continues to grapple with its deep ambivalence towards the freedoms, rights and humanities of people who may look, act, think and love differently from one another, there should be one constant that should never be at stake - access to clean, safe, affordable water & sewage systems. Our communities have been complacently standing by for fair treatment in a system that views equity as a *balancing* act rather than a must for all.

I spend my days in contracting, compliance and procurement, living my life with a strong ethical framework and approach all business and personal matters with unwavering integrity and diplomacy.

As an environmental scientist, I believe action, not talk, will help us make forward progress, which is why I lead by example. In addition to WCW Board President, I am also an ACLU Board Member, an appointed Commissioner of the CCC Racial Justice Oversight Body & Member of CA-HI Statewide Conference NAACP Environmental & Climate Justice Committee, as well as many environmental justice groups.

I am confident I possess the *right* blend of business acumen, political knowledge, technical expertise, *listening*, commUNITY involvement, relationship building, creative solution solving, consensus building, and balancing various stakeholder interests to positively serve the CSDA and it would be my honor to do so.

Throughout my career and my life, I have been unafraid to '*do the work*' - *whatever it takes* to take on righteous fights against systemic injustices. I will work tirelessly to ensure every Californian has access to clean, affordable water and sewage systems. *This is what I do.* The same passion, courage, humanity and commitment to justice I have carried in all of my social justice work, I will bring to this Board. ***Anyone can fill a position; I am and have been committed to do the work...***

I humbly ask for your support and your vote. Gracias.



**California Special  
Districts Association**  
*Districts Stronger Together*

## 2021 CSDA BOARD CANDIDATE INFORMATION SHEET

The following information **MUST** accompany your nomination form and Resolution/minute order:

Name: Cheryl Sudduth

District/Company: West County Wastewater

Title: Board of Directors, President

Elected/Appointed/Staff: Elected

Length of Service with District: 3 years

**1. Do you have current involvement with CSDA (such as committees, events, workshops, conferences, Governance Academy, etc.):**

Yes; I have attended nearly all of the CSDA in-person and virtual events and workshops over the past few years.

I also attend the Contra Costa County and Alameda County quarterly meetings & events. Prior to the pandemic, I attended all in-person meetings.

**2. Have you ever been associated with any other state-wide associations (CSAC, ACWA, League, etc.):**

Yes; I am actively involved with ACWA, W.E.L.L., CA-HI NAACP Statewide Environmental & Climate Justice Committee, AWWA, AWWEE and Women in Water & Wastewater,

Black Women in Science & Engineering (BWISE), Nat'l Society Hispanic Engineers, Nat'l Disability Council, CA Disability Council, CA Diversity Council

**3. List local government involvement (such as LAFCo, Association of Governments, etc.):**

Vice-Chair WCA, appointed Commissioner of the CCC Racial Justice Oversight Body, Board of Sups Equity Task Force, Dist Atty Juvenile Justice Task Force

Community Advisory Bd: Senator Padilla (prev. Sen. Harris), Senator Feinstein, Rep. DeSaulnier, Rep. Lee, WCCUSD Parent Advisory Board, Albany Unified BPAG

**4. List civic organization involvement:**

ACLU-ABNEB Board, CCC Budget Justice Coalition SC, CC Immigration Rights Alliance SC, Racial Justice Coalition SC, Reimagine Public Safety CC SC, NAACP Legal Redress Comm

Climate Reality Project, Climate 350 Contra Costa, Contra Costa County Climate Leaders (4CL), Community for a Better Environment (CBE), Sierra Club, Sunflower Alliance

**\*\*Candidate Statement –** Although it is not required, each candidate is requested to submit a candidate statement of no more than 300 words in length. **Any statements received in the CSDA office after March 29, 2021 will not be included with the ballot.**

# SWEETWATER SPRINGS WATER DISTRICT

**TO:** Board of Directors

**AGENDA NO. V-H**

**FROM:** Ed Fortner, General Manager

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**Meeting Date: July 1, 2021**

**SUBJECT: DIRECT GENERAL MANAGER TO VOTE CANDIDATE FOR THE LAFCO BOARD ELECTION**

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**RECOMMENDED ACTION:** Authorize the General Manager to vote for the recommended Candidate.

**FISCAL IMPACT:** none

**DISCUSSION:**

The Sonoma Local Agency Formation Commission requests that the District vote for the Independent Special District representative candidate. The two candidates and their qualifications are listed in the attachments. The incumbent for this position has vacated his seat.

# SONOMA LOCAL AGENCY FORMATION COMMISSION

111 Santa Rosa Ave Suite 240, SANTA ROSA, CA 95404  
(707) 565-2577 FAX (707) 565-3778  
www.sonomalafco.org

Sweetwater Springs Water Dist

JUN 10 2021

RECEIVED

Date: May 17, 2021  
To: All Independent Special Districts  
Subject: Election of Special District Representative Class I

---

We are writing to urge your agency to cast a vote for the selection of an Independent Special District representative for the Sonoma Local Agency Formation Commission.

Election materials were provided to the almost forty special districts in Sonoma County in March, after an unsuccessful election process at the beginning of the year. (The first election failed due to a lack of sufficient returned ballots to constitute a quorum of the special districts.) Only twelve of the special districts have returned ballots in the current election.

The Commission is now extending the deadline for ballot submissions to July 16, 2021, which is the longest period that can be proscribed according to code. We are including a copy of the original election materials for your consideration and use. Please note that while a formal decision from your board is preferred, the only requirement for the ballot is an authorization by your chief executive.

This matter has become more acute as the current special district member has formally vacated his role. The alternate special district member is not seeking reelection and will vacate his seat shortly. The result is that the Commission will rely on only one special district representative until elections are appropriately consummated.

Please consult with your board chair and cast a ballot as soon as possible – it is crucial to the Commission that independent special districts are duly represented.

Mark Bramfitt

Executive Officer

# SONOMA LOCAL AGENCY FORMATION COMMISSION

## BALLOT

Special District Representative Class I Term of Office Ending May 2024

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1. Vote for only one candidate for Special District Representative.
2. The presiding officer or his/her designated alternate, acting on behalf of the district, must cast the district's vote by marking the space to the right of a candidate's name and then complete, sign, and date the certification.
3. Place the marked ballot sheet and certification into the envelope provided and mail to Sonoma LAFCO, 111 Santa Rosa Ave Suite 240, SANTA ROSA, CA 95404. Ballot sheet and certification may be emailed to [diana.wilson@sonoma-county.org](mailto:diana.wilson@sonoma-county.org), to meet deadline requirements. However, originals must be mailed to the LAFCO office as soon as possible thereafter.
4. **Submit ballot and certification by Monday, May 17, 2021**

### VOTE

Mark Hemmendinger, Rancho Adobe Fire Protection District \_\_\_\_\_

William Norton, Sonoma Valley Fire District \_\_\_\_\_

### CERTIFICATION

I certify, under penalty of perjury, that I, \_\_\_\_\_  
(Print Name of Presiding Officer or Alternate)

I am the Presiding Officer of \_\_\_\_\_,  
(Print Name of Special District)

or his/her designated alternate, and I am authorized by my district to cast the district's vote for Special District Representative to the Local Agency Formation Commission in this election.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

# Application

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**Date Submitted:** Feb. 4, 2021

**Name:** Mark Hemmendinger

**Address:** 140 Sprauer Road, Petaluma, CA 94952

**Phone(s):** (415) 310-5405

**Email:** mh@rafd.org

**Name of District You Represent:** Rancho Adobe Fire Protection District

**Date of Most Current Election/Appointment:** November 3, 2020

**Date Term Expires:** 2024

**Total years with District:** 13

**Total Years Associated with Government/ Community Service:** 13

**List any other agencies/special Districts you have been or are currently involved with:** None

**List Community Service Activities including Names of Organizations and Dates of Service:** None

**Have you attended LAFCO meetings? If yes, when?** All meetings starting in late 2019

**Please explain why you want to serve on the Sonoma Local Agency Formation Commission (LAFCO).** I believe that an independent commission is the best method for resolving political boundary issues and maintaining efficient government services to the community.

**From your perspective, explain the purpose of LAFCO:** To provide an independent commission, supported by staff analysis such as MSR's, that can study community services; the degree to which they serve the community and the means for which to serve the community more effectively given boundary adjustments, spheres of influence, or changes in organization.

# SONOMA LOCAL AGENCY FORMATION COMMISSION

575 ADMINISTRATION DRIVE, ROOM 104A, SANTA ROSA, CA 95403  
(707) 565-2577 FAX (707) 565-3778  
www.sonomalafco.org

## SPECIAL DISTRICT REPRESENTATIVE CLASS I & ALTERNATE APPLICATION FORM SPECIAL DISTRICTS

This application has been designed to provide pertinent information about each candidate applying for the position of Class I Special District Representative to LAFCO. Please read the application carefully and type or print your responses. Feel welcome to attach additional sheets if necessary.

**Note: Class I districts include fire protection, community services, and life support districts.**

Date Application Submitted: 2/16/2021

Name: WILLIAM NORTON

Address: 890 VERANO AVE, SONOMA, CA

Home Phone: (707) 996-8379 Cell: (707) 304-2170 Work: —

Name of District You Represent: SONOMA VALLEY FIRE

Date of Most Current Appointment or Election: 7-1-20

Date Term Expires: 2024 Total Years with District: 18

Indicate Involvement in Other Agencies/Special Districts:

S.C.F.D.A.

Total Years Associated with Government/ Community Service: 40 ~~35~~ YEARS

30 YEARS SFFD, RETIRED AS A LT.

List Community Service Activities including Names of Organizations and Dates of Service:

TACKLE SONOMA STATE HISTORIC PARK VOLUNTEERS - PRESIDENT

U.S. NAVY 1961-65 U.S.C.G. RESERVE 6 YEARS

PRESIDENT SVFD - MEMBER OF BOARD 18 YEARS

S.C.F.D.A. PAST PRESIDENT & VICE PRESIDENT

CHALLENGE SONOMA ADVENTURE ROPPS COURSE INSTRUCTOR

Have you attended LAFCO meetings? If so, when?

YES - ONE MEETING IN 2020





**Valley of the Moon Board of Directors**  
**Bill Norton**  
**Vice President**

I have been a member of the Board of Directors of the Valley of the Moon Fire Protection District since 2003 and a resident of the District for 25 years. I am a retired Lieutenant of the San Francisco Fire Department after 30 years' experience. I have a BA magna cum laude in Geography from Sonoma State University and was a substitute teacher in the Sonoma Valley Unified School District and a past Sonoma Ropes Course leader.

I assisted the City of Sonoma and the Valley of Moon Fire District Chiefs and Captains in the development of Sonoma Valley Fire & Rescue Authority's "Standards of Response Coverage" a business plan for our combined fire departments. I developed a SVFRA, GIS computer-based Standards of Coverage senior project at Sonoma State University, including a model providing the optimum locations for Station 2. I have been a California certified Fire Training Officer, Fire Safety Director, EMT and Urban Search and Rescue member. Further qualifications include CPR instructor, lifeguard, advanced open water diver and USCG Search and Rescue Crewman and Boat Engineer.

I have organized and participated in various multiple-agency disaster drills in the San Francisco Bay Area. I keep current with fire district business by attending our monthly VOM Fire District meetings, Sonoma County Fire District Association bi-monthly meetings and annual conferences. I have the highest respect for the dedication and professionalism of our department members: officers, engineers, firefighters and paramedics.

# SWEETWATER SPRINGS WATER DISTRICT

**TO:** Board of Directors

**AGENDA NO. V-I**

**FROM:** Ed Fortner, General Manager

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**Meeting Date: July 1, 2021**

**SUBJECT: The Law Offices of Matthew Emrick Master Professional Services Agreement**

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**RECOMMENDED ACTION:** Receive report from the General Manager. Approve Master Professional Services Agreement with The Law Offices of Matthew Emrick.

**FISCAL IMPACT:** N/A

**DISCUSSION:**

I have been in discussions with Matt Emrick with the Law Offices of Matthew Emrick about the District's water rights in light of the recently approved temporary urgency change to Sonoma County Water Agency's (SCWA) water rights that lowered the flows in the lower Russian River to 35 cfs, and the recently approved Emergency Order by the State Water Conservation and Resources Board (SWCRB) that can curtail all water use along the Russian River due to the current drought conditions.

In light of these recent events, it has become evident that the District needs to better understand our water rights and our path forward to protect our rights. SCWA has postured such that they threaten our water rights during low flow conditions. These issues are complex and require expert council. Matt Emrick has consulted with the District before, in 2016 and 2017 and understands our water rights issues. Our legal counsel has reviewed and approved the Agreement. I recommend the Board approve this Agreement.

## **RESOLUTION 21-12**

### **A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SWEETWATER SPRINGS WATER DISTRICT APPROVING THE PROFESSIONAL SERVICES AGREEMENT WITH THE LAW OFFICES OF MATTHEW EMRICK FOR GENERAL LEGAL SERVICES RELATED TO WATER RIGHTS ISSUES, AND AUTHORIZING THE GENERAL MANAGER TO SIGN**

**WHEREAS**, Sweetwater Springs Water District has successfully contracted with The Law Offices of Matthew Emrick for General Legal Services Related to Water Rights Issues in the past; and

**WHEREAS**, the District's historical Water Rights information is familiar to the Law Offices of Matthew Emrick; and

**WHEREAS**, The Law Offices of Matthew Emrick is the best placed professional services company to provide the services for this work; and

**WHEREAS**, The Law Offices of Matthew Emrick will issue individual task orders for each approved task within the procurement limits of the General Manager; and

**WHEREAS**, The General Manager will bring each task order before the Board for review; and

**WHEREAS**, staff has reviewed this Master Services Agreement and finds it fair and complete; and

**WHEREAS**, District Council has reviewed and approved the agreement

**NOW, THEREFORE, BE IT RESOLVED**, that:

1. The Agreement for Master Professional Services for Water Rights Related Tasks with The Law Offices of Matthew Emrick, a copy of which is attached hereto as Exhibit A, is hereby approved; and
2. The General Manager is authorized to execute said Agreement on behalf of the District.

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted and passed by the Board of Directors of the SWEETWATER SPRINGS WATER DISTRICT, Sonoma County, California, at a meeting held on July 1, 2021, by the following vote:

<b>Director</b>	<b>Aye</b>	<b>No</b>
Sukey Robb-Wilder	_____	_____
Tim Lipinski	_____	_____
Richard Holmer	_____	_____
Gaylord Schaap	_____	_____
Larry Spillane	_____	_____

\_\_\_\_\_  
Sukey Robb-Wilder  
President of the Board of Directors

\_\_\_\_\_  
Attest: Julie A. Kenny  
Clerk of the Board of Directors

# Law Offices of Matthew Emrick

A Professional Corporation

3881 Scenic Court

El Dorado Hills CA 95762

(916) 337-0361 (Direct)

[matthew@mlelaw.com](mailto:matthew@mlelaw.com)

[www.mlelaw.com](http://www.mlelaw.com)

June 21, 2021

Sweetwater Springs Water District  
17081 Hwy 116 (P. O. Box 48)  
Guerneville, CA 95446

**Re: Fee Agreement – Water Rights**

Dear Sweetwater Springs Water District:

I am very pleased to have the opportunity to provide you (“Client” or “You”) with this Proposal for Legal Services relating to the District’s water rights and other matters as may be determined by the Client.

**Fees.** As a general matter, the Law Offices of Matthew Emrick (“Firm”) bills for our services based on the hourly rate of the attorney working on any given project. Our fee schedules are generally revised on an annual basis. All such rates are negotiable by the Client. The following hourly fee is proposed for this representation: Matthew L. Emrick - **\$195** an hour. Associates, contract attorneys (if needed), and paralegals are proposed to be billed at \$175 an hour. No retainer fee is required.

**Costs and Travel.** Items such as travel, courier or messenger services, filing fees, photocopying and computerized legal research

will be billed separately on our statements as "costs." We do not bill for telephone related costs or in-house photocopying and faxes. Travel costs such as lodging when necessary and mileage will be charged. Meals are not charged.

**Experts and Consultants.** Any fees and costs associated with any experts, consultants and investigators retained by the Firm for work under this agreement as may be necessary (with prior Client approval) shall be paid by the Client.

**Licensing.** The Firm shall maintain all required licenses, insurance, continuing legal education, etc. necessary to perform its services under this Agreement.

**Disclaimer of Guarantee.** Nothing in this Agreement or in our statements to the Client, express or implied, shall be construed as a promise or guarantee about the outcome of the matter.

**Duties.** Client agrees to cooperate with the firm and to keep the firm informed of any information or developments related to this matter. Client agrees to pay in a timely manner. The firm agrees to keep the Client informed of all developments in this matter and to provide the Client with all related information necessary for the Client to assess the matter.

**Billings.** Invoices may be sent via email or mail, or both. We will prepare our statements to describe the nature of the services rendered and the respective costs of each activity. Billings are in 1/10th of an hour increments. At your request, we will break down our fees on a particular project basis. Our statements generally will be prepared and mailed the first part of each month. Payments are due **15 days** after the invoice date. Payments not received within 30 days after the statement date may result in suspension or termination of the Firm's services.

**Termination of Representation.** Either of us may terminate our engagement and relationship at any time for any reason. All unpaid fees and costs for our legal services become due and payable at the time our representation concludes. The Client has the right to require the firm to return all files. If at that time the Client does not request the return of its files, Firm will retain Client's files for a period of (5) five years, after which the Firm may have the files destroyed.

**Disputes.** We do not anticipate having any disagreements about the quality, cost or appropriateness of our services. If any concerns about these matters arise, please notify us immediately. We endeavor to resolve any disagreements in a fair and amicable manner. You have the right to submit any dispute regarding our fees to the local bar association pursuant to Business and Professions Code sections 6200 et seq.

I am very excited about the opportunity to work with the District. If you have any questions or need any additional information, please call me at (916) 337-0361 or email me at [matthew@mlelaw.com](mailto:matthew@mlelaw.com).

If this proposed Fee Agreement meets with your approval, please sign as indicated below.

*June 22, 2021*

Very truly yours,

LAW OFFICES OF MATTHEW EMRICK

*Matthew Emrick*

By: \_\_\_\_\_

Matthew L. Emrick

- **PLEASE SIGN TWO (2) COPIES OF THIS AGREEMENT BELOW. KEEP ONE FOR YOUR RECORDS AND RETURN THE OTHER COPY TO THIS OFFICE (*return via either mail or email by scanned .pdf is acceptable*).**

**Dated:** \_\_\_\_\_, 2021

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For Sweetwater Springs Water District



## SWEETWATER SPRINGS WATER DISTRICT

**TO:** Board of Directors

**AGENDA NO. VI**

**FROM:** Ed Fortner, General Manager

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**Meeting Date:** July 1, 2021

**Subject:** GENERAL MANAGER'S REPORT

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**RECOMMENDED ACTION:** Receive report from the General Manager.

**FISCAL IMPACT:** None

### **DISCUSSION:**

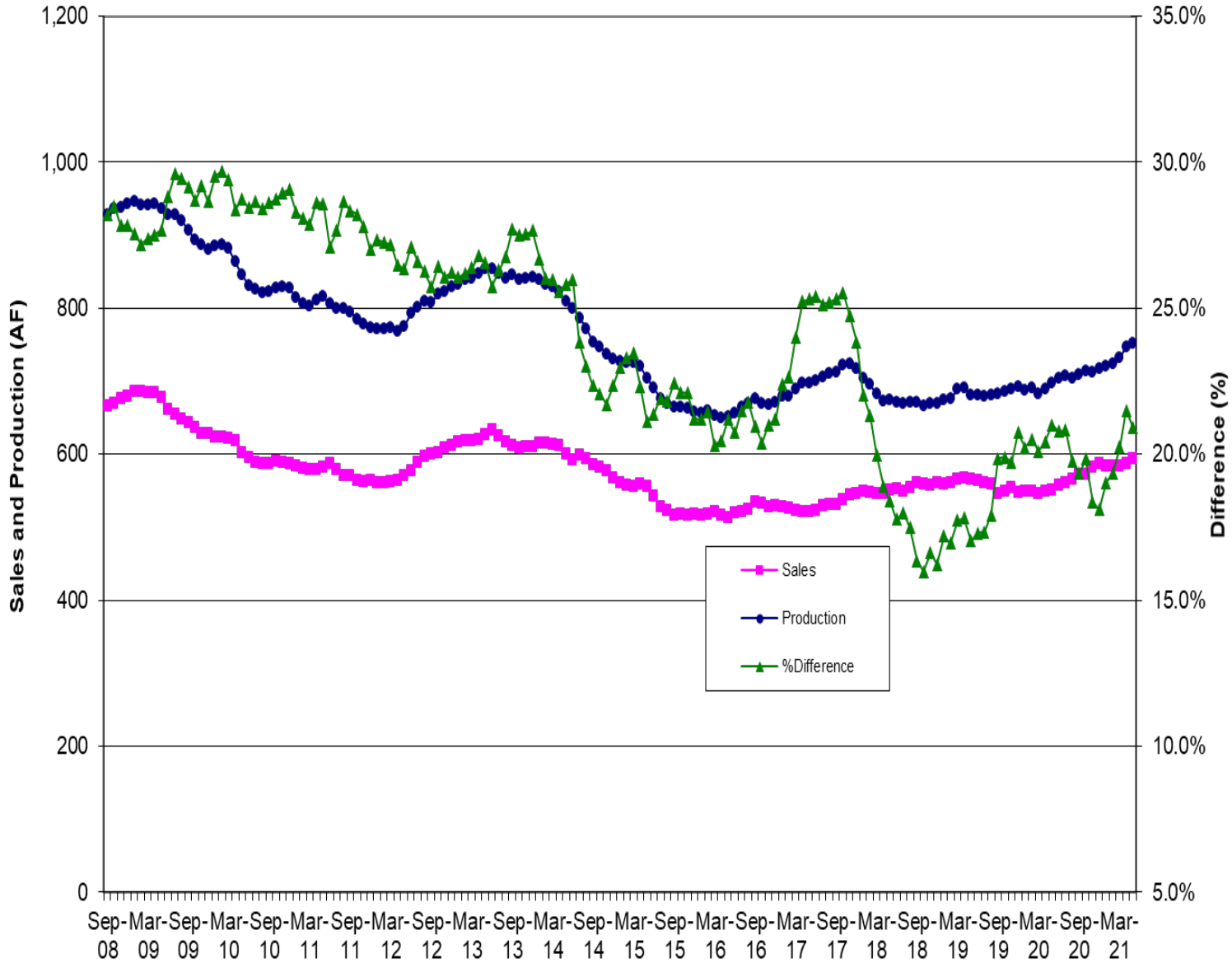
- 1. Laboratory Testing/ Regulatory Compliance:** Water quality tests confirm that all SSWD water meets all known State and Federal water quality standards. Consumer Confidence Reports were submitted to the Water Board, and the Urban Water Management Plan was submitted to the Water Board.
- 2. Water Production and Sales:** Water sales in May were 24,720 units (56.7 AF Guerneville cycle), and production was 63.6 AF. Compared to one year ago, sales were lower, and production was lower (49.2 AF and 59.8 AF, respectively). Figure 1 shows sales, production, and % difference for the combined systems; the water loss trend was down this month as a running twelve-month average (20.9%). Looking at the data over the last ten years, water production has dropped approximately 29%, and sales have dropped 18%, although water sales and production are up during the COVID period. The water loss percentage was around 30% and now is in the 15-20% range. Much of the production and water loss drop can be attributed to capital projects.
- 3. Leaks:** In June, we had four total leak repairs with 22 hours on them. Two leaks were in Guerneville, one was in Villa Grande, and one was in Rio Nido. All leaks were in older lines. That is less leaks and less person-hours than the prior month and less leaks and less person-hours than June one year ago (12 and 142). Figure 2 shows service and main leaks separately with a total leak line as well. For Calendar Year 2020, total leaks were 99, up from 78 in 2019. That was a drought year following a very wet year, and many of the repairs were due to ground shifting. Also, 52 leaks were on mains, and 48 were on service

lines. In 2019 47 leaks were on mains, and 31 were on service lines. Leaks may go up during this second consecutive drought year. Looking at the leaks chart over the last ten years, we have come down from around 300 leaks per year to under 100 - quite a difference and very noticeable in what the field crews are able to do - address ongoing issues with in-house projects instead of chasing leaks every day.

- 4. Guerneville Rainfall:** June rainfall was .00", which is lower than the long-term average month and puts the yearly total (15.73") well below the long-term annual average. We are experiencing a second consecutive drought year in 2021. Governor Newsom declared a drought emergency for Sonoma and Mendocino Counties, and Sonoma County has issued a drought emergency also. We expect declared mandatory reductions in water use soon. I have posted an updated notice on our website.
- 5. In-House Construction Projects:** There was one in-house construction project in June. A one-inch meter upgrade was done at 14470 Southern Avenue in Guerneville. Two hours were dedicated to the project.
- 6. Lower Russian River Community Advisory Group Governance Meeting:** There was a virtual meeting of the LRRCAG on June 24th to discuss Wastewater solutions for Monte Rio and Villa Grande. I have been participating in the Interagency Team meetings and the Sacramento State Governance meetings. Supervisor Hopkins announced that the County has budgeted to do a Russian River study to determine how to comply with the new TMDL regulation.
- 7. Protest Rate Class:** At the June 3<sup>rd</sup> Board meeting, a customer at 14783 Canyon 7, Rio Nido, protested the rate increase and raised the customer rate class at her address as a problem. The Board requested follow-up with the customer who had noted on her protest form she was paying multiple unit charges on a dwelling she was using as a single-family unit. The District routinely gets calls from customers on this issue. Staff research on this particular property shows it is being charged a sewer rate consistent with a duplex, and the property's use code is "0021", indicating a single structure duplex. Accordingly, staff sent the customer a letter indicating she should correct the property's classification with the County and the Russian River Sanitation District, then contact us to reclassify the property in our records.
- 8. Personnel:** Victor Mendez started on June 21st as a Water Maintenance Operator Trainee. The Administration Assistant position is now advertised.
- 9. Gantt Chart:** The Gantt Chart is updated for July 2021.

- 10. Tax Lien List Approval:** We intended to bring a list of delinquent customers over sixty days with over \$500 owed to ask the Board to approve tax liens. Our attorney is helping us understand the types of forms to use. However, we are taking a wait-and-see position with the new executive order lifting the moratorium on customer cut-offs for delinquent payment.
- 11. Economic Impact of no Disconnects for Non-payment:** The total uncollected amount in this Guerneville billing cycle due to non-payment with the non-Disconnect Executive Order is **\$8,670.96**. This amount is tracking downward. We will continue to follow this amount.

**Figure 1. Water Production and Sales 12 Month Moving Averages  
Sweetwater Springs Water District Since September 2008**



**Figure 2. Sweetwater Springs Water District Main and Service Pipeline Breaks Moving Annual Average Since September 2008**

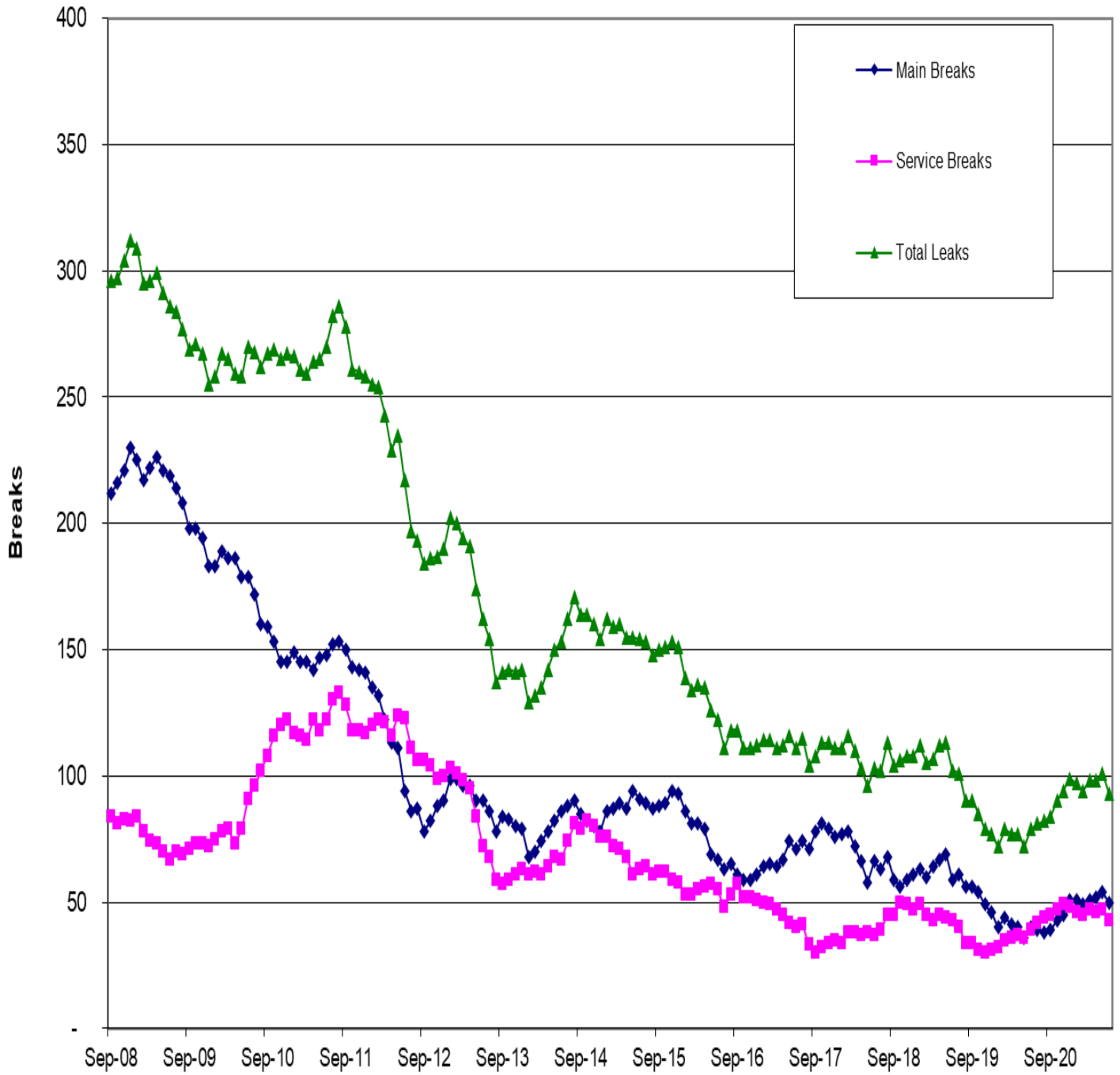
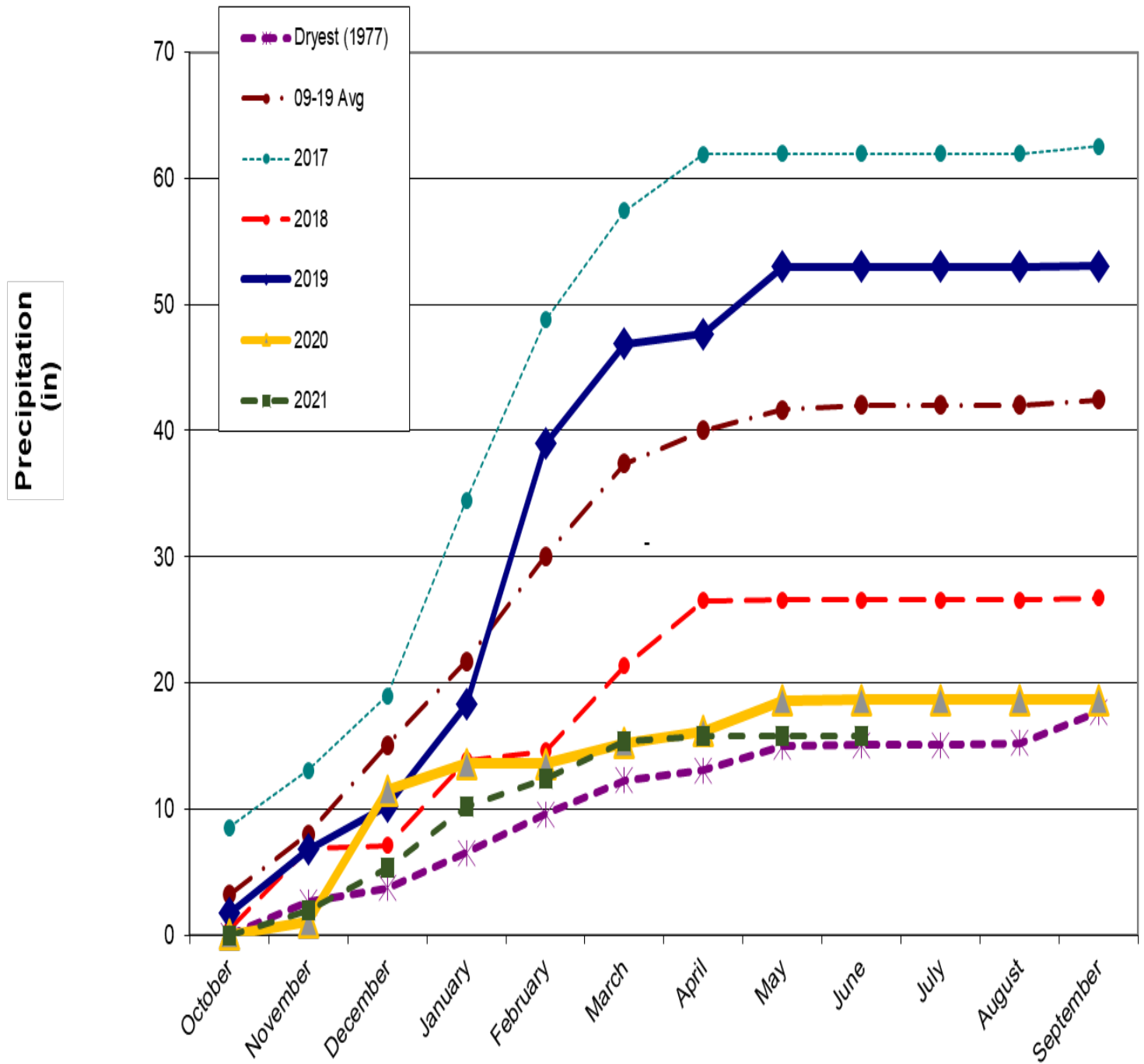


Figure 3. Guerneville Cumulative Monthly Rainfall



Tracking the Economic Impact of Suspending Water Disconnects for Non-payment					
EVEN CYCLE			ODD CYCLE		
Billing Date	# of Customers whose prior bill was still unpaid when next bill mailed	\$ Value of Past Due Amounts** (including unpaid customer deposits)	Billing Date	# of Customers whose prior bill was still unpaid when next bill mailed	\$ Value of Past Due Amounts** (including unpaid customer deposits)
2/15/2020 (Historical disconnect procedure)	0	\$0	3/15/2020 (SB 998 extends time before disconnect)	10	\$1,565
4/15/2020 (Exec. Order N-42-20: Disconnects completely suspended)	24	\$4,096	5/15/2020	5	\$594.02
6/15/2020	9	\$2,947.56	7/15/2020	8	\$1,261.02
8/15/2020	7	\$2,464.32	9/15/2020 (Suspended delinquency process due to wildfire.)	57	\$7,646.52
10/15/2020	16	\$5,094.43	11/15/2020	18	\$4,406.13
12/15/2020	23	\$7,260.48	1/15/2021	20	\$3,766.59
2/15/2021	35	\$11,140.50* (\$3,555 of this total is one customer)	3/15/2021	18	\$6,203.05
4/15/2021	28	\$11,762.54	5/15/2021	16	4040.58
6/15/2021	19	\$8,670.96			

As of 6/15/2021, 9 customers are in COVID-19 Agreements. These customers are not included in the numbers above if their COVID Agreements are in good standing.

