

**GARBERVILLE SANITARY DISTRICT
BOARD OF DIRECTORS MEETING
AGENDA**

**There will be a regular meeting held by the Garberville Sanitary District Board of Directors at the
GSD District Office
919 Redwood DR. Garberville, CA**

Date of Meeting: September 28th, 2021

5:00 p.m. – Open Public Session

<i>Any writings or documents that are public records and are provided to a majority of the governing board regarding an open session item on this agenda will be made available for public inspection in the District Office located at 919 Redwood Dr. during normal business hours.</i>

I. REGULAR MEETING CALLED TO ORDER

II. ESTABLISHMENT OF QUORUM

Rio Anderson___, Doug Bryan___, Julie Lyon___, Dan Thomas___

III. APPROVAL OF AGENDA - Action to add or delete items from any portion of the agenda or to discuss any consent agenda items must be taken prior to adoption of the agenda.

IV. THE BOARD WILL ENTER CLOSED SESSION AT END OF MEETING IF NEEDED

V. OPEN SESSION

VI. COMMENTS AND QUESTIONS FROM THE AUDIENCE

Up to fifteen minutes of this portion of the meeting are reserved for members of the public to address the Board on items not listed on the agenda and within the jurisdiction of the GSD Board. Speakers are limited to 3 minutes. The GSD Board is prohibited by law from taking action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the GSD Board does not respond to public comment at this time.

General Public / Community Groups

VII. ANNOUNCEMENTS AND COMMUNICATIONS

REPORTS AND PRESENTATIONS – Routine report of activities, operations, meetings / conferences held and/or attended by Board members, Staff, and General Manager

Operations Staff-

Office Staff-

Board Members-

Correspondence-

General Manager—Ralph Emerson Pg. 4

<i>Government Code Section 54954.3 provides that the public will have an opportunity to address the Board on any item described on a regular or special meeting either before or during the consideration of that item. The Board reserves the right to limit the time of presentation by individuals and groups</i>
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VIII. REGULAR AGENDA ITEMS

A. CONSENT AGENDA

Notice to the Public

All matters listed under Consent Agenda are considered to be routine and all will be enacted by one motion and voice vote. There will be no separate discussion of these items unless the Board of Directors requests items to be removed from the Consent Agenda for separate action. Any items will be considered after the motion to approve the Consent Agenda.

A.1 Approve Financials Date **No Financials**

A.2 Approve: August 24th, 2021 Regular Meeting Minutes pg. 5-7

A.3 Operations Safety Report- Being Observant

Motion: **Second:** **Vote:**

B. GENERAL BUSINESS – Action items

Notice to the Public

The Board of Directors will allow public comment on agenda items although any person who wishes to speak on an agenda item must submit a request prior to the meeting being called to order. You will be given 5 minutes on each agenda item that you wish to comment and then the Board of Directors will discuss the item amongst themselves with no other public comment.

B.1 Updated River and Drought Conditions

(discussion—possible action) update at meeting

Motion: **Second:** **Vote:**

B.2 Funding Application for Available Money

pg. 8-10

(discussion—possible action) (Jennie)

Motion: **Second:** **Vote:**

B.3 Small Community Drought Relief Program-Funding Application

pg. 11-18

(discussion-action requested) Resolution 21-010

Motion: **Second:** **Vote:**

B.4 Robertson / Hurlbutt Tank Replacement Project

pg. 19-20

(discussion-possible action)

Motion: **Second:** **Vote:**

B.5 SHCP Request for Potable Water Update

pg. 21-23

(action requested) Jennie update

Motion: **Second:** **Vote:**

B.6 Changes to Sewer Rates and 3rd tier

pg. 24-25

(discussion-action requested)

Motion: **Second:** **Vote:**

B.7 Consulting Contract Renewal with Jennie Short

pg. 26-29

(discussion—action requested)

Motion: **Second:** **Vote:**

B.8 Brown Act Changes Resolution 21-011

pg. 30-42

(discussion—possible action)

Motion: **Second:** **Vote:**

B.9 CalFire Easement

(discussion-possible action)

Motion:

Second:

Vote:

C. **POLICY REVISION / ADOPTION**

C.1 Water Ordinance- Drought Water Storage and Enforcement-Section 14.5

pg. 43

(discussion—possible action)

Motion:

Second:

Vote:

IX. **CLOSED SESSION**

Pursuant to Government Code Section

X. **RETURN TO OPEN SESSION**

Report of any actions taken in Closed Session

XI. **ITEMS FOR NEXT BOARD MEETING**

1. Funding Progress
2. Project Update
3. Water Ordinance Section 14.5 Drought-Storage-Enforcement
4. Community Services District Progress
- 5.

XII. **ADJOURNMENT**

Posting of Notice at the District Office no later than Date: Saturday, September 25th, 2021, Agenda is emailed to the local newspapers and those who have requested an agenda in writing or e-mail.

In accordance with the Americans with Disabilities Act, if you need a special accommodation to participate, please contact the Garberville Sanitary District Office at (707)923-9566 at least 48 hours in advance.

Garberville Sanitary District

PO Box 211

Garberville, CA. 95542

(707)923-9566

remerson@garbervillesd.org

GENERAL MANAGER REPORT

Date: September 28, 2021

Participated in Public meeting regarding Jesse Jeffries request to expand his Cannabis business on South Fork Eel River property where water farm is. There were many people participating from the County along with local residents. This property is outside of GSD boundaries, but water removed will not reach the river and this may affect the CFS which we use as a water diversion benchmark for operations.

Working with staff, Jennie and attorney on funding applications to complete some of the projects we are working on, as well as the projects we feel are most vulnerable.

We have been working with customers on drought requirements and water usage during these times of limited water. The customers have expressed some reservation about compliance and need, but have done a great job adjusting to the changes.

Respectfully Submitted:

Ralph Emerson

**GARBERVILLE SANITARY DISTRICT
BOARD OF DIRECTORS MEETING
MINUTES**

Date of Meeting: August 24th, 2021

5:00 p.m. – Open Public Session

I. REGULAR MEETING CALLED TO ORDER

Doug Bryan called the meeting to order at 5:01 p.m.

II. ESTABLISHMENT OF QUORUM

Rio Anderson- Present/Teleconference

Doug Bryan-Present

Julie Lyon- Present

Dan Thomas-Present

III. APPROVAL OF AGENDA

Motion: Julie Lyon

Second: Dan Thomas

Vote: 4-0

IV. THE BOARD WILL ENTER CLOSED SESSION AT END OF MEETING IF NEEDED

V. OPEN SESSION

VI. COMMENTS AND QUESTIONS FROM THE AUDIENCE

Kristen Vogal

Keith Easthouse

VII. ANNOUNCEMENTS AND COMMUNICATIONS

REPORTS AND PRESENTATIONS

Operations Staff- 0

Office Staff- 0

Board Members- 0

Correspondence- 0

General Manager—Ralph Emerson Pg. 4

Rate committee meeting with Dan, Julie, Ralph, Jennie and staff. The committee talked about making adjustments to the rates that will benefit the customers.

VIII. REGULAR AGENDA ITEMS

A. CONSENT AGENDA

- A.1 Approve July 27th, 2021 Regular Meeting Minutes - pg. 5-7
Motion: Dan Thomas **Second: Rio Anderson** **Vote: 4-0**

B. GENERAL BUSINESS – Action items

- B.1 River Condition and Drought Planning
(discussion-possible action) Information at meeting
The river level is jumping between 13 to 6 csf.
The District will keep the customers aware of the current drought requirements.

- B.2 Grant and Project Update pg. 8-9
(discussion—possible action) Jennie Update

Robertson/Hurlbutt/Wallan Tank Replacement Project (SWRCB-SRF Planning Grant)

The consolidated Scope of Work for this project has been approved by the SWRCB DDW District Office and the Project Manager. The project has been approved to have a funding agreement prepared. It is in the queue and as soon as legal staff at DFA complete the Funding Agreement, it should be forwarded to GSD for execution.

Upon execution we can authorize the design engineer to begin work on the various planning documents required for the project. This will include overall project evaluation, alternative analysis, topographical surveys of the Robertson and Wallan tank sites, geotechnical evaluation of the Wallan site, preparation of a Preliminary Engineering Report, environmental documents for all three sites, preparation of plans and specifications, a Technical, Managerial & Financial Assessment, and other reports/approvals as needed as part of the SRF process.

Meadows Aerial Waterline Reroute Project SWRCB-SRF Planning Grant

The grant application for planning project funding was submitted in November 2019. The application all four of four clearances completed. It is not being slated for funding. We do not currently know if the score for the project will land it high enough on the list to have

- B.3 California Water and Wastewater Arrearage Payment Program pg. 10-14
(discussion-possible action) Resolution 21-008
Motion: Dan Thomas **Second: Julie Lyon** **Vote: 4-0**

According to the California State Water Resources Control Board:
“The COVID-19 pandemic has made it difficult for many Californians to pay their bills due to job loss and other hardships. As a result, systems that provide water services to customers have been financially impacted.
Through \$985 million in federal funding allocated by the state legislature, the State Water Board is creating a new program to provide relief to community water and wastewater systems for unpaid bills related to the pandemic. The funding will cover water debt from residential and commercial customers accrued between March 4, 2020 and June 15, 2021. The Program will initially prioritize drinking water residential and commercial arrearages. Funding to community water systems will be disbursed through January 31, 2022. If the Program still has funding available, it will extend to wastewater residential and commercial arrearages by February 2022.”

- B.4 Projects-Maintenance-After Hours Call-Outs
(discussion-possible action) Dan and Brian

The Sunnybank lift station is still being pumped down manually, twice a day. The operators also fixed one of the ponds that had a plug.

B.5 Community Service District Procedures pg. 15-17

(discussion-possible action)

The board would like to get input from the community on what services they would like to see the District provide, other than water and sewer. This will help the board make a decision to push forward with becoming a CSD. The Board discussed a committee getting together to gather more information on this subject. Rio and Dan showed interest in the CSD Committee.

B.6 Humboldt Hempire Farms- Proposed Plan pg. 18-23
(discussion—possible action)

B.7 Plans for new ADU on Riverview Road pg. 24-27
(discussion—possible action)

Motion: Dan Thomas Second: Rio Anderson Vote: 4-0

A new water and sewer connection will be required for this project.

B.8 Developer-Customer Projects and Improvements
(discussion—possible action) info at meeting

Town projects are moving slowly.

C. POLICY REVISION / ADOPTION

C.1 Sec 14.5 Drought Contingency Plan Water Ordinance pg. 28
(discussion-no action) 1st reading

Bring back. The board wanted the second sentence in blue to be deleted.

IX. CLOSED SESSION

Pursuant to Government Code Section

X. RETURN TO OPEN SESSION

Report of any actions taken in Closed Session

XI. ITEMS FOR NEXT BOARD MEETING

1. River Level--Drought Conditions
2. Water Ordinance-Drought Water Storage Section 14.5
3. Grant-Projects Update
4. **Fines**
5. **Rates**

The Next Board Meeting is 9/28/2021

XII. ADJOURNMENT

Doug ended the meeting at 7:01 p.m.



GARBERVILLE SANITARY DISTRICT

P.O. BOX 211 • GARBERVILLE, CA 95542 • (707) 923-9566

BOARD OF DIRECTORS MEETING MEMORANDUM

Meeting Date: September 28, 2021
To: Board of Directors
From: Jennie Short, Consultant Project Manager
Subject: California Water and Wastewater Arrearage Payment Program

GENERAL OVERVIEW

I submitted the Program survey responses for the, the State Water Board's new program to provide relief to community water and wastewater systems for unpaid bills related to the pandemic. These responses document the District's eligibility as a small community water system with arrearages for service charges incurred from residential and commercial customers between March 4, 2020 and June 15, 2021. A full copy of the survey responses is available at the GSD Office.

Residential Arrearages for 25 customers totals \$11,450 plus \$217.50 in late fees.
Commercial Arrearages for 5 customers totals \$3,826 plus \$75 in late fees.

In addition to arrearages, the survey collected information on revenue loss that has occurred during the COVID-19 pandemic (within our billing cycles that include March 4, 2020 through June 15, 2021). This revenue loss was determined by comparing the number of units billed per month during the pandemic as compared with the average number of units billed the same month of the year before the pandemic. The residential units were fairly close. The commercial customer's units were significantly lower than the average. A graph is attached which depicts the data and contains a red ellipse for each month identifying the difference between the pandemic month and the average. Over the pandemic period this difference is 6,758 units. Since the commercial rate for water was approximately \$3 per unit during this time period, that rate was applied to the 6,758 units resulting in \$20,275 in lost revenue for the pandemic period. This results in a total request for \$35,545 in arrearages and lost revenue for only the water services.

Now that the survey deadline has passed, the State Water Board will analyze the information collected to determine the allocation of the Program funds. The State Water Board will then adopt a resolution to provide guidance on Program eligibilities and requirements. Within 14 days of adopting the resolution, the State Water Board will begin accepting applications from community water systems for funds to assist customers who have past-due bills from the COVID-19 pandemic bill relief period.

The State Water Board is required to begin disbursing Program funds to approved community water system applicants no later than November 1, 2021. Funding to community water systems will be disbursed through January 31, 2022. If the Program still has funding available, it will extend to wastewater residential and commercial arrearages by February 2022.”

I am expecting the applications to be available after October 5, 2021. Once available we will complete the application and await disbursement of funds around November 1, 2021.

FINANCIAL IMPLICATIONS

The final outcome of the process should be that GSD is paid for all or part of:

- the service charges that are over 60 days past due (\$15,721) and were incurred between March 4, 2020 through June 15, 2021
- the lost revenue (\$20,275) due to decreased demand in commercial customers during the shutdowns and subsequent months

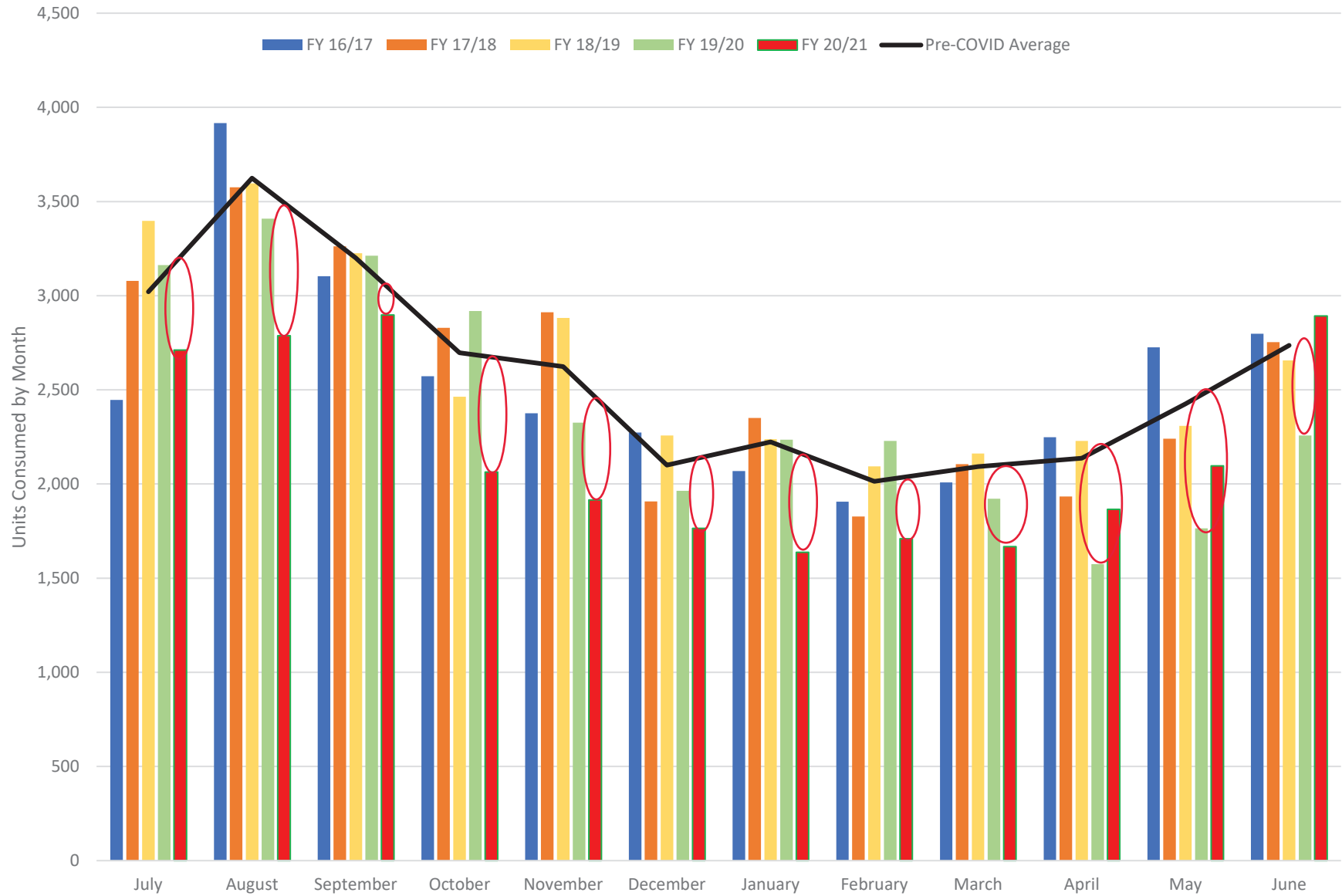
RECOMMENDATIONS

None.

ATTACHMENTS

Graph

Commercial Consumption by Fiscal Year compared with 5-year Average





GARBERVILLE SANITARY DISTRICT

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BOARD OF DIRECTORS MEETING MEMORANDUM

Meeting Date: September 28, 2021
To: Board of Directors
From: Jennie Short, Consultant Project Manager
Subject: Robertson/Hurlbutt/Wallan Tank Replacement Project
Small Community Drought Relief Program
Application for Grant Funding

GENERAL OVERVIEW

The leak in the 50,000-gallon in-ground concrete tank between Arthur Road and Alderpoint Road is getting progressively worse and the tank needs to be replaced. The tank is fed from the Arthur Road pump station and the Alderpoint Road Tank. The tank was reportedly constructed in 1921 and was part of one of the three old water systems that were consolidated into the Garberville Water Company. The tank appears to be held together with metal cables, which have been in place for more than 20 years.

On August 28, 2020, a Compliance Order was issued by The Division of Drinking Water. Directive 5 stated in part, "Inspect the exterior of the tank and access hatch for openings at least once per week."

In a letter dated September 9, 2021 to Barry Sutter, Klamath District Office Engineer, we informed him "On or about August 26th, 2021, while performing the required weekly inspections, District Operations Staff found that a section of the tank near the intersection of the concrete wall with the ground to have been dislodged, likely due to seismic activity. Further inspection found that a crack around the circumference of the tank is also evident." We further explained in the letter the emergency temporary measures taken to minimize the leak, the further actions planned, and the effect on pressure and storage of those actions.

On September 16, 2021, I participated in a webinar for CA Drought Funding Informational Session hosted by the State Water Resources Control Board Drought Funding DFA and the California Department of Water Resources staffs. One of the funding sources presented was the Small Communities Drought Relief Program.

Since the District is a small community (with 3,000 or less water connections; and provided with 3,000 or less acre-feet of water annually) and is in a county named in one

of the Governor's emergency drought proclamations (Humboldt County included in May 10, 2021 proclamation) and are experiencing significant tank leaks that exacerbate the low river flow drought conditions by diverting water that ends up leaking from the tanks during a drought, the replacement of those tanks should be eligible for this program.

According to the 2021 Guidelines for this program:

- The intent of the Small Community Drought Relief Program is to provide immediate and near-term financial and technical support to help small communities survive this and future droughts.
- The specific objectives are to implement projects that provide reliable water supply sources, improve water system storage, replace aging and leaking pipelines, and provide alternative power sources for operation (emergency generators). Potential projects include emergency and permanent interties, well deepening, second well, fixing or replacing leaking water lines, construction or upgrade of intake structures, additional water storage facilities, and tanks.
- The funding must be encumbered (for an agreement/contract) by June 30, 2024, and must be expended by June 30, 2026; therefore, projects must be completed by March 31, 2026 to allow time for the closeout process and final payment, including retention.
- Eligible project costs may include the reasonable costs of studies, engineering, design, project construction, and other work directly related to the scope of work.
- All eligible grant applications will undergo a technical evaluation. First, project proposals will be evaluated by program staff. Program staff will evaluate the proposals to determine if they meet program objectives. Each proposal will be reviewed by at least two qualified program staff.
- Following the completion of the technical reviews by program staff, DWR supervisory-level staff will review and finalize evaluations, then develop funding recommendations for the Program Division Manager's approval. Following approval of the funding recommendations by the Program Division Manager, the funding recommendations will be communicated through the appropriate DWR chain-of-command. The applicant will then be notified.
- The grant funding is non-competitive. Therefore, the proposals will not be scored. The proposals will only be evaluated against program objectives.
- Once a funding recommendation is developed by program staff, and approved by DWR's management, the selected grant recipient will receive a commitment letter officially notifying them of their selection and the grant amount. Following the funding commitment, DWR will execute a grant agreement with the grant recipient.

In addition to completing the forms supplied in appendix B of the guidelines, applicants are required to submit a project proposal with a detailed task breakdown to complete the Small Community Drought Relief Program grant application. In addition to the application forms, the applicant produces a project proposal that must provide detailed descriptions, discussion, and documentation for each of the following sections:

1. Title of the project,
2. Project Management team members,
3. Scope of Work and Project Description,
4. Project goals and objectives,
5. Detailed task breakdown,
6. Schedule showing the sequence of tasks and timing,
7. Budget summary section, and
8. Discussion of proposed project deliverables.

I am preparing the numerous forms and writing the proposal along with gathering the various attachments that are needed for a complete application. Because this funding is first come first funded and is not competitive, completion and submission of the application as soon as possible is a high priority.

The application must be submitted with an Authorizing Resolution attached (Attachment 1 Part IV). Resolution 21-010 has been prepared to meet that need using the verbiage proposed by the funding agency and placed into the GSD Resolution format. This resolution allows Ralph Emerson, Jennie Short, or Doug Bryan to sign the documents needed to process the application and associated program documentation. Any funding agreement presented for execution will be brought before the Board if the terms are anything different than those anticipated.

FINANCIAL IMPLICATIONS

This funding source does not require any matching funds and is completely state funded. This means that the federal cross cutters normally required under the DWSRF program do not apply to this funding source.

There will be some project expenses that won't be deemed eligible. The Board needs to be prepared to fund those expenses (some of which you have already or are currently incurring) and this expense could be seen as a "match" for the project from the District's perspective. These expenses would be funded from the District's water service charges.

RECOMMENDATIONS

Review, approve, and authorize the Chair of the Board to sign Resolution 21-010: A RESOLUTION OF THE GARBERVILLE SANITARY DISTRICT AUTHORIZING THE GRANT APPLICATION, ACCEPTANCE, AND EXECUTION FOR THE ROBERTSON/HURLBUTT/ WALLAN TANK REPLACEMENT PROJECT FOR FUNDING THROUGH THE: CALIFORNIA SMALL COMMUNITY DROUGHT RELIEF PROGRAM

ATTACHMENTS

Resolution 21-010
Letter to SWRCB-DDW Klamath District Engineer



GARBERVILLE SANITARY DISTRICT

P.O. BOX 211 • GARBERVILLE, CA 95542 • (707) 923-9566

RESOLUTION NO. 21-010

AUTHORIZING RESOLUTION/ORDINANCE

A RESOLUTION OF THE GARBERVILLE SANITARY DISTRICT AUTHORIZING THE GRANT APPLICATION, ACCEPTANCE, AND EXECUTION FOR THE ROBERTSON/HURLBUTT/WALLAN TANK REPLACEMENT PROJECT FOR FUNDING THROUGH THE:
CALIFORNIA SMALL COMMUNITY DROUGHT RELIEF PROGRAM

WHEREAS, GARBERVILLE SANITARY DISTRICT proposes to implement the ROBERTSON/HURLBUTT/WALLAN TANK REPLACEMENT PROJECT;

WHEREAS, the ROBERTSON/HURLBUTT/WALLAN TANK REPLACEMENT PROJECT is being implemented in response to a drought scenario, as defined by Water Code section 13198(a) and is intended to: (1) address immediate impacts on human health and safety; (2) address immediate impacts on fish and wildlife resources; or, (3) provide water to persons or communities that lose or are threatened with the loss or contamination of water supplies;

WHEREAS, GARBERVILLE SANITARY DISTRICT has the legal authority and is authorized to enter into a funding agreement with the State of California; and

WHEREAS, GARBERVILLE SANITARY DISTRICT intends to apply for grant funding from the California Department of Water Resources for the ROBERTSON/HURLBUTT/WALLAN TANK REPLACEMENT PROJECT;

IT IS, THEREFORE, RESOLVED BY THE BOARD OF DIRECTORS OF THE GARBERVILLE SANITARY DISTRICT, AS FOLLOWS:

1. That pursuant and subject to all of the terms and provisions of Budget Act of 2021 (Stats. 2021, ch. 69, § 112), the Garberville Sanitary District CHAIR OF THE BOARD OF DIRECTORS, the GENERAL MANAGER, and the CONSULTANT PROJECT MANAGER (Jennie Short), or designee is hereby authorized and directed to prepare and file an application for funding with the Department of Water Resources, and take such other actions as necessary or appropriate to obtain grant funding.
2. The Garberville Sanitary District CHAIR OF THE BOARD OF DIRECTORS, the GENERAL MANAGER, and the CONSULTANT PROJECT MANAGER (Jennie Short), or designee is hereby authorized and directed to execute the funding agreement with the Department of Water Resources and any amendments thereto.

3. The Garberville Sanitary District CHAIR OF THE BOARD OF DIRECTORS, the GENERAL MANAGER, and the CONSULTANT PROJECT MANAGER (Jennie Short), or designee is hereby authorized and directed to submit any required documents, invoices, and reports required to obtain grant funding.

CERTIFICATION I hereby certify that the foregoing Resolution was duly and regularly adopted by the BOARD OF DIRECTORS of the GARBERVILLE SANITARY DISTRICT at a regular business meeting held on SEPTEMBER 28, 2021, motion by _____ and seconded by _____, motion passed by the following vote:

AYES: Directors _____

NOES: Directors _____

ABSTAIN: Directors _____

ABSENT: Directors _____

Chair of the Board of Directors

_____,
Ralph Emerson
Clerk of Board of Directors

SEAL:



GARBERVILLE SANITARY DISTRICT

P.O. BOX 211 • GARBERVILLE, CA 95542 • (707) 923-9566

September 9, 2021

State Water Resources Control Board
Division of Drinking Water
Klamath District 01, Field Operations Branch
Attn: Barry Sutter, PE, Klamath District Engineer
364 Knollcrest Drive, Suite 101
Redding, CA 96002

SUBJECT: ROBERTSON TANK: STATUS OF REPLACEMENT - REPORT OF
ADDITIONAL DAMAGE - ACTIONS TAKEN AND UNDERWAY
COMPLIANCE ORDER NO. 01_01_20(R)_004
VIOLATION OF THE CALIFORNIA WATERWORKS STANDARDS
PUBLIC WATER SYSTEM #1210008

Dear Mr. Sutter;

The Garberville Sanitary District regrets to inform you that additional damage has been observed at the Robertson Tank. On or about August 26th, 2021, while performing the required weekly inspections, District Operations Staff found that a section of the tank near the intersection of the concrete wall with the ground to have been dislodged, likely due to seismic activity. Further inspection found that a crack around the circumference of the tank is also evident. The following photos show the section that is dislodged, the rebar that is now showing and exposed to the air which will result in oxidation and potential breakage, and the water that pools on the ground.





In addition to this letter, I am emailing you video footage showing the magnitude of the leak caused by this additional degradation of the Robertson Tank. GSD is currently in drought tier 1 (SF Eel River is just above 7 cfs) and the river cannot afford to have this quantity of water being pumped out of the river, being treated and distributed to this tank, and then leaking out on the ground.

Hence, Operations Staff has notified the customers served off this tank and has lowered the “tank full” floats to a level that is just below this crack. This effectively decreases the storage capacity of this tank by a little over half. The District is already deficient in water storage and this decrease places us below the storage capacity allowed by the Water Works Standards.

This decrease in capacity has also lowered the service pressure at the highest elevation this tank serves to a level that is unacceptable, from a customer service standpoint. We can still maintain the required minimum 20 psi, but the volume and pressure of the water at that house is undesirable. The District has contacted two contractors to get prices and timelines for installation of an emergency pressure reducer and associated piping to switch the service of these residences from the Robertson Tank to the Alderpoint Tank line. As we have more information on the viability and affordability of this option, we will notify you.

The District has completed everything necessary for the funding of the Robertson/Hurlbutt/Wallan Tank Replacement Project Safe Drinking Water Safe Revolving Fund application for Planning Phase funding. It is my understanding from Alejandra Nunez of SWRCB DFA that the project has been approved for funding and is waiting for the preparation of the Funding Agreement. The District is ready to move forward with this project in the most accelerated manner possible, but can’t afford to begin until funding has been acquired.

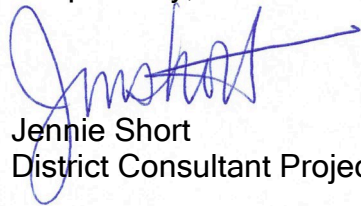
As we have discussed in the past, a PRV may be the optimal final solution for the Robertson Tank site in the replacement project if it is possible to combine the replacement of the Robertson Tank and the Hurlbutt Tank into a single larger storage

tank. I have been coordinating with Scott Gilbreath and Alejandra Nunez on the historical documents already approved by SWRCB-DDW for the construction of a 1-million-gallon tank at the Upper Hurlbutt site. I am hopeful that if the emergency PRV assembly is incorporated into the final design that it will be eligible for SRF funding and that the District will only have to “front” this expense until reimbursement for construction related expenses begins.

If there is anything you can do to help facilitate a quicker preparation of the funding agreement so that we can complete analysis, design, and environmental review of this project and move on to construction, the District would really appreciate it.

If you have any questions regarding the capital construction project, don't hesitate to contact me by phone at (707)223-4567 or email at jmshort@garbervillesd.org . If you have questions or information regarding the operations of the Robertson Tank, please contact our Senior Operator, Dan Arreguin by phone at (707)223-4569 or email at ops@garbervillesd.org.

Respectfully,



Jennie Short
District Consultant Project Manager

Cc via email:

Ralph Emerson, District General Manager
Russ Gans, District Counsel
Scott Gilbreath, SWRCB-DDW Water Engineer
Alejandra Nunez, SWRCB-DFA Water Engineer



GARBERVILLE SANITARY DISTRICT

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BOARD OF DIRECTORS MEETING MEMORANDUM

Meeting Date: September 28, 2021
To: Board of Directors
From: Jennie Short, Consultant Project Manager
Subject: SRF Planning Projects Update

GENERAL OVERVIEW

Robertson/Hurlbutt/Wallan Tank Replacement Project (SWRCB-SRF Planning Grant)

There has been no change in the status of this project in regards to the DWSRF Planning Grant. This project has also been identified as potentially eligible for the Small Community Drought Relief Program and one of the agenda items this month addresses the proposed grant application for that program.

If the project is funded through the Drought Relief Program then the DWSRF application will likely be withdrawn. There is also the possibility that the State will want to provide funding from both funding sources to complete the planning and construction phases of the project.

Meadows Aerial Waterline Reroute Project

SWRCB-SRF Planning Grant

There has been no change in the status of this project in regards to the DWSRF Planning Grant.

FINANCIAL IMPLICATIONS

Both of these projects are proposed to be funding by SRF through the state. I am anticipating that as a small severely disadvantaged community, we will be eligible for a 90% loan forgiveness (grant) and 10% loan. The loan can be financed for 30 years with a 0% interest rate.

RECOMMENDATIONS

None

ATTACHMENTS

None

WAHLUND CONSTRUCTION, INC.

A General Engineering Contractor

Lic. #678993 A, B, C-10 (Electrical), C-22 (Asbestos & Hazmat)

DIR #1000006404

9/16/2021

To: **Ralph Emerson**
General Manager
Garberville Sanitary District
919 Redwood Dr.
Garberville, CA. 95542
(707)923-9566

Re: **Garberville Sanitary District Robertson Tank Bypass Proposal**

Wahlund Construction proposes to install a bypass to allow for repairs to the Robertson Water Tank near Arthur Road in Garberville, CA.

Total Price = \$8,450.00

Assumptions:

- Materials purchased by owner

Exclusions:

- Permits and fees
- Repairs to internal filter piping
- Any item of work not included in the above paragraph or described in the site walk with GSD staff is considered excluded.

Print Name:

Ralph Emerson

Ralph Emerson

Signature of Acceptance and
agreement to pay invoice
within 30 days

Sincerely,

Ryan Wahlund
Vice President of Operations
ryan@wahlcon.com
(707)499-4131



GARBERVILLE SANITARY DISTRICT

P.O. BOX 211 • GARBERVILLE, CA 95542 • (707) 923-9566

BOARD OF DIRECTORS MEETING MEMORANDUM

Meeting Date: September 28, 2021
To: Garberville Sanitary District Board of Directors
From: Jennie Short, Consultant Project Manager
Subject: SHCP Water Service Update
SWRCB DWR POU Petition Update

GENERAL OVERVIEW

According to the Administrative Hearing Officer, Mr. Lilly, in an email dated July 20, 2021:

“Under Water Code section 1114, the AHO normally must transmit a proposed order for a matter to the Clerk of the State Water Resources Control Board **within 90 days after the matter was submitted to the AHO**. That submittal date was July 9. When the AHO transmits its proposed order to the Clerk of the Board, the AHO will send copies of it to all parties on the service list for this hearing.

After the AHO transmits this proposed order to the Clerk of the Board, the Clerk will schedule a Board meeting during which the Board members will consider the proposed order. Under Water Code section 1114, **the Board must hold this meeting within 90 days after the AHO transmits its proposed order to the Clerk of the Board**. After the Clerk of the Board circulates the agenda for the Board meeting during which the Board members will consider the AHO's proposed order, any interested party may submit written comments on the proposed order to the Board.”

The anticipated date for the production of the proposed order is October 7, 2021.

The Water Board meeting date would be no later than January 5, 2022.

FINANCIAL CONSIDERATIONS

Financial Amounts as of 06/30/2021

Description	Amount
Total Expenditures	\$ 26,311.48
Credit from GSD Board	- 5,000.00
SHCP Outstanding Balance	\$ 13,307.92
SHCP Payments made so far	\$ 8,003.56
Current Amount Due	\$ 2,661.58

RECOMMENDED BOARD ACTIONS

None

ATTACHMENTS

GSD Quarterly Statement to SHCP dated July 31, 2021 w/o attachments (2 pages)

Garberville Sanitary District

STATEMENT

P.O. Box 211
Garberville, CA 95542
(707)923-9566

INVOICE NO. 0009
DATE 07/31/2021
CUSTOMER ID SHCP Water Service

TO **Southern Humboldt Community Park**
Laura Cochran
P.O. Box 185
Garberville, CA 95542

Due Date: 09/15/2021

Payment Request	Expenses Incurred For:	Terms
8 of 12	April - June 2021	0% Interest, 3-years, Quarterly Payments

DATE	DESCRIPTION		AMOUNT
01/31/21	PREVIOUS BALANCE		\$3,674.91
05/05/21	Payment	Ck# 1515	-\$612.49
07/31/19	Mitchell Law Firm	44103	\$2,154.00
12/31/19	Mitchell Law Firm	44966	\$46.50
02/29/20	Mitchell Law Firm	45303	\$62.00
04/30/21	Mitchell Law Firm	47691	\$579.50
05/31/21	Mitchell Law Firm	47925	\$232.50
06/30/21	Mitchell Law Firm	48157	\$1,557.00
07/31/21	Mitchell Law Firm	48350	\$976.50
04/30/21	4Js Consulting	1078	\$735.00
05/31/21	4Js Consulting	1079	\$1,120.00
06/30/21	4Js Consulting	1080	\$2,782.50

TOTAL DUE TO DATE: \$13,307.92

3-years ends September 30, 2022

Current Payment Amount: **\$2,661.58**



GARBERVILLE SANITARY DISTRICT

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BOARD OF DIRECTORS MEETING MEMORANDUM

Meeting Date: September 28, 2021
To: Board of Directors
From: Jennie Short, Consultant Project Manager
Subject: Suspension of Sewer Consumption Charge for all
Residential consumption above 20 units per month

GENERAL OVERVIEW

The Rate Committee met on August 23, 2021 to discuss the water usage from August 2020 to July 2021 and how that usage translates into water revenue. Part of the goal was to determine what quantity of units fall into the Tier 3 residential water rate, which customers have tier 3 usage, and if we know why their usage is so much higher than the average. As part of the adoption of the 2021-22 budget, the GSD Board of Directors authorized the implementation of the next step in the 5-year rate structure for all charges except the Tier 3 residential water charge. The following table summarizes the number of units in each commercial and residential water tier and the associated revenue of those units.

Table 1. August 2020 - July 2021 Summary of Water Consumption Units

Commercial Rate Customers		Residential Rate Customers	
Total Year's Units	26,776	Total Year's Units	24,296
Tier 1 Units	16,781	Tier 1 Units	15,823
Tier 2 Units	9,995	Tier 2 Units	5,472
		Tier 3 Units	3,001
Tier 1 Rate	\$ 3.00	Tier 1 Rate	\$ 1.00
Tier 2 Rate	\$ 2.75	Tier 2 Rate	\$ 3.00
		Tier 3 Rate	\$ 11.00
Tier 1 Usage Income	\$ 50,343.00	Tier 1 Usage Income	\$ 15,823.00
Tier 2 Usage Income	\$ 27,486.25	Tier 2 Usage Income	\$ 16,416.00
		Tier 3 Usage Income	\$ 33,011.00
Total Usage Income	\$ 77,829.25	Total Usage Income	\$ 65,250.00

For a single-family residence, it is unlikely that any of the units above 20 units per month (Tier 3) are being used for purposes that result in the water being processed in the sewer system. It is far more likely that these units of water are being utilized on outdoor purposes and that the water never enters the sewer system.

The Rate Committee's recommendation to the Board is to suspend the sewer consumption charges associated with all residential sewer consumption charges for units above 20 per month. This means that for the residential customers (single family) that sewer consumption charges will only be charged for the first 20 units utilized per month. This will have no effect on the water service charges for the tier 3 units.

FINANCIAL IMPLICATIONS

As can be seen in the table above, 3,001 tier 3 residential water units were billed in the studied 12-month period. The sewer service charge associated with these units would be \$3.00 per unit. This sewer charge is on top of the \$11.00 per unit billed for water consumption. The annual financial impact of suspending these sewer service charges is \$9,003 per year. The actual Tier 3 units will vary each year, but this is a reasonable estimate.

RECOMMENDATIONS

Temporarily suspend the service charges associated with the sewer rates for all residential customers for the units that fall into Tier 3. Review the suspension at a minimum of annually as part of the adoption of the annual budget.

ATTACHMENTS

None

Garberville Sanitary District

Consultant Services Agreement: Jennie Short

This Consultant Services Agreement (this "Agreement") is made and entered between the Jennie Short ("Consultant") and the Garberville Sanitary District ("District"). The terms recited as Sections a through o of the General Conditions appearing on Pages 1 through 6 are incorporated in this Agreement, along with this page, and constitute material terms and conditions of the Agreement between the parties. This Agreement will be evaluated annually by both parties for consideration of renewal.

The undersigned Consultant offers to furnish the following services (the "Services"): Jennie Short ("Consultant") agrees to provide capital project management services and related consultant services as requested by Garberville Sanitary District ("District"), and to serve as an agent and representative of the District on various District projects and/or activities as assigned. Consultant shall only be authorized to perform Services on specified projects as identified by the District's General Manager or as directed by the District's Board of Directors.

Consultant shall submit a monthly detailed invoice to District which must include: (1) a description of the specific Services performed; (2) the date(s) the Services were performed; (3) the time spent providing the Services; (4) an itemized summary of any pre-approved reimbursable expenses; and (5) the total amount charged for the Services. The District's General Manager or designee shall review and approve each invoice and the District shall provide payment to Consultant within fifteen (15) days of receipt and approve of the invoice. In the event the General Manager of the District or designee disapproves or rejects any invoice issued by Consultant or portion thereof and no agreement can be reached with Consultant, at the request of either Consultant or the General Manager the payment dispute may be submitted to the District's Board of Directors for review and final decision.

For the full and satisfactory completion of the Services, Consultant shall be compensated at the rate of \$75.00 per hour, plus reimbursable expenses. Consultant shall be authorized to work in a "part-time" capacity. On the tasks and projects assigned to the Consultant by the General Manager.

This Agreement shall become effective at such time it is accepted by the District's Board of Directors and fully executed by Consultant and the District.

General Conditions

Consultant and the District agree as follows:

- a. **Standard of Care.** In providing the Services under this Agreement, Consultant shall exercise that degree of skill and care ordinarily used by other reputable members of Consultant's profession, practicing in the same or similar locality and under similar circumstances.

- b. **General Manager Authority.** Consultant shall not accept direction or orders from any person other than the General Manager or the District's Board of Directors or Board designee.
- c. **Payment Intervals.** Payment, unless otherwise specified on Page 1, is to be 15 days after acceptance of a written invoice by the District.
- d. **Permits and Licenses.** Permits and licenses required by governmental authorities in connection with Consultant's services will be obtained at Consultant's sole cost and expense, and Consultant will comply with applicable local, state, and federal regulations and statutes including Cal/OSHA requirements in providing the Services.
- e. **Amendments and Modifications.** Any change in the scope of the consulting Services to be done, method of performance, nature of materials, work provided or price thereof, or to any other matter materially affecting the performance or nature of the Services will not be paid for or accepted unless such change, addition or deletion is approved in advance, in writing by a supplemental Agreement executed by the District and Consultant.
- f. **Warranties.** Consultant represents and warrants that the Services shall be completed in strict accordance with this Agreement. Consultant further represents and warrants that the Services provided shall not infringe, directly or indirectly, on any valid patent, copyright or trademark, and Consultant shall, at Consultant's sole cost and expense, indemnify, defend and hold harmless the District from and against any and all claims and causes of action based on alleged or actual infringements thereof. These warranties shall survive the expiration or termination of this Agreement and are in addition to any warranties provided by law. No payment to Consultant for any Services performed hereunder (including, without limitation, final payment) shall constitute a waiver of any Claims by the District against Consultant relating to the Services.
- g. **Termination.** The District may, in its discretion, terminate this Agreement without cause at any time. If at the time of any such termination any Services that have already been provided by Consultant remain unpaid and Consultant is not in default under this Agreement, Consultant may submit a final invoice for Services actually provided by Consultant prior to the date of termination. Upon receipt of notice of termination, Consultant shall immediately stop all performance hereunder except as otherwise directed by the District. Likewise, Consultant may, at its option, terminate this Agreement without cause at any time, by submitting a notice of termination to the Board or to the District's General Manager.
- h. **Default.** Upon any default by Consultant hereunder, or in the event of proceedings by or against Consultant in bankruptcy or for the appointment of a receiver or trustee or an assignment for the benefit of creditors, the District may, at its option, terminate this Agreement without penalty or liability (except for payment for any Services completed and accepted by the District). Any remedies provided for in this Agreement are cumulative and shall be in addition to, and not in limitation of, any other rights and remedies that may be available at law or in equity. Neither party shall be in default of this Agreement until such party has received three (3) days written notification (except in the instance of a health or safety concern, in which case failure to immediately remediate the health or safety violation shall be grounds to declare a default of this Agreement),

and an opportunity to cure, or in the case of an alleged default which requires more than three (3) days to cure, a reasonable time so long as the alleged defaulting party commences the remediation of the default immediately, and thereafter diligently prosecutes the same to completion.

- i. **Notices.** Notices, requests, demands, and other communications hereunder shall be in writing and delivered personally, sent by reputable overnight courier or mailed by first class, United States mail, with postage prepaid, to Garberville Sanitary District, **P.O. Box 211, Garberville, CA 95542, Attention: Ralph Emerson**, and to Consultant at the address set forth below Consultant's signature, or at any other address that may be given by either party to the other in the manner provided above. Notices delivered personally or sent by overnight courier shall be deemed delivered upon receipt. Notices delivered by mail shall be deemed delivered upon the earlier of (i) receipt or (ii) the date three (3) U.S. mail delivery days after the notice was placed in the United States mail as provided above.
- j. **Headings.** All section headings are provided for convenience only, and shall not be deemed to constitute material terms and conditions of this Agreement.
- k. **Interpretation.** Both Consultant and the District are deemed to have jointly participated in the negotiation and preparation of this Agreement. Consequently, both Consultant and the District are considered to have drafted this Agreement in equal parts and, if any ambiguity is found to exist, all rules of law and evidence requiring ambiguities to be interpreted to the detriment of the drafting party shall not apply.
- l. **Attorneys Fees and Venue for Disputes.** If litigation becomes necessary to enforce the terms and provisions of this Agreement or as a result of any breach by Consultant or District of this Agreement, the prevailing party in any such litigation shall be entitled to recover reasonable attorney's fees and costs. The Humboldt County Superior Court for the State of California shall have exclusive jurisdiction over any dispute arising out of this Agreement or Consultant's provision of Services hereunder, and shall serve as the venue for any such dispute. All parties expressly consent to this designation of jurisdiction and venue.
- m. **Cell Phone.** Consultant shall have the use of a cell phone belonging to the District. Upon termination of this Agreement by either party, Consultant shall return the cell phone to the District within five (5) days of the date of termination.
- n. **Waiver of All Other District Benefits.** Consultant, who works in a part-time capacity for the District and on a project by project basis, as noted, waives all benefits provided by the District to full-time employees, and specifically as follows: _____

_____.
- o. **Counterparts and Signatures.** This Agreement may be executed in separate counterparts, which will be taken together has a whole to form one instrument.

Consultant: Jennie Short

Jennie Short

Date: _____

Address: _____

Garberville Sanitary District

By: _____

Title: _____

Date: _____

RESOLUTION NO. 21-011

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GARBERVILLE SANITARY DISTRICT MAKING FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 54953, AS AMENDED BY ASSEMBLY BILL 361, AND AUTHORIZING THE CONTINUED USE OF VIRTUAL MEETINGS

WHEREAS, as a result of the COVID-19 pandemic, the Governor issued Executive Order Nos. N-08-21, N-25-20 and N-29-20, which suspended certain provisions of the Ralph M. Brown Act to allow legislative bodies to conduct public meetings without strict compliance with the teleconferencing provisions of the Brown Act;

WHEREAS, Assembly Bill 361, which was signed into law on September 20th, 2021, amended Government Code section 54953, to provide relief from the teleconferencing provisions of the Brown Act under certain circumstances provided the legislative body makes certain findings;

WHEREAS, as a result of the COVID-19 pandemic, the Governor proclaimed a state of emergency on March 4, 2020, in accordance with the section 8625 of the California Emergency Services Act, and the state of emergency remains in effect;

WHEREAS, as a result of the COVID-19 pandemic, the Humboldt County Health Officer has imposed and has recommended measures to promote social distancing as more particularly set forth in his August 6, 2021, Order, among other prior orders and guidance;

NOW, THEREFORE, the Board of Directors does hereby find and resolve as follows:

1. That the Board has reconsidered the circumstances of the previously declared and existing state of emergency arising from the COVID-19 pandemic;
2. That the state of emergency continues to directly impact the ability of the members of the Board to meet safely in person, and further that local officials continue to impose or recommend measures to promote social distancing;
3. That the Board may continue to conduct public meetings in accordance with Government Code section 54953(e);
4. That the Board will reconsider the above findings within 30-days of this Resolution.

AYES:

NOES:

ABSTAIN:

ABSENT:

Doug Bryan, Board Chairperson

ATTEST:

Ralph Emerson, General Manager

Date:_____



**California Special
Districts Association**
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AB 361 Implementation Guide



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AB 361 – Brown Act: Remote Meetings During a State of Emergency

Background – the Governor’s Executive Orders:

Starting in March 2020, amid rising concern surrounding the spread of COVID-19 throughout communities in the state, California Governor Gavin Newsom issued a series of Executive Orders aimed at containing the novel coronavirus. These Executive Orders ([N-25-20](#), [N-29-20](#), [N-35-20](#)) collectively modified certain requirements created by the Ralph M. Brown Act (“the Brown Act”), the state’s local agency public meetings law.

The orders waived several requirements, including requirements in the Brown Act expressly or impliedly requiring the physical presence of members of the legislative body, the clerk or other personnel of the body, or of the public as a condition of participation in or for the purpose of establishing a quorum for a public meeting.¹² Furthermore, the orders:

- waived the requirement that local agencies provide notice of each teleconference location from which a member of the legislative body will be participating in a public meeting,
- waived the requirement that each teleconference location be accessible to the public,
- waived the requirement that members of the public be able to address the legislative body at each teleconference conference location,
- waived the requirement that local agencies post agendas at all teleconference locations, and,
- waived the requirement that at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction.

Under the orders, local agencies were still required to provide advance notice of each public meeting according to the timeframe otherwise prescribed by the Brown Act, and using the means otherwise prescribed by the Brown Act. Agencies were – for a time – required to allow members of the public to observe and address the meeting telephonically or otherwise electronically. Local agencies were eventually explicitly freed from the obligation of providing a physical location from which members of the public could observe the meeting and offer public comment.³

In each instance in which notice of the time of the meeting was given or the agenda for the meeting was posted, the local agency was required to give notice of the manner members of the public could observe the meeting and offer public comment. In any instance in which there was a change in the manner of public observation and comment, or any instance prior to the issuance of the executive orders in which the time of the meeting had been noticed or the agenda for the meeting had been posted without also including notice of the manner of public observation and comment, a local agency would be able to satisfy this requirement by

¹ **Executive Order N-25-20**, <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.12.20-EO-N-25-20-COVID-19.pdf>

² **Executive Order N-29-20**, <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.17.20-N-29-20-EO.pdf>

³ *Ibid*



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advertising the means of public observation and comment using "the most rapid means of communication available at the time" within the meaning of California Government Code, section 54954(e); this includes, but is not limited to, posting the manner in which the public could participate on the agency's website.

The orders also provided flexibility for a legislative body to receive a "serial" or simultaneous communication outside of an open meeting, allowing all members of the legislative body to receive updates (including, but not limited to, simultaneous updates) relevant to the emergency (including, but not limited to, updates concerning the impacts of COVID-19, the government response to COVID-19, and other aspects relevant to the declared emergency) from federal, state, and local officials, and would be allowed to ask questions of those federal, state, and local officials, in order for members of the legislative body to stay apprised of emergency operations and the impact of the emergency on their constituents. Members of a local legislative body were explicitly not permitted to take action on, or to discuss amongst themselves, any item of business that was within the subject matter jurisdiction of the legislative body without complying with requirements of the Brown Act.⁴

The Brown Act Executive Orders Sunset – September 30, 2021

On June 11, 2021, the Governor issued Executive Order N-08-21 which rescinds the aforementioned modifications made to the Brown Act, effective September 30, 2021.⁵ After that date, local agencies are required to observe all the usual Brown Act requirements *status quo ante* (as they existed prior to the issuance of the orders). Local agencies must once again ensure that the public is provided with access to a physical location from which they may observe a public meeting and offer public comment. Local agencies must also resume publication of the location of teleconferencing board members, post meeting notices and agendas in those locations, and make those locations available to the public in order to observe a meeting and provide public comment.

AB 361 – Flexibility for Remote Open Meetings During a Proclaimed State Emergency

Assembly Bill 361, introduced in February 2021 by Assembly Member Robert Rivas (D-30, Hollister), and sponsored by the California Special Districts Association, provides local agencies with the ability to meet remotely **during proclaimed state emergencies** under modified Brown Act requirements, similar in many ways to the rules and procedures established by the Governor's Executive Orders.

Important Note: AB 361's provisions can only be used in the event that a gubernatorial **state of emergency** 1) has been issued **AND** 2) remains active. It is **not sufficient** that county and/or city officials have issued a local emergency declaration – the emergency declaration must be one that is made pursuant to the California Emergency Services Act (CA GOVT § 8625).

⁴ **Executive Order N-35-20**, <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.21.20-EO-N-35-20.pdf>

⁵ **Executive Order N-08-21**, <https://www.gov.ca.gov/wp-content/uploads/2021/06/6.11.21-EO-N-08-21-signed.pdf>



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Specifically, AB 361 suspends the requirements located in California Government Code, section 54953, subdivision (b), paragraph (3). What does this mean for local agencies? This means that, during a state of emergency, under specified circumstances, local agencies can meet pursuant to modified Brown Act requirements. Each of these modifications is broken out below.

The provisions enacted by AB 361 providing flexibility to meet remotely during a proclaimed emergency will sunset on January 1, 2024. This is subject to change if a future Legislature and Governor elect to extend the sunset or make the provisions permanent.

AB 361 IMPACTS ON LOCAL AGENCY COMPLIANCE WITH THE BROWN ACT

Brown Act Requirement	Requirement under AB 361
If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.	- Agendas not required to be posted at all teleconference locations - Meeting must still be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency

In the context of an emergency, members of the legislative body of a local agency may be teleconferencing from less-than-ideal locations – e.g., the private domicile of a friend or relative, a hotel room, an evacuation shelter, from a car, etc. The nature of the emergency may further compound this issue, as was the case during the COVID-19 outbreak and the necessity to implement social distancing measures. To address this issue, AB 361 provides relief from the obligation to post meeting agendas at all conference locations.

Although local agencies are relieved from this obligation, local agencies should endeavor to post meeting agendas at all usual locations where it remains feasible to do so.

Important Note: Local agencies must still provide advance notice of public meetings and must still post meeting agendas consistent with the provisions of the Brown Act. AB 361 does nothing to change the fact that meetings must still be noticed and agendized in advance.

Brown Act Requirement	Requirement under AB 361
If the legislative body of a local agency elects to use teleconferencing, each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public.	- Agendas are not required to identify each teleconference location in the meeting notice/agenda - Local agencies are not required to make each teleconference location accessible to the public

Emergencies can – and often do – happen quickly. As was the case with the 2018 Camp Fire, individuals fleeing a disaster area may end up in disparate locations throughout the state. These impromptu, ad hoc locations are not ideal for conducting meetings consistent with the usual



Brown Act requirements, which may impede local agencies seeking to meet promptly in response to calamity. To that end, AB 361 removes the requirement to document each teleconference location in meeting notices and agendas. Similarly, local agencies are not required to make these teleconference locations accessible to the public.

Brown Act Requirement	Requirement under AB 361
If the legislative body of a local agency elects to use teleconferencing, during the teleconferenced meeting, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.	No requirement to have a quorum of board members participate from within the territorial bounds of the local agency's jurisdiction

The purpose of AB 361 is to assist local agencies with continuing their critical operations despite facing emergencies that pose a risk to human health and safety – emergencies which oftentimes correspond with advisory or mandatory evacuation orders (e.g., wildfires, earthquakes, gas leaks, etc.). An emergency which drives individuals from an area could make meeting within the bounds of a local agency impossible to do feasibly or safely. Accordingly, AB 361 allows for local agencies to disregard quorum requirements related to members of a legislative body teleconferencing from locations beyond the local agency's territory.

Brown Act Requirement	Requirement under AB 361
If the legislative body of a local agency elects to use teleconferencing, the agenda shall provide an opportunity for members of the public to address the legislative body directly at each teleconference location.	- In each instance in which notice of the time of the teleconferenced meeting is given or the agenda for the meeting is posted, the legislative body shall also give notice of the manner by which members of the public may access the meeting and offer public comment - The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option - The legislative body shall allow members of the public to access the meeting, and the agenda shall include an opportunity for members of the public to address the legislative body directly - In the event of a disruption which prevents the local agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local



	agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored • Written/remote public comment must be accepted until the point at which the public comment period is formally closed; registration/sign-up to provide/be recognized to provide public comment can only be closed when the public comment period is formally closed
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The right of individuals to attend the public meetings of local agencies and be face-to-face with their elected or appointed public officials is viewed as sacrosanct, only able to be abrogated in the most extraordinary of circumstances. Under normal conditions, local agencies are required to allow members of the public to participate in a public meeting from the very same teleconference locations that other board members are using to attend that meeting.

AB 361 solves the specific problem of what to do in circumstances when local agencies are holding their meetings remotely during an emergency and it would be unsafe to permit access to members of the public to the remote teleconference locations. AB 361 permits local agencies to meet without making teleconference locations available to members of the public, **provided that** members of the public are afforded the opportunity to provide public comment remotely as well.

Importantly, local agencies must ensure that the opportunity for the public to participate in a meeting remains as accessible as possible. This means that local agencies cannot discriminate against members of the public participating either remotely or in-person. In practice, this means:

- Local agencies must clearly advertise the means by which members of the public can observe a public meeting or offer comment during a meeting remotely, via either a call-in or internet-based option

Importantly, local agencies are required to provide the relevant remote access information to members of the public looking to attend a meeting of a local agency legislative body. This information includes, but is not limited to: phone numbers, passwords, URLs, email addresses, etc. Using this information, members of the public must be able to attend the meeting remotely. Any of the information related to participation must be included in the relevant meeting notice(s) and meeting agenda(s). If an agency fails to provide one or more of these key pieces of



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information in a meeting notice or agenda, the agency should not proceed with the meeting as-is, as it could result in any subsequent action being rendered null or void.

- Agencies whose meetings are interrupted by technological or similar technical disruptions must first resolve those issues before taking any other action(s) on items on the meeting agenda

In a notable departure from the terms of the Governor's orders, AB 361 explicitly requires that local agencies must first resolve any remote meeting disruption before proceeding to take further action on items appearing on a meeting agenda. In the event that a public comment line unexpectedly disconnects, a meeting agenda was sent out with the incorrect web link or dial-in information, the local agency's internet connection is interrupted, or other similar circumstances, a local agency is required to stop the ongoing meeting and work to resolve the issue before continuing with the meeting agenda.

Local agencies should ensure that the public remains able to connect to a meeting and offer public comment by the means previously advertised in the meeting notice or agenda. This may require directing staff to monitor the means by which the public can observe the meeting and offer comment to ensure that everything is operating as intended.

In the event that a meeting disruption within the control of the agency cannot be resolved, a local agency should not take any further action on agenda items; the local agency should end the meeting and address the disruption in the interim, or it may risk having its actions set aside in a legal action.

Important Note: *Test, test, test! Local agencies should be testing their remote meeting setup in advance of (and during) every meeting to ensure that there are no apparent issues. Local agency staff should attempt to attend the meeting in the same way(s) made available to members of the public and demonstrate that everything is working as intended. The fact that staff tested the system before and during a meeting and failed to detect any problems may become a key factor in any potential legal action against the agency.*

- Local agencies cannot require that written comments be submitted in advance of a meeting

It is not permissible to require that members of the public looking to provide public comment do so by submitting their comment(s) in advance of a meeting – in fact, not only is this a violation of AB 361's terms, it is also a violation of the Brown Act generally. Both AB 361 and the Brown Act explicitly require that members of the public be given the opportunity to provide public comment **directly** – that is, live and at any point prior to public comment being officially closed during a public meeting. Until such time during a meeting that the chairperson (or other authorized person) calls for a close to the public comment period, members of the public are allowed to submit their public comments directly or indirectly, orally, written, or otherwise.

- Local agencies may only close registration for public comment at the same time the public comment period is closed, and must accept public comment until that point



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Local agencies cannot require that individuals looking to provide public comment register in advance of a meeting (though agencies may extend the **possibility** of advance registration or commenting as a **non-mandatory** option). Nor may local agencies require that individuals looking to provide public comment register in advance of the agenda item being deliberated by a local agency. Local agencies may only close registration for public comment at the same time that they close the public comment period for all. Until the public comment period is completely closed for all, members of the public must be permitted to register for, and provide, public comment.

Local agencies that agendize a comment period for each agenda item cannot close the public comment period for the agenda item, or the opportunity to register to provide public comment, until that agendized public comment period has elapsed.

Local agencies that do not provide an agendized public comment period but instead take public comment separately on an informal, ad hoc basis on each agenda item must allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register or otherwise be recognized for the purpose of providing public comment.

Local agencies with an agendized general public comment period that does not correspond to a specific agenda item (i.e., one occurring at the start of a meeting, covering all agenda items at once) cannot close the public comment period or the opportunity to register until the general public comment period has elapsed.

Brown Act Requirement	Requirement under AB 361
A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.	An individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body that requires registration to log in to a teleconference, may be required to register as required by the third-party internet website or online platform to participate

“Zoom meetings” became ubiquitous during the COVID-19 pandemic – for good reason. The Zoom video teleconferencing software was free (with some “premium” features even made temporarily free to all users), easily deployed, and user-friendly. All one needed was a Zoom



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account and then they'd be able to make use of the platform's meeting services, hosting and attending various meetings as they pleased.

Unfortunately, the Brown Act has long prohibited the use of mandatory registration or "sign-ups" to attend public meetings or to provide public comment. Privacy and good governance concerns prohibit such information gathering from members of the public seeking to remain anonymous while also engaging with their government. Accordingly, it would normally be a concern to use any teleconference platform which may require participants to register for an account even when it is not the local agency establishing that requirement.

AB 361 resolves this issue by explicitly allowing local agencies to use platforms which, incidental to their use and deployment, may require users to register for an account with that platform so long as the platform is not under the control of the local agency.

Important Note: Just because you "can" doesn't mean you "should." There are products on the market that do not require individuals to sign up for/sign in to an account to participate in a remote meeting. Local agencies are heavily discouraged from contacting their remote meeting platform vendor in an attempt to uncover information about meeting attendees.

RESOLUTIONS: ENACTING ASSEMBLY BILL 361

A local agency wishing to rely on the provisions of AB 361 must meet one of the following criteria:

- (A) The local agency is holding a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; or
- (B) The local agency is holding a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
- (C) The local agency is holding a meeting during a proclaimed state of emergency and has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

These criteria permit a local agency to schedule a remote meeting to determine whether meeting in-person during the state of emergency would pose imminent risk to the health or safety of attendees. At that remote meeting, a local agency may determine by majority vote that sufficient risks exist to the health or safety of attendees as a result of the emergency and pass a resolution to that effect. These criteria also permit a local agency to meet remotely in the event that there is a state of emergency declaration while state or local officials have recommended or required measures to promote social distancing.

If a local agency passes a resolution by majority vote that meeting in-person during the state of emergency would present imminent risks to the health or safety of attendees, the resolution would permit meeting under the provisions of AB 361 for a maximum period of 30 days. After 30



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days, the local agency would need to renew its resolution, consistent with the requirements of AB 361, if the agency desires to continue meeting under the modified Brown Act requirements, or allow the resolution to lapse.

Important Note: Consider referencing [the initial sample resolution linked on this page \(click here\)](#) in crafting your agency's initial resolution effecting the transition to these modified Brown Act requirements. While this sample resolution is provided for the benefit of local agencies, consult your legal counsel to review your agency's resolution before its consideration at a public meeting.

After 30 days, a local agency is required to renew its resolution effecting the transition to the modified Brown Act requirements if it desires to continue meeting under those modified requirements.

Importantly, the ability to renew the resolution is subject to certain requirements and conditions. In order to renew the resolution, a local agency must:

- Reconsider the circumstances of the state of emergency
- Having reconsidered the state of emergency, determine that either
 - The state of emergency continues to directly impact the ability of the members to meet safely in person, or
 - State or local officials continue to impose or recommend measures to promote social distancing

AB 361 requires that the renewal of the resolution effecting the transition to the modified Brown Act requirements must be based on findings that the state of emergency declaration remains active, the local agency has thoughtfully reconsidered the circumstances of the state of emergency, and the local agency has either identified A) ongoing, direct impacts to the ability to meet safely in-person or B) active social distancing measures as directed by relevant state or local officials.

Important Note: Consider referencing [the subsequent adoption sample resolution linked on this page \(click here\)](#) in crafting your agency's renewal resolution renewing the transition to these modified Brown Act requirements. While this sample resolution is provided for the benefit of local agencies, consult your legal counsel to review your agency's resolution before its consideration at a public meeting.

Important Note: If your agency does not meet again before the 30 day period during which the resolution remains active, the resolution will lapse for lack of action by the agency. After a resolution has lapsed, if the agency seeks to meet remotely again under the modified Brown Act requirements, it must pass a new initial resolution effecting the transition to the modified Brown Act requirements, subject to the same substantive and procedural requirements as before.



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AB 361 PROCESS: AN EXECUTIVE SUMMARY

1. An emergency situation arises. The specific nature of the emergency produces an imminent risk to public health and safety.
2. A state of emergency is declared (pursuant to CA GOVT § 8625).
3. A local agency wishes to meet remotely via teleconferencing as a result of the emergency. A meeting notice/agenda are produced and posted, with an agenda item dedicated to consideration of a resolution to transition to teleconferenced meetings consistent with the terms of CA GOVT § 54953, subdivision (e). For this meeting, the modified Brown Act requirements apply (e.g., meeting notices/agendas do not need to be posted at all teleconference locations).
4. A resolution is passed consistent with the terms of CA GOVT § 54953, subdivision (e), paragraph (1), subparagraph (B) (i.e., a resolution passed by majority vote determining that meeting in person would present imminent risks to the health or safety of attendees).¹ This resolution is valid for 30 days.
5. 30 days later: if the state of emergency remains active, a local agency may act to renew its resolution effecting the transition to teleconferenced meetings by passing another resolution, consistent with the terms of CA GOVT § 54953, subdivision (e), paragraph (3) (i.e., a resolution which includes findings that legislative body has both 1) reconsidered the circumstances of the state of emergency, and 2) the state of emergency continues to directly impact the ability of the members to meet safely in person.²

¹ Alternatively, in lieu of a resolution finding that meeting in person would present imminent risks to the health or safety of attendees, a local agency may use modified Brown Act procedures when state/local officials recommend/require measures to promote social distancing.

² Should state/local officials continue to impose or recommend measures to promote social distancing, this may instead be used as a basis for renewing a resolution (as opposed to the fact that the state of emergency continues to directly impact the ability of the members to meet safely in person).

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Sec 14.5 Drought Contingency Plan.

During drought conditions as identified by the State of California, Humboldt County or Garberville Sanitary District, the Drought Contingency Plan will go into effect immediately.

This plan will be implemented by Garberville Sanitary District and the public will be made aware of this plan through the media and customer outreach.

Customers will be required to conserve water including but not limited to gallons per day water usage and if they don't comply, may be fined for gallons of water used above the maximum allowed.

Customers that require water for agricultural or outdoor use during Summer months will be required to have adequate water storage to meet their demands, in the event of a drought or repairs because on (Phase 2) of the Drought Contingency Plan, water will be disconnected or restricted for outdoor use.

Those Customers who choose not to have water storage may have water disconnected during drought events or repairs to distribution system [which is why it is recommended to have enough storage for your personal use.](#)

[Customers who disregard the drought phases will be in violation and subject to fines which begin at \\$100 per occurrence/day and can result in water disconnection with a \\$1,000 reconnection fee. The fine will be determined by the General Manager or designee under the direction of the Governing Board.](#)

1. 1st phase of drought conservation plan will require all customers to voluntarily reduce water consumption. (10cfs) in South Fork of Eel River
2nd phase will be to stop all outdoor watering for everything except animals, vegetables or fruit. (7cfs)
3rd phase will require only using water on specific days, designated by GSD (5cfs).
4th phase requires all customers to only use water for health and safety, with no outside watering (4cfs)
2. Continual updates to customers will educate and inform of conditions
3. Ongoing: develop alternative water sources including, wells, springs, shared water with neighboring water districts including water hauling.
4. Ongoing: gray water education for irrigation
5. Ongoing: educate customers on personal water storage opportunities and conservation measures
6. Ongoing: leak monitoring and repairs
7. Ongoing: build additional water storage tanks or ponds
8. Identify all diversions from the river or GSD distribution system and report to law enforcement.

Ongoing: Participate in all drought planning forums to share ideas and planning strategies while developing partnerships on collaborative water projects and funding opportunities