TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER  DEPARTMENT: UTILITIES
DATE: NOVEMBER 10, 2008  CMR: 433:08
REPORT TYPE: INFORMATIONAL


This is an informational report and no Council action is required.

DISCUSSION
On September 11, 2006, Council authorized the Bay Area Water Supply and Conservation Agency (BAWSCA) to negotiate on behalf of the City for a water services agreement with the City and County of San Francisco [CMR:341:06]. BAWSCA prepares quarterly reports on the progress of the negotiations. The sixth such report, produced on October 23, 2008, is attached.

The attached report states that progress on the contract negotiations has accelerated since the last report, but critical work remains to be done so that a new agreement can be reached by June 30, 2009. This is the expiration date of the current Settlement Agreement and Master Water Sales Contract.

The outstanding issues include agreement of how the BAWSCA agencies should pay for the capital project costs and how a supply limitation would be implemented.

ATTACHMENT
A. July - September 2008 Report on Progress of Negotiations for a New Water Agreement between the City and County of San Francisco and BAWSCA agencies

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Director of Utilities

CITY MANAGER APPROVAL: JAMES KEENE
City Manager

CMR: 433:08
This is the sixth progress report on the negotiations for a new water agreement with San Francisco, covering the period from July through September 2008. Ten negotiating meetings were held during this period. Ed Harrington, general manager of the San Francisco Public Utilities Commission (SFPUC), and I continue to be committed to reaching the necessary decisions to complete the new agreement by June 30, 2009.

As noted in the last progress report, the ability to produce a fair agreement hinges on whether important water-supply and capital-cost-repayment issues are resolved. While many other provisions have been resolved, these two issues require continued attention and discussion with the agencies that will be signatory to the new agreement.

Given the promise by Mayor Newsom to Assembly Member Ira Ruskin, San Jose Mayor Chuck Reed, BAWSCA Board chair Rosalie O’Mahony and me last February that a fair agreement will be completed by the deadline, the next three months are critical.

My Overall Assessment:

While progress lags behind our original schedule, I’m encouraged by how much has been accomplished in the last six months, and it remains reasonable to expect that the new agreement can be completed and signed by June 30, 2009.

Content. At this time, tentative agreement has been reached on ten of the BAWSCA members’ eleven key objectives for the new water agreement. Matters resolved since the last progress report include equitable delivery of water after a major disaster, allocation of water during droughts, and delivery of water meeting drinking water quality standards and a variety of matters related to fair allocation of costs.

The last progress report noted that San Francisco had proposed that BAWSCA members pay for water conservation, recycling and groundwater development inside San Francisco, even though its retail customers bear no portion of such costs incurred by BAWSCA members. San Francisco has since agreed to pay for its own projects inside its retail service area, as does each BAWSCA agency.

Critical Issues. As noted in the last progress report, in addition to the original key objectives, there are remaining outstanding issues: a) how to cope with future water supply limitations, and b) how to repay San Francisco for investments in capital facilities.

San Francisco’s Final Program Environmental Impact Report for the WSIP was released in late September. Concurrently, Ed Harrington recommended that the SFPUC impose a water supply limitation on both wholesale and retail customers until at least 2018. The wholesale customers do not need to agree to such a limitation, since it would be a unilateral action by San Francisco. However, if the Commission does limit the water supply available from San Francisco’s watersheds,
the agreement will need to address how such a limitation would be administered. This limitation also raises the question of under what conditions the cities of San Jose and Santa Clara would receive water. Those two cities have “interruptible contracts” which means water deliveries to them can be reduced or cut off if insufficient water is available. A supply limitation imposed by San Francisco could have serious consequences to these cities, and BAWSCA has been working with all parties to ensure as much certainty as possible, without endangering the contractual rights of other customers.

Discussion of how wholesale customers should repay San Francisco for capital cost investments has been analyzed by BAWSCA’s consultants and discussed with BAWSCA members’ designated agreement representatives in September and October. We hope to reach agreement on this outstanding issue within the next few weeks, provided a satisfactory result can be produced.

**Next Steps**

Meetings with San Francisco have been held at an increased frequency in order to complete the negotiations on schedule. Weekly “all hands” meetings will continue through November with similar working group meetings occurring on an as-needed basis.

In late November we expect to provide a detailed summary of the principles around which the new agreement will be written. This document would enable agencies to begin internal reviews and briefings.

The next quarterly report will be issued early in January and will include a schedule for actions by the SFPUC and wholesale agencies on the new Water Service Agreement itself.

**Arthur Jensen, Chief Executive Officer and General Manager**
*Bay Area Water Supply and Conservation Agency*

*October 23, 2008*