



## SUMMARY REPORT

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**Agenda Date:** 7/14/2020

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**To:** Board of Supervisors

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:** Johannes J. Hoevertsz 707-565-2231

**Vote Requirement:** Majority

**Supervisorial District(s):** Fourth

**Title:**

West Water Company - Grant Funding Resolution

**Recommended Action:**

1. Adopt a Resolution authorizing the Chair to enter into a funding agreement with the State Water Resources Control Board accepting grant funds in the amount of \$80,200.00 for the emergency interim operation of West Water Company;
2. Approve establishment of a new fund in order to receive grant funds and pay expenses related to the operation and maintenance of West Water Company's water system.
3. Approve a budget adjustment fund for FY 2020/21 to program grant funds in the amount of \$56,635 to the new established fund for this purpose, to pay expenses related to the operation and maintenance of West Water Company's water system.

(Fourth District)

**Executive Summary:**

On August 1, 2019, the Department of Transportation and Public Works (TPW) was contacted by the State Water Resources Control Board (SWRCB) regarding West Water Company water system (WWC), located near Cloverdale, California. WWC operates and maintains 13 water connections, serving 40 residents in the unincorporated County outside of Cloverdale City limits.

At that time, the owner/operator of WWC was unable to operate the water system that would provide safe water to its customers. Without an active operator, and a boil water notice in effect, the system was in the state of a local emergency. The SWRCB subsequently sought a responsible agency or business to assist with the operation of the system. The City of Cloverdale declined to assist WWC, and the SWRCB contacted the County in order to address the immediate threat to the community's health and safety and avoid a declaration of a local health emergency by the Department of Health Services. TPW provided interim operations through contracted services with Russian River Utilities (RRU), currently operating and maintaining four of the County's Small Water Systems; Jenner, Salmon Creek, Freestone, and Fitch Mountain. Water system operations and maintenance were provided to the community on August 5, 2019. This service discontinued on November 18, 2019, when the County received verification that the facility had an operator restored to WWC that would assure safe water to residents.

On February 3, 2020, the County resumed services to assist WWC after consultation with the SWRCB, after learning the owner/operator was again unable to provide residents with safe water. The County continues to

operate and maintain the System through RRU to the present date.

There is a parallel effort by the SWRCB to bring the County into both intermediate and long term roles administering and operating WWC. The intermediate role would be via a proposed agreement to serve as Administrator of the System. The long term role through a “Voluntary Order to Consolidate Fitch Mountain Small Water System” issued by the SWRCB in February, with the goal of operationally consolidating WWC with County Service Area (CSA) #41 Fitch Mountain Small Water system, one of the existing water systems in the County’s Community Service District No. 41. This emergency interim operation funding agreement does not obligate the County to agree to either the interim role as administrator or the long term consolidation, which will involve subsequent proceedings that will be brought to the Board for its consideration and direction on how to respond.

County staff have already performed work on an emergency basis to provide services needed to ensure that WWC customers received a continuous supply of safe drinking water. Associated project costs incurred from August 6<sup>th</sup> 2019 through November 18<sup>th</sup> 2019 and February 3<sup>rd</sup> 2020 through June 31<sup>st</sup> 2020 will be reimbursed by means of the grant funding. These costs include:

\$14,698        Direct services provided by County contractor RRU

\$11,937 Staff time and legal services provided by County Counsel to review and negotiate the terms of the funding agreement for emergency work, and the SWRCB negotiation order regarding the proposed consolidation of West Water Company with Fitch Mountain.

The SWRCB provided an initial informal commitment of funding on 8/6/2019, [(\$22,900)], of which any costs incurred from 8/6 forward would be reimbursed, noting the following services were to be provided on an interim basis.

1. Employ a certified water system operator to visit the System on a weekly basis to operate the water system;
2. Make necessary repairs to the System to keep it pressurized and meet basic demands; and
3. Collect necessary water samples for laboratory analysis

The County engaged in extensive negotiations with the SWRCB over the certain contested terms of the initial funding, particularly regarding allocation of liability.

That effort, as well as related staff time spent on the proposed consolidation order, required significant expenditure of unbudgeted resources to get to this point. With that initial work completed, administrative costs are anticipated to drop, and actual operating costs are expected to be low for the remaining year covered by the proposed emergency interim operation funding agreement. As the County has resumed operations at WWC on an emergency basis, the County and State have worked on a new grant package in the amount of \$80,200.00 that would:

- a) Reimburse the County for all work performed to date and;
- b) Provide for ongoing costs moving forward to ensure safe water to the West Water community during

this ongoing emergency operation, ending April 31, 2021.

**Discussion:**

The County had ceased operations at WWC on November 18, 2019 however, to date has not been reimbursed for associated costs and has in fact resumed operations as of February 3, 2020. There is also the possibility the SWRCB may approach the County for future assistance with other water systems, such that the Board should be aware of long term issues that might arise. Future policy decisions will center around how to balance providing public service against the associated risks and administrative burdens involved in providing that service to the community when funding is available from the SWRCB, noting the State through the Safe and Affordable Drinking Water fund has up to \$130 million per year, through 2030 that could be available to assist failing water systems.

For WWC, initial grant funding was dependent upon the County indemnifying the State for providing all services in order to receive funding. County Counsel was able to work with the State to reach a compromise on indemnification language.

Other Considerations

The SWRCB may at some point may move forward with enforcement efforts against the ownership of West Water Company for the long-standing failure to maintain the system and properly operate it. There is also a possibility the system could fold, leaving numerous households without water. With this, multiple homes would be void of water and uninhabitable where a public health and safety issue would ensue requiring the involvement of Permit Sonoma and Environmental Health.

Based on an evaluation by technical staff, West Water Company has a minimum of \$250,000 in needed infrastructure investment to make the system reliable for residents. Preliminary discussions with the SWRCB have indicated this is a severely disadvantaged community, and could qualify for grant funding to bring the system up to current standards, however, such grants are predicated on having a responsible administrator contracted to perform that work.

As noted above, there is an ongoing parallel effort by the SWRCB to bring the County into both intermediate and long term roles administering and running West Water Company, via: 1) a proposed agreement for the County to serve as Administrator of the system during an intermediate period (possibly fully funded by the State and subject to our agreement), and 2) eventually to operationally consolidate West Water Company with Fitch Water System, which the SWRCB has taken initial steps to require through an order to negotiate consolidation. This emergency interim operation funding agreement does not obligate the County to accept either the intermediate administrator role, nor does it effectuate a final order to consolidate, which will involve subsequent proceedings that will be brought to the Board for its consideration and direction. It is unlikely that declining to participate in either the emergency work or the interim administrator work will result in the cessation of the SWRCB's formal regulatory action to require consolidation.

Additionally, as context it should be noted that there are likely to be at least two more struggling water systems presented to the County for proposed consolidation with one of the existing systems in CSA #41, at a later date. As with the potential order to consolidate West Water with Fitch, this emergency interim operation funding agreement does not require the County to agree to the consolidation of any of those systems. It

simply funds work already performed and work that needs to continue to keep the users of the West Water System supplied with safe drinking water while a longer-term plan is developed and reviewed.

#### Options Available to the Board

- 1) The Board may direct DTPW to enter into an agreement for emergency grant funding of \$80,200 from the SWRCB to reimburse the County for work already performed and to provide funding for ongoing expenditures from August 9, 2019 through March 31, 2021; noting that the actual work has been performed where affected residents have been provided safe water during the County's tenure serving the community in this emergency setting;

Authorize a new Fund and Department in order to receive the funds to cover past and future expenses incurred for the maintenance of the WWC system.

- 2) The Board may direct DTPW to decline the grant, such that all risks and burdens to the extent practical are eliminated. By taking this action, the County would not be reimbursed for costs and expenditures to date (estimated at \$26,645) to assist this community, and funding would not be provided to continue in this emergency role for the next year.

#### **Prior Board Actions:**

None

#### **FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 20-21 Projected</b>	<b>FY21-22 Projected</b>	<b>FY 22-23 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested	56,635	\$23,565	\$0
<b>Total Expenditures</b>	<b>\$56,635</b>	<b>\$23,565</b>	<b>\$0</b>
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal	<b>\$56,635</b>	\$23,565	\$0
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>	<b>\$56,635</b>	<b>\$23,565</b>	<b>\$0</b>

#### **Narrative Explanation of Fiscal Impacts:**

Provided the County enters into an agreement with the State, there should be no net fiscal impact to the General Fund. To date, expenses have been temporarily billed to an existing enterprise fund with sufficient appropriations pending reimbursement from the SWRCB. Not entering into an agreement would result in the County incurring a loss of funds of approximately \$26,635 (as the enterprise fund would require reimbursement) and a lack of funding to continue to provide services necessary to maintain a safe water

supply for the users of this system until its longer term structure and ownership is determined. Should the Board approve receipt of the SWRCB grant, a new Fund and Department would be need to be established to receive the \$80,200 for current and future expenditures. FY 20/21 budget adjustments will be programmed as part of the Second Supplemental Budget Adjustments.

Expenditures and estimated expenditures are as follow:

\$26,635 already spent during FY 19-20, to be reimbursed once grant funds received;

\$30,000 projected for FY 20-21; and

\$23,565, which represents the remaining balance from the original grant, during FY 21-22.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

**Narrative Explanation of Staffing Impacts (If Required):**

None.

**Attachments:**

July 14, 2020 Resolution w/SWRCB

SWRCB DRAFT Grant Agreement 5-4-2020

Project Director Certification for Grant Agreement

**Related Items "On File" with the Clerk of the Board:**

None