



Legislation Text

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To: Sonoma County Board of Supervisors, Board of Commissioners of the Sonoma County Community Development Commission; Board of Directors of Sonoma Water; Board of Directors of Ag and Open Space;
Department or Agency Name(s): County Administrator's Office
Staff Name and Phone Number: Christel Querijero 565-7071
Vote Requirement: Majority
Supervisorial District(s): All

Title:

2:00 P.M. - PG&E Settlement Funds Preliminary Discussion

Recommended Actions:

Receive staff report on the PG&E settlement funds and update on the status of the Board's Recovery and Resiliency Framework; direct staff to accept written input from the community via email through September 4, 2020 and return to the Board on October 6, 2020 for consideration of the allocation of the settlement funds into general expenditure categories.

Executive Summary:

Litigation by the Sonoma County Board of Supervisors and Board of Directors for the Sonoma County Agricultural Preservation and Open Space District (Ag + Open Space), Sonoma County Water Agency (Sonoma Water) and Sonoma Valley Sanitation District, and the Community Development Commission (collectively, Sonoma agencies) against Pacific Gas & Electric to recover damages related to the 2017 Sonoma Complex Fires (2017 Fires) resulted in an allocation of \$149.3 million. In preparation for discussion of the allocation of settlement funds by your Board (in its capacity as the Board of Supervisors, as well as the Board of Directors of the Water Agency, Open Space District, Sonoma Valley Sanitation District and the Commissioners of the Community Development Commission), this item provides background information on both the fiscal impact and damages that the Sonoma entities incurred from the 2017 Fires.

This item also provides a starting point for discussion of allocation of the settlement funds and includes a review of the Recovery and Resiliency Framework that was approved by your Board in 2018, in direct response to the 2017 Sonoma Complex Fires. The Framework's goals and proposed actions reflect input received throughout 2018 as a result of extensive community and partner engagement, including five Board workshops, over 60 community group and stakeholder meetings, and seven community meetings with 306 community members across all supervisorial districts. Working with department and project leads, the Office of Recovery and Resiliency has provided regular updates to the Board on Framework implementation since April 2019.

Discussion:

Background

The Sonoma Complex Fires of October 2017 (Tubbs, Nuns, Pocket) collectively burned 110,000 acres, destroyed 5,300 homes, and took the lives of 24 County residents. The Tubbs fire, destroying 4,658 homes and

five percent of Santa Rosa’s housing stock, was the most destructive blaze of the three. More than 2 million tons of debris were hauled away, and over 950 fire departments and agencies from around the world responded to the fires. The County sustained extensive damages including damages to roads, trees, and culverts, as well as vegetation and waterway damage to open space ecosystems. In addition, the County expended numerous resources to respond to the fires and mitigate damages, including preventing debris flow and pollution from entering the County’s waterways and water supply.

On January 29, 2018, the Sonoma entities authorized the initiation of litigation against Pacific Gas & Electric (PG&E) to recover damages related to the 2017 Fires. At that time, evidence had emerged that pointed to PG&E’s equipment and infrastructure as the cause and origin of the Fires. On February 26, 2018, the Sonoma entities filed a civil lawsuit in Sonoma County Superior Court to recover millions of dollars in damages from PG&E. The lawsuit, along with hundreds of other consolidated lawsuits filed by other public entities, individual fire victims and insurance companies, came to an abrupt halt when PG&E filed for Chapter 11 bankruptcy on January 29, 2019. For the next 17 months, monumental efforts were undertaken by PG&E, the State of California, fire victims, and other affected parties and claimants to develop and negotiate a reorganization plan that would let PG&E compensate wildfire victims and emerge from bankruptcy. As part of that process, the Sonoma entities and eight other public entities affected by the 2017 Northern California Fires settled their damage claims with PG&E on June 18, 2019 for a total combined sum of \$415,000,000. Based on a pro rata share allocation of the respective amounts of actual damages suffered by each of these entities, the gross allocated share for the Sonoma entities was \$184,175,480.69 (minus attorney’s fees and costs). The bankruptcy court approved the reorganization plan on June 20, 2020, and the Sonoma entities received a total net recovery of \$149,347,589.50.

Losses and Damages

As part of the litigation, the Sonoma entities started assessing their damages immediately after the 2017 Fires. Department and agency staff and experts from Industrial Economics Inc. meticulously collected and analyzed data over the next 18 months to assess the various damages for purposes of litigation against PG&E. The damages assessment for litigation purposes resulted in an estimated loss of \$244 million dollars total for the Sonoma entities. After extensive settlement negotiations with PG&E, the Sonoma entities agreed to compromise their claims and eventually received a net payment of \$149 million dollars after PG&E’s exit from bankruptcy in July 2020. The \$149 million settlement amount represents 61% of the claimed damages. It is important to note that the settlement and net recovery represent a compromise of the total damages estimates and do not cover all of the entities’ actual damages. The \$244 million in damages that were identified during the litigation included the following categories of losses:

Category of Loss	Total	% of Total
Out of Pocket Expenses	\$26.8M	11.0%
Damages to County/Agency Assets (approximate)	\$111.5M	45.7%
Future Lost Revenue and Staff Time (approximate)	\$86.0M	35.2%
Miscellaneous Losses (approximate)	\$20.0M	8.2%
Total Damages	\$244.3M	100%

Out of Pocket Expenses (\$26.8 million). This category of expenses largely reflects all of the staff time and labor costs to perform work related to Fire response and recovery efforts.

Damages to County/Agency Assets (\$111.5 million). These damages consist of two broad categories: (1) damages to roads, culverts and trees; and (2) ecosystem service losses, watershed restoration, water quality protection.

- Roads/culverts and hazardous tree removal. While the litigation claim used a formula to assess damages, the County's Department of Transportation and Public Works has subsequently prepared a more detailed estimate of road and culvert damage and tree removal costs (Attachment A). To date, the County has expended \$4 million in non-reimbursable expenses to address damage from the fires, including replacing guardrails, street lights, retaining walls, signs, and culverts, as well as installing wattles and removing burned trees. Damage to roads as a result of private property debris removal resulted in an estimated \$21.5 million in damages. This conservative estimate of \$21.5 million was originally provided to FEMA in 2018 and was based on what the County understood might be eligible; however, it is estimated that actual costs, for a combination of overlays and full depth reclamations, would be closer to \$50 million. The County has noted damage to 32 roads, including potholes, pushing/shoving, and rutting caused by traffic and vehicles for which the roads were not designed to sustain. To date, FEMA has not approved the full amount of the documented damages, and the County has been appealing FEMA's denial of the private property debris removal-damaged roads claim since 2018. The latest appeal was filed in January 2020, with a denial received from CalOES in May 2020 and a response from FEMA still pending. The curbs, gutters, a limited stretch of pavement, and one retaining wall, representing a neighborhood in Larkfield, was the only portion approved by FEMA (\$0.3M). The County does not anticipate being reimbursed for the remaining private property debris removal damages.

Ecosystem service losses, watershed restoration, water quality protection. During the 2017 Fires, Ag + Open Space experienced fire damage on a total of 7,317 acres, including 4,609 acres of land owned in fee and 2,708 acres under conservation or open space easement, resulting in tens of millions of dollars in ecosystem service losses. Staff and other costs incurred were over \$950,000, which included expenditures for land protection and management, public safety, and contributions to the Watershed Task Force and Office of Recovery and Resiliency. (Ag + Open Space and Sonoma Water jointly funded a Natural Resources Analyst position in the Office of Recovery and Resiliency at a total cost over two years of \$324,712). To date, \$526,000 has been reimbursed from a combination of FEMA funds, mutual aid, insurance and grants, but \$425,000 still remains unreimbursed, in addition to tens of millions of dollars in ecosystem service losses.

Sonoma Water incurred more than \$4.8 million in out-of-pocket damages from the 2017 Fires. Initial costs were associated with emergency response activities to safeguard public health and the environment. These activities included stabilizing hazardous conditions and protecting essential drinking water, flood protection, wastewater infrastructure from fire damage to ensure uninterrupted service to the community and firefighters. Sonoma Water staff also actively participated in the CAL Fire led Watershed Emergency Response Team and local agencies Watershed Task Force. Immediately following the fires, Sonoma Water also initiated actions to reduce the impacts of catastrophic wildfires and flood events on Sonoma Water's water supply, flood control, and wastewater infrastructure, including installation of fire cameras and enhanced early warning weather and flood detection systems. The 2017 Fires made clear that additional investment is needed to

protect Lake Sonoma, which is under severe risk of catastrophic wildfire and is also the primary drinking water supply for more than 600,000 residents and businesses in Sonoma and Marin counties.

Future Loss Revenue and Staff Time (approximately \$86 million). Lost property tax revenue is estimated at over \$70 million, as a result of the destruction of approximately 5,300 homes and a rebuilding time of approximately seven years. This category also includes future staff time spent on recovery and mitigation activities that are not eligible for reimbursement by FEMA.

Miscellaneous (approximately \$20 million). Miscellaneous losses reflect the cost of unmet needs from the impacts of the 2017 Fires, including disproportionate impacts to Sonoma County renters, who comprise 60% of the seriously impacted population with low to moderate incomes. It also includes impacts to farmworkers, homeless and precariously housed individuals, and the cost of crisis and mental health counseling. For example, Coffey Park is home to over 300 renter-occupied households comprising 925 individuals that sustained serious wildfire damage. If landlords didn't rebuild, due to insufficient insurance or inability to get a loan, these renters would continue to be displaced (Attachment B).

Although the type and scope of damages claimed in the litigation is important background information to consider, the Board has complete discretion over the use and allocation of the settlement funds.

Considerations for PG&E Settlement Funds Allocation

In addition to losses and damages resulting directly from the 2017 Fires, your Board may consider other factors in determining the allocation of the settlement funds.

Sonoma County Recovery and Resiliency Framework. The Framework represents the County's long-term vision for a resilient future and how to achieve it. It was specifically adopted in response to the 2017 Fires and represents a plan of action for recovery from the 2017 Fires and building greater resiliency throughout the community. It is a foundation for integration of recovery efforts county-wide and is informed by residents, community partners, County departments, cities and other jurisdictions in the County. The Framework is structured around recovery efforts in five strategic areas: Community Preparedness and Infrastructure, Housing, Economy, Natural Resources, and Safety Net Services (Attachment C).

The Framework's goals and proposed actions reflect input received throughout 2018 as a result of extensive community and partner engagement, including five Board workshops, over 60 community group and stakeholder meetings, and seven community meetings with 306 community members across all supervisorial districts. Working with department and project leads, the Office of Recovery and Resiliency has provided regular updates to the Board on Framework implementation since April 2019.

The PG&E settlement funds provide the opportunity for the Board to make further investments in recovery and resiliency. The Recovery and Resiliency Framework, adopted by your Board in December 2018, represents the County's long-term vision for a resilient future. While progress has been made towards the goals and objectives outlined in the Framework (Attachment D), the majority of the 275 potential projects identified in the Framework still remain either underfunded or not funded at all.

Among the Board's Recovery and Resiliency Framework Top 10 priority projects (Attachment E), establishing a comprehensive Alert and Warning System remains a priority and progress has been made on operational

procedures and evacuation routes. Grant funding is facilitating progress on construction hardening techniques, including an operational area multi-jurisdictional hazard mitigation plan update and defensible space inspections, and structural hardening evaluations for residents in unincorporated Sonoma County who live in the Wildland Urban Interface (WUI). In coordination with partners, Permit Sonoma Fire Prevention Division, is in the midst of conducting seasonal outreach, education, and inspections for compliance with defensible space/hazardous fuels reduction regulations and will perform abatement as necessary, which will help property owners navigate vegetation management opportunities.

The 2-1-1 system is now managed by United Way of the Wine Country.

A more comprehensive Framework update to the Board has been delayed due to emergency activations in 2020; however, County departments recently provided feedback on priority actions in the Framework that remain unfunded and/or require additional funding to be fully realized (Attachment F). Some of these prioritized actions for the Framework strategic areas include:

Community Preparedness

- Developing protocols and partnerships for communicating critical information to elected officials, government and community leaders, and the public during a disaster so they are fully informed, to include individuals with disabilities and others with access and functional needs, including individuals with limited English proficiency or non-English speaking;
- Increased vegetation management inspections and expanded chipper capacity; and
- Identifying primary County technology infrastructure, business systems, and critical facilities needed to support the essential services and critical business operations and implement specific protective measures.

Economy

- Expanding broadband infrastructure across the County.

Housing

- Building/Rebuilding/Retrofitting more resilient homes in Wildland Urban Interface (WUI) and other high-risk hazard locations.

Natural Resources

- Assessing Mark West Creek and other priority burned streams to identify and rank recovery and rehabilitation needs and prepare for potential secondary hazards over the next few winters.

Safety Net

- Building capacity with cross sector partners and community members to improve coordination and communication.

County 5 Year Strategic Plan Priorities. The County of Sonoma is in the process of developing a 5 Year Strategic Plan. The Plan will guide how we align short and long-term objectives with operations, so that our actions reflect a clear sense of priorities as we move into the future with sustainable progress. The five pillars of the draft 5 Year Strategic Plan are Healthy and Safe Communities; Racial Equity and Social Justice; Organizational Excellence; Climate Action and Resiliency; and Resilient Infrastructure. Specific actions under each of these pillars address how the County can work to mitigate climate change impacts, prepare for natural and man-made disasters, minimize workforce interruptions, and increase health access, among other actions (Attachment G). Your Board received an update on the draft 5 Year Strategic Plan on August 4, 2020.

County Infrastructure. Natural disasters have hit Sonoma County with alarming frequency over the past several years. The two-week storm that occurred in January 2017 caused flooding and mudslides, resulting in residential, commercial and agricultural losses and severely damaging local roads. The initial road repair estimate of \$13 million from the 2017 floods has since increased to \$20 million. The County and its communities continue to recover and rebuild from the October 2017 Sonoma Complex Fires, one of the most destructive in California’s history. In February 2019, two atmospheric river storm systems flooded the Russian River area, causing an estimated \$52 million in road damage, among other impacts. The Kincadee fire that erupted in October 2019 destroyed 274 structures and burned over 77,000 acres. The County has not had the opportunity to comprehensively recover from the accumulation of damage, especially to roads (Attachment H). These disasters, coupled with more frequent power shutdowns and now the coronavirus pandemic, point to infrastructure considerations being ever more critical to the overall disaster preparedness of the County.

Community Priorities. Community needs and concerns are also important considerations. Both community engagement and input informed the strategies and goals in your Board’s Recovery and Resiliency Framework. Staff has established a dedicated email to allow for community input on the PG&E settlement fund allocations. Community members may provide input by emailing PGCommunityInput@sonoma-county.org <<mailto:PGCommunityInput@sonoma-county.org>>, which will be active from August 4 through September 4, 2020. Community input received will be summarized by staff and shared for the Board’s consideration.

Today’s preliminary discussion on the PG&E settlement funds represents an opportunity to ask questions and to hear from the public. Staff recommends a general discussion today and reserving discussion of an expenditure plan, with broad categories, for the October 6, 2020 Board meeting. Project-specific allocations would follow at a future date, after development of the expenditure plan. As discussed during the July 27-28 Board Budget Workshops, the Board may also decide to use a portion of the settlement funds during the upcoming 2020-2021 Budget Hearings in September to address some of the County’s \$45 million fiscal budget gap.

Next Steps

Staff will collect and summarize any community input received through the dedicated email address for the Board’s review prior to the October 6, 2020 meeting.

Prior Board Actions:

FISCAL SUMMARY

Expenditures	FY 20-21 Adopted	FY 21-22 Projected	FY 22-23 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			

Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

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

Narrative Explanation of Staffing Impacts (If Required):

Attachments:

- Attachment A: TPW road damage estimate
- Attachment B: Horne Stakeholder Data Brief 9/26/18
- Attachment C: Recovery and Resiliency Framework 2018
- Attachment D: Recovery and Resiliency Framework Original Project List 2018
- Attachment E: Recovery and Resiliency Framework Top 10 Projects;
- Attachment F: Department-Prioritized Framework Projects, July 2020
- Attachment G: Strategic Planning one-pager
- Attachment H: Map of County road damages
- Attachment I: Recovery and Resiliency Framework 2018 - Spanish

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