



SEWER AUTHORITY MID-COASTSIDE
Board of Directors Meeting Agenda
Regular Board Meeting 7:00 PM, Monday, July 11, 2022

SAM Administration Building, 1000 N. Cabrillo Highway, Half Moon Bay, CA 94019

Due to the continuing state of emergency declared by the Governor related to preventing the spread of COVID-19, and pursuant to Government Code Section 54953(e), Sewer Authority Mid-Coastside (SAM) will be holding this Board meeting by Zoom Webinar; access to this meeting will be available to the Board and the public by either computer web-link or telephone audio as noted below.

Computer Audio: Please click the link below to join the Zoom webinar:

Join Zoom Meeting

<https://us02web.zoom.us/j/81521734464?pwd=V1F0Wk8waVpBUFBxS2ovVysvZWV3Zz09>

Meeting ID: 815 2173 4464

Passcode: 296920

One tap mobile

+16694449171,,81521734464#,,,,*296920# US

+16699006833,,81521734464#,,,,*296920# US (San Jose)

If you have a disability and require special assistance related to participating in this teleconference meeting, please contact the Authority at least two working days in advance of the meeting at (650) 726-0124 or via email at kishen@samcleanswater.org.

1. CALL TO ORDER

A. Roll Call:

Chair:	Deborah Ruddock (HMB)
Vice-Chair:	Kathryn Slater-Carter (MWSD)
Secretary/Treasurer:	Matthew Clark (GCSD)
Director:	Dr. Deborah Penrose (HMB)
Director:	Ric Lohman (MWSD)
Director:	Barbara Dye (GCSD)

2. PUBLIC COMMENT / ORAL COMMUNICATION/ ITEMS NOT ON THE AGENDA

Members of the public are welcome to submit comments via e-mail by sending them to kishen@samcleanswater.org. All comments so submitted prior to 7 pm on July 11, 2022 will be distributed to the Board electronically and/or read out loud during the discussion of the respective item(s) identified in the email. Members of the public may also provide comments telephonically or electronically on topics within the jurisdiction of the Authority, or on individual items on the agenda following recognition by the Board Chair presiding over the meeting.

3. CONSENT AGENDA *(Consent items are considered routine and will be approved/ adopted by a single motion and vote unless a request for removal for discussion or explanation is received from the public or Board.)*

- A. Approve Minutes of June 27, 2022 Regular Board Meetings ([Attachment](#))
- B. Approve Disbursements for July 11, 2022 ([Attachment](#))
- C. Ratification of Resolution 1-2022 for Continuation of Virtual/Teleconference Meetings per Assembly Bill (AB) 361 for the Period July 14, 2022 through August 13, 2022 Due to the Continuing State of Emergency Declared by the Governor Related to Preventing the Spread of COVID-19, and Pursuant to Government Code Section 54953(e) ([Attachment](#))

4. REGULAR BUSINESS *(The Board will discuss, seek public input, and possibly take action on the following items)*

- A. Discuss and Decide if SAM Should Pursue the Certification Process for ISO 14001, an Environmental Management System
- B. Set Salary and Terms and Conditions of Employment for Unrepresented Employees and Approve Unrepresented Employees' Salary Schedule, Retroactive to July 1, 2022 ([Attachment](#))
- C. Set Bi-Weekly Employee Salary Schedule, Effective July 1, 2022 ([Attachment](#))

5. GENERAL MANAGER'S REPORT

6. ATTORNEY'S REPORT ([Attachment](#))

7. DIRECTORS' REPORT

8. TOPICS FOR FUTURE BOARD CONSIDERATION ([Attachment](#))

9. CONVENE IN CLOSED SESSION *(Items discussed in Closed Session comply with the*

Ralph M. Brown Act.)

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Paragraph (1) of Subdivision (d) of Section 54956.9:
(Half Moon Bay v. Granada CSD, Montara WSD & Sewer Authority Mid-Coastside)

B. CONFERENCE WITH LEGAL COUNSEL –SIGNIFICANT RISK OF LITIGATION (1
CASE) Pursuant to Government Code Section 54956.9 (d) (2)

C. CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Government Code 54957.6
Unrepresented Employees

10. CONVENE IN OPEN SESSION (*Report Out on Closed Session Items*)

11. ADJOURNMENT

- Upcoming Regular Board Meetings: July 25, 2022 and August 8, 2022

The meeting will end by 9:00 p.m. unless extended by Board vote.

INFORMATION FOR THE PUBLIC

This agenda contains a brief description of each item to be considered. Those wishing to address the Board on any matter not listed on the Agenda, but within the jurisdiction of the Board, may do so during the Public Comment section of the Agenda and will have a maximum of three minutes to discuss their item. The Board Chair will call forward those wishing to speak on a matter listed on the Agenda at the appropriate time.

Any writing that is a public record and relates to an agenda item for an open session of a regular meeting that is distributed to the Board less than 72 hours prior to the meeting, is available for public inspection, during normal business hours, at the Authority's office.

Board meetings are accessible to people with disabilities. Upon request, the Authority will make this agenda available in appropriate alternative formats to persons with a disability. In compliance with the Americans with Disabilities Act, the Authority will provide special assistance for participation in this meeting. Please submit requests for a disability-related modification or an accommodation in order to participate in the public meeting at least two working days in advance of the meeting by contacting the Authority at (650) 726-0124.



SEWER AUTHORITY MID-COASTSIDE

Staff Report

TO: Honorable Board of Directors
FROM: Kishen Prathivadi, General Manager
BY: Suzie Turbay, Administrative Assistant
SUBJECT: **Approve Minutes of June 27, 2022 Regular Board Meeting**

Executive Summary

The purpose of this report is for the Board of Directors to review the minutes for June 27, 2022

Fiscal Impact

There is no fiscal impact from this report.

Strategic Plan Compliance

The recommendation complies with the SAM Strategic Plan Goal 4: *"A well-organized, motivated, and well-trained staff with an effective Board of Directors are the most important keys to success for SAM."*

Background and Discussion/Report

Attached are the minutes of June 27, 2022 Regular Board Meeting for review and approval.

Staff Recommendation

Staff recommends that the Board of Directors approve the minutes for the referenced Board meetings as presented.

Supporting Documents

Attachment A: Minutes June 27, 2022 Regular Board Meeting

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	N. Marsh
	P. Dekker	J. Harvey	H. Rarback

MINUTES
SAM BOARD OF DIRECTORS REGULAR MEETING
June 27, 2022

1. CALL TO ORDER

Chair Ruddock called the meeting to order at 7:02 p.m. from her residence in Half Moon Bay, CA. Directors attended the meeting through teleconferencing pursuant to and as permitted by Executive Order N-29-20. Consistent with Executive Order N-29-20, the San Mateo County Health Officer Shelter-In-Place order issued on March 16, 2020, members of the public were able to observe the open session portions of the meeting electronically by using the link that was provided on the agenda for the June 27, 2022 regular meeting.

A. Roll Call

Directors Dye, Clark, Penrose, Slater-Carter, Lohman (7:13 P.M.) and Ruddock were present. Also present via teleconferencing were General Manager Kishen Prathivadi, and General Counsel Jeremy Jungreis.

2. PUBLIC COMMENT/ORAL COMMUNICATION/ITEMS NOT ON THE AGENDA

There were no public comments.

3. CONSENT AGENDA *(single motion and vote approving all items)*

(Consent items are considered routine and will be approved or adopted by one vote unless a request for removal for discussion or explanation is received from the public or Board)

A. Approve Minutes of June 13, 2022 Regular Board Meeting

B. Approve Disbursements for June 27, 2022

C. Monthly Revenue and Expense Reports for Period Ending May 31, 2022

Director Clark commented that the vote on the minutes of June 13, 2022 were recorded incorrectly. He stated that he voted nay and not aye. He also commented on incorrect spelling of the word deferred in the Monthly Revenue and Expense Report for Period Ending May 31, 2022. Following his comments, Director Clark moved, and Director Penrose seconded the motion to approve the consent agenda items with corrections as discussed for the minutes of June 3, 2022, and the Monthly Revenue and Expense Report.

Clark/Penrose/Roll Call Vote: Dye Aye/Clark Aye/Penrose Aye/Slater-Carter Aye/Ruddock Aye/7 Ayes/0 Noes. The motion passed.

4. REGULAR BUSINESS

- A. Authorize General Manager to Issue a Purchase Order to Calcon Systems for the Supply and Installation of Variable Frequency Drives with Necessary Accessories for the Five (5) New Small Pumps in the Amount of \$85,884.04

General Manager Prathivadi reviewed the staff report, and gave a PowerPoint presentation on Variable Frequency Drives (VFD's). Following his presentation he recommended that the Board of Directors authorize the General Manager to issue a purchase order to Calcon for the supply and installation of the new variable frequency drives and its accessories in an amount not to exceed \$85,884.04. A discussion ensued. Director Clark stated that PowerPoint presentations should be subject to the Brown Act, they should be noted in the agenda, they should be available to the public, and the Board of Directors before meetings. General Counsel Jungreis stated this is not a legal issue so much as it is a Management/Board kind issue. Director Clark stated that he would always like to have the PowerPoints ahead of time. Following discussion, Chair Ruddock noted that Director Lohman logged in to the meeting at 7:13 P.M. Director Slater-Carter moved, and Chair Ruddock seconded the motion to authorize the General Manager to issue a purchase order to Calcon Systems for the supply and installation of the Variable Frequency Drives with necessary accessories for the five (5) new small pumps in the Amount of \$85,884.04.

Slater-Carter/Ruddock/Roll Call Vote: Dye Aye/Lohman Aye/Clark Aye/Penrose Aye/Slater-Carter aye/Ruddock Aye/8 Ayes/0 Noes. The motion passed.

A copy of this PowerPoint presentation can be found on the SAM website at www.samcleanswater.org

5. GENERAL MANAGERS REPORT

- A. Monthly Managers Report – May 2022

General Manger Prathivadi reviewed the monthly Managers report for May 2022, and shared the link to the Sentry System which showed the Board real time influent and effluent readings.

6. ATTORNEY'S REPORT

General Counsel Jungreis gave a brief discussion on per-and Polyfluoroalkyl Substances (PFAS), and EPA released advisories, regulations and requirements.

7. DIRECTOR'S REPORT - NONE

8. TOPICS FOR FUTURE BOARD CONSIDERATION -NONE

9. CONVENE IN CLOSED SESSION (*Items discussed in Closed Session comply with the Ralph M. Brown Act*) – **NONE**

10. CONVENE IN OPEN SESSION (*Report Out on Closed Session Items*) - **NONE**

11. ADJOURNMENT

Chair Ruddock adjourned the meeting at 7:42 p.m.

Respectfully Submitted,

Approved By:

Suzie Turbay
Administrative Assistant

Board Secretary



SEWER AUTHORITY MID-COASTSIDE

Staff Report

TO: Honorable Board of Directors
FROM: Kishen Prathivadi, General Manager
BY: George Evans, Finance Officer
SUBJECT: Approve Disbursements for July 11, 2022

Executive Summary

The purpose of this report is for the Board of Directors to review and approve the disbursements for the referenced period.

Fiscal Impact

Expenditures are paid per the adopted General and Contract Collection Services Budgets for FY2120/22. The total expenditure amount for July 11, 2022 is \$311,102.97.

Strategic Plan Compliance

The recommendation complies with the SAM Strategic Plan Goal 3 *“Consider long-term costs, and ensure that finances are stable and understandable by the board, member agencies, and the public.”*

Background and Discussion/Report

Attached please find the A/P check register for the period of June 28, 2022 through July 11, 2022 (\$259,388.38) as well as the payroll check register for the pay period ending June 24, 2022 (\$51,714.59).

Staff Recommendation

Staff recommends that the Board approve the disbursements for the period of June 28, 2022 through July 11, 2022, and the payroll check register for the pay period ending June 24, 2022 as presented.

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	P. Dekker
	J. Harvey	H. Rarback	N. Marsh

Supporting Documents

Attachment A: AP Check Register for July 11, 2022

Attachment B: Payroll Check Register for PPE June 24, 2022

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	P. Dekker
	J. Harvey	H. Rarback	N. Marsh



Sewer Authority Mid-Coastside

Check Register

By Vendor Name

Payment Dates 6/28/2022 - 7/11/2022

Payment Number	Payment Date	Vendor Name	Payable Date	Description (Item)	Amount
Vendor: 0028 - Alpha Analytical Laboratories, Inc					
105835	07/11/2022	Alpha Analytical Laboratories, I...	04/29/2022	BAL BOD Tests/Handling & Disp...	380.00
105835	07/11/2022	Alpha Analytical Laboratories, I...	06/27/2022	BAL BOD Tests/Handling & Disp...	600.00
105835	07/11/2022	Alpha Analytical Laboratories, I...	06/29/2022	BAL BOD Tests/Handling & Disp...	380.00
Vendor 0028 - Alpha Analytical Laboratories, Inc Total:					1,360.00
Vendor: 0124 - American Fidelity Assurance Company					
105836	07/11/2022	American Fidelity Assurance C...	07/01/2022	Employee Optional Insurance - ...	445.40
Vendor 0124 - American Fidelity Assurance Company Total:					445.40
Vendor: 0037 - Andreini Bros., Inc.					
105837	07/11/2022	Andreini Bros., Inc.	06/28/2022	873 Ocean Blvd Repairs: MWSD	2,283.66
105837	07/11/2022	Andreini Bros., Inc.	06/30/2022	Final Billing - Pump Replacemen...	8,619.80
Vendor 0037 - Andreini Bros., Inc. Total:					10,903.46
Vendor: 0745 - AT&T Fiber Optic					
105838	07/11/2022	AT&T Fiber Optic	06/19/2022	June Service 171-800-9371 001	660.03
Vendor 0745 - AT&T Fiber Optic Total:					660.03
Vendor: 0051 - AT&T					
105827	06/28/2022	AT&T	06/12/2022	Internet Service - June	78.82
Vendor 0051 - AT&T Total:					78.82
Vendor: 0053 - AT&T					
105828	06/28/2022	AT&T	06/17/2022	June/July Service 650 726-6029...	235.47
Vendor 0053 - AT&T Total:					235.47
Vendor: 0134 - Cintas Corporation #464					
105839	07/11/2022	Cintas Corporation #464	06/27/2022	Uniforms	397.05
105839	07/11/2022	Cintas Corporation #464	06/27/2022	Uniforms	20.40
105839	07/11/2022	Cintas Corporation #464	06/27/2022	Uniforms	16.80
105839	07/11/2022	Cintas Corporation #464	06/27/2022	Uniforms	22.81
105839	07/11/2022	Cintas Corporation #464	07/05/2022	Uniforms	292.64
105839	07/11/2022	Cintas Corporation #464	07/05/2022	Uniforms	20.40
105839	07/11/2022	Cintas Corporation #464	07/05/2022	Uniforms	16.80
105839	07/11/2022	Cintas Corporation #464	07/05/2022	Uniforms	22.81
Vendor 0134 - Cintas Corporation #464 Total:					809.71
Vendor: 0137 - City of Half Moon Bay					
105840	07/11/2022	City of Half Moon Bay	07/01/2022	Alarm Permit: 2022-0701 - 2023...	57.00
Vendor 0137 - City of Half Moon Bay Total:					57.00
Vendor: 0122 - Coastside County Water District					
105841	07/11/2022	Coastside County Water District	06/30/2022	Pilarcitos Ave_DC	71.23
105841	07/11/2022	Coastside County Water District	06/30/2022	Pilarcitos Ave	4,556.61
105841	07/11/2022	Coastside County Water District	06/30/2022	SAM/West Point Ls	91.93
105841	07/11/2022	Coastside County Water District	06/30/2022	529 Obispo Rd	492.99
105841	07/11/2022	Coastside County Water District	06/30/2022	Hydrant Meter 180262748 Base...	117.29
105841	07/11/2022	Coastside County Water District	06/30/2022	Hydrant Meter 180262748 Base...	96.59
105841	07/11/2022	Coastside County Water District	06/30/2022	Hydrant Meter 180262748 Base...	131.09
105841	07/11/2022	Coastside County Water District	06/30/2022	Hydrant Meter 180262749 Base...	34.00
105841	07/11/2022	Coastside County Water District	06/30/2022	Hydrant Meter 180262749 Base...	28.00
105841	07/11/2022	Coastside County Water District	06/30/2022	Hydrant Meter 180262749 Base...	38.00
Vendor 0122 - Coastside County Water District Total:					5,657.73
Vendor: 0172 - CWEA-SCVS					
105842	07/11/2022	CWEA-SCVS	07/01/2022	Association Membership - David...	192.00
105842	07/11/2022	CWEA-SCVS	07/01/2022	Association Membership - Keith...	192.00
105842	07/11/2022	CWEA-SCVS	07/01/2022	Collection Sys Maintenance Gr2 ..	96.00
Vendor 0172 - CWEA-SCVS Total:					480.00

Check Register

Payment Dates: 6/28/2022 - 7/11/2022

Payment Number	Payment Date	Vendor Name	Payable Date	Description (Item)	Amount
Vendor: 0754 - DKF Solutions Group, LLC					
105843	07/11/2022	DKF Solutions Group, LLC	06/29/2022	Employee Training Sessions: SS...	4,500.00
105843	07/11/2022	DKF Solutions Group, LLC	07/01/2022	Online Safety Resources Month...	395.00
Vendor 0754 - DKF Solutions Group, LLC Total:					4,895.00
Vendor: 0212 - Duperon Corporation					
105844	07/11/2022	Duperon Corporation	06/13/2022	Mechanical Bar Screen: Plant	27,004.69
Vendor 0212 - Duperon Corporation Total:					27,004.69
Vendor: 0215 - Ebix, Inc.					
105845	07/11/2022	Ebix, Inc.	05/10/2022	Top Health Printouts: Plant	194.90
Vendor 0215 - Ebix, Inc. Total:					194.90
Vendor: 0229 - Environmental Business Specialists, LLC					
105846	07/11/2022	Environmental Business Speciali...	06/23/2022	EBS BioStar GT - Testing/Analysi...	550.00
Vendor 0229 - Environmental Business Specialists, LLC Total:					550.00
Vendor: 0224 - Environmental Resource Associates					
105847	07/11/2022	Environmental Resource Associ...	07/01/2022	Dissolved Oxygen/pH Tests	216.10
Vendor 0224 - Environmental Resource Associates Total:					216.10
Vendor: 0267 - Grainger					
105848	07/11/2022	Grainger	06/13/2022	Diesel Fuel Transfer Parts: SAM 1	416.87
Vendor 0267 - Grainger Total:					416.87
Vendor: 0277 - Hach Company					
105849	07/11/2022	Hach Company	07/01/2022	WIMS Services	4,800.00
Vendor 0277 - Hach Company Total:					4,800.00
Vendor: 0279 - Half Moon Bay Building & Garden, Inc.					
105850	07/11/2022	Half Moon Bay Building & Gard...	06/30/2022	Weed Block/SOD Staples/Tan B...	151.45
105850	07/11/2022	Half Moon Bay Building & Gard...	06/30/2022	Weed Block: Plant	43.73
105850	07/11/2022	Half Moon Bay Building & Gard...	06/30/2022	Tan Bark: Plant	71.09
Vendor 0279 - Half Moon Bay Building & Garden, Inc. Total:					266.27
Vendor: 0289 - Hassett Hardware					
105851	07/11/2022	Hassett Hardware	06/20/2022	Ratchet Tie Downs: Plant	28.43
105851	07/11/2022	Hassett Hardware	06/23/2022	Trash Cans: Plant	174.96
105851	07/11/2022	Hassett Hardware	06/23/2022	Grinding Supplies: Plant	43.64
105851	07/11/2022	Hassett Hardware	06/28/2022	Hose: Plant	41.43
105851	07/11/2022	Hassett Hardware	06/28/2022	Welding Wire: Plant	26.24
105851	07/11/2022	Hassett Hardware	06/23/2022	Hole Saw/Welding Wire/Contac...	103.86
105851	07/11/2022	Hassett Hardware	06/24/2022	Distilled Water: Lab	26.18
105851	07/11/2022	Hassett Hardware	06/28/2022	Trash Cans: Plant	87.48
Vendor 0289 - Hassett Hardware Total:					532.22
Vendor: 0295 - Hue & Cry Security Systems, Inc					
105852	07/11/2022	Hue & Cry Security Systems, Inc	06/16/2022	2022 July Environmental Monit...	247.36
Vendor 0295 - Hue & Cry Security Systems, Inc Total:					247.36
Vendor: 0299 - ICMA Retirement					
105834	06/30/2022	ICMA Retirement	06/30/2022	ICMA 457 Deferred Comp	385.00
Vendor 0299 - ICMA Retirement Total:					385.00
Vendor: 0312 - Iron Mountain					
105853	07/11/2022	Iron Mountain	07/01/2022	July 2022 Offsite Storage	1,182.05
Vendor 0312 - Iron Mountain Total:					1,182.05
Vendor: 0756 - KBA Docusys, Inc.					
105854	07/11/2022	KBA Docusys, Inc.	06/30/2022	Copier Lease Usage/Supplies	117.15
Vendor 0756 - KBA Docusys, Inc. Total:					117.15
Vendor: 0354 - Kemira Water Solutions, Inc.					
105855	07/11/2022	Kemira Water Solutions, Inc.	07/07/2022	Ferric Chloride: Plant	16,385.53
Vendor 0354 - Kemira Water Solutions, Inc. Total:					16,385.53
Vendor: 0367 - Krystal Kleen					
105829	06/28/2022	Krystal Kleen	04/30/2022	April Janitorial Services	2,550.00
105829	06/28/2022	Krystal Kleen	05/31/2022	May Janitorial Services	2,550.00

Check Register

Payment Dates: 6/28/2022 - 7/11/2022

Payment Number	Payment Date	Vendor Name	Payable Date	Description (Item)	Amount
105829	06/28/2022	Krystal Kleen	06/08/2022	June Janitorial Services	2,550.00
Vendor 0367 - Krystal Kleen Total:					7,650.00
Vendor: 0365 - Liberty Process Equipment, Inc.					
105856	07/11/2022	Liberty Process Equipment, Inc.	06/09/2022	Repair Parts-Sludge Pump 1-3: P..	12,925.18
Vendor 0365 - Liberty Process Equipment, Inc. Total:					12,925.18
Vendor: 0387 - Maze & Associates					
105857	07/11/2022	Maze & Associates	05/31/2022	Accounting Services	5,500.00
Vendor 0387 - Maze & Associates Total:					5,500.00
Vendor: 0406 - Miramar Events					
105858	07/11/2022	Miramar Events	07/01/2022	HMB Festival Exhibitor Fee	7,500.00
Vendor 0406 - Miramar Events Total:					7,500.00
Vendor: 0415 - Motion Industries, Inc					
105859	07/11/2022	Motion Industries, Inc	06/11/2022	Grit Blower #2 Pulley & Bushing:..	162.27
Vendor 0415 - Motion Industries, Inc Total:					162.27
Vendor: 0278 - MTA Parts Inc.					
105860	07/11/2022	MTA Parts Inc.	06/29/2022	Radiator Fluid - SAM 03	15.30
Vendor 0278 - MTA Parts Inc. Total:					15.30
Vendor: 0449 - Olin Corp. - Chlor Alkali					
105830	06/28/2022	Olin Corp. - Chlor Alkali	04/04/2022	Sodium Hypochlorite: Plant	3,595.73
105830	06/28/2022	Olin Corp. - Chlor Alkali	05/16/2022	Sodium Hypochlorite: Plant	161.66
Vendor 0449 - Olin Corp. - Chlor Alkali Total:					3,757.39
Vendor: 0482 - PG&E					
105861	07/11/2022	PG&E	06/30/2022	Electric & Gas Usage for June	31,046.42
Vendor 0482 - PG&E Total:					31,046.42
Vendor: 0483 - Phil's Tire Pros					
105862	07/11/2022	Phil's Tire Pros	06/10/2022	Oil Change - SAM 01	88.32
105862	07/11/2022	Phil's Tire Pros	06/17/2022	Brake Inspection - SAM 06	95.00
Vendor 0483 - Phil's Tire Pros Total:					183.32
Vendor: 0487 - Polydyne, Inc.					
105863	07/11/2022	Polydyne, Inc.	06/24/2022	Clarifloc WE-2115	3,521.87
105863	07/11/2022	Polydyne, Inc.	06/24/2022	Clarifloc WE-250	3,521.88
Vendor 0487 - Polydyne, Inc. Total:					7,043.75
Vendor: 0511 - R. F. MacDonald Co.					
105864	07/11/2022	R. F. MacDonald Co.	05/20/2022	Boiler Repair: Plant	1,430.00
Vendor 0511 - R. F. MacDonald Co. Total:					1,430.00
Vendor: 0524 - Republic Services #925					
105865	07/11/2022	Republic Services #925	06/29/2022	Solid Waste: June Lifts	1,573.44
Vendor 0524 - Republic Services #925 Total:					1,573.44
Vendor: 0525 - Republic Services of San Mateo County					
105866	07/11/2022	Republic Services of San Mateo ...	05/31/2022	May Disposal & Hauling Fees	13,074.21
Vendor 0525 - Republic Services of San Mateo County Total:					13,074.21
Vendor: 0386 - SemiTorr Group, Inc.					
105867	07/11/2022	SemiTorr Group, Inc.	06/16/2022	Replacement Blower for #2: Pla...	5,440.91
Vendor 0386 - SemiTorr Group, Inc. Total:					5,440.91
Vendor: 0594 - Sonic					
105868	07/11/2022	Sonic	07/01/2022	FlexLink Ethernet: August 2022	399.00
Vendor 0594 - Sonic Total:					399.00
Vendor: 0602 - SRT Consultants Inc.					
105869	07/11/2022	SRT Consultants Inc.	06/30/2022	June Engineering Support	6,991.27
105869	07/11/2022	SRT Consultants Inc.	06/30/2022	June Engineering Support: 21M...	5,870.48
105869	07/11/2022	SRT Consultants Inc.	06/30/2022	June Engineering Support: 21M...	3,345.00
105869	07/11/2022	SRT Consultants Inc.	06/30/2022	June Engineering Support: 21TP...	2,402.50
105869	07/11/2022	SRT Consultants Inc.	06/30/2022	June Engineering Support: 21TP...	1,215.00
105869	07/11/2022	SRT Consultants Inc.	06/30/2022	June Engineering Support: 21TP...	330.00
105869	07/11/2022	SRT Consultants Inc.	06/30/2022	June Engineering Support: 21M...	292.50

Check Register

Payment Dates: 6/28/2022 - 7/11/2022

Payment Number	Payment Date	Vendor Name	Payable Date	Description (Item)	Amount
105869	07/11/2022	SRT Consultants Inc.	06/30/2022	June Engineering Support: 21TP...	208.64
105869	07/11/2022	SRT Consultants Inc.	06/30/2022	June Engineering Support: 21TP...	1,990.00
Vendor 0602 - SRT Consultants Inc. Total:					22,645.39
Vendor: 0585 - Star Creek Land Stewards, Inc.					
105870	07/11/2022	Star Creek Land Stewards, Inc.	06/17/2022	Target Grazing: 2022-0612-0617	6,400.00
Vendor 0585 - Star Creek Land Stewards, Inc. Total:					6,400.00
Vendor: 0612 - Steven Melo, Inc.					
105871	07/11/2022	Steven Melo, Inc.	06/23/2022	June Yard Maintenance: Princet...	90.00
105871	07/11/2022	Steven Melo, Inc.	06/23/2022	June Yard Maintenance: Plant	100.00
Vendor 0612 - Steven Melo, Inc. Total:					190.00
Vendor: 0613 - Steven's Bay Area Diesel Service, Inc.					
105831	06/28/2022	Steven's Bay Area Diesel Service...	04/20/2022	Engine Replacement: 2016 SAM...	60,370.63
105831	06/28/2022	Steven's Bay Area Diesel Service...	06/22/2022	Adjust to Actual Per Final Invoice	-4,083.10
105831	06/28/2022	Steven's Bay Area Diesel Service...	04/20/2022	Deposit - Invoice 49318/Chk# 1...	-26,000.00
105872	07/11/2022	Steven's Bay Area Diesel Service...	06/29/2022	Exhaust Repair - SAM 10	2,300.98
Vendor 0613 - Steven's Bay Area Diesel Service, Inc. Total:					32,588.51
Vendor: 0649 - TASC LLC					
105873	07/11/2022	TASC LLC	06/30/2022	June Consulting: NDWSCP Prog...	428.57
105873	07/11/2022	TASC LLC	06/30/2022	June Consulting: NDWSCP Prog...	2,142.86
105873	07/11/2022	TASC LLC	06/30/2022	June Consulting: NDWSCP Prog...	428.57
Vendor 0649 - TASC LLC Total:					3,000.00
Vendor: 0653 - TJC and Associates, Inc					
105874	07/11/2022	TJC and Associates, Inc	05/31/2022	2022-05 WWTP Electrical Asses...	1,558.75
105874	07/11/2022	TJC and Associates, Inc	06/30/2022	2022-06 WWTP Electrical Asses...	836.50
Vendor 0653 - TJC and Associates, Inc Total:					2,395.25
Vendor: 0662 - Tyler Technologies					
105875	07/11/2022	Tyler Technologies	07/01/2022	Annual Positive Pay Fees: 2022-...	469.70
105875	07/11/2022	Tyler Technologies	06/21/2022	AP Training: CP	300.00
Vendor 0662 - Tyler Technologies Total:					769.70
Vendor: 0671 - Univar USA Inc					
105876	07/11/2022	Univar USA Inc	06/28/2022	Sodium Hypochlorite: Plant	3,661.81
105876	07/11/2022	Univar USA Inc	06/29/2022	25% Sodium Hydroxide: Plant	3,109.80
Vendor 0671 - Univar USA Inc Total:					6,771.61
Vendor: 0761 - US Bank Equipment Finance					
105833	06/28/2022	US Bank Equipment Finance	06/17/2022	Copier Lease: Kyocera 6054CI	464.93
Vendor 0761 - US Bank Equipment Finance Total:					464.93
Vendor: 0683 - USF Fabrication, Inc.					
105877	07/11/2022	USF Fabrication, Inc.	06/15/2022	Safety Hatches: Plant	5,940.98
Vendor 0683 - USF Fabrication, Inc. Total:					5,940.98
Vendor: 0685 - Verizon Wireless					
105832	06/28/2022	Verizon Wireless	05/16/2022	June Wireless Service	5.00
105832	06/28/2022	Verizon Wireless	05/16/2022	June Wireless Service	65.08
105832	06/28/2022	Verizon Wireless	05/16/2022	June Wireless Service	130.16
105832	06/28/2022	Verizon Wireless	05/16/2022	June Wireless Service	34.97
105832	06/28/2022	Verizon Wireless	05/16/2022	June Wireless Service	28.79
105832	06/28/2022	Verizon Wireless	05/16/2022	June Wireless Service	39.08
Vendor 0685 - Verizon Wireless Total:					303.08
Vendor: 0694 - Voyager Fleet Systems, Inc.					
105878	07/11/2022	Voyager Fleet Systems, Inc.	06/24/2022	Fuel Purchases	765.80
105878	07/11/2022	Voyager Fleet Systems, Inc.	06/24/2022	Fuel Purchases	534.20
105878	07/11/2022	Voyager Fleet Systems, Inc.	06/24/2022	Fuel Purchases	439.93
105878	07/11/2022	Voyager Fleet Systems, Inc.	06/24/2022	Fuel Purchases	597.05
Vendor 0694 - Voyager Fleet Systems, Inc. Total:					2,336.98
Grand Total:					259,388.38

Report Summary

Fund Summary

Fund	Payment Amount
100 - Operating Fund	251,865.71
300 - Contract Services	7,522.67
Grand Total:	259,388.38

Account Summary

Account Number	Account Name	Payment Amount
100-1010-5312	Late Fees, Interest & Pena...	5.00
100-1010-5322	Computer & Network Mai...	300.00
100-1010-5323	Software License & Maint...	947.52
100-1010-5330	Misc. Professional Services	5,500.00
100-1010-5410	Professional dues and fees	7,500.00
100-1010-5415	Printing and binding	194.90
100-1010-5418	Misc. Other Services	1,182.05
100-1010-5421	Telephones	895.50
100-1010-5422	Cellular Servcies	65.08
100-1010-5511	Rental/Lease Equipment -...	582.08
100-1010-5610	Janitorial Services	7,650.00
100-2021-5318	Engineering & Architectur...	6,991.27
100-2021-5323	Software License & Maint...	4,800.00
100-2021-5324	Vehicle Maintenance Serv...	2,901.17
100-2021-5326	Equipment Maintenance	12,925.18
100-2021-5330	Misc. Professional Services	2,395.25
100-2021-5411	Registration Fees	5,375.00
100-2021-5417	Uniform Services	689.69
100-2021-5422	Cellular Servcies	130.16
100-2021-5431	Water	5,212.76
100-2021-5432	Gas/Electricity	31,046.42
100-2021-5433	Solid Waste (Trash)	14,647.65
100-2021-5611	Landscape Services	6,856.27
100-2021-5612	Building & Structures Mai...	1,430.00
100-2021-5613	Security Services	247.36
100-2021-5725	Misc. Permit	57.00
100-2021-5814	Maintenance Supplies	668.31
100-2021-5817	Chemicals	33,958.28
100-2021-5822	Fuel, Oil, Lubricant	781.10
100-2021-6121	Machinery and Equipment..	5,440.91
100-2021-6122	Vehicles >\$5K	30,287.53
100-2022-5330	Misc. Professional Services	1,910.00
100-2022-5813	Laboratory Supplies	242.28
100-2027	Deferred Comp	385.00
100-2036	Misc Benefits - Post Tax	445.40
100-4041-5318	Engineering & Architectur...	15,654.12
100-4041-6016	Portola Pump Station	8,619.80
100-4041-6121	Machinery and Equipment..	32,945.67
300-3031-5417	Uniform Services	40.80
300-3031-5422	Cellular Servcies	34.97
300-3031-5431	Water	151.29
300-3031-5614	CS Repairs - HMB	428.57
300-3031-5822	Fuel, Oil, Lubricant	534.20
300-3032-5417	Uniform Services	33.60
300-3032-5422	Cellular Servcies	28.79
300-3032-5431	Water	124.59
300-3032-5615	CS Repairs - GCSD	2,142.86
300-3032-5822	Fuel, Oil, Lubricant	439.93
300-3033-5417	Uniform Services	45.62
300-3033-5422	Cellular Servcies	39.08
300-3033-5431	Water	169.09

Account Summary

Account Number	Account Name	Payment Amount
300-3033-5616	CS Repairs - MWSD	2,712.23
300-3033-5822	Fuel, Oil, Lubricant	597.05
Grand Total:		<u>259,388.38</u>

Project Account Summary

Project Account Key	Payment Amount
None	202,168.79
19PO01-6016	8,619.80
21MP01-5318	3,345.00
21MP02-5318	5,870.48
21MP03-5318	292.50
21PO01-6121	5,940.98
21TP02-5318	1,215.00
21TP03-5318	330.00
21TP03-6121	27,004.69
21TP06-5318	208.64
21TP08-5318	2,402.50
21TP11-5318	1,990.00
Grand Total:	<u>259,388.38</u>



Sewer Authority Mid-Coastside

Payroll Check Register

Checks

Pay Period: 6/11/2022-6/24/2022

Packet: PYPKT00929 - PPE 2022-0624

Payroll Set: Sewer Authority Mid-Coastside - 01

Employee	Employee #	Check Type	Date	Amount	Number
Clark, Matthew	0026	Regular	06/30/2022	92.35	1766
Rarback, Harvey	0029	Regular	06/30/2022	92.35	1767
Slater-Carter, Kathryn	0015	Regular	06/30/2022	92.35	1768



Sewer Authority Mid-Coastside

Payroll Check Register

Direct Deposits

Pay Period: 6/11/2022-6/24/2022

Packet: PYPKT00929 - PPE 2022-0624

Payroll Set: Sewer Authority Mid-Coastside - 01

Employee	Employee #	Date	Amount	Number
Aguilar-Ibal, Gabriel	0004	06/30/2022	4,221.56	3481
Costello, Timothy J	0001	06/30/2022	100.00	3482
Costello, Timothy J	0001	06/30/2022	4,207.77	3482
Harvey, Keith	0010	06/30/2022	2,749.80	3483
Hussein, Jr., Tazammal Aiyub	0040	06/30/2022	500.00	3484
Hussein, Jr., Tazammal Aiyub	0040	06/30/2022	1,724.84	3484
Hussein, Jr., Tazammal Aiyub	0040	06/30/2022	200.00	3484
Long, George J	0002	06/30/2022	3,477.20	3485
Mejia, Julio A	0044	06/30/2022	925.64	3486
Mendez, Carlos	0009	06/30/2022	3,004.12	3487
Partida, David	0006	06/30/2022	4,723.32	3488
Rovai, Angelo	0042	06/30/2022	2,876.96	3489
Ahumada, Jose	0039	06/30/2022	2,572.62	3490
Preciado , Felipe	0036	06/30/2022	2,837.89	3491
Young, Anthony Edward	0024	06/30/2022	2,873.42	3492
Evans, George	0025	06/30/2022	250.00	3493
Evans, George	0025	06/30/2022	3,479.07	3493
Pacheco, Callie A	0045	06/30/2022	1,302.39	3494
Prathivadi, Kishen	0012	06/30/2022	6,654.73	3495
Turbay, Susan	0007	06/30/2022	2,479.16	3496
Dye, Barbara	0031	06/30/2022	92.35	3497
Lohman , Richard	0017	06/30/2022	92.35	3498
Ruddock, Deborah Rose	0018	06/30/2022	92.35	3499



Sewer Authority Mid-Coastside

Payroll Check Register

Report Summary

Pay Period: 6/11/2022-6/24/2022

Packet: PYPKT00929 - PPE 2022-0624

Payroll Set: Sewer Authority Mid-Coastside - 01

Type	Count	Amount
Regular Checks	3	277.05
Manual Checks	0	0.00
Reversals	0	0.00
Voided Checks	0	0.00
Direct Deposits	23	51,437.54
Total	26	51,714.59

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE SEWER AUTHORITY MID-COASTSIDE**

RESOLUTION NO. 1-2022

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SEWER AUTHORITY
MID-COASTSIDE RELYING ON GOVERNOR NEWSOM'S MARCH 4, 2020
PROCLAMATION OF A STATE OF EMERGENCY, AND AUTHORIZING
VIRTUAL BOARD AND COMMITTEE MEETINGS PURSUANT TO AB 361**

WHEREAS, the Sewer Authority Mid-Coastside ("SAM") is a joint powers authority organized under the Joint Exercise of Powers Act, Government Code _____ et seq.

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19; and

WHEREAS, the District is committed to preserving and nurturing public access and participation in meetings of the District's Board of Directors ("Board"); and

WHEREAS, all meetings of the Board are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the Board conduct its business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state and county caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the Authority's boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, that the legislative body meeting in-person would present imminent risks to the health and safety of attendees;

WHEREAS, such conditions now exist within the Sewer Authority Mid-Coastside (“Authority”), specifically, by the Governor of the State of California’s executive order declaring a State Emergency as a result of the COVID-19 virus pandemic pursuant to Government Code section 8625 and by the County of San Mateo declaring a local emergency a result of the COVID-19 virus pandemic pursuant to Government Code section 8630 and Health and Safety Code Section 101080; and

WHEREAS, holding in-person meetings of the Authority’s Board of Directors (the “Board”) could present an imminent risk to the health and safety of Board members, Authority staff and attendees and directly impacts their ability to meet safely due to the SARS-CoV-2 B.1.617.2 (Delta) variant, which has been circulating in San Mateo County, is highly transmissible in indoor settings and requires multi- component prevention strategies to reduce spread; despite high vaccination rates, San Mateo County continues to experience substantial levels of community transmission due to the Delta variant and while most COVID-19 cases are among unvaccinated residents, breakthrough cases continue and remain a concern; and

WHEREAS, as a consequence of the State declared emergency, the Board does hereby declare that it shall conduct its meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, the Board does hereby declare that the Authority shall take all measures reasonably necessary to ensure access to remote teleconference meetings for the public in accordance with paragraph (2) of subdivision (e) of section 54953.

NOW, THEREFORE, be it resolved by the Board of the Sewer Authority Mid-Coastside, a public agency in the County of San Mateo, California, as follows:

Section 1: Continuation of Remote Teleconference Meetings: Consistent with the provisions of Government Code Section 54953(e), the Board finds and determines that (1) a state of emergency related to COVID-19 is currently in effect; (2) state and/or local officials have recommended measures to promote social distancing in connection with COVID-19; and (3) due to the COVID-19 emergency, meeting in person would present imminent risks to the health and safety of attendees; and, based on the foregoing facts, findings and determinations, the Board authorizes staff to conduct remote teleconference meetings of the Board of Directors, including Committee meetings, per the provisions of Government Code Section 54953(e).

Section 2: Effective Date of Resolution. This Resolution shall take effect upon adoption and shall be effective for 30 days unless earlier extended by a majority vote of the Board of Directors

* * * * *

I CERTIFY that this resolution was duly adopted by the Board of Directors of the Sewer Authority Mid-Coastside, San Mateo County, California, at a regular meeting held on the 11th day of July, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Secretary of the Board of Directors
Sewer Authority Mid-Coastside
San Mateo County, California



SEWER AUTHORITY MID-COASTSIDE

Staff Report

TO: Honorable Board of Directors

FROM: Kishen Prathivadi, General Manager

SUBJECT: **Discuss and Decide if SAM Should Pursue the Certification Process for ISO 14001, an Environmental Management System**

Executive Summary

The purpose of this report is to discuss the need for an Environmental Management System.

Fiscal Impact

The fiscal impact is none. If it is decided to pursue the Certification process the estimated fiscal impact will be around \$20,000.

Strategic Plan Compliance

The recommendation complies with the SAM Strategic Plan's Vision: "*Utilize state of the art technologies and management practices to advance public health and environmental protection.*" It also complies with the Strategic Plan's Goal 5: Infrastructure, Operations and Maintenance: "*The goals are no spills, safety, environmental protection, reliability, and long-term cost effectiveness.*"

Background and Discussion/Report

ISO 14001 is an Environmental Management Standard (EMS) that establishes a framework that businesses can follow to develop an effective environmental management system.

EMS provides a framework for routinely examining opportunities to:

- Reduce waste generation, carbon footprint and lower costs

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	N. Marsh
	P. Dekker	J. Harvey	H. Rarback

- Safely and responsibly handle chemicals used in the treatment process
- Continually improve our awareness and response to environmental concerns presented by regulatory agencies and the general public
- Allocate time and resources more effectively
- Helps streamline operations

Integration of ISO 14001 into organizational and operational practices indicates a commitment to environmental management through continual improvement of environmentally responsible actions and practices. SAM's commitment to implementing and supporting the environment in which it operates, and serves is a proactive approach to protecting customers and providing cost savings through the reduction of waste, pollution, and risk of regulatory violations. The detailed benefits of implementing ISO 14001 are:

- **Environmental Commitment.** SAM can demonstrate its commitment to an improved environment, not only in its operational and business practices but also to the community by integrating ISO 14001 practices that reduce impacts of wastewater treatment operations, disposal, energy, and emissions requirements. Commitment to environmental management will encourage collaborative efforts from customers, including large dischargers, to improve operations equally and collectively.
- **Reduced Financial Impact from Environmental Hazards.** Improved environmental management can mitigate the costs associated with regulatory violations, non-compliance, public safety hazards, emergency services and service restoration. This leads to a reduction in legal fees, fines, and impacts to resources, both human and operational.
- **Increased Transparency.** This program creates fairness among customers with the ability to respond to overall treatment process impacts, while minimizing the need to follow up with individual dischargers.
- **Reduction of Energy and Water Usage.** Proactive management of waste disposal, including odor reduction and decreased water consumption, will reduce the energy and effort required to alleviate corrective actions.
- **Improved Recycling and Waste Disposal Practices.** Beyond what is required by governing bodies and regulatory agencies, SAM's commitment to environmental management will include increased recycling practices, where applicable, so that retired

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
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assets and byproducts of the wastewater treatment process can be efficiently recycled or reused rather than disposed of.

- **Environmental Responsibility.** Awareness of environmental responsibility includes the engagement, commitment, and communication within SAM, management, staff, and service providers to act and take credit for participating in the compliance, safety, and financial benefits of environmental management.
- **Environmental Compliance.** Coupled with the legal requirements of regulatory compliance, integration of ISO 14001 into SAM's operations and business practices is a proactive approach to efficiently and seamlessly implement methods that can minimize potential emergency management situations such as spills, contamination, or safety hazards.
- **Public Safety.** This program provides increased measures and awareness to protect the public from environmental hazards, consistent with emergency response and business continuity.
- **Public Image.** ISO 14001 certification enhances the reputation of social and environmental responsibility and accountability for stakeholders, customers, and regulating agencies.

Some of the ISO 14001 Compliant Wastewater Utilities in the United States:

- San Francisco Public Utilities Commission, Wastewater Collection System Division, San Francisco, California
- Lowell Regional Wastewater Utility, Lowell, Massachusetts
- City of San Diego, Environmental Service Department, San Diego, California
- Santa Clara Valley Water District, Santa Clara, California
- Public Works Wastewater Division, City of Eugene, Eugene, Oregon
- Charleston Water System, Charleston, South Carolina
- Department of Public Utilities, City of Columbus, Columbus, Ohio
- City of West Palm Beach Public Utilities Department, West Palm Beach, Florida
- Wastewater Division, City of Fort Collins, Fort Collins, Colorado
- Pima County Regional Wastewater Reclamation Department, Tucson, Arizona
- Water Sewer Authority of Cabarrus County, North Carolina

This item was discussed as an informational item at the Board Operations Committee meeting on July 7, 2022. The Committee recommended that before we spend time and money on it, we need to explore further if it is going to benefit SAM or not.

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	N. Marsh
	P. Dekker	J. Harvey	H. Rarback

Staff is recommending that the benefits of an improved environmental management profile are greater than the costs of doing nothing. Staff recommends that we pursue the ISO 14001 implementation process with the help of a consultant. It is anticipated that a not to exceed amount of \$20,000 will be required as Consultation fees.

The entire ISO Certification process will typically require three to four calendar months to complete.

Staff Recommendation:

Staff recommends that the Board authorize the General Manager to pursue the ISO 14001 Certification Process.

Attachments: None

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	N. Marsh
	P. Dekker	J. Harvey	H. Rarback



SEWER AUTHORITY MID-COASTSIDE

Staff Report

TO: Honorable Board of Directors

FROM: Kishen Prathivadi, General Manager

SUBJECT: **Set Salary and Terms and Conditions of Employment for Unrepresented Employees and Approve Unrepresented Employees' Salary Schedule, Retroactive to July 1, 2022**

Executive Summary

The purpose of this report is to set the salary and terms and conditions of employment for Unrepresented Employees (Engineering & Construction Contracts Manager and Finance Officer positions), and to approve the Unrepresented Employees' salary schedule, effective July 1, 2022 to coincide with the scheduled pay increase for the Authority's represented employees.

Fiscal Impact

The salary increases are anticipated to be approximately \$4,394 per year, subject to any future cost-of-living adjustments granted to Unrepresented Employees, and other benefit costs (e.g., CalPERS, Social Security, workers' compensation, etc.) that are a function of salary. As the Engineering & Construction Contracts Manager is not funded in the FY22/23 budget, the financial impact consists only of the compensation adjustment and associated overhead costs for the Finance Officer position.

Strategic Plan Compliance

The recommendation complies with the SAM Strategic Plan Goal 4: *"A well-organized, motivated, and well-trained staff with an effective Board of Directors are the most important keys to success for SAM."*

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	N. Marsh
	P. Dekker	J. Harvey	H. Rarback

Background and Discussion/Report

Consistent with the Authority's practice, compensation for the Unrepresented Employees is reviewed annually. All Unrepresented Employees serve in "at-will" capacity at the pleasure of the General Manager, and they are exempt from overtime pay under the Fair Labor Standards Act.

Based on the Authority's agreement reached with IUOE, Local 39, represented employees are granted a 3% cost-of-living adjustment, effective July 1, 2022.

Accordingly, Board consideration is requested to grant this same increase to the Unrepresented Employees for internal equity and compensation alignment purposes.

In accordance with applicable CalPERS' regulations, 2 CCR § 570.5, authorization is also requested from the Board to approve the attached salary schedules, effective July 1, 2022 (Attachment A).

Recommendation

The General Manager recommends that the Board consider and approve a 3% cost-of-living adjustment, effective July 1, 2022 for the Authority's Unrepresented Employees,.

Supporting Documents

Attachment A: SAM Bi-Weekly Wage Schedule

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	N. Marsh
	P. Dekker	J. Harvey	H. Rarback

EXHIBIT B

BI-WEEKLY WAGE SCHEDULES

Effective July 1, 2020

	<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>	<u>Step F</u>	<u>Step G</u>
Eng. & Const. Contracts Manager	4,587	4,725	4,866	5,013	5,163	5,318	5,477
Finance Officer	4,587	4,725	4,866	5,013	5,163	5,318	5,477

Effective July 1, 2021

	<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>	<u>Step F</u>	<u>Step G</u>
Eng. & Const. Contracts Manager	4,725	4,866	5,013	5,163	5,318	5,477	5,641
Finance Officer	4,725	4,866	5,013	5,163	5,318	5,477	5,641

Effective July 1, 2022

	<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>	<u>Step F</u>	<u>Step G</u>
Eng. & Const. Contracts Manager	4,867	5,011	5,164	5,317	5,478	5,641	5,810
Finance Officer	4,867	5,011	5,164	5,317	5,478	5,641	5,810



SEWER AUTHORITY MID-COASTSIDE

Staff Report

TO: Honorable Board of Directors

FROM: Kishen Prathivadi, General Manager

SUBJECT: Set Bi-Weekly Employee Salary Schedule, Effective July 1, 2022

Executive Summary

The purpose of this report is to approve the updated Authority Bi-Weekly Salary Schedule to be effective July 1, 2022, consistent with the terms of the IUOE, Local 39 Memorandum of Understanding, applicable CalPERS' regulations pursuant to 2 CCR § 570.5. as well as the corresponding compensation adjustment for SAM's Unrepresented Employees.

Fiscal Impact

The total labor cost increase includes the cost of benefits, some of which are a function of salary (e.g., CalPERS, Social Security, workers' compensation, etc.), is approximately \$45,000 and it is within the assumptions provided in the FY 22/23 adopted budget.

Strategic Plan Compliance

The recommendation complies with the SAM Strategic Plan Goal 4: *"A well-organized, motivated, and well-trained staff with an effective Board of Directors are the most important keys to success for SAM."*

Background and Discussion/Report

In accordance with the Memorandum of Understanding with IUOE, Local 39 (MOU), under Section VI(B), effective July 1, 2022, Local 39 represented employees are granted a cost-of-living increase of 3% to their base compensation.

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	N. Marsh
	P. Dekker	J. Harvey	H. Rarback

Title 2 of the California Code of Regulations, section 570.5, requires that the pay schedule of every CalPERS agency be approved and adopted by the agency's governing body pursuant to public meeting law. The Authority's Salary Schedule is attached for the Board's review and approval, effective July 1, 2022 (Attachment A), which also reflects the corresponding compensation adjustment for SAM's Unrepresented Employees (which is being presented as an accompanying item to this report).

Once the attached wage schedule is approved by the Board, it will be posted on the Authority's website as a publicly available document, and it will also be available for public inspection at the Authority's office during regular business hours.

Recommendation

The General Manager recommends that the Board approve the updated Authority Bi-Weekly Salary Schedule, effective July 1, 2022.

Supporting Documents

Attachment A: SAM Bi-Weekly Wage Schedule (Effective July 1, 2022)

Attachment B: Excerpt of Section VI of the IUOE, Local 39 MOU (Effective July 1, 2019 – January 31, 2023).¹

¹ Based on a side letter agreement with Local 39, the current MOU has been extended through January 31, 2025.

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	N. Marsh
	P. Dekker	J. Harvey	H. Rarback

SEWER AUTHORITY MID-COASTSIDE

Bi-Weekly Wage Schedule

Effective July 1, 2022

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Accounting Technician ¹	2,790	2,874	2,960	3,049	3,140	3,235	3,332
Administrative Assistant (Incumbent)							2,807
Administrative Assistant	2,351	2,421	2,494	2,569	2,646	2,725	2,807
Collection Maintenance Worker I	2,823	2,907	2,994	3,084	3,177	3,272	3,370
Collection Maintenance Worker II	3,105	3,198	3,294	3,393	3,495	3,600	3,708
Collection Maintenance Worker III	3,415	3,518	3,623	3,732	3,844	3,959	4,078
Engineering & Const. Contracts Mgr ²	4,867	5,011	5,164	5,317	5,478	5,641	5,810
Finance Officer	4,867	5,011	5,164	5,317	5,478	5,641	5,810
General Manager ³							9,470
Lab & Source Control Program Coord	3,944	4,063	4,185	4,310	4,439	4,573	4,710
Lead Collection Maintenance Worker	3,756	3,869	3,985	4,105	4,228	4,355	4,485
Lead Operator	4,321	4,451	4,585	4,722	4,864	5,010	5,160
Maintenance Mechanic I	2,984	3,073	3,166	3,261	3,358	3,459	3,563
Maintenance Mechanic II	3,283	3,381	3,482	3,587	3,695	3,805	3,920
Maintenance Mechanic III	3,611	3,719	3,831	3,946	4,064	4,186	4,312
Operator I	3,247	3,344	3,445	3,548	3,654	3,764	3,877
Operator II	3,572	3,679	3,789	3,903	4,020	4,141	4,265
Operator III	3,928	4,046	4,167	4,292	4,421	4,554	4,691
Operator in Training	2,540	2,616	2,695	2,776	2,859	2,945	3,033
Supervisor of Treatment/Field Ops	4,840	4,985	5,135	5,289	5,448	5,611	5,779
Utility Worker	2,540	2,616	2,695	2,776	2,859	2,945	3,033

¹ For FY22/23, the Accounting Technician position is now funded.

² For FY22/23, the Engineering and Construction Contracts Manager position is not funded.

³ In addition the salary listed in this BiWeekly Wage Schedule and the terms and conditions of employment set forth in the Employment Agreement, the General Manager shall also receive a monthly stipend of \$75 per month for use of personal cell phone, tablet, laptop or other technology in the course of Authority Business, effective April 1, 2020.

The Authority shall make reasonable efforts to notify employees that they are to be assigned to standby duty at least two weeks in advance. Such assignments are to be on a rotational basis for one week periods.

Employees assigned to work standby duty shall receive \$3.50 per hour on standby duty. If an employee responds to a call or alarm and the employee is able to resolve the issue without actually driving to the appropriate work site, the employee shall be paid at one and one-half times their base wage for actual time worked in 15-minute increments. If the employee is required to return to his/her work place, the time worked to initially resolve the issue shall be included in three-hour minimum call-back pay.

If an employee who is assigned standby duty is able to find a substitute from the lists of those willing to work extra standby, the employee assigned may be relieved of their standby duty assignment.

Both the employee assigned standby duty and the substitute must together notify the supervisor, in writing, of the substitution and obtain approval. Notification must be not less than one week and no more than four weeks prior to the substitution.

Employees assigned to work standby duty shall carry a cell phone and any additional equipment necessary to respond to service calls or alarms.

ARTICLE VI PAY AND ALLOWANCES

A. WAGES

Effective July 1, 2019, the wage ranges for all bargaining unit positions shall be as set out in Appendix "A", which is incorporated into and subject to the provisions of this MOU.

B. COLA

Effective July 1, 2020, the wage schedule for classifications covered by this MOU shall be adjusted by 4%.

Effective July 1, 2021, the wage schedule for classifications covered by this MOU shall be adjusted by 3%.

Effective July 1, 2022, the wage schedule for classifications covered by this MOU shall be adjusted by 3%.

C. Y-RATED WAGES

Employees whose wage rate is above the current top step of the employee's job classification shall be "Y-rated" and shall not be eligible to receive additional salary increases until such time as the classification pay is established at a step or range higher than the employee's pay rate.

For the term of the MOU, each employee whose classification is "Y-Rated" shall not receive a wage increase but shall receive a lump sum amount up to the percentage



SEWER AUTHORITY MID-COASTSIDE

Staff Report

TO: Honorable Board of Directors
FROM: Kishen Prathivadi, General Manager
SUBJECT: **Attorney's Report**

Executive Summary

The purpose of this report is for information purposes only.

Fiscal Impact

There is no fiscal impact from this report.

Strategic Plan Compliance

The recommendation complies with the SAM Strategic Plan Goal 4: *"A well-organized, motivated, and well-trained staff with an effective Board of Directors are the most important keys to success for SAM."*

Background and Discussion/Report

This item is placed on the agenda to allow for any report from the Attorney.

Staff Recommendation

Staff recommends that the Board of Directors receive the report.

Supporting Documents

None

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	N. Marsh
	P. Dekker	J. Harvey	H. Rarback

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CALIFORNIA RIVER WATCH,
Plaintiff-Appellant,

v.

CITY OF VACAVILLE,
Defendant-Appellee.

No. 20-16605

D.C. No.
2:17-cv-00524-
KJM-KJN

ORDER AND
OPINION

Appeal from the United States District Court
for the Eastern District of California
Kimberly J. Mueller, Chief District Judge, Presiding

Argued and Submitted June 14, 2021
San Francisco, California

Filed July 1, 2022

Before: A. Wallace Tashima and Patrick J. Bumatay,
Circuit Judges, and Douglas L. Rayes,* District Judge.

Order;
Opinion by Judge Bumatay;
Concurrence by Judge Tashima

* The Honorable Douglas L. Rayes, United States District Judge for
the District of Arizona, sitting by designation.

SUMMARY**

Environmental Law

The panel filed (1) an order withdrawing majority and dissenting opinions and replacing them with a superseding opinion and concurring opinion, denying as moot a petition for rehearing en banc, and denying a motion for permissive intervention; (2) a superseding opinion affirming the district court's grant of summary judgment for defendant City of Vacaville in a citizen suit brought under the Resource Conservation and Recovery Act by California River Watch; and (3) a separate opinion concurring only in the judgment.

River Watch claimed that the City's water wells were contaminated by a carcinogen called hexavalent chromium. That carcinogen, River Watch said, was in turn transported to the City's residents through its water-distribution system. River Watch alleged that the City thus was contributing to the transportation of a solid waste in violation of RCRA, under which one definition of "solid waste" is "discarded material." The district court granted summary judgment on the ground that River Watch had not demonstrated how the City's water-processing activities could qualify as discarding "solid waste" under RCRA.

The panel concluded that River Watch sufficiently raised before the district court, and therefore did not forfeit, the argument that the hexavalent chromium was "discarded material" that allegedly had migrated through groundwater

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

from the “Wickes site,” where it had been dumped by operators of wood treatment facilities.

The panel held that to establish RCRA liability, a plaintiff must establish (1) that the defendant “ha[s] contributed to the past or [is] contributing to the present handling, treatment, transportation, or disposal” of certain material; (2) that this material constitutes “solid waste” under RCRA; and (3) that the solid waste “may present an imminent and substantial endangerment to health or the environment.”

The panel held that River Watch created a triable issue on whether the hexavalent chromium was “discarded material” and thus met RCRA’s definition of “solid waste.” The panel further held, however, that the City did not have the necessary connection to the waste disposal process to be held liable for “transportation.” The panel held that, based on the statutory text of RCRA, “transportation” means movement in direct connection with the waste disposal process, such as shipping waste to hazardous waste treatment, storage, or disposal facilities, rather than mere conveyance of hazardous waste. Under River Watch’s theory of liability, hexavalent chromium seeped through groundwater into the City’s wells, and the City incidentally carried the waste through its pipes when it pumped water to its residents. The panel concluded that, under this theory, the City could not be held liable for “transportation.”

Concurring only in the judgment, Judge Tashima wrote that he found the majority’s reasoning unpersuasive and did not join it its analysis, but he reached the same result under a different line of reasoning, concluding that under *Hinds Investments, L.P. v. Angioli*, 654 F.3d 846 (9th Cir. 2011), the City was not liable under RCRA because it was neither

actively involved in nor exercised control over the waste disposal process.

COUNSEL

Jack Silver (argued), Law Office of Jack Silver, Sebastopol, California; David J. Weinsoff, Law Office of David J. Weinsoff, Fairfax, California; for Plaintiff-Appellant.

Gregory J. Newmark (argued) and Shiraz D. Tangri, Meyers Nave, Los Angeles, California, for Defendant-Appellee.

Mitchell C. Tilner and David M. Axelrad, Horvitz & Levy LLP, Burbank, California, for Amici Curiae Association of California Water Agencies, Western Urban Water Coalition, Association of Metropolitan Water Agencies, and American Water Works Association.

Victor M. Sher, Matthew K. Edling, and Yumehiko Hoshijima, Sher Edling LLP, San Francisco, California, for Amici Curiae National League of Cities and League of California Cities.

Jared E. Knicley, Natural Resources Defense Council, Washington, D.C.; Francis W. Sturges Jr., Natural Resources Defense Council, Chicago, Illinois; for Amicus Curiae Natural Resources Defense Council.

ORDER

The majority and dissenting opinions filed on September 29, 2021, and published at 14 F.4th 1076, are withdrawn and replaced by the superseding opinion and concurring opinion filed concurrently with this order. The petition for rehearing en banc is denied as moot. Further petitions for rehearing may be filed within the time periods specified by the applicable rules. The pending motion for permissive intervention is denied [Dkt. No. 60].

OPINION

BUMATAY, Circuit Judge:

The Resource Conservation and Recovery Act (“RCRA”) seeks to minimize the dangers accompanying hazardous waste disposal. 42 U.S.C. § 6902(b).¹ To that end, the Act enables any person to sue any entity that is contributing to the transportation of dangerous solid waste. § 6972(a). In this case, a nonprofit organization called California River Watch claims that the City of Vacaville, California is violating the Act. River Watch claims that the City’s water wells are contaminated by a carcinogen called hexavalent chromium. That carcinogen, River Watch says, is in turn transported to the City’s residents through its water-distribution system. We must decide whether the City can be held liable under RCRA.

¹ Unless otherwise noted, all section (§) citations refer to Title 42 of the U.S. Code.

I.

Hexavalent chromium is a human carcinogen. When inhaled, consumed orally, or exposed to the skin, it is known to cause significant health risks, including cancer.

From about 1972 to 1982, companies like Pacific Wood Preserving and Wickes Forest Industries, Inc., operated wood treatment facilities in Elmira, California. It was common for waste products from these companies to contain hexavalent chromium. In particular, Wickes is known to have dumped a massive amount of hexavalent chromium in the ground near Elmira (“the Wickes site”).²

As a result, the Wickes site was identified and listed as a federal hazardous waste site in 1980. Several years later, the site was found to have contaminated three drinking-water wells nearby, including one at Elmira Elementary School. Samples of groundwater taken from the site at the time revealed hexavalent chromium levels thousands of times greater than California’s stated public health goals.

River Watch contends that this hexavalent chromium has since migrated through groundwater from the Wickes site to the Elmira Well Field, where the City draws much of its water. In fact, eight of the City’s eleven wells are in the field. According to River Watch’s expert, testing of potable water from the City’s well-heads and resident taps reveals elevated concentrations of hexavalent chromium. River Watch’s expert believes that hexavalent chromium moves from the Wickes site to the Elmira Well Field and ultimately

² We take these background facts from River Watch’s expert witness report, which the district court assumed to be true for purposes of the summary judgment motion.

into the homes of residents through the City's water-distribution system. Thus, River Watch charges that the City is "transporting and discharging water containing high amounts of hexavalent chromium" in a manner dangerous to residents.

River Watch sued the City under RCRA, alleging that the City is "contributing to" the "transportation" of hexavalent chromium, a "solid . . . waste which may present an imminent and substantial endangerment to health or the environment." § 6972(a)(1)(B). Because one definition of "solid waste" is "discarded material," the central dispute here is whether the hexavalent chromium was discarded. § 6903(27). To rebut River Watch's claim, the City offered evidence that the hexavalent chromium is naturally occurring and thus not a "discarded material."

The parties then cross-moved for summary judgment. The district court granted the City's motion and denied River Watch's motion because, as it explained, River Watch hadn't demonstrated how the City's water-processing activities could qualify as discarding "solid waste" under RCRA. Thus, the district court explained, RCRA's "fundamental requirement that the contaminant be 'discarded'" was not satisfied. River Watch appealed.

We review orders granting summary judgment *de novo*. *Jones v. Royal Admin. Servs., Inc.*, 887 F.3d 443, 447 (9th Cir. 2018). We review the evidence as a whole and in the light most favorable to River Watch as the party opposing summary judgment. *Id.* at 448. And we may affirm the district court on any ground supported by the record. *Kohler v. Bed Bath & Beyond of California, LLC*, 780 F.3d 1260, 1263 (9th Cir. 2015).

II.

River Watch's argument on appeal is simple: because the hexavalent chromium originates from the Wickes site, it is "discarded material" under RCRA, and thus the City is liable for its transportation through its water-distribution system. Before turning to the merits, we consider whether River Watch has forfeited this argument.

A.

According to the City, River Watch has forfeited its argument that the hexavalent chromium is "discarded material" from the Wickes site because it did not raise that theory in the district court. It's true that River Watch told the district court multiple times that the precise genesis of the hexavalent chromium was "irrelevant." And we agree that, if River Watch never presented the theory that the hexavalent chromium originated from the Wickes site before the district court, it could not now claim that the substance was "discarded material" under its interpretation of RCRA. *See Baccei v. United States*, 632 F.3d 1140, 1149 (9th Cir. 2011) (holding that we do not generally consider arguments raised for the first time on appeal).

But that's not the full story. Throughout its summary judgment papers, River Watch consistently maintained that the origin of the hexavalent chromium in the City's water was "anthropogenic," i.e., caused by humans. To be sure, River Watch did suggest that the hexavalent chromium could have come from multiple industrial or agricultural sources. But it also specifically highlighted the Wickes site as one of those sources. In fact, River Watch expressly contended that the Wickes facility was "likely" the source of the hexavalent chromium in the City's wells. Mimicking its argument on appeal, River Watch argued that "if *any* of the hexavalent

chromium in the City’s wells is from an industrial source, th[e]n that hexavalent chromium is a solid waste.” In the next breath, River Watch suggested that the Wickes site was the source of the hexavalent chromium—especially by showing a decline in hexavalent chromium levels at the Elmira Well Field after the Wickes facility closed down.

So, before the district court, River Watch claimed that the hexavalent chromium was anthropogenic but that the substance’s exact origin was irrelevant. On appeal, River Watch now focuses on the Wickes site as the source of the chemical. That’s ok, because it has always maintained that Wickes was the likely cause of the hexavalent chromium in the City’s water. Appealing only one of several alternative theories argued to the district court is hardly an uncommon practice and is not a basis to find forfeiture. *See Hansen v. Morgan*, 582 F.2d 1214, 1217 (9th Cir. 1978) (relying on an alternative theory on appeal when the “essence” of the argument was “directed at the same concerns” as the theory argued below). River Watch has therefore not forfeited this argument. We proceed to the merits.

B.

RCRA creates a private cause of action for citizens to seek relief against present or future risks of “imminent harms” to health or the environment. *Ecological Rts. Found. v. Pac. Gas & Elec. Co.*, 874 F.3d 1083, 1089 (9th Cir. 2017) (simplified). Under what we’ve called RCRA’s “endangerment provision,” *id.*, “any person” may file suit against:

[A]ny person, including the United States and any other governmental instrumentality or agency, . . . and including any past or present generator, past or present transporter, or past

or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment[.]

§ 6972(a)(1)(B). We’ve described these citizen suits as “expansive.” *Ecological Rts. Found.*, 874 F.3d at 1089.

From this text, we’ve gleaned three elements to establish RCRA liability: (1) that the defendant “ha[s] contributed to the past or [is] contributing to the present handling, treatment, transportation, or disposal” of certain material; (2) that this material constitutes “solid waste” under RCRA; and (3) that the solid waste “may present an imminent and substantial endangerment to health or the environment.” *Ctr. for Cmty. Action & Env’t Just. v. BNSF R. Co.*, 764 F.3d 1019, 1023 (9th Cir. 2014).

1.

We first consider whether River Watch has a cognizable legal theory that the hexavalent chromium in the City’s water is “solid waste.” RCRA defines “solid waste” as:

[A]ny garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations[.]

§ 6903(27). River Watch asserts that the hexavalent chromium is “solid waste” under the “discarded material . . . resulting from industrial, commercial, and agricultural operations” definition. *Id.*

We have discussed the meaning of “discarded material” before. We said “discard” means to “cast aside; reject; abandon; give up.” *Ecological Rts. Found. v. Pac. Gas & Elec. Co.*, 713 F.3d 502, 515 (9th Cir. 2013) (simplified) (“*Ecological Rts. Found. P*”). And therefore, we explained, whether a product has “served its intended purpose and is no longer wanted by the consumer” is a “key” consideration in determining whether a substance constitutes solid waste. *Id.* (simplified); *see also No Spray Coal., Inc. v. City of New York*, 252 F.3d 148, 150 (2d Cir. 2001) (“[M]aterial is not discarded until after it has served its intended purpose.”).

In *Ecological Rights Foundation I*, an environmental organization complained of the discharge of a wood preservative used to treat utility poles. 713 F.3d at 515. The organization alleged that the preservative contained a biocide that leaked from the poles into the environment. *Id.* We held that the preservative was not “discarded material” because it was “being put to its intended use as a general biocide” on utility poles and only escaped into the environment through normal wear and tear. *Id.* at 515–16. Thus, the preservative was neither “manufacturing waste by-product” nor material that the consumer “no longer want[ed] and ha[d] disposed of or thrown away.” *Id.* at 515. Instead, the wood preservative had been “washed or blown away . . . by natural means, as an expected consequence of the preservative’s intended use, [and thus] ha[d] not been ‘discarded.’” *Id.* at 516.

This case presents the converse. Through its expert, River Watch established that hexavalent chromium was

widely used in commercial wood preservation near the Elmira Well Field. And it was common practice at facilities like the Wickes site to drip dry wood treated with hexavalent chromium—allowing it to trickle directly into the soil. The expert also claimed that Wickes dumped a “massive amount” of hexavalent-chromium waste into the ground at the location.

If River Watch’s expert is credited, the hexavalent chromium meets RCRA’s definition of “solid waste.” When the hexavalent chromium was discharged into the environment after the wood treatment process, it was not serving its intended use as a preservative, and it did not result from natural wear and tear. Instead, the hexavalent chromium was leftover waste, abandoned and cast aside by the facilities’ operators. This means that under RCRA’s plain meaning, River Watch created a triable issue on whether the hexavalent chromium is “discarded material.”

2.

The next question, however, is whether the City is “contributing to the past or present . . . transportation” of hexavalent chromium. § 6972(a)(1)(B). River Watch argues that the City is liable because it has physically moved the waste by pumping it through its water-supply system. The City counters that “transportation” requires a direct connection to the waste disposal process—not coincidental movement of the waste through the City’s water supply.

We begin, as always, with the ordinary meaning of the statute. “Transportation” is literally defined as the “action or process of transporting; conveyance (of things or persons) from one place to another.” *Transportation*, Oxford English Dictionary (2d ed. 1989); *see also Transport*, American Heritage Dictionary (3d ed. 1992) (“To carry from one place

to another.”); *Transport*, Webster’s New Collegiate Dictionary (1977) (“[T]o transfer or convey from one place to another.”). So at first blush, the meaning of “transportation” seems to include any party who moves the waste. But that’s not the end of the story.

Sometimes looking at dictionary definitions in isolation can lead us astray. See *Bloate v. United States*, 559 U.S. 196, 205 n.9 (2010). A legislative term’s meaning may also be uncovered “by the specific context in which that language is used, and the broader context of the statute as a whole.” *Yates v. United States*, 574 U.S. 528, 537 (2015) (simplified). To be clear, we don’t look beyond a term’s ordinary meaning lightly; we may do so only where there is a “sound reason in the statutory text or context.” *FCC v. AT&T, Inc.*, 562 U.S. 397, 407 (2011). In this case, by looking to statutory context, we see that RCRA repeatedly uses “transportation” to describe movement in direct connection with the waste disposal process.

RCRA’s context makes clear that mere conveyance of hazardous waste cannot constitute “transportation” under the endangerment provision. For instance, RCRA authorizes the establishment of “[s]tandards applicable to *transporters* of hazardous waste.” (emphasis added). § 6923(a). At a minimum, these standards must include recordkeeping requirements, labeling requirements, compliance with a shipping manifest system, and restrictions that limit the locations where waste can be transported. § 6923(a)(1)–(4). It thus follows that “transporters” are not those who *happen* to move hazardous waste under any circumstance, but only to those “shipper[s]” of the waste to “hazardous waste treatment, storage, or disposal facilities.” § 6923(a)(4).

Congress used this more nuanced meaning of transportation throughout the statute. For example, RCRA’s

permitting provision requires a permit for owners and operators of facilities for the treatment, storage, or disposal of hazardous waste. § 6925. Applicants for the permits must provide certain information about the “composition, quantities and concentrations” of waste to be “transported” and the “site at which such . . . waste . . . be disposed of, treated, transported to, or stored.” § 6925(b)(1)–(2). At the same time, RCRA’s inspection provision allows authorized agents to (1) obtain relevant records from “any person who . . . transports” hazardous waste, (2) inspect “any establishment” where waste is “transported from,” and (3) collect samples from their transportation containers. § 6927(a). These meticulous permitting and inspection requirements do not purport to apply to any party that indirectly moves waste. After all, this regulatory regime would be unworkable if it applied to waste that seeps through groundwater and inadvertently makes its way into a water supply. Instead, transportation refers to the specific task of moving waste in connection with the waste disposal process.

RCRA’s criminal provisions reinforce the position that “transportation” refers to the movement of waste directly connected to the waste disposal process. RCRA’s criminal provisions crack down on a variety of conduct that takes place within the waste disposal process. § 6928(d). First, RCRA makes it unlawful for any person to “knowingly transport[]” hazardous waste “to a facility which does not have a permit.” § 6928(d)(1). RCRA also makes it illegal for parties who “knowingly . . . transport[]” hazardous waste to destroy “any record, application, manifest, report or other document” or to “knowingly transport[] without a manifest.” § 6928(d)(4)–(5). A “manifest” is “the form used for identifying the . . . destination of hazardous waste during its *transportation* from the point of generation to the point of disposal, treatment or storage.” § 6903(12) (emphasis

added). In combination, these provisions make clear that transportation does not involve the incidental movement of hazardous waste, but refers to the active movement of waste as part of the waste disposal process. Otherwise, why refer to manifests, permits, and the like?

RCRA's structure and applicable regulations also emphasize this direct connection between "transportation" and the waste disposal process. The regulations begin by defining "transportation" as the "movement of hazardous waste by air, rail, highway, or water." 40 C.F.R. § 260.10. But under multiple RCRA provisions and implementing regulations, "transporters" of hazardous waste must follow a series of calibrated steps—all designed to move waste from its source to a permitted facility for treatment, storage, or disposal. *See* 40 C.F.R. § 262.20 (describing the manifest requirements in moving waste from its source to a permitted facility). To start, a waste "transporter" must register with the EPA. *Id.* § 263.11. Then the "transporter" must coordinate with a waste generator to arrange a pickup date and log the information into a shipping manifest system. *Id.* §§ 262.23(a)(2), 263.20. And the rules specifically require waste "transporter[s]" to provide the generator with a signature certifying the date of acceptance. *Id.* § 263.20(a)(2). Then, on the relevant date, the "transporter" must pick up the waste at the designated site and deliver it to a permitted facility. *Id.* § 263.21. So, as the City accurately puts it, RCRA establishes a "cradle to grave" framework for the transport and disposal of hazardous waste. And as part of this framework, waste "transporters" play a specific role in moving waste from its origin to its disposal facility.

And this specific meaning of "transportation" remains true in the solid waste context. RCRA uses "transportation" of solid waste to require a connection to the waste disposal

process. First, RCRA’s statutory purpose expressly connects solid waste transportation with waste disposal systems. *See* 42 U.S.C. § 6902(a)(8) (discussing the objective of establishing “guidelines for solid waste collection, transport, . . . and disposal practices and systems”). RCRA also provides nearly the exact same definition for “hazardous waste management” and “solid waste management.” *Compare id.* § 6903(7), *with id.* § 6903(28). These provisions contemplate the “control” and “systemic administration” of “transportation” and “disposal” processes for hazardous and solid waste. *See id.* §§ 6903(7), 6903(28). RCRA also directly connects “transportation” and disposal in describing the components of a solid waste management facility. *Id.* § 6903(29)(C) (defining it as “any facility for the . . . transportation . . . or disposal, of solid wastes, including hazardous wastes”). The better reading of RCRA is that waste transportation—whether of hazardous or solid waste—must be connected to the waste disposal process.

Most significantly, the endangerment provision itself strongly implies a more targeted meaning of “transportation.” Again, the endangerment provision applies to “[a]ny person, including . . . [any] past or present *transporter* . . . who has contributed or who is contributing to the past or present . . . *transportation* . . . of any solid or hazardous waste.” § 6972(a)(1)(B) (emphasis added). So Congress used “transportation” after reference to a “transporter” of waste. And as we have just discussed, the term “transporter” carries a specific connection to the waste disposal process throughout RCRA. In general, “a word is given more precise content by the neighboring words with which it is associated.” *United States v. Williams*, 553 U.S. 285, 294 (2008). Here, the proximity between “transporter” and “transportation” suggests that the terms share similar

meanings. In other words, Congress’s reference to a “transporter” of waste narrows the context of what it means to “transport[]” waste.

Indeed, in the endangerment provision, Congress established liability for those involved in the full range of the waste disposal process—“generator[s],” “transporter[s],” and “owner[s] or operator[s] of a treatment, storage, or disposal facility.” § 6972(a)(1)(B). Thus, the endangerment provision creates incentives for participants in the waste disposal process to protect health and the environment—but it’s not a catchall environmental protection statute. We’ve already said this in the context of “disposal” liability under the endangerment provision. *See Hinds Invs., L.P. v. Angioli*, 654 F.3d 846, 851 (9th Cir. 2011). There, we held that “disposal” in the endangerment provision “requires that a defendant be actively involved in or have some degree of control over the waste disposal process to be liable under RCRA.” *Id.* So, like *Hinds*, we conclude that the best reading of RCRA is that the “transportation” at issue must also be directly connected to the waste disposal process—such as shipping waste to hazardous waste treatment, storage, or disposal facilities.³

³ We acknowledge our previous opinion held that the ordinary meaning of “transportation” did not require a direct connection to the waste disposal process. *California River Watch v. City of Vacaville*, 14 F.4th 1076, 1081–82 (9th Cir. 2021). Yet, as Justice Robert Jackson explained long ago, there is “no reason why [we] should be consciously wrong today, because [we were] unconsciously wrong yesterday.” *Massachusetts v. United States*, 333 U.S. 611, 639–40 (1948) (Jackson, J., dissenting). The City’s further briefing on the context and structure of RCRA’s provisions has persuaded us that we must look beyond dictionary definitions to determine the meaning of “transportation” in the endangerment provision. By doing so, we better interpret RCRA as “a

Turning to the facts here, the City does not move hexavalent chromium in direct connection with its waste disposal process. Under River Watch’s theory of liability, hexavalent chromium seeps through groundwater into the City’s wells and the City incidentally carries the waste through its pipes when it pumps water to its residents. River Watch doesn’t allege that the City transports the hexavalent chromium as part of the City’s waste disposal process. Indeed, no evidence suggests that the City is a “transporter” of waste under RCRA’s definitions. As a result, we conclude that the City does not have the necessary connection to the waste disposal process to be held liable for “transportation” under § 6972(a)(1)(B).

3.

Our concurring colleague agrees that transporter liability under the endangerment provision must be connected to the waste disposal process, but reaches that conclusion based on precedent and an application of the absurdity canon rather than the statutory text. Concurrence at 26–28 (citing *Hinds*, 654 F.3d at 852). We disagree with this approach for multiple reasons.

First, *Hinds* doesn’t control this case. *Hinds* addresses the meaning of “contribution” to the “disposal” of waste. *Hinds*, 654 F.3d at 850. Interpreting the statutory text, we held that “[c]ontribution” requires a more active role with a more direct connection to the waste,” such as “[h]andling the

harmonious whole” and avoid giving inconsistent meaning to the term “transportation.” See *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000). Because it is “never too late to surrender former views to a better considered position,” *South Dakota v. Wayfair*, 138 S. Ct. 2080, 2100 (2018) (Thomas, J., concurring), we reverse our prior holding in favor of the better reading of RCRA.

waste, storing it, treating it, transporting it, or disposing of it.” *Id.* at 851. Thus, the *Hinds* plaintiffs could not hold the manufacturers of dry-cleaning equipment liable for waste that was generated by the machine and then improperly disposed by others. *Id.* at 852. Our case does not involve “disposal” liability—River Watch alleges that the City is a past or present “transporter” of the waste. While instructive here, *Hinds* does not govern.

Second, there is no reason to apply the absurdity canon. In addition to relying on *Hinds*, the concurrence reaches its interpretation of RCRA based on what “makes eminent sense,” what won’t “produce nonsensical results,” and what won’t punish “innocent parties.” Concurrence at 26–28. “It is true that interpretations of a statute which would produce absurd results are to be avoided if alternative interpretations consistent with the legislative purpose are available.” *Griffin v. Oceanic Contractors, Inc.*, 458 U.S. 564, 575 (1982). But this interpretative canon will “override the literal terms of a statute only under rare and exceptional circumstances.” *Crooks v. Harrelson*, 282 U.S. 55, 60 (1930). And because the absurdity canon is used to justify a departure from the literal terms of a statute, we first must engage with and interpret RCRA’s text—a crucial step the concurrence skips because of its dispositive reliance on *Hinds*. For reasons explained in this opinion, we conclude based on the RCRA’s text that the “transportation” at issue in the endangerment provision must be directly connected to the waste disposal process, which is an interpretation that does not implicate the absurdity canon.

The concurrence disagrees with our textual analysis, particularly reading “transportation” in the context of RCRA as a whole. But the concurrence acknowledges that “transportation” has a “specialized meaning” in some parts

of RCRA, yet curiously it doesn't say what it means in § 6972(a)(1)(B). Concurrence at 32. In other words, the concurrence does not provide its own view of what "transportation" actually means in the endangerment provision—let alone a meaning that contradicts our interpretation. To apply the absurdity canon without first interpreting the meaning of "transportation" puts the cart before the horse.

Lastly, the concurrence takes an unduly narrow view of when we look to statutory context and structure, suggesting we can't use context across subchapters. Concurrence at 30. But, as the Supreme Court has explained, "[i]n ascertaining the plain meaning of the statute, the court must look to the particular statutory language at issue, as well as the language and design of the statute as a whole." *K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988). Congress chose to use "transportation," "transporter," and "transport" throughout RCRA, and "a word or phrase is presumed to bear the same meaning throughout a text" even "when different sections of an act or code are at issue." Antonin Scalia & Bryan A. Garner, *Reading Law* 156–57 (2012).

III.

Because the City cannot be held liable under RCRA, we affirm the district court's grant of summary judgment for the City.

AFFIRMED.

TASHIMA, Circuit Judge, concurring only in the judgment:

Defendant City of Vacaville (the “City”) draws groundwater from wells and distributes it to City residents. Although the City’s water complies with federal and state drinking water standards, the water contains hexavalent chromium, which Plaintiff California River Watch (“River Watch”) contends is a danger to human health. River Watch does not assert that the City did anything to cause the contamination. On the contrary, River Watch concedes that the City is the victim here: the alleged source of the hexavalent chromium is a former wood treatment plant located a mile or more from the City’s wells. Nevertheless, River Watch contends that, by drawing water from its wells, the City is “contributing to the . . . handling, storage, treatment, transportation, or disposal of . . . solid . . . waste,” in violation of the Resource Conservation and Recovery Act of 1976 (“RCRA”), 42 U.S.C. § 6972(a)(1)(B).

I reject River Watch’s argument. In *Hinds Investments, L.P. v. Angioli*, 654 F.3d 846, 851 (9th Cir. 2011), we held that § 6972(a)(1)(B) “requires that a defendant be actively involved in or have some degree of control over the waste disposal process to be liable under RCRA.” Here, it is conceded that the City had no involvement whatsoever in the waste disposal process. Accordingly, under *Hinds*, the City is not liable under the RCRA. Because the majority reaches that result, albeit under a line of reasoning with which I cannot agree, I concur only in the judgment.

I.

The City supplies water to residential and commercial customers. This water comes from two sources: surface waters and wells. The City operates a total of eleven wells, including eight lying within the Elmira Well Field. The City

draws water from these wells, processes it, and delivers it to its water customers.

The City's water complies with all federal and state drinking water standards, including Safe Drinking Water Act standards promulgated by the U.S. Environmental Protection Agency ("EPA"). The EPA's maximum contaminant level for total chromium in drinking water is 0.1 milligram per liter or 100 parts per billion. California's maximum contaminant level for total chromium is 0.05 milligram per liter or 50 parts per billion. The City complies with both standards. The federal and California drinking water standards contain no separate standard for hexavalent chromium.

The City's drinking water contains hexavalent chromium. River Watch contends that the source of the hexavalent chromium in the City's drinking water is the Wickes site, a former wood treatment facility that, from 1972 to 1982, conducted lumber treatment operations using wood preservatives that contained arsenic, chromium, and copper. The Wickes site is located between 1.4 and 3.3 miles from the Elmira Well Field. River Watch asserts that hexavalent chromium from the Wickes site migrated via groundwater to the Elmira Well Field, where it contaminated the City's wells. The City disputes River Watch's contention that the Wickes site is the source of the hexavalent chromium found in the City's wells, but on summary judgment we view the evidence in the light most favorable to the nonmoving party. *Nolan v. Heald Coll.*, 551 F.3d 1148, 1154 (9th Cir. 2009).

Although the City's water complies with federal and state drinking water standards, River Watch believes those standards are too lenient and that the City's water poses a danger to human health. River Watch, however, has not

challenged the EPA's standards through the normal course. The Safe Drinking Water Act requires the EPA to "review and revise, as appropriate, each national primary drinking water regulation" at least once every six years, 42 U.S.C. § 300g-1(b)(9), and, if the EPA fails to discharge this duty, "any person may commence a civil action . . . against the [EPA] Administrator," *id.* § 300j-8(a)(2). Rather than pursuing relief under the Safe Drinking Water Act, River Watch commenced this action against the City under the RCRA, a statute focused not on drinking water standards, but on "the treatment, storage, and disposal of solid and hazardous waste." *Meghrig v. KFC W., Inc.*, 516 U.S. 479, 483 (1996). The district court granted summary judgment to the City, and River Watch appealed. The majority affirms the district court. For the reasons set forth below, I would affirm as well, albeit for different reasons.

II.

The RCRA's citizen-suit provision authorizes a civil action against any person "who has contributed . . . to the . . . handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment." 42 U.S.C. § 6972(a)(1)(B).¹ To establish a

¹ Under § 6972(a)(1)(B),

any person may commence a civil action on his own behalf . . . (B) against any person, including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution, and including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or

violation under this provision, we have held that a plaintiff must prove three elements:

(1) the defendant has been or is a generator or transporter of solid or hazardous waste, or is or has been an operator of a solid or hazardous waste treatment, storage or disposal facility; (2) the defendant has “contributed” or “is contributing to” the handling, storage, treatment, transportation, or disposal of solid or hazardous waste; and, (3) the solid or hazardous waste in question may present an imminent and substantial endangerment to health or the environment.

Ecological Rts. Found. v. Pac. Gas & Elec. Co., 713 F.3d 502, 514 (9th Cir. 2013).²

who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment.

42 U.S.C. § 6972(a)(1)(B). A related provision, § 6973(a), authorizes the EPA to bring similar suits.

² I have some doubts about the accuracy of the first element’s narrow definition. The statute authorizes suit against “any person, . . . *including* any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility.” 42 U.S.C. § 6972(a)(1)(B) (emphasis added). In interpreting statutes, we ordinarily presume that “[t]he verb *to include* introduces examples, not an exhaustive list.” Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 132 (2012). There is no need to revisit this question here, however.

In *Hinds*, we considered the second of these elements. The case involved groundwater contaminated by perchloroethylene (“PCE”), a hazardous substance used in dry cleaning. 654 F.3d at 849. The defendants were the manufacturers of dry cleaning equipment. *Id.* at 848. The plaintiffs argued that the defendants had contributed to the disposal of PCE, in violation of the RCRA, “by the design of machines that generated waste and by the instructions they gave on use of these machines.” *Id.* The plaintiffs alleged, for instance, that the defendants’ design manuals “instructed users that they should dispose of contaminated waste water in drains or open sewers.” *Id.* at 849.

We examined the statutory text, but recognized that the RCRA’s text “does not itself define what acts of contribution are sufficient to trigger liability.” *Id.* at 850. We looked to the dictionary definition of the word “contribute” but refused “to give wide breadth to this definition.” *Id.* We said:

We decline to give such an expansive reading to the term “contribute.” Instead, . . . we decide that the statutory language permitting suits against “any person . . . who has contributed or who is contributing” to the handling, storage, treatment, transportation or disposal of hazardous waste, § 6972(a)(1)(B), requires that a defendant be actively involved in or have some degree of control over the waste disposal process to be liable under the RCRA.

Id. at 851 (second alteration in original). Applying this standard to the facts of the case, we held that the manufacturers were not liable under the RCRA for contributing to the disposal of PCE:

We hold that to state a claim predicated on RCRA liability for “contributing to” the disposal of hazardous waste, a plaintiff must allege that the defendant had a measure of control over the waste at the time of its disposal or was otherwise actively involved in the waste disposal process. Mere design of equipment that generated waste, which was then improperly discarded by others, is not sufficient.

Id. at 852.

Hinds controls here. Like the plaintiffs in *Hinds*, River Watch has not shown that the City “had a measure of control over the waste at the time of its disposal or was otherwise actively involved in the waste disposal process.” *Id.* On the contrary, the City had nothing to do with the waste disposal process at issue here. That process involved a single step: the operators of the Wickes facility discarded hexavalent chromium on site. Subsequent events—the alleged migration of the contaminant to the Elmira Well Field, the contamination of the City’s wells, and the City’s drawing of groundwater from its wells—were not, under any conceivable theory, part of that process. Just as the defendants’ actions in *Hinds* preceded the waste disposal process, here the City’s actions postdated that process.

Hinds’ reading of the statutory text—limiting liability to those involved in the waste disposal process—makes eminent sense. Indeed, any other reading of the RCRA would produce nonsensical results. If the City is transporting solid waste, then so too is the Vacaville homeowner watering plants with a garden hose or handing a glass of tap water to a friend. And so too is a motorist who

picks up a few grains of soil while driving on a dirt road near the Wickes site. Under River Watch's reading of the statute, as the City explains, "an entire aquifer contaminated by a solid waste site becomes one gigantic mass of solid waste."³ If the City is transporting solid waste, then so too is every homeowner, farmer, rancher, municipal water authority, or agricultural irrigation district drawing groundwater or water from a contaminated aquifer.

Nothing in the RCRA's legislative history or in the case law supports River Watch's unduly broad interpretation of the statute. Looking to legislative history, there is no question that Congress, in adopting the RCRA, was concerned about the problem of solid waste contaminating groundwater. *See* H.R. Rep. No. 94-1491, at 4, 18, 20, 73, 89 (1976), *reprinted in* 1976 U.S.C.C.A.N. 6238, 6242, 6255–56, 6258, 6312, 6325; H.R. Rep. No. 98-198, at 20, 31, 63 (1984), *reprinted in* 1984 U.S.C.C.A.N. 5576, 5578, 5589–90, 5622. But Congress was focused on entities that *caused* contamination of groundwater, not the victims of such contamination. *See id.* River Watch's reliance on case law fares no better. As the City points out, the authorities River Watch cites "were cases against the defendant entities that allegedly disposed of solid waste in the first instance." River Watch cites no case in which "innocent parties whose products or property were allegedly affected by the industrial defendants' waste disposal" were subject to RCRA liability.

³ Although aquifers vary in size, some are enormous. The Ogallala Aquifer, for example, is a vast, 174,000 square-mile groundwater reservoir that supplies almost one-third of America's agricultural groundwater and drinking water for more than 1.8 million people. <https://www.livescience.com/39625-aquifers.html> (last visited May 5, 2022).

Imposing RCRA liability on the basis argued for by River Watch would be unprecedented and unwarranted.

The majority's suggestion that I am relying on the absurdity doctrine, Maj. Op. at 19, is mistaken. My analysis is based on *Hinds*, which in turn is based on the plain meaning of the statutory text. *See Hinds*, 654 F.3d at 850–52. It is true that I point out that River Watch's alternative interpretation of the statute would produce nonsensical results. *Supra*, at 26. But this observation is simply an additional reason to *follow* the plain meaning of the statutory text as we interpreted it in *Hinds*. The absurdity doctrine applies when a court *departs* from the plain meaning of a statute. *See, e.g., Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004); *Taylor v. Dir., Off. of Workers Comp. Programs*, 201 F.3d 1234, 1241 (9th Cir. 2000). That doctrine, therefore, plays no part in my analysis.

The majority's conclusion that *Hinds* is not controlling here, Maj. Op. at 18, is also mistaken. The majority distinguishes *Hinds* on the ground that the plaintiffs in that case were seeking to hold the defendant manufacturers liable for contributing to the *disposal* of hazardous waste, whereas here River Watch is attempting to hold the City liable to contributing to the *transportation* of solid waste. *Hinds*, however, clearly applies to this case. This is apparent from the plain language of our decision in *Hinds*:

[W]e decide that the statutory language permitting suits against “any person . . . who has contributed or who is contributing” to the handling, storage, treatment, *transportation* or disposal of hazardous waste, § 6972(a)(1)(B), requires that a defendant be actively involved in or have some degree of

control over the waste disposal process to be liable under RCRA.

Hinds, 654 F.3d at 851 (emphasis added) (quoting 42 U.S.C. § 6972(a)(1)(B)); *id.* (“The statutory prohibition on ‘contributing to’ speaks in active terms about ‘handling, storage, treatment, *transportation*, or disposal’ of hazardous waste.” (emphasis added)); *id.* (“‘Contributing’ requires a more active role with a more direct connection to the waste, such as by handling it, storing it, treating it, *transporting* it, or disposing of it.” (emphasis added)). It is also apparent from our mode of analysis. Our holding was based on the meaning of the word “contribute,” which modifies both “disposal” and “transportation.” *Id.* at 850–51. Like *Hinds*, this case too is a “contribution” case. Finally, the principle underlying *Hinds*—that RCRA liability must have some sensible outer limit—applies at least as strongly to those accused of transporting waste as it does to those accused of disposing of it. *Hinds*, it bears emphasizing, is the law of this circuit. In addition, it is grounded in the statutory text, places sensible limits on RCRA liability, is readily administrable, and reaches the correct result in this case.

This case is controlled by *Hinds*’ holding that § 6972(a)(1)(B) “requires that a defendant be actively involved in or have some degree of control over the waste disposal process to be liable under RCRA.” 654 F.3d at 851. Here, the City had no involvement in or control over that process. I would affirm summary judgment for the City on that ground.

III.

The majority reaches the same result through other means. Because I find the majority’s reasoning

unpersuasive, I concur in the result but, respectfully, do not join in the majority's analysis.

The majority begins by searching the RCRA's statutory text (and regulations) to identify uses of the words "transporter" and "transportation." Maj. Op. at 12–13 (citing 42 U.S.C. §§ 6923, 6925, 6927, 6928, 40 C.F.R. §§ 260.10, 262.20, 262.23, 263.11, 263.20, 263.21). Next, the majority examines these uses, and draws from them the conclusion that, when the RCRA uses the word transportation, it uniformly does so to refer "to the specific task of moving waste in connection with the waste disposal process." Maj. Op. at 14. Finally, because RCRA uses this meaning of transportation "throughout the statute," Maj. Op. at 13, the majority concludes that we can confidently assign this same meaning to the use of the word transportation in § 6972(a)(1)(B).

The majority's analysis is flawed for several interrelated reasons. First, the majority has not shown that the word transportation (or its variants) carries the same meaning "throughout the statute," Maj. Op. at 13, or "throughout RCRA," Maj. Op. at 16. Although the majority looks to a number of uses of the word "transportation" in the statute and regulations, each of those uses pertains to a single portion of the statute (Subtitle C) and a particular subject (the regulation of hazardous waste). Maj. Op. at 13–16 (citing 42 U.S.C. §§ 6923, 6925, 6927, 6928, 40 C.F.R. §§ 260.10, 262.20, 262.23, 263.11, 263.20, 263.21). Notably, none of the majority's uses arise under Subtitle D (governing the regulation of solid waste) or Subtitle G (the home of § 6972). There is, in short, no evidence that the word transportation carries the same meaning throughout the statute.

This might not be a problem if Subtitle C and § 6972(a)(1)(B) used identical language: "The normal rule

of statutory construction assumes that ‘identical words used in different parts of the same act are intended to have the same meaning.’” *Sorenson v. Sec’y of Treasury*, 475 U.S. 851, 860 (1986) (quoting *Helvering v. Stockholms Enskilda Bank*, 293 U.S. 84, 87 (1934)). Subtitle C and § 6972(a)(1)(B), however, do not use identical words. Whereas Subtitle C defines the term “transportation . . . of *hazardous waste*,” 40 C.F.R. § 260.10 (emphasis added), the citizen-suit provision uses the term “transportation . . . of any *solid or hazardous waste*.” 42 U.S.C. § 6972(a)(1)(B) (emphasis added). Because these terms are distinct, we may not presume that they carry the same meaning.⁴

There is reason to believe, moreover, that Subtitle C’s definition of transportation of hazardous waste does *not* extend beyond Subtitle C. For purposes of Subtitle C, the terms transportation of hazardous waste and transporter of hazardous waste are defined by 40 C.F.R. § 260.10: “[t]ransportation means the movement of hazardous waste by air, rail, highway, or water” and “[t]ransporter means a person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water.” But this regulation also makes clear that these definitions apply solely to Subtitle C—governing the regulation of hazardous waste. *See id.* (“When used in parts 260 through 273 of this chapter, the following terms have the meanings given below . . .”).

It is no surprise that these definitions are limited to Subtitle C. Subtitle C addresses a specific problem—the comprehensive regulation of transporters of *hazardous waste*. *See* 42 U.S.C. § 6923; 40 C.F.R. §§ 263.10–.31. That

⁴ Both provisions use the word “transportation,” but Subtitle C does not define the term transportation in isolation. It defines the transportation of *hazardous waste*. 40 C.F.R. § 260.10.

context is wholly unrelated to the transportation of solid waste, which is not similarly regulated, and § 6972(a)(1)(B), which imposes civil liability on persons contributing to the transportation of *any* solid waste, not just hazardous waste.⁵

In sum, the majority is correct to note that, under Subtitle C, the words “transportation of hazardous waste” have a specialized meaning. But the majority errs in presuming that that meaning applies to § 6972(a)(1)(B). First, the majority has not pointed to any examples in which the statute uses this specialized meaning outside of Subtitle C and the regulation of hazardous waste. The majority’s assertion that the statute employs that meaning “throughout RCRA,” Maj. Op. at 16, is therefore mistaken. Second, by § 260.10’s express terms, Subtitle C’s specialized definition of transportation applies only to Subtitle C, not to the statute more broadly. 40 C.F.R. § 260.10. Third, Subtitle C and § 6972(a)(1)(B) use different language and serve different purposes. There is no reason to extend a specialized definition applicable to the transportation of hazardous waste to a civil liability provision applicable to the transportation of solid waste generally. In short, Subtitle C does not supply a RCRA-wide definition of “transportation.”

Instead of looking to Subtitle C’s specialized and context-specific definition of transportation, I would resolve this appeal under *Hinds*, 654 F.3d at 851. Because the City is neither actively involved in nor exercises control over the waste disposal process, it is not liable under § 6972(a)(1)(B). Accordingly, I concur only in the judgment.

⁵ As the majority notes, the RCRA’s criminal provisions also are limited to *hazardous* wastes. *See* Maj. Op. at 14–15.

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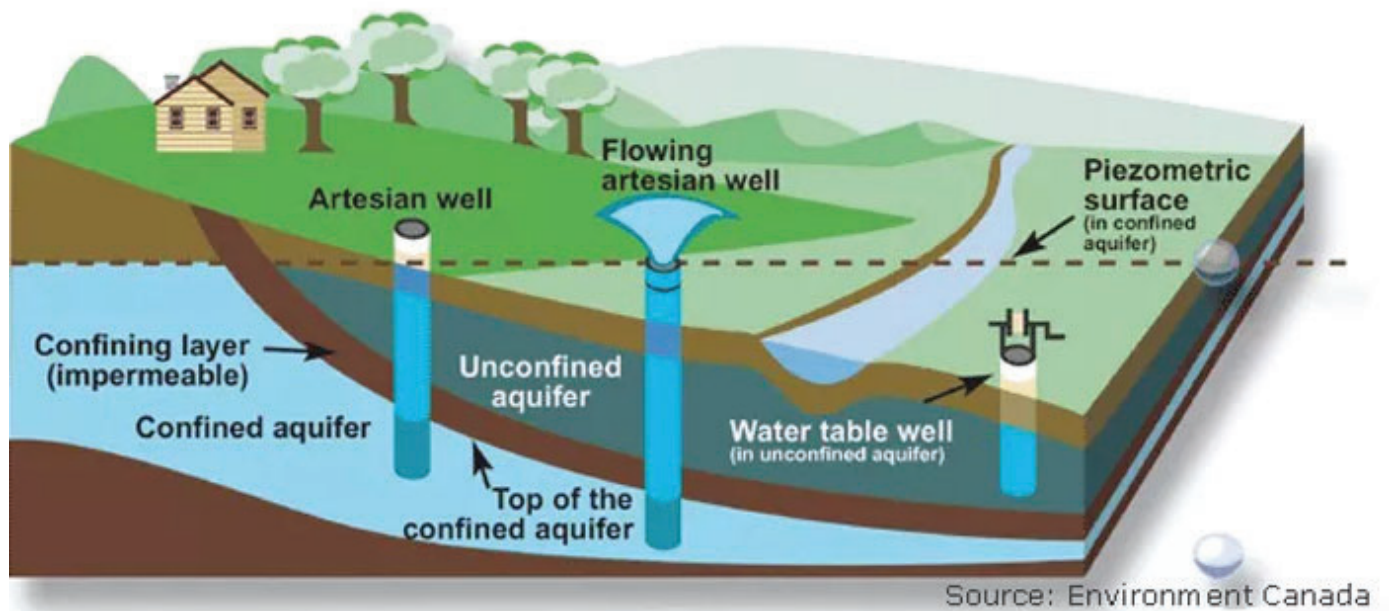
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Aquifers: Underground Stores of Freshwater

By [Becky Oskin](#) published October 17, 2018



cited in California River Watch v. City of Vacaville
No. 20-16605 archived on June 27, 2022




(Image credit: Environment Canada / USGS)

Aquifers are underground layers of rock that are saturated with water that can be brought to the surface through natural springs or by pumping.

The groundwater contained in aquifers is one of the most important sources of water on Earth: About 30 percent of our liquid freshwater is groundwater, according to the [National Oceanic and Atmospheric Administration \(NOAA\)](#). The rest is found at the surface in streams, lakes, rivers and wetlands. Most of the world's freshwater — about 69 percent — is locked away in glaciers and ice caps. The U.S. Geological Survey website has a [map of important aquifers](#) in the contiguous United States.

[Groundwater](#) can be found in a range of different types of rock, but the most productive aquifers are found in porous, permeable rock such as sandstone, or the open cavities and caves of limestone aquifers. Groundwater moves more readily through these materials, which allows for faster pumping and other methods of extracting the water. Aquifers can also be found in regions where the rock is made of denser material — such as granite or basalt — if that rock has cracks and fractures.

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"Aquifers come in many shapes and sizes, but they are really a contained, underground repository of water," said Steven Phillips, a hydrologist with the U.S. Geological Survey (USGS) in Sacramento, California.

Dense, impermeable material like clay or shale can act as an "aquitard," i.e., a layer of rock or other material that is almost impenetrable to water. Through groundwater might move through such material, it will do so very slowly (if at all). Faults or mountains can also block the movement of fresh groundwater, as can the ocean, Phillips said.

An aquitard can trap groundwater in an aquifer and create an artesian well. When groundwater flows beneath an aquitard from a higher elevation area to a lower elevation, such as from a mountain slope to a valley floor, the pressure on the groundwater can be enough to force the water out of any well that's drilled into that aquifer. Such wells are known as [artesian wells](#), and the aquifers they tap into are called artesian aquifers or confined aquifers.

How groundwater moves

When new surface water enters an aquifer, it "recharges" the groundwater supply. Recharge primarily happens near mountains, and groundwater usually flows downward from mountain slopes toward streams and rivers by the force of gravity,

Phillips said. Depending on the density of the rock and soil through which groundwater moves, it can creep along as slowly as a few centimeters in a century, according to [Environment Canada](#). In other areas, where the rock and soil are looser and more permeable, groundwater can move several feet in a day.

The water in an aquifer can be held beneath the Earth's surface for many centuries: Hydrologists estimate that the water in some aquifers is more than 10,000 years old (meaning that it fell to the Earth's surface as rain or snow roughly 6,000 years before Egypt's Great Pyramid of Giza was built). The [oldest groundwater ever found](#) was discovered 2 miles (2.4 km) deep in a Canadian mine and trapped there between 1.5 and 2.64 billion years ago.

But the deeper one digs for water, the saltier the liquid becomes, Phillips said. "Groundwater can be very, very deep, but eventually it's a brine," he said. "For freshwater, the depths are very limited."

Much of the drinking water on which society depends is contained in shallow aquifers. For example, the Ogallala Aquifer — a vast, 174,000 square-mile (450,000 square kilometers) groundwater reservoir — supplies almost one-third of America's agricultural groundwater, and more than 1.8 million people rely on the Ogallala Aquifer for their drinking water.

Similarly, Texas gets almost 60 percent of its water from groundwater; in Florida, groundwater supplies more than 90 percent of the state's freshwater. But these important sources of freshwater are increasingly endangered.



Agriculture and a growing human population place significant demands on dwindling aquifers. (Image credit: Shutterstock)

Threats to aquifers

By 2010, about 30 percent of the Ogallala Aquifer's groundwater had been tapped, according to a [2013 study from Kansas State University](#). Some parts of the Ogallala Aquifer are now dry, and the water table has declined more than 300 feet in other areas. More than [two-thirds of this Ogallala aquifer groundwater](#) could be drained in the next several decades, the study found.

"The water levels have just been going down, down, down," Phillip said. "A lot of that system was recharged 10,000 years ago during the most recent glacial period, and what we're doing now is mining the water. We're taking out old water that isn't being replenished."

The same problem is increasingly found throughout the world, especially in areas where [a rapidly growing population is placing greater demand on limited aquifer resources](#) — pumping can, in these places, exceed the aquifer's ability to recharge its groundwater supplies.

When pumping of groundwater results in a lowering of the water table, then the water table can drop so low that it's below the depth of a well. In those cases, the well "runs dry" and no water can be removed until the groundwater is recharged — which, in some cases, can take hundreds or thousands of years.

When the ground sinks because of groundwater pumping, it is called [subsidence](#). In California's southern San Joaquin Valley, where farmers rely on wells for irrigation, the land surface settled 28 feet (8.5 meters) between the 1920s and the 1970s, [according to NASA](#), which uses satellite data to track subsidence.

"Land subsidence is a threat to aquifers and also to infrastructure on the surface," Phillips said.

In addition to groundwater levels, the quality of water in an aquifer can be threatened by saltwater intrusion (a particular problem in coastal areas), biological contaminants such as manure or septic tank discharge, and industrial chemicals such as pesticides or petroleum products. And once an aquifer is contaminated, it's notoriously difficult to remediate.

Additional resources:

- The U.S. Water Monitor is a daily ["water health" report](#) that summarizes federal water information.
- The USGS provides information on [water quality](#) in U.S. aquifers.
- The USGS National Water Information System's [interactive map of nationwide water data](#).

This article was updated on Oct. 17, 2018 by Live Science Associate Editor, Tia Ghose.



Becky Oskin

Contributing Writer



*cited in California River Watch v. City of Vacaville
No. 20-16605 archived on June 27, 2022*

Becky Oskin covers Earth science, climate change and space, as well as general science topics. Becky was a science reporter at Live Science and The Pasadena Star-News; she has freelanced for New Scientist and the American Institute of Physics. She earned a master's degree in geology from Caltech, a bachelor's degree from Washington State University, and a graduate certificate in science writing from the University of California, Santa Cruz.

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No. 20-16605 archived on June 27, 2022

United States Court of Appeals for the Ninth Circuit

Office of the Clerk
95 Seventh Street
San Francisco, CA 94103

Information Regarding Judgment and Post-Judgment Proceedings

Judgment

- This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)

- The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate ECF system or, if you are a pro se litigant or an attorney with an exemption from using appellate ECF, file one original motion on paper.

Petition for Panel Rehearing (Fed. R. App. P. 40; 9th Cir. R. 40-1)

Petition for Rehearing En Banc (Fed. R. App. P. 35; 9th Cir. R. 35-1 to -3)

(1) A. Purpose (Panel Rehearing):

- A party should seek panel rehearing only if one or more of the following grounds exist:
 - ▶ A material point of fact or law was overlooked in the decision;
 - ▶ A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
 - ▶ An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

B. Purpose (Rehearing En Banc)

- A party should seek en banc rehearing only if one or more of the following grounds exist:

- ▶ Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or
- ▶ The proceeding involves a question of exceptional importance; or
- ▶ The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

(2) Deadlines for Filing:

- A petition for rehearing may be filed within 14 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- See Advisory Note to 9th Cir. R. 40-1 (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-2.

(3) Statement of Counsel

- A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

(4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- A response, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

- The petition or response must be accompanied by a Certificate of Compliance found at Form 11, available on our website at www.ca9.uscourts.gov under *Forms*.
- You may file a petition electronically via the appellate ECF system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at www.ca9.uscourts.gov under *Forms*.

Attorneys Fees

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at www.ca9.uscourts.gov under *Forms* or by telephoning (415) 355-7806.

Petition for a Writ of Certiorari

- Please refer to the Rules of the United States Supreme Court at www.supremecourt.gov

Counsel Listing in Published Opinions

- Please check counsel listing on the attached decision.
- If there are any errors in a published opinion, please send an email or letter **in writing within 10 days** to:
 - ▶ Thomson Reuters; 610 Opperman Drive; PO Box 64526; Eagan, MN 55123 (Attn: Maria Evangelista (maria.b.evangelista@tr.com));
 - ▶ and electronically file a copy of the letter via the appellate ECF system by using “File Correspondence to Court,” or if you are an attorney exempted from using the appellate ECF system, mail the Court one copy of the letter.

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
Form 10. Bill of Costs**

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form10instructions.pdf>

9th Cir. Case Number(s)

Case Name

The Clerk is requested to award costs to *(party name(s))*:

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TOTAL: 4 x 500 x \$.10 = \$200.

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SEWER AUTHORITY MID-COASTSIDE

Staff Report

TO: Honorable Board of Directors

FROM: Kishen Prathivadi, General Manager

SUBJECT: Directors' Reports

Executive Summary

The purpose of this report is for information purposes only.

Fiscal Impact

There is no fiscal impact from this report.

Strategic Plan Compliance

The recommendation complies with the SAM Strategic Plan Goal 4: *"A well-organized, motivated, and well-trained staff with an effective Board of Directors are the most important keys to success for SAM."*

Background and Discussion/Report

This item is placed on the agenda to allow for any reports from the Directors.

Staff Recommendation

Staff recommends that the Board of Directors receive the report.

Supporting Documents

None

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	N. Marsh
	P. Dekker	J. Harvey	H. Rarback



SEWER AUTHORITY MID-COASTSIDE
Staff Report

TO: Honorable Board of Directors

FROM: Kishen Prathivadi, General Manager

SUBJECT: Topics for Future Agenda Board Consideration

Executive Summary

The purpose of this report is for information purposes only.

Fiscal Impact

There is no fiscal impact from this report.

Strategic Plan Compliance

The recommendation complies with the SAM Strategic Plan Goal 4: *“A well-organized, motivated, and well-trained staff with an effective Board of Directors are the most important keys to success for SAM.”*

Background and Discussion/Report

This item is placed on the agenda to allow for the Board’s continuing review of items for future agendas.

Staff Recommendation

Staff recommends that the Board of Directors receive the report.

Supporting Documents

Attachment A: List of Future Agenda Items

BOARD MEMBERS:	M. Clark	B. Dye	R. Lohman
	D. Penrose	D. Ruddock	K. Slater-Carter
ALTERNATE MEMBERS:	S. Boyd	E. Suchomel	N. Marsh
	P. Dekker	J. Harvey	H. Rarback

SEWER AUTHORITY MID-COASTSIDE
Future Agenda Items

Attachment A

	Items	Requested / Required By	Priority	Scheduled for	Status / Notes
1	Draft Public Records Act Policy	Ruddock		7/25/22	
2	Draft Policy for Minutes	Penrose		7/25/22	
3	Recycled Water	MA		TBD	
4	Strategic Plan Workshop	Board		TBD	
5	Board Reviews Proposed 5-Year CIP 2021 - 2025	FC		7/25/22	
6	Board Adopts 5-Year CIP 2021 - 2025	FC		8/8/22	
7	Report on NDWSCP	Board		5/9/22	Completed
8	Maintenance of Equipments	Board		7/25/22	
9	RFP for sea level rise/ electricals	Board		8/22/22	
10	Update Records Retention Policy	Slater Carter		6/27/22	

FC = Finance Committee

GC = Government Code

MA = Member Agency

BOC = Board Operations Committee