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September 20, 2021

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Daniel Muelrath

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Oakley City Hall  
Attn: Oakley City Council  
3231 Main Street,  
Oakley, CA 94561

**RE: City's General Plan Public Review Draft August 2021 - CEQA Comments**

Mayor Higgins and Fellow Members of the Council:

Diablo Water District (District) has reviewed the City's General Plan Public Review Draft - August 2021 (Plan) document and is providing comments below.

The District commends the City for aspiring to address Environment Justice and Climate Change and Adaption in the targeted Plan update. As most residents know, Oakley is uniquely situated in the heart of one of the State's most important natural resources, the Delta. The current and future health of the Delta and surrounding terrestrial and aquatic systems is of the highest concern to the District and our customers. To address these concerns, the District adopted numerous community focused resolutions and regulations<sup>1</sup> that enhance environmental and groundwater protection, implement recycled water projects and commit to carbon neutrality by the end of 2027. These regulations are attached and should be cited or in part included in the General Plan update.

Based on the District's legal and jurisdictional authorities regarding water and groundwater, the following comments are being provided to help make the General Plan inclusive and forward thinking while protecting the resources that are important to the District and City of Oakley residents.

**General Comments:**

- Although land use changes are not proposed in the Plan, the application of current Environmental Justice and Climate Change and Adaptation requirements and associated policies, plans and programs, plus the cumulative impact to water, sewer, stormwater, etc., needs to be considered via an Environmental Impact Report (EIR) rather than the proposed negative declaration.
  - Performing the EIR will allow the City to lead by example with robust and interactive participation by the public and local special district's and governmental agencies.
- Given time delays since the Plan kickoff, the City has newly elected City Council members and a newly appointed Interim City Manager, all of whom should be able to

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<sup>1</sup> Resolution 2021-02 Environmental Proactiveness, Resolution 2021-03 Groundwater Sustainability and Protection, Resolution 2021-04 Use and Integration of Recycled Water, Regulation 10 Groundwater Sustainability and Protection, and Regulation 11 Carbon Neutrality

guide the development of the targeted general plan update.

- Population and demographic data reflects Department of Finance estimates and should be revised to reflect recently released 2020 census data.
- Two major components 1.) Environmental Justice and 2.) Climate Change and Adaptation are glossed over in the Plan and refer to a white paper that was issued in 2019. The white paper should be updated to reflect 2021 data and be fully incorporated into the Plan.

**Land Use Element:**

- Stormwater runoff in East Cypress corridor developments is retained onsite; however, no analysis has been performed to determine impacts to groundwater flow, which also contributes to Marsh Creek and Delta flows via lateral subsurface movement.
- This section states flooding will occur in 100-year flood events, but no substantive mitigation/protection programs are discussed.
- There should be discussion of plans to analyze and mitigate developments impacts to groundwater quality.

**Growth Management Element:**

- Typo for current District, max day demand 10.0 MGD, not 1.0 MGD
- Should state that District will be the retail recycled water agency when recycled water projects are implemented.

**Open Space & Conservation Element:**

- Climate change white paper was mentioned but should be fully incorporated into the Plan.
- The District encourages the City to set net zero carbon goal for city-controlled facilities as the District has done.
- Program section states, energy and water efficiency in excess of Title 24, but no policy/program to implement this. City shall work with the District to determine water efficiency requirements in excess of Title 24.
- Under programs add: City to update Water Efficient Landscape Ordinance to prohibit developer installed turf in new developments.

**Community Health & Safety Element:**

- Plan talks about 100- and 500-year floodplain but does not account for sea level rise plus floods. More specifics are required here on mitigation programs.
- Former DuPont site is only quickly addressed. The Plan needs to investigate risk of sea level rise causing groundwater elevation increases and potential lifting and shifting of pollutants.

Thank you for your time and consideration, we look forward to future collaboration on this project.

Sincerely,

Diablo Water District Board of Directors

p.p. *Dan Muelrath*

## **RESOLUTION NUMBER 2021 – 02**

### **A RESOLUTION OF THE BOARD OF DIRECTORS OF DIABLO WATER DISTRICT ADOPTING ENVIRONMENTALLY PROACTIVE ACTIONS.**

WHEREAS, the Board of Directors of Diablo Water District (“District”) held strategic planning sessions the week of January 11, 2021; and

WHEREAS, these sessions resulted in the desire to create a policy statement and modifications to the District’s regulations regarding proactive engagement in the development process for the protection of District assets and environmental resources as permissible by law; and

WHEREAS, the District deems the California Environmental Quality Act (“CEQA”) to be vitally important to ensuring the District continues to receive sufficient, safe, and reliable water supplies from surface and groundwater resources.

WHEREAS, climate change is anticipated to increase the length of droughts, severity of winter storms, increase sea levels, and impact delta health; and

WHEREAS, the failure to act responsibly now to protect the environment, may result in irreversible damage to the District’s ability to deliver high quality drinking water to its customers; and

WHEREAS, the District has generally identified the Delta and slough interfaces (earthen and water), Bethel Island, and the East Cypress Corridor areas within its service area to require additional design considerations to protect both physical assets, financial solvency, and environmental protection for purposes of long-term water supply reliability to District customers; and

WHEREAS, pumping water in the State of California is the single largest use of energy and emitter of greenhouse gases (GHGs); and

WHEREAS, the District desires to combat climate change by reducing GHGs within its control; and

WHEREAS, on March 10, 2021, the District adopted Resolutions 2021-03: Groundwater Sustainability and Protection, and Resolution 2021-04 Recycled Water Use, both of which support the efforts of environmental proactiveness; and

WHEREAS, the District has reviewed this policy and has determined under the provisions of CEQA (codified at Public Resources Code, § 21000 *et seq.*) and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 *et seq.*) that (a) adoption of the policy herein does not constitute a " project," pursuant to State CEQA Guidelines section 15378(a) because adoption of the policy does not have a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and (b) even if adoption of the policy did constitute a "project" subject to CEQA, the action herein would be exempt from CEQA under State CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption of the policy may have a significant effect on the environment.

NOW, THEREFORE BE IT RESOLVED THAT the Board of Directors of the Diablo Water District does hereby **RESOLVE, DETERMINE, and ORDER** as follows:

1. In order to ensure that District's customers continue to receive a safe, reliable water supply of high quality water, the District recognizes the need to protect the community's environment, the District supports responsible and sustainable growth of the community, which requires full compliance with CEQA, its underlying intent, case law, and other environmental compliance requirements; and
2. The District will work cooperatively with local land use authorities to ensure proper conditioning and plan reviews of future development projects; and
3. The District's risk and resiliency planning process will consider impacts from climate change and adaption strategies; and
4. The District shall actively participate in stakeholder groups that include but are not limited to: Delta health, climate change and sea level rise, and groundwater protection; and
5. Adoption of the policy herein does not constitute a "project," pursuant to CEQA Guidelines section 15378(a) because adoption of the policy does not have a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment; and
6. Even if adoption of the policy did constitute a "project" subject to CEQA, the action herein would be exempt from CEQA under State CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption of the policy may have a significant effect on the environment; and
7. The policy stated herein is approved and shall be implemented; and

8. Staff is directed to execute and file a Notice of Exemption for adoption of the policy as permitted by law.

\* \* \* \* \*

I hereby certify that the foregoing is a true and complete copy of a resolution duly and regularly adopted by the Board of Directors of Diablo Water District at a meeting thereof held on March 10, 2021, by the following vote:

AYES: Tiernan, Kovalick, Crockett, Pastor, and Seger  
NOES: None  
ABSENT: None  
DATED: March 10, 2021



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Dan Muelrath, Secretary

**RESOLUTION NUMBER 2021 – 03**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF DIABLO  
WATER DISTRICT ADOPTING GROUNDWATER SUSTAINABILITY  
AND PROTECTION MEASURES**

WHEREAS, the Board of Directors of Diablo Water District (“District”) held strategic planning sessions the week of January 11, 2021; and

WHEREAS, these sessions resulted in the desire to create a policy statement and modifications to the District’s regulations for the protection of groundwater use; and

WHEREAS, the California state legislature passed AB 3030 in 1992 that provided a framework for voluntary groundwater management; and

WHEREAS, in 2009 the California state legislature passed SB x7-6 that established the statewide California Statewide Groundwater Elevation Monitoring (“CASGEM”) program; and

WHEREAS, on September 16, 2014, Governor Jerry Brown signed into law a three-bill legislative package, composed of AB 1739 (Dickinson), SB 1168 (Pavley), and SB 1319 (Pavley), collectively known as the Sustainable Groundwater Management Act (“SGMA”); and

WHEREAS, in 2007 the District adopted a Groundwater Management Plan; and

WHEREAS, the District serves as the regional monitoring agency under the state’s CASGEM program; and

WHEREAS, On March 22, 2017, the District approved Resolution No. 2017-4 that designates the District as a Groundwater Sustainability Agency (“GSA”); and

WHEREAS, SGMA provides authority to GSAs to monitor, manage, and regulate groundwater use within their subbasin; and

WHEREAS, the District is cooperatively working with neighboring GSAs to draft a single Groundwater Sustainability Plan (“GSP”); and

WHEREAS, the District through the GSP will develop an adaptive and proactive approach to groundwater sustainability while meeting and striving to exceed requirements of SGMA; and

WHEREAS, the District views the use of groundwater an integral part of its long-term water management approach; and

WHEREAS, due to the proximity of the Delta, the District seeks to protect both the groundwater aquifer from saline intrusion and the Delta from adverse groundwater impacts; and

WHEREAS, additional groundwater monitoring wells should be located to facilitate data collection regarding groundwater quality, quantity and sustainability.

WHEREAS, the District encourages the use of Recycle Water to help offset or reduce groundwater pumping; and

WHEREAS, the County is the recognized permitting agency for wells in Contra Costa County; and

WHEREAS, the District is committed to the goal of facilitating the management of groundwater resources at the subbasin level, while leaving parcel level decisions to the private groundwater pumpers; and

WHEREAS, public agencies shall be the model in groundwater data transparency for their well facilities.

NOW, THEREFORE BE IT RESOLVED THAT the Board of Directors of the Diablo Water District does hereby **RESOLVE, DETERMINE, and ORDER** as follows:

1. The District will continue to work cooperatively with neighboring GSAs to ensure groundwater sustainability for the East Contra Costa Subbasin; and
2. Growth and development projects will be evaluated and commented on with groundwater quality and quantity protection in mind; and
3. District staff will enhance the monitoring well network in the District's service area; and
4. District staff will develop a regulation for Board adoption that enhances protection of groundwater levels and water quality; and
5. Prioritize the use of recycled water as a primary water source for locations using groundwater to supply water for landscaping and other non-potable uses; and
6. District staff will join industry associations that support the protection of groundwater; and
7. The District will engage with the well permitting agency, Contra Costa County, for successful implementation of the District's groundwater regulation; and

8. The policy stated herein is approved and shall be implemented.

\* \* \* \* \*

I hereby certify that the foregoing is a true and complete copy of a resolution duly and regularly adopted by the Board of Directors of Diablo Water District at a meeting thereof held on March 10, 2021, by the following vote:

AYES: Tiernan, Kovalick, Crockett, Pastor, and Seger

NOES: None

ABSENT: None

DATED: March 10, 2021



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Dan Muelrath, Secretary



## RESOLUTION NUMBER 2021 – 04

### A RESOLUTION OF THE BOARD OF DIRECTORS OF DIABLO WATER DISTRICT ENCOURAGING THE USE AND INTEGRATION OF RECYCLED WATER AS A FUTURE WATER SUPPLY.

WHEREAS, the Board of Directors of the Diablo Water District (“District”) held strategic planning sessions the week of January 11, 2021; and

WHEREAS, these sessions resulted in the desire to create a policy statement and modifications to the District’s regulations for recycled water use; and

WHEREAS, the State of California defines recycled water as, “*water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource*” California Water Code § 13050(n) (“Recycled Water”); and

WHEREAS, the District desires to pursue, when feasible and at the Direction of the Board, locally beneficial use of Recycled Water that supports the California Legislature’s declaration, “*It is the intention of the Legislature that the state undertake all possible steps to encourage development of water recycling facilities so that recycled water may be made available to help meet the growing water requirements of the state.*” California Water Code § 13512; and

WHEREAS, the District views the use of Recycled Water within its service area as an integral part of its long-term water management approach; and

WHEREAS, the District encourages the use of Recycled Water to help offset or reduce groundwater pumping and surface water use; and

WHEREAS, the District has partnered with Ironhouse Sanitary District to find mutually beneficial uses of Recycled Water.

NOW, THEREFORE BE IT RESOLVED THAT the Board of Directors of the Diablo Water District does hereby **RESOLVE, DETERMINE, and ORDER** as follows:

1. The District shall work cooperatively with Ironhouse Sanitary District and Local Land Use Planning Authorities to encourage the use of Recycled Water; and
2. Recycled Water shall be evaluated in the District’s Urban Water Management Plan as a long-range alternative water supply; and

3. District staff shall pursue state and federal funding for the planning, design, and construction of future Recycled Water project(s); and
4. District staff will develop a regulation to enhance the use of Recycled Water in the District’s service area; and
5. District staff will join industry associations that support the advancement of Recycled Water use.
6. The District shall establish a Recycled Water *ad hoc* committee to meet and confer with Ironhouse Sanitary District’s Board; and
7. The policy stated herein is approved and shall be implemented.

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I hereby certify that the foregoing is a true and complete copy of a resolution duly and regularly adopted by the Board of Directors of Diablo Water District at a meeting thereof held on March 10, 2021, by the following vote:

AYES: Tiernan, Kovalick, Crockett, Pastor, and Seger

NOES: None

ABSENT: None

DATED: March 10, 2021



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Dan Muelrath, Secretary

# DIABLO WATER DISTRICT

## REGULATION NO. 10

### Groundwater Sustainability and Protection

#### Section I. Purpose and Authority

- A. Sustainable Groundwater Management Act (2014) and subsequent amendments to California Water Code.
- B. The purpose of this regulation is to balance and protect the interest of all that rely on a sustainable groundwater aquifer.

#### Section II. Applicability

- A. All groundwater extraction wells except residential wells; and/or
- B. New developments of 50 residential dwelling units (or equivalent).

#### Section III. Requirements

- A. New Development
  - 1. Shall install groundwater monitoring well(s)\* to be cited by the District per the following table:

Residential Dwelling Units (or equivalent)	Number of groundwater monitoring well(s)*
50 – 250	1
251 – 500	2
501 – 999	3
1000 +	To be determined by District Staff

\*Monitoring wells are to be deeded to the District as part of the Facilities Installation Agreement.

2. Irrigation water for parks, street medians, and other public landscaping that is proposed to be irrigated with groundwater or potable water shall:

- (a) Connect to the District's alternative water supply main lines;  
or
- (b) Connect to the District's recycled water supply main lines; or
- (c) If neither of the above are feasible, then the installed well shall be deeded to the District as part of the Facilities Installation Agreement.

B. Well Design Criteria

- 1. New wells are to be designed and installed with remote monitoring groundwater elevation equipment.
- 2. New wells that propose to extract more than 1 million gallons per month shall:
  - (a) Perform successful groundwater sustainability test pumping, subject to District approval, prior to operating the well; or
  - (b) Engage the District to run the District's most current groundwater hydraulic model that includes the proposed well and consumption. Groundwater hydraulic model will be a fee for service requested.

3. New wells that propose to extract more than 5 million gallons per month shall:

- (a) If the District determines recycled water is not a feasible option, then successful groundwater sustainability test pumping must occur, subject to District approval, prior to operating the well; or
- (b) Engage the District to run the District's most current groundwater hydraulic model that includes the proposed well and consumption. Groundwater hydraulic model will be a fee for service requested.

**Section IV. Groundwater Monitoring and Data Transparency**

- A. All new, non-residential wells shall grant the District access to their remote monitoring data network for groundwater elevation data.
- B. All new and existing public agency groundwater wells shall:
  - 1. Meter and report to the District volume of groundwater extractions monthly.
  - 2. Monitor bi-annual groundwater elevations at their wells.
  - 3. Perform water quality testing of their wells regardless of the end use of the water for: TDS, salinity, chlorides, iron, manganese, nitrates, and arsenic.
    - (a) Semi-annual testing for 3 years

- (b) Annual testing for 2 additional years
- (c) Bi-annual testing in perpetuity
- (d) Should changes in water quality be noted, then a location may be placed on a custom monitoring routine as determined by the District.

**Section V. Voluntary Consolidation of Existing Small Water Systems**

- A. The District will prioritize working with small water systems that are experiencing water quality issues.
  - 1. Initial efforts will include seeking grant funds to facilitate a consolidation feasibility study.
  - 2. Long-term efforts may include up to and including seeking grant funds for the construction of District facilities to reach to small water systems and voluntary consolidation.

# DIABLO WATER DISTRICT

## REGULATION NO. 11

### CARBON NEUTRALITY

#### Section I. Purpose and Authority

- A. The purpose of this regulation is to establish the District's requirement to be carbon neutral in its operations, buildings, transmission and treatment of water, fleet, and all other tangible business operations under its direct control. The District has adopted Resolution No. 2021-17 requiring net zero carbon emissions by the end of calendar year 2027, meaning a full offset of current and future emissions.

#### Section II. Applicability

- A. This regulation applies to current District facilities and operations and to new facilities and operations as they may come to exist in the future.

#### Section III. Requirements

- A. Existing facilities, operations, fleet, etc.
1. The District shall annually reduce its carbon emissions.
  2. Annually, projects shall be budgeted and funded that will help meet the year 2027 deadline.
- B. New facilities.
1. Offset calculations for solar or equivalent, require the developer of the District facility to produce 110% of the estimated annual energy

consumption of the site.

2. Energy is defined as the sum of estimated kWhs, therms, fuel, etc. (i.e., sources of greenhouse gas emissions).
3. Developers of new District facilities will be required to install solar onsite and/or pay into a District fund (via Facility Reserve Charges), so the District may install solar at one of its existing locations.