

Letter of EBMUD
Dated May 27, 2021

May 27, 2021

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By Contra Costa County
Department of Conservation and DevelopmentVIA EMAIL (Monica.Nino@cao.cccounty.us)

Monica Nino, County Administrator and Clerk of the Board of Supervisors
Contra Costa County
1025 Escobar Street
4th Floor
Martinez, CA 94553

Re: East Bay Municipal Utility District Opposition to Tassajara Parks Project

Dear Ms. Nino,

As the Contra Costa County (County) Planning Commission prepares to consider the Tassajara Parks Project (Project), I write to explain East Bay Municipal Utility District's (EBMUD or District) opposition to annexing the Project into its service area. Because the Project site is located outside EBMUD's Ultimate Service Boundary (USB),¹ the District has not planned to provide it with water service and does not have adequate water supplies to support the proposed annexation.

As you may know, the District has consistently voiced concerns regarding the Project's potential impacts on EBMUD's water supplies. The Project developer believes it could avoid impacting those supplies by funding water conservation programs throughout EBMUD's service area to offset the Project's water demand. In exchange for that funding, EBMUD would serve the Project. Over the last several months, EBMUD and County staff have engaged in many conversations regarding the developer's proposal. A considerable amount of work was completed to further develop and analyze the Project developer's proposed water conservation offset for the Project, and I commend County staff and the Project developer for the time and effort invested in addressing EBMUD's concerns. However, EBMUD views water conservation as a key component of its water supply plan to meet existing and planned future customer demands within the USB. As we enter yet another drought and extraordinarily dry conditions prevail across California, we must reject proposed annexations like the Project that would take that source of water supply away from those customers.

Current hydrologic conditions throughout much of California rival those experienced during the historic 1976-77 drought. To date, 2021 is the driest year on record in the East Bay and the second driest year on record in the Mokelumne River watershed, where most of the District's water supplies originate. Based on the projected impact of these prevailing dry conditions on EBMUD's water supplies, on April 27, 2021 EBMUD's Board of Directors declared the

¹ The Ultimate Service Boundary defines the territory within which the District has planned to provide water service.

375 ELEVENTH STREET • OAKLAND • CA 94607-4240 • (510) 287-0101

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District's water supplies deficient for meeting customer demands, declared a Stage 1 drought, established a District-wide ten percent rationing goal, declared the need to purchase supplemental supplies, and directed District staff to take actions to promote customer water conservation. Since April 27, EBMUD's water supply projections for this water year have continued to decline, with EBMUD's anticipated end-of-September storage levels now 65-70 thousand acre-feet lower than previously projected.

The severity of current hydrologic conditions highlights the importance of protecting the District's water supplies for current and future customers within the USB. Yet, drought is only one of many threats to those supplies. Many other stressors threaten to reduce the amount of water available to EBMUD's customers now and in the future, including the following:

- Climate Change: The District's Urban Water Management Plan 2015 estimated that climate change could result in a several thousand acre-foot increase in the District's unmet need for water by the year 2040. In addition, climate change may result in more frequent and severe droughts in the future.
- Bay-Delta Water Quality Control Plan Update: The State Water Resources Control Board (State Board) is currently working to update the Bay-Delta Water Quality Control Plan (Bay-Delta Plan). Thus far, the State Board's efforts have focused on improving Bay-Delta water quality by significantly increasing instream flow requirements on tributary rivers to the Bay-Delta, like the Mokelumne River. The Bay-Delta Plan Update is likely to increase the District's Mokelumne River instream flow obligations by tens of thousands of acre-feet per year, adding a significant new constraint on the District's water supplies that could impair its ability to meet customer demands in the future.
- Drought-related State Mandates: During the last drought, the State of California directly involved itself in local water management, both by issuing curtailment orders requiring water rights holders like the District to divert less water, and by promulgating emergency regulations dictating reductions in customer demand. On the Mokelumne River, the District was required to bypass approximately 76 thousand acre-feet of water that would have otherwise been available to serve its customers. The State could take similar actions this year and in future years, requiring the District to achieve short-term reductions in water consumption and reducing the availability of Mokelumne River water for EBMUD's customers.
- Central Valley Project (CVP) Cutbacks: The District's CVP contract provides a key source of supply to meet customer demands during droughts, but the amount of water available to the District under that contract can be severely reduced by the United States Bureau of Reclamation (Reclamation). For example, during the 2014-15 drought, CVP allocations were cut to only 25% for Municipal and Industrial contractors like the District, significantly reducing the amount of CVP water available to the District. On May 26, 2021, Reclamation indicated the District's CVP allocation would again be cut to 25%. In 2015, the District was able to mitigate the impact of CVP cutbacks by purchasing supplemental supplies on the spot water transfers market. Securing supplemental supplies on the spot transfers market was both challenging and expensive, with spot transfer water prices seven to ten times higher than CVP water prices. This year, given how late in the year CVP

cutbacks were announced, it is very unlikely the District will be able to purchase water on the spot transfers market, as most available water has already been purchased by other parties. In future droughts, uncertainty with the size and timing of CVP allocation reductions could potentially leave the District without adequate supplies to meet even its existing customer demands.

In combination, these stressors and constraints on the District's water supplies make it more difficult for us to provide adequate water service to current and future customers within the USB. The District is up to the challenge, but we cannot afford to also accommodate additional water demand resulting from developments we never planned to serve outside our USB.

As demonstrated in recent years, even without these emerging threats, EBMUD's water supplies are not sufficient to meet customer demand in times of drought, requiring the District to purchase supplemental supplies and impose water rationing requirements on its customers. These deficiencies in the District's supplies are expected to persist, and the District's Draft Urban Water Management Plan 2020 identifies both a substantial increase in USB-wide demand over the next thirty years, and several thousand acre-feet in unmet need for water in times of drought in the future. The significance of these existing and anticipated future deficiencies in EBMUD's water supplies, and the importance of preserving all sources of supply to help counter those deficiencies, cannot be overstated. Water conservation—including the conservation programs the developer would have EBMUD implement to make water available for the Project—is a crucial component of our water supply plan that the District can use to mitigate the impacts of those water supply deficiencies on customers within the USB.

Given these deficiencies and the threats to EBMUD's water supplies discussed above, adhering to EBMUD's Board-adopted policies regarding annexation of new service territory (Annexation Policies) is more important now than ever. These Policies require the District to oppose annexation of proposed developments like the Project that are located outside the USB. Among other things, the Annexation Policies also explain that EBMUD will not provide water outside the present USB if doing so would result in a reduction in the quantity of water available to District customers to satisfy existing or projected levels of demand. As a result, even if it were technically and economically feasible to offset the Project's demand through developer-funded conservation programs, doing so would violate the Annexation Policies by reducing the quantity of water available to District customers now and in the future. Stated simply, any "new water" created by implementing new conservation programs could be used to serve current and future District customers within the USB, rather than being used to serve a project, such as the proposed Project, that is outside the USB.

As public water agency, EBMUD has a legal obligation to provide adequate water service to all members of the community within its service area. Adhering to the District's Annexation Policies is critical to meeting that obligation. Given the deficiencies in EBMUD's supplies in times of drought, the potential threats to those supplies discussed above, and the anticipated growth in water demand within the USB, the District cannot afford to dedicate any water available to it—including new water supplies created through water conservation programs—to a proposed development outside its current service area, and outside the USB.

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In closing, I appreciate the County's efforts to address the District's water supply concerns. However, for the reasons set forth in this letter, the District will continue to oppose annexation of the Project into its service area.

Sincerely,



Clifford C. Chan
General Manager
East Bay Municipal Utility District

cc: County Planning Commission (planninghearing@dcd.cccounty.us)
John Kopchik (john.kopchik@dcd.cccounty.us)
Sean Tully (sean.tully@dcd.cccounty.us)
Aruna Bhat (aruna.bhat@dcd.cccounty.us)
Will Nelson (william.nelson@dcd.cccounty.us)