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## Seal Rock Water District

General Manager's Report:  
 Board Meeting May 9, 2019

*This report is an executive summary provided with this Board agenda to Commissioners with recommended actions if any. Detailed information, staff reports, and supporting materials are provided within the full agenda packet.*

### PHASE-4 SOURCE WATER PROJECT:

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District staff continue working with consultants and representatives from USDA-RD to complete the final underwriting steps to qualify the project and complete the certification required to issue the Letter of Conditions funding package provided by USDA-RD.

On April 10<sup>th</sup> staff published the Notice of Availability (NOA) which began the 14-day public comment period related to the recently issued Biological Opinion (BiOp) from National Marine Fisheries Services (NMFS). No public comments were received by the deadline of April 14<sup>th</sup>. As such, District staff received authorization from representatives of USDA-RD to issue the Finding of No Significant Impact (FONSI) publication which appeared in the news times on April 26, 2019. USDA has made the FONSI with respect to a request for possible financing assistance to the Seal Rock Water District for the construction of the District's new raw water intake Project located on Beaver Creek.

Phase-4 improvements project continues to move forward with several critical path tasks currently in progress:

- 100% final design and contract document have been completed by the engineer.
- Contract documents are being reviewed by USDA-RD in preparation for advertisement.
- District staff and representatives with USDA-RD are reviewing final finance information to satisfy USDA underwriting in preparation for receiving the draft Letter of Conditions (LOC).
- On March 26, 2019 the District received a letter provided by USDA-RD notifying the District that the source water project was eligible for financing.
- Staff is also working with representatives from USDA-RD, the District's finance consultant, and Bond Counsel in preparation for Phase-4 interim financing.
- On April 4<sup>th</sup>, 2019 the District received the USDA-RD Public Notice Announcing the Availability of an Environmental Assessment which was published locally beginning April 10, 2019.
- Final design is also in statutory review by the State of Oregon, Health Authority (OHA) Department.

### ALTERNATIVE WATER SUPPLY DEVELOPMENT WITH THE CITY OF WALDPART:

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District staff have been working with City of Waldport representatives and engineers to discuss alternatives to provide connection between both systems to provide emergency source water. Comprehensive, publicly-vetted water planning is necessary to respond to the challenges of climate, infrastructure, conservation, and development in the Central Oregon Coast Region. The Mid-Coast Water Planning Partnership (MCWPP) is working to understand and balance both instream and out-of-stream water needs for communities, environments, and economies. Rooted in Oregon's Integrated Water Resources Strategy (IWRS), the Place-Based Planning approach provides a space for communities like ours to work collaboratively with agency partners to understand and articulate their water resources challenges and needs, as well as identify and implement potential solutions to those needs.

*Seal Rock Water District is an Equal Opportunity Service Provider and Employer.*

Adam Denlinger, General Manager

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These efforts bring water issues and solutions together ahead of a natural hazard and provides a value to the region. Alternative water supplies can only be recognized through understating the value of interconnection between neighboring suppliers.

The District Board received a presentation from the City of Waldport regarding the proposed intertie project at the April 11 regular Board meeting. The overall purpose of the intertie with neighboring systems would help the city in developing Waldport's Industrial Park and ensuring a resilient water supply for Waldport and the Mid-Coast Region. Funding to study this eventuality is provided by a grant through Local Economic Opportunity Fund (LEOF). Funding provided through LEOF will help Waldport Determine the feasibility of constructing water interties between Southwest Lincoln County Water District and Seal Rock Water District systems (*for emergency purposes*):

Besides the connection the District currently uses for the supply of source water, the District also has a connection with the City of Newport for the emergency supply of source water. The connection being considered with the City of Waldport is being developed considering the same possibilities. Consideration for alternative regional water supply opportunities is also a subject of discussion within the Mid-Coast Water Planning Partnership (MCWPP) and is currently being explored by the municipal/district working group.

#### **CITY OF TOLEDO WATER RATE SETTLEMENT AGREEMENT:**

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Subject to conditions of the 2012 Water Purchase Agreement, annually the District receives an adjustment for wholesale water from the District's primary water provider, the City of Toledo. The rate increase under this provision was approved by the Toledo City Council on December 5, 2018, through a resolution effective on January 1, 2019. However, before the rate was adopted, the District alerted the city through an email to the Public Works Director and City Manager (email dated November 23, 2018) that there seemed to be a large separation in the percentage of water used by the District and the city, which is included in the methodology for calculating the rate annually.

*Email excerpt dated November 23, 2018: For Toledo's consideration; as we evaluated the cost breakdown provided in the information the decrease in the rate is largely due to the decrease in the **percentage** of water purchased by the District. While the overall water purchased by the District is slightly less than the previous year, it looks like Toledo's demand has increased from an overall 53.2% to 60.91%, while the District's usage has dropped from 46.8% to 39.08% overall. Assuming the increase in Toledo usage is related to sales or system maintenance, it's not too concerning. However, unless the increase is accounted for this may be an indicator of a system condition that may necessitate further evaluation. Again...just our observation.*

Because the District anticipates adjustment in the wholesale purchase of water during the annual budget process, the proposed increase, while higher than originally approved by City Council in December 2018 can be absorbed through the budget process. If approved, the proposed increase will result in approximately \$50,000 increase for 2019, using last year's performance figures.

On January 28, 2019, the District received an email from the city with several attachments related to a recalculated water rate increase for Seal Rock Water District. That email advised of an intent to submit to the City Council on February 6, 2019, a "Request for Council Action" to raise the water rate to be charged to the District effective March 1, 2019, by \$.65 from \$3.24 to 3.89 per 1000 gallons. In response to that email and the proposed action, the District convened a meeting with Toledo Representatives to discuss an offer to settle the legal issues raised by this proposed action.

District staff and Commissioners have met with Toledo Staff and City Councilors to discuss settlement options regarding the recalculated rate. Representatives of the City and the District met on February 5th and February 19th, 2019 to discuss possible settlement as it relates to the recalculated rate. On March 12th the working group met again to discuss the development of a successor agreement and a copy of the staff report and agenda for the March 14th SRWD Board meeting was hand delivered to the City.

The District attempted on several occasions to settle the rate for 2020 through settlement negotiations, however this effort was punctuated by the City's position that the District must first concede to, and officially accept through Board action, an increase in the water rate for 2019. Staff, through consultation with the District's legal counsel, maintains that the District should receive some consideration for agreeing to raise the contract rate for 2019, as the contract does not allow rate changes throughout the year for any reason. If the District concedes that the City can raise the rate any time it feels their financial or administrative staff has made an error in a previous calculation, we could conceivably see multiple rate changes through 2019 and 2020.

Requesting that the City adjust the rate higher for 2020 through this negotiation is a fair compromise and would not negatively impact the City in any significant manner, and there is no good reason to not expect this consideration in return for the District paying an additional \$50k this year. The question for the Board is why should the District ratepayers expect to pay more than required under their contract without receiving anything in return?

On March 14th the District Board had the opportunity to consider proposed settlement options as a full Board for the first time, as an information and discussion item and to take any public comment. Representatives from the City of Toledo attended the meeting but chose not to provide public comment, short of expressing dissatisfaction related to the city's expectation the Board would approve the settlement option on March 14th. The Board of Commissioners directed staff to analyze this item further and bring it back to the April 11th regular meeting for consideration and formal action.

At the direction of the Board, staff conducted a thorough internal evaluation, along with a thorough review of the lengthy exchange of information between the City and the District over the past two years. Staff believes it's important to recognize that at no time during negotiations with the City over proposed settlements has the District negotiated unfairly or opposed the City's demand to adopt a recalculated rate. District staff maintains that approval of any settlement is a function of the Board and negotiations for settlement should incorporate fair and balanced benefit to both parties. The inconvenience experienced by the District for the second time in two successive years, as a result of the City not adopting the rate on time, or miscalculating the rate is something staff would seek to avoid in the future. Appropriately considered, the action by the City places the District in the unfortunate position to engage in settlement discussions with the City by no fault of the District. Staff believes it's important to remind the Board and the City that these incidents provide an intense distraction from the District's mission and demand staff time and unnecessarily consume District resources to settle the legal issues raised by the City.

City of Toledo staff attended the April 11, 2019 Seal Rock Water District Board meeting but chose not to provide any supporting comments regarding the negotiated settlement agreement between the entities as a result of a rate calculation error for the current years rate. The SRWD Board chose not to approve the settlement agreement leaving the rate dispute unresolved for 2019. It is anticipated that if the rate dispute remains unresolved, the City projects that they stand to lose approximately \$4,000 – \$5,000/month over the 2019 Calendar year depending on the amount of water purchased by the District. However, Performance\_data indicates that the District's demand is trending down, signifying that the District's overall percentage used in the methodology for calculating the rate annually will be lower. Both the city and the District have factored into their proposed budgets funding to cover the cost of wholesale water in the event that the rate is not resolved moving forward for this budget cycle.

SRWD Board directed the District's legal counsel to pursue further negotiations with Toledo that provide fair and balanced benefit for both parties. The District notified the City they intend to no longer purchase water from the City for District customers effective October 30, 2020. District staff and city Council leadership have been meeting with representatives of SRWD in hopes of settling the disputed rate and developing a successor purchase agreement between the entities beyond the 10/31/19 termination deadline.

## SRWD'S SHARE OF CITY OF TOLEDO'S MINOR and CAPITAL IMPROVEMENTS

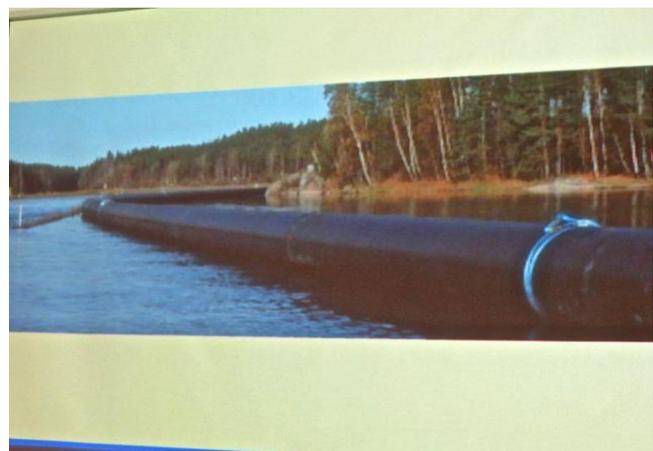
	Actual Cost	Shared Cost	Minor Impr.	Major CIP Phase 2
<b>Major/Minor Capital Improvements 2011-2012</b>				
Minor Capital Improvements	\$111,382.20	\$55,691.10	\$55,691.10	
Major Capital Improvements Phase 2	\$99,030.68	\$49,515.34		\$49,515.34
<b>TOTAL FY 2011-12</b>	<b>\$210,412.88</b>	<b>\$105,206.44</b>		
<b>Major/Minor Capital Improvements 2012-13</b>				
Minor Capital Improvements	\$103,811.78	\$51,905.89	\$51,905.89	
Major Capital Improvements Phase 2	\$269,615.56	\$134,807.78		\$134,807.78
<b>TOTAL FY 2012-13</b>	<b>\$373,427.34</b>	<b>\$186,713.67</b>		
<b>Major/Minor Capital Improvements 2013-14</b>				
Minor Capital Improvements	\$139,635.78	\$69,817.89	\$69,817.89	
Major Capital Improvements Phase 2	\$239,006.06	\$119,503.03		\$119,503.03
<b>TOTAL FY 2013-14</b>	<b>\$378,641.84</b>	<b>\$189,320.92</b>		
<b>Major/Minor Capital Improvements 2014-15</b>				
Phase 2 CIP July - Aug 2014	\$301,074.14	\$150,537.07		150,537.07
Phase 2 CIP Oct 1 - Dec 10, 2014	\$1,179,639.38	\$589,819.67		589,819.67
Phase 2 CIP Dec 11, 2014-May 8, 2015	\$863,897.40	\$431,948.70		431,948.70
Phase 2 CIP May 9 - June 30, 2015	\$683,443.64	\$341,721.82		341,721.82
Minor Improv through June 23, 2015	\$32,586.64	\$16,291.32	\$16,291.32	
<b>TOTAL FY 2014-15</b>	<b>\$3,060,641.20</b>	<b>\$1,530,318.58</b>		
<b>Major/Minor Capital Improvements 2015-16</b>				
Phase 2 CIP July 1, 2015-Feb 29, 2016	\$457,229.22	\$228,614.61		228,614.61
Phase 2 CIP May 1, 2016 - May 31, 2016	\$130,565.70	\$65,282.85		65,282.85
<b>TOAL FY 2015-16</b>	<b>\$587,794.92</b>	<b>\$293,897.46</b>		
	\$4,610,918.18	\$2,305,457.07		
<b>TOTAL Minor CIP as of 6/23/2015</b>	→	→	<b>\$193,706.20</b>	
<b>TOTAL Major CIP as of 05/31/2016</b>	→	→	→	<b>\$2,111,750.87</b>
<b>TOTAL Minor CIP as of 6/23/2015</b>	<b>\$193,706.20</b>			
<b>TOTAL Major CIP as of 05/31/2016</b>	<b>\$2,111,750.87</b>			
<b>TOTAL SRWD SHARE 2011-2016</b>	<b>\$2,305,457.07</b>			

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At the request of the city, negotiations regarding a successor agreement have been ended pending the outcome of the settlement agreement. It should be understood that the District provided requested information to the city regarding the District's capital investment in the Toledo system over the past 8-years. The District provided a breakdown of major/minor capital costs funded by the District for Toledo improvements since FY 2011/2012. Most, if not all the major capital improvements are identified in the 2010 Toledo WMP and are summarized as capital improvements needed to properly serve the community's needs over the next 20-years. The design life of a water system component is the time that the component is expected to be useful based on its intended use and required function. The Toledo 2010 WMP goes on to describe the anticipated lifespan of equipment and structures (such as the Siletz River intake) to have a 20-year expected design life, while transmission and distribution piping (such as the Olalla Reservoir crossing) improvements have a 50 to 60-year useful life. The District is asking that the city consider this investment (perhaps similar to SDC's to justify an inside user rate to the District for a limited period of time) in calculating the proposed rate beyond October 30, 2020. The District has invested \$2.3M in the Toledo system since 2011 and would like to preserve this investment for future use as it benefits both the city and the District.



Toledo Siletz River intake completed in 2015:



Olalla Reservoir Pipeline Crossing completed in 2016:

**OTHER NOTABLE ACTIVITIES FOR THE MONTHS OF APRIL/MAY INCLUDE:**

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- Attended Mid-Coast Integrated Water Resources Coordinating Committee meeting.
- Reviewed Easement and access agreements related to Phase-4 improvements.
- Participated in project team meeting to discuss Phase-4 permitting and 100% final design.
- Attended a meeting with consultants working on the Sampling and Analysis Plan (SAP) report for DEQ and OWRD.
- Met with Oregon Water Resource Department (OWRD) Water Master and consultants to complete flow testing on Beaver Creek.
- Attended meetings to discuss the implementation of the Mid-Cost Water Consortium.
- Met with representatives from USDA-RD to discuss Phase-4 funding.
- District staff and Engineer worked to provide USDA-RD with requested information related to project cost, short-lived assets and ongoing operation and maintenance documentation.
- Provided testimony at the State Capitol in support of OWRD funding package.
- Provided Notice of Availability (NOA) publication for Phase-4 Improvements Environmental Report.
- Staff facilitated the April 18, 2019 Budget Committee Meeting.
- Attended staff level planning meeting for the installation of new PRV's in Bayshore and Sand Piper communities.
- Worked with representatives of the Makai Special Road District to develop language for a replacement and repair easement.
- Provided Notice of Finding of No Significant Impact (FONSI) publication for Phase-4 Improvements Project.
- Provided an AMI project presentation to the Mid-Coast Water Planning Partnership Meeting.
- Met with representatives from Dig-deep strategic planning solutions to discuss opportunities for developing a strategic plan for future improvements.