



**COUNTY OF SAN LUIS OBISPO  
BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Administrative Office	(2) MEETING DATE 7/19/2022	(3) CONTACT/PHONE Wade Horton, County Administrative Officer 805-781-5011	
(4) SUBJECT Request to: 1) approve responses to the FY 2021-22 Grand Jury report titled "SLO County's State Water: A Taxpayer Burden and a General Fund Boon?"; and 2) forward the responses to the Presiding Judge of the Superior Court by August 16, 2022. All Districts.			
(5) RECOMMENDED ACTION  It is recommended that the Board: <ol style="list-style-type: none"> <li>1. Adopt the recommended responses from County Counsel, the County Auditor-Controller Treasurer-Tax Collector Public Administrator (ACTTC), and County Public Works (Attachment 2), as well as the recommended County Board of Supervisors responses to the FY 2021-22 Grand Jury report titled "SLO County's State Water: A Taxpayer Burden and a General Fund Boon?"; and</li> <li>2. Direct the Clerk of the Board to forward the responses to the Presiding Judge and the Grand Jury by August 16, 2022.</li> </ol>			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input checked="" type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW The Administrative Office prepared this item.			
(18) SUPERVISOR DISTRICT(S) All Districts			



## COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Administrative Office / Wade Horton, County Administrative Officer  
805-781-5011

DATE: 7/19/2022

SUBJECT: Request to: 1) approve responses to the FY 2021-22 Grand Jury report titled "SLO County's State Water: A Taxpayer Burden and a General Fund Boon?"; and 2) forward the responses to the Presiding Judge of the Superior Court by August 16, 2022. All Districts.

### **RECOMMENDATION**

It is recommended that the Board:

1. Adopt the recommended responses from County Counsel, the County Auditor-Controller Treasurer-Tax Collector Public Administrator (ACTTC), and County Public Works (Attachment 2), as well as the recommended County Board of Supervisors responses to the FY 2021-22 Grand Jury report titled "SLO County's State Water: A Taxpayer Burden and a General Fund Boon?"; and
2. Direct the Clerk of the Board to forward the responses to the Presiding Judge and the Grand Jury by August 16, 2022.

### **DISCUSSION**

On June 20, 2022, the San Luis Obispo County Grand Jury (Grand Jury) issued a report titled "SLO County's State Water: A Taxpayer Burden and a General Fund Boon?" (Attachment 1). The report investigated how the County manages and accounts for State Water Project Contract funds. The Grand Jury report included six findings and four recommendations. Responses were required as follows:

<b>Department</b>	<b>Recommendations</b>
County Board of Supervisors	R1, R2, R3, R4
County Counsel	R1
County ACTTC	R1, R4
County Public Works	R2, R4

All responses must conform to the response language and timelines required under Penal Code section 933. Under this section, Board adopted responses from County departments must be submitted to the presiding judge of the superior court within 90 days of the date the report is released.

The responses from County Counsel, the County Auditor-Controller Treasurer-Tax Collector Public Administrator (ACTTC), County Public Works, and the County Board of Supervisors are scheduled to be transmitted to the Presiding Judge and the Grand Jury by August 16, 2022.

The recommended responses from each department are attached. The recommended responses from the Board of Supervisors are found below.

Findings:

The Board of Supervisors adopts the responses from County Counsel, County ACTTC (Tax Collector), and County Public Works found in (Attachment 2) to all six findings in the Grand Jury report (Attachment 1).

Recommended Responses:

**Grand Jury R1: The County, working with its Tax Collector, needs to obtain expert legal interpretation for the use of revenue derived from the sale of property tax-purchased State Water, past and future.**

Board of Supervisors Response to R1: The Board of Supervisors adopts the response of County Counsel and the County Tax Collector (Attachment 2).

**Grand Jury Recommendation #2: The County must ensure that only reasonable administrative charges attributable to the collection of taxes and payment of State Water Contract expenses be charged to the State Water Contract Tax Fund 0646. The County should clearly explain and justify the recent significant increases in "Administration and Accounting" charges to the State Water Contract Tax Fund 0646.**

Board of Supervisors Response to R2: The Board of Supervisors adopts the response of County Public Works (Attachment 2).

**Grand Jury Recommendation #3: The County should ensure that all funds derived from past and future sales and/or exchanges of the County SWP allotment be credited to the State Water Contract Tax Fund 0646 and reduce the financial tax burden placed on property owners.**

Board of Supervisors Response to R3: Has not yet been implemented but will be implemented in the future. The \$6,510,450.40 derived from the sale(s) of the Flood Control District's excess allotment of State Water and deposited into the Flood Control District's Zone General Fund will be brought before the Board in August, 2022, to be moved into State Water Contract Tax Fund 0646. Any future funds derived from the sale of the Flood Control District's excess allotment of State Water will be deposited into this fund. Due to timing around budget development and tax allocation requests, any potential reduction to property owners will not be calculated and/or realized until Fiscal Year 2023-24. Staff will develop a work plan that allocates appropriate emergency reserves and funding for upcoming State Water projects within State Water Contract Tax Fund 0646 in order to determine the extent to which revenues from water sales are not sufficient to pay State Water project costs and/or before any tax reduction is realized by property owners.

**Grand Jury Recommendation #4. When the State Water Contract revenue exceeds the taxpayer burden, the County could use the balance to explore water resource projects with County-wide benefits.**

Board of Supervisors Response to R4: The Board of Supervisors adopts the response of County Tax Collector and County Public Works (Attachment 2).

**OTHER AGENCY INVOLVEMENT/IMPACT**

County Counsel, County ACTTC, County Public Works, and the County Administrative Office drafted the recommended responses to the Grand Jury report.

**FINANCIAL CONSIDERATIONS**

Costs for preparing this response are included in current department budgets. There are no significant anticipated financial impacts to the County budget that will result either directly or indirectly from the recommended action. Any future financial impacts associated with the recommended action will be considered as they arise.

**RESULTS**

Adoption of the responses will make it possible for the County to meet the legal requirements and time frames for responding to a Grand Jury report with findings and recommendations. The responses from County Counsel, County ACTTC, County Public Works, and the Board to the FY 2021-22 Grand Jury report titled "SLO County's State Water: A Taxpayer Burden and a General Fund Boon?" will be adopted and transmitted to the Presiding Judge and the Grand Jury as required. This action is consistent with the County's goal to promote a well-governed community.

**ATTACHMENTS**

- 1 Attachment 1 - FY 2021-22 Grand Jury Report – "SLO County's State Water: A Taxpayer Burden and a General Fund Boon?"
- 2 Attachment 2 – Responses to FY 2021-22 Grand Jury Report – "SLO County's State Water: A Taxpayer Burden and a General Fund Boon?"

## RESPONSE TO GRAND JURY REPORT

**Report Title:** "SLO County's State Water: A Taxpayer Burden and a General Fund Boon?"

**Report Date:** June 17, 2022

**Response by:**                    **All Requested Entities**                    **Title:**                    **See Below**

- Rita Neal, County Counsel
- Jim Hamilton, Auditor-Controller-Treasurer-Tax Collector
- John Diodati, Director of Public Works

### FINDINGS


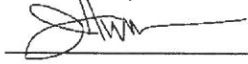
1. I (we) agree with the findings numbered:                    F1, F6
2. I (we) disagree wholly or partially with the findings numbered: F2, F3, F4, F5  
*(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons.)*

### RECOMMENDATIONS

1. Recommendations numbered                    R1, R2, R3, R4                    have been implemented.  
*(Attach a summary describing the implementation actions.)*
2. Recommendations numbered                    have not yet been implemented, but will be implemented in the future.  
*(Attach a timeframe for the implementation.)*
3. Recommendations numbered                    require further analysis.  
*(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of the publication of the Grand Jury report.)*
4. Recommendations numbered                    will not be implemented because they are not warranted or are not reasonable.  
*(Attach an explanation.)*

Date: 7/6/2022

Signed:

 , County Counsel  
  
\_\_\_\_\_  
\_\_\_\_\_

Number of pages attached: 3

**RESPONSE TO GRAND JURY REPORT**

**Report Title:** "SLO County's State Water: A Taxpayer Burden and a General Fund Boon?"

**Report Date:** June 17, 2022

**Response by:** **All Requested Entities** **Title:** **See Below**

- Rita Neal, County Counsel
- Jim Hamilton, Auditor-Controller-Treasurer-Tax Collector
- John Diodati, Director of Public Works

**FINDINGS**

1. I (we) agree with the findings numbered: F1, F6
2. I (we) disagree wholly or partially with the findings numbered: F2, F3, F4, F5  
*(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons.)*

**RECOMMENDATIONS**

1. Recommendations numbered R1, R2, R3, R4 have been implemented.  
*(Attach a summary describing the implementation actions.)*
2. Recommendations numbered have not yet been implemented, but will be implemented in the future.  
*(Attach a timeframe for the implementation.)*
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4. Recommendations numbered will not be implemented because they are not warranted or are not reasonable.  
*(Attach an explanation.)*

Date: 7/6/2022

Signed:

*John Diodati*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Number of pages attached: 3

## Attachment on Findings

F2 – Partially Disagree: It is noted the allocation of 'nearly 40%' does fluctuate, depending on the amount of drought buffer held by subcontractors.

F3 – Partially Disagree: References to 'the County' should be replaced with the "San Luis Obispo County Flood Control and Water Conservation District" or "District".

F4 – Partially Disagree: The administrative charges to the State Water Tax Fund have increased 429% from Fiscal Year 2003-04 actual charges to Fiscal Year 2021-22 final budget. The most recent year of actual data, Fiscal Year 2020-21, reflects a 244% increase in administrative charges from Fiscal Year 2003-04. The actual charges for Fiscal Year 2021-22 will not be known by the District until late August 2022.

F5 – Partially Disagree: Property tax revenue for State Water have increased, but the ad valorem rate has remained constant since approximately fiscal year 2013/14. Costs have risen due to increased management efforts, maintenance of the system and a reduced amortization schedule for paying project related costs back to the Department of Water Resources. Currently costs are only amortized until the end of the State Water contract which is 2035. Staff is bringing a contract extension to the year 2085 before the Board of Supervisors for approval on July 12, 2022, which will ameliorate the cost burden to rate payers as any project related costs can be amortized over a longer contract period.

## Attachment on Recommendations

R1 – County Counsel and County Tax Collector: An expert legal interpretation was obtained.

R2 – County Public Works: There have been increases in charges related to “administration and accounting”, as the State Water system has seen increased new and important work efforts over the last decade.

There are three “Levels” of State Water Project (SWP) Project Administration and Accounting work for the District – 1) District, 2) Central Coast Regional, and 3) State. The following list is a sample of work related to the State Water system:

### District Level

- Subcontractor coordination
  - o Delivery operational coordination, tracking/reporting of annual delivery requests, and processing of requested changes mid-year.
  - o Subcontract updates or inquiries on supply availability or management options (e.g., Processing of drought buffer requests)
- State Water Subcontractors Advisory Committee
  - o Bi-monthly committee meetings to review SWP water supply and delivery operations and to discuss updates/ongoing matters that pertain to the management of the supply – matters that pertain to the District’s administration of the contracts.
- Responding to public inquiries related to the SWP water system or SWP supply use or availability.
- Utilities Division/Finance Division staff support for Department of Water Resources (DWR) and Central Coast Water Authority (CCWA) invoicing to facilitate District/Subcontractor reimbursement of SWP costs.
- District planning/coordination efforts related to full allocation of SWP water – i.e., to fully utilize the “excess” (unsubscribed) SWP allocation, for current Subcontractors and also local agencies who are not subcontractors but exploring possibility of utilizing District’s available SWP supplies (e.g., Cal Poly, Los Osos Community Services District, local Groundwater Sustainability Agency needs, local drought mitigation needs, etc.)
- Coordination with County Operations Center – hub for untraditional uses of District’s SWP (e.g., O’Connor Fill Station to address local emergency needs)
- Regional planning efforts (District’s Regional Resiliency Planning Study 2020-2021; Water Management Tools Study with CCWA 2020-2022)

### Central Coast Level

#### SWP Operations Management Coordination w/CCWA

- Coordination of local delivery operations and reporting/review (ongoing, routine) with CCWA, occasional participation at their Board or Operating Committee meeting to address questions, speak to issues, or coordinate on operations (e.g., operations staffing and agency coordination/planning to address COVID-19 or local delivery needs during operational changes or maintenance shutdowns).
- Coordinated review of DWR’s SWP Coastal Branch operation financials with Ernst & Young, an independent 3<sup>rd</sup> party auditor.

- Completion of a Water Management Tools Study (2020-2022), coordinated with CCWA to understand new management opportunities based on the flexibility provided in the proposed WMT Amendment that would allow the District and CCWA to maximize the benefits of SWP water supplies for the Central Coast (service areas covering San Luis Obispo and Santa Barbara Counties).
- Development of a water exchange agreement with CCWA / Santa Barbara County during the 2015-16 drought years; and again, during the 2021-22 drought years – to provide SLO County & Santa Barbara Counties with the ability to use SWP water for local drought mitigation.

#### State Level

SWP Project Coordination/Representation for SLO District with State Water Contractors (SWC) & DWR – state-wide coordination, inter-agency review/monitoring of SWP Project operations –

- SWC-DWR Water Operations Committee – monthly (Dec – May), unless otherwise needed (e.g., for drought coordination).
- Wet weather delivery operations coordination (2017, 2019 – San Luis Reservoir spill / Article 21 water requests)
- Drought operations/coordination with SWC/DWR (2012-2016; 2020-2022)

SWC-DWR Audit-Finance Committee for SWP Operations – monitoring/tracking of project financials (capital and O&M costs), annual operational priorities, energy costs & considerations (e.g., annual Statement of Charges determination and billing to Contractors; 2017 Oroville Spillway Incident – repair costs and FEMA reimbursement considerations) (*District participation on an as-available/as-needed basis*).

- SWC Monthly coordination meetings with the SWP Contractors at large. Informational updates on DWR and SWC initiatives to operate and maintain the project responsibly, protect water rights, and monitor/coordinate on SWP priorities/policy considerations. (*District participation on an as-available/as-needed basis*)
- SWC Board meeting (monthly) – for tracking of SWC board action items, policy decisions/priorities, initiatives, financial considerations.

(*District participation on an as-available/as-needed basis*)

- Delta Conveyance Project Participation
  - o District representation, and monitoring/tracking of the negotiated principles for a contract amendment to support a potential project envisioned to protect/preserve the long-term SWP water supply by addressing the known seismic and environmental/climate risks associated with reliance on the Delta for conveyance. (2018 – 2020)
  - o District representation and monitoring/tracking of the DWR planning/design and environmental review effort aimed at defining a potential Delta Conveyance project; participation in planning/environmental review effort keeps option open for the District to decide later on long-term participation once environmental review is completed and a project has been defined. (2021 – current)
- Development of Water Management Tools (WMT) Amendment

District representation, and monitoring/tracking of the negotiated principles for the contract amendment aimed at improving the flexibility Contractors have in managing their SWP water supplies – with a focus on water transfers and exchanges within the SWP service area. (2018 – 2021)

R4 – County Tax Collector and County Public Works: The County and Flood Control District concur with this recommendation so long as the water resource project has a State Water nexus and will implement when appropriate.