



## **ENVIRONMENTAL REGULATORY & CONSERVATION ISSUES**

Continued interest in environmental issues at both the state and federal levels will likely result in legislation and changes in regulations that could significantly impact the City. Monitoring and advocacy efforts will be geared to ensuring that emerging legislation is in alignment with the City's interests in providing sustainable services to its residents. This Legislative Advocacy Position summary focuses on several environmental issues, which can potentially impact our residents including and not limited to energy and water supply, clean air and bay, flood protection, and recycling.

### *California Environmental Quality Act Reform*

The 2014 California legislative session involved considerable discussion regarding substantive reforms to the California Environmental Quality Act (CEQA). CEQA is recognized as an important tool for ensuring public disclosure of potentially significant environmental impacts and for ensuring that adequate mitigation measures are included to reduce or avoid these impacts. Growing concerns have been expressed, however, that some groups are using CEQA inappropriately to delay a project, and often the opposition is not truly predicated on environmental concerns. Environmental impact reports are increasingly challenged in the courts. Along with causing significant project delays, cities must commit considerable staff resources and incur substantial financial costs to defend these legal challenges. While CEQA reform has been a topic of regular discussion with numerous revisions enacted since the law was passed in 1970, the revisions have generally been incremental and ineffective in streamlining the CEQA process.

The 2014 legislative session expected significant CEQA reform, however, an overall CEQA reform proposal did not proceed and SB 731 was introduced, which proposed CEQA reform specific to infill projects. In the last days of the session, SB 731 was shelved and SB 743 was approved. SB 743 includes provisions modifying the expedited judicial review provisions for environmental leadership projects, and adopting some streamlining provisions for infill projects in transit priority areas. SB 743 removes parking, transportation Level-of-Service (LOS), and aesthetics standards as grounds for legal challenges against project developments in urban infill areas. These standards are most commonly used in CEQA litigation to slow or terminate a new development project. The standards will remain in place to demand a higher threshold for green-field developments. It is expected that additional CEQA reform will be necessary in the future.

### *Clean Energy and Energy Conservation*

The City, and its electric utility Silicon Valley Power (SVP), actively engages in energy policies that move the residents and businesses toward a cleaner future ensuring reliable, affordable and sustainable power, with effective local accountability as a fundamental requisite. Preserving local decision-making and authority ensures that the best interests of the community are taken into account, actions are tailored to local priorities, and it is key to the goal of delivering reliable, affordable and sustainable power. Locally elected representatives are more responsive to the needs of our community as decisions are made through a public process, allowing customers to directly participate in the decision making.

The City will continue to engage in discussions, legislation, and policy, regarding energy related issues including renewable energy, energy efficiency and conservation,

resiliency, smart grid solutions, energy storage, distributed energy and transportation electrification, among other things. The City has had an Environmental Stewardship and Renewable Portfolio Standard Policy Statement since 2008. The City advocates for policies that remain technology feasible and neutral, and avoids policies that choose specific technologies or energy procurement mandates that can lead to increased customer costs while discouraging innovation. The City supports legislation that remove barriers to the electrification of buildings and transportation and legislation that provides regulatory streamlining of reporting and other actions.

#### *Forest Management/Wildfire Mitigation Plans*

The City supports the modernization of vegetation and forest management practices for wildfire prevention and carbon sequestration. The City is supportive of biomass production for energy, forest thinning, and other activities to improve the health of forests damaged by infestation of bark beetles, plant pathogens, drought, or other hazards that exponentially increase wildfire dangers.

The City has broad interest in the impacts of forest management ranging from fire hazard to electric generation stations and transmission to the general negative impacts on watersheds and carbon sequestration. In 2015, the Lake County fires damaged the transmission lines from the Geysers generating units of which SVP is a partial owner. Rapid response, including use of Santa Clara line crew employees, brought the power back to the grid. However, approximately 9,400 megawatt-hours of renewable power was not available to the California power grid during that time, thus hindering the State's ambitious GHG reduction goals. The City also recognizes that catastrophic wildfires are also a large source of GHG and black-carbon emissions and negatively offset the efforts of all agencies in reducing such emissions.

#### *Green House Gas (GHG) Emission Reductions*

Sustainability is an important goal for the City. The City monitors legislation that may have a regional and local impact on greenhouse gas emissions to advocate for effective and equitable approaches to emissions reduction especially to California Air Resources Board's (CARB) identified Disadvantaged Communities (DAC) and the Bay Area Air Quality Management District's (BAAQMD) identified Community Air Risk Evaluation (CARE) communities.

The Global Warming Solutions Act of 2006 (AB 32), requires California to reduce its GHG emissions to 1990 levels by 2020, and set the frame work for 40% reduction from 1990 GHG levels by 2030 and 80% reduction targets from 1990 GHG levels by 2050. The City supports a comprehensive approach to climate policy that optimizes GHG reductions across multiple sectors (transportation, electricity, buildings, etc.). The City advocates for the flexibility to optimize the portfolio of GHG emission reduction opportunities identified in the City's Climate Action Plan and include new renewable energy procurement, energy efficiency, demand response, smart grid solutions, energy storage, emission trading, among other actions to the portfolio. The City's Climate Action Plan is heavily reliant on Silicon Valley Power to implement and further accelerate greenhouse gas reductions.

#### *Lead Testing of Drinking Water in California Schools*

The State Water Resource Control Board's (SWRCB) Division of Drinking Water (DDW), along with the State Department of Education, created regulations in 2017 regarding potable water lead monitoring in schools. In addition, AB 746, signed by the Governor in 2017, required all water agencies to provide testing at fixtures such as drinking fountains and kitchen sinks for lead in drinking water for all K-12 public, private, and preschools and child day care facilities located on public school property built before 2010. Testing

will be required to be completed by July 1, 2019. The City of Santa Clara supports this legislation that protects the health of children who might be exposed to lead and staff is working with the School Districts to complete the required testing. Sampling results from the testing will be given to state and school officials and published in the City's Annual Consumer Confidence Report.

#### *Prohibition of Oil Drilling off the California Coast*

In 2017, the President's administration announced its intent to allow additional offshore drilling around the United States, including a location in the Pacific Ocean along the Northern California coast. Offshore drilling is widely considered to carry significant risk to the environment and to worker safety. Additionally, the resourcing of additional fossil fuels is at odds with the climate protection goals of California and Santa Clara.

In response to the administration's proposal, Governor Brown signed AB 1775 and SB 834 in September 2018 that ban new offshore drilling by prohibiting the State Lands Commission from issuing new leases for oil-related infrastructure in the state's coastal waters. It is in Santa Clara's interest to support and complement State efforts to oppose allowing additional oil drilling off the California coast.

#### *Recycling and Solid Waste*

In September, 2015, the California Air Resources Board (CARB) announced its intent to ban landfill disposal of food waste and other organics by 2025 in hopes of further reducing methane emissions from landfills. SB 1383, signed into law by Governor Brown on September 19, 2016, reinforced CARB's focus on diverting organics from landfill. The bill establishes 2014 disposal as a baseline, then sets a state target of reducing disposal 50% by 2020 and 75% by 2025. As of late 2017, CalRecycle is drafting regulations to implement the organics diversion provisions of SB 1383. The most recent draft regulations as released in May 2018 are intensive requiring inspection/enforcement, public education and outreach. They are also more prescriptive in terms of food recovery and color coding of bins.

However, creating the composting and anaerobic digester infrastructure needed to process the additional food waste will require overcoming significant statewide funding, siting and land use and environmental permitting challenges. A key issue is the need for a realistic, market-driven definition of "organics."

It is in the City's interest to continue to monitor the progress and implementation of these efforts as they relate to its utility functions of wastewater, water, and solid waste management and to the City's greenhouse gas reduction goals and approaches. Staff will continue to monitor these efforts and advocate for funding, regulatory streamlining, and market-based incentives to enable creation and maintenance of the facilities needed to reach state and local goals.

#### *Sanitary Sewer Overflows (SSOs)*

The City's Pretreatment Program, Fats, Oils & Grease (FOG) Inspection Program, and Operations and Maintenance of the Sanitary Sewer collections system through a rigorous inspection protocol all work to lessen the number of Sanitary Sewer Overflows (SSOs) as way to protect water quality, public health, and the overall environment. The City is supportive of legislative and regulatory efforts on both the State and Federal level that assist in the City's mission. These efforts may be in the form of source control, whereby things like FOG or wipes and rags are kept out of the sanitary system, or they may be in the form of innovative operational tools and infrastructure funding. More broadly, the City supports pollution prevention efforts that keep pollutants such as pharmaceuticals and hazardous materials out of the sanitary sewer system.

### *South Bay Salt Ponds Restoration Project*

The salt pond conversion project, to restore the salt ponds to their natural ecosystem and provide flood protection, is ongoing. A large amount of fresh water enters the San Francisco Bay from wastewater treatment plants in South Bay cities, including Santa Clara. These inputs of freshwater are included in the hydrodynamic modeling work conducted to evaluate the impact of alternatives on such things as salinity, water quality, and water levels. Project partners, such as the California State Coastal Conservancy, the California Department of Fish and Game, the U.S. Fish and Wildlife Service, Santa Clara Valley Water District, Alameda County Flood Control and Water Conservation District, and the U.S. Army Corps of Engineers, and members of the public are collaborating to implement the first phase of the current restoration plan. The project needs to be tracked, due to its proximity and possible impact on the Regional Wastewater Facility, which Santa Clara jointly owns with the City of San Jose.

### *South Bay Shoreline Study*

Shoreline areas along San Francisco Bay will risk damages from coastal flooding, with potential impacts to human health and safety, due to future sea level rise. The South San Francisco Bay Shoreline Project is a congressionally authorized study by the US Army Corps of Engineers together with the Santa Clara Valley Water District and the State Coastal Conservancy to identify and recommend flood risk management projects for Federal funding. The Corps is looking at projects that will reduce flood risk, restore some of the region's lost wetlands, and provide related benefits such as recreation and public access. This project, and other Bay Area resiliency planning efforts, should be tracked into ensure that Santa Clara's infrastructure and community assets are considered and protected as the Bay Area plans and constructs resiliency projects. Santa Clara has supported Measure AA funding for the South San Francisco Shoreline Study. The San Jose/Santa Clara Regional Wastewater Facility is a critical facility which is co-owned by the City of Santa Clara located on 2,600 acres serving 1.4 million people and Silicon Valley businesses. This facility, along with the Silicon Valley Advanced Water Purification Center, is located in the area of the study as posing significant risk to tidal flooding. Both of these facilities would benefit from the construction of a coastal levee and habitat restoration.

### *Urban Runoff Pollution Prevention*

The City supports provisions of National Pollutant Discharge Elimination System permit regulations that are attainable and reflect local conditions and circumstances. Along the same lines, new regulations and/or permit requirements that include numerical limits for municipal urban runoff discharge should be opposed as infeasible and a very expensive way to address the problem. It is in the City's continued interest to support urban runoff pollution prevention regulations, water conservation and recycling, and pollution controls that benefit the City. Policies by Regional Water Quality Boards should recognize the goals of the Clean Water Act but apply an appropriate standard based on local circumstances.

### *Wastewater Regulation*

The San Jose/Santa Clara Regional Wastewater Facility (RWF) is the largest advanced wastewater treatment plant in the western United States serving a population of over 1.4 million people and over 17,000 businesses across eight cities and the County. The RWF is also the largest discharger to the San Francisco Bay. The RWF is regulated by the National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water

Act administered by San Francisco Bay Regional Water Quality Control Board. The RWF has been successful in meeting the discharge requirements through capital improvements and source control programs. New regulations are focused on Contaminants of Emerging Concern, Toxicity, and Nutrient Reduction.

There are a number of wastewater regulations under consideration including: reissuance of the San Francisco Bay Nutrient Watershed Permit in 2019; potentially more stringent regulations for selenium loadings; more stringent regulations related to contaminants of emerging concerns; and a draft State Toxicity Plan was released in October 2018.

The RWF is also dealing with a number of air quality regulations that will be monitored closely that include: Bay Area Air Quality Management District's (BAAQMD) new rule, Rule 11-18, that is intended to assess and reduce human health risks associated with toxic air contaminant emissions from facilities in the Bay Area; the Greenhouse Gas Emissions cap and trade program authorized by AB-32 in 2006 is set to expire in 2020, the program will be extended through 2030 with adoption of SB-32 in 2017; Greenhouse Gas Emissions – BAAQMD Methane Rules, through treatment plant processes in the digesters at the plant, Rule 13-1 is intended to require facilities to find and eliminate large leaks. A draft of the rule was released in September 2018, although no hearing date has been scheduled yet.