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August 1, 2012

Members, Ballot Simplification Committee
Department of Elections
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 48
San Francisco, CA 94102

Re: Comments on Draft Digest for "Water and Environment Plan"

Dear Members of the Ballot Simplification Committee:

On behalf of our client, Save Hetch Hetchy, a campaign committee opposing the "Water and Environment Plan," we respectfully submit these comments on the draft digest which you will be considering at tomorrow's meeting. We have also attached a marked-up version of the draft digest which makes the changes described in detail below.

1. Purpose of Proposition

In our view, the "The Proposal" section of the draft digest is a classic example of "burying the lead." As clearly stated by the proponents, opponents, and members of the press, the undisputed purpose of this measure is to require the City to develop and begin implementation of a plan to drain the Hetch Hetchy Reservoir. Despite this, the first and only reference to the Hetch Hetchy Reservoir is in the twelfth line of "The Proposal" section and in the seventh bullet outlining the various aspects of the plan. By "burying the lead," the digest fails to inform the voters that the purpose of the proposition is to develop a plan to drain the Hetch Hetchy Reservoir. In order to ensure that the voters understand the purpose of the plan, we would recommend amending the first sentence of the Proposal section to read as follows:

"Proposition ____ would require the City to prepare a two-phase plan that would evaluate draining the Hetch Hetchy Reservoir and identify replacement water sources and storage."¹

In addition, this amended sentence should serve as the basis for the "A 'YES' Vote Means" section which should be amended to read as follows:

A "YES" Vote Means: If you vote "yes," you want the City to prepare a two-phase plan

¹ Proposed changes to the draft digest are underlined throughout this letter.

that would (1) evaluate draining the Hetch Hetchy Reservoir and (2) identify replacement water sources and storage.

We believe that this amended introductory sentence, which is similar to a sentence in the official summary prepared by the City Attorney's office, and subsequent changes to the "A 'YES' Vote Means" section, would provide the voters with a concise summary of the purpose and impact of the proposition and will make clear that this proposition, and the decision to be made by voters, is whether the City should develop a plan to drain Hetch Hetchy Reservoir.

2. Development of Water Supply Options

In the "Way It Is Now" section, the digest indicates that San Francisco is currently undertaking a \$4.6 billion project to improve the Water System which includes the development of "additional groundwater, conservation, and reclaimed water supplies." In comparison, "The Proposal" section describes certain aspects of the plan related to these issues in much more specificity by stating that the plan would identify local water supply options including "...increased groundwater use, water recycling, storm water harvesting, gray water systems, and conservation..." and regional water supply options "...including storage, purchase, and conservation."

The use of dissimilar language incorrectly suggests that the Public Utilities Commission ("PUC") is not currently developing additional groundwater, conservation, and reclaimed water supplies when in fact these are aspects of the Water System Improvement Program. We recommend that the language in "The Proposal" section be amended to simply state that the first phase of the plan would identify additional "local water supply" and "regional water supply options" without specifying the options. (Noted as Option 2.1 in the attached mark-up) In the alternative, the language in the "The Way It Is Now" section could be amended to mirror the specific language of "The Proposal" section and would read as follows:

"San Francisco is currently undertaking a \$4.6 billion project to improve the Water System and develop additional groundwater, water recycling, storm water harvesting, gray water systems, conservation and additional storage." (Noted as Option 2.2 in the attached mark-up.)

3. Appropriation to Fund Plan

The Proposition appropriates up to \$8 million to pay for the development of the plan. This appropriation is an important part of the proposition and we suggest that the digest include the following sentence which is modeled after a similar sentence in the official summary prepared by the City Attorney's Office:

"The Proposition would appropriate up to \$8 million from any available City funds to pay for the plan."

4. Identification of Renewable Energy Sources

The digest states that the plan will identify "alternative" renewable energy sources. This suggests that the renewable energy sources would be in addition to the hydroelectric power which the system currently provides. In reality, the renewable energy sources which the plan

intends to identify are needed "...to offset any reduction in hydropower resulting from the [draining of Hetch Hetchy reservoir]...." (Legal text of proposition.) According to the departmental analysis provided by the PUC, the reduction in hydropower resulting from the draining of Hetch Hetchy reservoir would result in an additional annual cost of \$41 million for the City resulting from the loss of revenues from power sales and the additional cost to purchase power on the open market in order to provide sufficient power to various City departments. As a result, we would suggest modifying this bullet point to state that the plan will identify "...alternative renewable energy sources in order to offset the reduction in hydroelectric power resulting from the draining of the Hetch Hetchy Reservoir."

5. Expansion of Water Treatment Systems

The "Way It is Now" section states "San Francisco does not filter Hetch Hetchy water but treats and tests it over 100,000 times annually." "The Proposal" section then goes on to state that the plan would identify "...expanded water treatment systems to filter all drinking water supplies." These two statements taken together seem to suggest that the current treatment systems are deficient. To avoid this suggestion, we would recommend amending the sentence in "The Proposal" section to read:

"Because of the high quality of Hetch Hetchy water, San Francisco is not required to filter Hetch Hetchy water but treats and tests it over 100,000 times annually." (Noted as Option 5.1 in the attached mark-up.)

In the alternative, the sentence in "The Proposal" section could be amended as follows:

"...expanded water treatment systems to filter all drinking water supplies in light of changes to water quality resulting from the implementation of the plan." (Noted as Option 5.2 in the attached mark-up.)

6. Location in Yosemite Park

In "The Proposal" section, the last bullet of the second phase reads: "...stop using Hetch Hetchy Valley as a reservoir so it could be restored as part of Yosemite National Park." This language suggests that Hetch Hetchy Reservoir is not currently "part" of Yosemite National Park and that somehow the proposition will make it part of Yosemite National Park. The Hetch Hetchy Reservoir is currently within the boundaries of Yosemite National Park and is an important recreational area of the park as described in great detail on the National Park Service's website - <http://www.nps.gov/yose/planyourvisit/hetchhetchy.htm>.

In order to avoid any misperception that the Hetch Hetchy Reservoir is not currently located in Yosemite National Park, we would recommend amending the final bullet to read as follows:

"...stop using Hetch Hetchy Reservoir."

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We hope that these comments are useful as the Ballot Simplification Committee conducts the important task of drafting the digest. We would look forward to discussing these comments at tomorrow's meeting.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kevin R. Heneghan', with a stylized flourish at the end.

Kevin R. Heneghan
Campaign Counsel for Save Hetch Hetchy

KRH

Enclosure

SAVE HETCH HETCHY PROPOSED DIGEST

Marked-Up Version

Ballot Simplification Committee - DRAFT for Consideration on Thursday, August 2, 2012

Water and Environment Plan (*working title only, subject to change*)

The Way It Is Now:

San Francisco owns the Hetch Hetchy Regional Water System ("Water System"), which provides water to about 2.5 million people in San Francisco and neighboring areas. Water System reservoirs collect water from the Tuolumne River and Bay Area watersheds.

The Water System's largest reservoir is in Yosemite National Park's Hetch Hetchy Valley. San Francisco created the reservoir by damming the Tuolumne River in 1923. The Hetch Hetchy Reservoir supplies approximately 85% of Water System water and also generates hydroelectric power for City purposes. Reservoirs in Alameda County and the Peninsula provide additional water. [OPTION 5.1] Because of the high quality of Hetch Hetchy water, San Francisco does not filter Hetch Hetchy water but treats and tests it over 100,000 times annually.

San Francisco is currently undertaking a \$4.6 billion project to improve the Water System and develop additional groundwater, [OPTION 2.1] additional groundwater, water recycling, storm water harvesting, gray water systems, conservation and additional storage.

The Proposal:

Proposition ___ would require the City to prepare a two-phase plan that would evaluate draining the Hetch Hetchy Reservoir and indentify replace water sources and storage."

The first phase would identify:

- ~~additional local water supply options; [OPTION 2.2], including increased groundwater use, water recycling, storm water harvesting, gray water systems, and conservation;~~
- expanded water treatment systems to filter all drinking water supplies in light of changes to water quality resulting from the implementation of the plan;
- additional regional water supply options, [OPTION 2.2] including storage, purchase, and conservation; and

- alternative renewable energy sources in order to offset the reduction in hydroelectric power resulting from the draining of the Hetch Hetchy Reservoir.

The second phase would evaluate how to:

- increase flows on the lower Tuolumne River;
- decrease storm water discharge into the Bay and the Ocean; and
- ~~stop using Hetch Hetchy Valley Reservoir as a reservoir so it could be restored as part of Yosemite National Park.~~

The plan would include timelines to implement the first phase by 2025 and the second phase by 2035.

Proposition __ would create a five-member task force to develop the plan. The members would be the PUC General Manager, the General Manager of the Bay Area Water Supply and Conservation Agency, and three experts appointed by the Board of Supervisors.

Proposition __ would require the task force to complete the plan by November 1, 2015, and require the Board of Supervisors to consider proposing a Charter Amendment to implement the plan.

The Proposition would appropriate up to \$8 million from any available City funds to pay for the plan."

The Board of Supervisors could amend Proposition __, without further voter approval, to advance the purpose and intent of the measure.

A "YES" Vote Means: If you vote "yes," you want the City to prepare a two-phase plan that would (1) evalutate drainin the Hetch Hetchy Reservoir and (2) identify replacement additional water and renewable energy sources, and storage. ~~(2) propose environmental restoration projects, including how to stop using the Hetch Hetchy Reservoir.~~

A "NO" Vote Means: If you vote "no," you do not want the City to prepare this plan.
word count: 406 [suggested word limit: 300]