

To: Ballot Simplification Committee
From: Spreck Rosekrans and Lance Olson
Date: August 3, 2012
Re: Appeal of Digest Language

We respectfully submit the following for your consideration as an appeal to the digest approved by the Ballot Simplification Committee (BSC) for the Water and Environment Plan.

Overview

1. The BSC, at the specific and direct request of political opponents of the measure, rewrote the digest to include the phrase “drain Hetch Hetchy” four times. This phrase does not appear in the text of the initiative, nor did it appear in draft BSC digest written by the City Attorney, nor did it appear in the Title and Summary prepared by the City Attorney during the initiative process (see Attachment A). The language in the Title and Summary prepared by the City Attorney reads: “evaluate how to end using the Hetch Hetchy reservoir.” We believe these changes create a political bias against the measure, do not accurately reflect the language of initiative, and mislead voters.
2. The BSC removed all language pertaining to the restoration of Hetch Hetchy Valley in Yosemite National Park. The exact text of the initiative is “allow for the Hetch Hetchy Valley to be returned to the National Park Service and restored as part of Yosemite National Park”. “Draining” a reservoir and “restoring” a valley are fundamentally different, and including one while excluding the other without foundation in the legal text of the measure creates a political bias against the measure, does not accurately reflect the language of initiative, and misleads voters.
3. The BSC removed all language related to water conservation, water recycling, groundwater recharge, storm water harvesting and increased use of gray water in its description of the proposal. Instead, the BSC substituted the phrases “replacement water” and “water supply and storage.” These phrases do not adequately convey the text of the proposal and the omission of this language will mislead voters.
4. The BSC, despite objections from proponents, retained language describing the purposes of the current Water System Improvement Plan as including “(to) develop additional groundwater, conservation, and reclaimed water supplies.” Yet in the 2002 BSC Digest of the measure in question, none of these purposes was mentioned, for the very simple reason that they were not central or significant parts of the measure (See Attachment B). They should be stricken, because they mislead voters.
5. The BSC digest now states that “San Francisco voters authorized...a \$4.6 billion project”. This statement is misleading in two ways. First, voters authorized only \$1.6 billion (Of the total \$4.6 billion cost of the Water System Improvement Plan, approximately \$3.0

billion is being financed by the water system's wholesale customers outside San Francisco). Second, any discussion of the 2002 bond is irrelevant to the initiative and misleading to voters since the primary purpose of the bond was to repair aging and seismically vulnerable infrastructure - not to invest in alternative supplies. Any reference to the 2002 bond should be stricken. (See attachment B)

6. The BSC, despite objections from proponents, refused to make changes to the digest that clarified that this planning process could not be implemented without direct approval of voters at a future election. This is a central element of the proposition and is reflected directly in the text of the measure. The fact is, if this proposition is approved, nothing will happen except a planning process, and yet the casual 8th grade level reader for whom the BSC writes could easily come away from this digest with the idea that voting YES on this measure is voting YES on removing the Hetch Hetchy reservoir. This is clearly misleading and inaccurate.
7. The BSC digest mistakenly refers to the Hetch Hetchy Reservoir as "delivering" water to San Francisco. This implies that the Reservoir is the source of San Francisco's drinking water and further implies, if the reservoir were to be "drained," that we would not have a source of water. The fact is that San Francisco's water source is the Tuolumne River, and the reservoir merely stores the water.
8. The BSC digest misleadingly refers to the Hetch Hetchy Reservoir as the largest in the Water System. The Water System relies on a "water bank" in Don Pedro Reservoir on the Tuolumne River that can hold more than twice the volume of Hetch Hetchy Reservoir. While San Francisco does not divert directly from Don Pedro Reservoir, the water bank allows the city to divert river flows upstream to which it would not otherwise be entitled. Describing the Hetch Hetchy Reservoir as the largest in the water system is misleading to voters.

Specific Changes Requested

Specific changes are outlined in track changes.

Ballot Simplification Committee - Approved Digest: Packard, Fasick, Fraps, Jorgensen, Unruh - 11:45 a.m. on Thursday, August 2, 2012

Requests for Reconsideration due Friday, August 3, by 12:00 p.m.

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 includes a 's largest reservoir is in Yosemite National Park's Hetch Hetchy Valley. The reservoir was created in 1923 by damming the Tuolumne River. The Hetch Hetchy Reservoir delivers Tuolumne~~The Tuolumne River provides~~ 85% of the System's water. The water that flows from the reservoir also generates hydroelectric power for City services.

~~In 2002, the voters of San Francisco authorized the San Francisco Public Utilities Commission to implement a \$41.6 billion project to improve the Water System and develop additional groundwater, conservation, and reclaimed water supplies. The project is nearing completion.~~

The Proposal:

Proposition ___ would require the City to prepare a two-phase plan to evaluate draining how to end using the~~using the~~ Hetch Hetchy Reservoir so it could be restored to Yosemite National Park and identify replacement alternative water and replacement power sources. No plans could be implemented without voter approval.

The first phase would identify:

- new water supply and storage options~~additional local water supply options, including increased groundwater use, water recycling, storm water harvesting, gray water systems, and conservation;~~
- expanded water filtration facilities; and
- additional renewable energy sources to replace the reductions in hydroelectric power resulting from draining ending the use of the Hetch Hetchy Reservoir.

The second phase would evaluate how to:

- drain the Hetch Hetchy Valley and stop using it as a reservoir end the use of Hetch Hetchy Valley as a reservoir and restore it to the Yosemite National Park;
- increase flows on the lower Tuolumne River; and
- decrease storm water discharge into the bay and the ocean.

Proposition ___ would allocate \$8 million to pay for the plan and create a five-member task force to develop it

Proposition ___ would require the task force to complete the plan by November 1, 2015, and require the Board of Supervisors to consider placing on the ballot a Charter Amendment to approve the plan.

A "YES" Vote Means: If you vote "yes," you want to require the City to prepare a two-phase plan to present to voters to evaluate draining th~~how to end using e~~ Hetch Hetchy Reservoir in order to restore it to Yosemite National Park and identify replacement water and power sources.

A "NO" Vote Means: If you vote "no," you do not want the City to prepare this plan.
word count: 318 [suggested word limit: 300]



March 15, 2012

Mike Marshall
Restore Hetch Hetchy
P.O. Box 565
San Francisco, CA 94104

Dear Mr. Marshall,

Enclosed is the City Attorney's Title & Summary for the proposed initiative ordinance entitled "**Water and Environment Plan**", which was submitted on February 29, 2012. The title & summary and your notice of intent to circulate the petition must be published at least once in a newspaper of general circulation. The County Clerk's Office in City Hall, Room 168, has a list of newspapers qualified to publish legal notices. You may not begin circulating your petition until you have published your notice of intent and the title & summary.

Within ten (10) days after the date of publication of the notice of intent and title & summary, you must file with this office a copy of the notice of intent and title & summary, as published, certifying to the fact of publication.

Also, there are campaign finance disclosure requirements during signature gathering periods for local initiatives, please see attached Form SFEC-113. If you should have further questions, contact the San Francisco Ethics Commission at (415) 252-3100.

You must file your petition within 180 days from the date of the City Attorney's Title and Summary, March 15, 2012. This means your petition must be turned in to our office by 5:00 p.m., September 11, 2012. However, if you would like the measure to be included on the November 2012 ballot (provided you have sufficient signatures), the petition must be submitted by July 9, 2012. You will need 9,702 valid signatures to qualify for the ballot.

Please call me at 554-4375 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel Gosiengfiao" with a flourish at the end. Below the signature, the word "for" is written in a smaller, cursive script.

Rachel Gosiengfiao
Campaign Services Manager

Encls.

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



DENNIS J. HERRERA
City Attorney

SAN FRANCISCO
FILED

MOLLIE LEE
Deputy City Attorney

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DEPARTMENT OF ELECTIONS

DIRECT DIAL: (415) 554-4705

E-MAIL: mollie.lee@sfgov.org

March 15, 2012

TO ALL INTERESTED PARTIES:

Attached is the City Attorney's title and summary for the proposed local initiative measure designated by the Department of Elections as 12-01. In preparing this title, the City Attorney makes no representation regarding the merits or legality of the proposed legislation. Nor does the City Attorney verify or confirm any factual or legal assertion made in the proposal. The title is presented as a "true and impartial statement of the purpose of the proposed measure." Elections Code § 9203.

Very truly yours,

DENNIS J. HERRERA
City Attorney

A handwritten signature in cursive script, appearing to read "Mollie Lee".

Mollie Lee
Deputy City Attorney

Water and Environment Plan

San Francisco owns the Hetch Hetchy Water System ("Water System"), which provides water to about 2.5 million people in San Francisco and neighboring areas. Water System reservoirs collect snowmelt and rainfall from the Tuolumne River and Bay Area watersheds for use throughout the year. The San Francisco Public Utilities Commission ("PUC") manages the Water System.

San Francisco's largest reservoir is in Hetch Hetchy Valley, located in Yosemite National Park. The federal government authorized San Francisco to create the reservoir by building a dam on the Tuolumne River in 1923. Approximately 85% of San Francisco's water comes from the Hetch Hetchy Reservoir, which also generates hydroelectric power for City agencies. The remaining water comes from reservoirs in Alameda County and Peninsula watersheds. San Francisco does not filter Hetch Hetchy water but treats it 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, conservation, and reclaimed water supplies. Voters specifically authorized water revenue bonds of up to \$1.6 billion for these improvements.

San Francisco discharges treated stormwater to the Bay and Ocean under a federal permit.

The proposed ordinance would require the City to prepare a two-phase plan that would identify alternative water sources and evaluate how to end using the Hetch Hetchy Reservoir.

The first phase of the plan would identify:

- additional local water sources, including increased groundwater, water recycling, storm water harvesting, gray water systems, conservation measures, and expanded water treatment capacity to accommodate filtration of all drinking water;
- additional water supply options, including storage, purchase, and conservation; and
- alternative renewable energy sources.

The second phase of the plan would evaluate how to:

- improve flows on the lower Tuolumne River;
- decrease stormwater discharge into the Bay and the Ocean; and
- end using Hetch Hetchy Valley 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.

The measure would create a task force to oversee development of the plan ("Task Force"). The Task Force would have five members: 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. The Task Force would select and manage consultants to develop the plan.

The measure would require the Task Force to complete the plan by November 1, 2015, and require the Board of Supervisors to hold a hearing by January 31, 2016, to consider proposing a Charter Amendment to implement the plan.

The measure would appropriate any available City funds to pay for the Plan, with a maximum appropriation of 0.5% of funds voters previously authorized for the current Water System improvement project (approximately \$8 million).

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DEPARTMENT OF ELECTIONS

The measure states that it will not weaken the City's rights to use Tuolumne River water.

The measure would authorize the Board to amend the measure, without further voter approval, to advance the purpose and intent of the measure.

WORD COUNT: 489 [Maximum: 500 words]

[Department of Elections file no. 12-01]

SAN FRANCISCO
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2012 MAR 15 PM 1:07
DEPARTMENT OF ELECTIONS

Type of filing: Initial Amendment

San Francisco Ethics Commission
25 Van Ness, Suite 220
San Francisco, CA 94102
Phone: (415) 252-3100
Fax: (415) 252-3112
Email: ethics.commission@sfgov.org
Web: www.sfethics.org



For SFEC use

FORM SFEC-113:

IMPORTANT NOTICE FOR INITIATIVE, RECALL AND REFERENDUM PETITIONS
(S.F. Campaign and Governmental Conduct Code § 1.113(c))

1. Instructions:

The proponent of any petition that is circulated to qualify a measure for the ballot must inform the Ethics Commission that the proponent has begun to circulate the petition. The notification must occur within one business day of the first date that the petition is circulated. The notification may be provided by email or facsimile.

2. Required Information:

Name, street address, telephone number and email of proponent: (If the proponent is a committee, state the committee name here.)	
Proponent committee's FPPC ID No:	
Title of petition that is being circulated:	
First date petition was circulated:	
Date of election for which petition is being circulated:	
Name and title of person completing this form:	

3. Disclosure Requirements during Circulation of Petition:

Any committee that is raising or spending funds to support or oppose a measure during the circulation of the measure must file supplemental campaign statements with the Ethics Commission, as described below. If you have questions, contact the Ethics Commission.

Filing deadline	Reporting Period
the 5 th day of every month	covering through the last day of the previous month
the 20 th day of every month	covering through the 15 th day of the month
the 5 th day of the month following the end of the circulation period to disclose contributions or expenditures made during the signature gathering period	covering through the last day of the previous month



RECEIPT FOR CITY ATTORNEY TITLE AND SUMMARY

I, _____, hereby acknowledge
receipt of The City Attorney's title and summary for the proposed initiative:

Print Name

Date

Signature

A

Water Bonds

Digest

by Ballot Simplification Committee

THE WAY IT IS NOW: San Francisco's water system supplies drinking water to about 2.4 million people in San Francisco and the Bay Area. This water is stored at Hetch Hetchy Reservoir and in other reservoirs in the Sierra and in Alameda and San Mateo counties. Some of the water is piped more than 150 miles to reach the Bay Area. Many of the water system's pipelines, tunnels and other facilities are in need of repair or replacement. Some of these are located on or near fault lines, and are vulnerable to damage in an earthquake.

THE PROPOSAL: Proposition A is a revenue bond that would authorize the City to borrow \$1,628,000,000 to pay for improvements to its water system. The money would be used to:

- Upgrade and strengthen the system's pipelines, tunnels and other facilities against earthquakes;
- Upgrade the system used to store water and pipe it to the Bay Area;
- Upgrade the water distribution system in San Francisco;
- Meet future water quality standards; and
- Increase water system capacity.

Rates charged to water system customers in San Francisco would be increased over time to repay these bonds. San Francisco landlords could pass on to tenants in rent-controlled units half the increase in water rates resulting from the bond. Suburban water system users would finance and pay for their share of improvements to the water system.

If in the future the San Francisco Board of Supervisors determines that it is cheaper to pay for water system improvements by joining with suburbs to create a Regional Water Financing Authority, then a surcharge will be imposed on San Franciscans to cover the additional costs including to pay for the operating expenses of the Authority.

A "YES" VOTE MEANS: If you vote "Yes," you want the City to borrow \$1,628,000,000 to make water system improvements, to be paid for with increased water rates.

A "NO" VOTE MEANS: If you vote "No," you do not want the City to borrow \$1,628,000,000 for these purposes.

Controller's Statement on "A"

City Controller Edward Harrington has issued the following statement on the fiscal impact of Proposition A:

In my opinion, should the proposed bond issue of \$1,628,000,000 be authorized and bonds issued at current interest rates, based on a single bond sale and level redemption schedules, the cost would be approximately \$85,000,000 annually for thirty (30) years for a total approximate cost including debt service of \$2,551,000,000.

This bond amount represents increases ranging between 5% and 12% annually between 2003 and 2015 in water rates for San Francisco consumers, the source of repayment for these bonds. For the average single family residential service in San Francisco this cost is equivalent to an increase of approximately \$26.42 per month above the current rate of \$14.43 per month, for a total of \$40.85 per month by 2015.

The City typically does not issue all authorized bonds at one time; if these bonds are issued over several years, the actual debt service may be somewhat less than the maximum amount shown herein.

Before the bonds are issued, the City will need to amend the Residential Rent Stabilization and Arbitration Ordinance. This amendment is to provide landlords the ability to pass through 50% of the costs resulting from increased water rates to residential tenants. Under current financing assumptions, the average tenant in a four unit building would pay approximately \$10.56 per month by 2015.

How Supervisors Voted on "A"

On July 22, 2002 the Board of Supervisors voted 8 to 3 to place Proposition A on the ballot.

The Supervisors voted as follows:

Yes: Supervisors Ammiano, Daly, Gonzalez, Leno, Maxwell, McGoldrick, Newsom, and Peskin.

No: Supervisors Hall, Sandoval, and Yee.

THIS MEASURE REQUIRES 50%+1 AFFIRMATIVE VOTES TO PASS.

ARGUMENTS FOR AND AGAINST THIS MEASURE IMMEDIATELY FOLLOW THIS PAGE. THE FULL TEXT BEGINS ON PAGE P-19. SOME OF THE WORDS USED IN THE BALLOT DIGEST ARE EXPLAINED ON PAGE P-3.