

RESOLUTION NO. 20-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN JUAN WATER DISTRICT DECLARING ITS INTENT TO TRANSITION FROM AT-LARGE ELECTIONS TO DIVISION-BASED ELECTIONS AND ESTABLISHING A PROCESS FOR THE TRANSITION

WHEREAS, the Directors of the San Juan Water District ("District") are currently elected in "at-large" elections, in which each Board member is elected by all registered voters residing within the District's wholesale service area;

WHEREAS, on March 30, 2020, the District received a certified letter from the law firm of Shenkman & Hughes(the "Letter") alleging on behalf of the Southwest Voter Education Project that the District's at-large electoral system for its Board of Directors ("Board") violates the California Voting Rights Act (Elections Code sections 14025- 14032; the "CVRA") and threatening litigation if the District did not transition to a by-division system for electing its Directors in accordance with the safe harbor provisions set forth in California Elections Code section 10010;

WHEREAS, the Letter alleges that the District's at-large electoral system results in "racially polarized voting" as defined in Sections 14026(e) and 14028 of the CVRA, but the Letter was not accompanied by any evidence to support the claim of a CVRA violation, and the Board denies that its existing at-large electoral system violates the CVRA or any other provision of law;

WHEREAS, the Letter also alleges that the District has decided to use two different water sources for its customers -- providing better-quality water to the more-affluent parts of its wholesale service area and lower-quality water to less-affluent portions of SJWD -- an allegation which is false because the District provides the same high-quality surface water supplies to all of its retail and wholesale customers, and the only other water supply provided to water users in the District's wholesale service area is groundwater pumped by the District's wholesale customers at their sole discretion;

WHEREAS, the Board has considered the significant resources incurred by multiple cities and other public entities in litigating similar CVRA claims, and the impact that the expenditure of such costs could have on the District's ability to provide essential services at a fair cost to the District's residents and businesses;

WHEREAS, Elections Code section 10010 provides a method whereby the District may transition to a by-division electoral system and thereby avoid the high cost and risk of litigation under the CVRA;

WHEREAS, prior to the Board's consideration of an ordinance to establish a

by- division electoral system, Elections Code Section 10010 requires all of the following:

1. Before drawing one or more draft maps of the boundaries of the proposed electoral divisions: (a) the Board may direct staff to conduct public outreach, including to non-English-speaking communities, to explain the process of divisioning the District and to encourage public participation in the process; and (b) after conducting initial public outreach, if any, the Board must hold at least two public hearings over a period of no more than 30 days to solicit public input regarding the proposed division boundaries.

2. After all maps are drawn, the District must select, publish and make available to the public at least one draft map and, if Directors will be elected by their divisions at different times to provide for staggered terms, publish the potential sequence of the elections.

3. The Board also must hold at least two additional hearings over a period of no more than 45 days to receive public input regarding the content of the draft map or maps and the proposed sequence of elections.

4. The first version of a draft map must be published at least seven days before it is considered at a hearing, and if a draft map is revised at or following a hearing, it must be republished and made available to the public for at least seven days before it is adopted;

WHEREAS, the District was formed and has continued to hold its elections for the office of Director using staggered terms under a rotation in which two Directors are elected at one election and the other three Directors are elected at the subsequent election;

WHEREAS, the Board will retain the Sacramento County's or Placer County's Registrars of Voters' offices or an experienced private demographer to assist the District in developing a proposal for a by-division electoral system that complies with the CVRA and other federal and state legal requirements; and

WHEREAS, the Board's adoption of a by-division electoral system will not affect the terms of any sitting Director, each of whom shall serve out his or her existing term; and

WHEREAS, the Board now desires to declare its intention to adopt a resolution consistent with Elections Code section 10010 to transition the District's electoral system from at-large to by-division beginning with the 2022 District Election, establish the process to complete this transition, and to establish an estimated schedule for the transition.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Juan Water District as follows:

1. The above recitals are true and are incorporated herein by reference.
2. This resolution states the Board's intention to consider enacting an ordinance to transition its electoral system from at-large to by-division for the purpose of electing its Directors beginning with the November 2022 election, pursuant to Elections Code section 10010.
3. Subject to Board approval and direction, staff shall retain and work with elections officials of Sacramento County or Placer County or an experienced private demographer, and with other appropriate consultants as needed, to provide a detailed analysis of the District's current demographics and any other information or data necessary to prepare one or more draft maps as directed by the Board which divides the District into five electoral divisions consistent with the intent and purpose of the California Voting Rights Act, the Federal Voting Rights Act, and appellate decisions interpreting those Acts. The General Manager is also directed to prepare a proposal for Board consideration for conducting public outreach on the proposed transition of the District electoral system.
4. The Board Secretary is directed to post information on the District's website regarding the proposed transition to a by-division electoral system, including maps, notices, agendas and other information, and to establish a means of communication to answer questions from the public.
5. The Board hereby approves the estimated timelines set forth in Exhibit A, attached to and made a part of this resolution, for conducting a process to solicit public input and testimony on proposed district-based electoral maps before the Board enacts an ordinance approving the final map.
6. The Board designates as a regular meeting of the Board a meeting to be held on November 9, 2020 at 6 p.m.
7. The actions set forth in this resolution are exempt from review under the Environmental Quality Act and the Guidelines interpreting it (collectively "CEQA"), specifically under CEQA Guidelines sections 15061(b)(3) and 15320. In addition, the adoption of this resolution and the actions provided in it are organizational and administrative activities of the District that will not have the potential to result in either a direct or reasonably foreseeable indirect physical change in the environment, and therefore is not a project as defined under CEQA Guidelines section 15378(b)(3).

PASSED AND ADOPTED by the Board of Directors of the San Juan Water District on the 13th day of May 2020, by the following vote:

AYES: DIRECTORS:
NOES: DIRECTORS:
ABSENT: DIRECTORS:

EDWARD J. "TED" COSTA
President, Board of Directors

TERI GRANT
Secretary, Board of Directors

Exhibit A
San Juan Water District
Division-Based Elections Actions and Timeline

Task	Date/Timeline	Notes
Board meeting – Adopt resolution of intent.	May 13, 2020	Must adopt resolution within 45 days of receiving letter (May 14). The date the resolution is adopted establishes the 180-day deadline to enact by-division elections.
Board meeting/Public Hearing #1 – Introduce Public Engagement Process	June 10, 2020	Before draft map(s) are released, the date of the first hearing establishes the deadline to hold two public hearings within 30 days.
Board meeting/Public Hearing #2 – Public Engagement Process.	July 8, 2020	Must be held within 30 days of Hearing #1.
Board meeting/Public Hearing #3 – Board and public input on draft maps of proposed divisions.	September 9, 2020	First draft of map(s) shall be published 7 days before Hearing #3.
Board meeting/Public Hearing #4 – Map approval and introduction of ordinance.	October 14, 2020	Must be held within 45 days of Hearing #3.
Board regular meeting – Second reading and enactment of ordinance and final division map. Final map must be filed with Registrars of Voters.	November 9, 2020	Draft ordinance must be introduced 5 days before second reading and adoption.