

**Tuesday, November 16, 2021**

The Board met at 10:10 a.m., via teleconference (Gov. Code, § 11133), with Mr. Vazquez, Chairman, Mr. Gaines, Ms. Cohen and Ms. Yee present.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mr. Vazquez.

### **ANNOUNCEMENTS**

Mr. Vazquez provided guidelines for teleconference Member participation. Catherine Taylor, Chief, Board Proceedings and Support Services Division, provided guidelines for teleconference invited speakers and public participation.

Ms. Cohen acknowledged November as Veterans Month and recognized the many veterans that may be on staff or are part of extended families of staff.

Mr. Schaefer entered the teleconference.

### **PROPERTY TAX HEARING**

#### **Petition for Reassessment of Unitary Value**

Catherine Taylor, Chief, Board Proceedings and Support Services Division, stated that Mr. Gaines would not participate in the matter of *Lodi Gas Storage, LLC (0198)*, *SAU21-034* and *Wild Goose Storage, LLC (0195)*, *SAU21-036*, in accordance with the Rules for Tax Appeals, section 5523.8. Mr Gaines left the teleconference.

#### **Lodi Gas Storage, LLC (0198), SAU21-034**

2021, \$70,700,000.00 Unitary Value

For Petitioner:

Appearance Waived

For Property Tax Department:

Richard Moon, Tax Counsel

Contribution Disclosures pursuant to Government Code, section 15626: None were disclosed.

Issues: Whether Lodi Gas Storage, LLC (LGS or Petitioner) has shown that the State-Assessed Properties Division (SAPD or Respondent) erred in calculating the appropriate economic obsolescence adjustment to the Reproduction Cost Less Depreciation (ReproCLD) Value Indicator, including for Petitioner's storage leaseholds, other land rights, and pad gas.

Whether Petitioner has shown that SAPD erred in calculating the capitalized earnings approach (CEA) Value Indicator.

Whether Petitioner has shown that SAPD erred by not placing reliance on the CEA Value Indicator.

Action: Upon motion of Ms. Yee, seconded by Mr. Vazquez and unanimously carried, Mr. Vazquez, Mr. Schaefer, Ms. Cohen and Ms. Yee voting yes, Mr. Gaines absent and not participating in accordance with Rules for Tax Appeals, section 5523.8, the Board ordered that the petition for reassessment be granted, in part, and the value be reduced to \$52,400,000.00 as recommended by the Appeals Attorney.

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**LEGAL APPEALS PROPERTY TAX MATTERS, ADJUDICATORY****Petitions for Reassessment of Unitary Value**

Wild Goose Storage, LLC (0195), SAU21-036

2021, \$127,300,000.00 Unitary Value

Considered by the Board: Hearing Notice Sent – Appearance Waived

Contribution Disclosures pursuant to Government Code, section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Schaefer and unanimously carried, Mr. Vazquez, Mr. Schaefer, Ms. Cohen and Ms. Yee voting yes, Mr. Gaines absent and not participating in accordance with Rules for Tax Appeals, section 5523.8, the Board ordered that the petition be granted, in part, and the unitary value be reduced to \$113,500,000.00 as recommended by the Appeals Attorney.

Mr. Gaines returned to the teleconference.

Central Valley Gas Storage, LLC (0104), SAU21-030

2021, \$29,800,000.00 Unitary Value

Considered by the Board: Hearing Notice Sent – Appearance Waived

Contribution Disclosures pursuant to Government Code, section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Vazquez and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Yee voting yes, the Board ordered that the petition be granted, in part, and the unitary value be reduced to \$26,900,000.00 as recommended by the Appeals Attorney.

Gill Ranch Storage, LLC (0121), SAU21-035

2021, \$22,300,000.00 Unitary Value

Considered by the Board: Hearing Notice Sent – Appearance Waived

Contribution Disclosures pursuant to Government Code, section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Vazquez and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Yee voting yes, the Board ordered that the petition be granted, in part, and the unitary value be reduced to \$18,800,000.00 as recommended by the Appeals Attorney.

**PROPERTY TAX MATTERS, CONSENT**

With respect to the Property Tax Matters, Consent Agenda, upon a single motion of Mr. Schaefer, seconded by Ms. Yee and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Yee voting yes, the Board made the following orders:

**Petitions for Reassessment of Unitary Value**

Trans Bay Cable LLC (0119), SAU21-014

2021, \$537,800,000.00 Unitary Value

Action: Reduce the 2021 unitary value to \$524,800,000.00 as recommended by staff.

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Pacific Gas & Electric Co. (0135), SAU21-017

2021, \$36,074,800,000.00 Unitary Value

Action: Reduce the 2021 unitary value to \$35,862,100,000.00 as recommended by staff.

Crown Castle Fiber, LLC (8169), SAU21-015

2021, \$751,700,000.00 Unitary Value

Action: Reduce the 2021 unitary value to \$745,800,000.00 as recommended by staff.

### **Petitions for Reassessment and Penalty Abatement on Unitary Value**

Opex Communications, Inc. (8076), SAU21-009

2021, \$34,800.00 Unitary Value, \$3,480.00 Penalty

Action: Reduce the 2021 unitary value to \$22,400.00 and approve the penalty abatement as recommended by staff.

Ms. Yee left the teleconference and Ms. Stowers entered on behalf of Ms. Yee in accordance with Government Code, section 7.9.

### **ADMINISTRATIVE SESSION**

#### **Administrative Matters, Consent**

With respect to the Administrative Matters, Consent Agenda, upon a motion of Ms. Cohen, seconded by Mr. Schaefer and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Stowers voting yes, the Board continued consideration of the October 19-20, 2021 meeting minutes until Thursday, November 18, 2021.

#### **Executive Director's Report**

Brenda Fleming, Executive Director, provided a report regarding the status of pending and upcoming organizational issues.

Lisa Renati, Chief Deputy Director, provided a report on the status of operational priorities and agency projects.

#### **Property Tax Deputy Director's Report**

David Yeung, Deputy Director, Property Tax Department, presented Formal Issue Paper 21-003 on a proposed Letter to Assessors (LTA) for assessment and exemption of community land trust housing, for Board consideration ([Exhibit 11.1](#)).

Speaker: Mark Asturias, Irvine Community Land Trust ([Exhibit 11.2](#))

Action: Upon motion of Mr. Vazquez, seconded by Ms. Stowers and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Stowers voting yes, the Board approved the staff's recommended language for the LTA on the Assessment and Exemption of Community Land Trust Housing as presented in Formal Issue Paper 21-003.

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Patricia Lumsden, Chief, County-Assessed Properties Division, Property Tax Department, provided reports on: Letters to Assessors ([Exhibit 11.3](#)); Appraisal Training and Certification; and Assessment Practices Surveys.

Jack McCool, Chief, State-Assessed Properties Division, Property Tax Department, provided a report on the status of pending and upcoming projects and activities.

David Yeung, Deputy Director, Property Tax Department, reported on the status of the agency's Welfare Exemption Process Improvement Project ([Exhibit 11.4](#)).

Exhibits to these minutes are incorporated by reference.

### **Legislative, Research & Statistics Division Chief's Report**

Dustin Weatherby, Chief, Legislative, Research & Statistics Division, presented proposed draft language to amend the California Constitution to provide base year value transfer deadline extensions for certain residents for the time during which a Governor proclaimed emergency exists ([Exhibit 11.5](#)).

Speaker: Hon. Ernest J. Dronenburg, Jr., President, California Assessors' Association (CAA); and San Diego County Assessor-Recorder-Clerk

Action: Ms. Cohen moved that the Board endorse the language for the Constitutional amendments as presented by staff and direct the Executive Director to work with her staff to secure an author for said constitutional amendments. The motion was seconded by Mr. Vazquez. After discussion and concerns expressed about staff workload, Ms. Cohen offered an amendment that her team would take the lead on securing an author to sponsor the proposed language to the Constitutional amendments. The amended motion was seconded by Mr. Schaefer and duly carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, and Ms. Cohen voting yes, Ms. Stowers abstaining.

Dustin Weatherby, Chief, Legislative, Research & Statistics Division, presented proposed draft language to amend Government Code, Section 15620 to authorize the Board to extend deadlines for reports filed with the Board ([Exhibit 11.6](#)).

Dustin Weatherby, Chief, Legislative, Research & Statistics Division, made introductory remarks regarding proposed draft language to amend Revenue and Taxation Code, Section 155 to authorize the Board or Executive Director to extend deadlines for the performance of any act by the County Assessor or County Board.

Breann E. Robowski, Chair, Ad Hoc Committee on Remote Hearings, California Alliance of Taxpayer Advocates (CATA); and Partner, Pillsbury Winthrop Shaw Pittman ([Exhibit 11.7](#))

The Board recessed at 12:30 p.m. and reconvened at 12:52 p.m. with Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Stowers present.

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**Taxpayers' Rights Advocate Office's Report**

Margie Wing, Senior Specialist, Taxpayers' Rights Advocate Office, provided an update on activities of the Taxpayers' Rights Advocate Office.

Speaker: Hon. Ernest J. Dronenburg, Jr., President, CAA; and San Diego County Assessor-Recorder-Clerk

**PUBLIC POLICY HEARINGS**

**Proposition 19 Implementation**

Mr. Vazquez made introductory remarks regarding the implementation of Proposition 19, *The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act of 2020*.

**PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA**

Mr. Vazquez invited persons who wish to address the Board regarding items not on the agenda to come forward, but there were none on the teleconference.

Catherine Taylor, Chief, Board Proceedings and Support Services Division, read into the record written comments from the following individual.

Stacy Ann Starr ([Exhibit 11.8](#))

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**BOARD WORK GROUP**

The Organization of Board Work Groups (Work Group) met at 1:40 p.m., via teleconference (Gov. Code, § 11133), with Work Group Chair Ms. Cohen, Mr. Vazquez, Mr. Gaines and Mr. Schaefer present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code, section 7.9.

**Organization of Board Work Groups (Ms. Cohen)**

Mr. Vazquez and Ms. Cohen made introductory remarks regarding follow-up discussion and action on the Board Work Groups' Charter, to formalize the Board Work Groups' forums ([Exhibit 11.9](#)).

Brenda Fleming, Executive Director, provided a brief summary of what occurred at the October 20, 2021 Board Work Group.

Mr. Vazquez questioned whether the Executive Director and Board Chair, given the right to review the Board plan, supporting materials, and participants for Work Groups, would also be given the power to veto under the proposed Charter.

Ms. Cohen confirmed that the Board Chair and Executive Director would not have the power to veto under the proposed Charter.

Members offered their thanks to Ms. Cohen and her staff for their hard work on the proposed Board Work Group Charter.

Action: Upon motion of Ms. Cohen, seconded by Ms. Stowers and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen, and Ms. Stowers voting yes, the Board Work Group recommended adoption of the proposed Board Work Group Charter as presented by Ms. Cohen.

Brenda Fleming, Executive Director and Mr. Vazquez delivered closing remarks.

**CLOSING**

The Board recessed at 1:51 p.m.

*The foregoing minutes are adopted by the Board on December 14, 2021.*

Thursday, November 18, 2021

The Board met at 10:10 a.m., via teleconference (Gov. Code, § 11133), with Mr. Vazquez, Chairman, Mr. Schaefer, Vice Chair, Mr. Gaines and Ms. Cohen present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code, section 7.9.

## **ANNOUNCEMENTS**

Mr. Vazquez provided guidelines for teleconference Member participation. Catherine Taylor, Chief, Board Proceedings and Support Services Division, provided guidelines for teleconference invited speakers and public participation.

The Members wished Mr. Vazquez a happy birthday.

## **ADMINISTRATIVE SESSION (CONTINUED)**

### **Administrative Matters, Consent (Continued)**

With respect to the Administrative Matters, Consent Agenda, upon a motion of Ms. Cohen, seconded by Ms. Stowers and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Stowers voting yes, the Board made the following order:

Action: Approve the Amended Board Meeting Minutes of October 19-20, 2021.

## **PUBLIC POLICY HEARINGS (CONTINUED)**

### **Update: Impact of Public Calamities on Property Tax Administration: County Boards of Equalization/Assessment Appeals Boards (AAB) Remote Hearings (Continued from October 20, 2021)**

Mr. Vazquez and Ms. Cohen made introductory remarks and reopened the discussion for possible action regarding procedural and due process issues in remote hearings to ensure continuity of business in the pandemic and other calamities, protect the rights of all parties, provide guidance, and seek additional authorities or actions if required ([Exhibit 11.10](#)).

### ***Report on communications received regarding remote AAB Hearings***

Speaker: Brenda Fleming, Executive Director, California State Board of Equalization  
Marc Aprea, Principal, Aprea & Micheli Associates, on behalf of California Alliance of Taxpayer Advocates (CATA)  
John McKibben, Committee Chair, California Association of Clerks and Election Officials (CACEO)  
Hon. Ernest J. Dronenburg, Jr., President, California Assessors' Association (CAA); and San Diego County Assessor-Recorder-Clerk

Catherine Taylor, Chief, Board Proceedings and Support Services Division, read into the record written comments from the following individual.

Erica S. Kenney, Council on State Taxation (COST) ([Exhibit 11.11](#))

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***Follow-up Report on Surveys of Responses Received from AABs Regarding Remote AAB Hearings and Request to Clarify LTA No. 2021/002***

Speaker: John McKibben, Committee Chair, CACEO ([Exhibit 11.12](#)).

***Follow-up Evaluation of Remote AAB Hearings – Taxpayer Representative Perspectives and Clarification of LTA No. 2021/002***

The Board recessed at 10:59 a.m. and reconvened at 11:18 a.m. with Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Stowers present.

At the invitation of Mr. Vazquez, Regina Evans, Chief Deputy to Board Member Malia M. Cohen, Second Equalization District, made brief opening remarks on behalf of Ms. Cohen and began a presentation of language proposals for revising LTA No. 2021/002.

Speaker: Kevin J. Moore, Principal Shareholder, Kevin J. Moore & Associates Law, PLC, on behalf of CATA ([Exhibit 11.13](#)) ([Exhibit 11.14](#)).  
Thomas R. Parker, Deputy County Counsel, Los Angeles County Counsel Office, on behalf of the Los Angeles County Assessment Appeals Board ([Exhibit 11.15](#))  
Marcy L. Berkman, Retired Deputy County Counsel, Santa Clara County  
Marc Aprea, Principal, Aprea & Micheli Associates, on behalf of CATA

Action: Upon motion of Mr. Vazquez, seconded by Mr. Gaines and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Stowers voting yes, the Board directed the Executive Director to review and revise the second paragraph of the third sentence of Issue 1 of the proposed language of LTA No. 2021/002

The Board recessed at 12:50 p.m. and reconvened at 1:08 p.m. with Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Stowers present.

***Follow-up Evaluation of Remote AAB Hearings – County Perspectives and Clarification of LTA No. 2021/002***

Speakers: Thomas R. Parker, Deputy County Counsel, Los Angeles County Counsel Office, on behalf of the Los Angeles County Assessment Appeals Board  
Bradley R. Marsh, Shareholder, Greenberg Traurig Law, LLP, on behalf of CATA  
Marc Aprea, Principal, Aprea & Micheli Associates, on behalf of CATA  
John McKibben, Committee Chair, CACEO  
Marcy L. Berkman, Retired Deputy County Counsel, Santa Clara County  
Hon. Ernest J. Dronenburg, Jr., President, CAA; and San Diego County Assessor-Recorder Clerk

Action: Upon motion of Mr. Schaefer, seconded by Ms. Cohen and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Stowers voting yes, the Board adopted the agreed upon proposed language on Issue 3 regarding revisions to LTA No. 2021/002.

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Action: Upon motion of Mr. Schaefer, seconded by Mr. Vazquez and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Stowers voting yes, the Board adopted the agreed upon proposed language on Issue 4 regarding revisions to LTA No. 2021/002.

Regina Evans, Chief Deputy to Board Member Malia M. Cohen, Second Equalization District, summarized the edits provided by Work Group members and recommended that the Board amend the motion to give the Executive Director the responsibility to review recommendations made by County Assessors and other stakeholders in the context of the current law.

Action: Upon motion of Mr. Vazquez, seconded by Mr. Schaefer and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Stowers voting yes, the Board amended the previous motion to incorporate additional language and direct the Executive Director to review recommendations made by the County Assessors and other stakeholders in the context of the current law.

Action: Upon motion of Ms. Cohen, seconded by Mr. Schaefer and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, Ms. Cohen and Ms. Stowers voting yes, the Board agreed to agendaize the remainder of the M2 agenda items, specifically M2d, M2e, and M2f to the January 2022 meeting.

### ***Closing Remarks***

At the invitation of Mr. Vazquez, Members thanked Regina Evans, Ms. Cohen, and her staff, as well as the Work Group panelists, staff, and others for their hard work and participation.

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**BOARD WORK GROUP**

The Wine Industry & Winegrower Excise Tax Data Board Work Group (Work Group) met at 2:10 p.m., via teleconference (Gov. Code, § 11133), with Work Group Cochair Mr. Schaefer, Work Group Cochair Ms. Cohen, Mr. Gaines and Mr. Vazquez present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code, section 7.9.

**Board Work Group on Wine Industry & Winegrower Excise Tax Data (Mr. Schaefer/Ms. Cohen)**

Ms. Cohen made introductory remarks regarding discussions of the issue, options, and possible action to address concerns raised by the Wine Institute regarding access to winegrower excise tax data.

Speaker            Tim Schmelzer, Vice President, California State Relations, Wine Institute

Action:            Upon motion of Ms. Cohen, seconded by Mr. Schaefer and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines, and Ms. Cohen voting yes, Ms. Stowers not participating, the Board directed the Executive Director to report back at the December meeting on a possible administrative solution that allows disclosure of the volume of sales data and other relevant information filed by individual wineries, extracted via the wineries zip code, which would continue to preserve the confidentiality of the individual taxpayer.

**CLOSING**

At the invitation of Mr. Vazquez, Mr. Gaines recognized and congratulated CalFire and local fire departments across the state of California for their work in saving Californians' homes and property from wildfires.

Members wished each other and staff a happy Thanksgiving and Holiday season.

The Board adjourned at 2:23 p.m.

*The foregoing minutes are adopted by the Board on December 14, 2021.*