

Max Overland

Subject: FW: Whistle Blower - Valley Water Vaccine Mandate- Tina Yoke needs to be Terminated!
Attachments: SCVWD.pdf
Importance: High

From: John Public <civilian9898@gmail.com>
Sent: Tuesday, January 24, 2023 10:37 AM
To: Clerk of the Board <clerkoftheboard@valleywater.org>; Board of Directors <board@valleywater.org>
Subject: Fwd: Whistle Blower - Valley Water Vaccine Mandate- Tina Yoke needs to be Terminated!

***** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. *****

Happy New Year! Please post to the Board of Directors Agenda Public Comment 1/24/23
Following up on this as it has been sometime with no response. Congrats on the new Board of Directors Rebecca Eisenberg and Jim Beall. I would hope that the new Directors would be interested in how the CEO and COO handled the Vaccine Mandate Jan 2022. See below.

----- Forwarded message -----

From: John Public <civilian9898@gmail.com>
Date: Tue, Jun 28, 2022 at 12:49 AM
Subject: Whistle Blower - Valley Water Vaccine Mandate- Tina Yoke needs to be Terminated!
To: <clerkoftheboard@valleywater.org>, <Board@valleywater.org>

Valley Water Board Of Directors meeting.

Tuesday June 28, 2022

Please attach for item 2.6 Public Comment.
Please read into the minutes.
I have attached a pdf 64 pages total. There is no classified notice on any of these documents .

Dear Board of Directors.
I am starting off with some highly alarming quotes! Environmental Health and Safety Manager

"What Valley Water is asking you to do is to increase your risk of contracting the virus after your vaccinated." Page 44

"For the reasons stated and considering that I was not involved in making this decision, nor was my counsel sought and considered when this decision was made, I respectfully request that you allow me to recuse myself from reviewing and commenting on this mandate policy and associated documents." Page 6

We are requesting that this issue be investigated ASAP!
A video has been created that you can locate here <https://www.youtube.com/watch?v=OPgcuox--PU>
and you can also validate that the videos were not edited from the original content that you can verify by watching the Town Hall Videos.

From the Town Hall meetings , Vaccine Mandate Announcement , Exemption Process, THE DENIAL AND DISCIPLINE PROCESS tactics that were used to target Valley Water Employees pushing them out forced retirement, Termination , Denial and current Discipline process denying Constitutional Rights. Under the guise of a fair exemption process, those of us who went through this have seen otherwise and it has been blatantly clear from the start and through the entire process that there was political bias from the Top that created such a hostile work environment to say the least!! and now to have these documents surface that shows that under the Direction of COO /EOC Director Tina Yoke her response was to disregard important information that impacted all of Valley Water Employees. At every turn it was told to us to get vaccinated in Town Hall meetings and Emails that reported case positives with a reminder to get vaccinated, coerced, to your TERMINATED IF YOU DO NOT COMPLY!!!

To Where Emily Meeks who is conducting the Investigational Discipline Process who all the while had an email list of names , many who were denied exemption, pushed out, forced to retire etc well before any Exemption results were given . The District has forced many of us out of their livelihoods already and the process is to put you through great

duress/coercion. To be treated in this discipline process is nothing short of a beat down to submit or lose it all and denounce your faith! Would any one of you be treated in the manner , how many of you Directors would stand one minute of this outrageous treatment it if it was you in the position? Who else was targeted in this Exemption Process ? Who got sick after getting Vaccinated? Who did not want to get vaccinated but felt bullied/coerced to do so?? Was Larry Lopez not hired to be in this position for his knowledge and go to for this subject matter?? Why did the people from EH&S Unit get pushed out??

Presently do you not have new protocols to test before you go into meetings now?

You all are wearing masks now in Board Meetings, all employees have to wear masks, and many more positives keep coming despite the Mandate. How many positives have there been recently? Have you asked what is the number of employees who were vaccinated that got covid compared to the unvaccinated? ***Tina Yoke care to discuss??*** Directors this all has been taking place on your watch and needs to be addressed!

WE DEMAND ANSWERS AND A INVESTIGATION FOR ALL EMPLOYEES VACCINATED AND UNVACCINATED.

To navigate the attached PDF file.

- Page 1 opens with Tina Yoke calling for an investigation.
- Page 6 where he goes into detail on the vaccine mandate. Page 5 is Tina Yoke's response. Dated December 30, 2021.
- Page 8-42 Emily Meeks (Labor Department) printed email header. Monitoring EH&S. Great Amicus Brief submitted to the Supreme Court . Page 59 Tina Yoke acknowledges the Great Amicus Brief submitted to the Supreme Court, yet is another intercepted email.
- Page 44 January 13, 2022 Email from Larry Lopez to Natalie Vye
- Page 45- 54 Email header Emily Meeks . page 51-53 names of email recipients. (TARGETED)
- Page 54 Email Header Emily Meeks EH&S Email.
- Page 56-57 Bryan Welch Labor Department Investigation into Larry Lopez

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NORT

Bryant Welch

From: Tina Yoke
Sent: Thursday, January 27, 2022 10:15 PM
To: Bryant Welch
Subject: Concern brought to my attention

Bryant,

A concern was brought to my attention earlier today. Unvaccinated employees emailed EH&S regarding the vaccination mandate. It was reported that polarized opinion responses via email from multiple EH&S staff were provided. Additionally, the responses contained misinformation that contradicted public health information and undermining the agency's vaccination mandate.

EH&S is the agency's SME on safety. It is of great concern if designated professional safety staff responsible to lead safety efforts for staff are contradicting medical and scientific data which would result in a less safe work environment. I am requesting an investigation into the reported concerns.

Thank you,
Tina

TINA NGUYEN YOKE
CHIEF OPERATING OFFICER
Information Technology and
Administrative Services
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She/her



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Bryant Welch

From: Tina Yoke
Sent: Friday, February 18, 2022 12:06 PM
To: Bryant Welch
Cc: Emily Meeks
Subject: FW: Mandated vaccination

Informing team Rick has confirmed vax mandate to BUS in early Dec. The actual announcement to staff was via the Town Hall last month (Jan)

From: Tina Yoke
Sent: Wednesday, December 8, 2021 2:05 PM
To: Alexander Gordon <AGordon@valleywater.org>; Ingrid Bella <ingridbella@valleywater.org>
Cc: Brian Hopper <bhopper@valleywater.org>; Janet Middleton <JMiddleton@valleywater.org>; Larry Lopez <LLopez@valleywater.org>; Mike Cook <MCook@valleywater.org>
Subject: RE: Mandated vaccination

Thanks, Alex. I am asking Janet to schedule a call of an hour for all of us to discuss transition to vaccination mandate by Feb 2022. Rick informed all 3 bargaining groups on Monday of this week during our monthly Chief/BU meeting that we will transition to mandated vaccination from the current mandated testing process. There's a lot to map out in developing our process to include the exemption waiver process.

Another related concern is when to update booster vaccination for the purposes of our definition of "fully vaccinated".

I'll like the process of booster and mandated vaccination transition to be discussed and further developed before I can bring in Labor Relations to communicate and meet/confer with the Bus.

Thanks,
Tina

From: Alexander Gordon <AGordon@valleywater.org>
Sent: Friday, December 3, 2021 10:42 AM
To: Tina Yoke <TYoke@valleywater.org>; Ingrid Bella <ingridbella@valleywater.org>
Cc: Brian Hopper <bhopper@valleywater.org>
Subject: RE: Mandated vaccination

Tina,

My contact at the County CEO Office/EOC did not provide any additional information on how they've implemented the required vaccination for staff. Attached is the all-employee memo that went out on 8/5/21.

I spoke with Larry this morning. We are not aware of comparative water districts that are requiring staff vaccination, although mandatory testing for un-vaccinated staff is common. This was checked through Health and Safety contacts.

ALEXANDER GORDON, CEM
ASSISTANT OFFICER

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Emergency, Safety and Security Division
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From: Tina Yoke <TYoke@valleywater.org>
Sent: Thursday, December 2, 2021 5:23 PM
To: Ingrid Bella <ingridbella@valleywater.org>; Alexander Gordon <AGordon@valleywater.org>
Cc: Brian Hopper <bhopper@valleywater.org>
Subject: Mandated vaccination

I know we are awaiting further guidance on what will happen to the federal government's mandate for large employers to mandate vaccination for their employees now that a federal court (Fifth circuit?) has blocked the Presidential Federal mandate.

When we had prior discussion regarding our agency transitioning from a testing mandate to a vaccination mandate with exception process, I recall we would see what the County and other agencies are doing in implementing their mandates. We could benefit from lessons learned from the other agencies. I wanted to check in on what info we may have received.

The City of San Diego which is the 8th largest city in the nation just implemented a vaccination mandate for all 11,000+ employees. A news link is below. I'll like to understand whether we have a pathway ahead for our agency to transition to mandated vaccination with exception process without waiting for the federal mandate determination to resolve itself.

<https://www.cbs8.com/article/news/local/vaccine-mandate-deadline-san-diego-city-employees-arrives/509-964a711e-4b1a-4cdd-a859-adb4dc712ee3>

Excerpt in open job posting below

COVID-19 VACCINATION REQUIREMENT:

- The City of San Diego is requiring all employees to be fully vaccinated against COVID-19 by December 1, 2021.
- Candidates may need to be fully vaccinated against COVID-19 by their start date in accordance with City policy. "Fully vaccinated" means a person has received, at least 14 days prior, either the second dose in a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine. Acceptable COVID-19 vaccines must either be approved by the U.S. Food and Drug Administration (FDA) or authorized for emergency use by the FDA or the World Health

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Organization. Candidates who receive a conditional job offer will be required to provide proof of their COVID-19 vaccination.

- Employees and candidates with a disability or medical condition that makes it medically inadvisable for them to receive a COVID-19 vaccine, as verified by their healthcare provider, or those with a sincerely held religious belief, observance, or practice that prevents them from receiving a COVID-19 vaccine, may request reasonable accommodation and exemption from the COVID-19 vaccination requirement. Candidates who receive a conditional job offer and wish to make such a request for accommodation will be provided with more information. The City will review requests for medical and religious accommodation on a case-by-case basis in accordance with the Americans with Disabilities Act (ADA), Title VII of the Civil Rights Act of 1964, and the California Fair Employment and Housing Act (FEHA). A candidate's start date may be adjusted to allow for the accommodation process.

Please let me know your thoughts. We can see about scheduling a short check in call next week to discuss further.

Thanks!

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Bryant Welch

From: Tina Yoke
Sent: Friday, February 18, 2022 8:21 AM
To: Bryant Welch
Cc: Emily Meeks
Subject: FW: Mandated Vaccination Draft Communication and Forms

Follow Up Flag: Follow up
Flag Status: Flagged

Bryant:

I'll forward text and messages I can throughout the morning as I am in the Chiefs meeting and will have some time to retrieve relevant messages.

Thanks,
Tina

From: Tina Yoke
Sent: Thursday, December 30, 2021 12:42 PM
To: Larry Lopez <LLopez@valleywater.org>
Subject: RE: Mandated Vaccination Draft Communication and Forms

Larry,

I have the utmost respect for you. I will honor your request to recuse yourself from review of the policy and related documents. I can assure you that politics is not a factor. I have no idea what anyone's political beliefs and party affiliation are. Frankly, politics has no place during an ongoing health emergency.

Rather, it is my responsibility along with executive management and our board to ensure the safest workplace possible. No one wants to impact anyone's livelihood. I hope we don't end up separating anyone from the agency. But, we can't have employee's health compromised by actions of others or impacted by anything less than the highest level of workplace safety we can achieve.

The issues are complex. I understand there will be a difference of opinion on directions taken. Thank you, for your candid message and message of support as we move forward.

Tina

From: Larry Lopez <LLopez@valleywater.org>
Sent: Thursday, December 30, 2021 10:59 AM
To: Tina Yoke <TYoke@valleywater.org>
Subject: FW: Mandated Vaccination Draft Communication and Forms

Tina,

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I send this email with a heavy heart and I prefer, as will become obvious as to why, to keep this request between the two of us. I humbly request that I may recuse myself from participating in the review and comment of this vaccination mandate policy. I am basing this request on my professional ethics, knowledge and experience with risk-benefit analyses, and my strong personal convictions. First off, let me disclose that I, for my own personal reasons, do not want to be fully vaccinated and I would never make that medical decision for another, by way of policy, that effectively coerces employees, under threat of duress and fear of losing their livelihood, pension and benefits, effectually interrupting their ability to care and provide for their family, which, respectfully and with surprise, is something I thought I would never see done to Valley Water family members.

I hope this decision to mandate the vaccine was not made lightly, for political reasons, or for administrative ease and expediency. This decision will literally strike fear, apprehension, and anxiety into those with strong convictions of maintaining self-determination and bodily integrity. As a society, and at the height of progress we are experiencing unprecedented outbreaks of hatred and violence and it seems half of humanity is looking upon the other half as criminal. Everywhere there seems to be symptoms of mass psychosis and signs of disintegration that arouse fear and fear can lead individuals to desperate efforts for survival. There is no state or federal mandate requiring low risk employers, such as Valley Water, to mandate this drug therapy. Just because management can do this, doesn't mean there is good reason to do it, and with my IMT threat assessment experience and knowledge, it could be prescient that this decision may lead someone down the path, and may possibly bring someone to the precipice of violence, especially under the threat of losing everything. The statement accompanying the Valley Water vaccine mandate policy that we feel 100% vaccination would be the safest and best policy for Valley Water and its employees seems transparently disingenuous on its face and easily refuted in many minds. In my mind, this is not a compelling argument based on current conditions.

Being uniquely positioned to witness the impacts of the pandemic on Valley Water employees personally and firsthand, and based on many hours of research, medical and legal, in my view, I believe that Valley Water will not benefit from or experience any positive change either operationally or in worker health and safety, as it relates to this virus, by having a 100% vaccination rate. I also believe that Valley Water must be willing to accept the potential liability for any serious injury that may occur to an employee from the vaccination, which has been shown to be possible with these drug therapies. In full disclosure, I am personally dealing with an adverse reaction from the vaccine that is on-going to this day. Management is making a medical decision for employees without their consent, on behalf of Valley Water as an employer, not as a sovereign, and as such, in my opinion, could potentially face immense liability.

I believe that, based on the current circumstances, that this decision, considering we are already over 90% vaccinated, is an extraordinary health measure that will have no substantial impact to worker safety at Valley Water and is beyond all question a plain, palpable invasion of personal rights secured by fundamental law and public morals that has the potential to expose Valley Water to undue liability, deteriorate overall morale and trust, and creates the potential for costly litigation. There are good, hard working, loyal people that will be impacted severely by this decision.

For the reasons stated and considering that I was not involved in making this decision, nor was my counsel sought and considered when this decision was made, I respectfully request that you allow me to recuse myself from reviewing and commenting on this mandate policy and associated documents. If not, I'll respect your decision and support the organization going forward with the mandate; however, I believe Brian's review to be more critical than mine for this particular subject.

Sincerely and respectfully,

LARRY R. LOPEZ

EH&S MANAGER
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From: Ingrid Bella <ingridbella@valleywater.org>
Sent: Wednesday, December 29, 2021 3:12 PM
To: Tina Yoke <TYoke@valleywater.org>; Brian Hopper <bhopper@valleywater.org>; Larry Lopez <LLopez@valleywater.org>; Alexander Gordon <AGordon@valleywater.org>; Mike Cook <MCook@valleywater.org>
Subject: Mandated Vaccination Draft Communication and Forms

Hi Everyone:

I mirrored a lot of the communication and forms to City of San Jose's documents. These documents are parked on the X drive [here](#).

Once you approve the forms, I would have Forms convert them to Seamless forms. For medical exemption, the employee would need to get a medical certification from a medical provider (that is the medical certification form) and submit it with the exemption request form. The Religious Exemption form asks some initial questions but the employee would need to participate in an interactive process with RA.

INGRID BELLA

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~~Handout~~ 4

Emily Meeks

From: Steven Camp
Sent: Monday, January 10, 2022 6:24 PM
To: Larry Lopez
Subject: Re: Great Amicus Brief submitted to the Supreme Court
Attachments: image001.png; Amicus Brief SCOTUS.pdf

Think I should forward this to management and my union to see why we are moving forward with this mandate, once again makes zero sense other than a show of power. They say follow the science, here it is, follow it.

On Jan 10, 2022, at 5:53 PM, Steven Camp <scamp@valleywater.org> wrote:

I like that logic but have difficulty believing logic will ever prevail with this covid stuff. Very encouraging though. I will read through the bulk of it later.

On Jan 10, 2022, at 5:44 PM, Larry Lopez <LLopez@valleywater.org> wrote:

You can just skip to the highlights to get the gist.

LARRY R. LOPEZ

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QUESTIONS PRESENTED

1. Whether the Court should stay the emergency temporary standard that the Occupational Safety and Health Administration issued, which exceeded its statutory authority and violates the United States Constitution.

2. Whether the Court should grant certiorari before judgment so that it can review the ETS before the cases become moot.

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Aziz Sheikh, Steven Kerr, Mark Woolhouse,
Jim McMenamin, and Chris Robertson,
*Severity of Omicron variant of concern and
vaccine effectiveness against symptomatic
disease: national cohort with nested test
negative design study in Scotland*, The
University of Ediburgh (Dec. 22, 2021). 7

CBC News, *Ontario pushes back school
reopening to Jan. 5, restricts PCR testing to
high-risk individuals* (Dec. 30, 2021).....25

CDC, Case Surveillance/United States COVID-
19 Cases and Deaths by State,
[https://data.cdc.gov/Case-
Surveillance/United-States-COVID-19-Cases-
and-Deaths-by-State-o/9mfq-cb36](https://data.cdc.gov/Case-Surveillance/United-States-COVID-19-Cases-and-Deaths-by-State-o/9mfq-cb36) (visited
Jan. 4, 2022).....25

CDC, *COVID Data Tracker*,
[https://covid.cdc.gov/covid-data-
tracker/#variant-proportions](https://covid.cdc.gov/covid-data-tracker/#variant-proportions) (visited Jan. 4,
2022).....4

CDC, *Estimated flu-related illnesses, medical
visits, hospitalizations, and deaths in the
United States - 2017-2018 flu season* (Sept.
30, 2021).....18

CDC, [https://data.cdc.gov/resource/9bhg-
hcku.csv?sex=All Sexes](https://data.cdc.gov/resource/9bhg-hcku.csv?sex=All%20Sexes)14

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Christian Holm Hansen PhD, Astrid Blicher
Schelde PhD, Ida Rask Moustsen-Helm PhD,
Hanne-Dorthe Emborg PhD, Tyra Grove
Krause PhD, Kåre Mølbak DMSc, Palle
Valentiner Branth, *Vaccine effectiveness
against SARS-CoV-2 infection with the
Omicron or Delta variants following a two-
dose or booster BNT162b2 or mRNA-1273
vaccination series: a Danish cohort study*,
medRxiv (Dec. 22, 2021)20

Dep't: Health Republic of South Africa, *Media
Release: Cabinet Approves Changes to
COVID-19 Regulations* (Dec.30, 2021)..... 11

Genomic Epidemiology of novel coronavirus –
Global subsampling,
[https://nextstrain.org/ncov/gisaid/global?f_cou
ntry=South%20Africa](https://nextstrain.org/ncov/gisaid/global?f_country=South%20Africa)
[https://nextstrain.org/ncov/gisaid/global?f_cou
ntry=South%20Africa](https://nextstrain.org/ncov/gisaid/global?f_country=South%20Africa) (visited Jan. 4, 2022)6

Harry Moultrie (@hivepi), Twitter (Dec. 27,
2021, 3:29 AM),
[https://twitter.com/hivepi/status/14753834294
03484163](https://twitter.com/hivepi/status/1475383429403484163). 10

LKS Faculty of Medicine, The University of
Hong Kong, *HKUMed finds Omicron SARS-
CoV-2 can infect faster and better than Delta
in human bronchus but with less severe
infection in the lung* (Dec. 15, 2021).....9

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Moderna, *Moderna Announces Preliminary
Booster Data and Updates Strategy to
Address Omicron Variant* (Dec. 20, 2021)19

National Institute for Communicable Diseases,
*Frequently Asked Questions for the B.1.1.529
mutated SARS-COV-2 lineage in South
Africa,*
[https://www.nicd.ac.za/frequently-asked-
questions-for-the-b-1-1-529-mutated-sars-cov-
2-lineage-in-south-africa/](https://www.nicd.ac.za/frequently-asked-questions-for-the-b-1-1-529-mutated-sars-cov-2-lineage-in-south-africa/) (visited Jan.4,
2022)6

Nicole A. Doria-Rose, Xiaoying Shen, Stephen
D. Schmidt, Sijy O’Dell, , Charlene McDanal,
Wenhong Feng, Jin Tong, *Booster of mRNA-
1273 vaccine reduces SARS-CoV-2 Omicron
Escape from Neutralizing Antibodies,*
medRxiv (Dec. 15, 2021)19

Nicole Wolter, Waasila Jassat , Sibongile
Walaza1, Richard Welch, Harry Moultrie,
Michelle Groome, Daniel Gyamfi
Amoako, *Early assessment of the clinical
severity of the SARS-CoV-2 Omicron variant
in South Africa,* medRxiv (Dec. 21, 2021).....7

Oliver Barnes, John Burn-Murdoch, and
Richard Milne, *Omicron cases less likely to
require hospital treatment, studies show,* Ars
Technica (Dec. 22, 2021).....8

Ontario, *All Ontario: Case numbers and spread*, <https://covid-19.ontario.ca/data/case-numbers-and-spread> (visited Jan. 5, 2022)24

Our World in Data, *Coronavirus (COVID-19) Vaccinations*, <https://ourworldindata.org/covid-vaccinations> (visited Jan. 4, 2022)22

Our World in Data, *Moving-average case fatality rate of COVID-19*, <https://ourworldindata.org/explorers/coronavirus-data-explorer?zoomToSelection=true&time=2020-03-01..latest&facet=none&pickerSort=asc&pickerMetric=location&Metric=Case+fatality+rate&Interval=7-day+rolling+average&Relative+to+Population=true&Color+by+test+positivity=false&country=~ZAF> (visited Jan. 4, 2022)17

Pfizer, *Pfizer and BioNTech provide update on omicron variant* (Dec. 8, 2021).....18

Pieter Streicher (@pieterstreicher), Twitter (Dec. 27, 2021, 12:56 PM), <https://twitter.com/pieterstreicher/status/1475525908475830278>.16

Robert Koch Institut, *Wochentlicher Lagebericht des RKI zur Coronavirus-Krankheit-2019 (COVID-19)* (Dec. 30, 2021).....22

x

Shabir A. Madhi, Gaurav Kwatra, Jonathan E. Myers, Waasila Jassat, Nisha Dhar, Christian K. Mukendi, Amit J. Nana, South African Population Immunity and Severe Covid-19 with Omicron variant, medRxiv (Dec. 21, 2021).....11

Sivan Gazit, Roei Shlezinger, Galit Perez, Roni Lotan, Asaf Peretz, Amir Ben-Tov, Dani Cohen, Khitam Muhsen, Gabriel Chodick, Tal Patalon (2021) *Comparing SARS-CoV-2 natural immunity to vaccine-induced immunity: reinfections versus breakthrough infections*, medRxiv (Aug. 25, 2021).....22

The White House, *Press Briefing by White House COVID-19 Response Team and Public Health Officials* (Dec. 29, 2021),9

UK Health Security Agency, *SARS-CoV-2 variants of concern and variants under investigation in England* (Dec. 23, 2021).....22

INTEREST OF *AMICUS CURIAE*¹

The American Commitment Foundation is a 501(c)(3) charitable foundation organized to educate the general public about concepts that advance economic freedom and constitutionally limited government, led by its president Phil Kerpen. The Foundation was advised in the preparation of this brief by epidemiologists Jay Bhattacharya of Stanford University and Andrew Bostom of Brown University.

Jay Bhattacharya is a Professor of Health Policy at Stanford University School of Medicine, a research associate at the National Bureau of Economic Research, and the Director of Stanford's Center for Demography and Economics of Health and Aging. Dr. Bhattacharya holds an M.D. and Ph.D. from Stanford University. He has published 155 scholarly articles in peer-reviewed journals in the fields of medicine, economics, health policy, epidemiology, statistics, law, and public health, among others. His research has been cited in the peer-reviewed scientific literature more than 12,500 times.

Dr. Bhattacharya has testified as an expert in numerous lawsuits related to the Covid-19 pandemic generally and vaccine mandates in particular, and has devoted substantial time in research and writing on the subject.

¹ *Amicus* have moved for leave to file this brief. No party's counsel authored the brief in whole or in part, and no party or party's counsel, nor anyone other than *amicus* or their counsel, contributed money intended to fund its preparation or submission.

Andrew Bostom is currently affiliated with the Brown University Center For Primary Care and Prevention, and was an Associate Professor of Medicine and Family Medicine at The Warren Alpert Medical School of Brown University from 1997 until June, 2021. A clinical trialist and epidemiologist, Dr. Bostom designed and completed the largest randomized, controlled trial ever conducted in chronic kidney transplant recipients.

Dr. Bostom has 114 scholarly, peer-reviewed publications focused on epidemiology and clinical trials. He has testified as an expert witness in lawsuits pertaining to the Covid-19 pandemic—specifically on vaccine and mask mandates—while researching and writing extensively on those subjects.

INTRODUCTION & SUMMARY OF ARGUMENT

Substantial new factual developments related to the Omicron variant, arising after the filing, briefing, and arguing of the original cases, substantially undermine the government's justification for the ETS standard. The Omicron variant is — or will shortly be — the dominant viral strain in the United States, accounting for nearly all new SARS-CoV2 infections.

This significant change in circumstances negates the factual basis for the OSHA order in two ways: it dramatically reduces the risk of severe illness or death, and it renders the existing vaccines ineffective at reducing transmissions — thereby negating any possible societal benefit from mandating their use. The Court should completely disregard any fact evidence developed prior to the rise of Omicron, including the original vaccine trials, which showed efficacy against the original “wild type” virus which is no longer in circulation.

Presently available vaccines may confer a personal benefit against severe disease from the Omicron variant, but do not confer any demonstrable societal benefit, because they do not effectively reduce infections or transmission. They simply cannot protect workers from the spread of SARS-CoV-2 in the workplace.

With the Omicron variant now dominant, vaccine mandates cannot possibly stop viral transmission. Therefore, they amount to a personal health mandate, akin to a requirement to eat broccoli, exercise, or any

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number of personal health measures that the Court has previously rejected as beyond the scope of legitimate federal power.

ARGUMENT

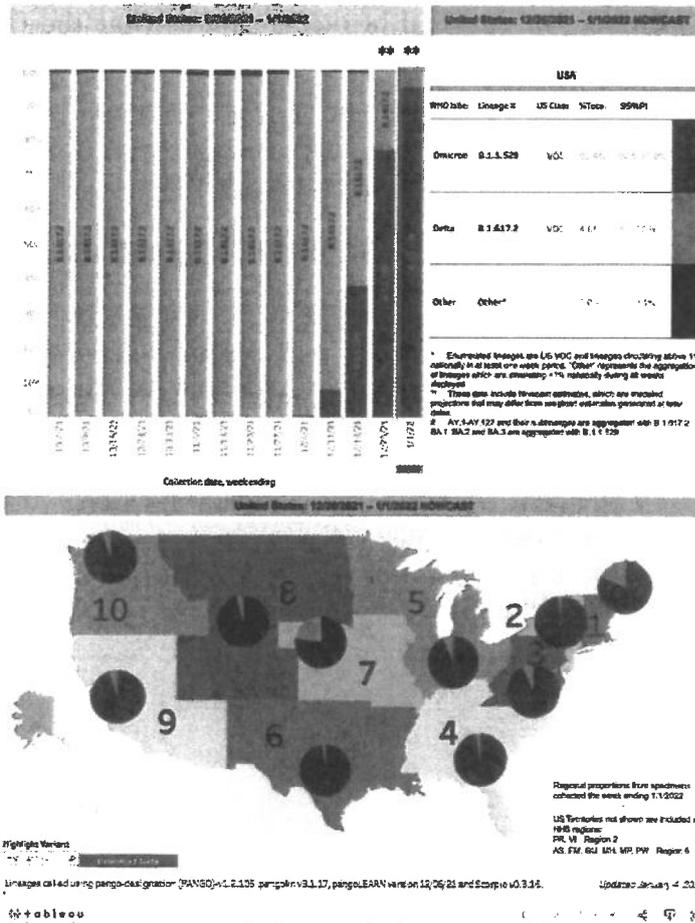
I. OMICRON IS NOW THE DOMINANT VARIANT

The Omicron variant now accounts for the majority of new SARS-COV2 infections in the United States, and is expected to represent substantially all new infections within weeks.

Below is the CDC official variant projection, called “NOWCAST,” which shows Omicron represented 95.4% of new cases for the week ending January 1 — and is still rising:²

² CDC, *COVID Data Tracker*, <https://covid.cdc.gov/covid-data-tracker/#variant-proportions> (visited Jan. 4, 2022).

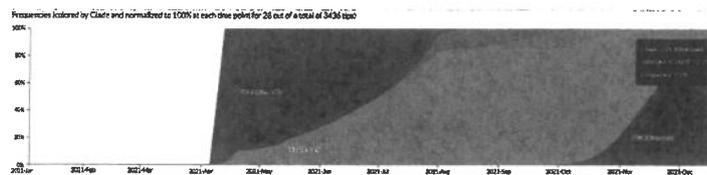
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This follows the trajectory in South Africa, where the Omicron variant was discovered in the Gauteng

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province on November 22, 2020.³ In South Africa, Omicron rose to 91% dominance by December 21.⁴



Given the Omicron trajectory in the United States and the unprecedented steep rise in cases nationally, driven by Omicron, it is likely that by the time the Court decides whether to grant a stay, Omicron will represent substantially all of the SARS-CoV2 infections in the United States. That fact renders nearly all of the fact evidence in the record obsolete.

³ National Institute for Communicable Diseases, *Frequently asked questions for the B.1.1.529 mutated SARS-COV-2 lineage in South Africa*, <https://www.nicd.ac.za/frequently-asked-questions-for-the-b-1-1-529-mutated-sars-cov-2-lineage-in-south-africa/> (visited Jan.4, 2022).

⁴ https://nextstrain.org/ncov/gisaid/global?f_country=South%20Africa

7

II.OMICRON DOES NOT PRESENT A GRAVE DANGER

A recent analysis from the South African government's National Institute for Communicable Diseases provides some reason for optimism: S-Gene Target Failure (presumptive Omicron) cases are 80% less likely to be hospitalized.⁵

Table 2. Multivariable logistic regression analysis evaluating the association between S gene target failure (SGTF) infection, compared to non-SGTF infection, and hospitalization, South Africa, 1 October - 30 November 2021* (N=11,255)

SGTF-Covid-2 variant	Hospital admission ^b n/N (%)	Adjusted odds ratio (95% CI)	P-value
SGTF	11/1,895 256/10,547 (2)	0.2 (0.1-0.3)	<0.001
Non-SGTF	121/948 (13)	Ref	

The latest data from Scotland also strongly suggests the same optimistic conclusion: “early national data suggest that Omicron is associated with a two-thirds reduction in the risk of COVID-19 hospitalisation when compared to Delta.”⁶

⁵ <https://www.medrxiv.org/content/10.1101/2021.12.21.21268116v1.full.pdf>

⁶ <https://www.research.ed.ac.uk/en/publications/severity-of-omicron-variant-of-concern-and-vaccine-effectiveness->

Table 3: Observed vs expected analysis for risk of hospital admission by S gene status
Omicron
Risk of hosp 68% lower controlling for vax, reinfections)

	S Gene Status	N	Person Years	Hospital Admissions	Expected Admissions	Observed/Expected	LCL	UCL
All cases flaking into the EAVE	S Positive	119100	4375.1	856	856.9	1	0.93	1.07
	S Negative	22205	413.4	15	46.6	0.32	0.19	0.52
II dataset	Weak S							
	Positive	2199	57.3	7	6.9	1.02	0.45	2
	Other	990	33.8	*	*	0.79	0.26	1.88
	Unknown	1647	58.2	14	14.8	0.94	0.54	1.54

Denmark's data shows Omicron cases were three times less likely to end up with hospital admissions than the previous dominant variant, Delta.⁷

The United States has not published any comparable data. But, NIAID Director Dr. Anthony Fauci noted the global evidence of reduced severity at a December 29, 2021 White House briefing and indicated unpublished U.S. data show the same trend:

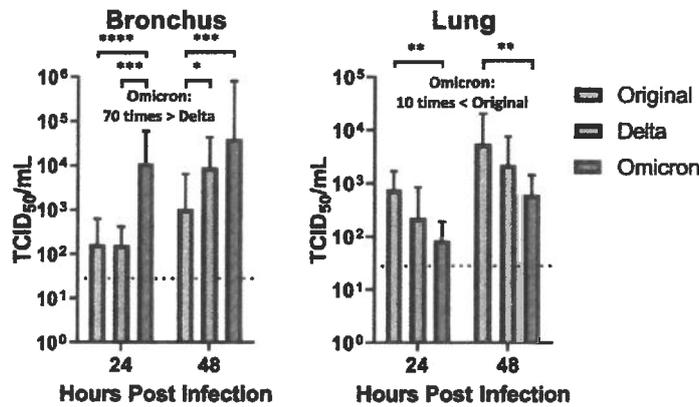
In the United States, we are getting accumulation of data. The spike in cases is out of proportion to the increase in hospitalization. So, if one looks at 14-day averages, the data, as of last night, indicate a plus 126 percent increase in cases [but only] an 11 percent increase in hospitalizations. Now, we must remember that hospitalizations and deaths are lagging indicators. However, the pattern and disparity between cases and hospitalization strongly suggest that there will be a lower hospitalization-

⁷ <https://arstechnica.com/science/2021/12/omicron-cases-less-likely-to-require-hospital-treatment-studies-show/>

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to-case ratio when the situation becomes more clear.⁸

Hong Kong University researchers pointed to the likely reason, or mechanism, for **Omicron's** increased infectiousness but reduced virulence: **it replicates far more efficiently in the bronchus and upper respiratory tract than Delta, but less efficiently in the lungs.**⁹



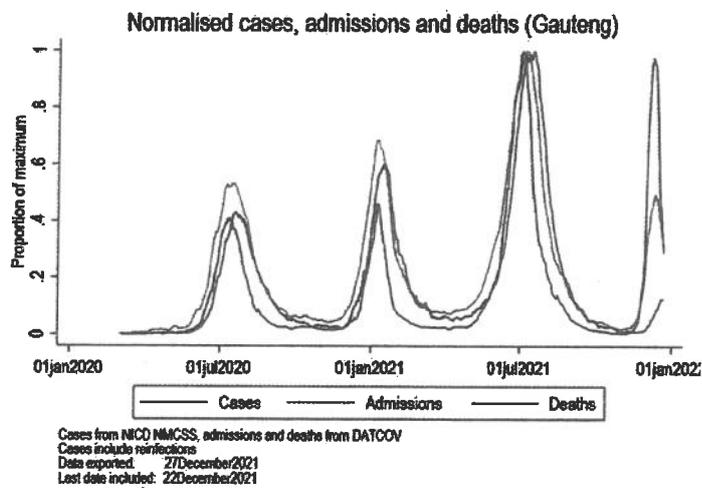
But the most compelling evidence of Omicron ending any grave danger from SARS-CoV2 comes from

⁸ <https://www.whitehouse.gov/briefing-room/press-briefings/2021/12/29/press-briefing-by-white-house-covid-19-response-team-and-public-health-officials-76/>

⁹ <http://www.med.hku.hk/en/news/press/20211215-omicron-sars-cov-2-infection>

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South Africa, particularly the Gauteng province (population 18 million) where the first recognized Omicron wave occurred. According to Dr. Harry Moultrie of the South African government's National Institute for Communicable Diseases, Gauteng cases peaked on December 9 at 97 percent of the delta wave. Even more reassuringly, deaths were only 13 percent of the delta peak.¹⁰



A recently published working paper by a South African team of scientists who were conducting a sero-

¹⁰ <https://twitter.com/hivepi/status/1475383429403484163>

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epidemiological survey in the Gautang Province confirms the conclusion that Omicron infection is substantially less likely to require hospitalization or induce mortality than infection with other strains. While cases may rise sharply as a wave of Omicron sweeps through a region, hospitalizations and deaths do not follow. The authors conclude:¹¹

We demonstrate widespread underlying SARS-CoV-2 seropositivity in Gauteng Province prior to the current Omicron-dominant wave, with epidemiological data showing an uncoupling of hospitalization and death rates from infection rate during Omicron circulation.

Based on their Omicron experience, some South African scientists have effectively declared the pandemic over, stating:¹²

All indicators suggest the country may have passed the peak of the fourth wave at a national level... While the Omicron variant is highly transmissible, there has been lower rates of hospitalisation than in previous waves. This means that the country has a spare capacity for

¹¹ <https://www.medrxiv.org/content/10.1101/2021.12.20.21268096v1>

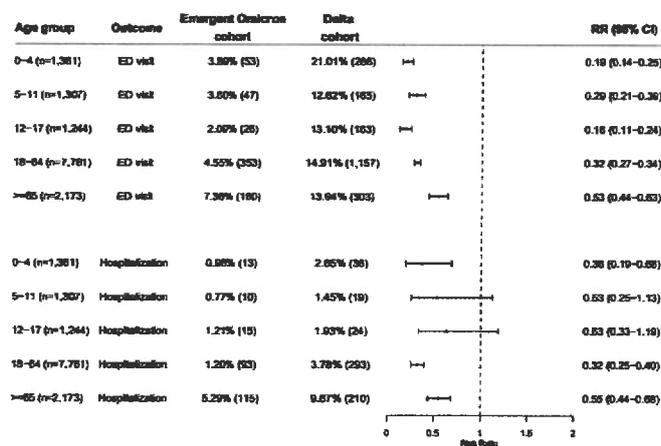
¹² <https://sacoronavirus.co.za/2021/12/30/media-release-cabinet-approves-changes-to-covid-19-regulations/>

admission of patients even for routine health services.

In other words, the first country to experience an Omicron wave has unambiguously concluded that the dominant variant presents no grave danger.

Early U.S. data is available in a preprint from a team at Case Western Reserve University, which used propensity matched-cohort analysis to find markedly reduced disease severity during the period from December 14 to December 24, 2021. On an age and risk-matched basis, they found ER visits were 70% lower than earlier cohorts, hospitalizations were 56% lower, ICU admissions were 67% lower, and ventilation were 84% lower.

Age-stratified comparison of 3-day acute outcomes in matched patients with SARS-CoV-2 infections
Emergent Omicron cohort (12/15–12/24) vs. Delta cohort (01–11/15)



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As good as they appear, these reductions substantially *understate* the reduction of risk represented by Omicron, because this cohort included a non-negligible number of Delta infections. According to the authors:

The estimated prevalence of the Omicron variant during 12/15-12/24 was only 22.5-58.6%, suggesting that the outcomes for the Omicron variant may be found to be even milder than what we report here as the prevalence of the Omicron variant increases.

Adding to the lack of any grave danger, there is also strong early evidence that **Omicron infection offers robust protection against the Delta variant**. This means that even if the Delta variant still presented a grave danger, it would be *counterproductive* to stop or slow the spreading of the presently dominant Omicron variant.

Research at the Africa health Research Institute found:

Importantly, there was an enhancement of Delta virus neutralization, which increased 4.4-fold. The increase in Delta variant neutralization in individuals infected with Omicron may result in decreased ability of Delta to re-infect those individuals. Along with emerging data indicating that Omicron, at this time in the pandemic, is less pathogenic

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than Delta, such an outcome may have positive implications in terms of decreasing the Covid-19 burden of severe disease.

This substantial reduction of severe disease risk must be applied to a contextualized understanding of the already low-risk to working-age individuals.

Since the start of the pandemic, there have been 206,156 COVID-associated deaths among the working age 18 to 64 population – overwhelmingly in those above age 50 with pre-existing health conditions – according to the preliminary death count at the CDC’s National Center for Health Statistics:¹³

Age Group	Estimated Population									
0-17 years	678	66,234	65,556	1.0%	74,138,216	0.9%	88.44	22.2%	0.1%	1.1%
18-29 years	4,956	136,217	121,261	3.9%	54,277,315	9.3%	223.61	16.3%	0.6%	2.1%
30-39 years	14,614	184,876	170,262	7.9%	45,227,543	12.3%	176.46	13.5%	1.8%	2.9%
40-49 years	35,190	276,337	241,347	12.7%	40,772,322	16.3%	92.31	12.2%	4.3%	4.2%
50-54 years	151,396	1,121,577	970,181	13.5%	63,657,235	257.83	1524.07	19.0%	18.6%	16.7%
55 years and over	807,372	4,845,626	4,237,729	12.3%	56,441,017	1877.36	7508.23	35.9%	74.8%	73.0%
All Ages	814,805	6,826,926	5,896,150	12.9%	194,523,438	243.39	1735.75	100.0%	100.0%	100.0%

CDC NCHS Deaths, Wonders Population Estimates. From January 1, 2020 to December 25, 2021, as of December 29, 2021.

Given substantial improvements in treatments, including therapeutics that can reduce the risk of hospitalization of death by more than 50 percent, we would expect that even if the virus had not attenuated deaths in this age group, and even in the absence of vaccination, deaths would be 50,000 or less per year going forward.

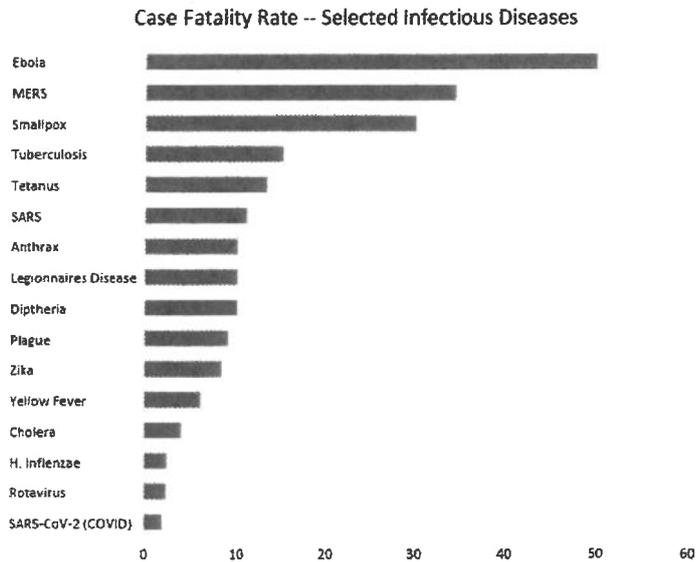
¹³ <https://data.cdc.gov/resource/9bhg-hcku.csv?sex=AllSexes>

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Case fatality rates might be an even better way to conceptualize the risk than other common measures. As Dr. Jay Bhattacharya of Stanford notes:

It is helpful to provide some context for how large the mortality risk is posed by COVID infection relative to the risk posed by other infectious diseases. Since seroprevalence-based mortality estimates are not readily available for every disease, in the figure immediately below, I plot case fatality rates, defined as the number of deaths due to the disease divided by the number of identified or diagnosed cases of that disease. The case fatality rate for SARS-CoV-2 is ~2% (though that number has decreased with the availability of vaccines and effective treatments). By contrast, the case fatality rate for SARS is over five times higher than that, and for MERS, it is 16 times higher than that.

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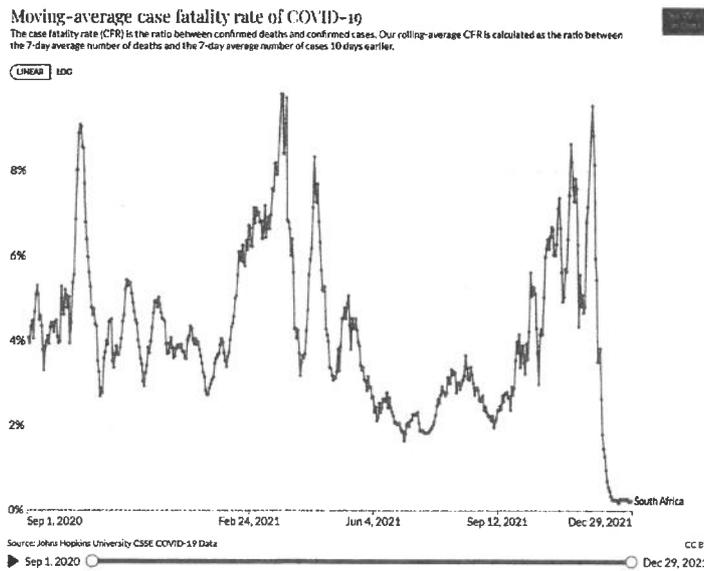
But the case fatality rate appears to be falling even more sharply than that. In South Africa, the case fatality rate plunged dramatically when Omicron became dominant. Pieter Streicher of the University of Johannesburg projects that for Gauteng Province: “C-19 deaths are expected to total 640 for this wave, 25x lower compared to Delta (15,400).”¹⁴

The graph below tracks a 7-day moving average of the case fatality rate of COVID infection from September 1, 2020 to January 1, 2022 in South Africa with

¹⁴ <https://twitter.com/pieterstreicher/status/1475525908475830278>

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data from a well-known COVID data provider, Our World in Data.¹⁵ It confirms the collapse in the case fatality rate of COVID in South Africa as Omicron became the dominant strain.



¹⁵ Our World in Data, *Moving-average case fatality rate of COVID-19*, <https://ourworldindata.org/explorers/coronavirus-data-explorer?zoomToSelection=true&time=2020-03-01..latest&facet=none&pickerSort=asc&pickerMetric=location&Metric=Case+fatality+rate&Interval=7-day+rolling+average&Relative+to+Population=true&Color+by+test+positivity=false&country=~ZAF> (visited Jan. 4, 2022)

With Omicron's observed decline in severity, expected working-age deaths fall into a range comparable to — or even lower than — the CDC's modeled 8,000 influenza deaths in 2017-18.¹⁶ Quite simply, the Omicron variant is now a *normal respiratory virus*, not an unusual, extraordinary, or grave danger. There is no evidence in the record specific to Omicron to support a grave danger finding.

III. VACCINES ARE INEFFECTIVE AT PREVENTINGOMICRON INFECTIONS

Pfizer and BioNTech are the manufacturers of the current leading vaccine. They recently admitted that the existing vaccine does not provide robust protection against Omicron, saying:

Sera from individuals who received two doses of the current COVID-19 vaccine did exhibit, on average, more than a 25-fold reduction in neutralization titers against the Omicron variant compared to wild-type, indicating that two doses of BNT162b2 may not be sufficient to protect against infection with the Omicron variant.¹⁷

¹⁶ <https://www.cdc.gov/flu/about/burden/2017-2018.htm>

¹⁷ <https://www.pfizer.com/news/press-release/press-release-detail/pfizer-and-biontech-provide-update-omicron-variant>

Moderna, the second-leading manufacturer, similarly admitted that its vaccine does not provide acceptable efficacy against Omicron, stating:

All groups had low neutralizing antibody levels in the Omicron PsVNT assay prior to boosting.¹⁸

Similarly, NIH-funded researchers at Duke university found in vitro that: "neutralizing titers to Omicron are 49-84 times lower than neutralization titers to D614G [wild-type SARS-CoV2] after 2 doses of mRNA-1273 [Moderna], which could lead to an increased risk of symptomatic breakthrough infections."¹⁹

Real-world evidence from at least four countries with significant experience with Omicron — Denmark, the United Kingdom, Germany, and Canada, all of which provide more detailed and transparent data than has been made available in the United States — evidences that these vaccines have *substantially zero efficacy at preventing Omicron transmission*, undermining the central rationale for mandating them in the workplace.

¹⁸ <https://investors.modernatx.com/news/news-details/2021/Moderna-Announces-Preliminary-Booster-Data-and-Updates-Strategy-to-Address-Omicron-Variant/default.aspx>

¹⁹ <https://www.medrxiv.org/content/10.1101/2021.12.15.21267805v1.full-text>

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The Statens Serum Institut in Copenhagen, Denmark analyzed Danish data and found vaccine efficacy turned *negative* after 91 days following the second dose was administered. In other words, vaccinated Danes were *even more likely* than unvaccinated Danes to be infected with Omicron after 3 months:²⁰

²⁰ <https://www.medrxiv.org/content/10.1101/2021.12.20.21267966v2.full.pdf>

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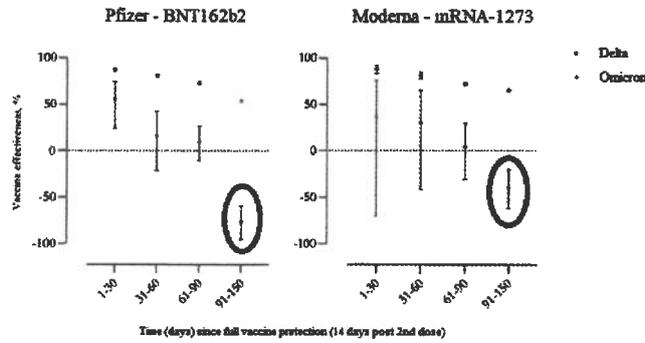


FIGURE Vaccine effectiveness against SARS-CoV-2 infection with the Delta and Omicron variants, shown separately for the BNT162b2 and mRNA-1273 vaccines. Vertical bars indicate 95% confidence intervals.

Table Estimated vaccine effectiveness for BNT162b2 and mRNA-1273 against infection with the SARS-CoV-2 Omicron and Delta variants during November 20 – December 12, 2021, Denmark.

Time since vaccine protection	Pfizer – BNT162b2				Moderna – mRNA-1273			
	Omicron		Delta		Omicron		Delta	
	Cases	VE, % (95% CI)	Cases	VE, % (95% CI)	Cases	VE, % (95% CI)	Cases	VE, % (95% CI)
1-30 days	14	55.3 (23.5; 73.7)	171	86.7 (84.6; 88.6)	4	36.7 (-69.3; 76.4)	29	88.2 (83.1; 91.8)
31-60 days	82	16.1 (-30.8; 41.7)	494	83.9 (79.0; 82.6)	8	30.6 (-41.3; 85.4)	116	81.3 (77.7; 84.5)
61-90 days	145	9.8 (-10.0; 26.1)	3,177	72.8 (71.7; 73.8)	48	4.2 (-30.8; 29.8)	1,037	72.3 (70.4; 74.0)
91-150 days	2,851	-76.5 (-83.3; -59.5)	31,967	52.8 (52.3; 53.6)	393	-39.3 (-61.6; -20.0)	3,459	65.6 (63.6; 66.3)
1-30 days after booster vaccination protection	29	54.6 (30.4; 70.4)	453	81.2 (79.2; 82.9)	-	-	5	82.8 (58.6; 92.9)

CI = confidence interval; VE = vaccine effectiveness. VE estimates adjusted for 10-year age groups, sex, and region (five geographical regions). Vaccine protection was assumed 14 days post 2nd dose. Insufficient data to estimate mRNA-1273 booster VE against Omicron.

This may be because unvaccinated, COVID-recovered patients have better protection versus Omicron than vaccinated patients who never previously had COVID.²¹

²¹ Sivan Gazit, Roei Shlezinger, Galit Perez, Roni Lotan, Asaf Peretz, Amir Ben-Tov, Dani Cohen, Khitam Muhsen, Gabriel Chodick, Tal Patalon (2021) *Comparing SARS-CoV-2 natural immunity to vaccine-induced immunity: reinfections versus*

In Germany, the most recent detailed report from the Robert Koch Institute (the German equivalent of the CDC) found that 78.6 percent (4,020 of 5,117) of sequenced Omicron cases were in *vaccinated* Germans,²² despite a population vaccination rate of just 70 percent.²³

In the United Kingdom, the UK Health Security Agency calculated *preliminary vaccine effectiveness estimates remarkably like the Danish findings, with near-zero vaccine efficacy for both Pfizer-BioNTech and Moderna vaccines after 20 weeks following the second dose:*²⁴

breakthrough infections, medRxiv (Aug. 25, 2021)
<https://doi.org/10.1101/2021.08.24.21262415>

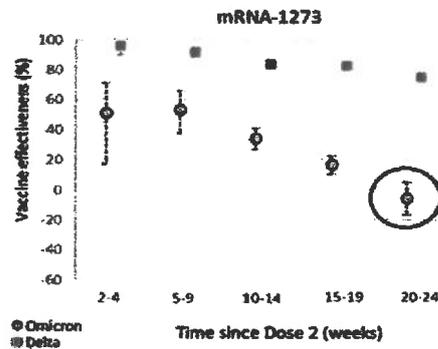
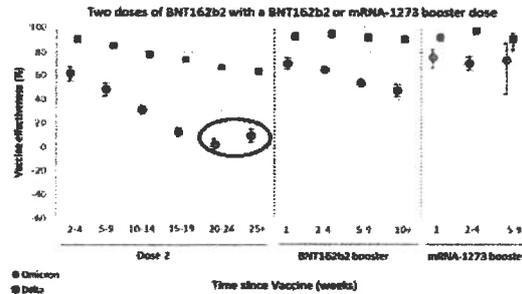
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https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Situationsberichte/Wochenbericht/Wochenbericht_2021-12-30.pdf?__blob=publicationFile

²³ <https://ourworldindata.org/covid-vaccinations>

²⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1043807/technical-briefing-33.pdf

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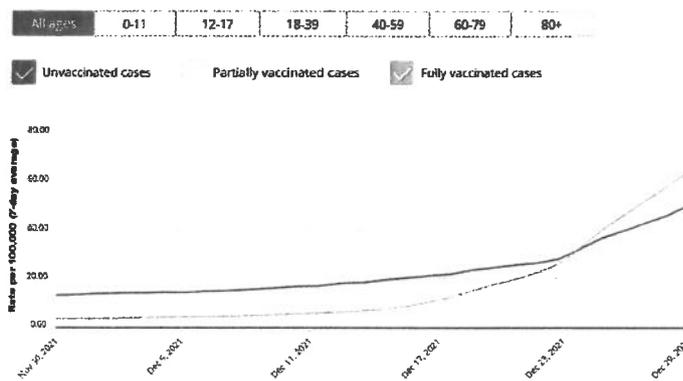


Although the UK Health Security Agency clarifies "[t]hese results should be interpreted with caution due to the low counts and the possible biases related to the populations with highest exposure to Omicron (including travellers and their close contacts) which cannot fully be accounted for," these results are consistent with the epidemiological patterns we are seeing in the United States and globally.

In Ontario, Canada, the case rate per 100,000 fully vaccinated Ontarians has risen sharply above the case

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rate per 100,000 unvaccinated Ontarians, again suggesting *negative vaccine efficacy*:²⁵



A test-negative control analysis of Ontario test data by researchers from Public Health Ontario and leading Canadian universities found: "observed *negative* VE against Omicron among those who had received 2 doses compared to unvaccinated individuals" (emphasis added).

As the following table shows, the Ontario researchers found that after day 60 following the second dose, vaccine effectiveness was *negative*, meaning a vaccinated person was *more likely* to be infected than an unvaccinated person:

²⁵ <https://covid-19.ontario.ca/data/case-numbers-and-spread>

Table 2. Vaccine effectiveness against infection by Omicron or Delta among adults aged ≥18 years by time since latest dose

Doses	Vaccine products	Days since latest dose	SARS-CoV-2 negative controls, n	Omicron-positive cases, n	Vaccine effectiveness against Omicron (95% CI)	Delta-positive cases, n	Vaccine effectiveness against Delta (95% CI)
First 2 doses	≥1 mRNA vaccine	7-59	14,288	63	6 (-25, 30)	204	84 (81, 86)
		60-119	34,741	214	-13 (-38, 8)	562	81 (79, 82)
		120-179	282,977	2,257	-38 (-61, -18)	4,342	80 (79, 81)
		180-239	47,282	322	-42 (-69, -19)	635	74 (72, 76)
		≥240	10,285	46	-16 (-42, 17)	203	71 (66, 75)
Third dose	Any mRNA vaccine	0-6	10,308	50	2 (-35, 29)	71	88 (85, 90)
		≥7	36,500	114	37 (19, 50)	138	93 (92, 94)
		0-6	8,461	42	2 (-39, 30)	64	87 (83, 90)
		≥7	30,269	106	34 (16, 49)	116	93 (91, 94)
		0-6	1,747	8	5 (-94, 54)	7	93 (86, 97)
		≥7	6,231	8	59 (16, 80)	22	93 (90, 96)

Contemporaneous with this development, Ontario announced a major shift in strategy *away from* mass testing. On December 20, 2021, Ontario’s health officer Kieran Moore said:

We have to pivot, we know there's ongoing community activity, we know we'll have transmission risk, that data has to focus to screen those who need treatment and to protect those in high-risk settings.²⁶

In the United States, studies and data from last summer showing higher viral transmission in less vaccinated southern states is now completely obsolete. As the following CDC table demonstrates, in the Omicron wave there is no observable reduction in case rates based on vaccination rates.²⁷

²⁶ <https://www.cbc.ca/news/canada/toronto/covid-19-ontario-dec-30-2021-testing-guidelines-cases-1.6300425>

²⁷ <https://data.cdc.gov/Case-Surveillance/United-States-COVID-19-Cases-and-Deaths-by-State-o/9mfq-cb36>
https://covid.cdc.gov/covid-data-tracker/COVIDData/getAjaxData?id=vaccination_data

Difference in Cases in the Month of December: Most Vaccinated States Compared to Least Vaccinated

Cases in December					Cases in December				
State	2021	2020	Difference	Fully Vaccinated	State	2021	2020	Difference	Fully Vaccinated
Vermont	11,120	2,632	229%	77.4%	Ohio	261,504	278,217	-1%	55.2%
Rhode Island	34,434	32,625	6%	76.5%	West Virginia	30,720	37,462	-18%	66.1%
Maine	23,059	12,255	105%	75.8%	Kentucky	85,912	86,894	-1%	54.2%
Connecticut	60,792	68,413	-12%	74.6%	Montana	9,049	18,357	-51%	54.0%
Massachusetts	178,738	149,048	19%	74.6%	Oklahoma	37,432	105,522	-65%	53.6%
New York	845,478	322,119	262%	71.6%	South Carolina	47,804	67,300	-29%	53.1%
New Jersey	242,669	192,061	26%	70.5%	Minnesota	85,556	111,430	-23%	53.0%
Maryland	113,358	79,084	43%	70.4%	North Dakota	10,402	18,115	-43%	52.6%
Virginia	129,377	114,703	13%	68.0%	Indiana	133,734	172,712	-23%	52.0%
Washington	67,121	78,819	-13%	67.9%	Tennessee	82,963	211,208	-61%	51.4%
Dist. Columbia	25,133	7,431	233%	67.6%	Arkansas	28,713	67,776	-58%	51.2%
New Hampshire	35,412	23,034	54%	67.2%	Georgia	127,565	184,680	-31%	51.1%
Oregon	27,234	36,478	-25%	66.5%	Louisiana	45,334	82,861	-45%	50.3%
New Mexico	33,587	45,789	-27%	66.2%	Mississippi	24,661	63,076	-61%	48.1%
Colorado	80,861	102,744	-21%	66.2%	Alabama	43,237	111,713	-61%	47.6%
California	308,823	1,018,584	-70%	66.1%	Wyoming	4,153	11,104	-63%	47.5%
Illinois	193,055	86,539	121%	65.4%	Iaho	11,813	39,379	-71%	46.2%
MOST VACCINATED STATES			68%	78.2%	LEAST VACCINATED STATES			-44%	51.5%

CONCLUSION

The situation is, as they say, highly fluid. Substantial new factual developments related to the Omicron variant, which arose subsequent to the filing, briefing, and arguing of the original cases, substantially undermine any possible justification for the government's ETS.

Even if SARS-CoV-2 did present a grave danger justifying the ETS at the time it was published — a highly controversial assertion in its own right — at this time, the Omicron virus that presently dominates the field does not even arguably present a grave danger. Nor could its transmission be substantially reduced through mandatory vaccination even if it did present a grave danger. Therefore, the OSHA order

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should be stayed, and the Court should grant certiorari before judgment.

Respectfully submitted,

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January 2022

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Full vaccination is required by March 1, 2022

From: Ingrid Bella, Interim Human Resources Officer

On Aug. 2, 2021, the County of Santa Clara issued a Public Health Order, wherein the County strongly urged that business and governmental entities implement mandatory vaccination requirements for all personnel. Vaccination remains the best and most effective tool to protect the vaccinated person from infection, hospitalization, or death from COVID-19, as well as to prevent harm to others by reducing the risk of transmission of COVID-19.

Valley Water chose to implement a mandated weekly testing requirement for all staff and provided an exception from the requirement for fully vaccinated staff. The mandatory testing requirement includes taking a PCR COVID-19 test on a weekly basis and uploading the results each week. We also implemented a mandatory vaccination policy for all new hires requiring they provide proof of full vaccination absent an approved medical or religious exemption prior to their start date.

Both efforts have enabled us to reach a vaccination rate of over 92%; however, increasing the vaccination rate remains the most productive action we can take to enhance the safety in the workplace for our employees and the public we serve.

Policy

In accord with the aforementioned Public Health Order's recommendations, to create the safest work environment possible, and in response to the ongoing health emergency related to lingering and/or rapid surges of variants of COVID-19, Valley Water will require staff that are not fully vaccinated (not vaccinated, partially vaccinated, or decline to state) to **submit proof of full vaccination by Tuesday, March 1, 2022.**

A person is "fully vaccinated" at least two weeks after receiving a second dose of the Pfizer or Moderna COVID-19 vaccine or two weeks after receiving a single dose of the Johnson & Johnson COVID-19 vaccine.

- Until this March 1, 2022 deadline, the weekly testing requirement for unvaccinated staff will remain in place.

Unvaccinated staff may request an exemption for medical or religious reasons and a separate email, with forms attached, will be sent to all unvaccinated employees.

Exemption requests must be submitted by **Jan. 31, 2022.** Forms will be sent to the Ethics/EEO office for review, and an interactive interview with the requestor may be required.

Proof of Vaccination Process

Unvaccinated staff that become fully vaccinated, are required to upload a copy of their vaccination card as soon as it is complete but no later than March 1, 2022. The easiest way to upload is to take a photo with your phone, email it to yourself, and paste it on a Word Document. You can then securely upload the photo as a document.

- If you are having trouble finding the upload link, click here:
http://srvfrmprd.scvwd.gov:7001/ords/f?p=CVS:LOGIN_DESKTOP

Non-Compliance

Failure to provide proof of full vaccination by March 1, 2022, absent an approved medical or religious exemption or other good cause, will result in disciplinary action up to and including termination.

5 6

Date: Thu, 13 Jan 2022 10:10:59 PM (UTC)
Sent: Thu, 13 Jan 2022 10:10:56 PM (UTC)
Subject: Omicron Fewer Hospitalizations and Shorter Hospital Stay - California (Preprint Study)
From: Larry Lopez <LLopez@valleywater.org >
To: Natalie Vye <NVye@valleywater.org >;
Attachments: CDC-Berkeley-Kaiser.pdf

Hot off the press study that came out this last Tuesday. The importance of this study can't be overstated because it was done at a time when Delta and Omicron were essentially equally present in California, which was all of December. Now we are at >98.5% Omicron, which is another good thing. So the study shows that the results weren't influenced by societal factors, i.e., both variants were present at the exact same place in time so that makes the data even more compelling. It takes out factors such as changes in protocols from Public Health, weather and environmental conditions, et. al.

I encourage you to read it in its entirety when you get time, but in the meantime I highlighted some data in Table 1 and Table 2 that I found extremely interesting. So, SGTF is S Gene Target Failure, which is Omicron. The spike gene, or S gene has not been detected with Omicron so when they sequence the virus specimen, they look for that S gene target failure and presume it's Omicron. No SGTF means Delta. So when you see those terms that what it means. SGTF = Omicron; No SGTF = Delta.

The population size included 52,297 cases with SGTF (Omicron) and 16,982 cases with non-SGTF (Delta [B.1.617.2]). The numbers in () on Table 1: Association of SGTF with adverse clinical outcomes is cases per 1,000 and on Table 2 it's percentage.

All of the adverse clinical outcome observations, i.e., hospitalizations, ICU admissions, mechanical ventilators used, and deaths, are all significantly lower with Omicron. In fact mechanical ventilation for Omicron was zero cases out of 52,297.

Of particular interest is Table 2. Demographic and clinical characteristics of cases tested in outpatient settings with SGTF and non-SGTF SARS-CoV-2 infections. Look at the data I highlighted for Unvaccinated vs. Vaccinated cases. This data is in percentages. The percent of unvaccinated cases that contracted Omicron was 26.6% and those with two shots of mRNA vaccine was at 52.9! 100% more cases contracted when double jabbed than those that were unvaccinated! **What Valley Water is asking you to do is to increase your risk of contracting the virus after you're vaccinated.** Comparing unvaccinated to those with one dose of either J&J or mRNA, those populations were extremely low and apparently better protected. I don't know if that means there is a smaller population altogether for that category and therefore it wasn't seen as much?

Anyway, really interesting data throughout this study, those I pointed out are what caught my eye. Seems so wrong to me by setting working conditions that has the potential to harm an employee, not just at work, but for life, you can't take your vaccine off at the end of the day like you can a uniform, hard hat, vest, safety shoes, or any other safety protocol historically established at a place of employment. In fact, even after you leave employment, their potentially harmful working condition cannot be left at the place of employment.

The study still needs to be peer reviewed but it was sponsored by the CDC and involved some main stream players in healthcare and academia, so it will likely be published soon.

LARRY R. LOPEZ
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7a

Emily Meeks

From: Larry Lopez
Sent: Saturday, January 15, 2022 1:19 PM
To: Steven Camp
Subject: RE: EA Communication

Wow...just wow.

LARRY R. LOPEZ
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SANTA CLARA VALLEY WATER DISTRICT
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www.valleywater.org

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From: Steven Camp <scamp@valleywater.org>
Sent: Saturday, January 15, 2022 7:14 AM
To: Larry Lopez <LLopez@valleywater.org>
Subject: FW: EA Communication

FYI – my support from the Union.

STEVE CAMP
SENIOR EH&S SPECIALIST
Office of the Chief Operating Officer
Scamp@valleywater.org
Tel. (408) 630-3226 Cell. (408) 406-5446

From: Robert Ewing <REwing@valleywater.org>
Sent: Friday, January 14, 2022 1:46 PM
Cc: Derek Tanguay <DTanguay@valleywater.org>; Salam Baqleh <SBaqleh@valleywater.org>; Suzanne Remien <sremien@valleywater.org>; Natalie Dominguez <ndominguez@valleywater.org>; Kevin Mckay <KMckay@valleywater.org>; Cynthia Eaton <CEaton@valleywater.org>; Paulino Ochoa <POchoa@valleywater.org>; carol.mcewan@ca.afscme57.org
Subject: EA Communication

Good Afternoon EA Members,

ETB

The following communication is a joint statement written by the EA Officers. If you wish to respond or comment, please utilize the reply all button.

Yesterday we watched CEO Callender announce he is changing the terms of employment in to ensure a safe working environment by establishing a Vaccine Mandate.

Being that roughly 92% of Valley Water employees are fully vaccinated, this announcement will not greatly impact most of the employees, or our members. However, we must acknowledge and act with respect and dignity that roughly 8% of staff, which includes EA members, are now facing probably their hardest choice in their careers at Valley Water. This is not a forum to debate the merits, personal stance, or politics of vaccination. Regardless if we believe it's right or wrong or if we believe it's a private matter that an employer shouldn't know your status, the choice some of our fellow EA members have to make has a very personal and with a real outcome.

Last night, we all received an all employee communication regarding the vaccination requirement. At the end of that email is a statement that we want to note.

Failure to provide proof of full vaccination by March 1, 2022, absent an approved medical or religious exemption or other good cause, will result in disciplinary action up to and including termination.

Simply put, this is real with real consequences.

Your EA Officers, stewards, and volunteers spend hours fighting to protect our members. These are not only our members, who we have known for years and but whom we also consider as friends. To go a step beyond, we spend more time with our Members than we do with our families. That ~~all~~ said, we know you. We know the individuals that are faced with a lifechanging choice. **EA's end in mind is simple:** To ensure you ~~all~~ are able to work to support yourselves and, if applicable, your families. We acknowledge this choice that is ahead is not easy, and we are here to support all members regardless of vaccination status to the extent that we can.

We will cut through the fluff and say it straight:

- We cannot change this mandate.
- We cannot submit grievances we know to be meritless to slow the mandate.

What we all can offer is solidarity, understanding, respect, and assistance. It is our responsibility as members to lend a hand when asked. It is our obligation to support those of us who have this lifechanging choice on their minds. It is a duty that we do not take lightly to help you make necessary choices ahead. We promise to listen and not to debate or argue things we cannot change.

Some of us might ask what is the union doing for you now? Can the union support me? While our hands are tied because of this mandate:

- We can support each other through the reasonable accommodation process
- We can support each other with planning our next moves
- We can listen to each other without judgement
- We can be kind and respectful
- We can show compassion
- We can drop the politics and just be there for each other



For those of us who have already made up their minds, just know that as EA Officers, stewards, and volunteers our promise is to always to support you to the best of our abilities as a union.

In solidarity,

Your EA Officers, stewards, volunteers. More importantly, we are in solidarity as your colleagues and friends who respect you and are here for you

Employees Association (EA)
AFSCME Local 101/Council 57
www.valleywaterea.com

VALLEY WATER
EMPLOYEES ASSOCIATION



SA 8a

Emily Meeks

From: larryl2@charter.net
Sent: Sunday, January 23, 2022 12:14 AM
To: Steven Camp
Subject: RE: Fwd: We "replied all" to the email

This is the worse situation we've faced.

From: "Steven Camp"
To: "larryl2@charter.net"
Cc:
Sent: Saturday January 22 2022 10:40:23PM
Subject: Fwd: We "replied all" to the email

Eric and a few others trying g to fight back.

Begin forwarded message:

From: Eric Karo <EKaro@valleywater.org>
Date: January 22, 2022 at 6:23:04 PM PST
To: Jennifer Turner <JTurner@valleywater.org>, Eric Calderon <ECalderon@valleywater.org>, Paige Aguirre <PAguirre@valleywater.org>, Steven Camp <scamp@valleywater.org>, Patrick Halter <PHalter@valleywater.org>, Michael Sawatzky <MSawatzky@valleywater.org>, Jackson Collins <JacksonCollins@valleywater.org>, Ronald Snyder <rsnyder@valleywater.org>, Vincent Saso <VSaso@valleywater.org>, Mark Steputat <msteputat@valleywater.org>, Shawn Iudice <SIudice@valleywater.org>, Christopher Method <CMethod@valleywater.org>, Pierre Gouley <pgouley@valleywater.org>, Benjamin Gonzales <bgonzales@valleywater.org>, Brendon Turner <bturner@valleywater.org>, Emanuel Silva <ESilva@valleywater.org>, Feliciano Aguilar <FAguilar@valleywater.org>, Lubomir Sidor <LSidor@valleywater.org>, Joe Baxter <JBaxter@valleywater.org>, Ricardo Sanchez <RSanchez@valleywater.org>, David Wolf <DWolf@valleywater.org>, Erick LaMonda <ELamonda@valleywater.org>, Tyson Enzweiler <TEnzweiler@valleywater.org>, Michael Spiteri <mspiteri@valleywater.org>, Dustin Correia <DCorreia@valleywater.org>, Ray Corral <RCorral@valleywater.org>
Subject: RE: We "replied all" to the email

Hey Folks;

Some of us have been interested in knowing if there is a way to change VW's policy on the mandate.

~~to~~ SB

The thought a few of us had was to change the math of the situation. Reframe the conversation by gathering some data. Instead of the conversation being about the:

- 92% vaccinated compared to the 8% unvaccinated &/or choosing privacy

we might instead begin talking about:

- % in favor of personal choice compared to % in support of the mandate

How popular is the mandate? Are people interested in getting booster after booster after booster? Etc. What we might then do with these numbers was still in the air. Just getting the numbers out in the daylight, and giving EA folks a place to gather and discuss the issue, seemed like logical first steps.

After a week of conversations with EA, it is now clear that they will not help us to gather this data in any way. Further, they will not do anything that might possibly be interpreted by the CEO as a challenge to the mandate. Maybe hearing from folks at the upcoming Union meeting will move them?

Our most recent conversation with the EA VP was on Thursday. About 40 minutes into the conversation, I finally lost my patience completely. Perhaps someone with a cooler head can take a swing at the next pitch?

It still seems sensible to me to get the word out, gather the data, and reframe the narrative. But without the centralized organizational advantage of EA, I've got no idea how to get this done within the amount of time available to us. And I think we should keep in mind that any time spent organizing on the clock, or any utilization of VW resources, open us up to the possibility of being shut down / disciplined.

Based on what we do know about the language of the mandate (that vaccination will be a condition of employment), and based on the deadlines, we can see that VW is interested in keeping this moving and is clearly ready to let people go over this issue. And based on what we've learned talking to EA leadership, they will not be *proactively* helpful with this issue in any way. They will 'listen and, if you desire, share any concerns or questions with Management' and they will 'provide assistance or answers relating to the RA processes.' And that's the extent of what they are willing to do.

So here we are.

~~8c~~ 8c

Whatever the reasons, EA will not provide coordination or leadership. I would not count on them to escalate any type of challenge at all. We heard, repeatedly, that questioning the policy in any way will be taken as an affront by the CEO. They are extremely concerned that his retaliation will have a drastic effect on EA's membership community. Or at least, Robert and Derek are of this mindset.

They appear to believe this conservative approach is in the best interest of the majority of membership. It's a strategy that boils down to EA being willing to sacrifice 10% of their current membership to protect the remaining 90%. In the long game, after the positions are refilled, EA is back at full strength (if 'strength' is an appropriate word to use, here).

We argued that the number of folks who believe in choice – or who, conversely, do not believe the Employer should have the right to dispense mandatory medical advice – is probably a significant percentage of the membership, not just 8 or 10%. But, again, we get a flat refusal: they will not poll membership to discover what the numbers are.

When we pressed again and again for an explanation why they refuse to help, we received answers along these lines: "It won't make a difference" and "we're concerned that a disproportionate retaliation from the CEO will negatively, and drastically, affect the entire group."

It appears to me to come down to EA leadership feeling hopeless, perhaps uninterested, and most definitely afraid of the Chief/s. They appear to be equally afraid that a frustrated EA member, or group of members, might do something unsanctioned that will give the chiefs an excuse to retaliate. Afraid of some chiefs on one side, afraid of some members on the other. It's an odd situation for Union officers to be in, to say the least.

I have no idea what the true political stakes are, nor what the practical ramifications might be to membership if the CEO etc was to be negatively triggered. Whatever is going on inside their heads or behind the scenes, EA will help in the way they stated in the announcement that came out Thursday afternoon: they will help manage the *impact* of the policy to members negatively affected by it. Meaning, help us with our exit strategy. And they will help people through the RA processes. But they will do nothing that can be interpreted or construed as challenging to the mandate.

Maybe Paige will weigh in if I misrepresented something or left something out?

e.

ESD

From: Jennifer Turner <JTurner@valleywater.org>
Sent: Wednesday, January 19, 2022 2:25 PM
To: Eric Karo <EKaro@valleywater.org>; Eric Calderon <ECalderon@valleywater.org>; Paige Aguirre <PAguirre@valleywater.org>; Steven Camp <scamp@valleywater.org>; Patrick Halter <PHalter@valleywater.org>; Michael Sawatzky <MSawatzky@valleywater.org>; Jackson Collins <JacksonCollins@valleywater.org>; Ronald Snyder <rsnyder@valleywater.org>; Vincent Saso <VSaso@valleywater.org>; Mark Steputat <msteputat@valleywater.org>; Shawn Ludice <Sludice@valleywater.org>; Christopher Method <CMethod@valleywater.org>; Pierre Gouley <pgouley@valleywater.org>; Benjamin Gonzales <bgonzales@valleywater.org>; Brendon Turner <bturner@valleywater.org>; Emanuel Silva <ESilva@valleywater.org>; Feliciano Aguilar <FAguilar@valleywater.org>; Lubomir Sidor <LSidor@valleywater.org>; Joe Baxter <JBaxter@valleywater.org>; Ricardo Sanchez <RSanchez@valleywater.org>; David Wolf <DWolf@valleywater.org>; Erick LaMonda <ELamonda@valleywater.org>; Tyson Enzweiler <TEnzweiler@valleywater.org>; Michael Spiteri <mspiteri@valleywater.org>; Dustin Correia <DCorreia@valleywater.org>; Ray Corral <RCorral@valleywater.org>
Subject: RE: We're "replied all" to the email

Thank you very much for the update!

From: Eric Karo <EKaro@valleywater.org>
Sent: Wednesday, January 19, 2022 1:59 PM
To: Eric Calderon <ECalderon@valleywater.org>; Paige Aguirre <PAguirre@valleywater.org>; Steven Camp <scamp@valleywater.org>; Patrick Halter <PHalter@valleywater.org>; Jennifer Turner <JTurner@valleywater.org>; Michael Sawatzky <MSawatzky@valleywater.org>; Jackson Collins <JacksonCollins@valleywater.org>; Ronald Snyder <rsnyder@valleywater.org>; Vincent Saso <VSaso@valleywater.org>; Mark Steputat <msteputat@valleywater.org>; Shawn Ludice <Sludice@valleywater.org>; Christopher Method <CMethod@valleywater.org>; Pierre Gouley <pgouley@valleywater.org>; Benjamin Gonzales <bgonzales@valleywater.org>; Brendon Turner <bturner@valleywater.org>; Emanuel Silva <ESilva@valleywater.org>; Feliciano Aguilar <FAguilar@valleywater.org>; Lubomir Sidor <LSidor@valleywater.org>; Joe Baxter <JBaxter@valleywater.org>; Ricardo Sanchez <RSanchez@valleywater.org>; David Wolf <DWolf@valleywater.org>; Erick LaMonda <ELamonda@valleywater.org>; Tyson Enzweiler <TEnzweiler@valleywater.org>; Michael Spiteri <mspiteri@valleywater.org>; Dustin Correia <DCorreia@valleywater.org>
Subject: We're "replied all" to the email

Hello Folks;

Just an update.

~~EA~~ 8E

End of last week, after hours, our EA VP called me at home. We had a difficult conversation. But we did agree that the 4 points below might be a reasonable path forward.

Yesterday afternoon our EA President reached out to me – and around 9am this morning I had a version of that same conversation with both of them.

What I'm hearing from EA is that they recognize they failed to represent the 8 or 10% of us who are completely unwilling to get the flu shot, and that they see the importance of discovering how many EA members believe in choice (regardless of vaccination status).

Right now they are looking for a way to unify EA and move forward. I emphasized that the clock is ticking on this issue for those of us facing the choice.

I'll let you know if I hear anything else...

e.

From: Eric Karo

Sent: Friday, January 14, 2022 3:11 PM

To: Eric Calderon <ECalderon@valleywater.org>; Paige Aguirre <PAguirre@valleywater.org>; Steven Camp <scamp@valleywater.org>; Patrick Halter <PHalter@valleywater.org>; Jennifer Turner <JTurner@valleywater.org>; Michael Sawatzky <MSawatzky@valleywater.org>; Jackson Collins <JacksonCollins@valleywater.org>; Ronald Snyder <rsnyder@valleywater.org>; Vincent Saso <VSaso@valleywater.org>; Mark Steputat <msteputat@valleywater.org>; Shawn Ludice <Sludice@valleywater.org>; Christopher Method <CMethod@valleywater.org>; Pierre Gouley <pgouley@valleywater.org>; Benjamin Gonzales <bgonzales@valleywater.org>; Brendon Turner <bturner@valleywater.org>; Emanuel Silva <ESilva@valleywater.org>; Feliciano Aguilar <FAguilar@valleywater.org>; Lubomir Sidor <LSidor@valleywater.org>; Joe Baxter <JBaxter@valleywater.org>; Ricardo Sanchez <RSanchez@valleywater.org>; David Wolf <DWolf@valleywater.org>

Subject: EA communication today & my independent response

~~8~~ SF

I think it's wonderful timing that we are headed into a holiday that honors a person who championed community, service, love, and peace.

%^)

e.

Pa 9a

Emily Meeks

From: Paige Aguirre
Sent: Sunday, January 23, 2022 9:46 AM
To: lisa.lamar@css.sccgov.org
Subject: FW: Spike Protein Protection
Attachments: spike-protein-detox-pdf.pdf

See below

PAIGE AGUIRRE

ENVIRONMENTAL, HEALTH & SAFETY SPECIALIST II
Office of the Chief Operating Officer- Administration
Tel. (408) 630-2703
Cell. (408) 722-5633



Valley Water

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From: Larry Lopez <LLopez@valleywater.org>
Sent: Thursday, January 20, 2022 2:12 PM
To: Paige Aguirre <PAguirre@valleywater.org>
Subject: Spike Protein Protection

Paige,

I take a lot, but not all, of the recommended supplements in this document. The ones I take are:

N-Acetyl Cysteine (NAC), vitamin D3 (take D3 with K2 for distribution to the cells instead of being absorbed by the bones), nigella seed (I take in the form of Black Seed Oil, organic and cold pressed), Quercetin with Zinc and vitamin C, curcumin, Milk Thistle, and magnesium.

Also, though not mentioned in this document, I've read other sites that recommend iodine, PQQ (Pyrroloquinoline Quinine), and Supercharged C60 (Nano-Carbon Activated Charcoal). I do take iodine daily but I haven't gotten PQQ or C60 yet. C60 sounds really intriguing. Carbon 60 (C60) is a naturally occurring molecule comprised of 60 carbon atoms forming something that looks like a hollow soccer ball. Research is indicating that it may be the most powerful antioxidant yet known, performing the antioxidant action of Superoxide Dismutase, Glutathione, Catalase, and COQ10. Over the past 13 years, the "Supercharged" C60 fullerene molecule has been examined, tested and characterized by more than 15 universities and 5 federally certified research laboratories, resulting in more than "600 evaluations." It exhibits incredibly potent antioxidant properties that may augment the body's ability to manage oxidative stress in both healthy and diseased states. Studies show that carbon nanocarriers can deliver small interfering RNA (siRNA) and enable a myriad of plant biotechnology mRNA applications, internalize into cells and subsequent gene silencing efficiency, and are critical for efficient gene knockdown, theoretically interfering with the mRNA of the vaccines from being absorbed into the cells, but that's theorized and not proven. I haven't bought this yet, but looking into it, the typical cost is around \$180 per bottle of 30 pills. Pretty pricey for a supplement but I'm thinking if it works, it'll be worth the money.

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I am attempting to get some Ivermectin but you need a prescription and Kaiser said absolutely not. I've found some online doctors, that you've likely found as well, that will do an online consultation for \$90 and give you a prescription for it, but some pharmacies have been blocking those prescriptions and not filling them, so I haven't tried too hard. The Ivermectin seems to block the spike protein from binding with your ACE2 receptors in the first place, which causes inflammation in your endothelial cells which line all your blood vessels.

If I get vaccinated I'll start a daily regimen of these supplements, I listed above, starting 2 weeks prior to my first shot and I continue to take them afterwards. Also, I heard mainstream doctors say not to take anti-inflammatory drugs, like acetaminophen, prior to getting your shot because it can lessen the effects of the vaccine, so an hour before and after, I will take Tylenol. I think the most potential damage comes from the inflammation in the body from the immune system response that continues with the spike formations in your own cells. They say they want that inflammation to ramp up your immune system to provide better protection against COVID-19; however, I was never worried about COVID-19, especially since I already had it, so I wanted to minimize the inflammation as much as possible from the vaccination. I also will take baby aspirin (3 ea. 81 mg ea.) daily, a week prior and for over a month afterwards to thin my blood.

If you have to take it at some point, definitely for you, do not take J&J. If I remember correctly, I think Pfizer would be the best for you. It has a lower dose of mRNA than Moderna and I've heard that people that take Moderna over Pfizer have more side effects. Watch this video. It's by Dr. Mobeen Syed, he provides medical training and continuing education for the medical community. He discusses the three vaccines, their potential side-effects, and more importantly, based on age and gender which one is likely less risky. There are people trying to get him de-platformed from YouTube so he's moved to Odysee for his talks, but he's been successful in fighting off the fact checkers by providing the truth and he's still on YouTube, except for when he talks about Ivermectin or other treatments, then he doesn't even try YouTube. He and his family are vaccinated, but he states he will not get the booster because it won't do any good at this evolutionary point of the virus. His wife had J&J a year ago, and she still suffers from joint pain flare-ups.

Hope this is useful.

<https://www.youtube.com/watch?v=lpDwpMyQtA4>

LARRY R. LOPEZ

EH&S MANAGER

Environmental, Health & Safety Unit

Office of the Chief Operating Officer

Information Technology and Administrative Services

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104

Bryant Welch

From: Alexander Gordon
Sent: Friday, January 28, 2022 1:31 PM
To: Bryant Welch
Subject: RE: Meeting with Larry

Bryant,

I met with Larry.

See below, in red, responses to the questions I asked him. The conversation was straight forward, professional and respectful.

Let me know if I need to take further actions.

Thank you for your help.

ALEXANDER GORDON, CEM

ASSISTANT OFFICER
Emergency, Safety and Security Division
Tel. (408) 630-2637 / Cell. (408) 234-8012



SANTA CLARA VALLEY WATER DISTRICT
5750 Almaden Expressway, San Jose CA 95118
www.valleywater.org

From: Bryant Welch <BWelch@valleywater.org>
Sent: Friday, January 28, 2022 10:49 AM
To: Alexander Gordon <AGordon@valleywater.org>
Subject: Meeting with Larry
Importance: High

Confidential...do not forward on....

Thanks for calling me earlier, Alex. Here is what I suggest you do with today's meeting.

Meet and greet Larry as you normally do. Inform Larry that you have to ask him about something that is highly confidential and not to be shared. Recap for him the prior discussion that you had with him involving the agency's decision on vaccinations and his commitment to support the agency's decision. Have him acknowledge that he recalls this conversation and his commitment. (Larry confirmed he recalls this conversation and his commitment in his role as EH&S manager).

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Following his acknowledgement, inform him that it's come to your attention that employees are stating that ES&H is contradicting the agency's directives on vaccine mandates and ask him if he is aware? (Larry advised me he is not aware of staff doing this, and he personally has not done this) If he says yes, ask him what he knows on the subject and exactly what he's aware of on the subject.

If Larry says no, then recap and let him know that this is highly confidential, not to be shared with others, but a formal investigation has to now ensue because of the allegations and again ask him to confirm that he is not aware of his department contradicting the agency's directive on mandating that all employees either become fully vaccinated or be formally approved for an exception. (Larry has confirmed this, more than once during our discussion)

The conversation should not be necessarily long as you have to let him know that the purpose isn't really to debate the points or listen to input, but to ensure that ES&H is following the agency's directive and not giving out contradictory advice.

Hope this helps and if not, buzz me directly.

Best Regards,

Bryant Welch
Manager Labor Relations
Santa Clara Valley Water District
408 630-2383 (direct)
bwelch@valleywater.org (e-mail)



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11A

Bryant Welch

From: Tina Yoke
Sent: Wednesday, February 2, 2022 9:24 PM
To: Alexander Gordon; Bryant Welch; Emily Meeks
Subject: confidential 3 of 3
Attachments: message from Larry to Natalie on 2-2-22.pdf

Larry sent Natalie the attached message earlier today.

TINA NGUYEN YOKE
CHIEF OPERATING OFFICER
Information Technology and
Administrative Services
Tel. (408) 630-2385
She/her



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11 B

Bryant Welch

From: Tina Yoke
Sent: Wednesday, February 2, 2022 9:22 PM
To: Alexander Gordon; Emily Meeks; Bryant Welch
Subject: Confidential messages- 1 of 3
Attachments: Amicus Brief SCOTUS.pdf; message from Steve Camp to Larry - Amicus brief.pdf; VAERS-Summary-12312021.pdf

Some of the messages of concern we will discuss tomorrow.

TINA NGUYEN YOKE
CHIEF OPERATING OFFICER
Information Technology and
Administrative Services
Tel. (408) 630-2385
She/her



SANTA CLARA VALLEY WATER DISTRICT
5750 Almaden Expressway, San Jose CA 95118
www.valleywater.org

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Bryant Welch

From: Tina Yoke
Sent: Wednesday, February 2, 2022 9:23 PM
To: Alexander Gordon; Bryant Welch; Emily Meeks
Subject: confidential messages 2 of 3
Attachments: Group_email.pdf; message from Steve Camp to Derek.pdf

TINA NGUYEN YOKE
CHIEF OPERATING OFFICER
Information Technology and
Administrative Services
Tel. (408) 630-2385
She/her



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February 7, 2022

Mr. Larry Lopez
1227 Brook View Court
Hollister, CA 95023

RE: Leave Notification

[sent via email to llopez@valleywater.org; larryl2@charter.net]

Dear Mr. Lopez:

This is to notify you that you are being placed on paid administrative leave effective immediately and until further notice. You are not to return to any Valley Water property or facility during this leave unless you receive Valley Water management authorization from myself or a representative from Labor Relations. Also, since you are on paid administrative leave, you must remain available to Valley Water during your normal working hours.

Please direct any questions to Bryant Welch, Labor Relations Manager, at (408) 630-2383.

Sincerely,

DocuSigned by:

60E943BE7C52466...

Ingrid Bella
Interim Human Resources Officer
Human Resources

Cc: Tina Yoke, Chief Operations Officer
Alexander Gordon, Assistant Officer
District Counsel
Labor Relations
Professional Managers Association (PMA)
Personnel File



~~14A~~ 14A

Bryant Welch

Subject: FW: New Mandate on Vaccination and Weekly Testing

From: Tina Yoke <TYoke@valleywater.org>
Sent: Thursday, August 12, 2021 3:35 PM
To: Larry Lopez <LLopez@valleywater.org>
Subject: Re: New Mandate on Vaccination and Weekly Testing

I have no concerns with the response.

Thank you,
Tina

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Larry Lopez <LLopez@valleywater.org>
Sent: Thursday, August 12, 2021 3:28:31 PM
To: Tina Yoke <TYoke@valleywater.org>
Subject: FW: New Mandate on Vaccination and Weekly Testing

Tina,

Please see the concerns and questions from Tyson Enzweiler's email below. I would like to answer with the following, but I want to run this by you first. If you're o.k. with this response, I'll reply to Tyson.

Thank you Tyson,

First off, my condolences for your family member. I'm truly sorry.

Valley Water is following the strong recommendations from both the California Department of Public Health and Santa Clara County Public Health Departments that encouraged all employers, including local government agencies, to mandate vaccinations for all employees, or to institute testing for those that remain unvaccinated, either once or twice per week based on the risk level of the employee's position.

Valley Water senior management agreed, at this time, that weekly testing of unvaccinated employees would provide a higher level of protection for all employees. Based on the available data, there are a greater number of serious illnesses and hospitalization cases among the unvaccinated than the vaccinated which prompted health officials to make the recommendation to test those that are not fully vaccinated.

At this time, senior management, though strongly encouraging all employees to be vaccinated, is maintaining the position that vaccination is a personal medical choice. The emergency is fluid and is changing rapidly with many variables and considerations to take into account. Valley Water continues to follow the mandates of the state and local public health departments, and reviews all recommendations for consideration of implementation based on whether those recommendations would be beneficial, overall, to Valley Water or not.

~~14B~~ 14B

I understand this is a very stressful time for all of us and I encourage you to continue asking questions as your concerns arise. I also encourage you to speak with your health care provider if you have concerns about COVID-19 or the vaccination program. I am also available for you to speak to, at any time, if you would like to discuss any workplace safety issue(s).

Thank you,

LARRY R. LOPEZ

EH&S MANAGER
Environmental, Health & Safety Unit
Office of the Chief Operating Officer
Information Technology and Administrative Services
Tel. - (408) 630-2431 / Cell. - (831) 801-3101



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www.valleywater.org

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From: Tyson Enzweiler <TEnzweiler@valleywater.org>
Sent: Thursday, August 12, 2021 2:59 PM
To: Larry Lopez <LLopez@valleywater.org>
Subject: New Mandate on Vaccination and Weekly Testing

Please help answer a question regarding the new mandate on vaccination and weekly testing effective Monday, August 23, 2021?

Since neither vaccinated nor unvaccinated are immune to contracting and spreading COVID-19. Should everyone fall under the new mandate of weekly testing? The new mandate is creating division and singling out District Employees.

Many District employees are terrified by the uncertainty with the next step the District may take on vaccination. District employees are starting to feel stressed about the possibility of a forced vaccination to keep their employment. There are risks involved with receiving any vaccine, and the COVID-19 vaccine may negatively impact the recipient's health. I know this to be true because I had a family member die five days after becoming fully vaccinated.

Is the Health and Safety of all employees indeed the highest priority on protecting the entire Valley Water Family against the spread of COVID-19?

Thank you,

Tyson Enzweiler

Sr. Water Treatment Plant Operator
Santa Teresa Water Treatment Plant
7011 Graystone Lane
San Jose CA, 95120
Desk (408) 630-2553

Santa Clara Valley Water District is now known as:

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Bryant Welch

From: Alexander Gordon
Sent: Monday, March 14, 2022 5:38 PM
To: Bryant Welch; Tina Yoke
Cc: Emily Meeks
Subject: Re: Pandemic and Infectious Disease PPlan

Bryant,

Yes is my answer.

I don't believe further discussion is needed.

Thank you.

ALEXANDER GORDON, CEM
ASSISTANT OFFICER
Valley Water
Emergency, Safety and Security Division
Tel. (408) 630-2637 / Cell. (408) 234-8012
5750 Almaden Expressway
San Jose CA 95118
www.valleywater.org

From: Bryant Welch <BWelch@valleywater.org>
Sent: Monday, March 14, 2022 5:00:25 PM
To: Tina Yoke <TYoke@valleywater.org>; Alexander Gordon <AGordon@valleywater.org>
Cc: Emily Meeks <Emeeks@valleywater.org>
Subject: Pandemic and Infectious Disease PPlan

Good Evening,

Hope you are both doing well. I read through a lot of the documents that you sent to me earlier. Please let me know if I'm correct in the following assumption:

Valley Water's Pandemic and Infectious Disease Plan follows a number of protocols, including the CDC protocols. The CDC, pursuant to the attachment, recommended employee vaccinations and Valley Water followed the CDC's recommendation as part of it's Pandemic and Infectious Disease Plan in mandating that Valley Water employees become vaccinated?

Is this a correct statement (simple yes or no)?

Let me know if we need to speak directly too.

Best regards,

Bryant Welch
Manager Labor Relations
Santa Clara Valley Water District