



SANTA CLARA VALLEY WATER DISTRICT

NON-AGENDA

August 13, 2021

Board Policy EL-7 Communication and Support to the Board
The BAOs shall inform and support the Board in its work.

Page	<u>CEO BULLETIN & NEWSLETTERS</u>
	CEO Bulletin: None
	<u>BOARD MEMBER REQUESTS & INFORMATIONAL ITEMS</u>
	BMR/IBMR Weekly Reports: None
4	Memo from Vincent Gin, DOO, Water Supply to the Board of Directors, dated 8/4/21, regarding State Water Resources Control Board Emergency Curtailment and Reporting Regulations.
17	Memo from Aaron Baker, COO, Water Utility, to the Board of Directors, dated 8/6/21, regarding Los Vaqueros Expansion Update.
21	Memo from Michele King, COB, to the Board of Directors, dated 8/11/21, regarding August 10, 2021 Agenda Item 2.7.
	<u>INCOMING BOARD CORRESPONDENCE</u>
24	Board Correspondence Weekly Report: 08/12/21
25	Email from Terry Christensen, to the Board of Directors, dated 8/4/21, Regarding the Trash and Makeshift Bridge located along Coyote Creek Upstream of the Williams Street Bridge (C-21-0114).
	<u>OUTGOING BOARD CORRESPONDENCE</u>
29	Email from Director LeZotte, to Angela Donahue, dated 8/9/21, Flooding in Condominium Complex due to Broken Pipe (C-21-0102).
31	Email from Chair Estremera, to Danny Garza, dated 8/5/21, regarding Drought Conditions (C-21-0103).
33	Email from Chair Estremera, to Michael Johnson, dated 8/9/21, regarding Irrigation Systems on Commercial Properties and Enforcement of the Model Water Efficient Landscape Ordinance (MWELo) throughout Santa Clara County (C-21-0104).
36	Email from Chair Estremera, to Wayne Ledbetter, dated 8/9/21, regarding the Landscape Rebate Program (C-21-0106).
38	Email from Director Varela, to Gloria Ballard, dated 8/9/21, regarding Creek Water Usage (C-21-0111).
40	Email from Director Hsueh to Robert Brown, dated 08/06/21, regarding the Rebate Program (C-21-0116).

Board correspondence has been removed from the online posting of the Non-Agenda to protect personal contact information. Lengthy reports/attachments may also be removed due to file size limitations. Copies of board correspondence and/or reports/attachments are available by submitting a public records request to publicrecords@valleywater.org.

CEO BULLETIN

BOARD MEMBER REQUESTS and Informational Items

TO: Board of Directors**FROM:** Vincent Gin, P.E.**SUBJECT:** State Water Resources Control Board
Emergency Curtailment and Reporting
Regulations**DATE:** August 4, 2021

On July 23, 2021, the State Water Resources Control Board (State Board) released a draft Emergency Curtailment and Reporting Regulation for the Sacramento – San Joaquin Delta (Delta) Watershed (Emergency Regulation) for public review and comment. They held a public workshop on July 27, accepted comments until July 29, and adopted the regulations with some revisions on August 3. Once the Emergency Regulations are approved by the Office of Administrative Law (OAL), they will allow the State Board, possibly as early as August 16, to issue and enforce curtailment orders to, among other things, prevent unauthorized diversion of previously stored water needed for salinity control, human health and safety, and minimal ecosystem protections. Valley Water submitted a comment letter on July 29, which was shared with the Board on the same day and is provided as Attachment 1.

The State Board issued notices of water unavailability to all post-1914 appropriative water right holders in the Delta watershed on June 15. On July 23, they sent notices of water unavailability to all pre-1914 appropriative water right holders in the San Joaquin River watershed, all appropriative water right holders in the Sacramento River with a priority date of 1883 or later, and some appropriative water right holders in tributaries to the Sacramento River with a priority date prior to 1883. The July 23 notice also informed riparian water right holders in the San Joaquin River, Bear River, Upper American River, and Putah Creek that natural flow in those waterways may not be available to meet all riparian right demands. Additionally, the State Board informed riparian water right holders, which have higher priority to water than appropriative water holders, that they are required to reasonably share limited natural flow, if available, with other riparians in their respective watersheds¹. The State Board's notices of water unavailability are not Orders to stop diverting but they do remind water right holders that it is unlawful to divert when water is not available under their priority of right.

The Emergency Regulations, if approved by OAL, will grant the Deputy Director of Water Rights the authority to issue orders of curtailment, to make determinations on exceptions to curtailment, suspend curtailments, and request information related to diversions, among other authorities. The Emergency Regulations allow for several exceptions including to satisfy minimum health and safety needs which are specifically defined in the Emergency Regulations, and include indoor domestic water uses, water necessary for energy sources, water to prevent tree die-off and for fire preparedness, and water uses "which a state, local, tribal or federal health, environmental, or safety agency determines are critical to public health and safety or to the basic infrastructure of the state." Diversions for minimum health and safety needs that do not exceed 55 gallons per person per day may continue without further approval, but the diverter must submit a certification of compliance with numerous conditions and may be required to submit additional information. If petitioned, the Deputy Director can approve health and safety diversions greater than 55 gallons per person per day.

¹ Riparians have a higher priority to divert natural flow of water in a waterway than appropriative water right holders. Riparians may divert natural flow for reasonable use on their land that is adjacent to a waterway (i.e. riparian lands) and no permit or license is required to do so. However, appropriative water right holders divert water from a waterway to be used on non-riparian lands and must usually secure a permit or license from the State. Appropriative water rights established before 1914 do not require a water right permit or license, unless the amount used has increased.

The Emergency Regulations will permit alternative water sharing agreements, which may potentially include transfers and exchanges, pending review by the Deputy Director, provided the California Department of Water Resources and the United States Bureau of Reclamation concur with the proposal and there are no objections.

The Emergency Regulations also include provisions related to reporting by all water right holders and compliance and enforcement provisions. It will remain in effect for one year unless the State Board determines it is no longer necessary, the Governor's emergency drought proclamation is no longer in effect, or the State Board renews it.

Comments on the Emergency Regulations submitted by Valley Water, the State Water Contractors, and the San Luis & Delta-Mendota Water Authority are attached. Each of these comment letters expressed appreciation to the State Board for taking this step to protect stored water supplies and urged the State Board to enhance their enforcement program to prevent illegal diversions. The State Board has directed its staff to engage with stakeholders by December 31, 2021 to explore other possible approaches, and Valley Water's letter asks that this engagement include consideration of the minimum health and safety needs of both the diverter and its transferees.

These regulations have the potential to impact the availability of transfer supplies that have not already been diverted to storage. At this time, it appears unlikely that these emergency regulations will significantly impact the amount of 2021 transfer water that Valley Water staff currently expect to receive. Valley Water will continue to monitor and engage in State Board drought activities and will apprise the Valley Water Board of any significant developments.



Vincent Gin, P.E.
Deputy Operating Officer
Water Supply Division

- Attachment 1: Valley Water Comment Letter
- Attachment 2: SWC Comment Letter
- Attachment 3: SLDMWA Comment Letter

July 29, 2021

Ms. Jeanine Townsend
Clerk of the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

Submitted via email to:
commentletters@waterboards.ca.gov
Bay-Delta@waterboards.ca.gov

Re: Comment Letter – Draft Emergency Curtailment and Reporting Regulation for the Sacramento-San Joaquin Delta (Delta) Watershed

Dear Ms. Townsend:

The Santa Clara Valley Water District (Valley Water) would like to express our thanks to the State Water Resources Control Board (State Board) and staff for your diligent efforts to address the conditions of water unavailability in the Delta watershed. We very much appreciate the opportunity to provide comments on the proposed Emergency Curtailment and Reporting Regulation (proposed regulation).

On June 9, 2021, the Valley Water Board of Directors declared a water shortage emergency condition pursuant to California Water Code Section 350, because projected water supplies for Santa Clara County are insufficient to meet the ordinary demands of water consumers for human consumption, sanitation, and fire protection without a serious risk of groundwater overdraft and subsidence. Valley Water has an urgent need for the delivery of water transfers due to several exceptional circumstances, including: 1) the draining of Anderson Dam, our region's primary local water storage, for the Anderson Dam Seismic Retrofit Project; 2) the lack of other local storage due to the existing extreme drought conditions; 3) reduced deliveries of imported water from the Central Valley Project (CVP) and the State Water Project (SWP); 4) difficulties in recovering banked water south of the Delta; and 5) the serious risk for groundwater overdraft and subsidence. It is through this lens of urgent human health and safety needs that Valley Water makes the following comments on the proposed regulation.

Section 877.1(g) Definition and Section 878.1 – Minimum Human Health and Safety Needs

Valley Water requests that Sections 877.1(g) and 878.1 reference or include the minimum human health and safety needs of either a diverter *or its bona fide transferee* as a condition supporting continued diversion. The specifics of how this provision should be expanded to transferees requires further thought and input to avoid its abuse and yet provide for valid human health and safety needs. We request that the State Board hold additional workshops this fall and winter to further refine this aspect of the regulations before next year.

We further request that Section 878.1(b)(1)(B) be modified as attached on page 3 below. It is critical that public health and safety supplies be available prior to all other sources of water being completely depleted. It would be irresponsible for a public water agency to operate until all supplies are depleted.



Section 878.2 Alternative Water Sharing Agreements

Alternative water sharing agreements proposed in Section 878.2 should expressly include water transfers and exchanges that could serve the purposes and meet the requirements of this provision. These alternative water sharing agreements can provide the flexibility that may be necessary to ensure the delivery of water to the location of its highest beneficial use. Please see our suggested edits on page 3 below to clarify that transfers and exchanges may qualify as an alternative water sharing agreement.

Support for Other Comments

The State Board's protection of stored water supplies through these regulations is very much appreciated. We support the comments of the State Water Contractors and San Luis & Delta-Mendota Water Authority regarding the protection of stored water supplies and the need for an enhanced enforcement program to prevent illegal diversions.

Valley Water is grateful for the State Board's continued efforts to ensure that human health and safety needs are met, and we urge you to consider the needs of water transfer and exchange partners both in the approval of the final regulation and in its implementation.

Sincerely,



Melanie Richardson, P.E.
Assistant Chief Executive Officer

Suggested Amendments

Section 877.1 Definitions

(g)(6) Other water uses necessary for human health and safety which a state, local, tribal or federal health, environmental, or safety agency has determined are critical to public health and safety or to the basic infrastructure of the state. Diverters wishing to continue diversions for these uses must identify the health and safety need, include approval or similar relevant documentation from the appropriate public agency, describe why the amount requested is critical for the need and cannot be met through feasible alternate supplies, state how long the diversion is expected to continue, certify that the supply will be used only for the stated need, and describe steps taken and planned to obtain alternative supplies.

Section 878.1 Minimum Human Health and Safety Needs

(b)(1)(B) The diversion is necessary to serve minimum human health and safety needs as defined in section 877.1, subdivision (g), after all other feasible alternate sources of water have been projected to be depleted. To the extent other feasible water sources are available, those sources will be used first and the total used will not exceed 55 gallons per person per day.

Section 878.2 Alternative Water Sharing Agreements

Water users may propose alternatives to water diversion curtailment, including water transfers or exchanges, that achieve the purposes of the curtailment process described under section 876.1 by submitting a proposal to the Deputy Director. Proposals must describe the setting, the parties, the actions, and the purported benefits of the proposal in sufficient detail to demonstrate to the satisfaction of the Deputy Director that implementing the proposal will not injure non-party legal users of water or result in an unreasonable impact on fish and wildlife. In considering a proposal under this section, the Deputy Director may consult with other entities that may have technical or legal information that should be considered in evaluating such proposals, including but not limited to the California Department of Water Resources and United States Bureau of Reclamation. The Deputy Director will consult with the Delta Watermaster on any proposals among diverters within the Legal Delta. The Deputy Director may approve a proposal subject to conditions, including record keeping and reporting requirements. Diversions consistent with a proposal approved pursuant to this section are subject to this article, and violations of the terms of the approved proposal shall be subject to enforcement as a violation of this article or as an unauthorized diversion or use of water.

July 29, 2021



Via Email: commentletters@waterboards.ca.gov
Bay-Delta@waterboards.ca.gov

State Water Resources Control Board
P.O Box 100
Sacramento, CA 95812-0100

Re: Draft Emergency Curtailment and Reporting Regulation for
Sacramento-San Joaquin Delta Watershed

Dear Ms. Townsend:

The State Water Contractors (SWC),¹ on its own behalf and on behalf of its member agencies, submit this letter to emphasize support for the State Water Resources Control Board (“Water Board”) to protect stored water supplies in the Sacramento-San Joaquin Delta (“Delta”) watershed. The SWP stored water supplies provide water quality benefits, environmental protection in the Delta and upstream, and a valuable water supply to the SWC. With unprecedented hydrological conditions now facing California, the draft emergency curtailment regulations recognize the extremely dry conditions and that additional actions are needed.

Stored water supplies should be protected

The SWC have significant concerns regarding the protection of stored water supplies. As DWR reported earlier this year, approximately 700,000 acre-feet of forecasted water, originating in the upper watershed, failed to materialize as runoff. Without this available water supply, further losses of stored water to unlawful diversions, in excess of water rights, have resulted in additional releases to meet in basin needs and environmental protections. This is concerning since storage going into next year is expected to be at historic lows. As the SWC estimated in our 2015 complaint to the Water Board regarding the protection of stored water supplies, losses of stored water due to unlawful in-Delta diversions range from 100,000 to 300,000 acre feet.

¹ The State Water Contractors (“SWC”) are an organization representing 27 of the 29 public water entities that hold contracts with the California Department of Water Resources (“DWR”) for the delivery of State Water Project (“SWP”) water. Collectively, the SWC members provide all, or a part, of the water supply delivered to approximately 25 million Californians, roughly two-thirds of the State’s population, and to over 750,000 acres of irrigated agriculture. The SWC members provide this water to retailers, who, in turn, serve it to consumers throughout the San Francisco Bay Area, the San Joaquin Valley, the Central Coast, and Southern California.

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District

Thomas Pate
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Agency

Matthew Stone
Santa Clarita Valley Water
Agency

Jacob Westra
Tulare Lake Basin Water
Storage District

General Manager
Jennifer Pierre

The SWC have attached to this letter proposed edits to the text of the draft regulation. The primary focus of our proposed edits is the protection of stored water supplies. Our recommendations are summarized below and then provided in redline to the draft regulations in an attachment.

Calculation for In-Delta island non-consumptive use is a concern

In-Delta water use on islands below sea level should not be deemed “non-consumptive,” and potentially exempt from curtailments, based on the simple calculation proposed in the draft regulation. Rather than categorizing all in-Delta diversions used to irrigate lands below sea level, as non-consumptive use we recommend edits that would consider the water balance on these islands in determining whether or not they are subject to curtailments. For example, crops on such Delta islands, are using water from several possible sources besides rain including direct surface water diversion, groundwater, seepage and/or underflow. Diverters on islands below sea level are managing the quantity of seepage and underflow through the operation of their drains, and they can draw more or less water onto their islands. This does impact fresh water supplies, similar to other in-Delta diversions. The impact of water management on islands may or may not be seen as a change in water levels in Delta channels, because the Delta is tidal, and the ocean water moves in when freshwater is removed. The water projects have to release additional stored water when the Delta becomes more saline to push out the ocean water, which obviously impacts stored water supplies. When considering water use on in-Delta islands below sea level, the Water Board should be considering changes in water quality without water project operations, rather than solely relying on changes in water levels in the channels, and any Delta island water balance should consider all sources of water inputs to the islands. See attached 2015 SWC Complaint to the Water Board for further illustration of the saline and brackish conditions that exist in the Delta if the Water Projects were not mitigating the impact of in-Delta diversions.

Improved Administration of Curtailment Process

We also made several proposed edits to improve administration of the curtailments, particularly as it relates to when the emergency drought actions are no longer required and providing a “Final Order” step so diverters have clarity regarding when Water Board determinations are final. We also proposed changes to the Compliance and Enforcement section, bringing the text in-line with Water Code section 1058.5, which specifies that emergency action is unreasonable when water is not available under priority of right. The SWC believe this is an important clarification and fully consistent with the intent of water right enforcement.

Additional Public Engagement and Refinement to Methodology

While the current draft emergency regulation is an important first step toward curtailments, the regulation and the water unavailability accounting can be further improved. The SWC ask that the Water Board embark on a series of workshops this fall and winter whereby information is provided to improve the regulation. This request for workshops and improvement of the regulation, is particularly important if the Water Board were to apply the same or similar regulation for future droughts.

SWC member agencies are committed to responding to the Drought

The SWC have taken significant actions to address impacts of the current drought, working collaboratively with DWR and other public water agencies. These actions include, but are not limited to, water transfers and exchanges, implementing significant water conservation activities, operational and water system modifications, all with the aim to achieve Governor Newsom's call on all Californian's to voluntarily reduce their water use by 15 percent. Equally important are the numerous investments made historically by SWC. These investments increased resilience to address future droughts, including investments in recycled water, alternative water supply development and water conservation programs, such as turf replacement and toilet rebate programs. The SWC, and its member agencies, remain committed to continue our response to the drought.

The SWC appreciate the State Board's efforts to help define a sound and reasonable methodology for water unavailability and curtailments. We also appreciate this opportunity to comment and encourage the Water Board to continue the dialog as we work toward a sustainable solution. If you have any questions regarding these comments, please contact me at (916) 447-7357 ext. 203 or at jpierre@swc.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Pierre". The signature is fluid and cursive, with a large initial "J" and "P".

Jennifer Pierre
General Manager

Proposed Edits to Draft Emergency Regulation

(Proposed edits provided in red)

Section 876.1(a), Emergency Curtailments Due to Lack of Water Availability in the Sacramento-San Joaquin Delta Watershed

This section applies to water diversions in the Delta Watershed as defined in Section 871.1 **until the Governor of the State of California declares an end of the current drought emergency or October 2022, whichever is earlier.**

Section 876.1(e), Emergency Curtailments Due to Lack of Water Availability in the Sacramento-San Joaquin Delta Watershed

(e) ..., make a determination **and issue a Final Order** regarding the appropriate water right priority date and, inform the affected water right holder or claimant of any appropriate update...

Section 877.1(g) Definitions

“Minimum human health and safety needs” refers to the amount of water necessary for prevention of adverse impacts to human health and safety, for which there is no feasible alternate supply. **Total SWP and CVP pumping at Banks Pumping Plant and Jones Pumping Plant of up to 1500 cfs are considered to be minimum human health and safety.** “Minimum human health and safety needs” include...

Section 878(d), Non-Consumptive Uses

(d) Other direct diversions solely for non-consumptive uses, if those diverters file with the Deputy Director a certification under penalty of perjury demonstrating that the diversion and use are non-consumptive and do not decrease downstream flows in the watershed. **If crops, grazing, commercial, industrial, and/or domestic uses continue to occur on subject properties, water use is consumptive.**

Section 878(e), Non-Consumptive Uses

~~(e) Direct diversions located within the legal Delta used exclusively to irrigate lands entirely below sea level when comparison of diversion and drainage records provide substantial evidence that continued irrigation of these lands does not increase net channel depletions.~~

In the Alternative- Rather than delete Subsection e in its entirety, add clause at end of existing language:

All sources of inflows and outflows must be counted toward water balance, including underflow and seepage. If crops, grazing, commercial, industrial, and/or domestic uses continue to occur on subject properties, water use is consumptive.

Section 878.1(a)(3), Minimum Health and Safety Needs

(a)(3) Diversion will not affect stored water supplies negatively.

Section 878.2, Alternative Sharing Agreements

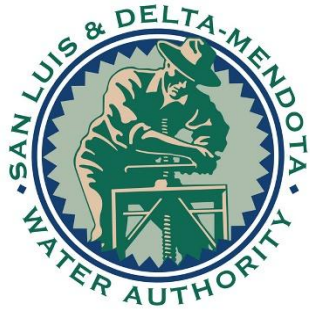
“...Proposals must describe the setting, the parties, the actions, and the purported benefits of the proposal in sufficient detail to the satisfaction of the Deputy Director that implementing the proposal will not injure non-party legal users of water, ~~or~~ result in an unreasonable impact on fish and wildlife, **effect non-party’s stored water supplies, and/or interfere with implementation of the Water Quality Control Plan...**”

Section 879.1,

Compliance with this article, including any conditions of certification or approval of a petition under this article, shall constitute a **temporary emergency** condition of all water right permits, licenses, certificates, and registrations for diversions from any watershed identified in this article, **until the Governor of the State of California declares an end to the drought emergency or October 2022, whichever is earlier.**

Section 879.2(b), Compliance and Enforcement

(b) Diversion and use of water in the Upper Russian River Watershed or the Delta watershed in violation of this article constitutes an unreasonable use of water **when water is not available under the diverters priority of right** and is subject to any and all enforcement proceedings authorized by law.



July 29, 2021

Via Email – commentletters@waterboards.ca.gov

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: 8/3/2021 BOARD MEETING – ITEM #5 (Consideration of a proposed Resolution to adopt an Emergency Curtailment and Reporting Regulation for the Sacramento-San Joaquin Delta (Delta) Watershed)

Dear Ms. Townsend,

This letter is submitted on behalf of the San Luis & Delta-Mendota Water Authority, Friant Water Authority, and Tehama Colusa Canal Authority (“Water Authorities”) regarding Item #5, Consideration of a proposed Resolution to adopt an Emergency Curtailment and Reporting Regulation for the Sacramento-San Joaquin Delta (Delta) Watershed, at the upcoming August 3, 2021 meeting of the State Water Resources Control Board (“State Water Board”).

The Water Authorities have reviewed the State Water Board’s proposed “Resolution No. 2021-____ to Adopt an Emergency Curtailment and Reporting Regulation for the Sacramento-San Joaquin Delta (Delta) Watershed” and the draft regulations that would add or revise sections 876.1, 877.1, 878, 878.1, 878.2, 879, 879.1, and 879.2 of Title 23 of the California Code of Regulations (“Draft Emergency Regulations”). We appreciate the State Water Board’s attention to our prior request for action to protect releases of previously stored water by the Central Valley Project (“CVP”) and water transfers that are moving through the Delta. We encourage the State Water Board to take action to protect previously stored water and offer minor amendments to the Draft Emergency Regulations.

Given the underlying lack of precipitation and unanticipated reduction in the amount of runoff into reservoirs and streams this year compared to forecasts, action to curtail unauthorized diversions has become increasingly necessary to protect the United States Bureau of Reclamation’s (“Reclamation”) ability to achieve the urban, agricultural, and fish and wildlife

purposes established for the CVP that are met through releases of previously stored water. Despite only having the responsibility of managing a portion of flows in the Delta watershed, Reclamation (with the California Department of Water Resources) holds primary responsibility for meeting Bay-Delta Plan objectives, and unabated, unauthorized in-Delta diversions have already significantly impaired Reclamation’s ability to successfully meet those objectives and protect storage in CVP reservoirs, as detailed in the operations plan conditionally approved by the State Water Board Executive Director. Allowing these unauthorized diversions to continue is inconsistent with the Governor’s direction to state agencies to take action to conserve water upstream, protect carry-over storage, and protect water transfers. (May 10, 2021 Drought Proclamation.) In addition, unauthorized diversions of previously stored water pose great risk to CVP future supplies, which would have additional impacts to the Water Authorities’ member agencies that are already suffering in the current drought.

The Water Authorities offer the following comments regarding the proposed Resolution and Draft Emergency Regulations. First, the Draft Emergency Regulations, Section 876.1, should be revised to clarify that the curtailments do not apply to diversions under valid contract right, authorized water transfers, or to water user storage. In contrast, the curtailments should apply to enforce against diversions of natural flows and unauthorized diversions of previously stored Project water. Second, Section 878.2, should contain specific time frames for the Deputy Director’s consideration of alternative water sharing agreements. Third, the State Water Board should consider revising section 4 of the proposed Resolution that states the regulation would remain in effect for one year after filing with the Secretary of State. Given the potential for increased precipitation later in the calendar year, a shorter term seems appropriate, with an option for the State Water Board to extend the term if conditions remain dry and demand remains high. Finally, we recommend the State Water Board continue to consider comments provided by interested parties on related issues.

We appreciate the direction in the proposed Resolution that staff should engage with stakeholders to identify and explore other approaches to address severe water supply shortages and related concerns in the near future. (See proposed Resolution, § 7.) That process as well as continued data collection efforts will provide important opportunity for engagement, increase transparency, and provide additional information on the appropriation of water.

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Comments – 8/3/2021 SWRCB Meeting, Item #5

July 29, 2021

Page 3 of 3

In closing, we encourage the State Water Board to act swiftly to protect previously stored and transfer water and ensure all water rights are exercised in accordance with the law.

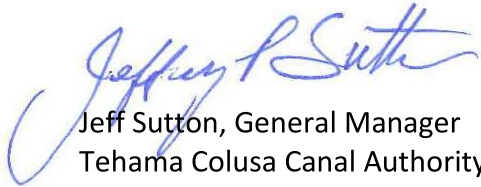
Regards,



Federico Barajas, Executive Director
San Luis & Delta-Mendota Water Authority



Jason Phillips, Chief Executive Officer
Friant Water Authority



Jeff Sutton, General Manager
Tehama Colusa Canal Authority

cc: Bay-Delta@waterboards.ca.gov

Ernest Conant

Kristin White

Russell Callejo

TO: Board of Directors**FROM:** Aaron Baker**SUBJECT:** Los Vaqueros Expansion Update**DATE:** August 6, 2021

Attached is Contra Costa Water District's (CCWD) monthly progress report for the Los Vaqueros Reservoir Expansion Project (LVE) which provides an update on funding, the Joint Powers Authority (JPA), upcoming California Water Commission Feasibility Hearing, and permitting and design. In addition, CCWD provided the final draft of the JPA Agreement (Agreement) and the final draft of Amendment No. 3 to the Multi-Party Agreement (MPA) to project partners at the end of July which will be brought to the Board for consideration.

The JPA Agreement will guide the governance of the LVE Project led by a Board of Directors with a representative from each JPA member agency. CCWD's Board of Directors adopted the JPA Agreement in April 2021 and the other project partners are taking the JPA Agreement to their Boards in August through mid-September. CCWD has set a mid-September deadline for partners to join the JPA to meet Water Storage Infrastructure Program grant funding requirements. The California Water Commission feasibility hearing on the LVE Project is scheduled in October 2021, at which time CCWD must provide an update to the Commission on the status of the JPA agreement and the LAP's funding commitments through 2022.

Amendment No. 3 to the MPA will extend the cost-sharing agreement beyond the current termination date of December 31, 2021 and provide additional cost sharing for planning and design activities through 2022. Valley Water's share of the agreement is \$897,120. CCWD has requested partners to approve the Amendment to the MPA by November to ensure funding into the next year.

During the week of July 19, 2021, the U.S. Bureau of Reclamation submitted their formal request through the Department of Interior for \$50 million in Fiscal Year 2022 Water Infrastructure Investments for the Nation Act funding for the Project; this is in addition to the \$14 million that has already been appropriated.



Aaron Baker
Chief Operating Officer
Water Utility Enterprise

Attachment 1: Partner Newsletter July 30, 2021



JULY 30, 2021

UPCOMING ACTIVITIES

- August 3 – Final form of JPA Agreement provided to LAPs
- August 13 – LAP Comments due on the Joint Letter of Support
- September 3 – Final form of Joint Letter of Support
- October 6 – File JPA Agreement with the State
- October 7 – Issue Joint Press Release
- October 8 – Issue Joint Letter of Support to DWR
- October 20 – CWC Feasibility Hearing
- Mid-November TBD – First JPA Board Meeting

UPCOMING LAP BOARD COORDINATION

- August 2 – September 17 – LAP Board meetings to consider approval of the JPA Agreement and formal appointment of Director and Alternate to the JPA Board of Directors
- August – November TBD – LAP Board meetings to consider approval of MPA Amendment No. 3

MONTHLY REPORT

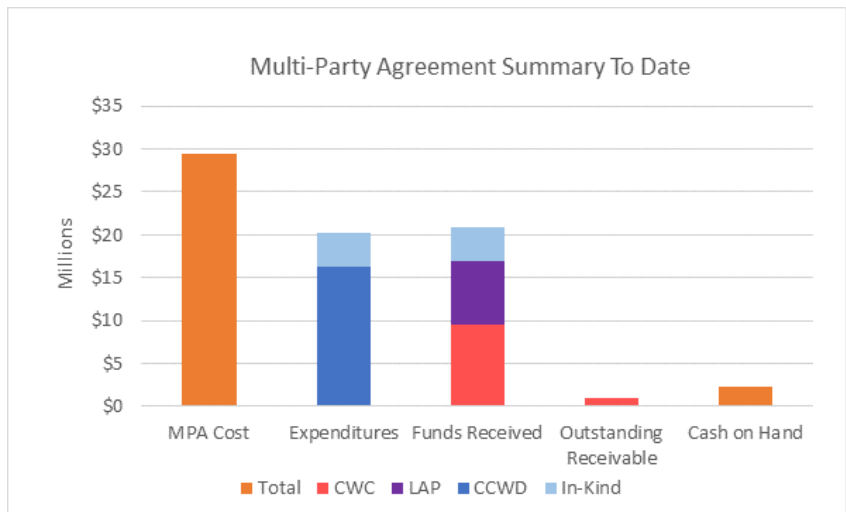
FUNDING

Reclamation requested \$50 million for the Project in FY 22 under the WIIN Act. This is in addition to the \$14 million that has already been appropriated in FY21. The current Federal funding request includes the remainder of the full federal share of 25 percent of the total project cost (approximately \$160 million).

CCWD is working with Reclamation to develop an assistance agreement for a portion of the federal funding that will be administered by CCWD for preconstruction activities. It is anticipated that the agreement will include approximately \$7 million of federal funding for the Project. Subsequent agreements would be needed to fund construction.

CCWD provided the final form of Amendment No. 3 to the Multi-party Cost Share Agreement (MPA) to the Local Agency Partners (LAPs) for approval and execution. The MPA is intended to be replaced with an Interim Funding Agreement through the Los Vaqueros Reservoir Joint Powers Authority (JPA) once the JPA has been formed and is ready to assume LVE financial management responsibilities.

The following chart provides an overview of the MPA expenditures through June 30, 2021. The in-kind services, funds received, outstanding receivable, and cash on hand are shown through July 30, 2021. All LAPs remain in good standing on progress payments. The next invoice was sent to the LAPs earlier this month. If MPA Amendment No. 3 is approved, the subsequent invoice would be sent in January 2022.



ADDITIONAL PROJECT INFO

<https://www.ccwater.com/lvstudies>

<https://www.usbr.gov/mp/vaqueros/>

<https://cwc.ca.gov/Water-Storage/WSIP-Project-Review-Portal/All-Projects/Los-Vaqueros-Reservoir-Expansion-Project>

JPA FORMATION

The JPA Agreement is now in Final Draft form and the Legal Work Group is conducting their final proof check and format review. The Final form of the JPA Agreement suitable for execution in counterparts will be provided to the LAPs on August 3. The schedule assumes LAP Board approval and execution of the JPA Agreement in August through September, with CCWD executing last, and filing with the State by October 6. The preferred approach is for LAP Boards to formally appoint their Director and Alternate to the JPA Board of Directors (by resolution or motion) at the same meeting as approval of the JPA Agreement, but appointments are required within 30 days of the effective date of the JPA Agreement. The first JPA Board meeting is anticipated to be scheduled in mid-November and is required to be held within 60 days of JPA formation.

CWC FEASIBILITY HEARING

All seven storage projects that received a conditional eligibility award from the California Water Commission (CWC) must meet three criteria prior to January 1, 2022 to remain eligible for funding: 1) draft environmental documents must be complete, 2) the CWC must make a finding that the project is feasible, and will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta, and 3) the Director of the Department of Water Resources (DWR) must receive a letter demonstrating support for not less than 75 percent of the non-public benefit cost share of the project (joint letter of support). The draft joint letter of support is being reviewed by LAPs and would replace the previous support letters from CCWD and the LAPs that were submitted to the CWC in 2017. Comments from LAPs are requested by August 13. The target date for the final version of the letter is September 3. The Phase 2 LVE Project is scheduled for a CWC Feasibility Hearing on October 20. CCWD staff are closely coordinating with CWC staff to ensure the Project meets the statutory requirements and remains eligible for funding.

PERMITTING

Reclamation is continuing review of the aquatic Biological Assessment (BA) per Section 7 of the Federal Endangered Species Act. Additional information is being provided to the U.S. Fish and Wildlife Service (USFWS) related to the terrestrial BA. A USFWS Bald and Golden Eagle Protection Act 'take' permit application is being developed. The State Historic Preservation Officer concurred with Reclamations' Determination of Eligibility and Effects per consultation under Section 106 of the National Historic Preservation Act. A Historic Properties Treatment Plan and Memorandum of Agreement, to support this consultation, are being developed. Additional information is being provided to the California Department of Fish and Wildlife (CDFW) related to the Incidental

Take Permit application for terrestrial species. CDFW is reviewing a draft Incidental Take Permit application for aquatic species. A Compensatory Mitigation Plan to support the USFWS and CDFW permits is being developed. The CDFW Lake and Streambed Alteration Agreement package is being developed. The U.S. Army Corps of Engineers (USACE) and Central Valley Regional Water Quality Control Board (CVRWQCB) continue review of their respective permit packages. The USACE released its public notice of the permit application on July 1 and did not receive any significant public comments. The Draft Wetland Mitigation Plan and Restoration and Revegetation Plan, required by the USACE and CVRWQCB, are continuing to be developed. A Delta Plan Consistency Package is being prepared.

DESIGN

Dam expansion design work and coordination with the California Division of Safety of Dams (DSOD) continues, and various Technical Memoranda to support the design are being developed. CCWD staff have begun the final design for the Pumping Plant No. 1 replacement project and is coordinating with the Western Area Power Authority and Reclamation to coordinate design reviews.

The Transfer-Bethany Pipeline remaining alignment alternatives are converging to the most practicable evaluations with consideration of land rights through parcels along Vasco Road and east of Byron Airport. A Detailed survey of the Turn-in (south of the Banks Pumping Plant) to the California Aqueduct at Bethany Reservoir was completed and preliminary design is in progress. Various technical memoranda supporting the design are also in progress.

The Engineering Feasibility Studies and Pipeline Condition Assessment project was kicked-off in July.

TO: Board of Directors**FROM:** Michele King, Clerk of the Board**SUBJECT:** August 10, 2021 Agenda Item 2.7**DATE:** August 11, 2021

Please find attached comments received after the cut-off for Agenda Item 2.7. at the August 10, 2021, Board Meeting.

(Time Open for Public Comment on any Item not on the Agenda. Notice to the public: Members of the public who wish to address the Board on any item not listed on the agenda should access the "Raise Hand" tool located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Board Chair in order requests are received and granted speaking access to address the Board. Speakers' comments should be limited to three minutes or as set by the Chair. The law does not permit Board action on, or extended discussion of, any item not on the agenda except under special circumstances. If Board action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Board may take action on any item of business appearing on the posted agenda.)

Michelle Critchlow

From: Rhoda Fry <fryhouse@earthlink.net>
Sent: Tuesday, August 10, 2021 12:03 PM
To: Board of Directors
Cc: citycouncil@cupertino.org; manager@cupertino.org; 'City Clerk'; cityattorney@cupertino.org; 'Roger Lee'
Subject: Item 2.7 Public Comment for Valley Water Board of Directors August 10, 2021

August 10, 2021

From: Rhoda Fry, Cupertino Resident
To: Santa Clara Valley Water District Board of Directors
Subject: Water Pollution from Stevens Creek Quarry
For: Item 2.7 Public Comment for Valley Water Board of Directors August 10, 2021

Dear Board of Directors,

I am concerned about the potential for degradation of water quality from Stevens Creek Reservoir. Based on data collected, the Water Board anticipates exceedances of effluent limits by Stevens Creek Quarry for: pH, settleable matter, chromium (III), chromium (VI), copper, cyanide, lead, nickel, selenium, and zinc. Valley Water personnel explained at Supervisor Joe Simitian's March 3, 2021 quarry meeting that selenium did not pose a health hazard to human health, but did not address natural attenuation of other contaminants.

The Environmental Working Group states that Hexavalent Chromium in Los Altos is 56 times greater than their health guideline.

Cupertino is listed as 34 times the amount.

See: <https://www.ewg.org/tapwater/system.php?pws=CA4310001> and
<https://www.ewg.org/tapwater/system.php?pws=CA4310018>

The Water Board document can be found here:

https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0011.pdf

Can you guarantee no degradation of water quality to our drinking water originating from Stevens Creek Reservoir?

Thank You,
Rhoda Fry
4085293560