

## Overview of Key Performance Indicators (KPIs) and Project and KPI Modifications

Historically, Valley Water has taken a cautious approach to proposing modifications to the voter-approved language. As required by the 2012 Safe, Clean Water and Natural Flood Protection Program (2012 Program), a Change Control Process was developed outlining a methodology for adjusting, modifying, or not implementing projects. Per the Change Control Process, which was also set forth as a requirement under the renewed Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program), modifications to KPIs require a formal public hearing, which must be publicly noticed as set forth by Government Code Section 6066.

The renewed Safe, Clean Water Program has 32 projects, each with one or more key performance indicators (KPIs), which are used to monitor the progress and completion of project objectives and program priorities.

There are three types of KPIs:

1. **Performance-based**, requiring completion of a specific activity in support of the project and priority objectives.
2. **Fiscal-based**, supporting a larger Valley Water project via a fund transfer or through the expenditure of a designated allocation. In most instances, the KPIs are fiscal based because the Safe, Clean Water Program funding constitutes a very small percentage of the budget required to deliver the project. The Safe, Clean Water funds support the project and priority objectives, but the alternative funding sources are the primary funds required to deliver the project.
3. **Schedule-based**, requiring completion of project deliverables according to an identified timeline, which could include either annual deliverables or project delivery by a specific date.

### Renewed Safe, Clean Water Program Modification Guidelines

The renewed Safe, Clean Water Program, Measure S, approved by the voters in November 2020, included KPIs for all projects. The Board-adopted Program Resolution No. 20-64 also includes a provision for Valley Water Board to direct staff to modify projects or not implement projects due to various factors:

“The Board of Directors may direct that proposed projects in the Safe, Clean Water and Natural Flood Protection Program be modified or not implemented depending upon a number of factors, including federal and state funding limitations and the analysis and results of CEQA environmental review and permitting by state and federal regulatory agencies. The Board of Directors must hold a formal, public hearing on the matter, which will be noticed by publication and notification to interested parties, before adoption of any such decision to modify or not implement a project.”

## **Previously Approved Safe, Clean Water Program Modifications**

Valley Water has modified KPIs in the past based on recommendations from the Board, Valley Water staff and the IMC, in response to changed circumstances, including financial, policy and regulatory changes impacting the projects.

Below are the projects modified under the 2012 Program and the renewed Safe, Clean Water Program:

**San Francisquito Creek Flood Protection Project (E5) (modified in 2014):** The modification included modifying KPI #2 to provide approximately 30-year flood protection upstream of Highway 101 instead of 50-year protection. Downstream of Highway 101, the project under KPI #2 continued to provide 1% flood protection level. The modification to the flood protection level upstream of Highway 101 was necessitated due to a lack of federal funding and community feedback, which did not support the construction of floodwalls. Further details regarding the flooding history of the creek and the project background, including the modification, can be found at [https://www.valleywater.org/sites/default/files/SCW\\_Public%20Hearing%20on%20San%20Francisquito.pdf](https://www.valleywater.org/sites/default/files/SCW_Public%20Hearing%20on%20San%20Francisquito.pdf).

**Coyote Creek Flood Protection Project (modified in 2017):** The modification included modifying the project scope and the KPI due to various developments, including extremely high project cost estimates, the absence of federal funding, the need to include neighborhoods flooded by the February 2017 floods and the impacts of other Valley Water projects on the Coyote Creek project alternatives. The Board modification extended the project reach by approximately 2.9 miles upstream to Tully Road to include the Rock Springs neighborhood and incorporate the areas impacted by the flood event. In addition to extending the project reach, the modifications revised the target protection for the preferred project, a federal-state-local partnership (KPI #1), from a 1% level flood event to a flood event similar to the February 21, 2017, flood (approximately a 20 to 25-year event), which is the largest flow seen in Coyote Creek since 1950. This was to allow Valley Water to address the flood threat to the community without depending on the progress of other projects, including the Anderson Dam Seismic Retrofit (ADSRP), and their impacts on Coyote Creek flows. It would also allow Valley Water to move forward with planning and design during FY2017-2018 rather than waiting until FY2018-2019. Furthermore, a local-funding-only option (KPI #2) was created, which identified short-term relief solutions to begin implementing prior to the 2017-2018 winter season; complete the planning and design phases of the preferred project; and with any remaining funds, identify and construct prioritized elements of the preferred project. Subsequently, Valley Water implemented several short-term interim projects to help reduce the risk of flooding along Coyote Creek. These included the installation of an interim floodwall and embankment along the creek in the Rock Springs community. This structure protects the Rock Springs community from a flood event equivalent to the February 2017 flood. Other interim projects included repairing a 150-

foot levee adjacent to the South Bay Mobile Home Park, installing flood gauges on bridges that provide real-time visual information on water levels and removing invasive vegetation from Valley Water and the San Jose City property in parts of the creek that experienced the most flooding. Further details on the 2017 modification and the project background can be found at <https://scvwd.legistar.com/LegislationDetail.aspx?ID=3064265&GUID=D843FFA6-6EA4-4825-9A8F-76221C76BB82>.

**Safe, Clean Water Partnerships and Grants (A2: KPI #3 – Nitrate Treatment System Rebate Program) (modified in 2018):**

The modification to KPI #3 reduced the maximum program funding to align with the demand for the Nitrate Rebate Program. KPI #3 stated, “Reduce the number of private well water users exposed to nitrate above drinking water standards by awarding 100% of eligible rebate requests for the installation of nitrate removal systems; a maximum of 1,000 rebates up to \$702,000.” While the KPI was met each year, with 100% of eligible rebates awarded, program demand and participation remained very low despite Valley Water’s concerted outreach efforts. The 2012 IMC acknowledged its concern about the cost/benefit ratio for this program and made recommendations targeted at improving program participation each year for years one through three of the 2012 Program. Per the Board’s direction, staff implemented each of the IMC’s recommendations, which included additional outreach, targeted outreach and offering rebates for 100% of the treatment system cost. Despite these additional efforts, program participation remained low. As a result, in February 2018, based upon the continued low demand for the Nitrate Rebate Program despite robust outreach efforts, the IMC recommended reallocating all or a portion of the remaining funds to other Safe, Clean Water Program projects. Staff concurred with the IMC’s recommendation, and on March 13, 2018, the Board directed staff to pursue the modification of KPI #3 and proceed with a formal public hearing. The modification reduced the maximum 15-year program rebate amount to “\$30,000 for all rebates” from “a maximum of 1,000 rebates up to \$702,000.” Details of the modification can be found at <https://scvwd.legistar.com/LegislationDetail.aspx?ID=3507927&GUID=C425CCA7-6DEE-46EA-9D71-DE215EB7AFE7&FullText=1>.

**Upper Llagas Creek Flood Protection Project (E6) (modified in 2020):** The modification to KPI #2 increased the length of the project to be built with local funds only from approximately 2.9 miles to 4.9 miles, in addition to constructing the onsite compensatory mitigation. Besides maximizing the efficacy of the available secured funds, this approach was to keep the project moving forward while shortening the construction window without inducing flooding downstream and maximizing the potential for external funding opportunities. The modification included changing the reaches to be constructed with local dollars to include building the high-flow underground bypass tunnel and a section of underground reinforced concrete box culverts. The City of Morgan Hill supported advancing the construction of the tunnel and box culverts. In a December 2019 letter to the Valley Water Board, Mayor Rich

Constantine stated, “For the City of Morgan Hill, completing the tunnel work sooner is highly important as this work will require staging on a section of the future Hale Avenue roadway in Morgan Hill. The city is on a tight timetable to complete this roadway improvement, and once completed, the tunnel work will become much more complicated and expensive.” The modification also reflected improved collaboration with regulatory permitting agencies that required early mitigation for the project impacts. Details of the modification can be found at [https://www.valleywater.org/sites/default/files/SCW\\_FY19%20ModificationsWithAttachments.pdf](https://www.valleywater.org/sites/default/files/SCW_FY19%20ModificationsWithAttachments.pdf).

**The Good Neighbor Program: Encampment Cleanup project (Project F5) under the renewed Safe, Clean (modified in 2021, FY2021-22):** The project’s primary objective is to remove trash, debris and hazardous pollutants generated by encampments near waterways or on Valley Water. KPI #1 was mainly changed from “Perform 300 annual cleanups to reduce the amount of trash...entering the streams” to “Manage 300 acres annually to clean up trash, debris...to reduce the amount of these pollutants entering streams.” The modification was necessitated because the cleanup of encampments was linked to the removal of structures, which was halted because of the restrictions put in place in response to COVID-19 and case laws highlighting the legal limitations relating to the removal of illegal encampments and displacement of the people living in those encampments. Details of the modification can be found at <https://scvwd.legistar.com/LegislationDetail.aspx?ID=5016949&GUID=D27CEE76-2865-4F40-BCA1-9712A282CB03&FullText=1>.

**Modifications to Project under Priorities D and E of the renewed Safe, Clean Water Program (modified in January 2023, FY2022-23):** Infrastructure construction projects in the renewed Safe, Clean Water Program are experiencing significant cost increases. Among the projects with a major cost escalation is Project E1: Coyote Creek Flood Protection Project (CCFPP). The cost estimates for the renewed Safe, Clean Water-funded part of the project, CCFPP, increased by approximately \$162 million. Upstream of the Coyote Creek Project, Valley Water is implementing ADSRP. To minimize risk to the communities along Coyote Creek, Valley Water must move forward with the planned construction schedule for the Coyote Creek project to align with the completion of the high-level outlet for the ADSRP. These increased costs are impacting the Safe, Clean Water fund’s financial health, resulting in the Board modifying D4: Fish Habitat and Passage Improvement, D6: Restoration of Natural Creek Functions, E2: Sunnyvale East and Sunnyvale West Channels Flood Protection, and E4: Upper Penitencia Creek Flood Protection projects to help balance the overall fund and deliver the voter-approved Safe, Clean Water Program.

Additionally, the Board modified Project D3: Sediment Reuse to Support Shoreline Restoration KPI #1, which required Valley Water to “Maintain partnership agreements to reuse sediment to improve the success of salt pond and tidal marsh restoration projects and activities.” Under the project, which had been carried from the 2012

Program, Valley Water has been delivering sediment for Pond A8 at Alviso for South Bay Salt Pond Restoration as per an agreement with the U.S. Fish and Wildlife Services (USFWS), which remains in effect until December 2023. However, Valley Water paused delivering sediment to Pond A8 following USFWS direction in July 2022 that it needed to renew permits, which could take approximately two years. Meanwhile, expanding the use of sediment to projects beyond the South Bay Salt Pond Restoration Project creates new opportunities for the sediment to be reused for Valley Water environmental enhancement and restoration projects not requiring a partnership agreement. As a result, the Board modified the project KPI #1 to “Reuse sediment meeting applicable screening criteria at available Valley Water or partnership project sites to support restoration.” Details of the January 2023 modifications can be found at <https://scvwd.legistar.com/LegislationDetail.aspx?ID=6003386&GUID=9F2E6492-072A-4DAE-BE49-79807CC3DA74>.

Details of all project modifications under 2012 and the renewed Safe, Clean Water Program are available at <https://www.valleywater.org/safe-clean-water-and-natural-flood-protection-program/safe-clean-water-program-archive>.

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