



Santa Clara Valley Water District Board of Directors Meeting

Headquarters Building Boardroom
5700 Almaden Expressway
San Jose, CA 95118

***AMENDED/APPENDED**
AMENDED 12:00PM CLOSED SESSION AND 2:00PM
SPECIAL MEETING TO BE PUBLISHED 03/13/2020
AGENDA

Wednesday, March 18, 2020
12:00 PM

***ITEMS AMENDED AND/OR APPENDED SINCE THE ORIGINAL PUBLICATION OF THIS AGENDA
ARE IDENTIFIED BY AN ASTERISK (*) HEREIN**

District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.

DISTRICT BOARD OF DIRECTORS

Nai Hsueh, Chair, District 5
Tony Estremera, Vice Chair, District 6
John L. Varela, District 1
Barbara Keegan, District 2
Richard P. Santos, District 3
Linda J. LeZotte, District 4

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the Clerk of the Board at the Santa Clara Valley Water District Headquarters Building, 5700 Almaden Expressway, San Jose, CA 95118, at the same time that the public records are distributed or made available to the legislative body. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to attend Board of Directors' meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

NORMA CAMACHO
Chief Executive Officer

MICHELE L. KING, CMC
Clerk of the Board
(408) 265-2600
Fax (408) 266-0271
www.valleywater.org

Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown Act.

**Santa Clara Valley Water District
Board of Directors**

***AMENDED/APPEDED
AGENDA**

***ITEMS AMENDED AND/OR APPENDED SINCE THE ORIGINAL PUBLICATION OF THIS AGENDA
ARE IDENTIFIED BY AN ASTERISK (*) HEREIN**

Wednesday, March 18, 2020

12:00 PM

Headquarters Building Boardroom

Attending Santa Clara Valley Water District Board meetings in person poses a heightened risk of COVID-19 transmission. Older adults and individuals with existing health conditions are at particularly serious risk and should not attend and should consider participating remotely through the link(s) provided below.

1. CALL TO ORDER:

Join the Meeting at:
<https://valleywater.zoom.us/j/290399892>
Meeting ID 290 399 892
1 (669) 900-9128

1.1. Roll Call.

2. TIME CERTAIN:

12:00 PM

Notice to the Public: The Board of Directors meets in Closed Session in accordance with the Ralph M. Brown Act. Following the conclusion of Closed Session discussion, the Board will return for the remaining items on the regular meeting agenda.

2.1. CLOSED SESSION [20-0271](#)
CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION
Pursuant to Government Code Section 54956.9(d)(4)
One Potential Case

2.2. CLOSED SESSION [20-0311](#)
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
Herlinda Espitia vs. Santa Clara Valley Water District, et al.
Santa Clara County Superior Court, Case No. 20CV363712

2:00 PM

Rejoin the Meeting at:
<https://valleywater.zoom.us/j/632463881>
Meeting ID: 632 463 8811
1 (669) 900-9128

2.3. District Counsel Report.

2.4. Pledge of Allegiance/National Anthem.

2.5. Time Open for Public Comment on any Item not on the Agenda.

Notice to the public: This item is reserved for persons desiring to address the Board on any matter not on this agenda. Members of the public who wish to address the Board on any item not listed on the agenda should complete a Speaker Card and present it to the Clerk of the Board. The Board Chair will call individuals to the podium in turn. 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.

*2.6. ITEM REMOVED FROM AGENDA
Consideration of Project Labor Agreement.

*2.7. ITEM REMOVED FROM AGENDA.
Receive Information and Discuss Public Safety, Water Supply, Water Quality, and Biological Impacts of Additional Interim Risk Reduction Measures mandated by the Federal Energy Regulatory Commission (FERC) prior to Construction of the Anderson Dam Seismic Retrofit Project (ADSRP) (Morgan Hill, District 1).

*2.8. Discuss Parameters for Conducting Brown Acted Public Board and Committee Meetings in Consideration of Section 11 of Governor Newsom's Executive Order N-25-20, Relevant to the Brown Act and Social Distancing. [20-0348](#)

Recommendation: A. Discuss parameters for conducting Brown Acted Public Board and Committee Meetings in consideration of Section 11 of Governor Newsom's Executive Order N-25-20, relevant to the Brown Act; and
B. Provide direction to staff.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: Governor Newsom's Executive Order N-25-20](#)

Est. Staff Time: 5 Minutes

*2.9. Ratification and Declaration of State of Emergency COVID-19 Resulting in [20-0352](#)

the Threat To Public Services.

- Recommendation:
- A. Ratify the declaration of emergency declared by Chief Executive Officer (CEO) on March, 13, 2020; and
 - B. Determine by a four-fifths vote of the Board that there is a need to continue the emergency action declared by the CEO on March 13, 2020, due to the threat to public services posed by the novel coronavirus - COVID-19.

Manager: Tina Yoke, 408-630-2385.

Attachments: [Attachment 1: Declaration of Emergency](#)

- *2.10 Update on the Condition of the Milpitas Pipeline and Determination that the Condition of the Milpitas Pipeline Continues to Constitute an Emergency (San Jose) (District 3). [20-0353](#)

- Recommendation:
- A. Receive an update on the Milpitas Pipeline; and
 - B. Determine by a four-fifths vote of the Board that there is a need to continue the emergency action declared by the Chief Executive Officer (CEO) on March 16, 2020, pursuant to California Public Contract Code §22050, to repair the Milpitas Pipeline.

Manager: Aaron Baker, 408-630-2135

Attachments: [Attachment 1: Declaration of Emergency](#)

3. ADJOURN:

- 3.1. Clerk Review and Clarification of Board Requests.
- 3.2. Adjourn to 4:00pm Closed Session and 6:00pm Regular Meeting on March 24, 2020, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.



Santa Clara Valley Water District

File No.: 20-0271

Agenda Date: 3/18/2020
Item No.: 2.1.

NON-EXHIBIT/CLOSED SESSION ITEM

SUBJECT:

CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION
Pursuant to Government Code Section 54956.9(d)(4)
One Potential Case



Santa Clara Valley Water District

File No.: 20-0311

Agenda Date: 3/18/2020
Item No.: 2.2.

NON-EXHIBIT/CLOSED SESSION ITEM

SUBJECT:

CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
Herlinda Espitia vs. Santa Clara Valley Water District, et al.
Santa Clara County Superior Court, Case No. 20CV363712



Santa Clara Valley Water District

File No.: 20-0348

Agenda Date: 3/18/2020

Item No.: *2.8.

BOARD AGENDA MEMORANDUM

SUBJECT:

Discuss Parameters for Conducting Brown Acted Public Board and Committee Meetings in Consideration of Section 11 of Governor Newsom's Executive Order N-25-20, Relevant to the Brown Act and Social Distancing.

RECOMMENDATION:

- A. Discuss parameters for conducting Brown Acted Public Board and Committee Meetings in consideration of Section 11 of Governor Newsom's Executive Order N-25-20, relevant to the Brown Act; and
- B. Provide direction to staff.

SUMMARY:

On March 12, 2020, Governor Newsom issued Executive Order N-25-20 (Attachment 1) further enhancing State and Local Government's ability to respond to COVID-19 Pandemic.

Section 11 of the Governor's Executive Order authorizes local legislative bodies to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the legislative body during the period in which state and local public officials impose or recommend measures to **promote social distancing**.

The new requirements that must be met are:

1. Each legislative body must give advance notice of each public meetings, according to the timeframe otherwise prescribed by the Brown Act, and using the means otherwise prescribed by the Brown Act. Staff would continue our 10-day and 3-day posting process; and
2. Consistent with the notice requirements in listed in the paragraph above, each legislative body must notice at least one publicly accessible location from which members of the public shall have the right to observe and offer public comment at the public meeting, consistent with the public's right of access and public comment otherwise provided for by the Brown Act. Keeping the Boardroom open for the public to attend meetings would meet this requirement.

DIRECTION REQUESTED

Staff is requesting direction on the methods the Board wishes to use to conduct Board and Brown Acted Committee meetings -

1. Keep current method - Allow public to participate in-person in the Boardroom.
2. Allow telephonic participation - Create a teleconference phone line to allow the public to provide voice comments only.
3. Allow electronic participation - Create video or web conferencing that enables the public to engage remotely via video.
4. Consider cancelling nonessential Board and/or Committee meetings for the remainder of March.
5. Any other direction the Board deems necessary.

FINANCIAL IMPACT:

Office of the Clerk of the Board has funds in the Fiscal Year 2020 Budget to support Board and Committee meetings.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have the potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Governor Newsom's Executive Order N-25-20

UNCLASSIFIED MANAGER:

Michele King, 408-630-2711

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-25-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed; and

WHEREAS state and local public health officials may, as they deem necessary in the interest of public health, issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences, or other mass events, which could cause the cancellation of such gatherings through no fault or responsibility of the parties involved, thereby constituting a force majeure; and

WHEREAS the Department of Public Health is maintaining up-to-date guidance relating to COVID-19, available to the public at <http://cdph.ca.gov/covid19>; and

WHEREAS the State of California and local governments, in collaboration with the Federal government, continue sustained efforts to minimize the spread and mitigate the effects of COVID-19; and

WHEREAS there is a need to secure numerous facilities to accommodate quarantine, isolation, or medical treatment of individuals testing positive for or exposed to COVID-19; and

WHEREAS, many individuals who have developmental disabilities and receive services through regional centers funded by the Department of Developmental Services also have chronic medical conditions that make them more susceptible to serious symptoms of COVID-19, and it is critical that they continue to receive their services while also protecting their own health and the general public health; and

WHEREAS individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources such as shelters and food banks; and

WHEREAS in the interest of public health and safety, it is necessary to exercise my authority under the Emergency Services Act, specifically Government Code section 8572, to ensure adequate facilities exist to address the impacts of COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571 and 8572, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. All residents are to heed any orders and guidance of state and local public health officials, including but not limited to the imposition of social distancing measures, to control the spread of COVID-19.
2. For the period that began January 24, 2020 through the duration of this emergency, the Employment Development Department shall have the discretion to waive the one-week waiting period in Unemployment Insurance Code section 2627(b)(1) for disability insurance applicants who are unemployed and disabled as a result of the COVID-19, and who are otherwise eligible for disability insurance benefits.
3. For the period that began January 24, 2020 through the duration of this emergency, the Employment Development Department shall have the discretion to waive the one-week waiting period in Unemployment Insurance Code section 1253(d) for unemployment insurance applicants who are unemployed as a result of the COVID-19, and who are otherwise eligible for unemployment insurance benefits.
4. Notwithstanding Health and Safety Code section 1797.172(b), during the course of this emergency, the Director of the Emergency Medical Services Authority shall have the authority to implement additions to local optional scopes of practice without first consulting with a committee of local EMS medical directors named by the EMS Medical Directors Association of California.
5. In order to quickly provide relief from interest and penalties, the provisions of the Revenue and Taxation Code that apply to the taxes and fees administered by the Department of Tax and Fee Administration, requiring the filing of a statement under penalty of perjury setting forth the facts for a claim for relief, are suspended for a period of 60 days after the date of this Order for any individuals or businesses who are unable to file a timely tax return or make a timely payment as a result of complying with a state or local public health official's imposition or recommendation of social distancing measures related to COVID-19.
6. The Franchise Tax Board, the Board of Equalization, the Department of Tax and Fee Administration, and the Office of Tax Appeals shall use their administrative powers where appropriate to provide those individuals and businesses impacted by complying with a state or local public health official's imposition or recommendation of social

distancing measures related to COVID-19 with the extensions for filing, payment, audits, billing, notices, assessments, claims for refund, and relief from subsequent penalties and interest.

7. The Governor's Office of Emergency Services shall ensure adequate state staffing during this emergency. Consistent with applicable federal law, work hour limitations for retired annuitants, permanent and intermittent personnel, and state management and senior supervisors, are suspended. Furthermore, reinstatement and work hour limitations in Government Code sections 21220, 21224(a), and 7522.56(b), (d), (f), and (g), and the time limitations in Government Code section 19888.1 and California Code of Regulations, title 2, sections 300-303 are suspended. The Director of the California Department of Human Resources must be notified of any individual employed pursuant to these waivers.
8. The California Health and Human Services Agency and the Office of Emergency Services shall identify, and shall otherwise be prepared to make available—including through the execution of any necessary contracts or other agreements and, if necessary, through the exercise of the State's power to commandeer property – hotels and other places of temporary residence, medical facilities, and other facilities that are suitable for use as places of temporary residence or medical facilities as necessary for quarantining, isolating, or treating individuals who test positive for COVID-19 or who have had a high-risk exposure and are thought to be in the incubation period.
9. The certification and licensure requirements of California Code of Regulations, Title 17, section 1079 and Business and Professions Code section 1206.5 are suspended as to all persons who meet the requirements under the Clinical Laboratory Improvement Amendments of section 353 of the Public Health Service Act for high complexity testing and who are performing analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in any certified public health laboratory or licensed clinical laboratory.
10. To ensure that individuals with developmental disabilities continue to receive the services and supports mandated by their individual program plans threatened by disruptions caused by COVID-19, the Director of the Department of Developmental Services may issue directives waiving any provision or requirement of the Lanterman Developmental Disabilities Services Act, the California Early Intervention Services Act, and the accompanying regulations of Title 17, Division 2 of the California Code of Regulations. A directive may delegate to the regional centers any authority granted to the Department by law where the Director believes such delegation is necessary to ensure services to individuals with developmental disabilities. The Director shall describe the need justifying the waiver granted in each directive and articulate how the waiver is necessary to protect the public health or safety from the threat of COVID-19 or necessary to ensure that services to individuals with developmental disabilities are not disrupted. Any waiver granted by a directive shall expire 30 days from the date of its issuance. The Director may grant one or more 30-day extensions if the waiver continues to be necessary

to protect health or safety or to ensure delivery of services. The Director shall rescind a waiver once it is no longer necessary to protect public health or safety or ensure delivery of services. Any waivers and extensions granted pursuant to this paragraph shall be posted on the Department's website.

11. Notwithstanding any other provision of state or local law, including the Bagley-Keene Act or the Brown Act, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative body or state body, during the period in which state or local public officials impose or recommend measures to promote social distancing, including but not limited to limitations on public events. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations;
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended, on the conditions that:

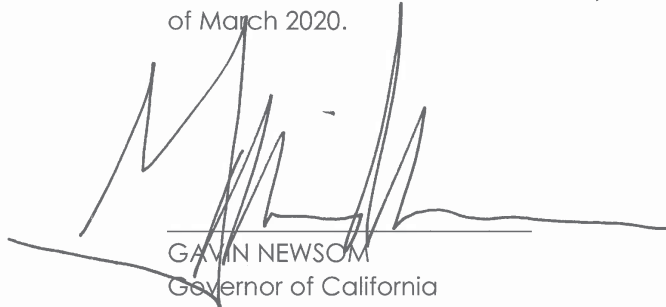
- (i) each state or local body must give advance notice of each public meeting, according to the timeframe otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) consistent with the notice requirement in paragraph (i), each state or local body must notice at least one publicly accessible location from which members of the public shall have the right to observe and offer public comment at the public meeting, consistent with the public's rights of access and public comment otherwise provided for by the Bagley-Keene Act and the Brown Act, as applicable (including, but not limited to, the requirement that such rights of access and public comment be made available in a manner consistent with the Americans with Disabilities Act).

In addition to the mandatory conditions set forth above, all state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have
hereunto set my hand and caused
the Great Seal of the State of
California to be affixed this 12th day
of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

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Santa Clara Valley Water District

File No.: 20-0352

Agenda Date: 3/18/2020

Item No.: *2.9.

BOARD AGENDA MEMORANDUM

SUBJECT:

Ratification and Declaration of State of Emergency COVID-19 Resulting in the Threat To Public Services.

RECOMMENDATION:

- A. Ratify the declaration of emergency declared by Chief Executive Officer (CEO) on March, 13, 2020; and
- B. Determine by a four-fifths vote of the Board that there is a need to continue the emergency action declared by the CEO on March 13, 2020, due to the threat to public services posed by the novel coronavirus - COVID-19.

SUMMARY:

On March 13, 2020, CEO Norma Camacho declared an emergency for the Santa Clara Valley Water District (Valley Water) as a result of the threat to public services posed by the novel coronavirus - COVID-19 (Attachment 1). This declaration of emergency is intended to expire in seven (7) days of its issuance unless ratified by the Santa Clara Valley Water District's Board of Directors. This item allows the board to ratify and continue the emergency declared by the CEO.

The County of Santa Clara has issued a local health emergency as a result of the spread of COVID-19. On March 11, 2020, the World Health Organization declared COVID-19 to be a pandemic. On March 12, 2020, California Governor Newsom declared a state of emergency for California, and on March 12, 2020, President Donald Trump declared a national emergency. Given the challenges facing the nation, the state, and the region, as a result of the COVID-19 pandemic, it is critical that Valley Water fulfill its mission in providing water supply and flood control to Santa Clara County. Given the speed of the local spread of COVID-19 and the fast-paced nature of recommendations and restrictions by the national, state, and county governments, Valley Water needs to be able to implement changes in its workplace and personnel practices upon short notice, and will meet and confer over negotiable subjects with its bargaining units as soon as is practicable. Continuing the emergency will allow Valley Water to maintain this critical flexibility in accordance with the Meyers-Milias-Brown Act.

FINANCIAL IMPACT:

The efforts required to prepare for, respond to, mitigate, and recover from the increasing spread of COVID-19 have and will continue to impose extraordinary requirements and expenses on Valley Water, requiring potential diversion of resources from day-to-day operations.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have the potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Declaration of Emergency

UNCLASSIFIED MANAGER:

Tina Yoke, 408-630-2385.

MEMORANDUM



TO: Board of Directors
FROM: Norma Camacho
Chief Executive Officer
SUBJECT: Emergency Declaration – COVID-19
DATE: March 13, 2020

The purpose of this memorandum is to formally declare an emergency for the Santa Clara Valley Water District (Valley Water) as a result of the threat to public services posed by the novel coronavirus – COVID-19. This declaration of emergency is intended to expire in seven (7) days unless ratified by the Santa Clara Valley Water District's Board of Directors.

Background:

A novel coronavirus (named "COVID-19") was first detected in Wuhan City, Hubei Province, China, in December 2019. The Centers for Disease Control and Prevention (CDC) considers the virus to be a very serious public health threat with outcomes ranging from mild sickness to severe illness and death. COVID-19 has spread globally to over 85 countries, infected more than 95,000 people, and killed more than 3,000 individuals.¹

On January 30, 2020, the World Health Organization declared the COVID-19 outbreak a Public Health Emergency of International Concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency. On January 31, 2020, the first case of COVID-19 was confirmed in the County of Santa Clara.

On February 2, 2020, a Local Health Officer issued a Declaration of Local Health Emergency for Santa Clara County regarding COVID-19. On February 10, 2020, the County of Santa Clara's Board of Supervisors ratified this declaration of local emergency. On February 26, 2020, the third case of COVID-19 was confirmed in the County of Santa Clara.

On March 6, 2020, Valley Water activated its Emergency Operations Center in response to the COVID-19 outbreak. On or about March 9, 2020, Valley Water was advised that one of its employees had tested positive for COVID-19. Due to widespread transmission of COVID-19 in Santa Clara County, on March 10, 2020, the Center for Disease Control issued recommendations for community interventions in Santa Clara County. On March 11, 2020, Valley Water issued its Pandemic and Infectious Disease Plan to address planning for and response to a pandemic or infectious disease outbreak.

On March 11, 2020, the World Health Organization declared COVID-19 to be a pandemic. On March 12, 2020, California Governor Gavin Newsom issued Executive Order N-25-20 proclaiming a state of emergency to exist in California as a result of the threat of COVID-19. On March 13, 2020, the Santa Clara County Public Health Department issued an order imposing a mandatory moratorium on gatherings of more than 100 persons, and a conditional countywide moratorium on gatherings of between 35-100 persons, in order to mitigate the spread of COVID-19.

Invoking the Stafford Act, on March 13, 2020, President Donald Trump declared a national emergency over the COVID-19 outbreak.

¹ World Health Organization Coronavirus disease 2019 (COVID-19) Situation Report – 45.

As of March 13, 2020, there are 79 total COVID-19 cases in the County of Santa Clara, 36 of which are hospitalized. To date, there are two deaths in Santa Clara County attributed to COVID-19.

Emergency Declaration

Continuing to perform critical functions and provide critical services is vital to Valley Water's ability to provide water supply and flood protection for the residents of Santa Clara County.

The spread of COVID-19 in the County of Santa Clara give rise to conditions of extreme peril to the safety and health of persons within the county.

The above-referenced conditions are likely to be beyond the control of the services, personnel, and facilities of Valley Water.

The efforts required to prepare for, respond to, mitigate, and recover from the increasing spread of COVID-19 have and will continue to impose extraordinary requirements and expenses on Valley Water, requiring potential diversion of resources from day-to-day operations.

For all the foregoing reasons, I have determined that an emergency hereby exists for Valley Water based upon the spread of COVID-19 and its threat to essential public services.



Norma J. Camacho
Chief Executive Officer



Santa Clara Valley Water District

File No.: 20-0353

Agenda Date: 3/18/2020

Item No.: *2.10.

BOARD AGENDA MEMORANDUM

SUBJECT:

Update on the Condition of the Milpitas Pipeline and Determination that the Condition of the Milpitas Pipeline Continues to Constitute an Emergency (San Jose) (District 3).

RECOMMENDATION:

- A. Receive an update on the Milpitas Pipeline; and
- B. Determine by a four-fifths vote of the Board that there is a need to continue the emergency action declared by the Chief Executive Officer (CEO) on March 16, 2020, pursuant to California Public Contract Code §22050, to repair the Milpitas Pipeline.

SUMMARY:

On March 16, 2020, the CEO declared that the condition of the Milpitas Pipeline (MPL) constituted an emergency condition pursuant to California Public Contract Code §22050. The CEO further determined that Santa Clara Valley Water District (Valley Water) staff may repair such pipeline, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

According to Public Contract Code §22050, in order for the CEO's emergency declaration action to remain in place, the Board must initially review the emergency action not later than seven days after the action was taken, or at its next regularly scheduled meeting if that meeting will occur not later than fourteen days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by four-fifths vote that there is a need to continue the emergency action; this agenda item recommends the Board make such a finding. This item is being considered at a special Board meeting being held the day after the emergency was declared as the regular Board meeting schedule is uncertain at this time due to the impacts of COVID 19.

The current condition of the MPL poses an emergency condition as the pipeline supplies essential drinking water to the Milpitas area has developed a serious and impactful leak. This pipeline failure is causing significant localized damage to, and subsidence of, the roadway structure under the south-bound travel way of North Capitol Avenue, a highly traveled traffic corridor. The emergency condition continues to exist as the repairs to the MPL are not yet underway.

The MPL consists of approximately five (5) miles of 42-inch diameter welded steel pipe. The pipeline

was originally constructed in three major stages in the early 1990s. Several segments of the pipeline have been relocated since its original construction to accommodate other agencies' infrastructure improvement projects. The MPL is used to supply treated water to Valley Water's North San Jose and Milpitas service areas. In addition, the MPL is Valley Water's sole connection to the San Francisco Public Utilities Commissions (SFPUC) intertie facility. This supply line is important because it provides redundancy to the East Side treated water transmission system.

Based on the current leak and the associated risk, Valley Water cannot currently keep this pipeline in safe and reliable service unless repairs to the leak are promptly performed. Failure to keep this pipeline in safe and reliable service will pose a significant risk to Valley Water's ability to provide sufficient water to meet minimum water supply demands in the Milpitas service areas and to both access and support the SFPUC Intertie should there be a need.

In response to this emergency condition of the MPL, Valley Water staff activated the Water Utility Department Operations Center on March 17, 2020. Staff from various Valley Water business units participated and strategized on the necessary steps to move forward with the pipeline repairs.

To repair the MPL, it is anticipated a Contractor will need to: perform traffic control, excavate to the pipeline, shore the excavation, repair the pipe (most likely with welding), disinfect the pipeline, partially fill the excavation, test the repair, fill in the rest of the excavation, and restore the roadway.

Staff is recommending that the Board determine, by a four-fifths vote, that there is a need to continue the emergency action declared by the CEO, to enable timely procurement of necessary construction contract services, and other services, supplies and essential equipment, without competitively bidding the contracts to complete the repairs. Consistent with the statutory requirements, staff will return to the Board with an update at every regularly scheduled Board meeting until the emergency declaration is concluded.

FINANCIAL IMPACT:

Staff estimates repairing the MPL could cost in the range of \$0.5M to \$1.5M depending on the scale of the necessary repairs and the terms that can be negotiated with a construction contractor. There are sufficient funds available within the FY20 budget for the Water Treatment Small Caps Project (93764004). If repair costs are estimated to exceed the available funding, staff will recommend a budget adjustment for this work at a future Board meeting.

CEQA:

Impacts associated with the repair and maintenance activities of the MPL were evaluated by the Pipeline Maintenance Program and the Programmatic Environmental Impact Report, certified and approved by the Board on November 13, 2007. Consultation with the appropriate regulatory agencies will occur prior to construction.

ATTACHMENTS:

Attachment 1: Declaration of Emergency

UNCLASSIFIED MANAGER:
Aaron Baker, 408-630-2135



MEMORANDUM

FC 14 (08-21-19)

TO: Norma J. Camacho
Chief Executive Officer

FROM: Nina Hawk
Chief Operating Officer
Water Utility Enterprise

SUBJECT: Emergency Declaration to Repair Milpitas
Pipeline Pursuant to Public Contract Code
§22050

DATE: March 16, 2020

The purpose of this memorandum is to formally request that you as the Santa Clara Valley Water District (Valley Water) Chief Executive Officer (CEO) immediately declare an emergency pursuant to California Public Contract Code §22050 and Valley Water Resolution 05-67 to enable immediate repair of the Milpitas Pipeline (MPL) in the City of San Jose, California. This emergency declaration will exempt Valley Water from undergoing competitive bidding requirements to procure the necessary equipment, supplies, non-professional services, and public works to attend to the emergency action described in this memorandum.

The current condition of the MPL poses an emergency condition as the pipeline supplies essential drinking water to the Milpitas area has developed a serious and impactful leak. This pipeline failure is causing significant localized damage to, and subsidence of, the roadway structure under the southbound travel way of North Capitol Avenue, a highly traveled traffic corridor. Per California Public Contract Code §1102, an emergency is "a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."

Background

The MPL consists of approximately five (5) miles of 42-inch diameter welded steel pipe. The pipeline was originally constructed in three major stages in the early 1990s. Several segments of the pipeline have been relocated since its original construction to accommodate other agencies' infrastructure improvement projects. The MPL is used to supply treated water to Valley Water's North San Jose and Milpitas service areas. In addition, the MPL is Valley Water's sole connection to the San Francisco Public Utilities Commissions (SFPUC) intertie facility. This supply line is important because it provides redundancy to the East Side treated water transmission system.

In 2001, a 1300-foot long segment of the MPL in the southbound travel way of North Capitol Avenue between Highway 680 and Cropley Avenue was relocated to accommodate Valley Transportation Agency's (VTA) Light Rail System. Forty-Two (42) inch full diameter hot-taps were used at both ends of the relocated segment to tie back into the original pipeline. In 2013, the hot-tap valve body on the south end of the relocated segment failed, began leaking and required an emergency repair. Based off preliminary investigations, this current leak appears to be located directly over the hot tap on the north end of the relocated segment. The current leak, the apparent roadway failure characteristics, and their relative proximities to the hot-tap assembly are very similar in nature to those of the 2013 event.

Attachment 1

Emergency Declaration to Repair
Milpitas Pipeline Pursuant to
Public Contract Code §22050

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Potential Consequences

Potential consequences of keeping the MPL in service with the leak in this location include:

- a. Physical damage to adjacent infrastructure (i.e.: roadway structure, light rail tracks, other buried utilities, etc.);
- b. Negative impacts to and disruption of a highly traveled major traffic corridor;
- c. Potential impacts to motorists driving over the subsidence along this major traffic corridor;
- d. Negative impacts to the environment due to the treated water release;
- e. Significant risk to Valley Water's ability to provide treated water to the Milpitas service area; and
- f. Significant risk to Valley Water's ability to either provide or receive water from the SFPUC Intertie facility.

Potential consequences of a prolonged outage to isolate and repair the MPL in this location include:

- a. Inability to meet treated water supply allotments to the Milpitas service area;
- b. Valley Water will lose the SFPUC Intertie redundancy to the East Side treated water transmission system; and
- c. Valley Water will lose the ability to support the SFPUC Intertie.

Based on the current leak and the associated risk, Valley Water cannot currently keep this pipeline in safe and reliable service unless repairs to the leak are promptly performed. Failure to keep this pipeline in safe and reliable service will pose a significant risk to Valley Water's ability to provide sufficient water to meet minimum water supply demands in the Milpitas service areas and to both access and support the SFPUC Intertie should there be a need.

Recommendations

Staff recommends a Declaration of Emergency be issued so that immediate action can be taken to complete all work activities related to the repair of structurally compromised pipe on the Milpitas Pipeline. Based on the substantial evidence detailed above, I recommend that you officially declare that an emergency situation exists as defined by the California Public Contract Code §1102. If you agree with this recommendation, please indicate concurrence by signing below.

 3/16/2020

Nina Hawk
Chief Operating Officer
Water Utility Enterprise
Approved by Electronic Signature

Concur:



Norma J. Camacho
Chief Operating Officer

District Counsel:

 3-16-20

Leslie Orta
Senior Assistant District Counsel

Attachment 1

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