

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 23-

**APPROVING THE MODIFICATION TO THE FISH HABITAT AND PASSAGE IMPROVEMENT
PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM**

WHEREAS, on July 21, 2020, the Board of Directors of the Santa Clara Valley Water District (Valley Water) adopted Resolution No. 20-64 Providing for the Continuation and Levy of a Special Tax to Pay the Cost of the Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions (Resolution No. 20-64); and

WHEREAS, the purpose of the special tax is to supplement other available but limited revenues to keep Valley Water's flood protection system of levees, channels, drains, debris basins, and other improvements in a safe and effective condition; to enable Valley Water to respond to emergencies; to perform maintenance and repair; to acquire, restore, and preserve habitat; to provide recreation; to conduct environmental education; to protect and improve water quality; and, to construct and operate flood protection storm drainage facilities; including in each case the cost of financing such activities; support public health and public safety as it relates to Valley Water's mission; and

WHEREAS, in November 2020, Valley Water's Measure S was overwhelmingly approved by more than a two-thirds majority vote of the electorate of Valley Water, renewing a special tax, the proceeds of which are used solely for the purpose of supporting the six funding priorities of the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program), which are as follows: Priority A: Ensure a Safe, Reliable Water Supply; Priority B: Reduce Toxins, Hazards, and Contaminants in Our Waterways; Priority C: Protect Our Water Supply and Dams from Earthquakes and Other Natural Disasters; Priority D: Restore Wildlife Habitat and Provide Open Space; Priority E: Provide Flood Protection to Homes, Businesses, Schools, Streets, and Highways; and Priority F: Support Public Health and Public Safety for Our Community; and

WHEREAS, Project D4: Fish Habitat and Passage Improvement Project (Project D4) is included under Priority D of the Safe, Clean Water Program; and

WHEREAS, the Safe, Clean Water Program describes the primary objective of the Project as follows: "This project helps restore and maintain healthy fish populations, especially steelhead, by improving fish passage and habitat. Sites may include Alamitos Creek at Almaden Lake and County of Santa Clara-owned Ogier Ponds, where human-made creek alterations disrupt fish migration. Project D4, which includes coordinating and partnering with other external parties, incorporates studies of streams throughout the county to determine what and where habitat improvements will most benefit steelhead. These studies can be used by regional partners to implement complementary habitat enhancements. The project also continues funding to place instream gravel, boulders, large wood, or other features to enhance fish habitat at appropriate locations. By adding natural stream features such as large wood, we can create habitat to provide refuge during fish migration, prolonged drought, or extreme rainfall events. Additionally, habitat restoration can improve ecosystem function and increase resiliency to climate change. By restoring natural functions, issues such as water quality may be less exacerbated and native species can continue to flourish and adapt."; and

WHEREAS, the Safe, Clean Water Program identifies the Key Performance Indicators (KPIs) for Project D4 as follows:

- “1. Complete planning and design for one (1) creek/lake separation.
2. Construct one (1) creek/lake separation project in partnership with local agencies.
3. Use \$8 million for fish passage improvements by June 30, 2028.
4. Update study of all major steelhead streams in the county to identify priority locations for fish migration barrier removal and installation of large woody debris and gravel as appropriate.
5. Complete five (5) habitat enhancement projects based on studies that identify high priority locations for large wood, boulders, gravel, and/or other habitat enhancement features.”; and

WHEREAS, the KPIs do not identify specific projects; and

WHEREAS, in 2015, the Board chose the Ogier Ponds Project to be planned and designed under KPI #1; and

WHEREAS, in 2021, the Board chose the Almaden Lake Improvements Project as the creek/lake separation project which would separate Alamos Creek from Almaden Lake and return it to naturally flow into the Guadalupe River, to be constructed under KPI #2; and

WHEREAS, since selecting the Almaden Lake Improvements Project to be constructed under KPI #2, construction cost estimates have nearly tripled, making project construction unfeasible; and

WHEREAS, the Ogier Ponds Project has multiple funding sources for construction, including placeholder funding allocations under both the Watersheds Stream Stewardship Fund (Fund 12) and the Water Utility Enterprise Fund (Fund 61), which will help offset some of the project cost impacts; and

WHEREAS, infrastructure construction projects in the Safe, Clean Water Program are experiencing significant cost increases; and

WHEREAS, these increased costs are impacting the Safe, Clean Water Program Fund's (Fund 26) financial health, resulting in staff's recommendation that the Valley Water Board of Directors provide direction on balancing the overall Fund and delivering the voter-approved Safe, Clean Water Program; and

WHEREAS, as a result of construction cost escalations, staff is recommending that the Board select the Almaden Lake Improvements Project continue with its planning and design phases to deliver KPI #1 and the Ogier Ponds project to be constructed under KPI #2; and

WHEREAS, since the Ogier Ponds Project has additional funding allocations under Fund 12 and Fund 26, staff is recommending the Board modify KPI #2 to partially fund the construction of a creek/lake separation project; and

WHEREAS, by modifying KPI #2 to partially fund construction of the Ogier Ponds Project, the 15-Year Funding Allocation could be reduced to approximately \$5 million, which would be finalized through the development and Board approval of the Capital Improvement Program's Fiscal Years 2024-28 Five-Year Plan; and

WHEREAS, Valley Water's Resolution No. 20-64 authorizes modifications to proposed projects. Paragraph N. reads as follows: "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"; and

WHEREAS, at its regular Board meeting conducted on January 10, 2023, Valley Water's Board of Directors set a time and place for a formal public hearing to occur on January 24, 2023, at which time the Board will consider the Proposed Modification to Project D4: Fish Habitat and Passage Improvement Project of the Safe, Clean Water and Natural Flood Protection Program.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Santa Clara Valley Water District as follows:

1. Pursuant to the requirements stated in California Government Code section 6066, staff prepared and published advertisements in Santa Clara County newspapers of general circulation.
2. Pursuant to the requirements stated in Valley Water's Resolution No. 20-64, Paragraph N., a noticed public hearing was held.
3. Modify KPI #2 for Project D4: Fish Habitat and Passage Improvement Project, as set forth in the Safe, Clean Water Program, as follows:
 - "2. Partially fund the construction of one (1) creek/lake separation project in partnership with local agencies."
4. Valley Water's Safe, Clean Water and Natural Flood Protection Program's Project D4: Fish Habitat and Passage Improvement Project, is hereby modified as stated in Exhibit A: Modified Key Performance Indicator, hereto, which includes the approved Modified KPI #2.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by
the following vote on January 24, 2023:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

JOHN L. VARELA
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk, Board of Directors

EXHIBIT A COVERSHEET

MODIFIED KEY PERFORMANCE INDICATOR

No. of Pages: 1

Exhibit Attachments: None

PROJECT D4

FISH HABITAT AND PASSAGE IMPROVEMENT

This project helps restore and maintain healthy fish populations, especially steelhead, by improving fish passage and habitat. Sites may include Alamitos Creek at Almaden Lake and County of Santa Clara-owned Ogier Ponds, where human-made creek alterations disrupt fish migration. Project D4, which includes coordinating and partnering with other external parties, incorporates studies of streams throughout the county to determine what and where habitat improvements will most benefit steelhead. These studies can be used by regional partners to implement complementary habitat enhancements.

The project also continues funding to place instream gravel, boulders, large wood, or other features to enhance fish habitat at appropriate locations. By adding natural stream features such as large wood, we can create habitat to provide refuge during fish migration, prolonged drought, or extreme rainfall events. Additionally, habitat restoration can improve ecosystem function and increase resiliency to climate change. By restoring natural functions, issues such as water quality may be less exacerbated and native species can continue to flourish and adapt.

Benefits

- Improves habitat and passage for steelhead and other native fish within Santa Clara County watersheds.
- Contributes to required mitigation for environmental impacts of reservoir and recharge operations and countywide Stream Maintenance Program.
- Maintains investment in earlier habitat improvements.
- Addresses climate change.

Key Performance Indicators (FY22–36)

1. Complete planning and design for one (1) creek/lake separation.
2. **Partially fund the construction of** Construct one (1) creek/lake separation project in partnership with local agencies.
3. Use \$8 million for fish passage improvements by June 30, 2028.
4. Update study of all major steelhead streams in the county to identify priority locations for fish migration barrier removal and installation of large woody debris and gravel as appropriate.
5. Complete five (5) habitat enhancement projects based on studies that identify high priority locations for large wood, boulders, gravel, and/or other habitat enhancement features.

Geographic Area of Benefit: Countywide