



Santa Clara Valley Water District

File No.: 20-0464

Agenda Date: 5/26/2020

Item No.:

SUPPLEMENTAL BOARD AGENDA MEMORANDUM

SUBJECT:

Approve Recommended Positions on Federal Legislation: H.R. 6643 (Schneider) - Supporting State and Local Leaders Act; *S. 3591 (Barrasso) - America's Water Infrastructure Act (AWIA) of 2020; and *S. 3590 (Barrasso) - Drinking Water Infrastructure Act of 2020.

REASON FOR SUPPLEMENTAL MEMORANDUM:

This supplemental Board agenda memorandum conveys additional information received after the initial agenda item was released, consistent with Executive Limitations Policy EL-7-10-5.

RECOMMENDATION:

- A. Adopt a position of "Support" on H.R. 6643 (Schneider) - Supporting State and Local Leaders Act; and
- B. *Adopt a position of "Support and Amend" on S. 3591 (Barrasso) - America's Water Infrastructure Act (AWIA) of 2020;
- C. *Adopt a position of "Support" on S. 3590 (Barrasso) - Drinking Water Infrastructure Act of 2020.

SUMMARY:

B. *S. 3591 (Barrasso) - America's Water Infrastructure Act (AWIA) of 2020

Recommendation: Support and Amend

Priority Recommendation: 2

This bill would authorize \$17 billion in water infrastructure projects throughout the nation and make important changes to several U.S. Army Corps of Engineers (USACE) policies. This is the Senate version of the Water Resources Development Act for 2020. Key highlights include:

- Sets a two-year goal for USACE to complete its feasibility studies, consistent with the standard set by the Trump Administration;
- Reauthorizes the Clean Water State Revolving Loan Fund at increased levels for the first time in more than 30 years and increases assistance to underserved communities;
- Increases water storage in the West and builds new flood management infrastructure in the Midwest; also fixes aging dams and irrigation systems, and upgrades wastewater systems

across the country;

- Creates a mechanism by which USACE will develop a list of approved projects that can be funded through the congressional appropriations process;
- Allows USACE to recommend funding for projects with lower benefit-to-cost ratios if the project serves a small, financially disadvantaged or rural community; also further assists small, rural, and disadvantaged communities across the country with new set asides and cost share waivers in USACE's Continuing Authorities Program;
- Establishes a Water Reuse Interagency Working Group under the Environmental Protection Agency (EPA) to advance water reuse across the nation, including through the implementation of the National Water Reuse Action Plan that the EPA released in late 2019; and
- Reauthorizes the Water Infrastructure Finance and Innovation Act (WIFIA) Program administered by the EPA to finance shovel-ready water infrastructure projects, and clarifies existing law regarding budgetary scoring for eligible projects; also streamlines the WIFIA application process by requiring only one final rating opinion letter as opposed to the previous requirement of two letters.

Status:

The bill was introduced in the Senate on May 4, 2020, and passed by the Committee on Environment and Public Works on May 6, 2020.

Proposed Amendments:

In order to better serve Valley Water's interests, staff recommends the following amendments:

1. **Flexibility to Pursue Multi-Purpose Projects.** Multi-benefit projects can include dynamic components like ecosystem restoration that are important to local communities. Staff recommends including language that would allow USACE to pursue multi-benefit projects if requested by the local community and if the benefit-to-cost ratio exceeds one.
2. **Water Infrastructure and Workforce Investment.** This grant program created under the last water resources development bill provides critical resources and federal partnership to help train new and incumbent water utility workers to ensure that we have skilled workers to meet our nation's water infrastructure needs. Staff supports reauthorizing this program but recommends extending the authorization to Fiscal Year 2030 and increasing the funding authorization to \$10 million per year. This would align with the Board-approved appropriations requests for Fiscal Year 2021 and partner requests for the program.
3. **Feasibility Studies.** The bill includes a requirement that USACE complete all feasibility studies within two years, as opposed to the current three, in order to align with the Trump Administration's policy of completing environmental documentation within two years. As it stands, the three-year requirement for completing studies is often difficult to meet, forcing USACE District Offices to pursue time-consuming and difficult-to-obtain waivers. While reducing the timeline for studies is a worthy goal in principle, in reality these studies are complex and resource intensive. Cutting the timeline would require additional staff and resources, which the bill does not include. Staff recommends striking this provision and

keeping to the current three-year requirement.

- 4. Reclamation Title.** As currently drafted, the bill primarily covers flood protection, leaving out the water supply side of water resources policy. Staff recommends amending the bill to include a Reclamation title, making it more comprehensive and truly responsive to all water resources and infrastructure needs. Staff recommends including at least the following three provisions in any Reclamation title:
- a. Repealing a provision under the CALFED Reauthorization Act of 2004 that prohibited federal participation in the construction of an expanded Pacheco Reservoir. While the origins and intent of the original language is unclear, repealing the provision altogether will remove any potential barriers to using federal funds for construction of the Pacheco Reservoir Expansion Project.
 - b. Authorizing increased funding for dam safety, rehabilitation, and repair. The funding available for rehabilitating non-federal dams is very limited and is currently restricted to dams without hydroelectric facilities, meaning that Anderson Dam is ineligible. Staff recommends removing that restriction in current law and/or creating a new fund for much-needed dam safety upgrades for which all non-federal dams are eligible. This could provide a funding path for the Anderson Dam Seismic Retrofit Project.
 - c. Authorizing increased funding for the Title XVI Water Reclamation and Reuse competitive grant program at the Bureau of Reclamation to at least \$100 million for each of Fiscal Years 2021 through 2024, and raising the federal funding cap for individual projects from \$20 million to \$30 million. These changes are important for the highly successful Title XVI Program, which is oversubscribed nationwide. These changes would mirror the Water Recycling Investment and Improvement Act (H.R. 1162), a bill from Congresswoman Grace Napolitano (CA-32) that the Board previously supported.

Importance to Valley Water:

WRDA legislation has produced important new USACE programs and policies, benefiting Valley Water projects over the years. AWIA 2020 is no different, as it would implement several significant policy changes that would benefit Valley Water projects and priorities. Provisions most relevant to Valley Water include:

- Expedites permitting for projects that would improve and upgrade infrastructure that was damaged during storms between 2017-2020. This could benefit the Coyote Creek Flood Protection Project.
- Grants USACE flexibility to pursue projects that consider local and regional benefits, as well as those that serve underserved communities or are in economically distressed areas. This would help ensure that USACE can invest in more underserved communities and allows for better assessing a project's true value to the community it serves.
- Expands access to USACE's Continuing Authorities Program (CAP) for disadvantaged communities, as well as increasing available funding. This could help the San Francisquito Creek Project, which will likely rely on CAP funding to complete the Upstream of 101 portion of the project.
- Creates a new San Francisco Bay Restoration grant program at EPA for water quality

improvement in the Bay and creates a new San Francisco Bay Program Office under EPA's National Estuary Program. The bill authorizes \$25 million for each of fiscal years 2021 and 2022 for the grant program. This provision was introduced in H.R. 1132, the San Francisco Bay Restoration Act, for which the Board previously took a position of Support.

- Reauthorizes the EPA's Innovative Water Workforce Development Program. As stated in the amendments section above, staff supports reauthorizing this program but recommends extending the authorization and increasing the funding amount.

Pros:

- The bill would authorize several USACE policy updates that could help expedite and fund Valley Water projects and priorities.
- The bill would authorize billions of dollars in infrastructure investment, including repairing aging infrastructure.

Cons:

- The bill does not currently include a Reclamation title. As such, it is limited only to flood protection water resources-related policy, not water supply policy.
- The bill's provision to reduce the timeline for approving USACE feasibility studies from three years to two years would pose additional strain on USACE and the non-federal sponsors working on such studies.

C. *S. 3590 (Barrasso) - Drinking Water Infrastructure Act (DWIA) of 2020**Recommendation: Support****Priority Recommendation: 2**

This bill would authorize \$2.5 billion in drinking water infrastructure investments, This bill is the second part of the Senate's WRDA 2020 package, with AWIA 2020 (S. 3591) comprising the other part. Key highlights include:

- Reauthorizes the Safe Drinking Water Act emergency fund to provide resources and technical assistance to communities facing drinking water emergencies that present a significant danger to public health;
- Requires EPA to promulgate a national drinking water regulation for perfluoralkyl and polyfluoralkyl substances (known as PFAS);
- Authorizes \$300 million in grants under the Drinking Water State Revolving Loan Fund to assist in the remediation of emerging contaminants, with a focus on PFAS;
- Provides robust funding for grants to help water utilities invest in and deploy new and emerging technologies to improve water and energy efficiency; reduce emissions; and expand ratepayer affordability;
- Reauthorizes the Source Water Petition Program, which allows community water systems, municipal or local governments, and political subdivisions of a state to submit a source water quality protection partnership petition to the state, petitions which help affected parties reduce drinking water contaminants and develop recommendations for long-term protection of the

- parties' source water;
- Creates a new EPA grant program to fund the improvement or rehabilitation of public water systems' aging infrastructure in order to facilitate compliance with drinking water regulations; and
- Increases funding for the EPA's Assistance for Small and Disadvantaged Communities Grant Program.

Status:

The bill was introduced in the Senate on May 4, 2020, and passed by the Committee on Environment and Public Works on May 6, 2020.

Importance to Valley Water:

This bill would make a significant investment in our nation's drinking water infrastructure, including authorizing funds that could benefit Valley Water projects and priorities. While many of the bill's programs and funding would primarily benefit smaller, rural communities and water systems, the bill's overall objective of helping to ensure safe, clean water for all is in line with Valley Water's mission and should be supported.

Pros:

- The bill would create a new EPA grant program to fund the upgrade or rehabilitation of public water systems' aging drinking water infrastructure - such as treatment plants, storage, or distribution facilities - in order to facilitate compliance with drinking water regulations or further public health protections. These grants, modeled after the state revolving funds, could provide a source of funding for upgrades to Valley Water treatment plants, pipelines, or storage facilities.
- The bill would make a significant investment in the nation's drinking water infrastructure to help small, rural, tribal, and disadvantaged communities meet their water needs. This is in line with Valley Water's mission to provide safe, clean water to all residents of Santa Clara County.

Cons:

- None identified at this time.

FINANCIAL IMPACT:

There is no financial impact associated with these items.

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:

None.

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