



SAN MATEO, SANTA CLARA & SAN BENITO COUNTIES

June 8, 2020

Valley Water Board of Directors
via email

Re: June 9, 2020 Agenda Item 3.2 Anderson Dam Federal Energy Regulatory Commission
Order Compliance Project

Dear Chair Hsueh and Board Members,

The Sierra Club is always concerned when environmental review is eliminated for projects, especially large, complicated projects such as the Anderson Dam Federal Energy Regulatory Commission (FERC) Order Compliance Project (FOCP). The California Environmental Quality Act (CEQA) is the main mechanism for informing the public about such projects and for the public to ask for additional information or provide input on impacts and mitigation measures.

We understand the emergency nature of this project, but we disagree with Valley Water's decision to completely bypass CEQA. Given the number of permits that need to be obtained to begin construction, there is time for an expedited CEQA process for the FOCP. Alternatively, elements of the FOCP projects could be integrated in the Draft Environmental Impact Report (DEIR) for the Anderson Dam Seismic Retrofit Project (ADSRP) which is scheduled to be completed before the end of this year.


Specifically, some elements of the FOCP are already part of the project description for the ADSRP. We are especially concerned about the Anderson Dam Tunnel Operation and Maintenance actions since these will not go into effect until the project is completed in December 2023. Project Operation is included in the Notice of Preparation (NOP) for the ADSRP EIR. It is imperative that dam operations are fully analyzed in the DEIR. Other actions in the NOP include the Intake and Outlet Works (i.e. Anderson Dam Tunnel) and Spoils Disposal (related to construction of Tunnel).

Most other elements of the FOCP are mitigation measures, which must also be included in the DEIR. Such measures must be included under the impact categories and in the Mitigation Monitoring and Reporting Program.

Regarding the Engineer's Report published on Friday June 5, we request more information about the FOCP Coyote Creek Stream Augmentation Fish Protection Measure in the Project Description. The Project Description needs to include information about the source of the up to 10 cfs of imported water to release into Coyote Creek for the Cold Water Management Zone (CWMZ). The source of that water is not clear since the Anderson Reservoir will be empty.

Thank you for your consideration of these comments. We also appreciate your commitment to inform the public and allow for public input, including the CEQA process.

Sincerely,

A handwritten signature in cursive script that reads "Katja Irvin".

Katja Irvin, AICP
Conservation Committee Co-chair
Sierra Club Loma Prieta Chapter

TO: Bal Ganjoo**FROM:** Kurt Lueneburger**SUBJECT:** Staff Response to Sierra Club Comments on
Proposed Federal Energy Regulatory
Commission Order Compliance Project**DATE:** June 12, 2020

In a letter to Santa Clara Valley Water District (Valley Water) Board of Directors dated June 8, 2020, Sierra Club Loma Prieta Chapter submitted concerns, suggestions, and questions regarding environmental aspects of the Federal Energy Regulatory Commission (FERC) Order Compliance Project. Sierra Club noted comments and suggestions in four general categories: adequate environmental review in compliance with the provisions of the California Environmental Quality Act (CEQA), incorporation of FERC Order Compliance Project (FOCP) elements into a forthcoming Anderson Dam Seismic Retrofit Project (ADSRP) Environmental Impact Report (EIR), inclusion of FOCP mitigation measures in the ADSRP EIR, and clarification of proposed imported water use. Valley Water staff provides the following information to respond to Sierra Club's comments.

I. CEQA compliance

- a) There is no time for an "expedited" CEQA review that would meet CEQA requirements for a project of this size and complexity.
- b) If the emergency project exemption did not apply (which it does), the FOCP would likely require an EIR.
- c) In our experience, processing an EIR for a project similar in scope and complexity would take at least 12 months, and probably closer to 36 months, to complete.
- d) A 36-month delay would mean that Valley Water could not approve the FOCP until June 2023, and thus cannot comply with the FERC order or begin to take any of the actions to prevent or mitigate the emergency conditions at the dam and reservoir until then.
- e) FERC has been clear that the risks to the public are not acceptable and Valley Water must implement measures to comply with its emergency order now. Lengthening the process is unacceptable when there is sufficient basis to invoke CEQA exemption, and not doing so would result in unnecessary risk to public health, safety, and welfare.
- f) While no CEQA review of the FOCP would be conducted, Valley Water has taken proactive steps to add many avoidance and minimization measures (AMMs) in the FOCP to protect multiple environmental resources during FOCP construction and operation.

II. Suggestion to incorporate FOCP elements into the ADSRP EIR

- a) The FOCP and the ADSR are two separate projects with independent utility, even though some project components, such as the outlet tunnel (also known as the Anderson Dam Tunnel Project [ADTP]), can later be used for the ADSRP.
- b) Tunnel operation for the FOCP, which occurs from 2023 to 2026, would not overlap tunnel operation and full dewatering for the ADSRP, which begins after 2026. The tunnel operations for the two projects are different.
- c) The FOCP is a separate project proposed to comply with the FERC order.
- d) Nevertheless, impacts of the FOCP will not be omitted from the ADSRP EIR, but rather will be considered as part of the ADSRP EIR cumulative impact analysis.

III. Suggestion to include FOCP mitigation measures in the EIR (assuming reference is to ADSRP EIR)

- a) AMMs are proposed now to address immediate impacts of the separate FOCP project.

- b) To the extent some of the same FOCP AMMs would be feasible and effective in addressing an impact from ADSRP, Valley Water will consider including them as AMMs or mitigation measures in the ADSRP EIR.

IV. Clarification of the source of water for release to Coyote Creek for the cold water management zone

- a) During the FOCP and ADSRP, Valley Water plans to keep the reach from the base of Anderson Dam to Ogier Ponds, known as the cold water management zone, wet using a combination of available local water passed through the construction area and imported Central Valley Project water released through an existing pipeline about ¼ mile downstream of Anderson Dam. The intent is to maintain groundwater recharge in this reach below the dam as well as provide water for fisheries.