



## MEMORANDUM

FC 14 (01-02-07)

**TO:** Board of Directors

**FROM:** Water Storage Exploratory Committee

**SUBJECT:** Water Storage Exploratory Committee Meeting  
Summary for December 28, 2020

**DATE:** January 12, 2021

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This memorandum summarizes agenda items from the regular meeting of the Water Storage Exploratory Committee held on December 28, 2020.

### **Attendees:**

Valley Water Board Members in attendance were: Director Gary Kremen-District 7, Director Richard P. Santos-District 3, and Director John L. Varela-District 1.

Valley Water Staff in attendance were: Gina Adriano, Emmanuel Aryee, Aaron Baker, Erin Baker, Ricardo Barajas, John Bourgeois, Glenna Brambill, Bart Broome, Debra Butler, Keila Cisneros, Jessica Collins, Jerry De La Piedra, Andrew Garcia, Vincent Gin, Mark Gomez, Samantha Greene, Christopher Hakes, Brian Hopper, Dana Jacobson, Katrina Jessop, Cindy Kao, Kurt Lueneburger, Bill Magleby, Jennifer Martin, Michael Martin, Ryan McCarter, Heath McMahon, Devin Mody, Carmen Narayanan, Steven Peters, Michael Potter, Melanie Richardson, Metra Richert, Eli Serrano, Ranithri Slayton, Kirsten Struve, Charlene Sun, Darin Taylor, Sherilyn Tran, Bhavani Yerrapotu, and Beckie Zisser.

Guests in attendance were: Thomas Francis, Danielle McPherson and (BAWSCA), Steve Jordan (BAWSCA/Purissima Hills Water District), Maureen Martin, Ph.D. and Marguerite Patil (Contra Costa Water District {CCWD}), Bill Tuttle (San Jose Water Company), John Weed (Alameda County Water District {ACWD}).

Public in attendance were: Dolly Chen, Director Tony Estremera (Valley Water, District 6), Janell, Alan and Meg Giberson, Jeff Harvey, Katja Irvin, Director Linda J. LeZotte (Valley Water, District 4), Leslie Moulton-Post, and Mary Paasch.

### **ACTION ITEMS:**

#### **4.1 UPDATE ON LOS VAQUEROS RESERVOIR EXPANSION PROJECT: JOINT POWERS AUTHORITY AND FINANCIAL MODEL**

Mr. Michael Martin, Mr. Brian Hopper, and Ms. Charlene Sun reported on the following information:

#### **Summary from Agenda Memo:**

The Santa Clara Valley Water District (Valley Water) continues to evaluate participating in the Los Vaqueros Reservoir Expansion Project (LVE Project) led by Contra Costa Water District (CCWD). The LVE Project would expand Los Vaqueros Reservoir storage from 160 thousand acre-feet (TAF) to 275 TAF and build the Transfer-Bethany Pipeline to connect the reservoir to the State Water Project's (SWP) South Bay Aqueduct (SBA) and California Aqueduct. The LVE Project may provide Valley Water regional storage, new wet year supplies through CCWD's diversion rights, and increased operational flexibility in the conveyance of imported water. This memo provides background on the project, an update on the draft Joint Powers Authority (JPA) Agreement, and an update on the usage fees and the financial model.

#### **Background**

CCWD estimates the total LVE Project development and construction 40-year life cycle costs to be \$868 million in constant 2018 dollars. The California Water Commission approved a Prop 1 WSIP grant award of up to \$459 million for the LVE Project, including \$22.95 million in early funding. The U.S. Bureau of Reclamation (USBR) received \$2.155 million of federal funding for the LVE Project through the WINN Act for Fiscal Year (FY) 2020. CCWD and

the local area partners (LAPs) are continuing efforts to procure additional WINN Act funding beyond FY 2020, ultimately seeking \$223 million in total.

CCWD completed a Draft Feasibility Report with the USBR in January 2018, and the Final Supplement to the EIR/EIS was published in the Federal Register in February 2020. CCWD certified the Final Supplement to the Final EIS/EIR and approved the LVE Project in May 2020. Neither the Draft Feasibility Report nor the EIR/EIS received legal challenges or significant public opposition.

Valley Water is considering participating in either solely the conveyance portion of the project or both conveyance and storage. Valley Water continues to work with CCWD and the LAPs to evaluate long-term participation levels, how it translates to water storage and/or supply benefits, costs, and risks. In addition, Valley Water is working with regional partners to evaluate how storage and conveyance components could support other regional projects, such as the Bay Area Regional Desalination Project and the Refinery Recycled Water Project.

#### Formation of a Joint Power Authority

LAPs, including CCWD, have been working to develop a JPA for the LVE Project. Until the JPA is formed, CCWD is leading the project planning, which includes environmental review and initial design. After JPA formation, project planning, construction, and post-construction activities will transition to the JPA. Post-construction activities include operating the facilities, ensuring adequate funding, facility maintenance and repair, and delivering project water.

The JPA will have a Board of Directors with a representative from each JPA member agency. The JPA agreement as drafted allows member agencies to appoint any member of its governing bodies or a management-level employee and an alternate to serve on the JPA board.

The development of the JPA agreement has been led by an independent counsel (Lagerlof, LLP) working with a Legal Working Group made up of legal staff from CCWD and the LAPs. At the Water Storage Committee meeting of October 30, 2020, the Committee appointed Director Kremen to coordinate with staff and Valley Water's counsel regarding the draft JPA. Staff are briefing Director Kremen on the draft JPA so that he may convey concerns over any of the draft terms.

The December 3, 2020 draft of the agreement is attached as Attachment 1. A JPA Legal Working Group meeting took place on December 18, 2020, and these discussions focused on sections 7.11.2-7.11.3 of the draft agreement which involves financial liability limitations sought by the SFPUC based upon their city charter requirements. The other parties have expressed concern regarding the application of the proposed language, and further discussions on this provision are still needed. Additional subjects of the agreement requiring further discussion include, but are not limited to:

- Facility Definition Clarifications (Sections 1.1.8, 1.1.14, 1.1.20 & 1.1.21);
- O&M of Facilities (Sections 1.1.21-1.1.22);
- Rights regarding future project expansion (Section 1.1.23);
- Directors (Section 2.2 et seq);
- Voting rights and thresholds (section 3.3 et seq.);
- Veto rights sought by EBMUD and CCWD (section 3.3.4);
- Off-Ramps (Section 8.3);
- Member liability (Section 9.2.2);
- Dispute Resolution (Section 10.2);
- Construction of Agreement (Section 10.8); and
- Assignment (Section 10.11).

Further JPA Legal Working Group meetings will be scheduled in December and January. Staff will continue to brief and solicit input from Director Kremen as these negotiations proceed.

#### Usage Fees and Financial Model

LAPs, through the Usage Fees Working Group, have been working with CCWD and EBMUD to negotiate usage fees for existing facilities. CCWD provided their initial usage fee proposal in October 2018. To support the evaluation of the first draft and subsequent negotiations, participants hired Bartle Wells and Associates as a financial consultant. CCWD updated the usage fees memo in March, June, and August of 2020 to address comments raised in a report from Bartle Wells and ongoing dialogue with the Usage Fees Working Group. Under the original proposal, CCWD would have charged the LAPs approximately \$7.0 million per year for use of existing

CCWD conveyance facilities and \$4.3 million per year in storage fees to reimburse CCWD for a fair share of land costs and foundational elements provided by CCWD. The current proposal would result in \$3.7 million per year conveyance facility fees and \$4.2 million per year storage fees. With the current draft usage fees memo from CCWD, the LAPs still have two primary concerns that they provided in a joint letter to CCWD:

- 1) The LAPs are expected to pay for the excess capacity and redundancy built into the CCWD system that is associated with the facilities LAPs will use. CCWD states that the LAPs benefit from the redundancy and excess capacity; LAPs argue that they should only pay for capacity used.
- 2) The LAPs think more work is needed to determine a fair cost for the use of land inundated by the reservoir expansion and inclusion of watershed lands that protect reservoir water quality.

CCWD has drafted a joint Letter of Intent (LOI) with the LAPs to memorialize the discussion, cost calculation methodology, and CCWD's usage fees determination while other aspects of the LVE project (and the JPA) are negotiated. The LOI represents the intention of CCWD and the LAPs to negotiate in good faith the usage fees associated with the use of CCWD's existing facilities as part of the LVE Project; it does not create any binding financial commitments. Usage fees will be negotiated further between CCWD and the JPA, pending Board direction from each LAP. The discussion on usage fees is expected to resume later next year after the JPA is formed and other costs associated with the project are better defined.

CCWD released an updated financial model (version 4.0) on December 4, 2020, that focuses on the updated (August 2020) CCWD usage fees. The financial model released by CCWD is at the full project level and costs are not broken down by project partner. The next version of the financial model (version 5.0) is anticipated to be released in early 2021 and will include projected cost allocations by each project partner. Staff will be able to present updated cost allocation for Valley Water once Version 5.0 is released.

### **Next Steps**

The following are the key long-term decision points and milestones for the LVE Project:

- Early to mid-2021: WSEC Committee meeting to consider Valley Water participation in JPA and Board meeting to consider Valley Water participation in JPA.
- Late-2021: JPA executes Service Agreements (storage and/or conveyance services) with CCWD and the LAPs. The JPA executes Facilities Usage Agreements with CCWD and EBMUD for existing facilities (i.e., establishes user fees).
- 2022: Construction starts on the initial LVE Project elements
- 2023-2025: Construction of Transfer-Bethany Pipeline.
- 2027-2029: Construction of Los Vaqueros dam raise, upgraded pumping facilities, and other conveyance improvements.

The Water Storage Exploratory Committee discussed the following items: letter of intent (draft), JPA Agreement, Working Groups (Attorney/Finance), finance model (project level cost/usage fees), and allocation to partner yields.

Mr. Jerry De La Piedra, Ms. Samantha Greene, and Mr. Aaron Baker were available to answer questions.

The Water Storage Exploratory Committee took no action, however, they wanted to make sure the JPA Agreement and the Letter of Intent (have the 'redlined' version with the specific highlights for the Board/Committee Members to receive and be informed of any discussions, models, contracts, costs (even if estimates are given), and place in the Non-Agenda to apprise the Full Board so they can give input, and the Water Storage Exploratory Committee can review/analyze all documents before a contract/agreement is approved. Special Note: Have Vincent Gin, Jerry De La Piedra and staff to reach out to other water users to discuss the draft agreement.

## 4.2 PACHECHO RESERVOIR EXPANSION PROJECT UPDATE

Mr. Christopher Hakes and Mr. Ryan McCarter reported on the following information:

### **Summary from Agenda Memo:**

The Pacheco Reservoir Expansion Project (PREP) recently provided an updated project plan for the Capital Improvement Program (CIP). This update was prompted by changes in project costs and schedule identified in a Feasibility Level Design Assessment performed for the San Luis Reservoir Low Point Improvement Project (SLLPIP) effort. The prior project plan costs and schedule were based upon the information in the 2017 Water Storage Investment Program (WISIP) application estimates and actual consultant agreement costs for the Project Management, Planning, Design, Environmental Documentation and Permitting consultant services.

The Feasibility Level Design Assessment included incorporation of geotechnical data, evaluation of construction sequencing, and estimated production rates for various elements of the proposed project. Major changes to the spillway and inlet/outlet works configuration, as well as updated design elements related to the earthfill dam, have contributed to revising the construction sequencing and extending the schedule estimate. The construction schedule for the earthfill dam has been estimated to be over seven years while the schedule in the 2017 funding application estimated five years.

The Feasibility Level Cost Estimate presented significant increases in construction costs primarily due to the following factors.

1. Findings of the initial geotechnical field investigations have resulted in:
  - a. Tripling the amount of excavation needed to reach the dam foundation and resulting cost increases for both foundation excavation and dam fill materials,
  - b. Substantial excavation and landslide stabilization costs for the spillway,
  - c. A more complex inlet/outlet works configuration including a tunnel and shaft with adits.
2. Increased unit prices and quantities for the following items:
  - a. Dam filter/drain material unit price and quantity
  - b. Embankment/shell material unit price and quantity
  - c. Conveyance pipe (steel) unit price
3. Other drivers:
  - a. Highway 152 access improvements
  - b. Onsite access roads
  - c. Mitigation land acquisition costs
4. Contingencies and schedule:
  - a. Increase in design contingency from 10% to 25%
  - b. Construction schedule extended from five to eight years

The cost increases result in a construction cost increase of about \$1 Billion. With inflation considered, the CIP cost for the project increased from \$1.3 Billion to \$2.5 Billion. The PREP team has begun developing variations to the project that could result in significant construction cost savings and reduction of the construction schedule. The variations include analysis of an alternate dam site upstream and assessing feasibility, cost, and construction of a hardfill dam structure in place of the proposed earthfill.

The Water Storage Exploratory Committee discussed the following items: costs, WIFIA allocation/WIIN Act, other funding, financial plan, project construction, debt service, Delta, rates, water storage, exploring P3 partners, San Luis Low Point issue, water sustainability, review of funding-methodology, "deep dive", and finance model.

Ms. Charlene Sun and Mr. Darin Taylor were available to answer questions.

Mr. Steve Jordan inquired about the rate increases and sources of revenue.

The Water Storage Exploratory Committee took the following action:

The Committee unanimously approved recommending that the Board approve having the Pacheco Reservoir Project costs go to the Board Audit Committee to do an independent/third party audit to explore the costs issues.

#### 4.3 STANDING ITEMS INFORMATION

Mr. Andrew Garcia and Ms. Cindy Kao reported on the following information:

##### Summary from Agenda Memo

Standing Items will allow regular reports from staff on subjects that may be of interest to the committee members.

The Water Storage Exploratory Committee received updated information on the following projects: Andrew Garcia:

- Del Puerto: In November, group of NGO's filed lawsuit for impacts to recreation/protected species/neighboring communities and indigenous cultural sites wanting to block project, Del Puerto, Exchange Contractors and Denver Reclamation Offices project was approved so they are continuing their process and are sending the feasibility study to The Secretary of the Interior (The Secretary) year's end (Valley Water will be monitoring).
- Groundwater Banking: has a 'user group discussion' with So Bay Contractors, coordinating with Metropolitan Water District (MWD) for a similar working group, Buena Vista having preliminary discussion, McMullen Project, renamed/branded to Aqua Terra Water Bank.
- Semitropic: Participating in Board Meetings and Monitoring Groups, Imported Water and Office of Government Relations are helping with tracking efforts and Valley Water is compiling water quality data.

Cindy Kao:

- Sites: final Feasibility Report was transmitted to Congress on December 22, 2020, The Secretary determined project is feasible, therefore, is eligible for funds under the WIIN Act.
- Sisk Dam: final EIR/Supplemental EIS was published on December 18, 2020, San Luis Delta Mendota Water Authority is expecting The Secretary to sign off by month's end to be eligible for the WIIN Act deadline. The Record of Decision and Notice of Determination should be released by Spring 2021 if all is approved.
- Shasta: USBR released a final Supplemental EIS on November 19, 2020, for proposed raise of dam and supplemental EIS focused on requirements of the Federal Wild and Scenic River Act in modifications to the modeling to reflect the new biological opinion.

If you have any questions or concerns, you may contact me at, [gbrambill@valleywater.org](mailto:gbrambill@valleywater.org) or 1.408.630.2408.

Thank you.

Glenna Brambill, Management Analyst II,  
Board Committee Liaison  
Office of the Clerk of the Board

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