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January 11, 2021

Valley Water Board of Directors
5750 Almaden Expressway
San Jose, CA 95118

Via email to: board@valleywater.org

RE: January 12, 2021 Board Agenda Items 2.5 and 2.6 Regarding Pacheco Reservoir, Water Charges and the State Water Project Tax

Dear Chair Hsueh and Board Members,

The Sierra Club Loma Prieta Chapter advocates for water policy and water supply programs from the perspective to reduce environmental and social harm. We appreciate the opportunity to comment on the subject agenda items.

The Sierra Club, Loma Prieta Chapter has two main concerns related to the Pacheco Reservoir Expansion Project and preliminary groundwater charge and Capital Improvement Plan (CIP) items on the January 12, 2021 agenda. We describe our reasons behind these concerns in more detail below.

1. The State Water Project Tax is controversial in Santa Clara County and the proposed increase must be described in detail and the need/impetus for the increase explained.
2. The Pacheco Reservoir Expansion Project is no longer a viable project. The extraordinary cost increases signal further cost escalation and unacceptable water charge increases in the future, and lower cost alternatives to provide the same benefits are available. The extreme environmental impacts that would result from this project are certainly no longer justifiable, if they ever were.

State Water Project (SWP) Tax

Please provide more information regarding the SWP tax increase. What are the costs that are driving this immediate 48% increase for the average household? Valley Water should be transparent and tell the public why such a large increase is necessary, including how much of this increase will go towards the Delta Conveyance Project.

It is important to note some misleading information about the SWP tax in the staff report for agenda item 2.5. The report says Valley Water "is required to levy on all property in its jurisdiction not exempt from taxation, a tax sufficient to provide for all payments under its SWP contract with the California Department of Water Resources." However, what the contract actually says is (emphasis added): "**If in any year the District fails or is unable to raise sufficient funds by other means**, the governing body of the District shall upon written notice from the State levy [a tax] upon all property in the District not exempt from taxation..."

Many SWP contractors, including Metropolitan Water District (MWD), rely primarily on water charges to pay for SWP charges. MWD does collect property taxes as well, but water charges fund the majority of their SWP costs.

In 1978, in light of Proposition 13, Attorney General Ronald Robie opined that SWP contractors should not rely solely on property taxes to fund the SWP and “should rely first on water charges wherever feasible,” and that “Districts may not increase their tax rates over an average of the rates levied in the last several years” to pay for SWP charges.

Pacheco Reservoir

The Board needs to strongly consider whether or not it's worthwhile to continue with the Pacheco Reservoir replacement project. There are several reasons we are particularly concerned about this project.

1. In the past we have expressed our concerns about the potential for over-investing in costly capital projects, likely cost overruns, and the potential for over-burdening rate payers. The cost escalation for Pacheco Reservoir happened more quickly and extremely than we ever imagined. An alternative graph showing Preliminary Cost Projection without Pacheco should be included in future presentations to illustrate the magnitude of the impact this project will have on the CIP budget.
2. Project costs never go down. The new \$2.5 billion figure is now the bottom and construction feasibility studies haven't been completed, much less even 30 percent design documents. Construction timelines are also very likely to continue increase. Similar outcomes have been seen with the Anderson Dam and Rinconada Treatment Plant projects. Unforeseen issues will continue to arise and increase costs and timelines, and the larger the project the larger these increases will be.
3. The Pacheco Reservoir alternatives are unlikely to reduce life cycle costs significantly. How much will it cost just to investigate alternatives and update cost-benefit, feasibility, and environmental studies if a new alternative is selected? No matter the alternative, costs will far exceed \$2.5 billion in the long run.
4. The main benefits Pacheco Reservoir could provide, can also be provided by the B.F Sisk Dam Raise project. Originally, the main benefit of the Pacheco project for Santa Clara County was 5,000 to 6,000 acre-feet per year of emergency water supply. Later Pacheco was also put forth as the preferred alternative for the San Luis Low Point Improvement Project (SLLPIP). According to the recent Final Feasibility Report for the San Luis Dam Raise, that project will provide emergency water supply. The San Luis Dam Raise was also proposed as an alternative for the SLLPIP but was screened out because it was economically infeasible compared to other options. In light of the increased cost estimates for Pacheco, Valley Water should put resources into using the Sisk Dam raise to fix the San Luis Low Point issues and provide emergency supplies for Santa Clara County. The relative economic feasibility of these two projects has changed.
5. Aside from San Luis Reservoir, there are other reservoir projects underway that Valley Water can invest in. Specifically, we think investment in the Los Vaqueros project would be more sensible and cost effective.
6. Valley Water's optimistic demand projections, even with recent downward adjustments, are not likely to be realized. It appears rain and snowfall will be well below average this year and it is likely stronger water conservation will be needed, leading to reduced demand. Assuming any additional rebound from the previous drought is unwise. A reduced demand scenario should be considered in projecting rate increases. Removing the Pacheco project from the CIP would alleviate any addition rate increases needed due to reduced demand.
7. The alternative scenarios for ground water charges (which translates directly to increased water rates to consumers) clearly show the impact that continuing with the Pacheco project will have on rate payers in Santa Clara County. With the Pacheco project, the ground water charge portion of water rates in North County will increase by about 145% over the next ten years, not including increases in other charges (such as the Treated Water Surcharge). Without the project that increase would be about 110%. Either way it's a lot. Any reduction in rate increases would make a difference for many customers.
8. On top of all this is the issue we care most about, the conservation of nature and wildlife habitat. The impact of the Pacheco project on flora and fauna would be unmitigable.

We know it's difficult to give up on the Pacheco Reservoir project and the idea of a \$500 million grant, but no more taxpayer and rate payer dollars should be spent on this project. Costs will only continue to escalate and eventually the project will not go forward because the benefit/cost ratio presented for the Water Storage Infrastructure Program grant application does not pencil out. Any money spent will be wasted. Other projects are available to *optimize the use of existing supplies and infrastructure* at lower cost and lower risk, including recycled water and water conservation projects.

However, we expect the Board will postpone any decision to remove the Pacheco project from the Water Supply Master Plan and the CIP. Therefore, **we request that Valley Water conduct public outreach (or better yet, engagement) as outlined in the District's Project Delivery Process** for problem definition, conceptual alternatives, and feasible alternatives. This being the largest project ever undertaken by Valley Water, a high level of public engagement is warranted.

Thank you for your consideration of these concerns. We are available to discuss any of these issues with Board members or district staff and would welcome the opportunity to dive deeper into the issues introduced here.

Sincerely,



Katja Irvin
Water Committee Chair
Sierra Club Loma Prieta Chapter



Gladwyn d'Souza, Co-Chair, Conservation Committee,
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