



# Santa Clara Valley Water District

File No.: 21-0709

Agenda Date: 7/13/2021

Item No.: \*3.1.

## SUPPLEMENTAL BOARD AGENDA MEMORANDUM

### SUBJECT:

Approve Recommended Positions on Federal Legislation: H.R. 3404 (Huffman) - the Furthering Underutilized Technologies and Unleashing Responsible Expenditures for Western Water Infrastructure and Drought Resiliency Act (FUTURE Western Water Infrastructure and Drought Resiliency Act); H.R. 3293 (Blunt Rochester) - Low-Income Water Customer Assistance Programs Act of 2021; H.R. 1512 (Pallone) - Climate Leadership and Environmental Action for our Nation's Future Act (CLEAN Future Act); H.R. 2337 (Neal) - Public Servants Protection and Fairness Act of 2021; \*S. 2185 (Barrasso) - Western Water Infrastructure Act of 2021; \*S. 872 (Duckworth) - Environmental Justice for All Act; and Other Legislation That May Require Urgent Consideration for a Position by the Board.

### REASON FOR SUPPLEMENTAL MEMORANDUM:

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

### RECOMMENDATION:

- A. Adopt a position of "Support and Amend" on H.R. 3404 (Huffman) - Furthering Underutilized Technologies and Unleashing Responsible Expenditures for Western Water Infrastructure and Drought Resiliency Act (FUTURE Western Water Infrastructure and Drought Resiliency Act);
- B. Adopt a position of "Support and Amend" on H.R. 3293 (Blunt Rochester) - Low-Income Water Customer Assistance Programs Act of 2021;
- C. Adopt a position of "Support" on H.R. 1512 (Pallone) - Climate Leadership and Environmental Action for our Nation's Future Act (CLEAN Future Act);
- D. Adopt a position of "Support" on H.R. 2337 (Neal) - Public Servants Protection and Fairness Act of 2021;
- \*E. Adopt a position of "Support and Amend" on S. 2185 (Barrasso) - Western Water Infrastructure Act of 2021; and
- \*F. Adopt a position of "Support" on S. 872 (Duckworth) - Environmental Justice for All Act.

### SUMMARY:

**\*E. S. 2185 (Barrasso) - Western Water Infrastructure Act of 2021**

**Recommendation: Support and Amend**

**Priority Recommendation: 2**

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This is a comprehensive water infrastructure bill that would reauthorize several important water infrastructure programs established under the Water Infrastructure Improvements for the Nation (WIIN) Act that are set to expire in December 2021, including water storage, water recycling, and desalination projects. The bill would authorize significant increases in funding for these programs to better meet the financial demand, particularly as drought conditions worsen in the West and water managers turn to alternative sources of supply. The bill would also authorize funds to repair aging water infrastructure facilities owned by the Bureau of Reclamation.

The bill would do the following:

- Reauthorize the water storage, recycled water, and desalination provisions of the WIIN Act through 2026.
- Authorize \$1.6 billion for surface and groundwater storage projects.
- Authorize \$375 million for water recycling projects and \$125 million for desalination projects.
- Grandfather in water storage, recycled water, and desalination projects that have already begun feasibility-level studies as of January 1, 2021.
- Authorizes \$1 billion for water management improvement.
- Authorizes \$50 million for enhanced inspections of infrastructure constructed by Reclamation at least 50 years ago. “Enhanced inspections” are defined as inspections that use current or innovative technology, including Light Detection and Ranging (known as LiDAR), ground penetrating radar, or subsurface imaging that can detect whether a facility is structurally unsound or at risk of failure.
- Require the implementation of sediment management plans for federally-owned reservoirs to help prevent sediment from reducing water storage capacity.
- Authorizes \$5 billion through fiscal year 2026 to eliminate the maintenance backlog at Reclamation and support the rehabilitation or replacement of any Reclamation dam deemed a public health and safety risk.

**Status:**

The bill was introduced in the Senate on June 23, 2021, and was referred to the Committee on Energy and Natural Resources.

**Proposed Amendment:**

In order to better serve Valley Water’s interests, staff proposes the following amendment:

1. Insert language to amend the Calfed Bay Delta Authorization Act (Public Law 108-361) to remove the prohibition on use of federal funding for expanding Pacheco Reservoir. Expanding Pacheco Reservoir is critical for providing emergency water storage for the people of Santa Clara County, and removing this barrier to federal support aligns with the purpose of S. 2185.

**Importance to Valley Water:**

S. 2185 includes many provisions of interest to Valley Water, including investments in new storage and water recycling projects. These provisions would replace those from the WIIN Act that will expire in December 2021. Without a replacement, there would be no path to federal funding for new storage projects like the Pacheco Reservoir Expansion Project, and there would be no authorized competitive grant program for water recycling projects that Valley Water could access. The bill also includes a

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grandfather provision for storage projects that have already begun feasibility-level studies, such as the Pacheco Project, Sites Reservoir Project, and others. The bill would also authorize critical investments in assessing the structural integrity of Reclamation infrastructure facilities and reducing the maintenance backlog at Reclamation. As a Central Valley Project contractor, Valley Water depends on the integrity and reliable operation of Reclamation-owned facilities. To that end, these investments are important for Valley Water's operations.

**Pros:**

- The bill would make a significant investment in water infrastructure nationwide, including several programs that Valley Water could access to fund its storage and water recycling projects.
- The bill would grandfather in water storage projects that are already moving through the WIIN Act feasibility process, preserving a path to federal funding for the Pacheco Reservoir Expansion Project.
- The bill would authorized enhanced inspections of aging Reclamation infrastructure facilities and invest in eliminating the Reclamation maintenance backlog.
- With the proposed amendment, the bill would remove a barrier in current law to using federal funds for the construction of an expanded Pacheco Reservoir.

**Cons:**

- None identified at this time.

**\*F. S. 872 (Duckworth) - Environmental Justice for All Act****Recommendation: Support****Priority Recommendation: 3**

This is a comprehensive environmental justice bill that would take several steps to address environmental injustices and affirm the civil rights of individuals in these communities. Highlights of the bill include:

- Requires that achieving environmental justice is built into the mission of every federal agency;
- Empowers environmental justice communities to participate in federal policy decision-making that impacts their communities;
- Creates a White House Environmental Justice Interagency Council to coordinate a government-wide effort to identify the disproportionate health and environmental impacts of federal policies and programs;
- Creates programs to expand access to parks and outdoor spaces; and
- Authorizes environmental justice programs to fund research and projects that address disproportionate environmental and public health impacts on low-income and communities of color.

The bill would also require consideration of cumulative impacts and persistent violations in permitting

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decisions under the Clean Water Act and the Clean Air Act. Under current law, an agency is not required to take into account the cumulative pollutant levels in a particular area when deciding whether to grant a permit for an individual facility. This has resulted in a high concentration of pollution in certain areas, which are often comprised of low-income communities of color.

The Board has supported similar environmental justice bills during previous Congresses.

**Status:**

The bill was introduced in the Senate on March 18, 2021, and was referred to the Committee on Environment and Public Works. Senator Alex Padilla (D-CA) is an original cosponsor.

**Importance to Valley Water:**

This bill aligns with Valley Water's mission and general principles of providing Silicon Valley with safe, clean water for a healthy life, environment, and economy. Furthermore, the bill aligns with Executive Limitation 1.1, which states that a Board Appointed Officer shall: "Promote practices, principles, and programs that support Environmental Justice for Disadvantaged Communities, and shall consider Environmental Justice objectives where appropriate." Providing access to safe, clean water for all residents in Santa Clara County, regardless of race or income level, is critical to ensuring environmental justice in our own community.

**Pros:**

- The bill aligns with Valley Water's Executive Limitation 1.1 on environmental justice.

**Cons:**

- None identified at this time.

**FINANCIAL IMPACT:**

There is no financial impact associated with this item.

**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.

**UNCLASSIFIED MANAGER:**

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