



# Santa Clara Valley Water District

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**File No.:** 16-0205

**Agenda Date:** 4/12/2016

**Item No.:** \*4.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Creation of the Santa Clara Valley Water District Board of Directors' Fisheries and Aquatic Habitat Collaborative Effort (FAHCE) Ad Hoc Committee, Appointment of Members; Establishment of Specific Purpose and Terms in Accordance with Board Governance Policy GP-8 (Board Member Request R-16-0014).

### **RECOMMENDATION:**

Create the FAHCE Ad Hoc Committee, appoint members, and establish the purpose and terms in accordance with Board Governance Policy GP-8.

### **SUMMARY:**

#### Background

The Board provided, at its September 23, 2014 and subsequent meetings, direction to staff to expedite the resolution of the water rights complaint to the State Water Resources Control Board (SWRCB) as specified by the FAHCE Settlement Agreement, which was initialed in 2003 by the District, Guadalupe - Coyote Resource Conservation District (GCRCD), Trout Unlimited, the California Department of Fish and Wildlife (CDFW), U. S. Fish and Wildlife Service (USFWS), and National Marine Fisheries Service (NMFS), to address a water rights complaint filed by the GCRCD. The complaint before the SWRCB alleges that District water supply operations on Coyote Creek, Guadalupe River, and Stevens Creek adversely impact steelhead trout and Chinook salmon.

Key actions needed to support the District's planned petition before the SWRCB to remove the water rights complaint are completing (1) the environmental analysis and documentation of the FAHCE program, and (2) the fisheries habitat restoration plan. While recent progress is encouraging, efforts to achieve both of these items have, for several reasons, taken far longer than any of the Settlement Parties anticipated.

It is also imperative that the Settlement Parties formalize their agreement that completion of an habitat conservation plan is no longer a requirement prior to seeking dismissal of the water rights complaint and commencing implementation of the FAHCE restoration program but that, nonetheless, the FAHCE restoration program will be implemented in a manner that is consistent with the federal Endangered Species Act.

#### Board Member Request R-16-0014

At the March 22, 2016, meeting, the Board requested that an item be placed on the next agenda for the Board to consider establishing a FAHCE Ad Hoc Committee.

Board Governance Policy GP-8, provides the direction for establishing ad hoc committees (Attachment 1). Specifically, the policy states a committee comprised of less than a quorum of the Board and/or external members having a limited term, to accomplish a specific task, is established in accordance with Board Ad Hoc Committee procedure (W723S01), and will be used sparingly (Attachment 2). Annually, the purpose of an established Ad Hoc Committee will be reviewed to determine its relevance.

The item allows the Board to determine the specific purpose of the committee, determine term of service, expectations, level of authority, and appoint committee members. Expectations and authority should be carefully stated in order not to conflict with authority delegated to the BAOs.

*Proposed purposes of the FAHCE Committee:*

- (1) Track the progress of the District and other parties (Settlement Parties) of the FAHCE Settlement Agreement in completing requirements enabling dismissal of the water rights complaint and commencement of the restoration program.
- (2) Identify and recommend actions the Board can take to ensure expeditious completion of the requirements defined in Purpose 1, including engagement with appointed boards and senior officials of the other Settlement Parties.

The suggested duration is initially one-year with an extension, if deemed appropriate, after the required annual review by the Board to ensure that the Board's needs are being met as per Board Governance Policy GP-8.

**FINANCIAL IMPACT:**

The financial impacts of this action are limited to costs associated with the staffing of the FAHCE Ad Hoc Committee; the preparation and posting of agendas and review of the committee activities by the full Board of Directors on an annual basis.

**CEQA:**

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

- Attachment 1: Board Governance Policy GP-8
- Attachment 2: Board Ad Hoc Committee Procedures No. W723S01
- \*Attachment 3: Handout 4.1-A, B. Keegan
- \*Attachment 4: Handout 4.1-B, K. Irvin

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