



# Santa Clara Valley Water District

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**File No.:** 18-0896

**Agenda Date:** 12/5/2018

**Item No.:** 3.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

State Water Project Tax Discussion.

### **RECOMMENDATION:**

Consider information provided by staff and provide policy direction as necessary.

### **SUMMARY:**

The State Water Project (SWP) is a system of reservoirs, aqueducts, power plants, and pumping plants. Its main purpose is to store water and distribute it to urban and agricultural water suppliers in Northern California, the San Francisco Bay Area, the San Joaquin Valley, and Southern California.

The SWP Tax is a tax that may be levied by the SWP contractors to pay their obligations arising from their SWP water supply contracts with the California Department of Water Resources (DWR). In 1960, State voters approved the SWP indebtedness, which is paid for by the SWP Tax. Because this indebtedness was approved by the voters prior to the 1978 passage of Proposition 13, it is considered an “override tax”, not subject to Proposition 13 limitations.

The SWP Tax was initially levied by the District in fiscal year (FY) 1979-80 after passage of Proposition 13 when the District’s “5 cent” property tax revenue was reduced by 58%. When the District levies a SWP Tax to pay for its SWP water supply contractual obligations, both Water Code Section 11652 and the District’s SWP water supply contract require that levy be placed upon all property within the District’s jurisdiction not exempt from taxation.

For many years, the Board has adopted resolutions affirming its intent to rely on the SWP Tax to pay for 100% of the District’s financial obligations under its SWP water supply contract. There is a broad range of reliance on the SWP Tax among the other 28 SWP contractors to pay financial obligations under their SWP water supply contracts.

The District’s April 2018 SWP Tax levy projection ranges from \$18 million in FY 2018-19 to \$34 million in FY 2027-28, with the corresponding average annual SWP Tax bill for a single-family residence ranging from \$27 to \$46 per year respectively. If the SWP Tax is used to pay for the SWP portion of the California WaterFix (CWF) project, then the average annual SWP Tax bill for a single family residence could increase by as much as \$37 per year. However, DWR filed a validation action in July 2017 seeking judicial determination of DWR’s statutory authority to issue revenue bonds for

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the CWF, which could bring into question whether the CWF is part of the SWP, and whether the SWP Tax may be used for the CWF. Consequently, staff recommends the Board not use the SWP Tax to pay for the SWP portion of the CWF until DWR's validation action is resolved.

#### Guiding Principle #5

In October 2017, the Board adopted seven guiding principles for the District's participation in the CWF project. Guiding principle #5 provides that each water agency in the County that serves communities in which 85% of the water supply is not District-managed will receive, directly or indirectly, funding not exceeding the SWP Tax collected in that water agency's jurisdiction. Both the City of Palo Alto and Purissima Hills Water District would be eligible for guiding principle #5 grant funds.

Principle #5 funding may only be used for water conservation programs, recycled water, purified water, wastewater treatment plant environmental upgrades, automatic meter infrastructure updates, or dedicated environmental focused grants. Based on the April 2018 SWP Tax projection, staff anticipates that a total of \$22 million of funding would be available between FY 2018-19 and FY 2025-26 to carry out the purposes of guiding principle #5.

Guiding principle #5 requires the following:

- Water agencies contribute a 20% match toward eligible programs/projects, and
- Unused grant funds return to the Water Utility Fund in fiscal year 2025-2026.

#### Palo Alto and Purissima Hills

The importation of SWP water provides several general public benefits to Santa Clara County (County), including:

- Provides additional water supply.
- Prevents subsidence due to groundwater overdraft.
- Prevents saltwater intrusion due to groundwater overdraft.
- Supports economic growth in the county due to the availability of SWP water.

There are two retail customers (the City of Palo Alto and Purissima Hills Water District) in the County that do not pump groundwater or receive District treated water, but instead rely 100% on imported Hetch Hetchy water for primary water supply. In addition to the general public benefits mentioned

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above, the City of Palo Alto's emergency water supply source is available, in part, as a result of the importation and groundwater recharge (both direct and in lieu) of SWP water. In addition to the 8 wells used by the City of Palo Alto for emergency back-up, there are over 250 wells within the City of Palo Alto used by private property owners as a source of supply. While the Purissima Hills Water District itself does not have any wells that fall within North County Zone W-2, there are approximately 65 wells within the Purissima Hills Water District service area used by private property owners as a source of supply. The jurisdiction of both agencies also benefit from the District/SFPUC intertie via the availability of emergency water supply. However, unlike benefit assessments, which must be tied to benefits a property receives, a tax may be used for general government purposes without regard to the benefits provided to specific tax payors. As discussed above, the SWP Tax pays for indebtedness approved by State voters in 1960.

The City of Palo Alto sent a letter to the Board on October 26, 2018 (Attachment 2), which details their concerns with regard to District reliance on the SWP tax. City of Palo Alto officials have been invited to address the Board at the December 5, 2018 Board meeting.

#### Other Agency Reliance on the SWP Tax

SWP contractors' reliance on the SWP Tax collected within their respective jurisdiction varies from 0% to 100%. The following SWP contractors rely on the SWP Tax to pay for 100% of their SWP contractual obligations:

- Mojave Water Agency
- Coachella Valley Water District
- Castaic Lake Water Agency

SWP contractors that rely on the SWP Tax to pay for less than 100% of their SWP contractual obligations include:

- Metropolitan Water District (15%) - The Board had previously limited its reliance on the SWP Tax, but has suspended the tax limit clause in its Act since FY 2013-14
- Kern County Water Agency (12-15%) - Remainder, or 85% to 88% of SWP costs are billed directly to member units
- Antelope Valley East Kern Water Agency (62%) - current practice is that variable SWP costs

are paid by water rates, and fixed SWP costs are paid by the SWP Tax

- Zone 7 (80%) - current practice is that variable SWP costs are paid by water rates, and fixed SWP costs are paid by the SWP Tax
- San Bernardino Valley Municipal Water District (95%) - current practice is that variable SWP costs are paid by water rates, and fixed SWP costs are paid by the SWP Tax

SWP contractors that do not utilize the SWP Tax for paying their contractual obligations include:

- Tulare Lake Basin Water Storage District
- Central Coast Water Authority
- Ventura County Watershed Protection District
- County of Kings

### SWP Tax Alternatives

Below are several alternatives for Board consideration regarding the District's reliance on the SWP Tax:

- Option 1: Rely on SWP Tax to pay 100% of SWP costs (excluding CWF portion)
- Option 2: Rely on SWP Tax to pay fixed portion (~85%) of SWP costs only
- Option 3: Rely on SWP Tax to pay <85% of SWP costs only

Pros of reduced reliance on SWP Tax:

- Reduced property tax bill for county residents

Cons of reduced reliance on SWP Tax:

- Would increase Groundwater Production Charge and Open Space Credit to recoup lost revenue
- Reduces "fixed" revenue source and adds financial volatility

### **FINANCIAL IMPACT:**

Depending on direction provided by the Board, there could be a future financial impact to the District, rate payers, and tax payers in the County.

**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: PowerPoint

Attachment 2: Letter from City of Palo Alto

**UNCLASSIFIED MANAGER:**

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