



# Santa Clara Valley Water District

File No.: 19-0781

Agenda Date: 8/13/2019

Item No.: \*3.2.

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## BOARD AGENDA MEMORANDUM

### SUBJECT:

Update on Delta Conveyance Project and Request for Board Direction on Participation in the Delta Conveyance Project.

### RECOMMENDATION:

- A. Receive an update on the proposed Delta Conveyance Project;
- B. Provide direction to staff regarding principles for participation in the Delta Conveyance Project; and
- C. For the purposes of State Water Project (SWP) contract amendment negotiations and development of an Agreement in Principle (AIP), direct staff to identify a provisional range of participation as a SWP contractor at up to 340 cubic feet per second (cfs) of capacity in the Delta Conveyance Project.

### SUMMARY:

This agenda item provides updated information to the board and the public on the State's proposed Delta Conveyance Project, staff's preliminary analysis, and the status of discussions among State Water Project (SWP) and Central Valley Project (CVP) public water agencies regarding participation in the project. This agenda item also provides an opportunity to the Board to replace the 2017 "Guiding Principles for Participation in the California WaterFix" with updated principles, and to provide direction to staff for participation in negotiations for amending the SWP contract to include the Delta Conveyance Project. The Board's direction to staff, as described in Recommendation C, is provisional, given that staff's future recommendation on participation level will depend on a number of factors to be determined, including the State's project description, cost and benefit analysis, and environmental assessment.

In addition, Ms. Kathryn Mallon, Executive Director of the Delta Conveyance Design and Construction Authority (DCA), of which Director Estremera is president, has been invited to provide the current status of the project. A Supplemental Agenda Memo will be posted prior to August 13, 2019 Board meeting with the Ms. Mallon's presentation to be presented at the respective board meeting.

### BACKGROUND

Santa Clara Valley Water District (Valley Water) has been engaged in planning efforts to improve the

conveyance of SWP and CVP supplies across the Delta since 2006, recognizing that the current approach of diverting directly from rivers in the vulnerable southern end of the Delta is unsustainable. Plans to build twin tunnels beneath the Delta evolved from development of the Bay Delta Conservation Plan to the California WaterFix, with staff presenting information about the risks, costs, and benefits of the evolving planning effort, as well as various stakeholder perspectives, in 68 public meetings, which are listed in Attachment 1.

On October 17, 2017, the Valley Water Board approved Guiding Principles for Participation in the California WaterFix (Attachment 2), which staff used to shape Valley Water's participation in the WaterFix Project before development of that project was terminated early in 2019 by the Department of Water Resources.

On May 8, 2018, the Valley Water Board approved Resolution No. 18-24 (Attachment 3), which "authorized and approved the District's participation in the California WaterFix 1) as a SWP contractor, consistent with the Department of Water Resources approach to allocate the costs and benefits of the SWP contractors' share of the Project in proportion to the Table A amount specified in their State Water Contracts, and 2) as a CVP contractor, to negotiate the purchase of up to 200 cfs of the CVP Share, along with the necessary approvals and agreements from the U.C. Bureau of Reclamation (Reclamation), to convey the District's CVP and/or non-CVP water."

The State's perspective regarding the California WaterFix changed with the new State administration at the end of 2018, and on April 29, 2019, Governor Gavin Newsom signed Executive Order N-10-19 directing the State resource agencies to prepare a water resilience portfolio that includes a directive to assess "*current planning to modernize conveyance through the Bay Delta with a new single tunnel project.*" (Attachment 4). The Department of Water Resources (DWR) responded in early May 2019 by rescinding all permits, permit applications, bond authorizations, and California Environmental Quality Act (CEQA) documentation related to the California WaterFix project and by announcing that it is working with the public water agencies to begin a new, transparent environmental review process to address climate change resiliency and protect the State Water Project (SWP) conveyance from earthquake risk. Additional information on the new planning process can be found at the following website: <https://water.ca.gov/deltaconveyance> and in Attachment 5.

### **SWP CONTRACT AMENDMENT**

The SWP public water agencies, including Valley Water staff, have been discussing the move away from the WaterFix to a single tunnel conveyance project (now named the Delta Conveyance Project) and implications for participation, administration, and operation of the project. In parallel, DWR has been developing plans to move forward with planning for the Delta Conveyance Project. On July 24, 2019, public negotiations began to amend the SWP contract to include the Delta Conveyance Project. The negotiations are expected to result in an Agreement in Principle (AIP) among DWR and the SWP contractors that would describe how the costs and benefits of the Delta Conveyance Project, including capital and operating costs, would be allocated among SWP contractors. Staff anticipates that tentative participation levels for each contractor will be identified for inclusion in the draft AIP, which will be used to develop amended contractual language.

In the Fall of 2019, once the AIP negotiations are complete, DWR will request that State Water Project Contractors, including Valley Water, bring the draft AIP to their respective Boards for

consideration and approval.

After the State has completed CEQA review (anticipated in 2022) and has approved a preferred project, staff will bring the contract amendment and an updated recommended participation level to the Valley Water’s Board for decision.

**CURRENTLY LIMITED CVP INTEREST**

While there has been significant activity on the State side, there has been little interest expressed among CVP contractors to participate in the Delta Conveyance Project. Recently, DWR and the Bureau of Reclamation (Reclamation) have had discussions regarding Reclamation’s role in permitting for the project, but there has been no movement to develop a CVP participation approach to support participation in the project by CVP contractors.

**PRELIMINARY STAFF ANALYSIS**

At the May 2 and May 8, 2018 Board meetings, staff recommended and the Board approved Valley Water’s participation in the California WaterFix at a level that would sustain Valley Water’s existing level of SWP and CVP deliveries. This corresponded to the following participation levels and associated costs:

**Table 1. District Participation Level for the (now cancelled) California WaterFix Recommended in May 2018**

WaterFix Project	Recommended District Participation Level	District Share of Total Capital Costs	Estimated Incremental Water Supply Yield
<b>State Water Project share of Project (67%)</b>	2.5% of the State side	\$280 Million	18 TAF
<b>Share of Project Intended for Central Valley Project (33%)</b>	200 cfs (6.7% of the CVP side)	\$370 Million	25 TAF

Staff’s ability to evaluate the current single tunnel Delta Conveyance Project is currently limited because the size, cost and specific operating parameters for the Delta Conveyance Project have not yet been defined by the State. However, in early 2018, the State evaluated a 6,000 cfs single tunnel as the first phase of the California WaterFix in its document, “*Economic Analysis of Stage I of the California WaterFix*” (2018 Economic Analysis) and found this first stage to be cost effective. Given the lack of a participation approach on the CVP side, it appears likely that a single-tunnel Delta Conveyance Project, significantly smaller than the cancelled 9,000 cfs WaterFix, would be fully funded by participating SWP contractors. Once the State arrives at a project description for the Delta Conveyance Project, staff will develop an updated cost and benefit assessment and provide that information to the Board.

Valley Water Participation to Sustain CVP Supplies

Currently there is no discernable path forward to participate in the Delta Conveyance Project as a CVP contractor. Without CVP participation, the incremental water supply produced by the Delta Conveyance Project would be allocated among SWP contractors only. However, participation as a SWP contractor can provide limited reliability for Valley Water's CVP water in that the existing SWP contract allows DWR to wheel non-SWP water supplies, requested by a SWP contractor, through unused SWP capacity. These non-SWP supplies could include transfer supplies and/or CVP supplies. Staff's preliminary modeling analysis indicates that in many years there will likely be sufficient capacity in a significantly sized Delta Conveyance Project to also convey CVP supplies. Conveyance of CVP water through a State funded Delta Conveyance Project would have lower priority than conveyance of SWP water, but, as a SWP contractor, Valley Water would have priority over non-SWP contractors for conveying CVP supplies. In addition, the existing SWP contract does not require SWP contractors to pay additional charges beyond variable power charges for movement of non-SWP supplies.

If Valley Water participated in the Delta Conveyance Project as a SWP contractor only, it would continue to receive a South of Delta CVP allocation that would be delivered through existing Delta water channels and pumped at Jones Pumping Plant. However, it may be possible for any declines in CVP deliveries through Jones over time to be offset by the ability to wheel CVP water through Valley Water's participation in the State Project. Valley Water could, subject to the outcomes described below, request diversions by Reclamation of water available under CVP water rights that are in excess of water designated to wildlife refuges, water supply for settlement and CVP contractors, and environmental requirements. However, the quantity of available CVP supplies available to Valley Water in this way is uncertain.

The ability to convey CVP supplies to Valley Water through its SWP share of the Delta Conveyance Project is predicated upon several outcomes, none of which can be assured at this time:

- 1) The State Water Resources Control Board allows Reclamation to add the Delta Conveyance Project intakes as new points of diversion under Reclamation's water rights. This may be achieved if Reclamation joins the State in petitioning the State Water Resources Control Board to add the Delta Conveyance Project intakes as new points of diversion for both the SWP and CVP.
- 2) Both DWR and Reclamation approve the delivery of CVP water to Valley Water through the Delta Conveyance Project. This may be achieved by developing conveyance agreements with both agencies.
- 3) Availability of CVP water beyond Valley Water's south-of-Delta CVP allocation made available independent of the Delta Conveyance Project.

Valley Water Participation as a SWP Contractor

As part of the SWP contract amendment negotiations to include a Delta Conveyance Project, each SWP public water agency will be requested to estimate its participation level in the project, which

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would then be documented in the Agreement in Principle (AIP). The AIP will serve as a basis for moving forward with CEQA analysis of the project as well as for developing amended contractual language. Staff will bring a final decision regarding Valley Water's participation level to the Board after the environmental analysis has been completed and DWR has approved the project.

Staff's preliminary estimate is that Valley Water's participation at a 340 cfs level would be consistent with the strategy of "securing existing supplies and infrastructure" in Valley Water's Water Supply Master Plan 2040. Securing existing supplies would entail achieving an average annual supply of approximately 40,000 acre-feet per year by 2040 through the project, which would sustain the existing level of imported water supplies in the face of a projected trend of declining supplies absent the project. The declining supplies are anticipated due to stepped up regulatory restrictions in export pumping -- as well as sea level rise -- affecting both SWP and SWP deliveries south of Delta.

For reference, a 340 cfs capacity, if applied to a *hypothetical* 6,000 cfs Delta Conveyance project, would equate to a 5.7 percent project share, both in capacity and cost obligation. (Valley Water's current "Table A" share of the State Water Project is approximately 2.5 percent.) A 340 cfs capacity may provide a similar yield to the participation level identified for the previously analyzed California WaterFix, as shown above in Table 1. (Yield estimates will be confirmed once the State publishes a project description and modeling analysis of that project has been undertaken.)

Approximately a third of the State incremental supplies is projected to come in the form of water supplies available under high-flow conditions that cannot be stored in SWP facilities, which means that Valley Water may need to pair project participation with investments in additional storage facilities in order to optimize benefits. (This assessment will be revisited when the State announces the proposed project including tunnel size and presents a cost and benefit assessment for the Delta Conveyance Project.)

Recommendation C applies a provisional range of participation in the Delta Conveyance Project at up to 340 cfs for the purposes of State Water Project contract amendment negotiations and development of an Agreement in Principle (AIP). The Board will have the opportunity to confirm or change Valley Water's participation level after the CEQA analysis has been completed and further project information is available; however, at that time it may be difficult to increase Valley Water's participation level if other participating water agencies are unwilling to reduce their shares.

## **GUIDING PRINCIPLES FOR PARTICIPATION IN THE DELTA CONVEYANCE PROJECT**

On October 17, 2017, the Valley Water Board adopted Guiding Principles for Participation in the California WaterFix (Attachment 2). Staff's current review indicates that these principles are still largely applicable to participation in the Delta Conveyance Project. Nonetheless, to provide additional clarity under the changed circumstances, Recommendation B seeks direction from the Board regarding principles of participation in the Delta Conveyance Project to guide staff in the forthcoming negotiations and discussions. Key adjustments from the October 2017 principles may include:

- Recognition in Principle 6 that Valley Water may wish to participate in a larger portion of the Delta Conveyance Project as a SWP contractor than its standard "Table A" 2.5 percentage,

given the current absence of a CVP participation approach.

- Consideration of additional investments in storage to regulate anticipated high-flow diversions of water available through the Project.

## **ENVIRONMENTAL REVIEW**

Staff currently expects the State to release a Notice of Preparation in the fall or winter of 2019, kicking off a two and a half to three-year process to complete the environmental review and related permitting activities for a new project that includes consideration of a single tunnel conveyance project. During the June 21, 2019 meeting of the Delta Conveyance Design and Construction Authority (DCA), of which Director Estremera is president, the DCA authorized an amendment to the agreement between the DCA and DWR to allow the DCA to provide technical support services for this new environmental planning process. Under DWR's oversight, the DCA will provide engineering, field studies and design work to inform the environmental planning process, and assist in evaluating and minimizing community impacts. DWR will be the lead agency under CEQA and will be responsible for approval of any potential project.

## **FINANCIAL SUPPORT FOR THE DESIGN AND CONSTRUCTION AUTHORITY (DCA)**

The preliminary DCA budget and schedule for the planning phase is approximately \$348 million for May 2019 through June 2022 and may need to be adjusted once DWR completes its Notice of Preparation. The DCA's approved FY19/20 budget is \$102 million. Staff anticipates that Valley Water will be requested to fund a portion of the \$348 Million in proportion to its tentative participation level as a SWP contractor. This funding request will be brought to the Board in the form of a funding agreement possibly in the fall of 2019.

On June 27, 2019, DWR and the DCA executed an amendment to the Joint Exercise of Powers Agreement which provides for DWR to contribute up to \$19.7 million in the near term to fund DCA work efforts in support of DWR-led environmental planning. The agreement also provides that these funds will be recovered in full by DWR by December 15, 2019, from funds that will be contributed to DWR by participating SWP public water agencies.

At its June 21, 2019 meeting, the DCA also amended its contract with Jacobs Engineering Group, Inc. to provide services to assist the DCA in its environmental planning including program management support, engineering, including developing alternatives analysis and concept engineering reports, field work coordination and management, and stakeholder engagement support. The expected cost of these services is \$38.6 million.

Per Ms. Mallon's June Executive Director's report, the engineering team is working to fill gaps in the conceptual engineering work that were identified in public comments on the WaterFix project. The team is investigating the feasibility of an alternative proposed by Congressman Garamendi and is evaluating geotechnical aspects to better address public comments and more accurately assess and mitigate project impacts. In addition, Ms. Mallon has been meeting with Delta community leaders to exchange information and solicit input.

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**GUEST SPEAKER**

Ms. Kathryn Mallon, Executive Director of the DCA, has been invited to the Valley Water Board meeting and will be providing the current status of the project. Ms. Mallon is a registered civil engineer in California with 30 years of planning, design and construction experience. For the past 13 years, she has focused exclusively on programmatic management of major capital programs in both the public and private sectors, including management of the City of New York's \$14 billion Water and Wastewater Capital Program, and most recently, Bloomberg LP's new state-of-the-art European Headquarters in central London.

At the City of New York, she managed a staff of 500 engineers, scientists and other professionals overseeing design and construction of well over 100 active capital projects. During her tenure, the agency delivered the \$3 billion Croton Water Treatment Plant, \$5 billion Newtown Creek Water Pollution Control Plant Secondary Treatment Upgrades, \$5 billion City Tunnel Program, and launched the \$2 billion Rondout West Branch Tunnel Program.

Ms. Mallon has a bachelor's degree in civil engineering from the University of Illinois, Urbana-Champaign, and a master's degree in environmental engineering from the University of North Carolina, Chapel Hill.

**FINANCIAL IMPACT:**

There is no financial impact associated with this item at this time. Further analysis is necessary to determine the financial impacts associated with this project, and are subject to Board action to be taken at such future dates as applicable.

**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: Delta Conveyance Discussions Summary

Attachment 2: SCVWD Resolution No. 17-68

Attachment 3: SCVWD Resolution No. 18-24

Attachment 4: Governor's Executive Order N-10-19

Attachment 5: DWR Infrastructure Q&A

Attachment 6: PowerPoint

\*Supplemental Board Agenda Memo

\*Supplemental Attachment 1: PowerPoint

\*Handout 3.2-A: Delta Conveyance Working Group Memo

**UNCLASSIFIED MANAGER:**

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