



# Santa Clara Valley Water District

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**File No.:** 21-0386

**Agenda Date:** 5/11/2021

**Item No.:** 6.2.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Adopt a Resolution Certifying the Final Environmental Impact Report, Adopting the Mitigation Monitoring and Reporting Program, Findings of Fact, and Statement of Overriding Considerations for the Almaden Lake Improvement Project; Approve the Project as Project D4 to be constructed under the Safe, Clean Water and Natural Flood Protection Program, Project No. 26044001 (San Jose, District 4).

### **RECOMMENDATION:**

- A. Consider the Potential Environmental Effects of the Almaden Lake Improvement Project as discussed in the Final Environmental Impact Report (EIR);
- B. Adopt a RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, FINDINGS OF FACT, AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE ALMADEN LAKE IMPROVEMENT PROJECT; and
- C. Approve the Almaden Lake Improvement Project as Project D4 (Fish Habitat and Passage Improvement) to be constructed under the Safe, Clean Water and Natural Flood Protection Program.

### **SUMMARY:**

Almaden Lake Park (Park) is a 65-acre, public access park located in the City of San José. The 32-acre Almaden Lake (Lake), located entirely with the Park, was created by in- and off-stream gravel quarry operations from late 1940s to 1960. The off-stream gravel quarry operation was located along the east side of Alamos Creek and was comprised of two large pits. After the gravel quarry operations ceased, heavy storm events eroded the levee that used to separate the creek from the quarry, resulting in creek waters flowing into the former quarry area, creating the Lake. After formation of the Lake, mercury-laden sediment originating from historical upstream mining activities continue to be transported downstream in Alamos Creek and deposited in the Lake. When the Lake sediment and the water at the bottom of the Lake experience low oxygen level, certain microbes transform elemental mercury into methylmercury, a strong neurotoxin that bioaccumulates in Lake fisheries.

To reduce methylmercury concentrations in the Lake, Santa Clara Valley Water District (Valley Water) installed four solar-powered circulators (SolarBees) between 2006 and 2009. The SolarBees alleviate conditions that favor the formation of methylmercury by mixing Lake waters, thereby increasing

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dissolved oxygen in the water column and reducing anoxic conditions. Valley Water has continued to operate these SolarBees. Results of water samples collected from 2009 to 2017 show a reduction in methylmercury concentrations. However, reductions in methylmercury in fish tissues have not been conclusively observed.

The Almaden Lake Improvement Project (Almaden Lake Project or Project) is being proposed to address the environmental conditions as described above by re-establishing the Alamitos Creek channel (Creek), separating the Creek from the Lake to improve fisheries access to spawning and rearing habitat, and reducing methylmercury levels in the Lake. The Project would restore the Alamitos Creek channel through the Lake footprint, and recontour and cap the bed of the separated Lake. Doing so would reduce the production and release of methylmercury from the Lake to downstream Guadalupe River and San Francisco Bay, and remove passage impediments, entrainment risks, and predatory impacts to native fish posed by the Lake.

### **Project Description and Environmental Benefits**

The Project would achieve the Project objectives through the following improvements:

- Separating Alamitos Creek from Almaden Lake by constructing a levee and restoring the channel;
- Re-contouring the remaining Lake bottom and capping it with clean fill;
- Expanding the Park area into a small portion of the existing Lake at the beach area;
- Stabilizing the existing island and constructing a new island;
- Establishing native vegetation along the banks and floodplain of the restored Creek channel, new Lake edge, and the islands;
- Connecting the Lake via pipeline to an imported water supply from the nearby Almaden Valley Pipeline;
- Adding a pipeline connection between the Lake and the Los Alamitos Percolation Pond/Los Capitancillos Percolation Ponds; and
- Continuing to implement measures, such as operating the SolarBees, to manage and reduce future methylmercury production in the Lake.

### **Safe, Clean Water and Natural Flood Protection Program**

In November 2012, the voters of Santa Clara County approved Measure B, the Safe, Clean Water and Natural Flood Protection Program, as a countywide special parcel tax for 15 years with a sunset date of June 30, 2028. In November 2020, the voters approved Measure S, a renewal of the 2012 Safe, Clean Water and Natural Flood Protection Program (“Safe, Clean Water Program”). The Safe Clean Water Program identifies six types of priority Projects (Priorities A-F) and lists existing and newly proposed projects under each priority. Priority D include several categories of projects (Project

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D1-D8) to restore wildlife habitat and provide open space. Specifically, Project D4 would restore and maintain healthy fish populations by improving fish passage and habitat. Five key performance indicators (KPIs) were listed for the Project D4. KPI #1 provides for completion of planning and design of two creek/lake separation projects (Almaden Lake and Ogier Pond projects were identified). KPI #2 provides for construction of a creek/lake separation project in partnership with local agencies. As Valley Water is nearing completion of the design for the Almaden Lake Project under KPI #1, staff is recommending that the Board select the Project to be constructed as Project D4 under KPI #2.

### **Public Outreach Efforts**

In 2013, staff developed Almaden Lake Project alternatives based on year-long outreach efforts and extensive comments received from the public. These alternatives were discussed with Valley Water internal staff, resource agencies, and City of San José. Extensive workshops with the public, environmental groups, and homeowner associations took place in 2014 to refine the alternatives and seek further input from the public.

On April 9, 2014, a public meeting was held in San José where staff identified two alternatives as Valley Water's preferred project alternatives for environmental review.

Additional community meetings and homeowner associations meetings have been held from 2015 to date. 30% design plans were completed in 2020 and 60% design plans will be completed by April 2021.

### **Environmental Review**

A Draft EIR was prepared to provide the Board, public, responsible agencies, and trustee agencies with information about the potential environmental effects of the Almaden Lake Project. The Draft EIR also analyzes a reasonable range of alternatives based on input from environmental assessments, public participation process, and resource agencies. The Draft EIR describes project elements, evaluates project impacts, and proposes measures to avoid or minimize such impacts. The Draft EIR was prepared in compliance with the California Environmental Quality Act (CEQA) of 1970 (as amended) and the State CEQA Guidelines (California Code of Regulations [CCR] title 14, section (§) 15000 et seq.).

On December 13, 2019, Valley Water released the Draft EIR for public review (State Clearinghouse No. 2014042041). The public review and comment period began on December 13, 2019 and closed on January 27, 2020. A public meeting to receive comments on the Almaden Lake Project was held on January 8, 2020. Valley Water allowed more time for resource agencies to review and comment in response to the agencies' requests. Letters and comments were received from the public and agencies in addition to oral comments received at the January 8, 2020 public meeting. Staff considered these comments in the preparation of the Final EIR. The Final EIR contains all comments received on the Draft EIR and Valley Water's responses to these comments.

## **Summary of Environmental Impacts**

The Final EIR concludes that the Almaden Lake Project would result in no or less-than-significant impacts relating to agricultural/forest resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, public services, land use and planning, mineral resources, population and housing, recreation, transportation, utilities/service systems, and wildfire.

The Final EIR concludes that the Project would result in significant impacts on several resource areas, including aesthetics, air quality, biological resources, cultural resources, and noise. Most of these significant impacts are short term impacts during construction of the Project. For each significant impact, feasible mitigation measures are proposed to either avoid or minimize or otherwise mitigate for the impacts. With the exception of aesthetics (discussed in more details below), the identified significant impacts would be reduced to levels of less than significant after implementation of the avoidance and mitigation measures.

As described in Section 3.A of the Final EIR, during construction the Almaden Lake Project would result in temporary impacts on the visual character of the surrounding area during construction. Direct public views of the Park portions the Almaden Lake Project site, including staging areas within the Park, would be available from adjacent public roadways and sidewalks, as well as the Almaden Lake Village residential area to the east. The vista of the lake from the surrounding areas, which is the main visual element in the fore and middle ground, would be diminished compared to existing conditions. Since construction would last more than two years, and the visual character of the lake would not be fully restored until after restoration plantings are established, the short-term impact to visual character would be significant during construction. While the Project includes temporary installation of a fence around the construction work area to minimize views of construction activities from surrounding areas, such measure would not completely block all views of construction. In addition, even though the restored channel and new levee would be planted with native vegetation and other graded areas would be seeded with grasses once construction around the lake is completed, the grasses would establish in a few months, but restoration plantings could take many years to become fully established.

There are no other feasible measures to minimize the visual impact during construction and before the restoration plantings are fully established, and therefore this impact is determined to be significant and unavoidable.

## **Statement of Overriding Considerations**

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a project against its unavoidable environmental risks when determining whether to approve the project. When a lead agency approves a project which will result in significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency must adopt a statement of overriding considerations (CEQA Guidelines, section 15093). The Statement of Overriding Considerations sets forth the specific reasons why the agency finds that the project's benefits would render the Project's unavoidable adverse environmental effects as acceptable. (CEQA Guidelines Sec.15093, 15043(b); see also Public Resources Code Sec. 21081

(b.)

The Project components were designed to benefit local, native fish populations by improving anadromous fish passage and riverine habitat, reducing non-native fish predation, reducing water temperatures and mercury methylation, and improving ecosystem function, while also supporting existing recreational use of Almaden Lake Park by the surrounding community. Existing recreational uses would continue at the Park, with some facilities improvements to enhance existing recreational uses, including new trails/walking paths, enhanced bird and wildlife viewing opportunities, and new open park area. The Project would also improve water quality in Alamos Creek and Almaden Lake, which are waters of the U.S. and of the State. These improvements, along with the Project's maintenance of water supply and recreational uses, would provide net benefits to the waters of the U.S. and the State.

Based on preliminary evaluation of the Project, in August 2018 the San Francisco Bay Regional Water Quality Control Board's Executive Officer issued a letter to Valley Water concurring with its permitting staff's determination that by restoring 11 acres and 1,700 linear feet of Alamos Creek, the Project's habitat enhancement would improve several beneficial uses, which translates to significant lifts in function and value of Alamos Creek and that the restored channel reach is expected to reduce a portion of the temperature barrier for fish passage. In addition, the Regional Board found that the Project would improve water quality in the Lake by significantly improving water circulation in the Lake and its functions and values, capping the Lake substrate with impermeable layer and replumbing the water supply to the Lake, reducing methylmercury production and concentrations and thus improving several beneficial uses in the Lake and downstream, and increasing riparian trees/vegetation and wetlands along the new lake and stream margins. The Regional Board concluded that the Almaden Lake Project provides a combination of water quality improvements within the Lake and restoration of riverine habitat that will provide adequate benefits to mitigate for impacts resulting from both the Lake Project itself and another Valley Water's flood protection Project (Upper Berryessa Project).

### **Next Steps**

Staff has completed the Final EIR for the Almaden Lake Project and is requesting Board's certification of the EIR and approval of the Project. As part of approval of the Project, the Board is recommended to adopt the Resolution (Attachment 2) which makes Findings of Fact, adopts a Mitigation Monitoring or Reporting Program, and adopts a Statement of Overriding Considerations.

Should the Board approve the recommendation to select the Almaden Lake Project as the project to be constructed under Project D4 - KPI #2, it will be identified accordingly in the renewed Safe, Clean Water Program's Five-Year Implementation Plan for FY's 2022-2026, which will be presented to the Board for approval in June 2021.

Should the Board approve the Project, staff will pursue the necessary permits in a timely manner and complete the design and construction contract documents for the Project. Staff anticipates it will request Board's adoption of the final plans and specifications and authorization for obtaining construction bids at the beginning of 2022 and start construction in summer of 2022.

**FINANCIAL IMPACT:**

The Almaden Lake Improvement Project, Project No. 26044001 is included in the Draft Five-Year 2022-26 Capital Improvement Program (CIP) and in the Board-adopted FY 2020-21 Budget. The estimated cost for construction is approximately \$45 million, the overall total project cost will remain unchanged. The Project is funded through the Safe, Clean Water and Natural Flood Protection Fund (Fund 26).

**CEQA:**

A Final EIR has been prepared for the Almaden Lake Project and is before the Board for certification. The Final EIR is available for the Board and public review on the Valley Water's website:

<https://www.valleywater.org/project-updates/creek-river-projects/almaden-lake-improvement-project>

**ATTACHMENTS:**

Attachment 1: Final EIR Cover Page and Link

Attachment 2: Resolution

Attachment 3: Project Delivery Chart

**UNCLASSIFIED MANAGER:**

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