



Santa Clara Valley Water District

File No.: 21-0722

Agenda Date: 7/13/2021

Item No.: 3.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Adopt Recommended Positions on State Legislation: AB 819 (Levine) California Environmental Quality Act: Notices and Documents: Electronic Filing and Posting; and Other Legislation Which May Require Urgent Consideration for a Position by the Board.

RECOMMENDATION:

Adopt a Position of "Support" on: AB 819 (Levine) California Environmental Quality Act: notices and documents: electronic filing and posting.

SUMMARY:

AB 819 (Levine) California Environmental Quality Act: notices and documents: electronic filing and posting.

Position Recommendation: Support

Priority: 3

The California Environmental Quality Act (CEQA) requires that lead state and local agencies prepare environmental review documents and provide notices for any discretionary projects that may impact the environment unless the project is excluded or exempt from CEQA review.

Current law requires that lead agencies submit draft environmental review documents to the State Clearinghouse in hard-copy or electronic form in the following instances: when a state agency is the lead agency, a responsible agency, or a trustee agency; when a state agency otherwise has jurisdiction with respect to the project; or when the project is of sufficient statewide, regional, or areawide environmental significance. AB 819 would require draft environmental review documents to be submitted to the State Clearinghouse for all projects, not only under the specified circumstances. It would also eliminate the option for a lead agency to submit hard copies of CEQA documents; instead, documents will be submitted in electronic form to the State Clearinghouse. In addition, lead agencies would also have to post draft environmental review documents on their own website, if any.

Current law requires state agencies to file notices of determination (NOD) with the Office of Planning and Research (OPR) after project approval. If a state agency determines that a project is exempt, it may, but is not required to, file a notice of exemption (NOE) with OPR. Local agencies are required to submit NODs to the county clerk of a county in which the project will be located; similarly, a local

agency may, but not required to, file an NOE with the county clerk. AB 819 would require state agencies to file NODs/NOEs electronically with OPR and would require OPR to post these documents on its website for at least 12 months. Local agencies would be required to file NODs/NOEs electronically with the applicable county clerk if available.

Current law requires lead agencies to mail certain notices, including (a) notice to responsible agencies, OPR, and public agencies with jurisdiction over natural resources affected by a project if an Environmental Impact Report (EIR) is required, (b) notice of scoping meetings, (c) notice of the preparation of an EIR or Negative Declaration/Mitigated Negative Declaration (ND/MND), and (d) notice of completion filed with OPR after a public agency completed a CEQA document. AB 819 would require that in addition to mailing these notices, the lead agency shall also post the notices on its internet website, if any.

Importance to Valley Water

While some Valley Water projects are exempt from CEQA review, many water utility and watershed capital and operational projects require preparation of NDs, MNDs, or EIRs. If AB 819 becomes law, Valley Water would need to modify some of its existing CEQA procedures to address the legislative changes; however, as described below, many of the proposed changes in AB 819 are already included in our existing procedures or have recently been implemented during the pandemic.

For example, while AB 819 would expand the requirement to submit draft CEQA documents to the State Clearinghouse for all projects rather than under specified circumstances and require submission of documents in an electronic form, Valley Water has already been providing draft CEQA documents for its projects to the State Clearinghouse and submitting them in electronic form. In addition, Valley Water's standard practice already includes posting of draft CEQA documents on our website and accepting public comments on draft ND/MNDs and draft EIRs for 30 days and 45 days respectively. Finally, in Executive Order N-54-20 issued by the Governor in April 2020 during the COVID-19 pandemic, specified CEQA filing, posting, notice, and public access requirements were suspended and the order allowed certain posting and filing requirements to be carried out electronically. While the Governor has recently issued another executive order that would lift these electronic filing and posting requirements effective September 30, 2021, the continuation with such practices is not anticipated to impose a significant burden on Valley Water if AB 819 becomes law.

The filing of these documents and providing notices electronically would allow interested citizens to access information on projects impacting their community, or anywhere in the state, anytime, and anywhere. This modernization would increase public awareness of projects that fall under CEQA and make the review process more efficient. Electronic delivery also would reduce staff time, make delivery of documents instantaneous, and reduce paper waste.

Staff recommends that the Board adopt a position of "Support" on AB 819.

Pros

- Electronic delivery of CEQA documents would modernize the filing process and increase public access to notices.

Cons

- None identified at this time.

FINANCIAL IMPACT:

There is no financial impact associated with these items.

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:

None

UNCLASSIFIED MANAGER:

Don Rocha, 408-630-2338