



# Santa Clara Valley Water District

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**File No.:** 22-1029

**Agenda Date:** 11/22/2022

**Item No.:** 7.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Approve the Fiscal Year 2021-2022 (FY22) Safe, Clean Water and Natural Flood Protection Program Annual Report (Annual Report) and Authorize Staff to Submit it to the Independent Monitoring Committee for its Review.

### **RECOMMENDATION:**

- A. Approve the Fiscal Year 2021-2022 (FY22) Safe, Clean Water and Natural Flood Protection Program Annual Report and authorize staff to submit it to the Independent Monitoring Committee for its review; and
- B. Authorize staff to update the Annual Report with audited financials.

### **SUMMARY:**

Fiscal Year 2021-22 (FY22) marked the first year Santa Clara Valley Water District (Valley Water) implemented the renewed Safe, Clean Water and Natural Flood Protection Program (Program), which Santa Clara County voters overwhelmingly approved in November 2020, to address new and growing challenges.

The renewed Program became effective on July 1, 2021. This is the first annual report prepared for the Program that is being implemented on a 15-year financial cycle. It provides progress updates for each project under the following priorities:

- Priority A:** Ensure a Safe, Reliable Water Supply
- Priority B:** Reduce Toxins, Hazards, and Contaminants in our Waterways
- Priority C:** Protect Our Water Supply and Dams from Earthquakes and Other Natural Disasters
- Priority D:** Restore Wildlife Habitat and Provide Open Space
- Priority E:** Provide Flood Protection to Homes, Businesses, Schools, Streets, and Highways
- Priority F:** Support Public Health and Public Safety for Our Community

For transparency and accountability, the voter-approved Program requires that an external

Independent Monitoring Committee (IMC) appointed by the Valley Water Board conduct an annual review of the Annual Report. The IMC is required to provide its Annual Report to the Board regarding the implementation of the intended results of the Program.

Each of the program priorities has specific operations and capital projects, which have key performance indicators (KPIs) meant to keep them on track to meet the overall program priorities.

The Annual Report provides project status towards accomplishing the KPIs and the targets identified in the Safe, Clean Water Program's *5-Year Implementation Plan for Fiscal Years 2022-2026* or Valley Water's *FY2022-2026 Capital Improvement Program*. The project status categories with definitions are listed below:

**On Target** - The project is on track to meet targets.

**Adjusted** - Targets will not be met and implementation required a Board-approved schedule adjustment (future year status will be based upon the Board-approved adjusted schedule).

**Modified** -The Board formally modified the project following a public hearing (future year status' will be based upon the modified project targets).

**Not on Target** - The project target has not been or will not be met.

**On Hold** - Work on delivering the project KPIs is temporarily on hold while progress is being made on addressing challenges to meeting targets.

**Scheduled to Start** - The project is scheduled to start in a future fiscal year.

**Completed** - The project has been completed and the KPIs have been met.

### ***Overall FY22 Program Performance***

There are 32 projects included in the Program. Of these, 21 projects (66%) were on target; 9 projects (28%) required schedule adjustments; 1 project (3%) was modified; and 1 project (3%) was scheduled to start in future years.

#### **Figure 1: FY22 Status: 32 Projects Total**

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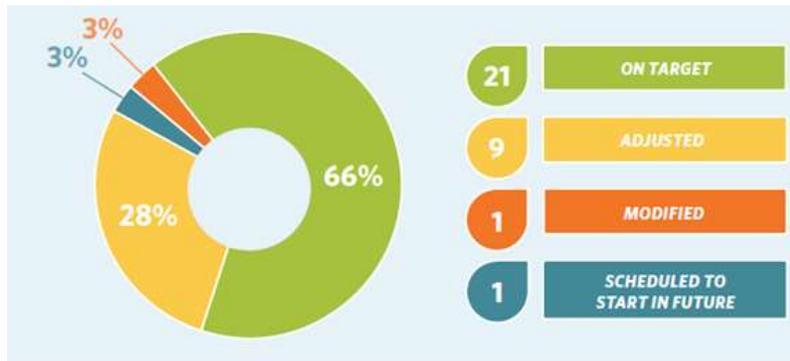


Figure 2: Project Status

Project	Project Description	Status
<b>Priority A: Ensure a Safe, Reliable Water Supply</b>		
A1	Pacheco Reservoir Expansion	ADJUSTED*
A2	Water Conservation Rebates and Programs	ON TARGET
A3	Pipeline Reliability	ADJUSTED
<b>Priority B: Reduce Toxins, Hazards, and Contaminants in Our Waterways</b>		
B1	Impaired Water Bodies Improvement	ON TARGET
B2	Inter-Agency Urban Runoff Program	ON TARGET
B3	Hazardous Materials Management and Response	ON TARGET
B4	Support Volunteer Cleanup Efforts	ON TARGET
<b>Priority C: Protect our Water Supply and Dams from Earthquakes and Other Natural Disasters</b>		
C1	Anderson Dam Seismic Retrofit	ADJUSTED*
<b>Priority D: Restore Wildlife Habitat and Provide Open Space</b>		
D1	Management of Riparian Planting and Invasive Plant Removal	ON TARGET
D2	Revitalize Riparian, Upland and Wetland Habitat	ON TARGET
D3	Sediment Reuse to Support Shoreline Restoration	ON TARGET
D4	Fish Habitat and Passage Improvement	ADJUSTED
D5	Ecological Data Collection and Analysis	ON TARGET
D6	Restoration of Natural Creek Functions	ADJUSTED
D7	Partnerships for the Conservation of Habitat Lands	ON TARGET
<b>Priority E: Provide Flood Protection to Homes, Businesses, Schools, Streets, and Highways</b>		
E1	Coyote Creek Flood Protection	ON TARGET
E2	Sunnyvale East and Sunnyvale West Channels Flood Protection	ADJUSTED
E3	Lower Berryessa Flood Protection, including Tularcitos and Upper Calera Creeks (Phase 3)	SCHEDULED TO START
E4	Upper Penitencia Creek Flood Protection	ADJUSTED
E5	San Francisquito Creek Flood Protection	ADJUSTED
E6	Upper Ulagas Creek Flood Protection	ON TARGET
E7	San Francisco Bay Shoreline Protection	ON TARGET
E8	Upper Guadalupe River Flood Protection	ADJUSTED
<b>Priority F: Support Public Health and Public Safety for Our Community</b>		
F1	Vegetation Control and Sediment Removal for Capacity	ON TARGET
F2	Emergency Response Planning and Preparedness	ON TARGET
F3	Flood Risk Assessment Studies	ON TARGET
F4	Vegetation Management for Access and Fire Safety	ON TARGET
F5	Good Neighbor Program: Encampment Cleanup	MODIFIED
F6	Good Neighbor Program: Graffiti and Litter Removal and Public Art	ON TARGET
F7	Emergency Response Upgrades	ON TARGET
F8	Sustainable Creek Infrastructure for Continued Public Safety	ON TARGET
F9	Grants and Partnerships for Safe, Clean Water, Flood Protection and Environmental Stewardship	ON TARGET

\*The project is adjusted only in terms of the Safe, Clean Water Program KPI of providing funding for the two projects and is not reflective of the overall project schedule.

In FY22, the Board approved modifying Project F5: Good Neighbor Program: Encampment Cleanup KPI #1. The KPI was changed to “Manage 300 acres annually to clean up trash, debris, and hazardous pollutants generated from encampments and to reduce the amount of these pollutants entering streams.” The Board also adjusted the project description and benefits. The modification and text adjustments were in response to the changing legal, political and social climate related to encampment sites and homelessness in Santa Clara County.

**Annual Budget and Expenditures**

For Fiscal Year 2021-22 (FY22), the adjusted budget for the Program totaled \$146.6 million. Actual funds expended and encumbered as of June 30, 2022, were approximately \$71.6 million, approximately 49% of the Program's adjusted budget.

The underspending was primarily due to delays in capital project construction, which occurred for several reasons. These included design changes and coordination with external partners; the need to reapply for environmental regulatory permits due to design changes because of external partnerships; lengthier negotiations with the permitting agencies; additional time required to complete studies in preparation for design or permit applications; and coordination with property owners for Valley Water to acquire right-of-way property rights. Among the capital projects with underspent budgets during FY22 were Sunnyvale East and Sunnyvale West Channels Flood Protection (E2), Upper Penitencia Creek Flood Protection (E4), San Francisquito Creek Flood Protection (E5), Upper Llagas Creek Flood Protection (E6), Almaden Lake Improvement (D4.2) and Bolsa Road Fish Passage Project (D6.2).

### ***Risk Factors Impacting Projects***

For capital projects, the annual report also utilizes a rating system that provides confidence levels for schedule, funding, permits and jurisdictional complexity (the level to which other entities or jurisdictions can impact a project's deliverables). By applying a confidence level to each of these topics, the IMC and community are aware of the risk factors that could impact the progress and status of each project. The confidence levels are addressed under the Opportunities and Challenges section for each of the capital projects. The Annual Report, Appendix C, Capital Projects Jurisdictional Complexities, provides details of the confidence levels for each capital project as well as the jurisdictional complexity related to funding sources, regulatory permitting as well as coordination between cities, counties and other agencies. Listed below are the three confidence levels and their definitions:

**High** - Applies to projects that have achieved the following: received full funding, received regulatory permits, met schedule milestones (and will continue to move forward on schedule) and, if applicable, jurisdictional complexity issues have been resolved.

**Moderate** - Applies to projects that are in the process of the following: receiving funding from other sources, receiving permits, recommending the Board approve a schedule adjustment and, if applicable, resolving jurisdictional complexity issues.

**Low** - Applies to projects that have a high probability of experiencing or already have been denied funding, denied permits, delayed in schedule and, if applicable, jurisdictional complexity issues that are impacting completion of the project.

### ***Significant Increase in Construction Costs***

The construction industry is in a period of exceptionally steep and fast-rising materials costs, compounded by major supply-chain disruptions and difficulty finding enough workers. In FY21, the actual cost escalation rate reached 14%. Meanwhile, demand for construction remains high. As a result, in FY22, contractors' bid prices were, on average, 12% above Valley Water's engineers' estimates. This trend of escalating construction costs is expected to continue through FY24, fueled by high energy costs, inflation and elevated interest rates. Increased construction costs make public investment more difficult.

Meanwhile, Valley Water continues to pursue alternative funding sources, including federal and state grants and loans, to counter the effects of increased costs on the budget. External funding sources being pursued include a Natural Resources Conservation Service (NRCS) grant for Project E6: Upper Llagas Creek Flood Protection. Valley Water has received a commitment from NRCS to fund up to \$80 million for Phase 2B of the Upper Llagas Creek Project. Valley Water is now working with NRCS to complete the agency's consultation requirements so that the project can receive the funding.

Valley Water is also seeking low-cost federal loans from the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA), funded by the United States Environmental Protection Agency (EPA). In November 2021, EPA invited Valley Water to apply for a WIFIA loan for projects included in the Safe, Clean Water Program. Subsequently, in February 2022, Valley Water submitted the full loan application. The Safe, Clean Water Projects to benefit from the WIFIA funding, if awarded, include the D4.1: Almaden Lake Improvement Project, E1: Coyote Creek Flood Protection, E2: Sunnyvale East and Sunnyvale West Channels Flood Protection and E4: Upper Penitencia Creek Flood Protection.

### ***Key Accomplishments***

#### **Water Supply**

**Water Conservation Rebates and Programs:** Valley Water issued over \$2.3 million in 1,431 rebates to convert more than one million square feet (sq ft) of lawn into water-wise landscapes, upgrade irrigation equipment and install rainwater capture systems. Of these rebates, the Safe, Clean Water Program provided \$861,069 for 751 rebates to convert over 861,000 sq ft of lawns to low water use plants. In FY22, the Landscape Rebate Program participation increased significantly, with a 145% rise in applications compared to FY21. The Safe, Clean Water Program provided \$1 million in FY22 to help increase landscape conversion rebates, expand conservation programs, pilot new programs and expand outreach.

**Anderson Dam Seismic Retrofit:** Since the groundbreaking ceremony for the Anderson Dam Tunnel Project on July 7, 2021, Valley Water has made great strides in the first phase of the larger

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Anderson Dam Seismic Retrofit Project (ADSRP). The Anderson Dam Tunnel Project, which is the first phase of ADSRP and includes constructing a new tunnel, is on pace for completion in 2024. In FY22, major construction activities included drilling 244 holes deep into the hillside next to Anderson Dam in Morgan Hill. Inside each hole, workers placed a 120-foot-long steel bar, up to 2-1/4 inches in diameter. The steel bars, each weighing about 1,600 pounds, were covered with 12 inches of concrete. The work to reinforce roughly 15,000 square feet of the hillside was a milestone in an overall effort to build a new outlet tunnel at Anderson Dam. The new tunnel will allow Valley Water to draw down the reservoir reliably and quickly, providing greater control over the water levels in the reservoir and increasing public safety.

## Flood Protection

**Upper Llagas Creek Flood Protection:** Construction of Phase 1 of the project (from Monterey Road to Watsonville Road in Morgan Hill) began in September 2019 and was completed ahead of schedule in April 2022. It included channel excavation and construction of Lake Silveira wetland. Phase 2A is currently in construction and includes building an approximately 2,300 linear feet horseshoe-shaped underground tunnel to carry high water flows. Construction of Phase 2A is expected to be completed in FY24.

**Vegetation Control and Sediment Removal:** Valley Water completed approximately 1,853 acres of in-stream vegetation management to reduce flood risk along 205 miles of streams throughout Santa Clara County. Seven sediment removal projects were also completed, removing 28,034 cubic yards of sediment to ensure flood protection projects continue to provide the protection they were designed to accomplish. The Safe, Clean Water Program funds part of the sediment removal project.

## Stewardship

**Fish Passage Improvements:** Valley Water provided the City of San José with \$1 million in cost-share funding to construct a new interim pedestrian bridge, replacing the Singleton Road low-water crossing at Coyote Creek. Valley Water also provided the city permitting and design assistance for the project and it was completed in October 2021. The low-water crossing was a fish passage barrier and its removal opened about 17 miles of upstream Coyote Creek area for migratory fish to access a better, cold-water habitat.

**Fish Habitat Improvements:** In June 2022, Valley Water began construction on the large woody debris and gravel augmentation project to improve the fish habitat along Uvas Creek in Gilroy. The project is designed to increase instream habitat diversity, shelter complexity and the amount of instream shelter at three sites along Uvas Creek.

**Hale Creek Enhancement Pilot:** In June 2022, Valley Water began constructing the Hale Creek

Enhancement Pilot Project. The project is designed to increase channel flood capacity and improve the ecology of the creek system. In coordination with the San Francisco Bay Regional Water Quality Control Board, this project has been prioritized and selected for a pilot study to restore geomorphic creek features in a confined urbanized setting. Construction is scheduled to be completed in FY23.

**Good Neighbor Program: Encampment Cleanup:** Valley Water managed 1,457 acres to clean up trash, debris and hazardous pollutants generated from encampments and to reduce the amount of these pollutants entering streams. Responding to higher volumes of encampment-generated trash and debris in creeks throughout the county, Valley Water exceeded the annual project key performance indicator of managing 300 acres annually.

**Trash Removal:** Five of the Safe, Clean Water projects include trash removal components to reduce and remove contaminants in our local streams and bay. This work is accomplished not only by Valley Water but with the help of volunteers and grantees. In FY22, 1,006 tons of trash were removed from local waterways.

**Safe, Clean Water Grants and Partnerships:** The Valley Water Board approved nearly \$1.6 million in grants, including mini grants, for stewardship activities, such as pollution prevention, volunteer cleanups and education, water conservation and wildlife habitat restoration, etc.

### **Next Steps**

Following the Board's approval, staff will provide the electronic and hard copies of the Annual Report to the IMC. The Annual Report will also be made available to the public on Valley Water's website <https://www.valleywater.org/safe-clean-water-and-natural-flood-protection-program/safe-clean-water-program-archive>. The IMC is scheduled to convene in the second week of December to discuss and establish the review process and schedule for the FY22 Annual Report.

Once Valley Water's financial reports are audited, if needed, all Annual Report tables and appendices will be updated with the audited financials and corresponding accomplishments to finalize the Annual Report. Dependent on the final auditor opinion, the final audited Annual Report is expected to be available in late December 2022 or early January 2023. The updated Annual Report will be provided to the Board and the IMC and also posted on the Valley Water website.

### **ENVIRONMENTAL JUSTICE IMPACT:**

There are no Environmental Justice Impacts associated with this item. Environmental Justice of the projects will be assessed and addressed in future Board actions related to individual project execution.

### **FINANCIAL IMPACT:**

The annual report is produced and printed internally, and budgeted to the Safe, Clean Water Implementation Project (26061012).

**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: FY22 Safe, Clean Water Annual Report

Attachment 2: PowerPoint

**UNCLASSIFIED MANAGER:**

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