Santa Clara Valley Water District

File No.: 23-0065

Agenda Date: 1/10/2023
Item No.: *2.13.

BOARD AGENDA MEMORANDUM

SUBJECT:
Receive an Update on the Pacheco Reservoir Expansion Project, Project No. 91954002 (Santa Clara County, Merced County, District 1).

RECOMMENDATION:
Receive information on the Pacheco Reservoir Expansion Project.

SUMMARY:
The Pacheco Reservoir Expansion Project (PREP) will expand the storage capacity of the existing Pacheco Reservoir from 5,500 acre-feet (AF) to up to 140,000 AF to provide increased emergency water supplies, improved water quality, and ecosystem benefits. Project components include installation of a new dam on the North Fork of Pacheco Creek and appurtenances including outlet works and spillway; installation of a new pipeline between the existing Pacheco Conduit and the new dam; decommissioning of the existing dam with creek restoration; a new pumping plant; new power supply and other appurtenances; and improved site access.

Recent discussions regarding PREP's development of environmental documents, permitting timelines, field investigations, and design process have prompted necessary changes to the project scope and sequence of work. A combination of these factors contributed to the scope changes and the schedule forecast to complete the required project elements prior to construction phase.

In late 2021, the planning phase and 30% design was near completion, and the PREP Draft Environmental Impact Report (EIR) was released for public review. It identified the project preferred alternative as the upstream hardfill dam type with a 140,000 AF capacity, located approximately one mile upstream of the existing North Fork Dam. Upon the release of the PREP Draft EIR, the Department of Water Resources Division of Safety of Dams (DSOD) rejected the hardfill dam concept due to limited performance history and stated the earthfill dam type alternative remained a feasible option.

After receiving DSOD's request to change the dam type to earthfill, staff and consultants completed the corresponding 30% design update in June 2022. Also, the revised alternatives analysis and staff-recommend project technical memoranda were completed in September and November 2022 respectively.

The project's environmental and geotechnical investigations and analysis necessary to support the environmental and design phases were scheduled to be completed in late 2021, but lack of property access to much of the study area caused a substantial delay. In early September 2022, a settlement agreement with the main property owner was finally reached and the field investigation work is now scheduled to be completed in late 2023. This lack of property access also delayed completion of tribal consultation, completion of environmental impact and design analysis for the project's electrical transmission line, and construction access improvements, all of which need to be included in the California Environmental Quality Act (CEQA) and National Environmental Quality Act (NEPA) documents.

Planning Study Report

In late November 2022, the Planning Study Report (PSR) was completed and identified the recommended project as the upstream earthfill dam type with a 140,000 AF capacity located approximately one mile upstream of the existing dam. The PSR is included for reference, as Attachment 1. The PSR will be sent to the Board via Non-Agenda Memorandum and made available on the PREP page on Santa Clara Valley Water District's (Valley Water) website.

The primary objectives for PREP are to increase water supply reliability and system operational flexibility and increase suitable habitat in Pacheco Creek for federally threatened South Central California Coast steelhead. The secondary objectives are to improve water quality, minimize supply interruptions to Valley Water customers, and develop water supplies for environmental water needs to support habitat management in the Sacramento-San Joaquin Delta watershed.

The new dam and reservoir would be constructed on Pacheco Creek and would inundate approximately 1,367 acres of surface area at full pool. Water will be collected in the new reservoir during the winter months from runoff from the local watershed area, and diversion of Central Valley Project (CVP) supplies from San Luis Reservoir via the Pacheco Conduit, as available. Land for the project would need to be acquired from private landowners, the local water district (Pacheco Pass Water District) and the State, and easements would need to be secured from private landowners, the State and federal governments for project improvements. Mitigation land would need to be acquired and managed to compensate for PREP's environmental impacts. At this time, it is premature to provide a range of mitigation cost due to the extent and variety of environmental impacts associated with a project of this size and complexity until negotiation terms are somewhat established.

The estimated construction costs for the recommended project including land acquisitions and other non-construction-contract costs (i.e., project management, construction management, regulatory compliance and monitoring), but excluding mitigation costs, are approximately $2.3 billion.

Environmental Documents

Currently, both the PREP Draft EIR and the San Luis Low Point Improvement Project (SLLPIP) Draft Environmental Impact Study/Environmental Impact Report (EIS/EIR) identify the same project. To eliminate regulatory confusion and avoid having two CEQA documents covering impacts on the same project, as well to satisfy NEPA compliance for the Water Infrastructure Finance and Innovation Act (WIFIA) financing through the Environmental Protection Agency (EPA), allow for Reclamation water

supply and real estate agreements, and continue to allow other federal permits and approval for PREP, it is proposed for PREP to prepare a combined EIS/EIR rather than to prepare a separate EIS. The EPA has been identified as the federal lead agency for PREP. With SLLPIP, it is proposed the EIS/EIR be reduced to only an EIS by the United States Bureau of Reclamation (Reclamation), while Valley Water would not certify the SLLPIP EIR. This is because if Reclamation does award funding for SLLPIP, the Board shall not take part in any premature discretionary approvals until the PREP EIR is certified and project approved by the Board, and that Reclamation funding only cover planning and design activities, and not construction during this period. Once the Board has taken action on PREP's EIR, construction funding can be accepted from Reclamation.

Next Steps
Due to the change in the proposed project to an earthfill dam type, and the need to complete impact analysis and mitigation on the electrical transmission line and construction access roads, as well as complete tribal consultation, it is proposed to re-circulate the Draft PREP EIR to address these revisions while combining it with the PREP Draft EIS. This joint document will be a Recirculated Draft EIR/Draft EIS (RDEIR/DEIS) to be released for public comment in mid-2025, then completed as the Final PREP EIR/EIS in mid-2026.

The planning phase is scheduled to be completed in January 2023. The environmental and design phases are scheduled to be complete in mid-2027, along with permit acquisitions. This will be followed by a 7.5-year construction phase with the close-out phase scheduled to be completed in mid -2035.

Staff and consultants are analyzing ways to reduce the proposed PREP schedule, such as:

- refining EPA and other agency review schedules for the EIS, Endangered Species Act (ESA) requirements and permitting;
- completing early tribal consultation;
- and completing early electric transmission line and construction access environmental and design activities with Pacific Gas & Electric (PGE), California Public Utility Commission (CPUC), and Caltrans.

In early 2024, the PREP schedule will be re-evaluated. This would be during the 60% design, and any revisions to the schedule will be made at that time. Note, it is still uncertain as to what schedule impact may or may not develop after EPA provides Valley Water with an EIS review schedule.

State and Federal Funding
In late 2021, staff and consultants completed the PREP Draft EIR and 30% design milestone before the January 2022 deadline for Proposition 1 Water Storage Investment Program (WISP) funding from the California Water Commission (CWC). The CWC determined at their December 15, 2021 meeting that PREP is still feasible and the project remains eligible for up to $496 million in conditional grant funding. On March 16, 2022, the CWC increased the funding amount to $504 million to account for inflation. Within the next few months, the CWC will amend their funding agreement to focus on incorporating public ecosystem benefits and adaptive management requirements from the Department of Fish and Wildlife (DFW), Department of Water Resources (DWR), and State Water Board, which will affect the environmental documents and permits.

In late 2020, staff and consultants completed the SLLPIP Feasibility Report and Reclamation recirculated the Draft EIS/EIR as required by the Water Infrastructure Improvements for the Nation (WIIN) Act to be eligible to receive funds up to 25% of project costs. In June 2022, Reclamation completed their review of the Design, Estimating, and Construction (DEC) Report for PREP, prepared by Valley Water, which is another step in the funding process. Reclamation was impressed by the DEC Report as it received a “no findings” recommendation, which means the review conducted by Reclamation produced no review comments. This was the first time Reclamation issued such a recommendation for a DEC Review. To date, staff have been working with Reclamation to update the Feasibility Report that is scheduled to be complete by summer 2023. In all, there are various reviews that still need to take place over the next several years before receiving Congressional approval.

In April 2022, Valley Water submitted a Water Infrastructure Finance and Innovation Act (WIFIA) federal loan application to the Environmental Protection Agency (EPA) in the amount of $1.2 billion. This accounts for 49% of the current $2.5 billion current project cost. Staff anticipates the agreements to obtain WIFIA loans will be executed in early 2023.

Partnerships
Since 2017, Valley Water has partnered with the Pacheco Pass Water District and San Benito County Water District to provide future project funding. To date these two districts have agreed to provide needed land for improvements, as well as contribute towards capital, operations, and maintenance costs.

In 2021, Valley Water enlisted two separate consultants to assist with development of partnership leads, partnership opportunities, negotiations, and further analysis. Staff continues modeling of different operations to provide storage and exchange benefits to potential partners.

Water Supply Master Plan
A presentation on the progress of PREP and its role in the Water Supply Master Plan will be forthcoming in a supplemental memorandum to be distributed on January 6, 2023.

ENVIRONMENTAL JUSTICE IMPACT:
There are no Environmental Justice impacts associated with this item. However, the Environmental Justice Impacts of the Project will be assessed and addressed in future Project board actions related to the Project execution.

FINANCIAL IMPACT:
There is no financial impact associated with this item.

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: PREP Planning Study Report
*Supplemental Agenda Memo
*Supplemental Attachment 1: PowerPoint
*Handout 2.13-A: Sierra Club

UNCLASSIFIED MANAGER:
Christopher Hakes, 408-630-3796