



# Santa Clara Valley Water District

**File No.:** 24-0306

**Agenda Date:** 3/26/2024

**Item No.:** 8.1.

## BOARD AGENDA MEMORANDUM

Government Code § 84308 Applies: Yes ☐ No ☒  
(If "YES" Complete Attachment A - Gov. Code § 84308)

### SUBJECT:

Review Proposed Changes to Projects under Priorities A, E, and F of the Renewed Safe, Clean Water and Natural Flood Protection Program and Consider Setting a Time and Place for a Public Hearing.

### RECOMMENDATION:

- A. Review proposed changes to projects under Priorities A, E, and F of the Renewed Safe, Clean Water and Natural Flood Protection Program; and
- B. Consider setting a time and place for a Public Hearing on the proposed project changes.

### SUMMARY:

In recent years, infrastructure construction projects within the renewed Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program) have experienced significant cost escalation, adversely affecting the financial health of Fund 26. Consequently, in January 2023, in compliance with the Change Control Process (as defined in Attachment 1), the Board held a Public Hearing and approved staff recommendations to reduce funding allocations for some capital projects, including Project E2: Sunnyvale East and Sunnyvale West Channels Flood Protection (Project E2), while making a commitment to continue to reassess funding availability annually as part of the Capital Improvement Program's financial planning process.

In fiscal year 2023-24 (FY24), Santa Clara Valley Water District (Valley Water) resubmitted regulatory permit applications for Project E2 and expects to receive the permits by the end of 2024, making the project shovel-ready for construction in 2025. Project E2, which voters first approved in November 2000 as part of the Clean, Safe Creek and Natural Flood Protection Plan, entails upgrading approximately three (3) miles of the existing West Channel (Phase 1) to provide 1% (100-year event) flood protection for 47 acres of highly valuable industrial lands, including the Onizuka Air Force Base, and approximately 6.4 miles of the existing Sunnyvale East Channel (Phase 2) to provide 1% flood protection to 1,618 parcels.

Construction of Phase 1 of the project is slated for 2025, but due to the existing funding shortfall, Phase 2 awaits funding to commence construction. Constructing both phases without delaying Phase 2 will allow Valley Water to complete the entire project, thus providing 1% flood protection and

helping the community to be removed from the FEMA flood zone. Bundling Phase 1 and 2 constructions will also result in potential cost savings, such as saving on leasing costs by utilizing the same large construction staging area for a shorter period. By moving forward with Phase 2 construction without delay, Valley Water will also limit the impact of anticipated future construction cost escalations.

Construction of Phase 2 will also fulfill Valley Water's Joint Use Agreement with the City of Sunnyvale for trail improvements and recreational uses along the Sunnyvale West and Sunnyvale East Channels. Under the agreement, the city is committed to providing funding (\$500,000) to pave the maintenance road on each channel for use as a public trail. After the project is completed, the city will maintain the public trails.

Furthermore, in response to community demands and the directives of the Board, Valley Water has initiated actions to strengthen Project F5: Good Neighbor Program: Encampment Cleanup (Project F5) to clean up encampment-generated trash, debris, and hazardous pollutants along waterways. In August 2023 (FY2023-24), Valley Water launched the *Portable Toilet Facilities Program*, installing portable toilets and wash stations at critical locations along local creeks. Additionally, Valley Water is developing the *Clean Camps, Clean Creeks Program*, which will provide debit cards to incentivize unsheltered residents to maintain camp areas free of trash and debris. Although these initiatives will better equip Valley Water to confront challenges posed by encampments of unsheltered people, Project F5 requires increased funding to sustain this level of service.

Even with Valley Water successfully securing external grants and low-cost loans, Project E2 and Project F5 do not have adequate funding. This funding gap has prompted staff to recommend that the Board provide direction on balancing the Safe, Clean Water Fund (Fund 26) to ensure the delivery of the renewed Safe, Clean Water Program.

In addition, the renewed Safe, Clean Water Program's Independent Monitoring Committee (IMC), an external monitoring committee, has recommended that Project E8: Upper Guadalupe River Flood Protection Key Performance Indicator (KPI) #2 be modified to include aquatic habitat improvement benefiting all native species. Staff concurred with the recommendation, and on March 12, 2024, the Board directed staff to pursue the modification.

Finally, Valley Water staff has identified the need to modify Project F9: Grants and Partnerships for Safe, Clean Water, Flood Protection and Environmental Stewardship (Project F9) to expand the project to initiate a new Creekside Neighbor Rebate Program in response to community need.

Therefore, staff recommends not implementing the fund transfer under Project A1: Pacheco Reservoir Expansion (Project A1), which would result in the project being removed from the renewed Safe, Clean Water Program and modifying Project E8: Upper Guadalupe River Flood Protection and Project F9: Grants and Partnerships.

## **Proposed Changes**

**Project A1: Pacheco Reservoir Expansion (Not Implement under Safe, Clean Water Program)**

Project A1 is one of the three renewed Safe, Clean Water projects with a fiscal-based KPI, where the deliverable is not to construct a project directly but to allocate a portion of funding to support project construction. In this instance, the project KPI is to provide “up to \$10 million” to help construct the Pacheco Reservoir Expansion Project. The Safe, Clean Water Program funding of \$10 million constitutes less than half a percent (0.36%) of the estimated cost of \$2.75 billion, as reflected in the Capital Improvement Program’s Draft FYs 2025-2029 Five-Year Plan. Furthermore, the Safe, Clean Water funding is scheduled to be transferred to the Water Utility Fund over seven years from FY26 to FY32, amounting to approximately \$1.4 million annually.

The reservoir expansion project is primarily funded by the Water Utility Fund and has continued to progress without any contributions from the renewed Safe, Clean Water Program. Additionally, the project, a strategic and long-term investment toward ensuring a more reliable supply of safe, clean drinking water in the face of climate change, is eligible for a \$504 million California Water Commission (CWC) funding.

Given the project’s other funding sources and relatively minor contributions from the renewed Safe, Clean Water Program, the absence of a \$10 million allocation will not have a significant impact on its advancement and can be absorbed under the current water rate projection all else being equal.

Therefore, staff recommends not implementing the fund transfer and removing the project from the Safe, Clean Water Program. The \$10 million would be released into the Operating and Capital Reserves of Fund 26, and these can subsequently be allocated to help complete the construction of Project E2, providing the much-needed and long-awaited flood protection, and bolster Project F5 to meet the growing needs of the community, including the unsheltered community. This additional funding, along with the strategic and flexible utilization of short-term and long-term debt issuances, will provide sufficient funding to advance these critical projects.

The proposed recommendation is to not implement the project under the renewed Safe, Clean Water Program

**Not Implement the project and its KPI #1 to “Provide a portion of funds, up to \$10 million, to help construct the Pacheco Reservoir Expansion Project” under the renewed Safe, Clean Water Program.**

**Project E8: Upper Guadalupe River Flood Protection (Modify KPI)**

Project E8 continues a project in partnership with the U.S. Army Corps of Engineers (USACE) to plan, design, and construct improvements along 5.5 miles of the channel extending from Interstate 280 to Blossom Hill Road. The project has two KPIs. KPI #1, the preferred project with federal and local funding, is to “Construct a flood protection project to provide 1% (100-year) flood protection to 6,280 homes, 320 businesses, and 10 schools and institutions.”

KPI #2, with local funding only, is to “Construct flood protection improvements along 4,100 feet of Guadalupe River between the Southern Pacific Railroad (SPRR) crossing, downstream of Willow Street, to the Union Pacific Railroad (UPRR) crossing, downstream of Padres Drive, and provide gravel augmentation along approximately 800 linear feet of the Upper Guadalupe River in San José, from approximately the Union Pacific Railroad Bridge to West Virginia Street Bridge to improve aquatic habitat for migrating steelhead and channel stability.”

During its Fiscal Year 2022-23 Safe, Clean Water Program review, the IMC recommended that the KPI be modified to include protecting all native fish species. The KPI currently mentions only steelhead because steelhead are federally protected species within the creek according to the Endangered Species Act. However, the improvements targeted to better the habitat for protected steelhead, specifically adding gravels and providing habitat for rearing their young, spawning, and providing food sources, benefit all native fish species. Hence, staff concurred with the recommendation, and on March 12, 2024, the Board directed staff to pursue the modification. Therefore, staff recommends that the Board modify KPI #2 to include all native fish species.

#### Proposed modification to the KPI

KPI #2: With local funding only: Construct flood protection improvements along 4,100 feet of Guadalupe River between the Southern Pacific Railroad (SPRR) crossing, downstream of Willow Street, to the Union Pacific Railroad (UPRR) crossing, downstream of Padres Drive, and provide gravel augmentation along approximately 800 linear feet of the Upper Guadalupe River in San José, from approximately the Union Pacific Railroad Bridge to West Virginia Street Bridge to improve aquatic habitat for migrating steelhead and **all native fish species** and channel stability.

#### **F9: Grants and Partnerships for Safe, Clean Water, Flood Protection and Environmental Stewardship (Modify KPI)**

Project F9 “provides grants and partnerships for agencies, organizations, and individuals for water conservation, pollution prevention, creek cleanups and education, wildlife habitat restoration and wildlife corridors and crossings, and access to trails and open space. Eligible projects include water conservation; recycled water programs and infrastructure; pollution prevention programs; watershed stewardship; creek cleanups; education; and developing plans and/or implementing projects that create or enhance wetland, riparian and tidal marsh habitat; protect special status species; improve fish passage and habitat; remove non-native, invasive plant species; plant native species; partnerships to remove flood-inducing blockages, and provide access to creekside trails or trails that provide a significant link to the creekside trail network.”

The project has four KPIs providing grants and partnerships. While Valley Water has successfully awarded grants and partnerships under KPIs #1, 2, and 3, we have not had any success in delivering KPI #4, which is restricted to partnerships with “small municipalities (defined as under 50,000 people in the most recent census available), or special districts with boundaries substantially within the

footprint of small cities.” Meanwhile, community members have expressed interest in receiving Valley Water assistance with implementing watershed activities, such as bank repair, sediment removal, and downed tree management, with community benefits. Therefore, staff recommends that KPI #4 be modified to broaden access beyond small municipalities and special districts and include individuals, with a rebate program covering watershed stewardship activities. Valley Water currently offers water conservation rebates, partly funded by Project A2: Water Conservation Rebates and Program. Staff also proposes adjusting the project description to align with the proposed KPI modification.

#### Proposed modification to KPI #4

KPI #4: Provide up to \$3 million per 15-year period for **a creekside Neighbor Rebate Program for watershed activities, including bank repair, sediment removal, and downed tree management.** ~~partnerships with small municipalities (defined as under 50,000 people in the most recent census available), or special districts with boundaries substantially within the footprint of small cities, for projects aligned with the District Act and related to safe, clean drinking water, flood protection and environmental stewardship.~~

#### Proposed Text Adjustment:

##### **Section:** Description

This project provides grants, and partnerships, **and rebates** for agencies, organizations, and individuals for water conservation, pollution prevention, creek cleanups and education, wildlife habitat restoration and wildlife corridors and crossings, and access to trails and open space. Eligible projects include water conservation; recycled water programs and infrastructure; pollution prevention programs; watershed stewardship; creek cleanups; education; and developing plans and/or implementing projects that create or enhance wetland, riparian and tidal marsh habitat; protect special status species; improve fish passage and habitat; remove non-native, invasive plant species; plant native species; partnerships to remove flood-inducing blockages, and provide access to creekside trails or trails that provide a significant link to the creekside trail network.

#### **ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:**

Individual projects may have environmental justice impacts and Valley Water will conduct outreach and engagement to the impacted communities, which will be reported to the Board accordingly.

#### **FINANCIAL IMPACT:**

The financial impact associated with the cost of this item is the cost of placing the Notice of Public Hearing advertisement. The estimated cost for the Notice of Public Hearing ad is approximately \$10,000, and there is sufficient budget in the FY24 budget for the Safe, Clean Water Program (Project No. 26061012). There would be changes to the financial allocation of A1, E2, and F5 projects should the proposed changes be approved. Project A1 would have zero funding after releasing \$10.0 million to the Operating and Capital Reserves. The Project F5 cost allocation would increase by \$14.5 million from FY25 through FY36. The Total Project Cost (TPC) for Project E2 would

increase by \$32.0 million to \$90.0 million, which would be offset primarily by anticipated additional debt proceeds. The project E2 funding allocations are approximated at this time and will be finalized through the Board approval of the Capital Improvement Program's FY 2025-2029 Five-Year Plan.

**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: SCW Program Background  
Attachment 2: Draft Notice of Public Hearing  
Attachment 3: SCVWD Resolution No. 20-64

**UNCLASSIFIED MANAGER:**

Luz Penilla, 408-630-2228