



Santa Clara Valley Water District

File No.: 16-0596

Agenda Date: 6/13/2017

Item No.: 6.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Update on Implementing the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE) Settlement Agreement's Conditions Precedent and Sole Source Agreement with Fishbio for Vaki Riverwatcher Fish Monitoring System, for a Not-to-exceed Total Amount of \$226,363.

RECOMMENDATION:

- A. Discuss the status of the FAHCE Settlement Agreement (Settlement Agreement) Process - Fish Habitat Restoration Plan (FHRP), Environmental Impact Report, and Water Right Change Petition Process; and
- B. Approve the sole-source procurement of three Vaki Riverwatcher fish monitoring systems for an amount not-to-exceed \$226,363 to support FAHCE biological monitoring.

SUMMARY:

This item updates the progress on the FAHCE process aimed at resolving a water right complaint before the State Water Resources Control Board (SWRCB) filed by the Guadalupe-Coyote Resource Conservation District (GCRCD). The FAHCE process is expressed in the 2003 Settlement Agreement initialed by the District, GCRCD, Trout Unlimited, the California Department of Fish and Wildlife (CDFW), U. S. Fish and Wildlife Service (USFWS), and National Marine Fisheries Service (NMFS), collectively referred to as the Initialing Parties.

In December 2016, the Board accepted an updated schedule and budget for the Fish Habitat Restoration Plan (FHRP) and biological evaluation to support the environmental review required to implement the Settlement Agreement. These are critical elements for developing an Environmental Impact Report (EIR) for FAHCE under the California Environmental Quality Act (CEQA); and to also allow the SWRCB to begin its review of the District's water right change petitions. An EIR Scoping Meeting has been scheduled for June 19, 2017, and will provide the public with an opportunity to comment on the EIR process prior to the project impact and alternative analyses.

Fish Habitat Restoration Plan and Environmental Review.

Staff and District consultants have been developing the FHRP and an administrative draft is expected to be shared with the Initialing Parties for review in July, 2017. Key elements of the monitoring program and implementation have been discussed with the Initialing Parties but have not been finalized as part of the adaptive management program. Staff has also identified the Settlement

Agreement Phase I Measures that staff believes have been implemented, including fish barrier removals and biological studies. Staff will work with the Initialing Parties to determine which measures may require additional planning or documentation in the FHRP.

Biological evaluation of fish habitat continues to be challenging.

To address CEQA requirements, an environmental review and evaluation of the effects of the FHRP, especially changes in the reservoir operations must be conducted. Several Initialing Parties, including environmental regulators and Initialing Party experts have participated in a Technical Work Group (TWG) to develop a modeling approach to demonstrate how fish habitat varies with water availability and reservoir releases. The modeling approach will also support the alternatives analysis as part of the environmental review under CEQA.

The TWG developed a three-layer modeling approach to qualitatively compare potential effects of reservoir-reoperations. First, the District's Water Evaluation and Assessment Planning (WEAP) modeling tool was adapted for water balance in the Three Creek networks. Second, the District's hydraulic model was used to estimate the flow characteristics, such as velocity and depth of water at various locations. Finally, a new methodology was developed; the Habitat Availability Estimation Method (HAEM) used to qualitatively compare fish habitat. It is important to note that this three-layer approach is meant to qualitatively compare scenarios.

Integrating the models, calibrating data and assessing the results has been challenging, and completion of the modeling analyses may require additional time. Staff expects the model to be validated in June and is awaiting the final biological evaluation results. The model results are an important element in both the EIR analysis and the District's water right change petitions; and depending on the results, additional analysis may be required to support the EIR and water right change petitions. Staff is working to minimize any potential delays in completing the draft EIR, but the following may slow the process:

- Model validation requires more iterations to demonstrate confidence;
- Development of a fourth scenario (proposed by the GCRCD and NMFS) has been more time consuming and complicated than initially expected; and
- Staff will consult with the TWG to evaluate the fourth scenario prior to selecting an alternative for CEQA analysis.

Water Right Change Petitions.

The District submitted fifteen water right change petitions on May 1, 2015 to the SWRCB. Staff continues to coordinate with the SWRCB during the FAHCE modeling and environmental review process. However, the water right change petition process is pending completion of the final EIR.

Initiating Biological Monitoring.

While biological monitoring was anticipated as part of the FAHCE adaptive management program, staff proposes to initiate interim monitoring. As part of the FY 2018 budget funds for biological monitoring, staff recommends the purchase and installation of three Vaki Riverwatcher underwater fish counting devices to monitor fish migration. If approved, the systems will be installed at three key locations: one each in Stevens Creek, Guadalupe River and Coyote Creek.

The Vaki Riverwatcher system is a specialized and cost-effective tool to monitor fish migration using an underwater infrared camera. The CDFW and NMFS have used the tool to monitor migratory fish in streams. Staff research of alternative underwater fish monitoring products has only discovered a sound wave based video monitoring system that requires significantly more staff time to analyze the data. Alternative approaches are more labor intensive and costly to implement; and do not provide information needed for the biological monitoring program.

FISHBIO is the sole provider of the Vaki Riverwatcher system in North America. Staff negotiated a 10% discount for the 2nd system and a 12% discount for the 3rd system. Staff recommends the Board authorize the Interim CEO to purchase on a sole-source basis three Vaki Riverwatcher systems in an amount not-to-exceed \$226,363. Details of the purchase are provided in Attachment 2.

Milestones

- A. Final modeling of reservoir operation for CEQA analyses - June 2017
- B. EIR Scoping Meeting - June 19, 2017
- C. Administrative Draft, Fish Habitat Restoration Plan - July 2017
- D. Interim Monitoring - Fall 2017
- E. Administrative Draft, EIR - November 2017

FINANCIAL IMPACT:

The recommended sole-source purchase of three Vaki Riverwatcher fish monitoring systems will not exceed a cost of \$226,363. The FY 2018 budget includes funding for their purchase and installation.

CEQA:

The recommended actions do not constitute a project under CEQA because there is no potential for the action to result in direct or reasonably foreseeable indirect physical change in the environment. A Program Environmental Impact Report (PEIR) evaluating the environmental aspects of the Fish Habitat Restoration Plan and actions associated with the water rights petition approvals will be provided for the Board to consider as part of its project approval process.

ATTACHMENTS:

Attachment 1: PowerPoint
Attachment 2: Procurement Installation Costs

UNCLASSIFIED MANAGER:

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