



Santa Clara Valley Water District

File No.: 18-0198

Agenda Date: 4/10/2018

Item No.: 5.3.

BOARD AGENDA MEMORANDUM

SUBJECT:

Update for the Anderson Dam Seismic Retrofit Project - Project No. 91864005 (Morgan Hill) (District 1).

RECOMMENDATION:

Receive an update on the environmental and permitting strategy for the Anderson Dam Seismic Retrofit Project.

SUMMARY:

The purpose of this agenda item is to present a more detailed update on the Anderson Dam Seismic Retrofit Project (Project) environmental documentation and permitting strategy and Project schedule.

Project Background

In 2011, the District completed a seismic study of Anderson Dam, which indicated that material at the base and foundation of the dam embankment could weaken due to liquefaction in a 7.25 magnitude earthquake [the maximum credible earthquake (MCE)] on the Calaveras Fault, located approximately 1.2 miles from the dam. Such an event could significantly deform the dam embankment, risking an uncontrolled release from Anderson Reservoir. The 2011 study also indicated that an MCE could trigger fault offset on the conditionally-active Coyote Creek-Range Front fault zone located in the vicinity of the dam, which would damage the existing outlet pipe, precluding safe drainage of the reservoir.

The District initiated the Anderson Dam Seismic Retrofit Project in 2012 to address the seismic deficiencies at the dam and to meet the design requirements of the Federal Energy Regulatory Commission (FERC) and the California Department of Water Resources, Division of Safety of Dams (DSOD).

The Project's Planning Phase was initiated in 2012 and completed in July 2013. The Design Phase was initiated in August 2013. As project design work proceeded, an administrative draft of an Environmental Impact Report (EIR) was prepared in 2014, as required by the California Environmental Quality Act (CEQA) for the Project.

Between 2014 and 2016, detailed geotechnical and geologic investigations were performed on and

around the dam embankments to further inform the seismic retrofit design. In December 2016, staff presented the findings from these investigations to the Board and recommended that deconstruction and replacement of most of the existing dam would be necessary to address the dam's deficiencies.

Environmental Documentation and Review Process

Project Environmental Team. Black & Veatch, the Project Management consultant for the Anderson Dam Seismic Retrofit Project, will be the environmental lead for the Project's CEQA and permitting processes. Rick Hopkins, PhD, a principal with Live Oak Associates, a sub-consultant to Black & Veatch, was one of three candidates that Black & Veatch identified for District consideration. After an interview process performed by the Deputy Officers of the Water Utility Enterprise, Dr. Hopkins was selected as the Project's Environmental Lead. In addition to leading the Project team, Dr. Hopkins will be the key liaison with staff at the Federal Energy Regulatory Commission (FERC), the lead agency for the National Environmental Policy Act (NEPA) document preparation.

HDR, Inc., the Project's planning consultant, will be preparing the various CEQA documents and permit applications, with support from several sub-consultants. District staff will be responsible for quality assurance/quality control (QA/QC) reviews of the deliverables. The Environmental Team will be advised by senior District staff and District Counsel's Office with support, as necessary, from outside legal counsel.

Project's Environmental/Permitting Documents. Table 1 lists the necessary documents that must be prepared as part of the environmental/permitting process and the lead agency responsible for their preparation.

**Table 1. List of Environmental/Permitting Documents for
Anderson Dam Seismic Retrofit Project**

Document	Lead Agency
Environmental Impact Report (CEQA)	District
NEPA Documents	FERC
Biological Assessment	District
Mitigation and Monitoring Plan	District
Biological Opinion - Valley Habitat Plan	U.S. Fish & Wildlife Service
Biological Opinion - steelhead trout	National Marine Fisheries Service
Permit Applications	District

Environmental Impact Report (EIR) for CEQA Compliance. The Project's 60% level of design will be completed in April 2018. At this stage of design, details of the project's footprint and construction activities have been developed to a level that is adequate for the preparation of CEQA documents. The Project's Draft EIR is currently being prepared; the District will use the analyses presented in this Draft EIR, and comments provided during the Draft EIR's public review period, to evaluate the proposed Project's environmental impacts, propose mitigation measures for these impacts, and to further

modify, approve, or deny approval of the proposed Project based on these analyses. Associated documents will include a Mitigation and Monitoring Plan, the Findings of Fact, and any Statement of Overriding Consideration.

The anticipated milestones for the review and completion of the Project's Environmental Impact Report are:

- Draft EIR released for public review: Fall 2018
- Public Hearing for Draft EIR: Fall 2018
- Certification of Final EIR: Spring 2019

NEPA Documents. Actions by federal agencies are required for the Project. An Amendment to the Exemption for licensing of the existing hydropower facility at Anderson Dam will be required from the Federal Energy Regulatory Commission's Department of Hydropower Administration & Compliance (FERC DHAC) and an Individual Permit under the Clean Water Act, Section 404, will be required from the U.S. Army Corps of Engineers (USACE). These actions will be performed in a manner that will comply with the National Environmental Policy Act (NEPA).

The District will provide the Draft EIR to FERC DHAC and to USACE for their use in the preparation of the necessary NEPA documents. FERC DHAC will be the lead NEPA agency and will execute a Letter of Understanding with USACE to establish the responsibilities for document preparation. The anticipated NEPA document milestones are:

- NEPA Scoping Process: Fall 2018
- Draft NEPA document released for public review: Spring 2019
- Final NEPA document completion: Fall 2019

Project Permits and Approvals

Numerous permits, approvals, and consultations must be obtained from federal, state, and local agencies to construct and operate the reconstructed Anderson Dam. A summary of these requirements is described below and presented in greater detail in Attachment 2.

Federal Agencies. Two Federal agencies have discretionary authority related to the Project:

1. FERC DHAC must approve the District's Amendment to the Exemption for Licensing of the Hydropower Facility associated with Anderson Dam; and,
2. USACE must authorize fill of the waters of the U.S. related to the retrofit of the dam embankments. A key Project permit to be issued by USACE is the Clean Water Act Section 404 (1)(b) permit. The issuance of this permit requires consideration and incorporation of the following documents or permits prepared by other agencies:
 - a. A Biological Opinion on federally-listed terrestrial species prepared by the U.S. Fish & Wildlife Service;
 - b. A Biological Opinion on steelhead trout prepared by the National Marine Fisheries Service (NMFS);

- c. The Clean Water Act Section 401 Certification issued by the State Water Resources Control Board in concert with the San Francisco Bay Regional Water Quality Control Board; and
- d. Documentation from the State Office of Historic Preservation via Section 106 of the National Historic Preservation Act.

As stated earlier, FERC DHAC will be the federal lead agency for NEPA, and will execute a Letter of Understanding with USACE to set forth the division of responsibilities for the NEPA document preparation. Staff is currently engaging with FERC DHAC and the USACE to establish the final disposition of each agency's responsibilities as they relate to consultation for the permitting process.

State Agencies. The District will require a permit for the dam retrofit from the Division of Safety of Dams (DSOD). State agencies providing approval authority for impacts to waters of the state include the State Water Resources Control Board (SWRCB), the San Francisco District of the Regional Water Quality Control Board (SFRWQCB), and the California Department of Fish and Wildlife (CDFW).

Local Agencies. The Santa Clara Valley Habitat Agency will be the primary agency involved in obtaining "take" authorization for impacts to federal- and state-listed terrestrial and aquatic species (with the exception of fish). These will include Coyote ceanothus; smooth lessingia; Mount Hamilton thistle; California tiger salamander; California red-legged frog; and the western pond turtle. Other local agencies that will exercise approval authority include the cities of San Jose and Morgan Hill; Santa Clara County; and the Bay Area Air Quality Management District. Approvals from these agencies will include municipal approvals, encroachment permits, and temporary rights of entry.

District's Permitting Strategy

The seismic retrofit of the Anderson Dam is a critical project from both a public safety and local water supply perspective. The Project's "Environmental Team" is incorporating the following strategies to underscore the urgency to complete the environmental review and secure the necessary permits to initiate Project construction:

Informal Consultation. Staff has been holding regular conference calls with FERC DHAC staff since 2012 for general project coordination and development of the environmental review process. Staff has already met with NMFS staff for preliminary discussions regarding the seismic retrofit work and its potential environmental impacts. As the Draft EIR is prepared, staff will host a series of informal meetings with:

- All environmental resource agencies - April 2018;
- Follow-up meeting with NMFS, SWRCB, and SFRWQCB staff - July 2018;
- Informal negotiations with NMFS - September 2018
- One or more meetings with Department of Water Resources (DWR) staff to solicit their support and participation in the permitting process;

Public Outreach. The District has hosted several public meetings for Anderson Dam Project updates

in the City of Morgan Hill over the past five years. Staff will hold a public meeting this spring after the 60% design is completed, and another meeting later in the fall after the Draft EIR is released for public review. District staff has made several presentations on Project updates to the Morgan Hill City Council and will continue to do so in the coming months.

Staff is continuing its outreach to City of Morgan Hill staff, and will be requesting contact information from the City for neighborhood associations in areas that will be impacted by the retrofit construction. Staff will offer to attend neighborhood association meetings to provide Project updates.

In the month of April, staff will be contacting various environmental stakeholder groups in the County and offering to meet with them to discuss their concerns and issues regarding the retrofit work.

Formal Consultation. Staff plans to initiate formal negotiations with resource agencies on permit conditions and requirements after the Final EIR is certified by the Board. The formal consultations are anticipated to begin in Spring 2019.

During the permit negotiations, staff will continue to work closely with FERC DHAC, DWR, and DSOD to sustain their participation and support for securing the necessary permits. Staff will perform outreach to federal resource agencies as part of the delegation trips to Washington, D.C. and will request assistance from congressional representatives, as necessary.

Project Schedule

The current Project schedule anticipates start of construction in 2020; this start date is predicated on successful negotiation of all necessary permits in a 12- to 18-month timeframe after environmental documentation work is completed.

FINANCIAL IMPACT:

The recommended action does not have a financial impact on the Anderson Dam Seismic Retrofit Project cost as reflected in the draft Fiscal Years' 2019-2023 CIP presented to the Board in February 2018.

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: PowerPoint

Attachment 2: Project Permit Requirements

UNCLASSIFIED MANAGER:

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