



Santa Clara Valley Water District

File No.: 20-0896

Agenda Date: 1/26/2021

Item No.: 2.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Santa Clara Valley Water District Government Relations Program Update and Legislative Outlook.

RECOMMENDATION:

- A. Receive information on the 2020 Santa Clara Valley Water District (Valley Water) government relations advocacy and stakeholder engagement program;
- B. Receive update from federal and state consultants on 2020 accomplishments and 2021 legislative outlook; and
- C. Provide input on current and future challenges, goals, and accomplishments since the last presentation to the Board of Directors.

SUMMARY:

On an annual basis, staff has presented the Board with updates on Valley Water's government relations advocacy and stakeholder engagement program. The last update was presented on January 28, 2020.

BACKGROUND

The Office of Government Relations advocates at the local, regional, state, and federal levels to promote the water supply, flood protection, revenue enhancement, and environmental stewardship interests of Valley Water and the residents of Santa Clara County, in alignment with the Board's legislative priorities. Consequently, Valley Water's government relations program cultivates strategic relationships with a variety of policymaking bodies and advocacy stakeholders, including elected officials, regulatory agencies, administrative agencies, and key advocacy groups. In addition, every October the Board reviews and adopts legislative policy proposals and legislative guiding principles that form the foundation for Valley Water's advocacy efforts. The 2021 Legislative Guiding Principles and Policy Proposals adopted by the Board in October 2020 are included as Attachment 1.

FEDERAL ADVOCACY AND STAKEHOLDER EFFORTS

The federal government operates on a long-term horizon, with bills introduced in one two-year congressional session and, if not enacted into law, requiring reintroduction in future sessions. Efforts at the federal level involve direct engagement and ongoing communication with Congress and executive agencies on legislative and regulatory matters affecting Valley Water's projects and priorities. In addition to staff's advocacy efforts, we also use Washington, D.C.-based consultants who have extensive experience and established relationships with policymakers and administration

officials.

Federal Advocacy and Engagement

Staff meets with Valley Water's congressional delegation in their local offices at least twice yearly and regularly communicates with their staff in Washington, D.C., to keep them informed of various projects and priorities. Staff also creates opportunities for the Board to dialogue directly with Members of Congress and other key federal officials on important policy issues, legislation, and regulatory concerns. In 2020, due to the COVID-19 pandemic, these meetings were moved to a virtual setting as all in-person gatherings were canceled.

Washington, D.C. Advocacy Trips

Twice yearly, Valley Water Board Members lead a delegation on advocacy trips to Washington, D.C., to advance the Board's and Valley Water's federal projects and priorities. In 2020, due to the COVID-19 pandemic, the Board led two virtual advocacy trips to replace the in-person Washington meetings. In March 2020, Chair Nai Hsueh led the delegation in its first-ever virtual advocacy trip, where the group met with dozens of agency officials, Members of Congress, and key congressional committee staff. In November 2020, all seven Board members participated in another successful virtual trip. Over the three days of each trip, the delegation met with Members of Congress and officials from the U.S. Army Corps of Engineers, the Office of the Assistant Secretary of the Army (Civil Works), the U.S. Bureau of Reclamation, the White House Office of Management and Budget, and the Natural Resources Conservation Service, among others. Despite the new format, including producing and sharing all materials electronically, the 2020 trips were a success.

Key Federal Legislation

In 2020, staff brought 20 federal bills to the Board for positions, listed in Attachment 2. With Board-approved authority, staff then actively educated our congressional delegation and advocated for the Board's position on each bill, addressing water infrastructure funding, COVID-19 stimulus funding, water recycling, water quality, wetlands protection, environmental justice, and regulatory streamlining, among other topics.

Federal Successes

2020 was a difficult year in which to advance federal legislation and policy priorities due to COVID-19 and a contentious presidential election, which together worked to limit the federal government's effectiveness in moving initiatives forward. These challenges compounded the timeline of the normal federal legislative and budgetary process, which is already longer than the state or local timelines. Despite this, Valley Water had the following key successes in 2020:

1. Funds for Reevaluation of the Upper Guadalupe River Flood Protection Project

Worked with Congresswoman Zoe Lofgren and others in the delegation to advocate for and secure \$1.5 million in Fiscal Year (FY) 2020 funding for the U.S. Army Corps of Engineers (USACE) to conduct a General Reevaluation Report (GRR) for the Upper Guadalupe River Flood Protection Project - the first time in six years that the project has received federal funding. The GRR will help USACE to determine a path forward for the project.

2. Funds for Feasibility Study of Shoreline Phase II

Worked with Congresswoman Zoe Lofgren and others in the delegation to secure at least \$400,000 in USACE FY 2021 funding to help complete the feasibility study for Phase II of the South San Francisco Bay Shoreline Project (Economic Impact Areas 1-4). At press time, USACE has not released its FY 2021 work plan since Congress only passed the FY 2021 appropriations bill in late December. The FY 2021 President's Budget included \$400,000 for the Phase II feasibility study, but USACE requested - and we advocated for - an additional \$600,000 to complete the feasibility study.

3. Funds for Feasibility Study of Pacheco as San Luis Low Point Solution

Worked with Congressman Jimmy Panetta and others in the delegation to advocate for and secure planning funds for the Pacheco Reservoir Expansion Project in FY 2020. As a result, the U.S. Bureau of Reclamation recommended \$1.7 million in FY 2020 to complete the feasibility study for the San Luis Low Point Improvement Project, for which the Pacheco Reservoir Expansion may be the National Economic Development Plan.

4. Advocated for Upper Llagas Creek Flood Protection Project

Worked closely with the Natural Resources Conservation Service (NRCS) staff in Davis, California, to advocate for federal funding for the Upper Llagas Creek Flood Protection Project. Supported by successful virtual visits with NRCS officials in Washington, D.C., the local advocacy has positioned us well for potential receipt of grant funding in 2021.

5. Valley Water Priorities in Water Resources Development Act

Worked with House and Senate Members and staff to advocate for and secure passage of a Water Resources Development Act that advances Valley Water priorities. The final bill included language that urges USACE to pursue multi-purpose projects, which could benefit the Upper Penitencia Creek Project, and language that makes dams like Anderson Dam eligible for federal high hazard dam rehabilitation funding.

STATE ADVOCACY AND STAKEHOLDER EFFORTS

Our work in Sacramento involves protecting Valley Water's interests and advocating on state legislative, regulatory, and budgetary items. Staff routinely meets with members of the Legislature, the Office of the Governor, and key agencies on legislative and regulatory issues. Staff also utilizes a consultant with an extensive network of established relationships with policymakers to assist in the advancement of Valley Water's interests at the State Capitol. Staff reviews over 3,600 bills and numerous regulatory proposals for impacts on Valley Water; consults with Valley Water staff regarding significant policy issues; brings legislation before the Board for consideration of positions; and educates officials about Valley Water positions and concerns, engaging them for advocacy in support of Valley Water interests.

State Advocacy and Engagement

Once the Board approves a legislative position, staff advocates for Valley Water's position with the members and staff of the Legislature, the Office of the Governor, regulatory agencies, and other stakeholders. Staff also monitors and engages on regulatory issues as needed to advance Valley Water's interests.

In 2020 there were several regulatory issues of critical importance to Valley Water, including the federal Clean Water Act Section 303(d) listing of Los Gatos Creek for temperature impairment, engagement with the California Water Commission regarding Proposition 1 Water Bond funding for the Pacheco Dam Expansion Project, and the Department of Water Resources on Subventions funding for the South San Francisco Bay Shoreline Project (Shoreline Project). In all of these proceedings, Government Relations staff coordinated internal staff review, consolidated comments into a coherent message, sought the final approval from senior management, and formally submitted the comments. When warranted, staff facilitated meetings and public presentation of Valley Water's positions, sometimes testifying in public hearings.

Sacramento Legislative Days at the Capitol

Amid the COVID-19 pandemic, the Office of Government Relations coordinated the annual series of State Legislative Days for Valley Water Board Members on May 19-22, consisting of 15 video webinar meetings. Vice Chair Estremera, Director Santos, and Director LeZotte led senior staff in a series of meetings with state legislators, their staffs, and Newsom Administration officials on several priority issues, including the Anderson Dam Seismic Retrofit Project permitting, AB 3005 (R. Rivas), and potential state economic stimulus funding for dam safety, recycled water, drinking water, and flood control.

Key State Legislation

In 2020, staff brought 20 state bills, resolutions, budget items, bond measures, or statewide ballot measures to the Board for positions, listed in Attachment 2. Staff then advocated for the Board-approved positions with the Legislature. Due to the pandemic, the Legislature's capacity to hear and pass bills was greatly limited. Of those 20 items with Board-approved positions, many were support positions on bills that were deemed not urgent enough under the pandemic induced limitations, and only five resulted in the Board's desired outcome.

State Successes

In 2020, Valley Water's state level successes were:

1. State Flood Control Subventions Funding for the Shoreline Project Advances

In July, after two years of working with the Department of Water Resources (DWR), the agency submitted a required report to the Legislature indicating the South San Francisco Bay Shoreline Project successfully completed the regulatory process for State Subventions approval. Staff is now working with DWR to finalize a funding agreement, after which Valley Water will begin submitting receipts for reimbursement.

2. SB 98 Excess Educational Revenue Augmentation Fund (ERAF) Calculation

A key function of the Office of Government Relations is to prevent or reduce negative impacts on Valley Water from legislation or regulation. SB 98, a state budget trailer bill, was originally proposed to retroactively change the calculation method for excess Educational Revenue Augmentation Fund (ERAF) distributions to counties, cities, and special districts. The change may cost Valley Water up to \$2 million annually. Staff worked hard to oppose the ERAF provisions, organizing testimony in opposition, spearheading a coalition letter of opposition from special districts, and distributing floor alerts urging members to remove the most

objectionable provisions. The efforts resulted in the removal of penalties for counties, a shift in decision making from the Department of Finance to the State Controller, and retroactivity going back only one year instead of two, saving Valley Water up to \$2 million that would have been clawed back by the state.

3. State Water Resources Control Board: Federal Clean Water Act Section 303(d) Listing of Los Gatos Creek

Staff was able to secure language to incorporate Valley Water's requested compromise, consisting of the adoption of "special findings" as a part of the State Water Board's federal Clean Water Act Section 303(d) listing of Los Gatos Creek for temperature impairment. The special findings allow the Regional Water Quality Control Board to immediately and directly reassess Pacific Northwest temperature thresholds and related listings based on the findings of a proposed Valley Water Temperature Study. The inclusion of the "special findings" in the State Water Board resolution allows for a future change in the Los Gatos Creek listing based on more appropriate science that is reflective of the Bay Area's Mediterranean climate.

AB 3005 Anderson Dam Bill

Valley Water secured legislative passage of our sponsored bill, AB 3005 (R. Rivas) Expedited Dam Safety for Silicon Valley Act, by near unanimous votes in both houses of the Legislature. Unfortunately, the bill was ultimately vetoed by the Governor. AB 3005 would have authorized the Anderson Dam Seismic Retrofit Project for "best value" selection of the construction contractor, expedited environmental permitting by state agencies, required expedited judicial review of challenges to project environmental impact reports, and required net-zero greenhouse gas emissions for the project as well as actions to enhance fish habitat. Getting the bill passed through the Legislature was made more difficult by the COVID-19 pandemic and required extensive negotiations with multiple state agencies, legislative committees, and key stakeholders. The veto was a surprise both to the Legislature and staff given that state dam safety and environmental permitting agencies were recommending the Governor's signature on the bill.

LOCAL/REGIONAL ADVOCACY AND ENGAGEMENT

Similar to the work at the federal and state levels, Valley Water's local and regional government relations programs involve direct engagement and communication with elected and appointed officials in all 15 cities of Santa Clara County, the County Board of Supervisors, both open space agencies, and the San Francisco Bay Restoration Authority. The local and regional government relations staff also proactively engages with the field staff for the 11 members of the state legislative delegation, as well as with key advocacy stakeholders including business, civic, environmental, and diversity organizations. Due to the COVID-19 pandemic, most community engagement events that Valley Water traditionally attends and supports were somewhat limited. As these events moved to a virtual setting, staff quickly adjusted to ensure Valley Water's continued presence.

2020 Local and Regional Successes

In 2020, Valley Water had many local and regional successes that advanced Valley Water's interests and Board priorities. A full list of tours, events, and sponsorships is included in Attachment 3. Highlights include:

1. Safe, Clean Water Renewal

Helped develop the Safe, Clean Water measure, including providing factual, nonpartisan information that contributed to public understanding of measure, which was successfully passed by the voters in November. The Office of Government Relations efforts also included hosting a Blue Ribbon Forum to solicit input on the renewal from 40 community stakeholders, distributing 1350 community input surveys, and briefing local elected officials and their staffs on the measure.

2. AB 3005 Advocacy

Staff conducted a substantial and sustained advocacy campaign to build grassroots support for AB 3005 from a wide variety of key stakeholder groups and community leaders. Staff further built a robust coalition comprised of environmental, labor, business, and diversity groups, as well as several different cities and towns within Santa Clara County for future advocacy efforts.

3. Conducted Advocacy Tours

Advanced Valley Water projects and priorities with elected officials, regulatory agency representatives, and advocacy stakeholders by conducting and organizing two advocacy tours of key water supply, flood protection, and environmental restoration projects. A central highlight was the first-ever Virtual VIP Water Walk Tour in October of several priority project sites for more than 50 elected officials and staff, as well as key advocacy stakeholders.

4. Participated in Community Events

Educated, engaged, and bolstered support for Valley Water priorities with communities across Santa Clara County by participating in 42 community events, where Valley Water highlighted water conservation, purified recycled water, and community-specific projects. Additionally, several organizations transitioned to online experiences that allowed Valley Water the opportunity to participate in first-ever virtual events.

5. Sponsored Community Events with Valley Water Nexus

Supported Valley Water's and the Board's presence at a variety of civic, business, diversity and inclusion, and professional events by sponsoring 44 community events that had a nexus to and advanced Valley Water's mission, vision, and goals.

2021 Legislative Outlook

The new year will bring changes in Washington, D.C., perhaps increasing the efficacy of the federal government by avoiding a partisan split between the legislative and executive branches. Former Vice President Joseph R. Biden Jr. will be inaugurated the 46th President of the United States on January 20, 2021, and current U.S. Senator Kamala Harris will be sworn in as Vice President. In Congress, the U.S. House of Representatives will remain in Democratic control under Speaker Nancy Pelosi. Due to victories in two runoff races in Georgia, Democrats will assume the de facto majority in the U.S. Senate, as the split will be 50-50 with Vice President-Elect Harris serving as the tiebreaking vote.

Despite the very slim Democratic majority in both houses of Congress, there is some promise for

enacting bold legislation in 2021. In particular, there is a desire among congressional leadership on both sides of the aisle to pass a comprehensive infrastructure package, and President-elect Biden has already signaled a desire to enact such a bill. Other priorities are likely to include another COVID-19 stimulus package and expanding access to health care. Congress will also undergo budget reconciliation, which allows for simple majority passage of certain bills and presents another opportunity to pass related initiatives. Given the still highly partisan political environment, however, finding strategic opportunities to move bills - particularly those with bipartisan consensus - will be critical. Valley Water's federal advocacy efforts will continue to be robust and aggressive, building upon our 2020 accomplishments to achieve even greater success in 2021 and beyond.

The outlook for progress at the state level is promising. With Gavin Newsom as Governor and a Democratic supermajority in both the Senate and Assembly, staff is looking forward to a productive year. Valley Water's state advocacy efforts, as well as our local/regional engagement activities, also will continue to be vigorous and build upon our 2020 successes so that the Board's priorities and Valley Water's interests are protected and advanced at all levels.

2021 Legislative Proposals, Policies, and Priorities

Guided by the Board of Directors' adopted 2021 Legislative Policy Proposals and Guiding Principles, and contingent upon an approved budget for FY 2022, staff is planning a new legislative policy proposal in 2021 (see the full list of Board-approved policies and proposals in Attachment 1): Sponsor state legislation to secure best value contracting for the Anderson Dam Seismic Retrofit Project.

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 the potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: 2021 Legislative Guiding Principles/Policy Proposals

Attachment 2: Key Legislation

Attachment 3: Community Events and Sponsorships

Handout 2.1-A: PowerPoint

UNCLASSIFIED MANAGER:

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