



Santa Clara Valley Water District

File No.: 20-0981

Agenda Date: 10/27/2020

Item No.: *3.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Approve Recommended Position on Federal Legislation: H.R. 8166 (Cox) - Western Water Storage Infrastructure Act; and *H.R. XXXX - Coronavirus Stimulus Bill (Phase 4).

RECOMMENDATION:

- A. Adopt a position of "Support and Amend" on H.R. 8166 (Cox) - Western Water Storage Infrastructure Act; and
- B. *Adopt a position of "Support and Amend" on H.R. XXXX - Coronavirus Stimulus Bill (Phase 4).

SUMMARY:

A. H.R. 8166 (Cox) - Western Water Storage Infrastructure Act

Recommendation: Support and Amend

Priority: 2

This bill would address the continued need for new water supply and improved water infrastructure in California and throughout the arid West. With the Water Infrastructure Improvements for the Nation (WIIN) Act expiring at the end of 2020 and much of the funding having already been exhausted, this bill would extend some of the WIIN Act provisions and authorize new storage funding. Key provisions include:

- Authorizes \$800 million in new funding for water storage projects. This represents a significant increase over the \$335 million authorized under the Water Infrastructure Improvements for the Nation (WIIN) Act, funding that has already been appropriated.
- Preserves the WIIN Act process for projects that are already going through that process, including "State-led" projects like the Pacheco Reservoir Expansion Project.
- Reauthorizes the California Bay-Delta Restoration Act (CALFED) through fiscal year 2024, which would mean continued authorization for the San Luis Low Point Improvement Project for which the Pacheco Project is the Preferred National Economic Development alternative.
- Extends the Delta operations provisions of the WIIN Act for eight years. These provisions set direction for operation of the Central Valley Project with the goal of balancing water supply and

environmental protection objectives.

Status:

The bill was introduced in the House on September 4, 2020, and was referred to the Committee on Natural Resources.

Proposed Amendments:

In order to better serve the interests of Santa Clara County residents, Valley Water recommends the following amendments to the bill:

1. Under the provision to extend the California Bay-Delta Restoration Act (CALFED), include a repeal of language from the original CALFED law that expressly prohibits the use of funding for construction of an expanded Pacheco Reservoir.
2. Include language to enable certain non-federal dams to be eligible for dam rehabilitation and repair funding. The Federal Emergency Management Agency (FEMA) currently operates a grant program to rehabilitate high hazard potential dams - one of the only sources of federal dam safety and repair funding available. However, dams with hydroelectric facilities are not eligible to access this funding. Staff recommends including language in this bill to enable dams with small hydroelectric power generation (under 1.5 megawatts) to be eligible for FEMA dam rehabilitation grant funding. This change could allow Anderson Dam and certain other non-federal dams to become eligible for critical retrofit and repair funding. Rehabilitating our nation's highest risk dams, the vast majority of which are non-federal, should be an essential component of any water infrastructure legislation.

Importance to Valley Water:

This bill would extend several key provisions of the WIIN Act and authorize new storage funding, helping to preserve the only real means of federal support for water storage projects that currently exists. New funding for storage is critical for ensuring future water supply reliability, particularly as we continue to see the effects of a changing climate year after year. The bill would also extend WIIN Act Delta operations provisions, which have set the direction on how the Central Valley Project is to balance water supply and ecosystem objectives.

Pros:

- Extends key provisions of the WIIN Act, including authorizing new funding for water storage projects (\$800 million). As Congress has already appropriated all prior authorized appropriations under the WIIN Act, the significant unmet demand demonstrates the need for new funds.
- Reauthorizes the CALFED law through fiscal year 2024, which includes authorization for the San Luis Low Point Improvement Project for which the Pacheco Project is the Preferred National Economic Development alternative.
- Extends the Delta Operations provisions of the WIIN Act for eight years.

Cons:

- Without the proposed amendments, the bill does not include any provisions for funding dam safety or rehabilitation or fixing potentially problematic language pertaining to Pacheco Reservoir.

B. H.R. XXXX - Coronavirus Stimulus Bill (Phase 4)

Recommendation: Support and Amend

Priority Recommendation: 2

As the nation continues to grapple with the novel coronavirus pandemic, Congress is currently developing another federal stimulus package to provide economic relief to the nation. To date, Congress has passed four bills aimed at providing funding for a national response to the disease and immediate relief to workers. These include three large packages (Phases 1-3) and one smaller package (Phase 3.5). Congressional leaders recently restarted negotiations with the White House on another large package (Phase 4). Any package under development is expected to include financial relief for Americans and businesses suffering from the coronavirus pandemic.

Proposed Amendment:

In order to better serve the interests of Valley Water, staff recommends the following amendment to the next stimulus package that would reduce Valley Water's future financial liability:

1. Amend Internal Revenue Service (IRS) rules to allow any public or private employee to:
 - a. Sell back more vacation hours than he/she will accrue in any given year (e.g., those accrued from prior years); and
 - b. Sell back vacation hours in the same year they accrue.

Status:

As of this writing, the path forward for this legislation is uncertain. In September and early October, House Speaker Nancy Pelosi and Treasury Secretary Steven Mnuchin held several negotiations over funding levels and content of the next stimulus package. Meanwhile, on October 6, the House passed the Heroes Act (H.R. 925), a \$2.2 trillion coronavirus relief package that the White House signaled that it would not support. Then on October 6, the President instructed Secretary Mnuchin to stop negotiating with Speaker Pelosi until after the November 3 elections. The President has changed his mind since then, however, and talks have restarted. Negotiations are ongoing but the path to resolution remains unclear.

Importance to Valley Water:

Valley Water provides an essential service to the people of Santa Clara County, one of the hardest hit counties in the nation during this novel coronavirus pandemic. Valley Water employees ensure that residents have reliable access to safe, clean water and are protected from flooding. As the State of California and local governments are stretched financially during this crisis, Valley Water's ability to access federal funding and support is critical.

In addition to funding for infrastructure projects and priorities for which Valley Water staff is already

advocating, this next coronavirus stimulus package could present an opportunity to amend the IRS rule that places limits on vacation sell back programs and poses a future financial liability for Valley Water due to the higher vacation leave balances that may arise from such restrictions. Current IRS rules stipulate that an employee can only sell back the amount of vacation hours he/she will accrue in the following calendar year, nor can he/she sell back vacation hours in the same year that they accrue. Changing this rule would allow Valley Water to pay out more than an employee will accrue in any given year, as well as pay out in the same year the hours are accrued, should the employee elect to do so. This will help address this future financial liability for Valley Water.

Pros:

- The proposed amendment would help reduce Valley Water's future financial liability.

Cons:

- None identified at this time.

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:

*Original Agenda Memo

*Supplemental Agenda Memo

UNCLASSIFIED MANAGER:

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