



Santa Clara Valley Water District

File No.: 21-1090

Agenda Date: 1/25/2022

Item No.: 2.7.

BOARD AGENDA MEMORANDUM

SUBJECT:

Receive Santa Clara Valley Water District Government Relations Program Update and 2022 Legislative Outlook.

RECOMMENDATION:

- A. Receive information on the 2021 Santa Clara Valley Water District (Valley Water) government relations advocacy and stakeholder engagement program;
- B. Receive update from federal and state consultants on 2021 efforts supporting direction from Valley Water and 2022 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 26, 2021.

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 2022 Legislative Proposals and Guiding Principles adopted by the Board in December 2021 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 and work at the direction provided by Valley Water.

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 2021, due to the ongoing COVID-19 pandemic, these meetings were held virtually as in-person gatherings were largely 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 2021, due to the ongoing COVID-19 pandemic, the Board led two virtual advocacy trips to replace the in-person Washington meetings. In April 2021, Chair Tony Estremera led the delegation in the virtual spring advocacy trip where the group met with dozens of agency officials, Members of Congress, and key congressional committee staff. In November 2021, the Board participated in its virtual fall D.C. 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 virtual format, including producing and sharing all materials electronically, the 2021 trips were a success.

Key Federal Legislation

In 2021, staff brought 35 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, drought response and relief, sea level rise and climate change, water recycling, water quality, environmental justice, and regulatory streamlining, among other topics.

Federal Successes

2021 marked the first year of the presidency of Joseph R. Biden, Jr., and the first session of the 117th Congress. Seizing on the Democratic majority in the U.S. House of Representatives and a narrow Democratic majority in the U.S. Senate, President Biden proposed an ambitious legislative agenda aimed at boosting the economy that continued to struggle under the ongoing COVID-19 pandemic. The President's Build Back Better Plan consisted of three components: 1) provide additional COVID-19 relief; 2) invest in our nation's infrastructure to create jobs; and 3) strengthen health and social programs. At the time of this writing, Congress has passed two of the three components of the President's plan: the American Rescue Plan, which Congress enacted in February 2021; and the Infrastructure Investment and Jobs Act (IIJA), which Congress enacted in November 2021.

1. Passage of Infrastructure Investment and Jobs Act (IIJA)

Passage of the IIJA marked a significant accomplishment - the first time in more than a decade that Congress passed major infrastructure legislation. Valley Water worked closely

with Congressional Members and staff in 2020 and throughout 2021 to influence the water-related provisions of this bill and advocate for passage. Among these victories were:

- Creating a new large-scale water recycling program with \$450 million in available funding, a program that was written partly with Valley Water projects in mind.
- Appropriating \$550 million for Title XVI water recycling projects.
- Appropriating \$1.15 billion for new surface and groundwater storage projects, including establishing a new path to funding eligibility to replace that of the now-expired Water Infrastructure Improvements for the Nation (WIIN) Act. This is an important new path to federal funding for the Pacheco Reservoir Expansion Project.
- Appropriating more than \$11 billion for the U.S. Army Corps of Engineers (Corps), which could fund the South San Francisco Bay Shoreline Phase I Project and the Phases II and III feasibility studies. Valley Water is working now with Congress to ensure that the Corps can spend these funds on this important project.

2. Earmarks Accepted for Anderson and Shoreline Projects

For the first time in more than a decade, Congress agreed to accept project-specific funding requests (also known as earmarks). Valley Water worked with our Santa Clara County Congressional delegation to submit funding requests for several of our priority projects, including the Anderson Dam Tunnel Project, South San Francisco Bay Shoreline Project, and Recycled and Purified Water Program. Congress is currently operating under a continuing resolution that funds the government at Fiscal Year (FY) 2021 levels through February 18, 2022, and it remains unclear whether Congress will include earmarks in whatever final FY 2022 appropriations bill ultimately passes. Nevertheless, the exercise of submitting earmark requests was helpful in illustrating the significant funding need in our county.

3. Commitment to Fund Upper Llagas Creek Project

Finally, Valley Water also celebrated a major achievement in August 2021 by securing a commitment from the Natural Resources Conservation Service (NRCS) to fund up to \$80 million for construction of Phase 2B of the Upper Llagas Creek Flood Protection Project. Receipt of this commitment came after more than two years of advocacy and close partnership with NRCS in the state and Washington, D.C. Staff is now working closely with NRCS to fulfill the agency's requirements that must be met before the funding can be transferred to Valley Water and construction can begin.

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 consultants 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 2021 there were several regulatory issues of importance to Valley Water, including engaging key stakeholders in support of the California Water Commission's determination of feasibility for the Pacheco Reservoir Expansion Project to remain eligible for state funding. There were numerous regulatory actions by the State Water Resources Control Board, including their adoption of an Emergency Curtailment and Reporting Regulation for the Delta Watershed and their Addendum to the Direct Potable Reuse Framework 2nd Edition, as well as a proposed Drought Conservation Emergency Regulation. 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.

Drought Response Efforts

With the disappearance of the Sierra snowpack by the end of April, the severity of the drought resulted in drastic reductions in Valley Water's imported water allocations. OGR staff and consultants responded by coordinating meetings between Valley Water and the Governor's Office staff, members of the State Water Resources Control Board (State Water Board), and State Water Board senior staff, all to underscore the severity of the water supply conditions in Santa Clara County, the serious risk of groundwater overdraft and subsidence, and the critical need for the timely delivery of emergency water transfers and exchanges. Staff urged the Governor's Office to include Santa Clara County in his drought emergency proclamation, and on July 8, the Governor did so. In August, staff advocated for favorable language in the State Water Board's Emergency Water Rights Curtailment Regulations that include protection of critical infrastructure as a reason for exemption. Also in August, the delivery of Valley Water's emergency water transfers began through the support of the State Water Board and other regulators. Finally, OGR and our consultants have provided drought updates to the staff of every member of the Santa Clara County state legislative delegation, both just prior to the June 9 declaration of the Water Shortage Emergency Condition and in the fall following early season rain to explain the risks posed by the drought and the outlook for 2022.

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 18-19, consisting of 23 video meetings. All seven Valley Water Board Members participated and led senior staff in specific meetings with state legislators, their staffs, and Newsom Administration officials on several priority issues, including the drought and Delta water quality, AB 271 (R. Rivas) Best Value for Anderson Dam, Anderson Dam project permitting, SB 786 (Becker) Smart Financing for Silicon Valley Water Infrastructure, the Voluntary Agreements, State Budget funding priorities for the Cross Valley Pipeline Extension and the South San Francisco Bay Shoreline Project, as well as dam safety, recycled water, flood protection, water ratepayer assistance, and homeless encampment impacts.

Key State Legislation

In 2021, staff brought 22 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 22 items with Board-approved positions, many were support positions on bills that were deemed not urgent enough under the pandemic-induced limitations, and only 12 resulted in the Board's desired outcome.

State Successes

In 2021, Valley Water's state level successes were:

1. Emergency Water Transfers Delivered

As described above, there were significant efforts to ensure that our emergency water transfers were delivered and that water rights curtailments didn't impact the delivery of those transfers. The water was delivered and greatly improves Santa Clara County's water supply conditions for 2022 and reduces the risk of subsidence.

2. AB 271 (R. Rivas) Best Value Procurement for Anderson Dam Project Enacted

AB 271 (R. Rivas), Valley Water's sponsored bill to authorize the best value contracting procurement method for the Anderson Dam Seismic Retrofit Project, was signed into law by Governor Newsom on July 9. The bill received overwhelming support in both houses, receiving almost unanimous support in the Assembly where it passed (Ayes 76 - Noes 1) and was passed unanimously in the Senate (Ayes 39 - Noes 0). AB 271 took effect on January 1, 2022.

3. Funding for Valley Water Priorities in State Budget Secured

Working with coalitions, Valley Water successfully advocated for several state water supply and flood protection programs, including \$150 million for recycled water and groundwater cleanup, \$200 million for water conveyance, \$300 million for drought response, and \$500 million for climate resilience, which includes sea level rise, the removal of outdated dams, and funding for San Francisco Bay Restoration Authority. In addition, staff successfully advocated for \$1 billion for water bill arrearages, and \$100 million for COVID pandemic special district relief funding. All these funds are distributed through competitive grant programs that Valley Water is now pursuing.

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 hosted in virtual settings, and staff continued to ensure Valley Water's continued presence.

2021 Local and Regional Successes

In 2021, 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. Collaboration with Municipalities on Drought Emergency

Since the Valley Water Board's declaration of a Water Shortage Emergency Condition June 9, 2021, staff proactively engaged municipalities to join Valley Water in underscoring the seriousness of our region's water supply condition. To date, the County of Santa Clara and 13 cities have taken action to their Councils in response to the extreme drought conditions and to Valley Water's call to reduce water use by 15% compared to 2019 levels. These actions ranged from adopting local emergency resolutions to encouraging residents and businesses to use less water through ceremonial drought awareness proclamations and social media campaigns, as well as providing information on Valley Water's water conservation rebates and programs on cities' websites. Through staff outreach, many jurisdictions also activated their citywide Water Shortage Contingency Plans to immediately implement mandatory water-use restrictions or implemented other conservation measures through operational means to meet Valley Water's water use reduction goal.

2. Second Annual Drought Summit Held

Valley Water convened a diverse cross-section of elected officials, business leaders, water retailers, and environmental advocates throughout Silicon Valley at the Valley Water Drought Summit on October 23, 2021, to discuss ways to address the drought together. The virtual summit offered an opportunity for experts to share community feedback and insights, water supply projections, and information on water conservation tools and resources with stakeholders that can be used to lead communities through the drought emergency.

3. Conducted Advocacy Tours

Staff advanced Valley Water projects and priorities with elected officials, regulatory agency representatives, and advocacy stakeholders by conducting and organizing advocacy tours of key water supply, flood protection, and environmental restoration projects. Staff coordinated and participated in tours for the Anderson Dam Seismic Retrofit Project, the South San Francisco Bay Shoreline Project, the Upper Guadalupe River Flood Protection, and the Silicon Valley Advanced Water Purification Center.

4. Participated in Community Events

Staff educated, engaged, and bolstered support for Valley Water priorities with communities across Santa Clara County by participating in 57 community events, where Valley Water highlighted water conservation, purified and recycled water, and community-specific projects. Most organizations continued to host online experiences that allowed Valley Water the opportunity to participate through virtual events.

5. Sponsored Community Events with Valley Water Nexus

Staff supported Valley Water's and the Board's presence at a variety of civic, business, diversity

and inclusion, and professional events by sponsoring 54 community events that had a nexus to and advanced Valley Water's mission, vision, and goals.

2022 LEGISLATIVE OUTLOOK

The new year marks the second year of President Biden's term and the second session of the 117th Congress. Following the spate of legislative activity late in 2021 that resulted in important policy successes, the forthcoming mid-term elections this fall will make it difficult for Congress to enact any meaningful legislation in 2022. There is a strong possibility that Democrats will lose their majority in one or both chambers, and all attention from lawmakers will be on the November elections for much of this year.

Despite the challenging landscape, Valley Water's federal advocacy efforts will continue to be robust and aggressive, building upon our 2021 accomplishments. A special focus in early 2022 will be placed on the Administration, which will be implementing the Infrastructure Investment and Jobs Act. Valley Water has already engaged with several of these agencies and will continue to advocate to secure these dollars for our infrastructure projects.

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 2021 successes so that the Board's priorities and Valley Water's interests are protected and advanced at all levels.

On the local level, the redistricting process to review the boundaries of the seven Valley Water Board electoral districts is underway to ensure that each modified district meets the one-person, one-vote test, and to ensure compliance with the federal Voting Rights Act. To assist with the completion of a redistricting study in an inclusive, transparent, and comprehensive manner, and to garner community input on redistricting, the Board of Directors established the Redistricting Advisory Committee, which will be presenting the Board of Directors with draft maps for consideration and adoption in 2022.

2022 LEGISLATIVE PROPOSALS AND GUIDING PRINCIPLES

Guided by the Board of Directors-adopted 2022 Legislative Proposals and Guiding Principles, and contingent upon an approved budget for FY 2023, staff is planning two new legislative proposals in 2022:

1. Water Fixture Retrofit Upon Resale (Local)
2. No Net Loss Policy Update (State)

Staff is also conducting robust advocacy under three new legislative guiding principles:

1. Support state regulatory changes that consider compensatory mitigation required by other state and federal agencies to avoid mitigating twice for the same impacts to

riparian habitat.

2. Support funding to stabilize water rates through grants and other financial assistance for water infrastructure.
3. Support mandatory COVID-19 vaccination for government employees to ensure continuity of essential services.

For the full list of Board-approved proposals and guiding principles, see Attachment 1.

ENVIRONMENTAL JUSTICE IMPACT:

There are no Environmental Justice impacts associated with this item.

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

ATTACHMENTS:

Attachment 1: 2022 Legislative Proposals/Guiding Principles
Attachment 2: Key Legislation in 2021
Attachment 3: Community Events and Sponsorships

UNCLASSIFIED MANAGER:

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