Santa Clara Valley Water District

File No.: 22-1191	**Agenda Date:** 11/8/2022
	Item No.: 3.2.

BOARD AGENDA MEMORANDUM

SUBJECT:
Approve Recommended Positions on Federal Legislation: H.R. 3023 (Costa) - Restoring WIFIA Eligibility Act; H.R. 8127 (Schrier) - Water Infrastructure Finance and Innovation Act Amendments; and Other Legislation That May Require Urgent Consideration for a Position by the Board.

RECOMMENDATION:

A. Adopt a position of “Support” on H.R. 3023 (Costa) - Restoring WIFIA Eligibility Act; and
B. Adopt a position of “Support if Amended” on H.R. 8127 (Schrier) - Water Infrastructure Finance and Innovation Act Amendments.

SUMMARY:
A. H.R. 3023 (Costa) - Restoring WIFIA Eligibility Act
Recommendation: Support
Priority Recommendation: 2
This bill would amend the Water Infrastructure Finance and Innovation Act (WIFIA) to ensure that facilities owned by the federal government but operated and managed by non-federal entities can access WIFIA loans. This is particularly important for facilities such as the C.W. "Bill" Jones Pumping plant, which is owned by the Bureau of Reclamation but operated by the San Luis and Delta-Mendota Water Authority, and is in need of rehabilitation. Under current law, federally owned facilities like the Jones Pumping Plant cannot be financed by WIFIA loans due to the budgetary treatment of these projects.

Status:
The bill was introduced in the House on May 17, 2022, and was referred to the Committee on Transportation and Infrastructure, as well as the Committee on Energy and Commerce.

Importance to Valley Water:
Under the WIFIA Program, which is administered by the Environmental Protection Agency, the federal government provides low-interest, long-term loans for certain eligible water infrastructure projects. The subsidy cost of the WIFIA program accounts for potential losses to the government in the case of loan default. The White House Office of Management and Budget (OMB) determines the program’s subsidy cost, or subsidy rate, which then determines how much credit assistance the program can provide. In federal budgetary terms, WIFIA loans have a much lower impact on federal spending than grants or direct appropriations, as those are not repaid.

For loans to federally owned facilities like the Jones Pumping Plant that are operated and managed by non-federal entities, however, OMB treats them like grants or direct appropriations for budgetary purposes. This largely stems from a scandal in the 1980s when the Federal Housing Administration made loans to certain Department of Defense contractors that then defaulted, at great cost to the federal government. The OMB has since treated these kinds of loans like direct appropriations. While this makes sense for federal agencies like the Department of Defense, which can access direct appropriations, non-federal entities like the San Luis and Delta-Mendota Water Authority cannot access direct appropriations and are thus at a disadvantage. Being able to access WIFIA loans is an important option for keeping overall project financing low.

Pros:
- Would ensure that critical water infrastructure projects like the C.W. “Bill” Jones Pumping Plant rewind are eligible for WIFIA loans. Accessing these loans could help reduce overall project financing costs.

Cons:
- None identified at this time.

B. H.R. 8127 (Schrier) - Water Infrastructure Finance and Innovation Act Amendments of 2022
Recommendation: Support if Amended
Priority Recommendation: 2
This bill would make several amendments to the Water Infrastructure Finance and Innovation Act (WIFIA) to ensure broader access to the WIFIA Program for water infrastructure projects. These changes include:
- Clarifying WIFIA eligibility for certain projects, including State-led storage projects authorized under Section 4007 of the Water Infrastructure Improvements for the Nation Act, transferred works (facilities owned by the Bureau of Reclamation but operated by non-federal entities), or water resources development projects owned and operated by non-federal entities.
- Making projects eligible for WIFIA that use collaborative delivery methods, including construction management at-risk methods or design-build methods.
- Including H.R. 3023 (Costa), the Restoring WIFIA Eligibility Act, which would ensure that facilities owned by the federal government but operated and managed by non-federal entities can access WIFIA loans.
- Extending the final loan maturity date for projects with a useful life beyond 35 years to up to 55 years or equal the project’s useful life.

Status:
The bill was introduced in the House on June 16, 2022, and was referred to the Committee on Transportation and Infrastructure, as well as the Committee on Energy and Commerce.

Proposed Amendment:
In order to best serve Valley Water’s interests, staff recommends the following amendment:
1. Clarify that borrowers may voluntarily accept a loan repayment period of less than 55 years on

a project with a useful life greater than 35 years.

Importance to Valley Water:
Amending the WIFIA statute to provide broader access to the program is a worthy goal. Valley Water has sought WIFIA loans for several large infrastructure projects, including water supply and flood risk management projects. While expanding access to the program means there will be greater competition for its limited funds, it also means that more of Valley Water projects or Valley Water-partnered projects could benefit. The one provision that would not help Valley Water is extending the loan repayment period from 35 years to 55 years (for a project with a useful life of greater than 35 years). The benefit of extending the repayment period is that it reduces the principal amount a borrower pays annually. However, doing so will increase the overall financing cost of the loan. Some borrowers might want to lower their annual cost by stretching out the loan repayment period, but other borrowers (like Valley Water) might not want to increase the overall financing cost of a project. Staff recommends proposing an amendment to the bill author to make this provision voluntary.

Pros:
- Expands WIFIA eligibility for certain projects, including those that are owned by the federal government but operated and managed by non-federal entities.

Cons:
- Expands WIFIA eligibility for more potential borrowers without increasing the available funding.
- Without the proposed amendment, the bill would require an extension of the loan repayment period from 35 to 55 years with no option for early repayment.

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

ATTACHMENTS:
None.

UNCLASSIFIED MANAGER:
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