

Sierra Club, Loma Prieta Chapter • CLEAN South Bay • Green Foothills
Santa Clara Valley Audubon Society • South Bay Clean Creeks Coalition
California Native Plant Society, Santa Clara Valley Chapter • Tuolumne River Trust
California Water Research • Fly Fishers International, Northern California Council
California Sportfishing Protection Alliance • Institute for Fisheries Resources
Friends of the River • Flycasters of San Jose • Pacific Coast Federation of
Fishermen's Associations

July 20, 2020

Chair Nai Hsueh and Board Members
Valley Water
5750 Almaden Expressway
San Jose, CA 95118

Re: Agenda items for July 21, 2020 Special Board meeting

Dear Chair Hsueh and Board Members:

As representatives of environmental and fishing organizations working in Santa Clara County and statewide, we appreciate the effort that Valley Water staff and Board members have made to address our concerns about Valley Water's environmental stewardship.

We also appreciate the CEO's expressed desire to have better relationships with the State Water Resources Control Board and Regional Boards and thank the Valley Water Board for voting to withdraw from the lawsuit against the Water Board over the Phase 1 Update to the Bay Delta Water Quality Control Plan.

We offer the following comments on the agenda items for the July 21, 2020 Special Board meeting.

2.1 Lawsuit against San Francisco Bay Regional Water Quality Control Board

We are very concerned about the Board's legal challenge to the San Francisco Bay Regional Water Quality Control Board's authority to require mitigation measures as a permitting condition for the Upper Berryessa Creek Flood Protection Project. The District's efforts based on the "unfunded state mandate" clause of the constitution threaten to undermine the power of the Regional Water Boards throughout the State to protect our streams from adverse impacts of instream projects, including the flood protection projects in the Safe, Clean Water program.

We look forward to hearing the results from your closed session on June 21st on SCVWD v. San Francisco Bay Regional Water Quality Control Board.

2.2 Fisheries and Aquatic Habitat Collaborative Effort (FAHCE)

With respect to FAHCE, Valley Water's schedule in 2018 was as follows:

Summer 2018 Model Results & CEQA Alternatives
January 2019 Internal Draft EIR
Spring 2019 Public Draft EIR
Late 2019 Final EIR

To date, no Public Draft EIR has been released, nor has Valley Water published the model results or the Administrative Draft EIR. We remind you that the deadline in the FAHCE settlement agreement for the EIR was 2005. Our coalition members believe that the District's delays and failure to honor the commitments in the FAHCE agreement are serious breaches of trust.

We appreciate the new CEO's stated commitment to addressing the delays with FAHCE. We request that the Board direct that the FAHCE model results and CEQA alternatives, as well as the Administrative Draft EIR, be immediately released to the public.

We fully support the requests made by the Northern California Council of Fly Fishers International in their letter to the Board dated July 19, 2020. These actions will both begin action on the FAHCE agreement and show us all that Valley Water is serious about this effort.

2.6 Board audit of grant management

We thank the Board Audit Committee and Director Kremen for addressing the concerns we raised about issues with grant management.

We support the Audit Committee's management audit of the current grants administration process, including, but not limited to, interviewing current, past and rejected grant applicants from the last four years, reviewing best practices of other granting agencies, and developing best practices for grant administration going forward.

We request that the Board specifically direct that issues with grant applications, grant contract execution delays and delayed payment for grant invoices be addressed through the Board Audit Committee and this audit process.

2.7 Safe, Clean Water program renewal: reducing commitments to funding for habitat enhancement

Given Valley Water's expressed commitment to environmental stewardship, our groups are puzzled by the refusal to address our concerns that the proposed Safe, Clean Water and Natural Flood Protection ("SCW") program renewal has significant reductions to funding commitments for habitat enhancement, compared to the existing SCW program. As explained by CalTrout in their July 14, 2020 comment letter:

“Valley Water has a duty to enact the habitat enhancement measures listed in the Parcel Tax through California Fish and Game Codes and through State Water Board provisions and/or mitigation with District funds. The Parcel Tax provisions that support fish passage and habitat improvements are listed in wide-ranging categories that give Valley Water too much discretion to fund other projects in place of these required restoration activities.”

The budget projection for the second 15 years is even more alarming than the first 15 years – showing a reduction of 50% in commitments for Priority D, Restore Wildlife Habitat and Provide Open Space.

We are alarmed that Valley Water is proposing to issue \$310 million in bonds on the SCW parcel tax revenues, with no list of projects that need borrowing for timely completion. Issuing 30 year bonds without any clear explanation of need is contrary to existing Board policy, which directs that debt shall only be issued when there is a demonstrated need (Executive limitations section 4.7.2.)

The out-year impacts of immediately borrowing six years of parcel tax revenues on the SCW program will be severe. Funds available for capital projects in the second 15 years could be cut by up to two thirds. We are extremely disappointed to see no proposals to address the issues that the borrowing creates with long-term funding for habitat enhancement and other SCW priorities.

A majority of our groups are opposed to a Valley Water resolution with no sunset date, and we believe the lack of a sunset date would make it unlikely to pass. For this reason, we are disappointed to see no evaluation of an alternative with a sunset date.

We also continue to be concerned about the consolidation of \$34 million in grants the existing SCW program dedicated to environmental stewardship, pollution prevention, and volunteer creek clean-ups to the single umbrella grant program in F9. No alternative has been offered to this consolidation of grant programs.

Existing SCW grant programs	
B3 Pollution prevention	\$ 7.6M
B7 Volunteer Cleanup Efforts and Education	\$ 2.4M
D3 Restore Wildlife Habitat	\$ 24M
Total	\$ 34M

We request that the Board address these issues and ensure that there will be sufficient funding for Valley Water to meet its duty to fund legally required habitat enhancement projects.

We expect the alternative will be opposition to the proposed Safe, Clean Water parcel tax program renewal by many of our groups.

2.7 Safe, Clean Water program renewal: funding for water supply projects with SCW revenues

We continue to believe water supply projects, such as the proposed expansion of Pacheco Reservoir, should be funded by the ratepayers who will benefit from the water supply.

The Safe, Clean Water and Natural Flood Protection Program parcel tax funds should be largely reserved for water quality, flood protection, environmental stewardship, and environmental education projects. Please note that of the 17,000 residents that completed the online community survey, there were only seven comments related to Pacheco, and many of them were critical of the project.

For this reason, we reiterate our previous request that the Board remove funding for Pacheco Dam from the SCW program renewal. This is a tiny portion of the \$1.3 billion needed for the Pacheco project, and should come from Water Utility Enterprise funds.

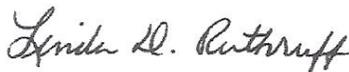
Sincerely,



Katja Irvin
Conservation Committee Co-chair
Sierra Club, Loma Prieta Chapter



Shani Kleinhaus, Ph.D.
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Linda Ruthruff
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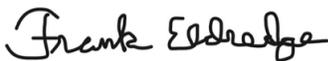
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