



# Santa Clara Valley Water District Stream Planning and Operations Committee Meet

Teleconference Zoom Meeting  
5700 Almaden Expressway  
San Jose, CA 95118

## REGULAR MEETING AGENDA

Thursday, May 13, 2021  
12:00 PM

**District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.**

FAHCE AD HOC COMMITTEE

Barbara Keegan - District 2  
Linda J. LeZotte - District 4  
Tony Estremera - District 6

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**Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown Act.**

**Santa Clara Valley Water District  
Stream Planning and Operations Committee**

**REGULAR MEETING  
AGENDA**

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Thursday, May 13, 2021

12:00 PM

Teleconference Zoom Meeting

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**IMPORTANT NOTICES**

This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20 issued on March 17, 2020 that allows attendance by members of the Committee, staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both.

Members of the public wishing to address the Committee during a video conferenced meeting on an item not listed on the agenda, or any item listed on the agenda, should use the "Raise Hand" tool located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Committee Chair in the order requests are received and granted speaking access to address the Committee.

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This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Sections 54950 et. seq. and has not been prepared with a view to informing an investment decision in any of Valley Water's bonds, notes or other obligations. Any projections, plans or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of Valley Water's bonds, notes or other obligations and investors and potential investors should rely only on information filed by Valley Water on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System for municipal securities disclosures and Valley Water's Investor Relations website, maintained on the World Wide Web at <https://emma.msrb.org/> and <https://www.valleywater.org/how-we-operate/financebudget/investor-relations>, respectively.

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**Join Zoom Meeting**

**<https://valleywater.zoom.us/j/98460637852>**

**Meeting ID: 984 6063 7852**

**One tap mobile**

**+16699009128,,98460637852# US (San Jose)**

**Dial by your location**

**+1 669 900 9128 US (San Jose)**

**Meeting ID: 984 6063 7852**

**1. CALL TO ORDER:**

1.1. Roll Call.

**2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA.**

*Notice to the Public: Members of the public who wish to address the Committee on any item not listed on the agenda should access the "Raise Hand" or "Chat" tools located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Committee Chair in order requests are received and granted speaking access to address the Committee. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Committee action on, or extended discussion of, any item not on the agenda except under special circumstances. If Committee action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Committee may take action on any item of business appearing on the posted agenda.*

**3. APPROVAL OF MINUTES:**

3.1. Approval of Minutes.

[21-0163](#)

Recommendation: Approve the March 11, 2021 Stream Planning and Operations Committee (SPOC) minutes.

Manager: Michele King 408-630-2711

Attachments: [Attachment 1: March 11, 2021 SPOC Minutes.](#)

**4. INFORMATION AND ACTION ITEMS:**

- 4.1. Receive Updates on Fish and Aquatic Habitat Collaborative Effort (FAHCE) Progress and Deliverables. [21-0165](#)  
 Recommendation: Receive updates on the FAHCE progress and deliverables.  
 Manager: Vincent Gin, 408-630-2633.
- 4.2. Discuss Projects and Activities that May Affect the FAHCE Program. [21-0167](#)  
 Recommendation: Discuss Projects and Activities that May Affect the FAHCE Program.  
 Manager: Rechelle Blank, 408-630-2615.
- 4.3. Receive update on Anderson Dam Seismic Retrofit Project. [21-0169](#)  
 Recommendation: Receive update on Anderson Dam Seismic Retrofit Project (ADSRP).  
 Manager: Christopher Hakes, 408-630-3796  
 Attachments: [Attachment 1: Amend. to Agreement for PM Service](#)  
[Attachment 2: Amend. to Agr. for Env. Plan. & Permitting Serv.](#)  
[Attachment 3: Memo Awarding ADTP Construction Contract](#)  
[Attachment 4: Agreement for Possession & Use](#)
- 4.4. Review Stream Planning and Operations Committee (SPOC) Work Plan, Outcomes of Board Action of Committee Requests, and the Next Meeting Agenda. [21-0171](#)  
 Recommendation: A. Review 2021 SPOC work plan, outcomes of Board action of Committee requests, and next meeting agenda; and  
 B. Schedule Committee meetings as appropriate.  
 Manager: Michele King, 408-630-2711  
 Attachments: [Attachment 1: 2021 SPOC Work Plan](#)  
[Attachment 2: July 8, 2021 Draft Agenda](#)
- 5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS.**  
*This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during the meeting.*
- 6. ADJOURN:**
- 6.1. Adjourn to Regular Meeting at 12:00 p.m., on July 8, 2021, to be called to order in compliance with the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20.



# Santa Clara Valley Water District

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**File No.:** 21-0163

**Agenda Date:** 5/13/2021  
**Item No.:** 3.1.

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## COMMITTEE AGENDA MEMORANDUM

### Stream Planning and Operations Committee

**SUBJECT:**

Approval of Minutes.

**RECOMMENDATION:**

Approve the March 11, 2021 Stream Planning and Operations Committee (SPOC) minutes.

**SUMMARY:**

A summary of SPOC Committee discussions, and details of actions taken during an open and public meeting is submitted for review and approval.

Upon approval, minutes transcripts are finalized and entered into the District's historical records archives and serve as historical records of the Committee's meetings.

**ATTACHMENTS:**

Attachment 1: March 11, 2021 SPOC Minutes.

**UNCLASSIFIED MANAGER:**

Michele King 408-630-2711





STREAM PLANNING AND OPERATIONS COMMITTEE

# DRAFT MINUTES

THURSDAY, MARCH 11, 2021  
12:00 PM

(Paragraph numbers coincide with agenda item numbers)

1. **CALL TO ORDER**

**1.1 ROLL CALL**

A meeting of the Santa Clara Valley Water District (Valley Water) Stream Planning and Operations Committee (SPOC) was called to order by Director Barbara Keegan at 12:00 p.m. on March 11, 2021, in the District Headquarters Building, Conference Room A-124, 5700 Almaden Expressway, San Jose, California.

Board members attending by videoconference: Director Barbara Keegan-District 2, Director Linda J. LeZotte-District 4, and Director Tony Estremera-District 6, constituting a quorum of the SPOC.

Staff members in attendance in Conference Room A-124: Michele King, Clerk of the Board. Staff in attendance by videoconference: John Bourgeois, Glenna Brambill, Anthony Fulcher, Vincent Gin, Chris Hakes, Ryan Heacock, Bassam Kassab, Clayton Leal, Eric Olson, Steve Peters, Lisa Porcella, Melanie Richardson, Afshin Rouhani, Kevin Sibley, Sue Tippets, and Sarah Young.

Guests in attendance by videoconference: Mark Saturnio, City of San Jose; Yves Zsutty, City of San Jose; Stan Williams, former Valley Water Chief Executive Officer; and Chuck Hammerstad, Northern California Council Fly Fishers International.

2. **TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT AN AGENDA**

Director Keegan declared time open for public comment on any item not on the agenda. There was no one present who requested to speak.

3. **APPROVAL OF MINUTES**

**3.1 APPROVAL OF MINUTES**

The SPOC considered the draft minutes from the January 14, 2021 meeting. It was moved by Director LeZotte, seconded by Director Estremera, and unanimously carried by roll call vote to approve the minutes as presented.

## **4. INFORMATION AND ACTION ITEMS**

### **4.1 Receive Updates on Fish and Aquatic Habitat Collaborative Effort (FAHCE) Progress and Deliverables.**

Staff provided updates on the following FAHCE subjects:

Mr. Ryan Heacock reviewed the Draft Environmental Impact Report (EIR).

Mr. Clayton Leal reviewed the FAHCE Monitoring Plan as shown on Attachment 2. Director Estremera requested that information and graphics presented in the FAHCE Monitoring Plan presentation be shown at future FAHCE public meetings and a future Board meeting to document how Valley Water is investing in the care of fish.

Mr. Bassam Kassab reviewed the FAHCE Plus Pilot Flows Implementation of Guadalupe Creek and Stevens Creek as shown on Attachment 1. Mr. Vincent Gin provided an explanation on the reasons the pilot is FAHCE Plus versus FAHCE, in response to a question from Mr. Stan Williams.

Ms. Lisa Porcella provided an update on the recent Initialing Parties meeting.

### **4.2 Discuss District and Non-District Projects and Other Activities that May Affect the FAHCE Settlement Agreement and Implementation.**

Mr. John Bourgeois introduced Mr. Yves Zsutty and Mr. Mark Saturnio from the City of San Jose. Mr. Zsutty provided an update on the removal of the fish passage barrier at Singleton Road at Coyote Creek.

### **4.3 Receive Update on Anderson Dam Seismic Retrofit Project.**

Mr. Chris Hakes provided an update on this item as outlined in the attached Committee Agenda Memo.

### **4.4 Receive Update on Discussions with the FAHCE Adaptive Management Team.**

Mr. Vincent Gin and Ms. Porcella provided an update on the FAHCE Adaptive Management Team (AMT) as outlined in the attached Committee Agenda Memo.

Mr. Williams commended staff for creating and engaging the AMT and asked staff to explain the rules and procedures being followed. Ms. Porcella and Mr. John Bourgeois provided a high-level explanation of the process being used that is structured in the settlement agreement, with the understanding that it is a live document, and that there will be some turns and changes in the coming years.

### **4.5 Review Stream Planning and Operations Committee (SPOC) Work Plan, Outcomes of Board Action of Committee Requests, and the Next Meeting Agenda.**

Ms. Michele King reviewed the work plan, board action of committee request, and information on the next agenda.



**5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS.**

There were no committee requests.

**6. ADJOURNMENT**

Chair Keegan adjourned the meeting at approximately 1:10 p.m. to the May 13, 2021 meeting.

Michele L. King  
Clerk of the Board

Approved:





# Santa Clara Valley Water District

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**File No.:** 21-0165

**Agenda Date:** 5/13/2021

**Item No.:** 4.1.

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## COMMITTEE AGENDA MEMORANDUM

### Stream Planning and Operations Committee

**SUBJECT:**

Receive Updates on Fish and Aquatic Habitat Collaborative Effort (FAHCE) Progress and Deliverables.

**RECOMMENDATION:**

Receive updates on the FAHCE progress and deliverables.

**SUMMARY:**

Following the March 11, 2021 Stream Planning and Operations Committee (SPOC) meeting, FAHCE updates include:

**Draft Environmental Impact Report (EIR):** The public Draft EIR is still targeted for release in June 2021.

**FAHCE Plus Pilot Flows Implementation at Guadalupe Creek and Stevens Creek:**

Santa Clara Valley Water District (Valley Water) continued to coordinate the FAHCE Plus Pilot Flow Project for Guadalupe Creek and Stevens Creek initiated on October 1, 2020. The two-year Pilot Project provides storage-based releases from Guadalupe Reservoir and Stevens Creek Reservoir into Guadalupe and Stevens Creeks, respectively. Flow releases are conforming to the FAHCE plus rule curves based on available reservoir storage. Pulse releases are not scheduled at this time as storage levels are below the threshold at both reservoirs in the FAHCE Plus Pilot Flows Program.

**FAHCE Adaptive Management Team:** Valley Water convened two meetings on Oct. 29, 2020, discussing the draft charter and Feb. 10, 2021, discussing an overview of the Adaptive Management Program and Monitoring. The next meeting will be in late May or early June to further discuss adaptive management.

**FAHCE Initialing Parties:** Valley Water convened meetings of the FAHCE Initialing Parties on Oct. 2, 2020 and Feb. 8, 2021 to continue discussions of VW progress of the FAHCE Program. Valley Water also hosted a meeting on the One Water Plan for the Initialing Parties on April 19, 2021 to update them on the status and elicit their involvement in the Guadalupe One Water Plan. The next Initialing Parties meeting is targeted to occur in June 2021 to coincide with the draft EIR release.

**FAHCE Contracts Update:**

- In March 2021, Valley Water entered a sole source agreement for on call services with Cordoba Corporation for strategic advice and support to Valley Water through the public review process of the FAHCE two creeks draft EIR and the petition process at the State Water Resources Control Board. Cordoba's executive advisor, Stan Williams (also former CEO of Valley Water) has unique insight regarding the FAHCE program, including its historical background and context that led to the negotiation of the FAHCE Settlement Agreement (SA). The contract total is not to exceed \$225,000.
- In the next two months, several existing contracts are proposed to be extended or amended:
  - a. Amendment for legal expert support from SEI for technical and modeling work in support of finalizing the EIR.
  - b. Amendment for legal expert support from Hanson Environmental Inc for additional fisheries, adaptive management expertise and insights on FAHCE technical work since its inception.
  - c. Amendment to the existing contract with HDR Engineering to develop responses to public comments on the draft EIR and make corresponding revisions to the draft EIR.

**ATTACHMENTS:**

None.

**UNCLASSIFIED MANAGER:**

Vincent Gin, 408-630-2633.



# Drought Update and FAHCE Plus Pilot Program Implementation on Stevens Creek and Guadalupe Creek

Bassam Kassab, P.E., Raw Water Operations Manager

Eric Olson, P.E., Senior Engineer, Raw Water Operations

SPOC Meeting – May 13, 2021

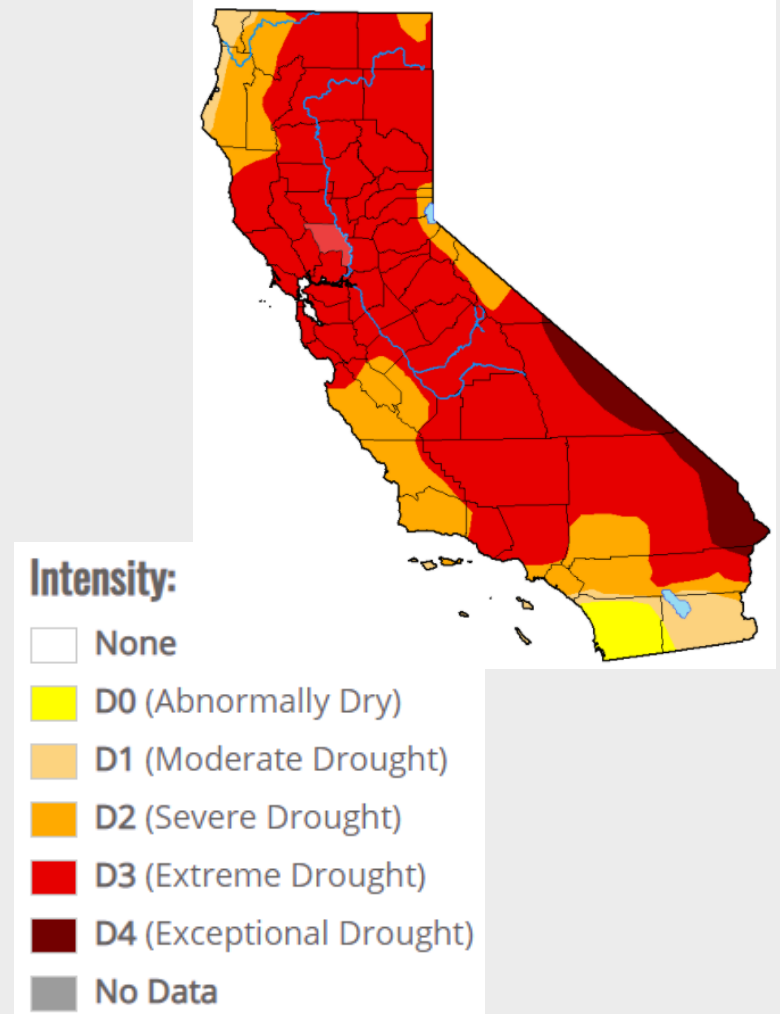


# Outline

- 2021 Water Supply Conditions in Santa Clara County
- Looking Ahead: 2022 Water Supply Conditions
- Strategy to Address Dry-Year Risks
- FAHCE Plus Pilot Flows on Stevens Creek
- FAHCE Plus Pilot Flows on Guadalupe Creek

## Is the County in a Drought?

- U.S. Drought Monitor Report: Santa Clara County is in **Extreme Drought** (May 4)
- On April 21, Governor Newsom issued a drought proclamation for Mendocino and Sonoma counties, directing DWR to partner with local water districts to make Californians aware of the drought and reduce water use
- On May 10, the Governor expanded the drought proclamation to 41 counties, including Alameda, but not Santa Clara yet



## 2021 Water Supply Conditions

- Very dry year 2021: San José rainfall 5.79 inches  
or 42% of May 1 average or 95% Exceedance Probability
- Local reservoirs: 26% of 20-year average
- Local nine reservoirs (without Anderson): 43% of 20-year average

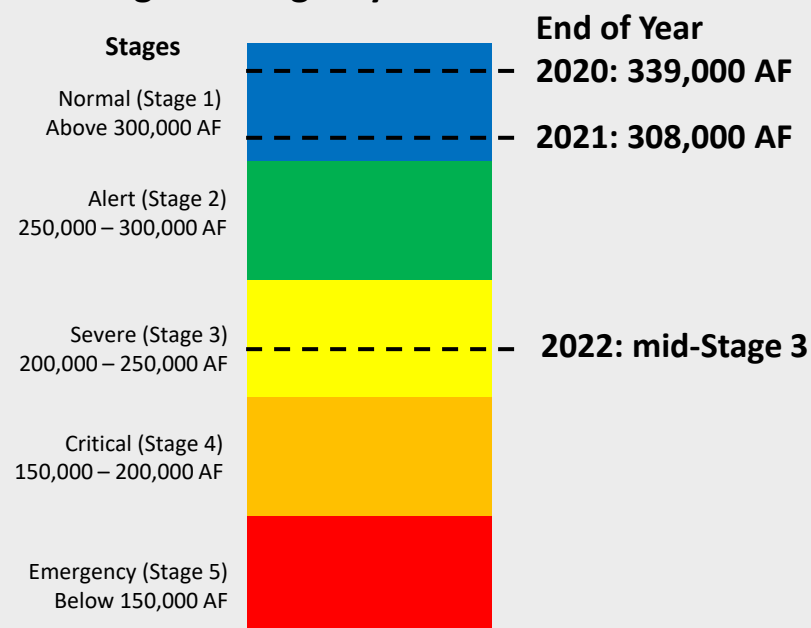




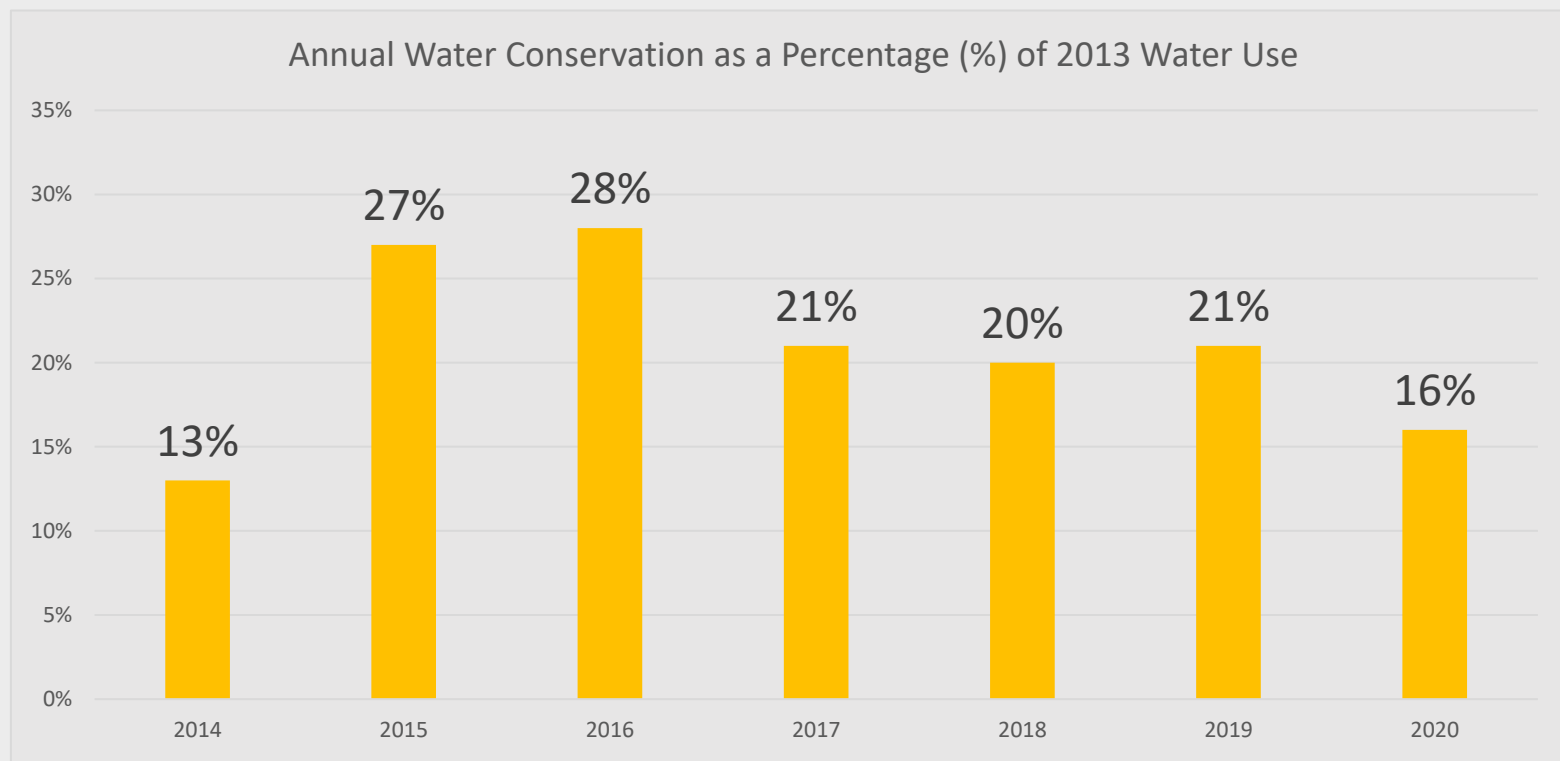
## 2021 Water Supply Conditions (Cont'd)

- End of year 2020 groundwater storage: 339,000 acre-feet (AF)
- Projected end of year 2021 groundwater storage: 308,000 AF
- Projected end of year 2022 groundwater storage: in the mid-range of Stage 3

### Water Shortage Contingency Plan



# Water Conservation



## 2021 Water Supply Conditions (Cont'd)

Initial imported water allocations are low:

- SWP: 5%
- CVP: 5% Ag<sup>2</sup> and 55% M&I

<sup>(2)</sup> USBR: Ag water not available until further notice

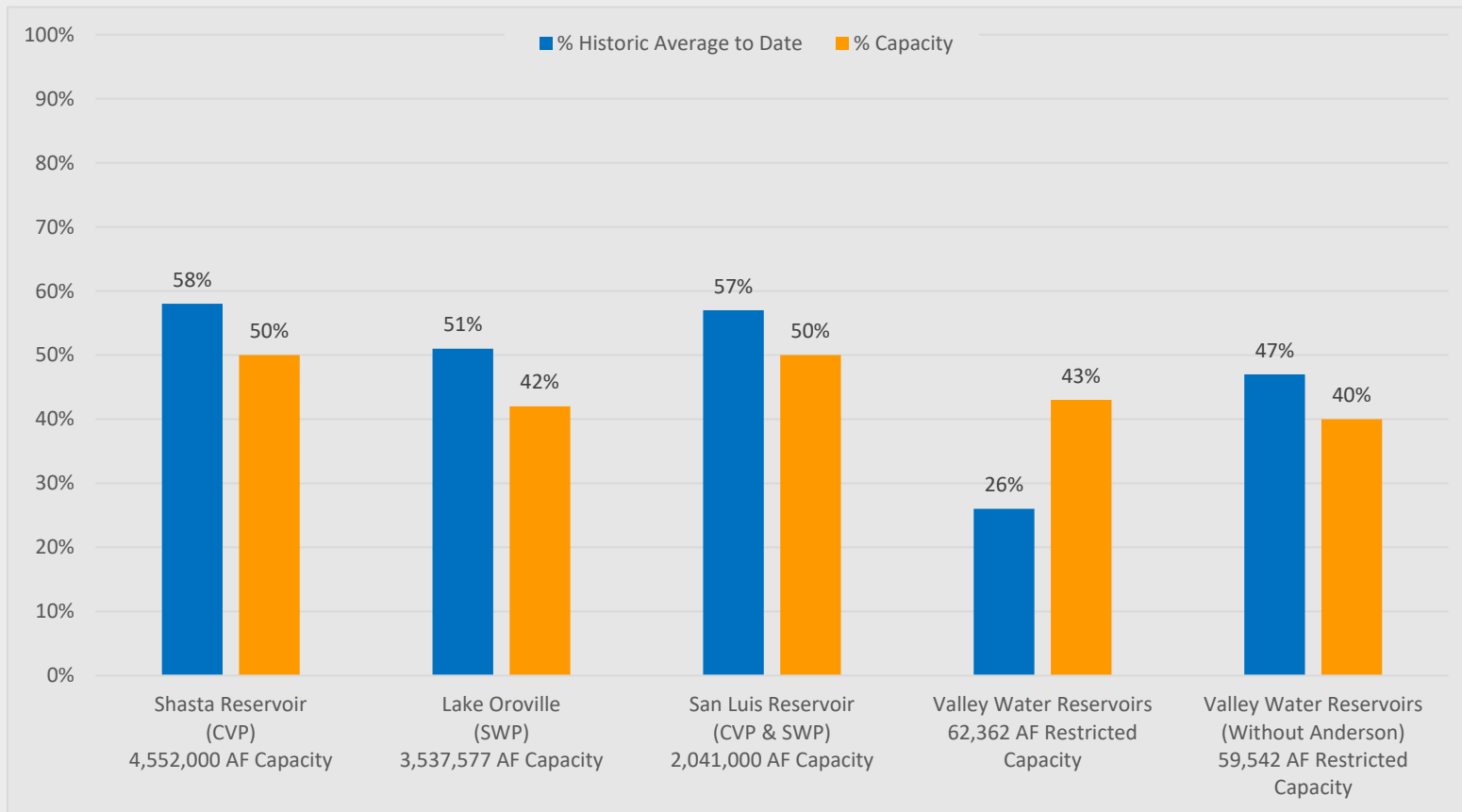


## 2021 Water Supply Conditions (Cont'd)

- FERC Order: Start drawdown of Anderson Reservoir no later than Oct. 1, 2020
- Anderson reached 3% storage in mid-December 2020
- Increased reliance on imported water for recharge and deliveries to water treatment plants



# Reservoir Conditions as of May 4, 2021



## Looking Ahead: 2022 Water Supply Conditions

- 2021 water supply conditions are adequate
- But we need to plan for 2022 if dry conditions persist
- Because of Anderson drawdown, we need to secure emergency (supplemental) imported water supplies:
  - To increase recharge in 2021
  - To increase carryover from 2021 to 2022



## Strategy to Address Dry-Year Risks



Increase water conservation by:

- Promoting the message of *Making Conservation a California Way of Life* to residents and businesses
- Moving from Board Resolution 17-43 (June 13, 2017) to voluntarily reduce water use by 20% compared to 2013 to a **voluntary 25% reduction** (April 27, 2021)
- Spending additional \$1 million per year on conservation messaging and programs
- Raising the rebate program for lawn removal to \$2.00 per square foot

# FAHCE Plus Pilot Program

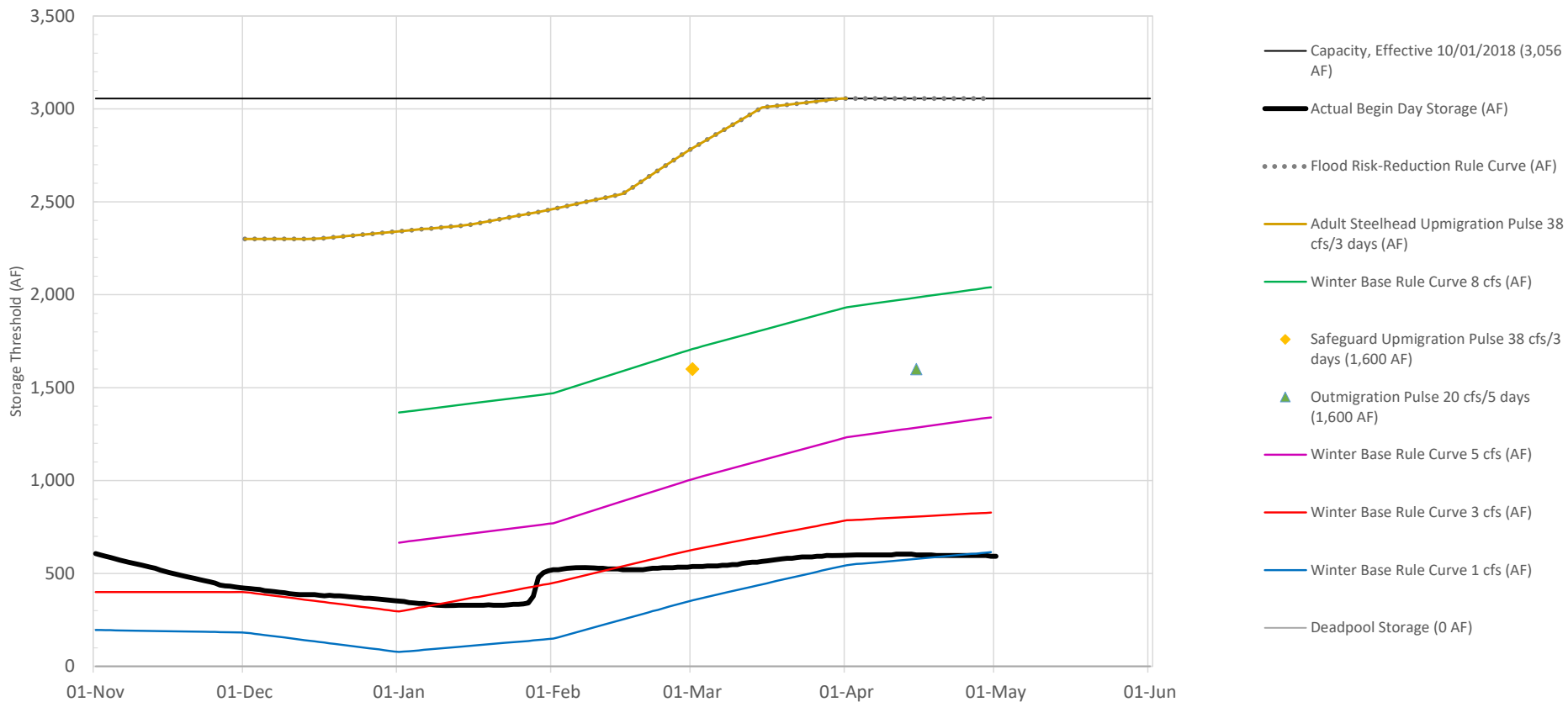
1. FAHCE Plus Pilot Program started on October 1, 2020
2. Storage-based rule curves guide releases from Stevens Creek and Guadalupe reservoirs
3. Rule curves vs. actual storage this past winter in the two reservoirs
4. Current releases into Stevens Creek and Guadalupe Creek





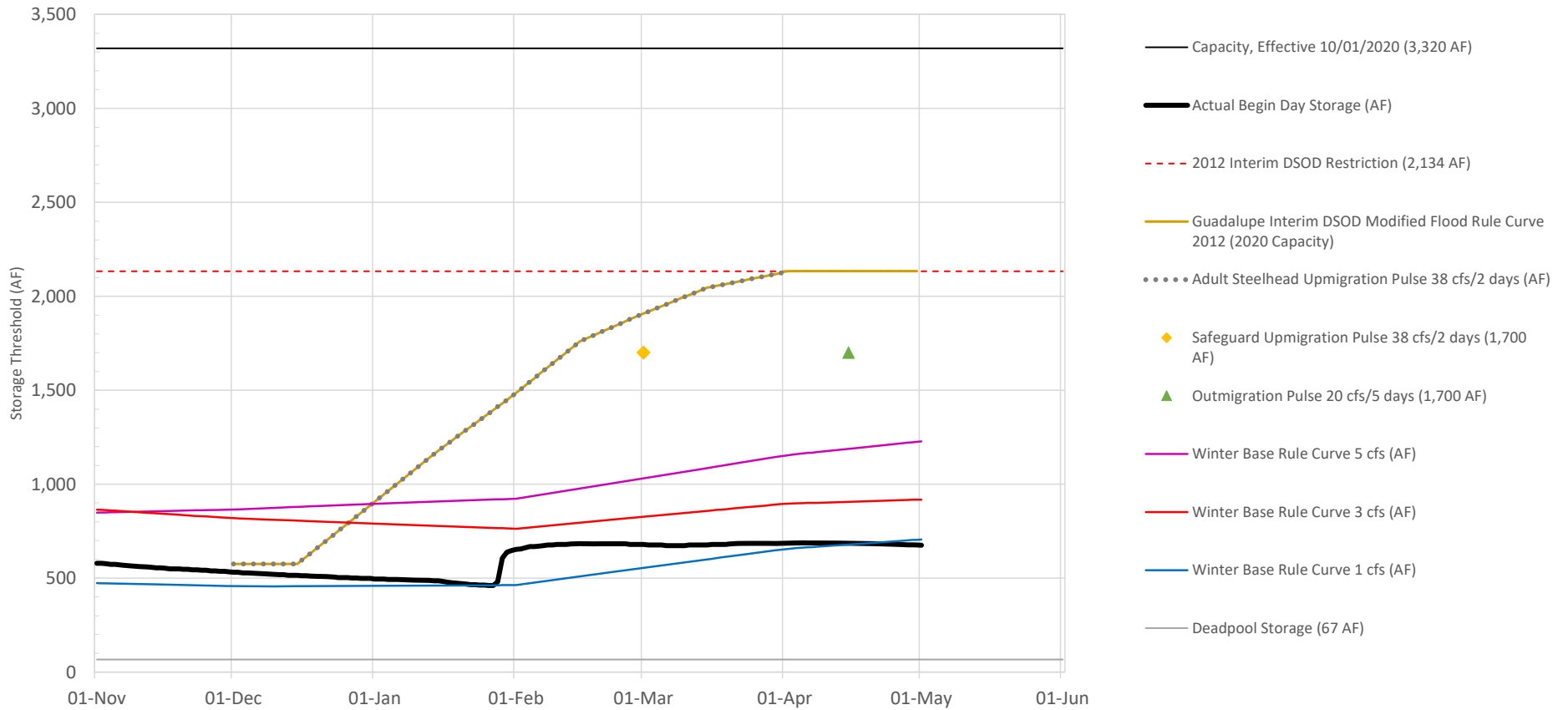
# FAHCE Plus Pilot – Stevens Creek Reservoir

Stevens Creek Reservoir - FAHCE Plus Pilot Program Rule Curves, 2020-2021



# FAHCE Plus Pilot – Guadalupe Reservoir

Guadalupe Reservoir - FAHCE Plus Pilot Program Rule Curves, 2020-2021



# QUESTIONS

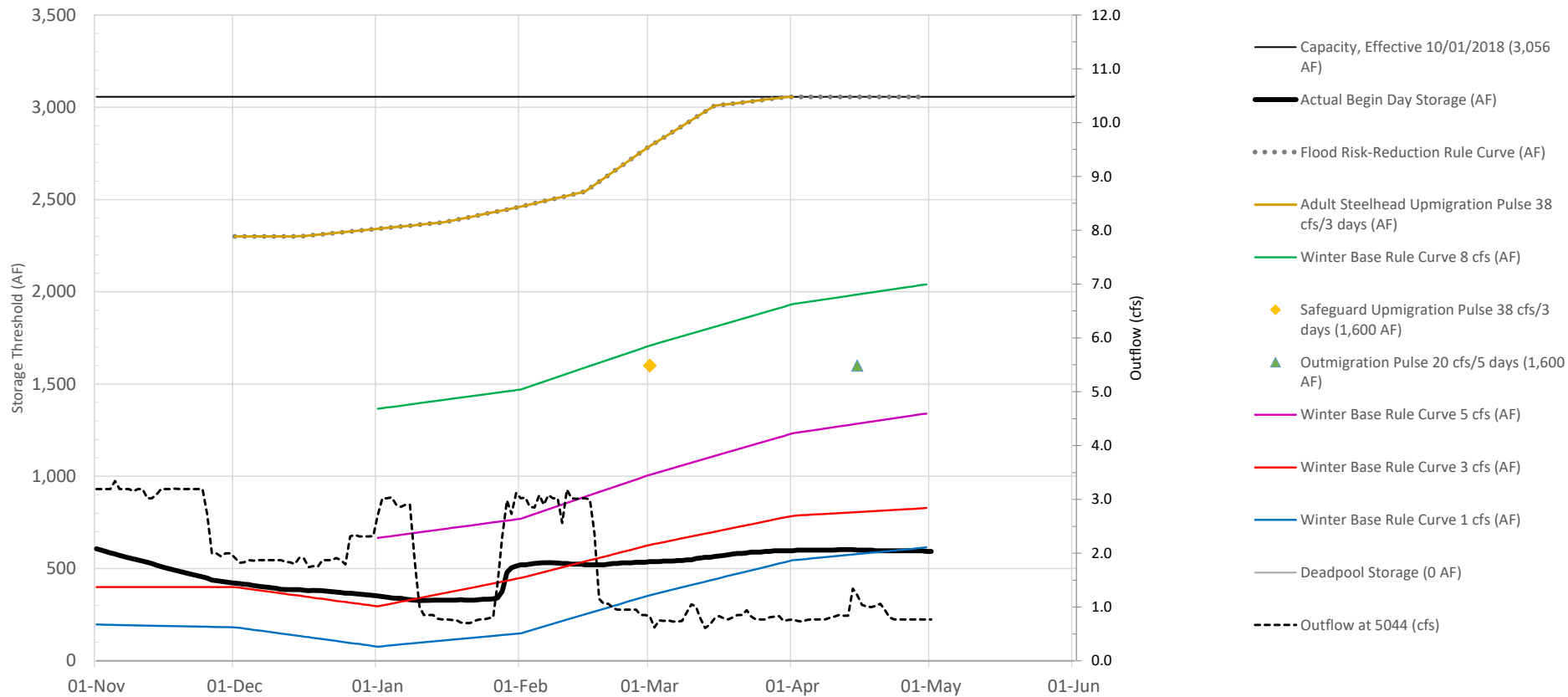


# Additional Slides

Additional Slides if Needed

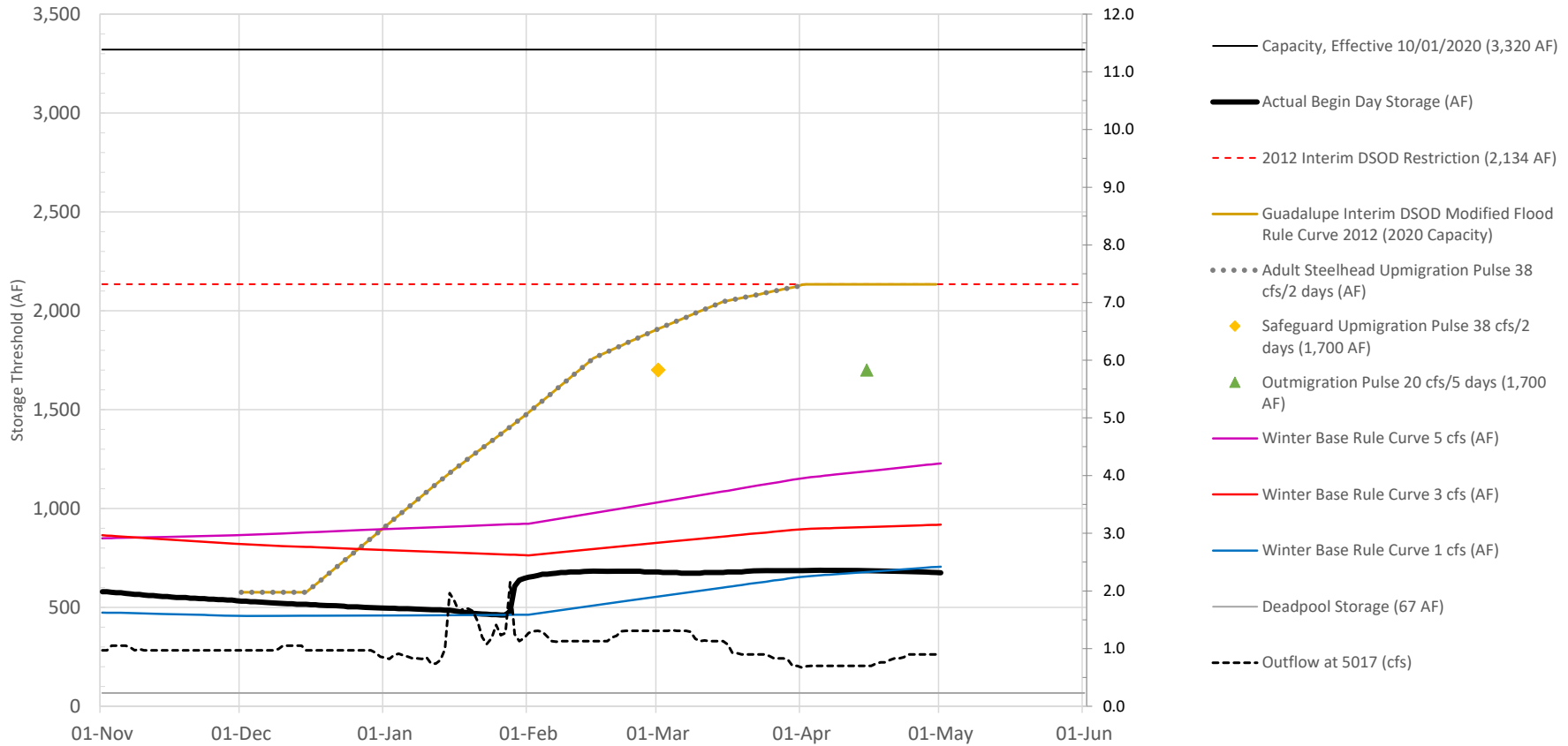
# FAHCE Plus Pilot – Stevens Creek Including Releases

Stevens Creek Reservoir - FAHCE Plus Pilot Program Rule Curves, 2020-2021



# FAHCE Plus Pilot – Guadalupe Including Releases

Guadalupe Reservoir - FAHCE Plus Pilot Program Rule Curves, 2020-2021





# Santa Clara Valley Water District

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**File No.:** 21-0167

**Agenda Date:** 5/13/2021

**Item No.:** 4.2.

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## COMMITTEE AGENDA MEMORANDUM

### Stream Planning and Operations Committee

#### **SUBJECT:**

Discuss Projects and Activities that May Affect the FAHCE Program.

#### **RECOMMENDATION:**

Discuss Projects and Activities that May Affect the FAHCE Program.

#### **SUMMARY:**

Staff plans to update the Committee on FAHCE related activities in SPOC meetings focusing on key projects. Staff is providing an update on the Almaden Lake Improvement Project (Project).

The proposed Project reflects District's commitment to protect the environment, restore habitat and improve water quality. The project will restore the creek channel section within Almaden Lake Park and eliminate the current condition whereby Alamos Creek flows through the lake. Having Alamos Creek flow through Almaden Lake is unfavorable for the native fish population in the Guadalupe Watershed and further allows for a direct deposition of naturally occurring mercury-laden sediment into the lake. This has resulted in native fish (steelhead) potentially losing their way in the lake and falling prey to non-native fish (bass), as well as the lake having mercury-related water quality issues. Depending on environmental permitting, the Project is targeting construction in the summer of 2022.

This project addresses one part of Section 6.6.2.1.3.3 of the FAHCE Settlement Agreement which stated that "SCVWD will complete an Alamos Creek Facilities Plan." The Almaden Lake part of the Plan "will evaluate alternatives, include a bypass channel, to isolate Almaden Lake from Alamos Creek and Guadalupe Creek, and to screen flow entering Almaden Lake to prevent entrainment and impingement of steelhead trout and salmon. If a feasible project exists, the plan will recommend action, including design and construction schedules..."

#### **ATTACHMENTS:**

None.

#### **UNCLASSIFIED MANAGER:**

Rechelle Blank, 408-630-2615.







# Almaden Lake Improvement Project

Stream Planning and Operations Committee Meeting

May 13, 2021

# Project Objectives

- Separate Alamos Creek from Almaden Lake.
- Reduce production of methylmercury and mercury in fish in Almaden Lake to meet applicable water quality objectives.
- Remove potential lake entrainment and impacts from predatory fish to cold-water fish.
- Improve temperature conditions for native fish.
- Minimize impacts to existing recreational features.



Winfield Boulevard

Coleman Road

Almaden Expressway

# Project Site

- Existing lake footprint
- New levee tie-in locations
- Existing west beach area

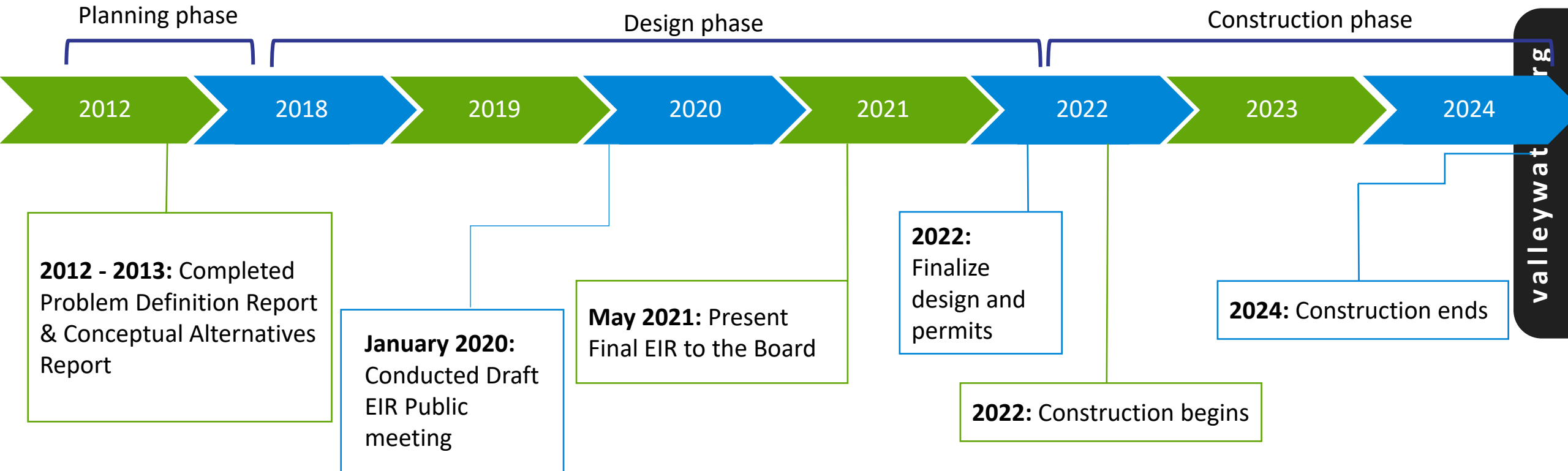


# Proposed Project

- Restore Alamitos Creek channel section
- Construct new levee with dual maintenance road/walking trail on top
- Re-grade and cap lake bottom
- Provide new water source to the lake
- Create new island and stabilize existing island
- Create new park area



# Project Timeline





# Valley Water

Clean Water • Healthy Environment • Flood Protection



# Santa Clara Valley Water District

File No.: 21-0169

Agenda Date: 5/13/2021

Item No.: 4.3.

## COMMITTEE AGENDA MEMORANDUM

### Stream Planning and Operations Committee

#### SUBJECT:

Receive update on Anderson Dam Seismic Retrofit Project.

#### RECOMMENDATION:

Receive update on Anderson Dam Seismic Retrofit Project (ADSRP).

#### SUMMARY:

Coordination of the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE) and ADSRP work remains an ongoing effort. This includes continued monthly coordination and collaboration with the resource agencies and partners in support of federal and state permits for ADSRP. The update to the Committee on ADSRP progress since March 2021 includes the following:

#### Board Actions Taken at the April 13, 2021 Board Meeting

- The Board approved Amendment No. 9 to Agreement No. A3555A, with Black and Veatch Corporation, for Project Management Services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, Increasing the Not-to-Exceed Fee in the Amount of \$10,172,942, Resulting in a Revised Total Not-to-Exceed Fee of \$28,832,004, and Extending the Agreement Term to December 31, 2023 (Morgan Hill) (District 1).
- The Board approved Amendment No. 1 to Agreement No. A4325G, with Horizon Water and Environment, LLC, for Environmental Planning and Permitting Services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, for a Not-to-Exceed Fee of \$2,974,005, Increasing the Total Not-to-Exceed Fee to \$7,468,230 (Morgan Hill) (District 1).

#### Board Actions Taken at the April 27, 2021 Board Meeting include:

- The Board received report of bids and awarded Anderson Dam Tunnel Project Construction Contract to Flatiron West Inc. in sum of \$161,140,321.
- The Board also approved the agreement for Possession and Use by and between Santa Clara Valley Water District and the County of Santa Clara for Anderson Dam Tunnel Project, Coyote Percolation Dam Replacement Project, and Cross Valley Pipeline Extension Project as parts of the Federal Energy Regulatory Commission Order Compliance Project, under the Anderson Dam Seismic Retrofit Project.

Staff continues to hold and participate in regular technical and permitting discussions with resource agencies for FOC and ADSRP.

**ATTACHMENTS:**

Attachment 1: Memo Approving Amend. to Agr. for PM Service

Attachment 2: Memo Approving Amend. to Agr. for Env. Planning & Permitting Serv.

Attachment 3: Memo Awarding ADTP Construction Contract

Attachment 4: Memo Approving Agreement for Possession & Use

**UNCLASSIFIED MANAGER:**

Christopher Hakes, 408-630-3796





# Santa Clara Valley Water District

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**File No.:** 21-0320

**Agenda Date:** 4/13/2021

**Item No.:** 7.2.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Approve Amendment No. 9 to Agreement No. A3555A, with Black and Veatch Corporation, for Project Management Services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, Increasing the Not-to-Exceed Fee in the Amount of \$10,172,942, Resulting in a Revised Total Not-to-Exceed Fee of \$28,832,004, and Extending the Agreement Term to December 31, 2023 (Morgan Hill) (District 1).

### **RECOMMENDATION:**

Approve Amendment No. 9 to Agreement A3555A, with Black and Veatch Corporation, for project management services for the Anderson Dam Seismic Retrofit Project, increasing the not-to-exceed fee by \$10,172,942, resulting in a revised total not-to-exceed amount of \$28,832,004, and extending the Agreement term.

### **SUMMARY:**

Valley Water is undertaking the Anderson Dam Seismic Retrofit Project (Project) to address seismic stability deficiencies, rehabilitate aging appurtenant facilities, and to comply with current dam safety standards. The reservoir is currently under a water level restriction by regulators. Full reservoir capacity will be restored upon completion of the Project.

Agreement A3555A with Black and Veatch Corporation (Consultant) includes a scope of services to provide project management services for the Anderson Dam Seismic Retrofit Project (ADSRP), the Calero Dam Seismic Retrofit Project, the Guadalupe Dam Seismic Retrofit Project, and for the Almaden Dam Improvements Project.

Amendment No. 9 to this Agreement will increase the not-to-exceed fee by \$10,172,942 for the Consultant to perform additional project management services for ADSRP efforts including the Anderson Dam Tunnel Project (ADTP) currently planned for award of a construction contract in the second quarter of this calendar year.

### **Project Background and Previous Board Actions**

The Anderson Dam Seismic Retrofit Project (ADSRP) will correct dam seismic deficiencies and otherwise meet all current Federal Energy Regulatory Commission (FERC) and California

Department of Water Resources, Division of Safety of Dams (DSOD) dam safety design standards.

Throughout 2019 to early 2020, project staff and consultants had been progressing the ADSRP with preparation of 90% design plans and specifications and supporting environmental and permitting documents. On February 20, 2020, the Santa Clara Valley Water District (Valley Water) received a letter order from FERC to immediately implement ADSRP-related interim risk reduction measures, which included the construction of the Anderson Dam Tunnel Project (ADTP).

The ADTP will construct a diversion system to augment the existing outlet, which will consist of a diversion tunnel and outlet structure, a micro-tunnel lake tap, and modifications to Coyote Creek downstream of the project. The Project also includes reservoir bank and rim stability improvements and existing intake structure modification. The FERC order also directed that Valley Water continue progressing the larger ADSRP.

In order to comply with the FERC Order in a timely manner, staff recommends the Board approve Amendment No. 9 to Agreement A3555A with Black and Veatch Corporation for a not-to-exceed amount of \$10,172,942.

***Consultant Work Performed to Date***

The project management services Agreement with Black and Veatch Corporation for the Anderson Dam Seismic Retrofit Project includes the tasks described below. The budget for PMC Services for ADSRP (Tasks 101 to 106) is nearly exhausted and requires additional budget for the firm to continue performing services for three additional years from January 2021 to December 2023.

Anderson Dam Seismic Retrofit Project (ADSRP)

- Task 101 Project Management & Administration
- Task 102 Quality Assurance & Quality Control
- Task 103 Regulatory, Permitting & Environmental Coordination
- Task 104 Public Outreach
- Task 105 Board of Consultants Coordination
- Task 106 Supplemental Services for Anderson Dam Seismic Retrofit Project

Calero Dam Seismic Retrofit Project (CDSRP)

- Task 107 PMC Services for Calero Dam Seismic Retrofit Project
- Task 108 Supplemental Services for Calero Dam Seismic Retrofit Project

Guadalupe Dam Seismic Retrofit Project (GDSRP)

- Task 109 PMC Services for Guadalupe Dam Seismic Retrofit Project
- Task 110 Supplemental Services for Guadalupe Dam Seismic Retrofit Project

Almaden Dam Improvement Project (ADIP)

- Task 111 PMC Services for Almaden Dam Improvements Project

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Task 112 Supplemental Services for Almaden Dam Improvements Project

***Staff Management of Consultant Agreement***

Staff has been monitoring and managing the Consultant's performance to meet the goals and terms of the Agreement. Weekly progress meetings are held with the Consultant to assess progress of the Project. As generally required in all Valley Water consultant agreements, consultants are required to submit detailed monthly progress/status reports with their invoices. These reports are scrutinized by Valley Water staff before approval of any payment to the consultants.

Another requirement in the Valley Water's consultant agreement is the preparation and implementation of an internal Quality Assurance and Quality Control (QA/QC) Plan by the Consultant for all deliverables transmitted to Valley Water. As part of the deliverable acceptance process, Valley Water also performs QA/QC review of all deliverables received from the Consultant for compliance with project scope, budget, and schedule.

***Amendment No. 9***

After authorization by the Board, Amendment No. 8 was approved by the CEO on June 8, 2020 and it provides for Consultant performing additional project management services necessary to comply with the FERC order of February 2020; Amendment No. 8 increased the not-to-exceed fees and extended the Agreement term to June 30, 2023. However, the amendment only covered funding for the Agreement up to December 31, 2020.

The original Agreement A3555A with Black and Veatch Corporation (Consultant) provides for the firm to perform project management services for the Anderson Dam Seismic Retrofit (Project). The Agreement was later amended to add project management services during the planning and design phases for the Calero Dam Seismic Retrofit Project, Guadalupe Dam Seismic Retrofit Project, and the Almaden Dam Improvements Project. Design and construction of the CDSRP has been deferred by the Board, so the remaining budget designated for the CDSRP (Task 108) was re-allocated in Amendment No. 8 to the Guadalupe Dam Seismic Retrofit Project (GDSRP). The budget for PMC Services for GDSRP (Task 109 and Task 110) is depleted and requires additional budget for the firm to continue performing services for three additional years from January 2021 to December 2023.

An administratively approved re-allocation of remaining budget that was in the Almaden Dam Improvements Project (Task 111 and Task 112), and transferred to the ADSRP, was also documented in the Amendment No. 8. Services yet to be performed for ADIP relate to the Phase 2 Spillway Evaluation for which Consultant support is no longer required.

Amendment No. 9 provides for an increase in the not-to-exceed fee by \$10,172,942, resulting in a revised total not-to-exceed amount of \$28,832,004, for the Consultant to perform additional project management services during the planning and design phases, over a period of three years, from January 2021 to December 2023. The services provided include those related to new activities to be

conducted per direction from Federal Energy Regulatory Commission (FERC), the Board of Consultants (BOC), National Marine Fisheries Service (NMFS), and the State of California Department of Water Resources, Department of Safety of Dams (DSOD). The Amendment also extends the Agreement duration to provide time for review of the final design documentation by DSOD, FERC and other permitting agencies, and implements administrative revisions to the Agreement.

Amendment No. 9 was discussed at the Capital Improvement Program (CIP) board committee meeting held on November 9, 2020. The Committee members supported staff’s recommendation to present this item for approval to the full board.

The tasks and not-to-exceed additional fees are summarized below:

1. Additional project management services, including project administration, quality assurance and quality control, regulatory, permitting & environmental coordination, assisting in public outreach, and coordination and management of the Board of Consultants (BOC) for three-year extended term for the ADSRP (including ADTP) (Task 101 to Task 105: \$7,435,799).
2. Additional supplemental services for ADSRP (including ADTP) technical reviews of design submittals as needed, design and permitting workshops, ongoing condition assessments of Holiday Estates area at the reservoir rim, condition re-assessment and ongoing monitoring of structures and features in Holiday Estates area should movement of the houses be observed during construction of ADTP and ADSRP. additional risk management workshops, additional H&H analysis, updates and revisions of the stochastic analysis when necessary, support environmental and other permitting for regulatory agencies and other agencies (Task 106: \$1,857,386).
3. Additional supplemental services for CDSRP for Agreement close-out activities support (Task 108: \$119,276)
4. Additional project management services for GDSRP for the three-year extended Agreement term Agreement, from January 2021 to December 2023, (Task 109: \$606,787)
5. Additional supplemental services for GDSRP (Task 110: \$153,694)

A summary of the tasks and fees for the proposed Amendment No. 9 is presented in Table 1.

**Table 1 - Summary of Tasks and Fees**

	Original Agreement (1/24/2012)	Amendment No. 2 (6/24/2014)	Amendment No. 6 (2/28/2017)	Revised Total Approved Amendment No. 6 (2/28/2017)	Administratively Approved Re-allocation of Funds (12/20/2019)	Amendment No. 8 (6/8/2020)	Revised Total Approved Amendment No. 8 (6/8/2020)
Anderson DSRP							

PMC Tasks	\$2,760,600.00	\$4,293,377.00	\$4,660,868.00	\$11,714,845.00	\$12,582,598.00	\$1,739,250.00	\$14,321,848.00
Supplemental Tasks	\$896,200.00	\$699,632.00	\$459,309.00	\$2,055,141.00	\$1,694,496.00	\$361,175.00	\$2,055,671.00
<b>Subtotal</b>	\$3,656,800.00	\$4,993,009.00	\$5,120,177.00	\$13,769,986.00	\$14,277,094.00	\$2,100,425.00	\$16,377,519.00
<b>Calero DSRP</b>							
PMC Tasks	\$	\$184,517.00	\$497,911.00	\$682,428.00	\$682,428.00	\$(9,920.00)	\$672,508.00
Supplemental Tasks			\$477,189.00	\$477,189.00	\$477,189.00	\$(119,659.00)	\$357,530.00
<b>Subtotal</b>		\$184,517.00	\$975,100.00	\$1,159,617.00	\$1,159,617.00	\$(129,579.00)	\$1,030,038.00
<b>Guadalupe DSRP</b>							
PMC Tasks	\$	\$184,517.00	\$481,051.00	\$665,568.00	\$665,568.00	\$116,476.00	\$782,044.00
Supplemental Tasks			\$434,487.00	\$434,487.00	\$434,487.00	\$13,103.00	\$447,590.00
<b>Subtotal</b>		\$184,517.00	\$915,538.00	\$1,100,055.00	\$1,100,055.00	\$129,579.00	\$1,229,634.00
<b>Almaden DIP</b>							
PMC Tasks	\$	\$	\$442,491.00	\$442,491.00	\$21,872.00	\$	\$21,872.00
Supplemental Tasks			\$86,490.00	\$86,490.00	\$	\$	\$
<b>Subtotal</b>		\$	\$528,981.00	\$528,981.00	\$21,872.00	\$	\$21,872.00
<b>TOTAL</b>	\$3,656,800.00	\$5,362,043.00	\$7,539,796.00	\$16,558,639.00	\$16,558,638.00	\$2,100,425.00	\$18,659,062.00

NOTE: Amendments No. 1, No. 3, No. 4, No. 5, and No. 7 were no-cost amendments.

**Table 1 - Summary of Tasks and Fees (continued)**

	Revised Total Approved Amendment No. 8 (6/8/2020)	Administrative Reallocations (multiple- 5/9/13 to 11/25/19))	Amendment No. 9	Revised Total Approved Amendment No. 9
<b>Anderson DSRP</b>				
PMC Tasks	\$14,321,848.00	\$689,062.00	\$7,435,799	\$22,446,709.00
Supplemental Tasks	\$2,055,671.00	\$(689,062.00)	\$1,857,386	\$3,223,995.00
<b>Subtotal</b>	\$16,377,519.00		\$9,293,185	\$25,670,704.00
<b>Calero DSRP</b>				
PMC Tasks	\$672,508.00	\$249,477.00		\$921,985.00

Supplemental Tasks	\$357,530.00	\$(249,477)	\$119,276	\$227,329.00
<b>Subtotal</b>	\$1,030,038.00			\$1,149,314.00
<b>Guadalupe DSRP</b>				
PMC Tasks	\$782,044.00	\$203,309.00	\$606,787	\$1,592,140.00
Supplemental Tasks	\$447,590.00	\$(203,309.00)	\$153,694	\$397,975.00
<b>Subtotal</b>	\$1,229,634.00		\$760,481	\$1,990,115.00
<b>Almaden DIP</b>				
PMC Tasks	\$21,872.00	\$0	\$0	\$21,872
Supplemental Tasks	\$0	\$0	\$0	\$0
<b>Subtotal</b>	\$21,872.00			\$21,872.00
<b>TOTAL</b>	\$18,659,062.00	\$0	\$10,172,942.00	\$28,832,004.00

**FINANCIAL IMPACT:**

There are adequate funds in the Board-adopted FY2021 budget to encumber the anticipated Consultant effort (\$2 million) through the end of FY2021. Funds to cover each subsequent fiscal year services, FY22-24, will be recommended by staff during each fiscal year budget process or via budget adjustment(s). The impact of this Consultant Agreement would be an increase to the total Project costs, which is not reflected in the draft FY 2022-2026 Five-Year Capital Improvement Program (CIP), and would be incorporated into the following year’s CIP (FY 2023-2027).

**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: Amendment No. 9

**UNCLASSIFIED MANAGER:**

Christopher Hakes, 408-630-3796



# Santa Clara Valley Water District

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**File No.:** 21-0285

**Agenda Date:** 4/13/2021  
**Item No.:** 7.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Approve Amendment No. 1 to Agreement No. A4325G, with Horizon Water and Environment, LLC, for Environmental Planning and Permitting Services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, for a Not-to-Exceed Fee of \$2,974,005, Increasing the Total Not-to-Exceed Fee to \$7,468,230 (Morgan Hill) (District 1).

### **RECOMMENDATION:**

Approve Amendment No. 1 to Agreement No. A4325G with Horizon Water and Environment, LLC for Environmental Planning and Permitting Services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, for a Not-to Exceed Fee of \$2,974,005, Increasing the Total Not-to-Exceed Fee to \$7,468,230.

### **SUMMARY:**

The Santa Clara Valley Water District (Valley Water) is undertaking the Anderson Dam Seismic Retrofit Project (ADSRP or Project) to address seismic stability deficiencies, rehabilitate aging appurtenant facilities, and to comply with current dam safety standards. The full reservoir capacity will be restored upon completion of the Project.

Agreement A4325G (Agreement) with Horizon Water and Environment, LLC (Consultant) includes a scope of services to complete environmental documentation and obtain natural resource agency permits for the Project. Since execution of the Agreement, response to Federal Energy Regulatory Commission (FERC) orders requires planning, design, and construction of additional major, interrelated elements, expanding the scope of the Project. Amendment No. 1 to this Agreement will increase the not-to-exceed fee by \$2,974,005 for the Consultant to perform additional environmental review and permitting services for ADSRP and all interrelated efforts.

### **Project Background and Previous Board Actions.**

The Project will correct dam seismic deficiencies and otherwise meet all current FERC and California Department of Water Resources, Division of Safety of Dams (DSOD) dam safety design standards. Through early 2020, Project staff and consultants had been progressing with preparation of design plans and specifications and supporting environmental and permitting documents.

On February 4, 2020, the Board authorized the Chief Executive Officer (CEO) to negotiate and execute the Agreement with the Consultant for environmental planning and permitting services for the Anderson Dam Seismic Retrofit Project for a not-to-exceed fee of \$4,500,000. At the Board's request, the Agreement was negotiated with flexibility to allow changes to the direction of work without exceeding not-to-exceed costs. The CEO formally authorized the negotiated Agreement on February 25, 2020 for a not-to-exceed fee of \$4,494,225.

On February 20, 2020, the Valley Water received a letter order from FERC to immediately implement ADSRP-related interim risk reduction measures. To respond to the FERC order, Valley Water will construct the Anderson Dam Tunnel Project (ADTP), reservoir bank and rim stability improvements, intake structure reinforcement, Cross Valley Pipeline extension, Coyote Creek Percolation Dam replacement, Coyote Creek flood management measures, and Coyote Creek chillers. Further, FERC mandated implementation of avoidance and minimization measures to protect fish, wildlife, and water supply. Collectively, these construction elements and environmental measures are referred to as the FERC Order Compliance Project (FOCP).

The California Environmental Quality Act (CEQA) provides a statutory exemption for emergency projects, which include specific actions necessary to prevent or mitigate an emergency (Public Resources Code §21080(b)(4) and CEQA Guidelines §15269(c)). After analysis of the facts and applicable law, staff concluded that the FOCP qualifies for this emergency exemption. Valley Water filed a Notice of Exemption with the County Clerk on June 26, 2020.

On October 1, 2020 and February 2, 2021, FERC issued environmental orders and environmental assessments specifying additional environmental actions required to implement the FOCP. Among the key requirements were specific actions to protect historic resources, development and implementation of twelve environmental management and monitoring plans, and increased consultation with stakeholder agencies.

### ***Consultant Work Performed to Date***

The environmental planning and permitting services Agreement with the Consultant for the Anderson Dam Seismic Retrofit includes the following tasks:

- Task 1 - Project Management
- Task 2 - Environmental Documentation
- Task 3 - Regulatory Compliance
- Task 4 - Supplemental Services

Work on Task 1, Project Management, is ongoing. Additional outreach and coordination of environmental aspects due to the increased scope of project activities, new agency requirements, and expedited timelines have resulted in increased project management activities. These increased project management tasks include development and management of task orders, management of subconsultants, weekly team coordination meetings, weekly environmental progress meetings,



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monthly FERC Division of Hydropower Administration and Compliance environmental and permitting coordination meetings, bimonthly general interagency meetings, monthly fisheries Technical Workgroup (TWG) meetings, and varying focused TWG sub-committee meetings.

Valley Water initiated environmental review to prepare an Environmental Impact Report for the ADSRP concurrent with the FOCP efforts. The Consultant has performed review of background information, preliminary update of project description inputs, organization of the document structure, and environmental investigations and studies for Task 2, Environmental Documentation.

Valley Water has also initiated Task 3, Regulatory Compliance, activities to support permitting requirements for ADSRP. Under Task 3, the Consultant has initiated preparation of biological assessments, performed National Historic Preservation Act Section 106 historical resource investigations and reporting, developed preliminary mitigation plans, and provided technical and administrative support for extensive regulatory agency coordination.

The need to accelerate the FOCP elements ahead of the ADSRP pursuant to the FERC order of February 2020 has also resulted in additional environmental work which has been funded by the Task 4, Supplemental Services, budget. The use of Supplemental Services has been carefully scoped by staff and formalized in individual task orders. Expenditures for these task orders have been closely monitored and deliverables have been reviewed for timeliness and completeness. To date, 25 distinct tasks have been approved via task orders authorizing fees of \$1,417,458 from the total Supplemental Services budget of \$1,421,875. Major activities supported by Supplemental Services fees include development of the FOCP project description, preparation of an FOCP environmental screening report, preparation of a reservoir drawdown and operations plan, preparation of FOCP permit applications, habitat studies requested by resource agencies, fish rescue and relocation support, cultural resources Programmatic Agreement development and implementation, development of twelve environmental management and monitoring plans, and technical support for increased coordination with stakeholder agencies.

### ***Staff Management of Consultant Agreement***

Staff has been monitoring and managing the Consultant's performance to meet the goals and terms of the Agreement. Weekly progress meetings are held with the Consultant to assess progress of the Project. As part of the deliverable acceptance process, Valley Water performs QA/QC review of all deliverables received from the Consultant for compliance with project scope, budget, and schedule. For this Agreement, key Consultant deliverables may also be subject to additional technical review by FERC, environmental regulators, and independent stakeholders. As generally required in all Valley Water consultant agreements, consultants are required to submit detailed monthly progress/status reports with their invoices. These reports are scrutinized by Valley Water staff before approval of any payment to the consultants. To date, the Consultant has met staff's performance expectations, demonstrating highly qualified support and adaptability within approved task budgets under rapidly changing circumstances.

### ***Amendment No. 1 Additional Scope of Services***

Amendment No. 1 modifies the scope to primarily address more extensive regulatory requirements. Amendment No. 1 will increase the fees for Project Management, Regulatory Compliance, and Supplemental Services tasks. The total not-to-exceed fee for Amendment No. 1 is \$2,974,005. The task modifications and not-to-exceed additional fees are summarized below:

1. Additional project management for coordination of FOCP elements and increased stakeholder consultation. Consultant will continue extensive meeting schedules throughout ADSRP. (Task 1: \$662,205).
2. Additional FERC and resource agency requirements for FOCP and ADSRP. These activities include archaeological and as-built environment surveys, site inventories, and evaluations. Subsequent actions to satisfy FERC’s National Historic Preservation Act compliance, such as cultural awareness training and implementation of appropriate mitigation for adverse effects to historic resources, are also included. Additional work also includes implementation of robust environmental management and monitoring ordered by FERC including phytophthora pathogen management, spawning gravels habitat monitoring, fish rescue activities, amphibian disease and New Zealand mudsnail monitoring, milkweed surveys, western pond turtle monitoring, and sediment discharge event sampling and reporting. The scope is revised to also include bald and golden eagle nesting surveys and permitting and assistance with specialized biological expertise to respond to new regulatory agency requests.(Task 3 :\$1,353,670).
3. Supplemental Services to provide funds for unanticipated costs associated with uncertain actions dependent on external agency decisions and unanticipated costs associated with regulatory considerations, additional technical support for FERC application package preparation and processing, additional technical support in responding to future FERC orders or information requests, preparation of National Environmental Policy Act environmental documentation at the request of FERC, and additional consultation support for cultural resources Programmatic Agreement implementation for ADSRP, additional regulatory agency coordination and permitting support, additional mitigation development for the increased project scope, additional efforts to support design and construction, and park landscape restoration support.(Task 4 :\$958,130)

A summary of the task fees for the proposed Amendment No. 1 is presented in Table 1.

**TABLE 1**

Task	Description	Total Fixed Not-to-Exceed (NTE) Fee		
		Original Agreement (including administrative revisions)	Amendment	Revised NTE
1	Project Management	\$525,413	\$662,205	\$1,187,618
2	Environmental Documentation	\$1,634,720	\$0	\$1,634,720
3	Regulatory Compliance	\$912,217	\$1,353,670	\$2,265,887
4	Supplemental Services	\$1,421,875	\$958,130	\$2,380,005

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Total Agreement Not-to-Exceed Amount	\$4,494,225	\$2,974,005	\$7,468,230
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Minor administrative modifications to extend the schedule of environmental documentation tasks, update to fees and payments, update the Agreement’s standard terms and conditions, and administrative updates are also included in Amendment No. 1.

Amendment No. 1 was discussed at the Capital Improvement Program (CIP) board committee meeting held on February 8, 2021. The Committee members supported staff’s recommendation to present this item for approval to the full board.

**FINANCIAL IMPACT:**

There are adequate funds in the Fiscal Year 2020-21 (FY2021) Adopted Budget to encumber the anticipated Consultant effort (\$400,000) through the end of FY2021. For the Consultant services in FY2022, staff will recommend funding through the FY2022 budget process or via budget adjustment (s) that will be brought to the Board for approval. Funds to cover each subsequent fiscal year services (FY2023 through FY2025), will be recommended by staff during each fiscal year budget process. The impact of this Consultant Agreement would be an increase to the total Project cost, which is not reflected in the Draft FY2022 - FY2026 Five-Year Capital Improvement Program (CIP), and would be incorporated into the following year’s CIP (FY2023 - FY2027).

**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: Amendment No. 1

**UNCLASSIFIED MANAGER:**

Christopher Hakes, 408-630-3796





# Santa Clara Valley Water District

File No.: 21-0448

Agenda Date: 4/27/2021  
Item No.: \*7.3.

## BOARD AGENDA MEMORANDUM

### SUBJECT:

Report of Bids Received and Award of Construction Contract to Flatiron West Inc. in the sum of \$161,140,321 for the Anderson Dam Tunnel Project, Project No. 91864005, Contract No. C0663 (Morgan Hill) (District 1).

### RECOMMENDATION:

- A. Ratify Addenda Nos. 1, 2, 3, 4, 5, 6, 7 and 8 to the Contract Documents for the Anderson Dam Tunnel Project;
- B. Deny the April 5, 2021 bid protest submitted by Kiewit Infrastructure West, Inc., consistent with the Designated Engineer's April 15, 2021 final decision;
- C. Award the Contract to Flatiron West Inc., located in Benicia California, in the sum of \$161,140,321: and
- D. Approve a contingency sum of \$40,000,000 and authorize the Chief Executive Officer (CEO) or designee to approve individual change orders up to the designated amount.

### SUMMARY:

Board approval of these recommendations will allow the Anderson Dam Tunnel Project to be constructed. If the construction Contract is awarded, it will create and sustain approximately 1,400-2,800 jobs for the community.

### Project Background

The Anderson Dam Seismic Retrofit Project (ADSRP) will correct dam seismic deficiencies and meet all current Federal Energy Regulatory Commission (FERC) and California Department of Water Resources, Division of Safety of Dams (DSOD) dam safety design standards.

Santa Clara Valley Water District (Valley Water) is undertaking the Anderson Dam Federal Energy Regulatory Commission Order Compliance Project (FOCP) as a result of the February 20, 2020 directive from FERC to implement interim risk reduction measures at Anderson Dam. One of those measures is the Anderson Dam Tunnel Project (ADTP).

The ADTP will construct a diversion system to augment the existing outlet, which will consist of a new diversion tunnel, an outlet structure, a micro-tunnel lake tap, and modifications to Coyote Creek just downstream of the base of the dam. The ADTP also includes reservoir bank and rim stability

improvements and existing intake structure modification.

The diversion system, which will consist of a 23-ft diameter, approximately 1,450-ft long tunnel, will be able to pass releases from the reservoir at flow rates up to 2,000 cubic feet per second (cfs). The new outlet structure will be used to control flows through the tunnel, which will go through dissipation chambers and will be discharged into a rip-rap lined channel before entering the Coyote Creek. Modifications to Coyote Creek just downstream of the base of the dam will be made to accommodate the higher flows from the tunnel.

Addenda Ratification

Eight addenda were issued during the bid period to clarify the Project Contract Documents and answer bidders’ questions. To formally incorporate the addenda into the Project Contract Documents, staff recommends that the Board ratify the addenda. All Project Contract Documents, including the addenda, have been provided directly to the Board, however, in compliance with confidentiality requirements imposed by FERC, they are not accessible to the public with this item.

Report of Bids Received

The results of the five bid proposals received and opened on March 30, 2021, from the five pre-qualified contractors, are summarized in Table 1. The Board of Directors had previously (August 25, 2020) adopted Resolution No. 20-70 approving the Best Value Contractor Selection for the ADTP. A formula, which was provided to the contractors in the “Notice to Bid” instructions, was used to calculate the Best Value Bid.

The bid price proposed by each bidder (contractor) was represented by P and each bidder (contractor) pre-qualification score was represented by Q. The Q was determined by the evaluation of an objective criteria of each contractor’s competency, capability, and capacity to complete a project of similar size, scope, complexity, recently performed similar projects, references to verify past performance, history of regulatory compliance, bonding capacity, and ability to meet insurance requirements.

The Q number was determined during the pre-qualification process and therefore, each bidder (contractor) was aware of their Q score before they submitted their bid proposal. Table 1 presents the Best Value Bid Summary for the five bid proposals received.

**TABLE 1  
Best Value Bid Summary**

Contractor	Qualification Score (Q)	Bidder’s Price (P)	Best Value Score (P/Q)	Rank
Flatiron West, Inc.	93.4	\$ 161,140,321.00	1,725,705.84	1
Kiewit Infrastructure West Co.	91.9	\$ 172,749,219.00	1,879,230.87	2

Dragados USA, Inc./ Obayashi Corporation Joint Venture	93.6	\$ 186,793,560.00	1,994,613.09	3
Granite Construction Company	93.4	\$ 265,035,409.00	2,836,923.53	4
Traylor Brothers, Inc. / Michels Pipeline Joint Venture	91.7	\$ 305,608,925.00	3,331,279.03	5
<b>Engineer's Estimate</b>		<b>\$221,021,000.00</b>		

Bid Protest

On April 5, 2021, Kiewit Infrastructure West Co. (Kiewit), the second-ranked bidder, submitted a protest objecting to Flatiron being awarded the contract. Valley Water's ADTP Designated Engineer (Deputy Operating Officer Chris Hakes) determined the protest was without merit and recommends the Board affirm his decision. Mr. Hakes will address the protest in the staff presentation supporting the award on April 27, 2021.

Briefly, Kiewit's protest contends that the top-ranked bidder, Flatiron West, Inc. is related to Dragados USA, Inc. (Dragados), part of the third ranked bidder, a joint venture named Dragados USA, Inc./Obayashi Corporation Joint Venture (Dragados/Obayashi JV). Because of this, Kiewit contends that both Flatiron and Dragados/Obayashi JV bids should be disqualified.

Kiewit cites to Valley Water's Instructions to Bidders, paragraph 18.A. Disqualification of Bidders, providing that: "Submittal of more than one Bid from an individual, firm, partnership, corporation, or a combination thereof under the same or different names, will not be considered."

Staff recommends rejection of the Kiewit bid protest for the reasons stated in the Designated Engineer's letter, which include:

- Flatiron and Dragados/Obayashi JV are not "an individual, firm, partnership, corporation, or a combination thereof under the same or different names." Flatiron and Dragados/Obayashi JV are separate entities. Further, there is no evidence of anti-competitive activity.
- Kiewit delayed submitting its protest until after Valley Water opened bids and the bid amounts of all bidders was known. The Kiewit bid protest was due before bid opening, not after. Further, the relief Kiewit seeks is to narrow the bid field from four pre-qualified bidders, to only two. The result Kiewit seeks is anti-competitive.

Included with this memorandum are documents relied on by the Designated Engineer in deciding the protest and that he will reference in his remarks in support of the award to Flatiron on April 27, 2021.

Contract Award

As presented in Table1, the bidder with the lowest Best Value score and therefore ranked 1 was Flatiron West Inc. of Benicia, California, with a bid price of \$161,140,321.00. It should be noted that the Best Value ranking for all the bidders matches their Bid Price ranking also.

The bid submitted by Flatiron West Inc. is approximately 27% lower than the Engineer's estimate of \$221,021,000. Review of the bids revealed that Flatiron submitted bid pricing on the diversion portal cost, tunnel excavation, and lining costs lower than what was assumed by the Engineer. Flatiron may have submitted a lower bid price since they were recently awarded the Upper Llagas Creek Flood Protection Project construction contract at the April 13, 2021 Board meeting by Valley Water Board of Directors. This project has a tunnel construction component and is located very close to the ADTP construction site; Flatiron can therefore use and share resources and equipment between the two projects. The Engineer's estimate was in line with the average bid (\$218,265,487) for the 5 bids.

Staff recommends the Board award the Construction Contract to Flatiron West Inc., in the sum of \$161,140,321.

Staff has reviewed the bid proposals and, for reasons stated below, recommends the Board award the Contract to Flatiron West Inc., as the responsible bidder submitting the Best Value bid:

1. It is the Best Value bid;
2. All bid entries and requirements in the proposal submitted by Flatiron West Inc. are in order;
3. Flatiron West Inc. license is current, active and in good standing; and
4. Flatiron West Inc. is in compliance with the requirements of California Labor Code section 1771.1. Flatiron West Inc. and its sub-contractors are registered with the California Department of Industrial Relations and qualified to perform public works pursuant to Section 1725.5 of the Labor Code.

### Contingency Funds

The Contract award sum for the Project is \$161,140,321. To allow staff to quickly address unforeseen or changed site conditions and other unanticipated occurrences without causing unnecessary delays or consequential costs to the Project, staff recommends the Board approve encumbering a contingency amount of \$40,000,000 (25% of the contract price) for the subject Project:

The recommended contingency amount is based on an estimate of known and unknown risks, such as:

1. Unanticipated variances in quantities and cost of various lump sum items estimated in the Bid Proposal;
2. Differing site conditions;
3. Concealed conditions and/or field conditions that may be different from the baseline or as-built information used in the preparation of Project Contract Documents; and
4. Mandatory coordination processes and consultation regime with regulatory agencies having oversight over the Project, including negotiating phased approval of construction elements.

Approval of individual change orders for the Project will be subject to approval at the following



designated amounts:

Unit Manager: \$100,000

Assistant Operating Officer: \$250,000

Deputy Operating Officer: \$500,000

Assistant Chief Executive Officer: up to half of the total amount of the contingency

Chief Executive Officer: up to the total amount of the contingency

In addition to the known and unknown risks mentioned above, construction costs could increase above the contingency amount encumbered by the Board, based on additional circumstances including:

1. Construction delays from the phased approvals from the regulatory agencies FERC and DSOD, described in the section under “Phased Approvals”.
2. Changes that may be required by the regulatory agencies (FERC and DSOD) as they continue with their reviews of the contract documents during the phased approvals.
3. Changes from the environmental regulating agencies who are yet to issue permits for the project,

#### Relevant Previous Board Meetings

On June 23, 2020, the Board approved the CEQA emergency exemption determination for the FOCP; adopted the Resolution approving the Engineer’s Report for the FOCP; and approved the Project.

On August 25, 2020, the Board approved implementing a best value construction contractor selection method for the ADTP.

On December 8, 2020, the Board approved a budget adjustment in the amount of \$21 million from the Capital Warranty Services Project No. 95074001 to the Anderson Dam Seismic Retrofit Project No. 91864005.

On January 26, 2021, the Board adopted Plans and Specifications and authorized advertisement for bids for the Anderson Dam Tunnel Project, Project No. 91864005.

#### Public Outreach

During construction, steps will be taken to minimize impacts associated with the Project, such as noise and construction traffic. Outreach will target the surrounding neighborhoods and include pre-construction public meetings, as well as public meetings during the construction period. Outreach strategies will include updates on the Project website, Project fact sheets, media relations, and regular email updates and construction site signage. Neighbors will be informed of potential issues, as appropriate.

#### Phased Approvals by FERC and DSOD

Approval of all design documentation is required from FERC and DSOD prior to commencement of construction of the ADTP, but the approval process has been slowed due to their resources and time constraints.

Following ongoing discussions between Valley Water, FERC, and DSOD that began in November 2020, Valley Water was officially authorized on April 9, 2021 to utilize phased approvals for authorizing the contractor to proceed with building the ADTP. The intent of the phased approvals is to allow the ADTP to move forward this spring, while giving FERC and DSOD additional time to review and authorize the more complex components of the ADTP. Because of the time-sensitive nature of the ADTP and concerns that delays could further impact the construction schedule of the ADTP, the two regulatory agencies agreed that the ADTP would be approved in three phases.

Phase 1 approval will consist of site preparation activities (such as an access road across the dam's downstream slope), mobilization, establishing staging areas, installing construction fencing, clearing and grubbing, preparing the disposal area, and grading the access roads and Coyote Road pullouts needed to start tunneling, the construction of the high-level outlet works drop shaft excavation, construction exploration (diversion outlet borings) and instrumentation installation.

Phase 2 (2A and 2B) approvals will consist of the diversion portal excavation and support, diversion outlet structure foundation preparation, and the 18.5-foot diversion tunnel excavation. Phase 2A work does not include work in the "Waters of the United States," whereas Phase 2B work includes work in the "Waters of the United States".

Phase 3 approvals will consist of construction of the remaining elements of the ADTP, such as the low-level outlet tunnel (Stage 1 Diversion System), micro tunnel boring machine (MTBM) lake tap, intake structure, and Diversion Outlet Structure.

The timing of these approvals would determine the timing of the issuance of phased notice to proceed to the contract for the construction of the elements of that phased approval.

On April 9, 2021, Valley Water received FERC's Phase Construction Authorization letter (see Attachment 3) with several conditions (some of which are detailed in the section below).

On April 9, 2021, Valley Water received DSOD's approval of the Phase 1 letter (see Attachment 4).

#### Oversight of the ADTP Construction by FERC and DSOD

FERC's oversight as detailed in FERC's Phase Construction Authorization letter includes:

1. Monthly Project Construction Inspections
2. Review of contractor's submittals
3. Submittal of Monthly Construction reports (progress of work, status of construction, construction difficulties, contract status, critical events and dates, reservoir filling, foundation, sources of major construction materials, material testing and results, instrumentation,

- photographs, erosion control and other environmental measures, other items)
4. Coordination of changes to the plans and specifications with FERC
  5. Written description of evaluation of the possibility of interruption to construction from COVID-19 pandemic
  6. Quality Control Inspection Plan
  7. Construction Surveillance and Monitoring Plan (Instrumentation monitoring and reporting, etc.)
  8. Performance Failure Mode Analysis Report
  9. Temporary Construction Emergency Action Plan
  10. Filing of revised Exhibits A, F, & G (in FERC's letter of approval)
  11. Submittal of construction certificates and Final Construction Report.

DSOD's oversight may include periodic inspections and review of a certain number of submittals.

These are in addition to oversight functions from Valley Water's Construction Unit staff.

### Rights of Way

Valley Water has been working and negotiating with Santa Clara County Parks and Recreation Department (SCC) staff on the impacts of the Project to adjacent SCC property. On April 20, 2021, the County of Santa Clara Board of Supervisors approved an Agreement for Possession and Use (PUA) with Valley Water affecting the following properties required for the Project as well as other FOCP sub-projects.

1. Live Oak Property 0.65 acres (in fee)
2. Cross Valley Pipeline Spur Temporary Easement
3. Coyote Percolation Dam Utility Easement
4. Holiday Lakes Property (in fee)

The PUA will enable Valley Water to take possession of the properties for the ADTP while formalities for transfer are finalized.

Valley Water is also working with SCC to finalize a Master License Agreement on various activities that impact SCC properties along the Project and FOCP sub-projects. The MLA is expected to be approved in time to allow construction activities to begin.

Valley Water has also been working with various property owners along the reservoir rim and in the Project area for easements and temporary entry and use. These agreement negotiations are ongoing in some cases and will be in place so as not to hinder construction activities.

### Permits and Environmental Authorizations

Valley Water has obtained the following permits and authorizations prior to construction. The Contractor will be required to comply with regulatory requirements.

- Federal Energy Regulatory Commission License Exemption Amendment Authorization

- Federal Endangered Species Act Section 7 Emergency Consultation from National Marine Fisheries Service
- Federal Endangered Species Act Section 7 Emergency Consultation from U.S. Fish and Wildlife Service
- National Historic Preservation Act Section 106 Consultation and Programmatic Agreement
- California Department of Water Resources, Division of Safety of Dams, Approval of Plans and Specifications for the Repair or Alteration of a Dam and Reservoir Permit
- California Department of Industrial Relations, Division of Occupational Safety and Health, Mining and Tunneling Unit, Underground Classification Permit
- Clean Water Act Section 401 Water Quality Certification/Waste Discharge Requirements from the State Water Resources Control Board
- Santa Clara Valley Habitat Conservation Plan Compliance
- County of Santa Clara Encroachment Permit
- Bay Area Air Quality District Asbestos Dust Mitigation Plan Permit (expected on or before April 27, 2021)

Given the phased approval approach, construction in areas outside waters of the U.S. and State and associated riparian habitats will be able to start prior to issuance of Clean Water Act Section 404 and California Fish and Game Code Section 1602 requirements. Staff continues to work with the U.S. Army Corps of Engineers (USACE) and the California Department of Fish and Wildlife (CDFW) to secure the required permits, which will be required before physical construction of phase 2B activities can begin in July 2021. USACE and CDFW report that authorizations will be delivered by May 26, 2021.

The Contractor will be responsible for obtaining all additional permits required by the applicable authorities having jurisdiction for all Work to be performed by the Contractor, its sub-subcontractors, material supplier, etc. The Contractor is responsible for determining the need for and obtaining the requisite permits.

### **Next Steps**

If the Board approves the recommendations, staff will proceed with administering the Project construction, which is anticipated to begin in May 2021 and be completed by the end of December 2023.

### **FINANCIAL IMPACT:**

The recommended construction contract for the Project is \$161,140,321. Combined with the contingency of \$40,000,000, the total recommended for Board approval is \$201,140, 321. The funding source for the Project is the Water Utility Enterprise Fund (Fund 61).

Funds to cover the ADTP construction effort in FY2022 will be recommended by staff through the FY2022 budget process. Funds to cover each subsequent fiscal year anticipated construction costs, FY23-25, will be recommended by staff during each fiscal year budget process or through budget

adjustment(s). This construction contract does not change the overall total Project cost reflected in the Draft Five-Year 2022-26 Capital Improvement Program (CIP).

**CEQA:**

CEQA provides a statutory exemption for emergency projects, which include specific actions necessary to prevent or mitigate an emergency (Public Resources Code §21080(b)(4) and CEQA Guidelines §15269(c)). After analysis of the facts and applicable law, on June 23, 2020 following a public hearing, the Board determined that the FOCP, inclusive of the ADTP measure, qualifies for this emergency exemption. Valley Water filed a Notice of Exemption with the County of Santa Clara Clerk/Recorder on June 26, 2020.

Acting as the federal lead agency, FERC issued an Environmental Assessment (EA) on October 1, 2020, and a supplemental EA on February 2, 2021, to evaluate effects of the project and satisfy National Environmental Policy Act (NEPA) requirements. In accordance with FERC orders issued with the NEPA documents, the Contractor will also be required to comply with avoidance and minimization measures, mitigation measures, and a number of plans for terrestrial and aquatic resources as recommended by natural resource agencies.

**ATTACHMENTS:**

- Attachment 1: Project Delivery Process Chart
- Attachment 2: Location Map
- Attachment 3: FERC letter
- Attachment 4: DSOD letter
- Attachment 5: Prequalification Application
- Attachment 6: Notice to Bidders
- Attachment 7: Instructions to Bidders
- Attachment 8: Final Prequalified Contractors List
- Attachment 9: Prequalified Contractor Information
- Attachment 10: Flatiron Bid Proposal
- Attachment 11: Kiewit Bid Proposal
- Attachment 12: Dragados Bid Proposal
- Attachment 13: Bid Summary
- Attachment 14: Best Value Bid Summary
- Attachment 15: Kiewit Bid Protest
- Attachment 16: Response Letter to Kiewit Bid Protest
- Attachment 17: Flatiron CA SOS Entity Detail
- Attachment 18: Flatiron CA SOS SDFC
- Attachment 19: Flatiron CSLB Information
- Attachment 20: Dragados CA SOS Entity Detail
- Attachment 21: Dragados CA SOS SDFC
- Attachment 22: Dragados CSLB Information.
- Attachment 23: Obayashi CA SOS Entity Detail
- Attachment 24: Obayashi CA SOS Amended SFC

Attachment 25: Obayashi CSLB Information

\*Handout 7.3-A: J. Howard

\*Handout 7.3-B: Scott

**UNCLASSIFIED MANAGER:**

Christopher Hakes, 408-630-3796

# Santa Clara Valley Water District



File No.: 21-0456

Agenda Date: 4/27/2021  
Item No.: 7.1.

## BOARD AGENDA MEMORANDUM

### SUBJECT:

Approve the Agreement for Possession and Use by and Between Santa Clara Valley Water District and the County of Santa Clara for Anderson Dam Tunnel Project, Coyote Percolation Dam Replacement Project, and Cross Valley Pipeline Extension Project as parts of the Federal Energy Regulatory Commission Order Compliance Project, under the Anderson Dam Seismic Retrofit Project No. 91864005, APN: 723-34-020, 729-36-001, 678-02-031 & -034, and 725-36-001; Real Estate File Nos. 9186-35, 9186-39, 9188-17, and 9232-52 (Unincorporated Santa Clara County) (District 1).

### RECOMMENDATION:

Approve an Agreement for Possession and Use by and between Santa Clara Valley Water District (Valley Water), and the County of Santa Clara (County).

### SUMMARY:

The Federal Energy Regulatory Commission (FERC) has jurisdiction over Anderson Dam, located on Coyote Creek in Morgan Hill, and its associated safety measures. Pursuant to FERC's authority, for public health and safety reasons, on February 20, 2020, Valley Water received an Order from FERC to further reduce risks to public safety by implementing certain risk reduction measures for dam operation and design. These measures include the construction of the Anderson Dam Tunnel Project (ADTP) anticipated to be completed in December of 2023.

Valley Water is undertaking the FERC Order Compliance Project (FOCP) because of the FERC February 20, 2020 directive to implement interim risk reduction measures at Anderson Dam. Those measures include but are not limited to ADTP, Coyote Percolation Dam Replacement Project, and Cross Valley Pipeline Extension Project. The ADTP will construct a diversion system to augment the existing outlet, which consist of a new diversion tunnel, an outlet structure, a microtunnel lake tap, and modifications to Coyote Creek just downstream of the base of the dam. ADTP also includes reservoir bank and rim stability improvement and existing intake structure modifications. The Coyote Creek Percolation Dam Replacement Project will construct a new inflatable bladder dam and related improvements to accommodate the increased water flows anticipated when ADTP becomes operational. The Cross Valley Pipeline Extension Project will construct approximately 7,100 linear feet of 36-inch diameter pipeline from existing Cross Valley Pipeline to Coyote Creek to enable imported water releases downstream of Ogier Ponds.

On June 23, 2020, Valley Water Board approved the Engineer's Report for FOCP and declared an

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emergency for permitting purposes for the projects. On January 26, 2021, Valley Water Board adopted the plans and specifications and authorized advertisement of bids for the ADTP.

Valley Water entered discussions and negotiations with the County of Santa Clara (County) for the acquisition of four real property interests required to construct the Anderson Dam Tunnel Project (ADTP), Coyote Percolation Dam Replacement Project, and Cross Valley Pipeline Extension Project.

For ADTP, Valley Water will acquire 0.65 acres of County Parks property in fee title (Real Estate File No. 9186-35) for construction of the northern Coyote Creek channel. The northern Coyote Channel is needed to convey the increased flows from the diversion tunnel being built as part of ADTP. Valley Water will also acquire in fee title the approximately 4.05-acre parcel (Real Estate File No. 9186-39) that is part of Holiday Lake Estates. The 4.05-acre parcel is needed for staging of construction equipment that will be utilized for the bank and reservoir rim stability improvements at the Boat Marina and Hoot Owl Way landslide areas, which are part of the ADTP. The 4.05 acres will also be used for the subsequent Anderson Dam Seismic Retrofit Project (ADSRP). The decision was made to acquire the 4.05-acre parcel in fee title because of the duration of these two projects and the County's preference for the fee acquisition.

For the Cross Valley Pipeline Extension Project, a temporary water pipeline easement of approximately 0.73-acres (Real Estate File No. 9232-52) near Ogier Ponds between Monterey Road and Coyote Creek is needed to construct a water pipeline and related facilities. This water pipeline will provide an alternate method for introducing imported water to Coyote Creek below Ogier Ponds during construction of both ADTP and ADSRP.

For the Coyote Percolation Dam Replacement Project, a permanent utility easement of approximately 0.26-acres (Real Estate File No. 9188-17) near Forsum Road is required for installation and maintenance of an upgraded electric power supply. This upgraded power supply is necessary for the operation of a new inflatable bladder dam, adjustable fish ladder and related improvements built to accommodate the increased water flows anticipated when ADTP becomes operational.

A public works procurement process is currently underway with the goal of awarding a public works construction contract to construct ADTP by May of 2021. To award the ADTP construction contract, Valley Water requires immediate possession of various fee, easement, and temporary easement interests in County lands. The Parties have met and conferred, and County is willing to work with Valley Water and its requirement to advance these projects.

#### Agreement for Possession and Use

Through the Agreement for Possession and Use (PUA) the County grants Valley Water a right of possession prior to Valley Water's acquisition of the Property, prior to and in contemplation of a sale under threat of eminent domain or by order of condemnation under Code of Civil Procedure § 1268.030, to enable Valley Water to proceed with the construction of the FOCP and ADTP and related projects without delay or prejudice to County's right to receive just compensation for the Property. Valley Water desires to obtain and County agrees to grant to Valley Water an irrevocable



right to possess and use the property interests under the terms and conditions set forth in the PUA.

In exchange for Valley Water's deposit of ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00) with a mutually agreed upon escrow agent and compliance with the terms of the PUA, the County agrees to permit Valley Water to use the above described property rights "AS-IS" and waives any rights to challenge Valley Water's right to acquire, possess and use the property interests consistent with the terms of the PUA. A remaining issue under discussion is just compensation which may include both cash consideration and other non-cash compensation.

Considerations related to appropriate compensation for the four real property interests described above are complicated. by terms related to the Master Partnership Agreement in replacing lost park recreational amenities and values removed from Valley Water property in connection with the project and the California Public Park Preservation Act which may apply to some or all the real property interests required by Valley Water.

#### Easement Deeds

The PUA includes two easement deeds as parts of Exhibit B. To ensure compatibility of the existing County parkland use and proposed FOCP and ADTP project uses, Valley Water has agreed to allow the County review and comment on 60% and 90% construction drawings, plans and specifications. And to the extent feasible, Valley Water shall reasonably respond to County comments and make appropriate modifications to the FOCP and ADTP plans. The scope of County's review shall be limited to Valley Water's project compatibility with aesthetic, ecological, recreational safety, and recreational function elements. After completion of the FOCP, ADTP, and ADSRP projects, any new or modified appurtenant structures proposed shall also be subject to review and comment by the County for the limited purposes described above. Lastly, the Board of Directors should note that the temporary water pipeline easement expires either on the earlier of (i) the Board's acceptance of the ADSRP project or (ii) December 31, 2032. The effective time period of the temporary water pipeline easement may be extended by mutual agreement of the Parties. If Valley Water obtains the necessary regulatory approvals to make the water pipeline operations permanent, the Parties will consider a permanent easement at that time.

Staff recommends that the Board approve the terms and conditions of the PUA.

#### **FINANCIAL IMPACT:**

The Anderson Dam Seismic Retrofit Project No. 91864005 is included in both the 2021-2025 Capital Improvement Program (CIP) and the Draft Five-Year 2022-26 CIP, and in the Board-adopted FY 2020-21 Budget. The PUA requires that Valley Water deposit \$1,500,000.00, with an escrow agent agreed on by the County and Valley Water. There is sufficient funding in the ADSRP Project's Fiscal Year 2020-21 budget to encumber this fee. The ADSRP Project is funded by Water Utility Enterprise Fund (Fund 61).

#### **CEQA:**

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As the Board moves forward with the PUA approval, the FOCPP property transactions and activities are covered by the FOCPP's Statutory Exemption for specific actions necessary to prevent or mitigate an emergency under Pub. Res. Code § 21080(b)(4) and CEQA Guidelines §15269(c). CEQA (Pub. Res. Code § 21060.3) defines an "emergency" as a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Dam failure leading to catastrophic flooding would be a "sudden unexpected occurrence" were it to occur. FERC's dam safety order clearly reflects a regulatory determination that seismic risks associated with Anderson Dam and the existing outlet constitute an emergency situation that requires immediate action by Valley Water. Each of the FOCPP components, including property acquisition to construct these components, is necessary for an integrated emergency response to the FERC Order, both to mitigate the potential for a catastrophic dam failure, and to avoid and minimize environmental, flood management, groundwater recharge, and water supply impacts of such emergency response actions.

In addition, because the temporary water pipeline easement (APN: 725-06-008) and the 4.05 acre parcel (APN: 729-36-001) are also planned for future use by the ADSRP, CEQA Guidelines Section 15004 (b)(2) applies to Valley Water's acquisition of these property interests with respect to future ADSRP use. Section 15004 (b)(2) states that public agencies shall not formally make a decision to proceed with use of a site for facilities which would require CEQA review, regardless of whether the agency has made any final purchase of the site for these facilities, except that agencies may designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency's future use of the site on CEQA compliance. Execution of the PUA does not commit Valley Water to a definite course of action in regard to ADSRP, no future ADSRP use of the temporary pipeline easement and 4.05 acre parcel would commence until after ADSRP CEQA review is completed, and after that CEQA review Valley Water may pursue a different alternative.

**ATTACHMENTS:**

Attachment 1: Agreement

**UNCLASSIFIED MANAGER:**

Sue Tippets, 408-630-2253



# Santa Clara Valley Water District

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**File No.:** 21-0171

**Agenda Date:** 5/13/2021  
**Item No.:** 4.4.

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## **COMMITTEE AGENDA MEMORANDUM**

### **Stream Planning and Operations Committee**

#### **SUBJECT:**

Review Stream Planning and Operations Committee (SPOC) Work Plan, Outcomes of Board Action of Committee Requests, and the Next Meeting Agenda.

#### **RECOMMENDATION:**

- A. Review 2021 SPOC work plan, outcomes of Board action of Committee requests, and next meeting agenda; and
- B. Schedule Committee meetings as appropriate.

#### **SUMMARY:**

This item allows the SPOC to review its 2021 Work Plan, outcomes of Board action of Committee requests, next meeting agenda, and identify tasks and schedule meetings as appropriate.

#### **ATTACHMENTS:**

- Attachment 1: 2021 SPOC Work Plan
- Attachment 2: July 8, 2021 Draft Agenda

#### **UNCLASSIFIED MANAGER:**

Michele King, 408-630-2711



## 2021 Stream Planning and Operations Committee Work Plan

The annual work plan establishes a framework for committee discussion and action during the annual meeting schedule. The committee work plan is a dynamic document, subject to change as external and internal issues impacting the District occur and are recommended for committee discussion. Subsequently, an annual committee accomplishments report is developed based on the work plan and presented to the District Board of Directors.

ITEM	WORK PLAN ITEM BOARD POLICY	MEETING DATE	INTENDED OUTCOME(S) (Action of Information Only)	ACCOMPLISHED DATE AND OUTCOME
1	<b>Election of Chair and Vice Chair for 2021</b>	January	<ul style="list-style-type: none"> <li>Committee Elects Chair and Vice Chair for 2020. <b>(Action)</b></li> </ul>	Completed 1/14/21 – Keegan elected Chair LeZotte elected Vice Chair
2	<b>Review of Draft Committee Work Plan</b>	January	<ul style="list-style-type: none"> <li>Review draft 2021 Committee Work plan</li> </ul>	Completed 1/14/21 – Approved workplan as presented
3	<b>Review of Final Committee Work Plan, the Outcomes of Board Action of Committee Requests, and the Committee Next Meeting Agenda</b>	March May July September November	<ul style="list-style-type: none"> <li>Receive and review the 2020 Board-approved Committee work plan. <b>(Action)</b></li> <li>Submit requests to the Board, as appropriate.</li> </ul>	<b>Reviewed 3/11/21</b>
4	<b>Receive updates on FAHCE progress and deliverables</b>	January March May July September November	<ul style="list-style-type: none"> <li>Receive updates on FAHCE activities and progress.</li> </ul>	Update provided 1/14/21 <b>Update provided 3/11/21</b>
5	<b>Discuss District and Non-District Projects and Other Activities that May Affect the FAHCE Settlement Agreement and Implementation</b>	January March May July September November	<ul style="list-style-type: none"> <li>Receive information on activities affecting the FAHCE Settlement Agreement and Implementation, as needed.</li> <li>Provide input on these activities to ensure their consistency with the intent of the FAHCE Settlement Agreement. <b>(Action)</b></li> </ul>	Information provided 1/14/21 <b>3/11/21 Update on Singleton Road Interim Project at Coyote Creek</b>

6	Receive update on Anderson Dam Seismic Retrofit Project and Incorporation of FAHCE Conservation Measures for Coyote Creek	January March July November	<ul style="list-style-type: none"> <li>Receive updates on the incorporation of FAHCE Conservation Measures for the Coyote Creek Watershed by the Anderson Dam Seismic Retrofit Project. <b>(Information)</b></li> </ul>	Update provided 1/14/21 Update provided 3/11/21
7	Receive FAHCE Draft EIR	July	<ul style="list-style-type: none"> <li>Receive the FAHCE Draft EIR, when completed. <b>(Information)</b> <i>Draft EIR provided to SPOC members in June when made available to the public</i></li> </ul>	
8	Discuss Prioritization of FAHCE Phase 1 Non-Flow Measures in the Guadalupe River and Stevens Creek Watersheds	July	<ul style="list-style-type: none"> <li>Receive information on prioritization of the Phase 1 non-flow measures in the Guadalupe River and Stevens Creek Watersheds.</li> <li>Provide input on prioritization of Phase 1 non-flow measures for consideration of the Initialing Parties. <b>(Action)</b></li> </ul>	
9	Receive updates on consultant contracts for FAHCE	May July	<ul style="list-style-type: none"> <li>Receive updates on FAHCE contracts requiring Board Approval.</li> </ul>	
10	Receive Updates on Discussions with the FAHCE Adaptive Management Team	March September	<ul style="list-style-type: none"> <li>Receive updates on key discussions and decisions made by the FAHCE Adaptive Management Team. <b>(Information)</b></li> </ul>	Update provided 3/11/21
11	Field Tour	September	<ul style="list-style-type: none"> <li>Attend an annual field tour of a FAHCE or FAHCE related site; invite public</li> </ul>	

**DRAFT**



## **Santa Clara Valley Water District Stream Planning and Operations Committee Meet**

Teleconference Zoom Meeting  
5700 Almaden Expressway  
San Jose, CA 95118

### **AGENDA**

**Thursday, July 8, 2021  
12:00 PM**

**District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.**

**FAHCE AD HOC COMMITTEE**

Barbara Keegan - District 2  
Linda J. LeZotte - District 4  
Tony Estremera - District 6

During the COVID-19 restrictions, all public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body, will be available to the public through the legislative body agenda web page at the same time that the public records are distributed or made available to the legislative body, or through a link in the Zoom Chat Section during the respective meeting. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to participate in the legislative body's meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

**Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown Act.**

# Santa Clara Valley Water District Stream Planning and Operations Committee

## AGENDA

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Thursday, July 8, 2021

12:00 PM

Teleconference Zoom Meeting

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### IMPORTANT NOTICES

This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20 issued on March 17, 2020 that allows attendance by members of the Committee, staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both.

Members of the public wishing to address the Committee during a video conferenced meeting on an item not listed on the agenda, or any item listed on the agenda, should use the "Raise Hand" tool located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Committee Chair in the order requests are received and granted speaking access to address the Committee.

Santa Clara Valley Water District (Valley Water) in complying with the Americans with Disabilities Act (ADA), requests individuals who require special accommodations to access and/or participate in Valley Water Committee meetings to please contact the Clerk of the Board's office at (408) 630-2711, at least 3 business days before the scheduled meeting to ensure that Valley Water may assist you.

This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Sections 54950 et. seq. and has not been prepared with a view to informing an investment decision in any of Valley Water's bonds, notes or other obligations. Any projections, plans or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of Valley Water's bonds, notes or other obligations and investors and potential investors should rely only on information filed by Valley Water on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System for municipal securities disclosures and Valley Water's Investor Relations website, maintained on the World Wide Web at <https://emma.msrb.org/> and <https://www.valleywater.org/how-we-operate/financebudget/investor-relations>, respectively.



Under the Brown Act, members of the public are not required to provide identifying information in order to attend public meetings. Through the link below, the Zoom webinar program requests entry of a name and email address, and Valley Water is unable to modify this requirement. Members of the public not wishing to provide such identifying information are encouraged to enter "Anonymous" or some other reference under name and to enter a fictional email address (e.g., attendee@valleywater.org) in lieu of their actual address. Inputting such values will not impact your ability to access the meeting through Zoom.

**Join Zoom Meeting:**  
**<https://valleywater.zoom.us/j/XXXXXXXXXXXX>**  
**Meeting ID: XXX XXXX XXXX**  
**Join by Phone:**  
**1 (669) 900-9128, XXXXXXXXXXXX#**

**1. CALL TO ORDER:**

1.1. Roll Call.

**2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA.**

*Notice to the Public: Members of the public who wish to address the Committee on any item not listed on the agenda should access the "Raise Hand" tool located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Committee Chair in order requests are received and granted speaking access to address the Committee. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Committee action on, or extended discussion of, any item not on the agenda except under special circumstances. If Committee action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Committee may take action on any item of business appearing on the posted agenda.*

**3. APPROVAL OF MINUTES:**

3.1. Approval of Minutes.

**21-0489**

Recommendation: Approve the May 13, 2021 Stream Planning and Operations Committee (SPOC) minutes.

Manager: Michele King 408-630-2711

Attachments: Attachment 1: January 14, 2021 SPOC Minutes.

**4. INFORMATION AND ACTION ITEMS:**

4.1. Receive updates on FAHCE Progress and Deliverables.

**21-0484**

Recommendation: Receive updates on FAHCE activities and progress.

Manager: First Last, 408-630-XXXX

- 4.2. Discuss District and Non-District Projects and Other Activities that May Affect the FAHCE Settlement Agreement and Implementation. **21-0485**  
 Recommendation: A. Receive information on activities affecting the FAHCE Settlement Agreement and Implementation, as needed; and  
 B. Provide input on these activities to ensure their consistency with the intent of the FAHCE Settlement Agreement.  
 Manager: First Last, 408-630-XXXX
- 4.3. Receive update on Anderson Dam Seismic Retrofit Project and Incorporation of FAHCE Conservation Measures for Coyote Creek. **21-0486**  
 Recommendation: Receive updates on the incorporation of FAHCE Conservation Measures for the Coyote Creek Watershed by the Anderson Dam Seismic Retrofit Project.  
 Manager: First Last, 408-630-XXXX
- 4.4. Receive FAHCE Draft Environmental Impact Report (EIR). **21-0487**  
 Recommendation: Receive the FAHCE Draft EIR.  
 Manager: First Last, 408-630-XXXX
- 4.5. Discuss Prioritization of FAHCE Phase 1 Non-Flow Measures in the Guadalupe River and Stevens Creek Watersheds. **21-0488**  
 Recommendation: A. Receive information on prioritization of the Phase 1 non-flow measures in the Guadalupe River and Stevens Creek Watersheds; and  
 B. Provide input on prioritization of Phase 1 non-flow measures for consideration of the Initialing Parties.  
 Manager: First Last, 408-630-XXXX
- 4.6. Review Stream Planning and Operations Committee (SPOC) Work Plan, Outcomes of Board Action of Committee Requests, and the Next Meeting Agenda. **21-0490**  
 Recommendation: A. Review 2021 SPOC work plan, outcomes of Board action of Committee requests, and next meeting agenda; and  
 B. Schedule Committee meetings as appropriate.  
 Manager: Michele King, 408-630-2711  
 Attachments: Attachment 1: 2021 SPOC Work Plan

**5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS.**

*This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during the meeting.*

**6. ADJOURN:**

- 6.1. Adjourn to Regular Meeting at 12:00 p.m., on September 9, 2021, to be called to order in compliance with the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20.