



SANTA CLARA VALLEY WATER DISTRICT

NON-AGENDA

December 23, 2022

Board Policy EL-7 Communication and Support to the Board
The BAOs shall inform and support the Board in its work.

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36		Email from Nick Kolsa, to the Board of Directors, dated 12/15/22, regarding Homeless Encampments (C-22-0208).
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54		Email from Director Santos, to Nick Kosla, dated 12/20/22, regarding an Encampment on Penitencia East Channel adjacent to Lundy Place

Board correspondence has been removed from the online posting of the Non-Agenda to protect personal contact information. Lengthy reports/attachments may also be removed due to file size limitations. Copies of board correspondence and/or reports/attachments are available by submitting a public records request to publicrecords@valleywater.org.

CEO BULLETIN

CEO BULLETIN



To: Board of Directors
From: Rick L. Callender, CEO

Weeks of December 9 – December 22, 2022

Board Executive Limitation Policy EL-7:

The Board Appointed Officers shall inform and support the Board in its work. Further, a BAO shall 1) inform the Board of relevant trends, anticipated adverse media coverage, or material external and internal changes, particularly changes in the assumptions upon which any Board policy has previously been established and 2) report in a timely manner an actual or anticipated noncompliance with any policy of the Board.

Item	IN THIS ISSUE
<u>1</u>	Delta Conveyance Project Draft Environmental Impact Statement Now Available
<u>2</u>	Safe, Clean Water Mini-Grant Closeout: Ani & Cat, LLC's FY 2021 A2 Water Conservation in Our Neighborhoods Project
<u>3</u>	Valley Water and the U.S. Army Corps of Engineers public meeting for the Upper Guadalupe River Flood Protection Project
<u>4</u>	<u>Hsueh</u> Pacheco Reservoir Expansion Project Work Study Session Update R-22-0011
<u>5</u>	<u>Beall & Eisenberg</u> Pacheco Reservoir Expansion Project Information I-22-0006

1. Delta Conveyance Project Draft Environmental Impact Statement Now Available

On December 19, 2022, the U.S. Army Corps of Engineers (USACE) released a Draft Environmental Impact Statement (DEIS) for the proposed Delta Conveyance Project (DCP). The USACE is the federal lead agency under the National Environmental Policy Act (NEPA) for the DCP. The DEIS is available on the USACE website and electronically on disc at local libraries throughout the Delta. Written public comments must be submitted on or before February 14, 2023. The USACE is also holding three virtual public meetings to receive oral comments on January 10, January 12, and January 18, 2023. Valley Water is reviewing the DEIS and will provide comments if warranted.

For more information or to download a copy of the DEIS, visit:
<https://www.spk.usace.army.mil/Missions/Regulatory/Delta-Conveyance/>.

For further information, please contact Vincent Gin at (408) 630-2633.

2. Safe, Clean Water Mini-Grant Closeout: Ani & Cat, LLC's FY 2021 A2 Water Conservation in Our Neighborhoods Project

In Fiscal Year 2021, Valley Water awarded Ani & Cat, LLC (Grantee) a \$5,000 Safe, Clean Water Program A2 Mini-Grant for their Water Conservation in Our Neighborhoods Project (Project). The Grantee completed the Project on August 31, 2022 and submitted the final invoice items on October 12, 2022, allowing for grant closeout.

The Grantee is a San Jose-based digital media company that creates video reels, motion graphics, animations, and b-roll for clients and targeted audiences. The Grantee utilized funding to produce two educational videos on water conservation for elementary through high school students within Santa Clara County. The first video, Water Conservation in Our Neighborhoods, includes tips on reducing water waste by making small changes to our everyday routine. The second video, Drip and Drop Save Water, is an informative, animated video that focuses on the storytelling of two water droplets taking steps to conserve water.

The Grantee created and shared an electronic educational toolkit, which included the two water conversation videos, digital stickers, social media trivia graphics, and worksheets. The electronic educational toolkit was shared through the Grantee's social media platforms (Twitter, Facebook, Reddit and Vimeo) and encouraged teachers to utilize the educational kits in their classrooms. In addition, the Grantee requested for the educational toolkit to be promoted on newsletters and social media platforms by the County of Santa Clara Board of Supervisors, and the mayors and councilmembers of San Jose, Campbell, Santa Clara and Palo Alto. The Grantee distributed a limited number of hard copy educational toolkits to Cupertino Union School District students.

Key Outcomes:

- Two Water Conservation Videos:
 - "Drip and Drop Save Water" for elementary school students (<https://vimeo.com/738071247>).
 - "Water Conservation in Our Neighborhoods" for middle and high school students (<https://vimeo.com/738070791>).
- Created an educational tool kit:
 - Two water conversation videos, eight shareable water conservation trivia assets and three digital stickers for social media use
 - Four educational worksheets
- Distributed 36 digital educational tool kits to the County of Santa Clara Board of Supervisors, and the mayors and councilmembers of San Jose, Campbell, Santa Clara and Palo Alto.
- Distributed a limited number of hard copy educational toolkits to 60 Cupertino Union School District students.

For further information, please contact Donald Rocha at (408) 630-2338.

3. Valley Water and the U.S. Army Corps of Engineers public meeting for the Upper Guadalupe River Flood Protection Project

On December 8, 2022, Valley Water and the U.S. Army Corps of Engineers (USACE) held a public meeting to present the recommended plan of flood protection work along the Upper Guadalupe River.

Valley Water and the USACE utilized a hybrid model, holding the meeting in-person at the Carpenter's Local 405 Hall in San Jose and through Zoom. Fourteen community members participated, with six attending virtually, including Olivia Rodriguez from Congressman Ro Khanna's office and Celeste Walker from Assemblymember Ash Kalra's office.

Valley Water Board of Directors Tony Estremera and Barbara Keegan provided opening remarks. Director Jim Beall also participated in the in-person meeting and was acknowledged by staff before the project presentation began. USACE shared that the project is currently in the study stage and highlighted that the project's public comment period on the draft document will conclude on December 16, 2022.

USACE and Valley Water have completed three reaches as of January 2022 that included Reaches 6, 10B and 12 and are now beginning to develop plans for Reaches 7 and 8.

A link to the recording of the public meeting is available on the project website and Valley Water's YouTube channel.

For further information, please contact Donald Rocha at (408) 630-2338.

4. Hsueh Pacheco Reservoir Expansion Project Work Study Session Update R-22-0011

Valley Water's Water Supply Division is working with the Pacheco Project Delivery Unit to provide a Pacheco Reservoir Expansion Project Status Update at the January 10, 2022 Board Work Study session that will outline the expanded Pacheco Reservoir's potential role in Valley Water's Water Supply Master Plan and water supply distribution system. An updated PowerPoint presentation will be posted via supplemental Board Agenda Memorandum on January 6, 2023.

For further information, please contact Christopher Hakes at (408) 630-3796.

5. Beall & Eisenberg Pacheco Reservoir Expansion Project Information 1-22-0006

During a briefing on December 9, 2022, Valley Water Directors Beall and Eisenberg requested the following information regarding the Pacheco Reservoir Expansion Project:

1. Information about when the Pacheco Project planning/design started (Beall):

Valley Water began studying Pacheco Reservoir expansion in 1991 to more efficiently use both contracted and supplemental imported water supplies and to provide increased reliability during dry water years. The Reconnaissance Level Evaluation of Alternative Dam and Reservoir Sites (Wahler Associates 1993) evaluated 13 potential reservoir sites in Santa Clara County and developed four potential alternatives for an expanded reservoir on North Fork Pacheco Creek, near the existing North Fork Dam. Preliminary layouts were developed for these four alternatives and site evaluations were conducted to characterize environmental and land-use issues, seismicity, geology, potential for construction materials, site limitations, and preliminary Project costs. The evaluation concluded

that further detailed environmental analyses and feasibility-level investigations were required to select a specific reservoir site.

Proposition 1, passed by California voters in 2014, dedicated \$2.7 billion for investments in water storage projects in California. The California Water Commission (CWC) administers the WSIP to fund the public benefits (e.g., emergency response, ecosystem enhancement, flood control, water quality) associated with water storage projects. In consideration of the WSIP funding process, Valley Water developed a proposal for a multi-purpose/multi-objective expansion of Pacheco Reservoir and in August 2017 submitted a WSIP application to the CWC for the Project (Valley Water 2017). SBCWD and Pacheco Pass Water District (PPWD) joined Valley Water as key project partners for the WSIP application. In July 2018, the CWC approved the maximum conditional funding amount for the expansion of Pacheco Reservoir, which considered the Project's ability to provide ecosystem improvements (habitat improvements in Pacheco Creek for SCCC steelhead and increased refuge water supplies) and emergency response public benefits. As a result, that same month Valley Water incorporated the Pacheco Reservoir Expansion Project into our 5-year rolling Capital Improvement Plan (CIP) as a Capital Project and began an accelerated combined, planning, design and environmental process.

2. How many staff are currently working on the Pacheco project (Beall/ Eisenberg):

There are currently six Valley Water staff working full time on the project who are also supported by two external consultant teams (a project management consultant and a planning, design, and environmental consultant) with agreements totaling approximately \$125 million.

3. A breakdown of the historical costs and future expenditures planned for Pacheco by major cost category (e.g. labor, consulting services, legal, etc.) (Beall/ Eisenberg):

Total expenditures currently included in the Fiscal Year (FY) 2023-27 Five-Year CIP is \$2.206B (uninflated), broken down as follows:

- Actual Expenditures through FY22 Total \$54.3M:
Labor \$10M, Consultants \$41M, License & Permits \$1.9M, Legal \$698K, Misc. \$747K
- Future Expenditures (FY2023-35) Total \$2,152M:
Labor \$48M, Consultants \$279M, License & Permits \$7M, Legal \$1M, Misc. \$1.8M, construction \$1,814.7M

For further information, please contact Darin Taylor at (408) 630-3068.

BOARD MEMBER REQUESTS and Informational Items

Report Name: Board Member Requests

Request	Request Date	Director	BAO/Chief	Staff	Description	20 Days Due Date	Expected Completion Date	Disposition
I-22-0006	12/12/22	Beall Eisenberg	Taylor	Sun	Directors Beall/Eisenberg requested the following information on Pacheco: 1. When the Pacheco project planning/design started (Beall) 2. How many staff are currently working on the Pacheco project (Beall/Eisenberg) 3. A breakdown of the historical costs and future expenditures planned for Pacheco by major cost category (e.g. labor, consulting services, legal, etc.) (Beall/Eisenberg)	01/01/23		
I-22-0007	12/16/22	Eisenberg	Orellana	Hopper	Director Eisenberg requests the following information from the Office of District Counsel during the time period June 1, 2021 to December 16, 2022: • engagement letters • invoices • paid bills • amounts paid/outstanding • budget estimates for all outstanding litigation as well, including responsive motions, discovery, and trial	01/08/23		
R-22-0009	12/13/22	Beall	Richardson	Penilla	For the 1/10/23 CIP Work study session, identify projects that can be completed faster to save constructions funds.	01/02/23		
R-22-0010	12/13/22	Beall	Gibson	Broome	Investigate State fund matching opportunities for CIP projects.	01/02/23		

Report Name: Board Member Requests

Request	Request Date	Director	BAO/Chief	Staff	Description	20 Days Due Date	Expected Completion Date	Disposition
R-22-0011	12/13/22	Hsueh	Richardson	Hakes	At the 1/10/23 CIP work study, include how Pacheco Dam Project connects with the Water Supply Master Plan.	01/02/23		
R-22-0012	12/13/22	Beall	Yoke	Mcelroy	Provide a reoccurring report listing the number of Valley Water personnel vacancies.	01/02/23		

TO: Board of Directors**FROM:** Michele King, Clerk of the Board**SUBJECT:** December 13, 2022, Agenda Item 2.8**DATE:** December 16, 2022

Please find attached comments received after the cut-off for Agenda Item 2.8. at the December 13, 2022, Board Meeting.

(Stop the Pacheco Dam Project).

Michelle Critchlow

From: Mae Ryan Empleo <Legal@semlawyers.com>
Sent: Monday, December 12, 2022 5:24 PM
To: Board of Directors; Clerk of the Board
Cc: Osha Meserve; James Crowder; John Varela; Barbara Keegan; Richard Santos; Jim Beall; Nai Hsueh; Tony Estremera; Rebecca Eisenberg
Subject: Comments on Dec. 13, 2022, Board Meeting, Agenda Item 2.8 - Adopt a Resolution Authorizing the Execution and Delivery of WIFIA Agreements Documentation for Anderson Dam Projects & Pacheco Reservoir
Attachments: 22.12.12 SPD Cmt Ltr.pdf
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Dear Chair and Members of the Board:

Attached is a letter submitted on behalf of Stop the Pacheco Dam Coalition regarding the December 13, 2022, Board of Directors Meeting, Agenda Item 2.8 - Adopt a Resolution Authorizing the Execution and Delivery of WIFIA Agreements Documentation for Anderson Dam Projects & Pacheco Reservoir. Should you have questions, please do not hesitate to contact our office. Thank you for your attention to this matter.

Sincerely,

Mae Ryan Empleo
Legal Assistant
Soluri Meserve, A Law Corporation
510 8th Street, Sacramento, CA 95814

☎ tel: 916.455.7300 ▪ 📠 fax: 916.244.7300 ▪ ✉ email: legal@semlawyers.com

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient.

December 12, 2022

SENT VIA EMAIL

(board@valleywater.org; clerkoftheboard@valleywater.org)

Santa Clara Valley Water District
Board of Directors
5700 Almaden Expressway
San Jose, California 95118

**RE: Comments on December 13, 2022, Board of Directors Meeting
Agenda Item 2.8 - Adopt a Resolution Authorizing the Execution and
Delivery of WIFIA Agreements and Documentation for Anderson Dam
Projects and Pacheco Reservoir**

Dear Chair and Members of the Board:

This firm represents Stop the Pacheco Dam Coalition, an unincorporated association working with conservation and other groups to protect Santa Clara County's ratepayers and the environment, as well as working ranchlands, from the environmentally destructive, high-cost, and high-risk Pacheco Reservoir Expansion Project ("Dam Project").¹ Given the high risks, high costs, and severe environmental damage associated with the Dam Project, Santa Clara Valley Water District ("Valley Water") should not continue to pursue this project. The Board should not adopt the resolution provided in Agenda Item 2.8 of the December 13, 2022, Board of Directors meeting. Further, the Dam Project should be removed from Valley Water's water supply capital improvements in favor of other projects with lower risk, higher water supply benefits, and less severe environmental impacts.

Valley Water Should Abandon Pacheco Reservoir

Valley Water has already spent tens of millions of dollars, countless staff hours, and numerous board meetings pursuing the Dam Project. However, this time and resources has so far amounted to only an infeasible dam design, an inadequate Draft Environmental Impact Report ("DEIR"), with no other water agencies willing to financially participate in the Dam Project. While these shortcomings have materialized, the cost of the Dam Project continues to spiral out of control.

¹ For more information, see: <https://stoppachecodam.org/>.

Since the Division of Safety of Dams (“DSOD”) informed Valley Water that the hardfill project design was infeasible, there have been no updates of any substance to the interested public, and Valley Water’s plan for the Dam Project is now unclear. In addition to the infeasibility of the design, several state and federal agencies provided highly critical comments on the DEIR.² These agencies called into question the environmental impacts of the Dam Project and the inadequacies of the document. Thus, Valley Water is pursuing several billion dollars of debt to fund a project that has failed to meet basic planning benchmarks.

Additionally, Valley Water has failed to disclose the actual cost of the Dam Project to the public. The 2023-27 Capital Improvement Program estimates the Pacheco Dam to cost roughly \$2.5 billion.³ However, the materials for Item 2.8 show the cost for the 49 percent WIFIA funding would be roughly \$2.914 billion. This does not account for the other 51 percent not funded by WIFIA loans, which at this time would be roughly \$1.3 billion. Therefore, accounting for financing the loan, the project’s total cost is likely closer to \$4.5 billion. In April 2021, with an estimated cost of \$2.520 billion, the Dam Project was reported to have a storage cost of \$18,800 an acre-foot, which is a large underestimate, given debt service costs alone. That is several times higher than most types of water projects.⁴ However, Valley Water has not integrated this exorbitant project cost into its predicted rate increases. Review of Valley Water’s documents and reports indicate that Valley Water’s public costs estimates do not account for the financing costs of the project, and thus the impacts to ratepayers from this project is undisclosed.

Valley Water should cut its losses. It should not pursue a subsequent DEIR or spend the millions of dollars it would need to reconfigure the dam in a manner that meets DSOD standards. Instead, the billions of dollars that would be wasted on a very small amount of water, should be used on more forward-thinking projects. For example, Valley Water should pursue more recycling projects. Its current goal is to “develop recycled and purified water to provide for at least 10% of the Total County water demands by 2025.”⁵

² SPD has compiled public comments on the DEIR here: <https://stoppachecodam.org/public-concerns/draft-environmental-impact-report-deir-comments-2022/>.

³ The CIP can be accessed at https://s3.us-west-1.amazonaws.com/valleywater.org.us-west-1/s3fs-public/2022-07/CIP_Tab-02_062722_BA_.pdf, p. II-22.

⁴ This chart shows other types of water projects with acre-foot costs between \$100 and \$3,000, <https://waterinthewest.stanford.edu/groundwater/charts/cost-comparison/index.html>

⁵ <https://www.valleywater.org/your-water/recycled-and-purified-water>

Additionally, Valley water hopes to produce 24,000 acre-feet of recycled water by 2040. This is low compared with Orange County, for instance, which produces more than 100,000 acre-feet every year. Further, the cost of Orange County water is roughly \$850 an acre-foot;⁶ this is substantially lower than the \$18,800 for the Dam Project.

Valley Water and EPA Cannot Rely on National Environmental Policy Act Categorical Exclusions

The materials for Agenda Item 2.8 indicate that Valley Water intends to utilize 10 separate loans. The first loan would be nearly \$200 million for the planning and design costs for the Anderson Dam projects. Loans 2-10 would be for the construction of the Anderson Dam Projects and the planning, design, and construction of Pacheco Dam. The supplemental memorandum for the agenda item states:

Valley Water's total capacity to borrow is unchanged, and subsequent construction loans will incorporate land acquisition, project management and construction-related engineering costs that EPA directed to be removed from the initial design and planning loans. This shifting of costs will allow EPA, in its assessment of the impact on the environment of each WIFIA project, to make a Categorical Exclusion determination under the guidelines set forth by the National Environmental Policy Act of 1969 (NEPA) and obligate funds for the design and planning loans.

(December 13, 2022, Supplemental Board Agenda Memorandum, p. 2.) However, as explained in the Stop the Pacheco Dam Coalition's September 2022 letter to the EPA, this violates NEPA because it piecemeals the project into separate phases.⁷

The Council on Environmental Quality ("CEQ") regulations address piecemealing. These regulations prevent a piecemeal approach that would divide a "project into multiple actions, each of which individually has an insignificant environmental impact, but which collectively have a substantial impact." (*Thomas v. Peterson* (9th Cir. 1985) 753 F.2d 754, 758.) The CEQ defines "connected actions" as actions that:

- i. Automatically trigger other actions which may require environmental impact statements.

⁶ <https://www.ocwd.com/gwrs/frequently-asked-questions/>

⁷ Available at: <https://stoppachecodam.org/wp-content/uploads/2022/09/22.09.08-SPDC-WIFIA-Cmt-Ltr.pdf>.

- ii. Cannot or will not proceed unless other actions are taken previously or simultaneously.
- iii. Are interdependent parts of a larger action and depend on the larger action for their justification.

(40 C.F.R. § 1508.25(a)(1) (1984)).⁸ The Dam Project falls squarely under both subsections ii and iii. The construction aspect of the project could not proceed without the planning and design portion of the project. Second, the sole purpose of the planning and design stages of the project is to construct the dam and operate the reservoir. Therefore, the scope of the action includes planning, design, construction, and operation, none of which should be evaluated under a separate NEPA process.

Additionally, public policy mandates against splitting funds into separate phases. Valley Water is asking the EPA to loan money for a high-risk, high-cost, and high environmental impact project that was called into question by local, state, and federal agencies during the review of the project under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. [“CEQA”]). Although not explained in the WIFIA Application, it appears that the Dam Project’s costs increased so much from the initial estimates that Valley Water now needs hundreds of millions more just to complete just the planning and design phase. This comes after Valley Water has already spent more than \$80 million on its planning process only to come up with a design that was deemed *infeasible* by the California DSOD, produced an EIR that has been roundly criticized by local, state, and federal agencies, and environmental groups.

The Agenda Item’s Supporting Documentation Fails to Describe Ongoing Litigation

In addition to the flaws described above, none of the documents included in agenda item 2.8 indicate that there is ongoing litigation between Stop the Pacheco Dam Coalition, Sierra Club and Amah Mutsun Tribal Band and Valley Water.⁹ It is unclear why Valley Water has omitted reference to the lawsuit challenging the extensive geotechnical investigations being carried out in furtherance of the Dam, especially since the lawsuit is included on the agenda for closed session. This information should be included in the Master Agreement to properly inform the Environmental Protection Agency of ongoing or threatened litigation.

⁸ See also *Hammond v. Norton* (D.C. Cir. 2005) 370 F.Supp.2d 226, 247.

⁹ See copy of lawsuit here: <https://stoppachecodam.org/wp-content/uploads/2022/08/22.08.23-Amended-Petition.pdf>. This information appears to be required in the WIFIA Master Agreement, Schedule 12(f).

* * *

Funds already spent are not a justification for the continued pursuit of this controversial project. It is not economically sound for Valley Water to pursue a project with such high risks, high costs, and very low rewards for its ratepayers. In addition, the environmental impacts from construction and inundation would be severe and permanent. We respectfully request that the Dam Project be abandoned, and that Valley Water instead invest in lower risk, more environmentally benign water projects that will provide affordable and sustainable water supply for generations to come.

Very truly yours,
SOLURI MESERVE
A Law Corporation

By: 
Osha R. Meserve

cc: Valley Water Board Members:
John L. Varela, Chair Pro Tem, District 1 (jvarela@valleywater.org)
Barbara Keegan, District 2 (bkeegan@valleywater.org)
Richard Santos, District 3 (rsantos@valleywater.org)
Jim Beall, District 4 (jbeall@valleywater.org)
Nai Hsueh, District 5 (nhsueh@valleywater.org)
Tony Estremera, District 6 (testremera@valleywater.org)
Rebecca Eisenberg, District 7 (reisenberg@valleywater.org)

Michelle Critchlow

From: AgMg Giberson <agmglwv@gmail.com>
Sent: Monday, December 12, 2022 1:55 PM
To: Board of Directors
Subject: Comment letter (Giberson) re Item 2.8, 12/13/22 SCVWD Board meeting
Attachments: comment (Giberson) Item 2.8 WIFIA funding.pdf

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We attach for your consideration our comment letter regarding Item 2.8 for the 12/13/22 Santa Clara Valley Water District Board meeting, asking that the Pacheco Reservoir Expansion project be deleted from consideration in the WIFIA loan process.

Thank you for considering our comments.

Sincerely yours,

Meg and Alan Giberson

December 12, 2022

SENT VIA E-MAIL (Board@valleywater.org)

Honorable Members of the Board of Directors
Santa Clara Valley Water District
San Jose, California

RE: Item 2.8, 12/13/22 Pacheco should be removed from WIFIA loan consideration

Dear Chair and Members of the Santa Clara Valley Water District Board:

There is insufficient evidence in the record to support continued consideration of the Pacheco Reservoir Expansion (Pacheco) project generally, or as part of the WIFIA application. Indeed, the overriding evidence points to Pacheco as the most expensive of water supply projects under consideration. As the Santa Clara Valley Water District (SCVWD) staff report noted (April 14, 2021, special SCVWD Board meeting), water storage in an expanded Pacheco Reservoir would cost \$18,800/acre-foot (af)—the highest storage cost supply identified. Other potential projects ranged from about half that amount—for Los Vaqueros expansion (\$8300/af) or Sisk Dam Raise (\$9,900/af)—to groundwater bank storage, which was estimated at \$400 to 600/af, which would be 47 to 31 times less costly than the proposed Pacheco.

Given the extraordinarily high cost of Pacheco, which has ballooned to almost three billion dollars (\$2,957,975,483) and the debt service payments that have also ballooned to an estimated \$4,782,351,170, the benefits of seeking local sustainable water projects are clear. The 71.4% of WIFIA loan benefits that are sought for Pacheco can instead be targeted at more productive and more certain local water reuse and recycle projects.

Furthermore, interest rates, although currently somewhat low, are historically volatile, particularly so in today's market. History shows the huge rate variability, reaching close to 20% between 1982 and 1987. And the proposed WIFIA agreement does not lock in current lower rates. In fact, the agreement specifies that the interest to be charged will be determined at prevailing rates at the closing of each WIFIA loan. The documents for the December 13, 2022, SCVWD Board hearing demonstrate this very volatility. The "true interest cost" estimate varied by more than 1% between the "original" agenda memo and the amended Board agenda memo issued shortly thereafter. Given today's market volatility, rising rates will seriously impact financing costs.

Also, repayments may be deferred under the WIFIA agreement, but interest will continue to accrue at the identified rate at the time of each WIFIA Loan's closing. The result will be to burden future generations of water customers with potentially dramatically increasing debt. The underlying value of the proposed project should be the first consideration before proceeding with expensive debt.

SCVWD focus to date has been on pursuing high-risk, high-cost projects, which staff has identified as projects whose benefits depend on imported water, citing the Delta Conveyance Project and Pacheco Reservoir as the top two for risk and cost.¹ (Sites Reservoir was also among the five costly projects called out.) Projects other than Pacheco can provide more cost-effective and sustainable means of supplying Santa Clara County with water.

As the State Water Resources Control Board (SWRCB) urged several years ago, we have “an unparalleled opportunity for California to move aggressively towards a sustainable water future. ... We strongly encourage local and regional water agencies to move toward clean, abundant, local water for California by emphasizing appropriate water recycling, water conservation, and maintenance of supply infrastructure and the use of stormwater (including dry-weather urban runoff) in these plans; these sources of supply are drought-proof, reliable, and minimize our carbon footprint and can be sustained over the long-term.”²

It is time to pivot away from the 20th century projects that have dominated SCVWD thinking to date. Instead, sustainable projects such as conservation, reuse/recycling and stormwater capture and reuse can make up for amounts that previously have been taken from the Delta, usually by means of the San Luis Reservoir, which would be the chief source of supply for the Pacheco expansion. More specific examples and projected benefits from water recycling, capture and reuse that would better serve our county follow.

Stormwater capture and reuse will dramatically improve water supply reliability and safety and reduce aquifer depletion—two major goals of the WIFIA loan projects:

- Dr. David Sedlak³ has noted that “if San Jose could just capture half of the water that fell within the city, they'd have enough water to get them through an entire year”;⁴
- Los Angeles (L.A.) plans to Source 70% of its water locally and capture 150,000 afy of stormwater by 2035, and will build at least 10 new multi-benefit stormwater capture projects by 2025; 100 by 2035; and 200 by 2050.⁵

Recycled water: Santa Clara County looks to produce recycled/purified water of 24,000 afy, with a long-term goal of 45,000 afy, but:

- Orange County Water District is increasing its recycled water production to $\leq 145,600$ afy;

¹ <https://www.valleywater.org/sites/default/files/WCaDMC-Agenda-05102021.pdf> File No.: 21-0462, Item No.: 4.3.

² https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2013/rs2013_0003_a.pdf

³ Dr. Sedlak, UCB, is Co-Director of Berkeley Water Center, Deputy Director NSF Engineering Research Center for Reinventing the Nation's Urban Water Infrastructure (ReNUWIt), Director of Institute for Environmental Science and Engineering (IESE)

⁴ https://www.ted.com/talks/david_sedlak_4_ways_we_can_avoid_a_catastrophic_drought

⁵ https://plan.lamayor.org/targets/targets_plan.html

- L.A. looks to recycle up to 168,000 afy wastewater;
- As Dr. Michael Connor⁶ noted in a January 2015 address (“Short-Term and Long-Term Crises Facing Bay Area Water/Wastewater Managers): recycled wastewater can mean 47% less imported water and 65% less sewer discharge.

Sustainable water and sustainable local jobs: Not only will local projects produce sustainable water and environmental benefits, but they will provide important local jobs, many of them well-paying union jobs. Numbers of these projects will require ongoing services, meaning continuing employment.

Citing the need for a lot of innovation such as recycling, stormwater capture & reuse, and replacing water in groundwater basins, Dr. Jeffrey Mount said on CapRadio⁷ that we can’t afford to build dams everywhere. We have built on all the good spots for dams, he said. Then—referring to drought and climate change—he maintained that if you can’t fill it, it doesn’t do any good. He said we have emptied more than 100 million af of water from our groundwater—about 2.5 times what we use in a year here in California and we need to find ways to refill it.

We can do that. With reassessment and proactive movement towards 21st century ideals and goals, we can match, or even exceed, what our colleagues in other parts of California have envisioned and are accomplishing.

Respectfully,

Meg and Alan Giberson

⁶ Dr. Connor is a former GM East Bay Dischargers Authority and Chair of Bay Area Clean Water Agencies.

⁷ <https://www.capradio.org/articles/2022/12/02/california-needs-to-prepare-to-live-with-less-water-new-report-suggests/> Items quoted appear between about 7:50 minutes and 8:40 in the broadcast recording “California needs to prepare to live with less water, new report suggests.” Dr. Mount is an emeritus professor of earth and planetary sciences and founding director of the Center for Watershed Sciences at the University of California, Davis. A geomorphologist who specializes in the study of rivers, streams, and wetlands, his research focuses on integrated water resource management, flood management, and improving aquatic ecosystem health. He is currently a fellow at the PPIC Water Policy Center.

Michelle Critchlow

From: Sara Gernsbacher <sgernsbacher@gmail.com>
Sent: Wednesday, December 14, 2022 11:06 AM
To: Board of Directors
Subject: No to Pacheco Dam Project

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

As a concerned California citizen I urge the esteemed members of the water board to say NO to the Pacheco Dam Project.

It is an archaic, ineffective and destructive means of water use.

As other dams are being torn down, it is completely backwards to erect a new one.

The dam would destroy habitat, contribute to the climate crisis and has an unknown price tag.

Instead Valley water must invest in truly sustainable water practices such as rainwater capture and so on.

This is simply not the way to go!

Thank you for your time.

Sincerely,

Sara

Michelle Critchlow

From: Tish Brown <tishubrown@gmail.com>
Sent: Tuesday, December 13, 2022 1:14 PM
To: Board of Directors
Subject: Too late for Dam

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

It's a bad plan for many reasons.
Please do not build Pacheco
Dam!
Tish Brown
94117

Sent from my iPhone

Michelle Critchlow

From: Kelly Larsen <kslarsen1@yahoo.com>
Sent: Tuesday, December 13, 2022 1:11 PM
To: Board of Directors
Subject: Re: Pacheco Dam Project

Follow Up Flag: Follow up
Flag Status: Completed

***** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. *****

Hello to all concerned,

I'm writing this email to oppose the continued action on trying to construct the larger Pacheco Dam.

1. Pursuing construction of new dams while the state is tearing down other dams is counterintuitive. This will not solve any drought concerns. Generally, dams lose about half of their volume of water to evaporation over time.
2. I have not seen any meaningful EA or EIR for this project.
3. I'm sure this will cost billions of dollars and our tax money should go to projects that will actually help our environment and communities such a reclaim systems, conservation efforts, stream, creeks, river clean ups, fixing and maintaining current dams and reservoirs, creating/reclaiming lost fish migration habitats, etc.
4. The dam would destroy over 1,500 acres of sensitive natural communities, increase greenhouse gas emissions, and only provide a small amount of water for Valley Water customers in a given year.

To me, it doesn't sound worth it, and our money should be spent on other more impactful projects.

Kelly Larsen
Resident of Gilroy

Michelle Critchlow

From: Rea Freedom <realfre@aol.com>
Sent: Tuesday, December 13, 2022 12:36 PM
To: Board of Directors
Subject: Pacheco Dam

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Dear Board Members,

Please oppose the Pacheco Dam Project.

'Another dam is too expensive; bad for all aspects of the environment; and damaging to many native plants and animals. It is not worth the small benefit to humans. It may worsen climate change.
It is a bad idea on many levels. Please oppose.

Sincerely,
Rea Freedom
19760 Oakmont Dr.
Los Gatos
realfre@aol.com

Michelle Critchlow

From: norma campbell <sqrrlady@hotmail.com>
Sent: Tuesday, December 13, 2022 12:04 PM
To: Board of Directors
Subject: PACHECO DAM PROPOSAL

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

As a long time resident of Santa Clara County and a native Californian I am protesting the construction of Pacheco Dam.

We do not need another dam. What we do need to do is to concentrate on rebuilding, repairing and perhaps increasing the height on Anderson Dam. We are tearing down dams in other parts of California and the West. Putting in a brand new one when we have Anderson Dam is just not clear thinking.

Nor is it a proper way to spend taxpayers money. You cannot even put a accurate guess as to the cost of a project like this. Use what we have, its called Anderson Dam.

The environmental loss of 1500+ acres is unthinkable in this day and age of climate change. We should be protecting natural communities of native flora and fauna not destroying.

I AM TOTALLY AGAINST THIS PROJECT.

Norma Campbell
37 Decorah Lane
Campbell, California 95008

Nature uses as little as possible of anything. Man on the other hand uses as much as he can. Fully knowing he will have excess which he will waste.

Humans are the most territorial and destructive species on Earth.

Michelle Critchlow

From: james rogers <jrogers@garlic.com>
Sent: Tuesday, December 13, 2022 11:10 AM
To: Board of Directors
Subject: Pacheco Dam

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Dear Board Members,

I am opposed to the Pacheco Dam and urge you to not fund it with your decision today.

Reasons:

- 1) Incredible truck traffic on vulnerable Hwy 152 which is already seriously impacted on the 2 lane section.
- 2) Other methods of saving/re-using water are more cost effective.
- 3) Ballooning expense over the many years required to construct the dam.
- 4) Intrusion into Coe State Park lands.
- 5) Destruction of Amah Mutsun heritage lands.

Jim and Connie Rogers
7690 Santa Theresa Drive
Gilroy, CA 95020
408-842-8494

Michelle Critchlow

From: rghuenemann@gmail.com
Sent: Tuesday, December 13, 2022 11:03 AM
To: Board of Directors
Subject: Pimp

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Now that your Board has shed its pimping member, it is time to dump his pet project: the Pacheco Pass Dam expansion. That project is wildly cost ineffective compared to either the Sites reservoir or the expansion of the San Luis reservoir.

Robert Gilchrist Huenemann, M.S.E.E.
120 Harbern Way
Hollister, CA 95023-9708
831-635-0786
rghuenemann@gmail.com

Please note my new email address:rghuenemann@gmail.com

Michelle Critchlow

From: Brad Lawler <bradlawler88@gmail.com>
Sent: Tuesday, December 13, 2022 10:41 AM
To: Board of Directors
Subject: Pacheco Dam Project

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Good Morning Board Members,

The Pacheco Dam project is a blatant waste of taxpayer money, it is an environmental disaster, and will not create any new source of water. Why don't we fix the existing dam at the end of Pacheco creek before building a new one and destroying thousands of acres of pristine wildlife? I will happily drive any member of the board to see the existing dam off Hwy 152 - it is literally crumbling off the side of the hill.

This project would cost untold billions of dollars and provide little to no benefit. I truly believe you are all smart enough to understand that this project does not make any sense. This money should be spent elsewhere.

Thank you for your consideration and for doing the right thing.

--

Brad Lawler
bradlawler88@gmail.com
(650) 575-9555 | [LinkedIn](#)

Michelle Critchlow

From: Connie Meyer <luckypenny626@gmail.com>
Sent: Tuesday, December 13, 2022 7:21 AM
To: Board of Directors
Subject: No Damn

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Dear Members:

Please do not pursue this project any longer and allow the valley land to remain wild.

Respectfully submitted,
Constance C Meyer

Michelle Critchlow

From: Albert Henning <albertkhenning@yahoo.com>
Sent: Tuesday, December 13, 2022 4:47 AM
To: Board of Directors
Subject: Vote NO on Pacheco Dam

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

To the Board of Directors for the Santa Clara Valley Water District,

The Pacheco Dam proposal deserves a vote of No.

The EIR under NEPA and CEQA is at best incomplete. At worst, it ignores essential environmental features worth substantially more than the \$2.5 to \$4.5 billion dollar cost of the project.

More importantly, however: more value in sustainable water use reductions can be achieved for this amount, than by building a new dam, whose utility may last only a few decades.

Projects which reduce water use, or reuse or recycle used water, have long been shown to be more economical, than projects which develop 'new' water sources. (I place 'new' in quotes; this project will not create new water, but divert existing water cycles and flows, away from their natural, and naturally productive, water courses.)

Please do the responsible thing. Vote No on this proposed project.

Sincerely,

Albert K. Henning, PhD
199 Heather Lane
Palo Alto, CA 94303

Michelle Critchlow

From: Cynthia Leeder <cynthia1952@sbcglobal.net>
Sent: Monday, December 12, 2022 10:21 PM
To: Board of Directors
Subject: I am 100% AGAINST the Pacheco Dam Project

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Dear Board Members,

Please don't approve or fund the Pacheco Dam Project. You should already be well aware of the reasons for rejecting it. The only reasons I can see for approving it are corrupt. Please don't go down that road. Thank you.

Cynthia Leeder
1697 Canberra Drive
San Jose, CA. 95124
408-264-9145

Michelle Critchlow

From: agroecology@aol.com
Sent: Monday, December 12, 2022 9:07 PM
To: Board of Directors
Subject: Pacheco Dam Valley Water District board agenda

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Dear Water Board

Never ending dam building is a nonsustainable approach to responsible water conservation. Promoting unsustainable growth is bad for the environment and bad for the economy.

Sincerely
Les Kishler
50 year resident and taxpayer
Santa Clara Valley Water District

www.scienceofagroecology.info

Michelle Critchlow

From: Bill <bksanjose@gmail.com>
Sent: Monday, December 12, 2022 8:17 PM
To: Board of Directors
Subject: NO on Pacheco Dam

Follow Up Flag: Follow up
Flag Status: Completed

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Absolutely NO