



ACTION FOR A  
HEALTHY PLANET



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Research



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NATIVE PLANT SOCIETY



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foothills



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SOUTH BAY CLEAN CREEKS COALITION  
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July 8, 2020

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

Re: Safe, Clean Water and Natural Flood Protection Program

Dear Chair Hsueh and Board Members:

As representatives of environmental and fishing organizations working in Santa Clara County, we appreciate this opportunity to share some concerns we have with the proposed Safe, Clean Water (SCW) parcel tax replacement and with Valley Water in general. We seek to work constructively with you and your staff over the next few weeks to address our issues and recommendations. Ultimately, we hope we can come to agreements that will earn support for Valley Water's parcel tax measure from the environmental and fishing communities.

Our concerns and recommendations are as follows.

**I. Valley Water has demonstrated poor follow-through on environmental commitments.**

An example of the District's failure to deliver on promises is the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE) Settlement Agreement of 2003. Santa Clara Valley Water District, a number of other agencies, and environmental and fishing groups signed an agreement to restore the steelhead trout and Chinook salmon fishery on three major streams. Had the District implemented the FAHCE Agreement, the entire suite of Phase I measures would have been completed by 2016 or 2017. At a minimum, the steelhead trout population would have been well on its way to recovery by this time. Instead, a report released in 2019 summarized that lack of releases from Anderson Dam in late spring from 2015 through 2019 prevented outmigration of anadromous steelhead trout. This, together with the failure to remove fish migration barriers at Singleton Road and Ogier Ponds, caused the Coyote Creek population of steelhead trout to be at a very significant risk of extirpation. We recommend the addition of KPIs (in a separate document) to fulfill some of the desired outcomes of FAHCE.

Another example is the lack of promised investment in riparian ecosystems and wildlife habitat that is critical to the survival of most species of plants and animals in our region, and for wildlife movement through our landscapes. At the end of the previous parcel tax measure, there were \$16M of promised funds for habitat stewardship unspent. In the FY19 report of SCW, \$25M of habitat stewardship funds collected through the parcel tax were unspent. After six years (40%) of SCW, only 19% of the funds specified for habitat stewardship have been spent. There is a deficit of habitat funding that we recommend be dedicated to environmental stewardship in the renewal parcel tax program.

We have compared KPIs in the new 2020 parcel tax resolution with the 2012 resolution that was approved by the voters as Measure B. The new resolution merges the stream and wetland habitat restoration grant program (D3), pollution prevention grant program (B3), and volunteer creek clean-ups (B7) into a general-purpose grant fund (F9) for "safe clean drinking water, flood protection and environmental stewardship." We recommend that the environmental stewardship grant program (F9) be moved back to Priority D. Grants for "drinking water or flood protection" should be separate. The 2012 SCW required 21 grant cycles. This renewal proposal has only 9 grant cycles for the same time period.

**Recommendations:**

- 1) Valley Water should immediately submit the most recent FAHCE administrative draft EIR and Fish Habitat Restoration Plan and a request to publicly notice the Change Petition to the State Water Board for review and preliminary action to enable compliance with the construction schedules contained in the Districts' Capital Improvement Plan.
- 2) The proposed grant program F9 should be moved back to Priority D and specify only grants for riparian vegetation and wildlife habitat stewardship and clean creeks, not "drinking water or flood protection" or access to trails, with one grant cycle per year.
- 3) Restore KPI "Develop 5 Stream Corridor Priority Plans" under Priority D.

## **II. Lack of adequate accountability and oversight.**

The draft measure calls for the parcel tax to last in perpetuity, or until voters elect to change or eliminate it. The environmental community feels strongly that we cannot support a parcel tax for Valley Water without a sunset date. Government accountability for Valley Water requires opportunities for the electorate to assess the effectiveness of an agency or measure, and make changes when necessary.

We also have concerns about the strength of the Independent Monitoring Committee, members of whom are appointed by Valley Water Board Members, and their ability to advise. The current charter allows only assessments of prior year activities. The IMC should function as a true oversight committee with the ability to advise on all aspects of the program, including forward-looking recommendations.

Some of us question the appropriateness of Valley Water managing the environmental grants programs, as it could be perceived as influencing an organization's ability to speak openly about concerns with Valley Water.

The District is proposing to issue \$310 million in bonds – 35% of the total of \$894 million over the next 15 years – with \$295.5 million in debt service carried forward to the 2036-2050 period – over five times higher than in the existing SCW program. The debt service for the entire 30-year period needs to be included in the budgets for each program in which bond funds are used. The cost of debt service should not be shared among all programs.

### **Recommendations:**

- 1) The 2020 parcel tax should sunset after 15 years, as have previous measures.
- 2) We request that Valley Water revise the section of the draft resolution on the Independent Monitoring Committee to improve oversight of the parcel tax.
- 3) Commit to meeting with environmental groups to explore a new structure for grant management.
- 4) Proposed bonding for each Priority (A-F) should be identified, and forecast interest expenses should be allocated within each category.

## **III. Valley Water lawsuits threaten to weaken environmental protections.**

Valley Water's high-profile lawsuit over the Bay Delta Water Quality Control Plan has driven a wedge between the District and the environmental and fishing communities. Of less visibility, but also of great concern, is Valley Water's legal challenge to the Regional Water Board's authority to require mitigation measures as a permitting condition for the Upper Berryessa Creek Flood Protection Project.

We also have concerns about the lack of collaboration among parties in Santa Clara Valley watersheds. We would like to see more inclusive decision-making, and a more visionary approach to watershed planning and restoration.

On a side note, we have concerns about Valley Water's role in the San Luis & Delta Mendota Water Authority. Valley Water has lobbied side-by-side with the Westlands Water District (arguably the least environmentally-concerned agency in the state) for projects such as the Shasta Dam raise, which would be illegal, and would have a devastating impact on the environment.

**Recommendations:**

- 1) Drop the two lawsuits, and prioritize alternatives to litigation over environmental safeguards in the future.
- 2) Commit to a meeting with the environmental community prior to the filing deadline for the parcel tax to discuss ways we all could build more trust and collaboration between Valley Water and the environmental community.
- 3) Board commitment to environmental stewardship, not only within our county borders, but for any watershed involved in District operations.

**IV. The parcel tax should not be used to fund water supply projects.**

We believe water supply and storage projects, such as the proposed expansion of Pacheco Reservoir, should be funded by the ratepayers who will benefit from the water supply. When water is subsidized, people use it less efficiently. When the full cost of developing and delivering water is incorporated into its price structure, a signal is sent to consumers to conserve water and use it more efficiently.

Demographic projections were changing even before the COVID-19 pandemic, and Santa Clara County is likely to see less growth than previously forecast, and less demand per capita. Therefore, Valley Water should be cautious about moving forward with expensive water supply and storage projects that might prove unnecessary.

**Recommendations:**

- 1) Remove water supply projects from the parcel tax, and target flood protection, water quality and environmental stewardship projects.
- 2) Valley Water should revise its demand projections and take a fresh look at water supply planning for the post-pandemic era. Conservation and water reuse should be prioritized.
- 3) If mitigation is required for water supply projects, water utility revenues, not parcel tax funds, should pay for the mitigation.

Thank you for receiving our comments. We are fully committed to whatever dialogue is necessary to address our concerns and recommendations in a timely fashion. Again, we hope to get to a place where we can support the 2020 parcel tax.

Sincerely,



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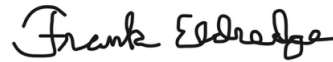
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