



tel: 916.455.7300 • fax: 916.244.7300
510 8th Street • Sacramento, CA 95814

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SENT VIA EMAIL (cwc@water.ca.gov)

California Water Commission
P.O. Box 942836
Sacramento, California 94236-0001

**RE: August 20, 2025, California Water Commission Meeting
Agenda Item 9: Pacheco Dam Maximum Conditional Eligibility
Determination**

Dear Chair Steiner and Members of the Commission:

This letter is written on behalf of the Stop Pacheco Dam Coalition regarding the potential for the California Water Commission (“Commission”) to increase the Maximum Conditional Eligibility Determination (“MCED”) for the Pacheco Dam Project (“Project”).

1. Santa Clara Valley Water District Is Not Making Substantial Progress on the Project

In the July 30, 2025 quarterly report to the Commission, Santa Clara Valley Water District (“Valley Water”) disclosed that it is planning to release the recirculated Draft Environmental Impact Report (“DEIR”) for the Project in mid-2026 and that certification of the Final Environmental Impact Report (“FEIR”) is not anticipated until at least 2027.¹ Analysis required under the National Environmental Policy Act (“NEPA”) trails far behind the state-required environmental review. The U.S. Army Corps of Engineers (“USACE”) will not initiate NEPA review until USACE approves the delineation of waters of the United States. As a result, NEPA review will not be initiated until at least 2026.² The failure to advance environmental review demonstrates a lack of substantial progress on this Project.

Valley Water also continues to express uncertainty about the viability of the Project. In the DEIR for Design Level Geotechnical Investigations, Valley Water stated

¹ July 30, 2025. Valley Water. Water Storage Investment Program Quarterly Report, p. 2.

² *Id.* at p. 3.

that the geotechnical work was necessary to determine whether the Project is even viable, stating the geotechnical work is necessary to determine “. . . **fundamentally whether the PREP is feasible**” [emphasis added].³ As the Commission is aware, the regulations implementing the Water Storage Investment Program (“WSIP”) allow the Commission to regularly evaluate the progress a funded entity is making to determine if it is making substantial progress. (Cal. Code Regs., tit. 23, § 6013, subd. (f)(4) [“[w]hen an applicant has complied with the requirements in section 6013(f)(1), (2) and (3), the Commission shall consider any changes that have occurred to the project since the maximum conditional eligibility determination was made and determine the final Program cost share”].) The Commission may withhold or adjust funding based on changes such as a lack of substantial progress. (Cal. Code Regs., tit. 23, § 6013, subd. (f)(1).)

Valley Water’s own FEIR for the Design Level Geotechnical Investigations concedes that feasibility is still an unanswered question and thus supports a finding by the Commission that the Project is not eligible for an increase in its MCED.⁴ For these reasons, the Coalition supports the staff recommendation regarding Agenda Item 9 for the upcoming August 20th Commission meeting, recommending that the Project is not eligible for an increase in its MCED.

2. New Facts Regarding the Role of the U.S. Bureau of Reclamation with Respect to the Project

In advance of its August 26, 2025 board meeting, Valley Water posted a staff report in support of Agenda Item 8, which is an update on the Project. This report indicates that the Project is conditioned on several key approvals from the U.S. Bureau of Reclamation (“BOR”), including the modification of the turnout from the existing BOR Pacheco Conduit, storing any Central Valley Project water (“CVP” or “federal water”) in the proposed dam, authorization to convey any State Water Project (“SWP”) or local water through BOR facilities, and powerline construction facilities on BOR land.

BOR stated it would not support storage of CVP water at the new dam, nor would it support being the permitting lead for the Project. BOR would consider the possibility of conveying SWP water through Pacheco Conduit to the Pacheco Dam, but this would require a Warren Act contract, which is a lengthy process. (42 U.S.C. § 523 et seq.) Valley Water is thus unlikely to get any CVP water, contrary to its WSIP application, feasibility documentation, draft EIR and ongoing process at the Commission. This new information is a major departure from the reliance on CVP water represented in the

³ 2025. Santa Clara Valley Water District. *Final Environmental Impact Report, Design Level Geotechnical Investigations*, p. 7-5.

⁴ *Ibid.*

original WSIP application, which indicates reliance on CVP water to fill the reservoir.⁵ Without CVP water, Valley Water would need to rely on the North Fork of Pacheco Creek to fill the reservoir, which is not an adequate water source.⁶

3. Other, Less Environmentally Damaging Solutions are Available

In addition to Valley Water's failure to make substantial progress, other less damaging means of increasing storage capacity are available to Valley Water. At best, the Project would potentially create up to 140,000 acre-feet ("AF") of storage, of which Valley Water could conceptually store approximately 89,000 AF, as explained below.⁷ However, Valley Water has other projects in progress such as the agreement to obtain a share of the increased storage capacity in San Luis Reservoir for up to 70,000 AF.⁸ When the effective share of storage that Valley Water would receive from Pacheco Dam is considered, due to the need to allocate capacity to other partners and in-stream uses, the total capacity Pacheco Dam would provide is less than 140,000 AF. Valley Water is in discussions to have partners support 35 percent of the Project's cost, which would require reserving approximately 49,000 AF of capacity to those partners, assuming a proportional share of storage volume.⁹ Another 35,000 AF would be reserved to provide suitable flows and water temperatures for steelhead in the North Fork and mainstem of Pacheco Creek during multi-year droughts.¹⁰ This means that the Project would only increase Valley Water's storage capacity by approximately 56,000 AF.

Any storage achieved by the dam would be accompanied by enormous environmental costs such as inundation of special status species habitat and the need to acquire land currently dedicated to Henry W. Coe State Park.

⁵ August 2017. Santa Clara Valley Water District. Benefit Calculation, Monetization, and Resiliency, A2: Preliminary Operations Plan, Pacheco Reservoir Expansion Project, p. 2-2.

⁶ *Ibid.*

⁷ 2025. Santa Clara Valley Water District. *Pacheco Reservoir Expansion Project*. Available: <https://www.valleywater.org/project-updates/a1-pacheco-reservoir-expansion-project>

⁸ 2025. BF Sisk Dam Raise and Reservoir Expansion Project (PowerPoint Presentation to Santa Clara Valley Water District Board of Directors). Available: <https://scvwd.legistar.com/LegislationDetail.aspx?From=RSS&ID=7292126&GUID=D6F83DAF-9975-4696-A262-2522AEB85475&FullText=1>

⁹ July 30, 2025. Valley Water. *Water Storage Investment Program Quarterly Report*, PDF, p. 10

¹⁰ October 2021. AECOM. *Supplemental Feasibility Documentation Water Storage Investment Program Pacheco Reservoir Expansion Project*. PDF p. 58

4. Conclusion

Thank you for the opportunity to present comments and to express our concerns. In addition to not increasing the MCED for Pacheco Dam today, we ask that the Commission consider whether Valley Water is making substantial progress, and the possibility that no award of capital funding can be justified for the Project. (Cal. Code Regs., tit. 23, § 6013, subd. (f)(1).) The developments discussed in this letter indicate that Valley Water is not making progress on this Project and indeed is losing ground. Please consider these facts in advance of the update Valley Water will provide at your October 15, 2025 meeting.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Osha R. Meserve

cc: Laura Jensen, Executive Officer, California Water Commission,
Laura.Jensen@water.ca.gov