

7. PACHECO PASS WATER DISTRICT

AGENCY OVERVIEW

Pacheco Pass Water District (PPWD) was formed in 1931 as an independent special district that lies within both Santa Clara and San Benito Counties. The District's primary purpose is to capture, store and release local water in order to recharge groundwater in the area. A water service review for the District was last conducted in 2005 by Santa Clara LAFCO and in 2007 by San Benito LAFCO.

PPWD lies in both Santa Clara and San Benito Counties, with 76 percent of the District located in San Benito County. Based on the assessed value of property within the District in each county, San Benito LAFCO is the principal LAFCO for determining the sphere of influence for the District, and therefore LAFCO of Santa Clara County is not asked to adopt determinations for this District.⁷⁶ PPWD is included in this report to ensure a comprehensive review of water service in Santa Clara County, and due to the potential for consolidation with Santa Clara Valley Water District. However, any application for boundary change or change of governance would be processed by San Benito LAFCO, as the principal LAFCO.

The principal act that governs the District is the California Water District Law.⁷⁷ The act empowers water districts to produce, store, transmit and distribute water for irrigation, domestic, industrial, and municipal purposes and to provide related drainage services. Districts must apply and obtain LAFCO approval to exercise latent powers or, in other words, those services authorized by the principal act but not provided by the district at the end of 2000.⁷⁸

Type and Extent of Services

The District's function is to provide water supply for natural groundwater recharge through reservoir storage and release. The reservoirs are designed to collect and store local surface water from Pacheco Creek and naturally occurring runoff.

PPWD collects water and releases it to percolate downstream and raise groundwater levels in the District. The District does not treat or sell water. Electricity is not produced at these dams.

⁷⁶ Assessed value of property within the District in FY 10-11 in Santa Clara and San Benito Counties was \$16.9 million and \$124.3 million, respectively.

⁷⁷ California Water Code §34000-38501.

⁷⁸ Government Code §56824.10.

The District does not provide services to or receive water services from other agencies via contracts. The District also does not engage in any collaborative planning efforts. In the 2005 Countywide Water Service Review, the District reported that it was a stakeholder in SCVWD's San Luis Reservoir Low Point Improvement Project; however, the District has since stopped participating in the project.

Boundaries

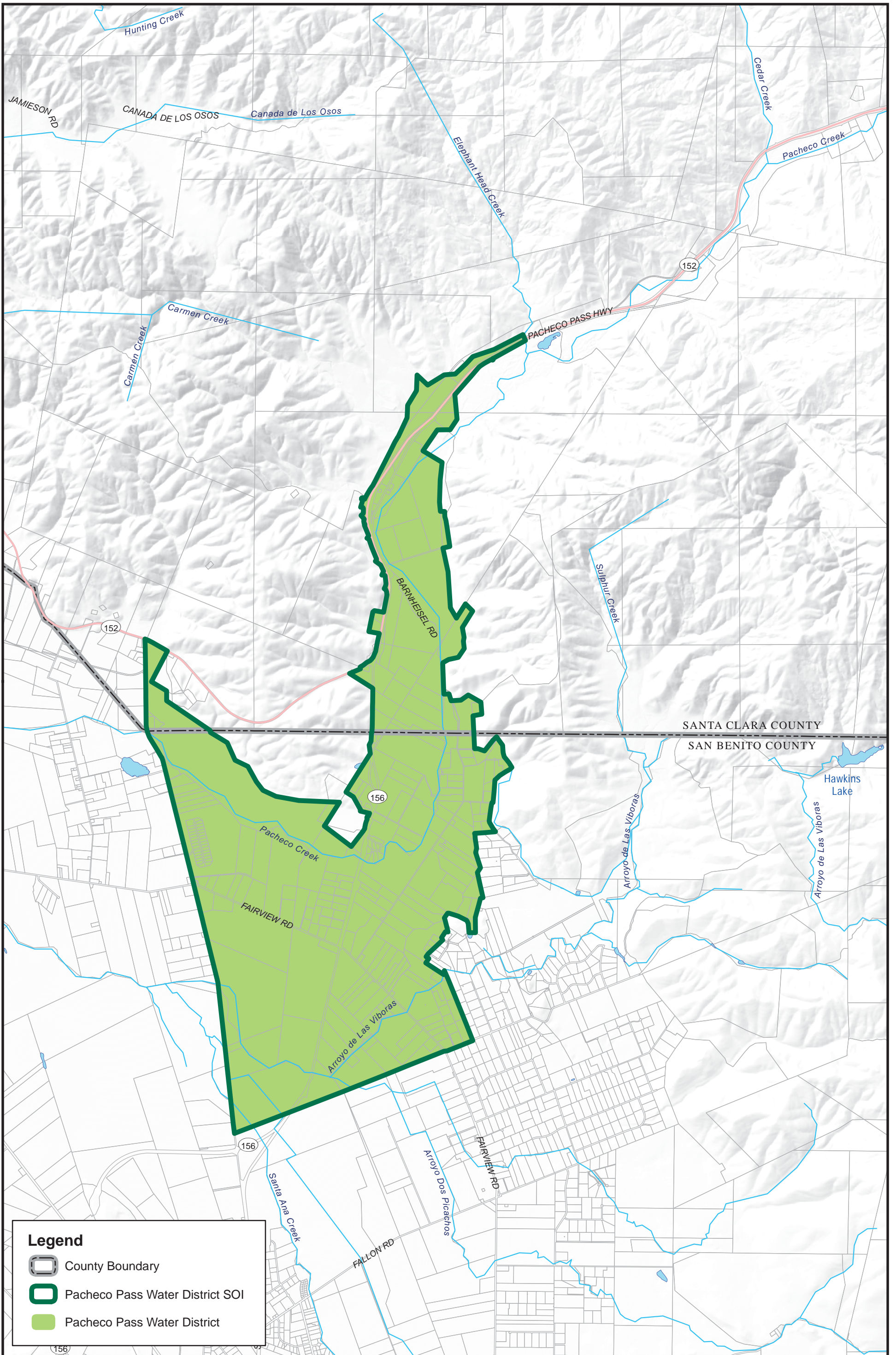
The District is located in Santa Clara and San Benito counties. PPWD is adjacent to SR 156 and consists almost entirely of rangeland. Its boundary area contains 5,467 acres, of which 4,151 acres are located in northern San Benito County and 1,316 acres are in Santa Clara County.

Sphere of Influence

It is assumed that the District's existing SOI is coterminous with its boundaries and was last updated by San Benito LAFCO, in 2007, subsequent to the adoption of the Service Review; however, San Benito LAFCO has limited computer records prior to March 2011, and cannot verify that an update was completed at that time. The District's boundaries and SOI are shown in Figure 7-1.

As the principal LAFCO, San Benito LAFCO has the responsibility of processing any change in organization of this district. It is recommended that San Benito LAFCO and Santa Clara LAFCO work together to determine a process for any SOI update and/or reorganization.

Figure 7-1



Legend

- County Boundary
- Pacheco Pass Water District SOI
- Pacheco Pass Water District

ACCOUNTABILITY AND GOVERNANCE

PPWD is governed by a five-member Board of Directors; Directors are elected at large for staggered four-year terms. There are currently three members on the Board of Directors, two of whom were elected and one appointed. The board members do not receive compensation. Current board member names, positions, and term expiration dates are shown in Figure 7-2.

The Board meets four times a year at 120 Marks Drive in Hollister, California. Agendas are posted at the San Benito County Courthouse. Minutes are available upon request. The District does not have a website, so documents are not available online.

Figure 7-2: PPWD Governing Body

Pacheco Pass Water District				
<i>District Contact Information</i>				
Contact:	Michael O'Connell, President			
Address:	354 First Street, Hollister, CA 95023			
Telephone:	831-637-5548			
Email/website:	None			
<i>Board of Directors</i>				
Member Name	Position	Term Expiration	Manner of Selection	Length of Term
Michael O'Connell	President	December 2012	Elected	4 years
Sam E. Lomanto, Jr.	Director	December 2012	Elected	4 years
Mark Wright	Director	December 2012	Appointed	4 years
Vacant				
Vacant				
<i>Meetings</i>				
Date:	Four times a year.			
Location:	120 Marks Drive, Hollister, CA			
Agenda Distribution:	Posted at the courthouse.			
Minutes Distribution:	Available upon request.			

In addition to posting the legally required agendas and making minutes available, the District does not undertake efforts to encourage voter participation and keep its constituents apprised of the agency's activities. The District does not maintain a website.

If a customer is dissatisfied with the District's services, that customer may mail complaints to the District's Office (P.O. Box 1382, Hollister, CA 95023). The President of the Board is responsible for handling complaints. The District reported that it received no complaints in CY 2010.

PPWD demonstrated accountability and transparency in its disclosure of information and cooperation with Santa Clara LAFCO. The District responded to the questionnaires and cooperated with the document requests.

MANAGEMENT AND STAFFING

Daily operations of the District are managed by a part-time secretary who receives a yearly compensation. She does not have set hours; and her workload is not tracked. In addition, there are two part-time water masters who submit their hours once a year.

Given the small size of the District, there is little need for evaluations and workload monitoring of staff. PPWD does not perform formal evaluations of overall district performance, such as benchmarking or annual reports. However, the State Division of Safety of Dams performs evaluations of the North Fork dam annually, and appraises the adequacy of the dam's infrastructure and maintenance practices.

The District's financial planning efforts include an annually adopted budget. Every special district in the state is required to file a salary and compensation report. In 2010, PPWD filed a non-compliant report and may be facing a penalty of \$5,000.⁷⁹ The District does not adopt any other planning documents, such as a capital improvement plan or master plan. Capital improvement needs are identified by the watermasters during regular inspections.

All special districts are required to submit annual audits to the County within 12 months of the completion of the fiscal year. The Board of Supervisors may approve an alternative submittal schedule for each special district depending on revenue, but at a minimum all districts must submit audited financial statements every five years.⁸⁰ In the case of PPWD, they are required to submit audited financial statements every five years. San Benito County reported that PPWD last submitted an audited financial statement for FY 03-04 and failed to provide an audited statement for FY 08-09. The District reported next audit is planned to be completed through FY 11-12. Additionally, PPWD is required to annually submit unaudited financial statements to the County. These financial statements lack clarity, and could be greatly improved to enhance transparency and accuracy.

⁷⁹ California State Controller's Office, Noncompliant Counties, Cities and Special Districts, <http://sco.ca.gov/noncompliant-reports.html>

⁸⁰ Government Code §26909.

POPULATION AND PROJECTED GROWTH

The estimated population of Pacheco Pass Water District is 863.

The District reported that it was difficult to determine whether demand had changed in recent years, as it does not track the amount of groundwater pumped by each landowner, groundwater levels, or the amount of water released through the dams.

Although no formal population or demand projections have been made by the District, PPWD anticipates no growth in service demand and possibly even a decline in demand. The District reported that this decline in groundwater use was likely due to the increase in use of surface water from the San Luis Reservoir for agricultural purposes.

FINANCING

Financial Adequacy

The District reported that its financing levels were not adequate to deliver services. Funds are not sufficient to complete capital improvements on the dams as recommended by the State. Additionally, the District has been unable to cover annual operating costs with regular revenue sources and has been forced to draw down reserves. There is a concern that once the reserve accounts are depleted the District will not have enough funds for its operating and capital expenses and will have to either be dissolved or consolidated with another agency, such as San Benito County Water District or Santa Clara Valley Water District.

Revenue Sources

PPWD operates out of a single fund for all revenue sources.

The District's total revenues for FY 10-11 were \$25,094. Revenue sources included income from property taxes (98 percent) and interest revenue (two percent). The Pacheco Pass WD's primary source of revenue is property tax with a small portion of revenues from interest earned on investments. The District does not charge user fees.

Although, the District's territory within San Benito County has a greater assessed value than the portion in Santa Clara County, the District is presently receiving a majority of its property tax revenue from the territory in Santa Clara County (68 percent). The San Benito County Auditor's Office reported that since at least prior to the early 1990s, the District was not receiving revenue for any portion of the incremental property tax, and has only been receiving a flat property tax amount (\$8,609.13 net ERAF), which does not change from

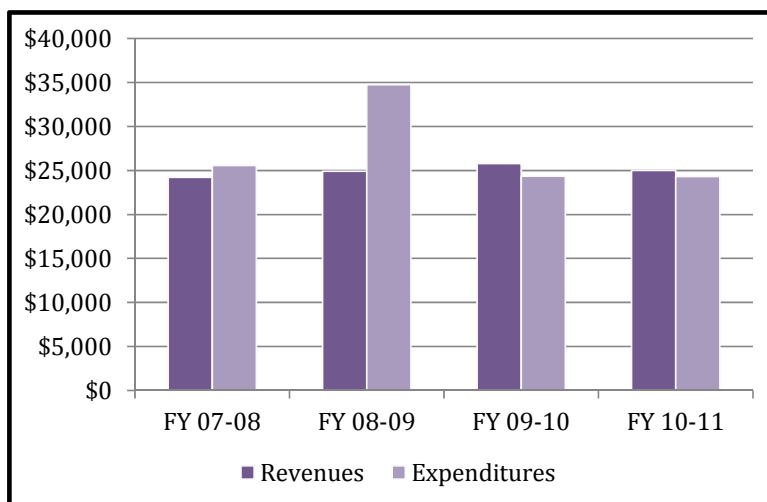
year to year. San Benito County is unsure why this occurred and is still researching the issue.⁸¹

Expenditures

The District’s expenditures in FY 10-11 were \$24,311. Expenditures were composed of dues and fees (53 percent), salaries (33 percent), insurance (nine percent), payroll taxes (three percent), office expenses (one percent) and administration (one percent). Dues and fees are paid to the State for dam inspections. The District does not purchase water.

Figure 7-3: Expenditures and Revenues (FYs 09-11)

District expenditures and revenues over the last four fiscal years are shown in Figure 7-3. Revenues have remained relatively stable over this period. Expenditures exceeded district revenues in FYs 07-08 and 08-09, but remained within revenues in subsequent years. It should be noted that the District’s financial reporting lacked clarity and double counted income from FY 08-09 in FY 09-10.⁸² Corrected figures are shown in Figure 7-3.



Capital Outlays

The District does not plan for capital improvement needs. Historically, small capital improvements have been financed entirely through the District’s annual revenues and reserves. As can be seen from the breakdown of expenditures, the District did not make any capital outlays in FY 10-11.

Similarly, over the last four years (FYs 07-11), the District has had no capital expenditures. Over that same period, annual depreciation of district-owned assets is unknown, as the District has not completed an audit where depreciation is approximated. However, it is apparent that the District’s capital outlays have not covered depreciation of district-owned assets, indicating an inadequate level of capital reinvestment to cover depreciation.

⁸¹ Interview with Janet Norris, San Benito County Assessor’s Office, August 26, 2011.

⁸² Correspondence with Janet Norris, San Benito County Assessor’s Office, September 10, 2011.

Long-term Debt

The District did not have any long-term debt at the end of FY 10-11.

Reserves

The District has two reserve funds in the form of Certificates of Deposit (CD). However, PPWD has been unable to make additions to these reserves for the last few years. In fact, the District frequently draws from both funds to pay the State dam inspection fees. The interest income earned on these funds has declined from about eight percent in the past to approximately one percent currently. The combined balance of the CDs at the end of 2010 was approximately \$89,576, which equates to approximately 44 months of operational expenditures.

WATER SUPPLY

PPWD does not purchase any water or charge any user fees. Its primary purpose is to capture, store and release local surface water in order to recharge the groundwater in the area. The District's reservoirs are designed to collect and store local surface water from Pacheco Creek and naturally occurring runoff. Under a 1946 water right, the District can take up 7,250 AFA from the North Fork of Pacheco Creek, tributary to the Pacific Ocean via the Pajaro River between October 1 and June 1 of each year.

WATER DEMAND

Water is released from the dams into Pacheco Creek from April to October each year. The amount and timing of the water releases depends on the weather and is based on the watermaster's experience and judgment. According to the District's water rights, there is no minimum flow that is required to be maintained in the creek. The District does not track the amount of water released from the dams.

WATER INFRASTRUCTURE AND FACILITIES

PPWD's infrastructure consists of two dams and their adjacent reservoirs. Water is collected between October and April in the two reservoirs. When needed, water is released from the reservoirs through the dams into Pacheco Creek, and allowed to naturally percolate into the groundwater.

Water Storage Facilities

The Los Viboroas Dam is reportedly in good condition and has the capacity to store 500 acre-feet of water. The Los Viboroas Dam is not inspected by the State Division of Safety of Dams, due to its size, but instead is regulated by the County.

The North Fork Dam was built in 1936 and has a capacity to store 6,000 acre-feet of water. The North Fork Dam was also identified as being in overall good condition, with the exception of the spillway.

The Los Viboroas Dam is located in San Benito County, and the North Fork Dam is located in Santa Clara County. The District reported that no improvements to its infrastructure had been completed in the last five years.

Infrastructure Needs

The spillway wall at the North Fork Dam gave out several years ago and the District made temporary repairs, which are sufficient in the short-term. The Division of Safety of Dams, during its dam inspections, has identified a need to replace the spillway wall in the long-term, which is estimated to cost approximately \$474,000. The temporary repairs that the District previously completed are adequate in the meantime, and the spillway is operational. The Dam is not in violation of requirements, but the District will need to find funds to complete the spillway replacement at some point in the future. These improvements are not a high priority presently, as the spillway is rarely used. However, when it does become necessary to make the repairs, the District does not anticipate that it will have adequate funds.

Other infrastructure needs identified during the most recent dam inspection include removal of all vegetation growing out of the construction joints of the concrete lined upstream slope and spillway exit channel.⁸³

Capital Improvement Plans

The District currently does not have any specific capital improvement planned, due to a lack of funding for necessary improvements.

Shared Facilities

The District does not share its facilities with other agencies and does not see any opportunities to do so in the future.

GOVERNANCE ALTERNATIVES

Reorganization options for PPWD include 1) consolidation into San Benito County Water District (SBCWD), 2) consolidation into Santa Clara Valley Water District (SCVWD), 3) consolidation of the District's territory in each county into the respective water district

⁸³ DWR Division of Safety of Dams, *Inspection of Dam and Reservoir in Certified Status*, June 1, 2011.

or 4) a joint powers authority or other collaborative agreement between the affected agencies.

PPWD consists of territory in both Santa Clara and San Benito Counties, and water districts completely overlap PPWD in each of these counties—SCVWD in Santa Clara and SBCWD in San Benito. Both SCVWD and SBCWD are responsible for groundwater management, including groundwater recharge, in their respective counties, which duplicates the services offered by PPWD; however, neither district provides groundwater recharge services within the PPWD boundaries. Additionally, PPWD faces the challenge of minimal property tax revenues combined with significant capital needs at the North Fork Dam. PPWD has indicated an interest in reorganizing with a larger more established agency with greater financial resources that could fund the necessary capital improvements and continue the groundwater recharge services currently provided. Both SCVWD and SBCWD have indicated interest in some kind of collaborative solution to this issue. The continued operation of the North Fork Dam and groundwater recharge into the Pacheco Subbasin is in the interest of both agencies.

As a majority of PPWD’s territory lies within San Benito County, there is the potential for PPWD to consolidate with SBCWD, with SBCWD as the successor agency. The PPWD territory within Santa Clara County could not be annexed into SBCWD, as the District’s boundary is defined as the area within the County of San Benito by its enabling act, similar to SCVWD.⁸⁴ SBCWD would operate and maintain the North Fork Dam in Santa Clara County, which largely benefits downstream users in San Benito County, outside of its boundary. SBCWD is empowered to “cause such waters to percolate into the soil within or without the district.”⁸⁵ The transfer of property tax revenue in San Benito County to the successor agency would be negotiated by the County on behalf of the district. In this scenario, SBCWD would operate the dam in Santa Clara County outside of the District’s bounds without property tax revenue from the Santa Clara portion of PPWD.

Since the largest of PPWD’s dams is located in Santa Clara County, an option may be for PPWD to consolidate with SCVWD, with SCVWD designated as the successor agency. Because SCVWD’s boundaries are defined in the principal act as being the exterior lines of Santa Clara County,⁸⁶ the area within PPWD’s existing boundaries in San Benito County cannot be annexed into SCVWD, unless the enabling act is adjusted by the legislature. SCVWD is not precluded from protecting water sources outside of the County or its boundaries, but the water must flow into the County.⁸⁷ SCVWD may also obtain, retain, and protect water outside its bounds, but it must be used for beneficial uses within the

⁸⁴ San Benito County Water Conservation and Flood Control District Act §70-2.

⁸⁵ San Benito County Water Conservation and Flood Control District Act §70-4.

⁸⁶ Santa Clara Valley Water District Act §2.

⁸⁷ Santa Clara Valley Water District Act §4 (c) (1).

District.⁸⁸ As the water from Pacheco Creek flows out of Santa Clara County into San Benito County, SCVWD may not operate the PPWD Los Viboroas Dam in San Benito County outside of its bounds. SCVWD is empowered to distribute water to areas outside of its boundaries. Therefore, SCVWD may operate the North Fork Dam and release water out of the dam for distribution downstream and percolation into the groundwater in both Santa Clara and San Benito Counties. However, with this scenario, a means for reimbursing SCVWD for the benefit to downstream properties in San Benito County would need to be identified.

Another option may be the consolidation of PPWD's territory in each county into the respective water district, and the joint financing of operations and capital improvements at the North Fork Dam by SCVWD and SBCWD. Given that SCVWD cannot annex the territory in San Benito County, and annexation of territory in Santa Clara County by SBCWD would create an overlap of similar service providers, this option may be the most practical and feasible. This option would require SCVWD and SBCWD to determine a means to jointly finance the necessary dam improvements and continued operations. Similar to the other two options, the transfer of the property tax revenue would be negotiated by the two Counties on behalf of the district.

The final option may be retaining the current governance structure, with PPWD continuing operations, and SCVWD and SBCWD assisting PPWD with financing for the necessary capital improvements through some form of joint financing agreement. The affected agencies would need to determine the appropriate structure for this arrangement. The benefit of this option would be continued local control through PPWD; conversely, through the other governance structure options previously discussed, constituents would benefit from the enhanced transparency and professional management offered by either SCVWD or SBCWD.

In summary, there are several concerns regarding the financing, operations and management of PPWD, including a lack of necessary revenue to complete essential capital improvements, lack of transparency and clarity in financial statements, inaccuracies in the District's accounting and State reporting, failure to submit a timely audited financial statement to the County, lack of a website to inform constituents of district activities and functions, a lack of a means to track operations and water flows at the dams, extended board vacancies and a lack of contested elections. Additionally, there is a concern regarding how property taxes in San Benito County are allocated to the District. Santa Clara LAFCO will forward this information to San Benito LAFCO for follow-up on these issues and use in the next SOI update, as San Benito would be responsible for processing any change in governance.

⁸⁸ Santa Clara Valley Water District Act §4 (c) (6).