



SANTA CLARA VALLEY WATER DISTRICT

NON-AGENDA

July 12, 202

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

Page	<u>CEO BULLETIN & NEWSLETTERS</u>
	CEO Bulletin: None
	<u>BOARD MEMBER REQUESTS & INFORMATIONAL ITEMS</u>
3	BMR/IBMR Weekly Reports: 07/10/24
	<u>INCOMING BOARD CORRESPONDENCE</u>
5	Board Correspondence Weekly Report: 07/10/24
6	Email from Soluri Meserve, a Law Corporation to the board, dated 07/03/24, requesting notice of hearings related to the Pacheco Reservoir Expansion Project. C-24-0163
8	Thank you card from Marilee Jennings, Executive Director- Children's Discovery Museum to Director Santos, dated 06/27/24, expressing gratitude for his participation in the launch of their new Exploration Portal. C-24-0164
9	Email from Malissa Magallanez to the board, dated 07/09/24, enquiring about how current remediation efforts near Watson Park will prevent encampments. C-24-0165
	<u>OUTGOING BOARD CORRESPONDENCE</u>
11	Email from Chair Hsueh to Wendy Chung and the Cupertino Creekside Homeowners Association, dated 07/04/24, responding to their request to repair the Calabazas Creek Bank.
17	Email from Director Keegan to Melissa Mallory and Timothy Quinn, dated 07/08/24, responding to their concerns with encampments of unsheltered people along Los Gatos Creek.

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-24-0009	07/09/24	Estremera	Hakes	Infante Bourgeois	Provide Director Estremera with a list of surplus properties that can be used by others for unhoused support.	07/29/24		
R-24-0011	07/09/24	Hsueh	Baker	Struve Gin	Provide Mr. Kuhl with information he requested on teh Palo Alto Purified Water Project.	07/30/24		

INCOMING BOARD CORRESPONDENCE

Board Correspondence (open)

Correspond No	Rec'd By District	Rec'd By COB	Letter To	Letter From	Description	Disposition	BAO/ Chief	Staff	Draft Response Due Date	Draft Response Submitted	Writer Ack. Sent	Final Response Due Date
C-24-0161	07/01/24	07/01/24	All	WENDY LI	Email from Wendy Li to the board, dated 07/01/24, inquiring how Valley Water will be affected by the Supreme Court decision to overrule Grant Pass vs. Johnson.	Noted and Filed	Hakes	Bilski Codianne	07/09/24	07/05/24	n/a	07/15/24

From: [Mae Ryan Empleo](#)
To: [Clerk of the Board](#); [Board of Directors](#)
Cc: [Osha Meserve](#); [Todd Sexauer](#)
Subject: Request for Notices Regarding the Pacheco Reservoir Expansion Project
Date: Wednesday, July 3, 2024 3:56:25 PM
Attachments: [24.07.03 Req for Ntc VW.pdf](#)

***** 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 Clerk of the Board:

Attached please find the request from our office regarding the Pacheco Reservoir Expansion Project. Should you have questions, please do not hesitate to contact our office. Thank you for your assistance with 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.



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

July 3, 2024

SENT VIA EMAIL (clerkoftheboard@valleywater.org; board@valleywater.org)

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

RE: Request for Notices Regarding the Pacheco Reservoir Expansion Project

Dear Clerk of the Board:

I am writing to request mailed and/or emailed notice of any and all hearings and/or actions related to the Pacheco Reservoir Expansion Project (“project”). These requests are made pursuant to Public Resources Code section 21092.2 and Government Code section 65092, which require local agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body. This request includes notice of the availability of any environmental review document prepared pursuant to the California Environmental Quality Act for the project.

Please send the above requested items to:

Osha Meserve
Soluri Meserve, A Law Corporation
510 8th Street, Sacramento, CA 95814
Email address: osha@semlawyers.com

Please contact me at (916) 455-7300 if you have any questions. Thank you for your assistance with this matter.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Osha R. Meserve

cc: Todd Sexauer, Senior Environmental Planner, tsexauer@valleywater.org

June 27, 2024

Dear Richard,

I wanted to reach out with a personal thank you for your participation in the opening of our new Exploration Portal. We are very grateful for Valley Water's support, and also appreciate the water-saving hose nozzle.

Sincerely,

Maile Jennings

XU FAMILY CHARITABLE FOUNDATION



From: [Malissa Magallanez](#)
To: [Board of Directors](#)
Subject: Comment re Zone Ordinance
Date: Tuesday, July 9, 2024 2:43:34 PM

***** 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. *****

Hi, I could not attend the Board meeting. I wanted an update on how the current remediation work being done along Coyote Creek, especially along Watson Park, will reduce/prevent encampments at that park which has been a huge issue.

Thanks,

-Malissa

OUTGOING BOARD CORRESPONDENCE

From: [Candice Kwok-Smith](#) on behalf of [Board Correspondence](#)
To: [Jennifer Codianne](#); [Christopher Hakes](#)
Cc: [Michele King](#); [Board of Directors](#)
Subject: FW: : Calabazas Creek bank condition
Date: Thursday, July 4, 2024 9:23:59 AM
Attachments: [Stream Maintenance and Property Management Fact Sheet.pdf](#)
[image001.png](#)

Good morning everyone,

C-24-0156 has been approved, sent and closed.

This was originally “noted and filed” however after staff met with Chair Hsueh, the email response below was drafted from the chair and sent this morning.

Thanks,
Candice

From: Candice Kwok-Smith **On Behalf Of** Board of Directors
Sent: Thursday, July 4, 2024 9:22 AM
To: 'wendychung.creekside@gmail.com' <wendychung.creekside@gmail.com>
Cc: 'cupertinocreeksidehoa@googlegroups.com' <cupertinocreeksidehoa@googlegroups.com>; 'jeffg@communityonepm.com' <jeffg@communityonepm.com>
Subject: Re: : Calabazas Creek bank condition

-
Sent on Behalf of Chair Hsueh:

Dear Wendy Chung,

Thank you for contacting Valley Water on behalf of the Cupertino Creekside Homeowners Association (HOA) to report erosion concerns along the bank of Calabazas Creek near [REDACTED] Drive in San Jose. We understand that you and the Cupertino Creekside community members are requesting both financial and technical support from Valley Water to assist with repairing the erosion damage and stabilizing the creek bank adjacent to Cupertino Creekside’s pedestrian bridge that provides pool access to Cupertino Creekside residents.

I understand you had an in-person meeting with Ray Bramer from Valley Water’s Watersheds Operations & Maintenance team at the site of the noted erosion, and that you are aware that the erosion is occurring within a Valley Water easement within Cupertino Creekside’s property. As a future reference, you may review Valley Water ownership on our website by using the following link: <https://gis.valleywater.org/FeeEasement/>. The green areas show lands owned in fee title, the yellow areas show land held in easement. As you may be aware, Valley Water’s easement rights are limited to flood protection and/or storm water drainage purposes within this reach of Calabazas Creek. Specifically, we have this easement for flow conveyance and activities that would reduce flood risk.

There is not a singular entity in charge of the creeks and property owners whose land

extends into the creek have a primary role. Valley Water owns or has access to maintain approximately 295 miles of the 800 miles of the creeks and rivers in Santa Clara County. The remaining stretches of creeks are owned by Santa Clara County, private entities, cities in which the creeks are located, and other public agencies. Valley Water maintains property where it has built flood protection projects and possesses land rights. Valley Water does maintain 180 miles of constructed and improved channels all within sections of Valley Water right of-way, which includes reaches of Calabazas Creek near the Cupertino Creekside complex.

Our watershed engineer has investigated the erosion at this location, and did not identify any current conditions that would constitute a flood risk. There were also no signs of overtopping of the creek bank at this location, and there have been no known reports of the channel overtopping at the Cupertino Creekside complex. Since this reach of Calabazas Creek is privately owned land, Valley Water has no infrastructure or responsibility to repair erosion. In summary, since this area does not have identified flood risk, erosion repair work to protect privately-owned property is the responsibility of the property owner as outlined on the attached fact sheet.

In cases like these, Valley Water invites property owners to connect with Valley Water's Community Projects Review Unit (CPRU) to obtain an encroachment permit to perform bank repairs within their property. As additional background context, erosion at this specific location was initially reported to Valley Water in 2017 by Cupertino Creekside's third-party property management company. Prior to your meeting with Ray, guidance has been provided to Cupertino Creekside as recently as 2021 to work with CPRU to prepare engineered design plans and obtain a permit to repair the bank erosion near Cupertino Creekside's pedestrian bridge. CPRU may be reached by phone at (408) 630-2650 or by email at CPRU@valleywater.org.

In support of these types of permit applications, Valley Water provides its [Guidelines and Standards for Land Use Near Streams](#) as a technical and procedural support manual to guide property owners through the process of designing, obtaining a permit for, and constructing bank repairs along a stream within a Valley Water easement.

With respect to financial support, Valley Water is in the process of establishing a Creekside Neighbor Rebate Program for watershed stewardship activities conducted by private property owners that provide community benefits. This potential rebate program would extend for a period of 15 years and is being established as part of Valley Water's Safe, Clean Water and Natural Flood Protection Program under Project F9: Grants and Partnerships for Safe, Clean Water, Flood Protection and Environmental Stewardship. As the Creekside Neighbor Rebate Program is still in the early development phase, rebates for private property owners under the program would not likely be available for at least a year, but repairing the bank erosion at the Cupertino Creekside complex may be an activity that would qualify for financial assistance under this program.

In the future if you need to report other concerns to Valley Water, you may also use our online system at <https://access.valleywater.org/s/> or you may contact Deputy Operating Officer Jen Codianne at jcodianne@valleywater.org for follow up information.

I understand Candice Kwok-Smith has reached out to you about a meeting with your board and HOA. I look forward to meeting the group.

Thanks again for contacting us.

Sincerely,



Nai Hsueh
Director, District 5

C-24-0156

From: Wendy <[wendychung.creekside\[REDACTED\]](mailto:wendychung.creekside[REDACTED])>
Date: June 27, 2024 at 8:26:26 AM PDT
To: Peter Park <PPark@valleywater.org>
Cc: Christopher Hakes <CHakes@valleywater.org>, Rick Callender <rcallender@valleywater.org>, Nai Hsueh <NHsueh@valleywater.org>, [cupertinocreeksidehoa\[REDACTED\]](mailto:cupertinocreeksidehoa[REDACTED]), Jeff Gollihar <[jeffg\[REDACTED\]](mailto:jeffg[REDACTED])>
Subject: Calabazas Creek bank condition

***** 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 Mr Park,

We are writing as the board of directors at the Cupertino Creekside HOA pleading for help with restoring the Calabazas Creek bank located at the back of our complex.

Attached is the letter from our community, signed by 120 homeowners. In the letter it shows how our community is adversely affected by the deteriorating creek bank.

We are hoping to have a meeting with a civil engineer from Valley Water to further discuss how to collaborate on this issue.

We are also hoping to meet with Ms Hsueh (cc'd), our District Board Member, to discuss how we can work as a community to preserve the natural integrity of Calabazas Creek.

Thank you for your time, and we look forward to hearing from you.

Respectfully,

Melissa Chan
Meena Rajagopal
Praveen Honnappa
Uma Vijaya
Wendy Chung
Board of Directors
Cupertino Creekside

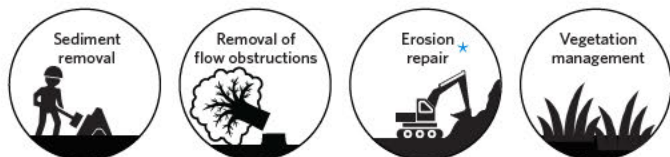
Stream Maintenance by Valley Water

Valley Water performs stream maintenance on completed flood protection projects to keep them in a safe and usable condition as originally designed and constructed. As the landowner, Valley Water also manages its property by performing work along streams.

Maintenance of Capital Projects

Capital projects are large-scale projects that maintain or improve capital assets. They involve a planning, design and approval process that includes public review, California Environmental Quality Act (CEQA) compliance, funding, and land and regulatory permit acquisition. Valley Water maintains the structural and functional integrity of these constructed projects to ensure the significant investment in infrastructure continues to provide the flood protection benefits as its intended design and construction.

Maintenance activities for Capital Projects



* Erosion is a natural process; Valley Water is not obligated to keep a creek "in place". Rather, Valley Water is obligated (considering the availability of resources) to preserve the functional and structural integrity of flood protection projects built or accepted by Valley Water.

Activities include removal of sediment and other obstructions to flow, erosion repair, and vegetation management.

Work activities are defined and permitted under a **Stream Maintenance Program (SMP)**, a ten-year program approved in 2013 by seven state and federal regulatory agencies.

Maintenance work is prioritized based on several considerations, including available resources. Higher priority is given to capital projects completed with federal partners, levee maintenance, and work to preserve channel capacity.



Staff removing fallen trees blocking creek flow.

Maintenance as a Landowner

Valley Water performs work on properties owned in fee title or where otherwise obligated by permit or agreement. These activities include weed abatement, hazardous tree removal, pruning for access, care of planted mitigation sites, fence and erosion repair, and graffiti, trash, and debris removal.

Maintenance activities as a landowner



Maintenance on easements

Valley Water performs limited work on properties owned by others where Valley Water has an easement. Easements are generally acquired for flood protection or water management and storm drainage purposes and grant rights (not obligations) to take actions in accordance with those purposes.

Valley Water does not perform activities such as weed abatement, erosion repair, graffiti or trash removal on easements as these are landowner responsibilities. Removal of fallen trees or other obstructions to flow are flood protection activities that may be done by Valley Water. Unless otherwise stated, erosion repair on easements is a property owner responsibility.

The landowner retains rights to use the easement but cannot take actions, such as construction of a building, that conflict with the Valley Water easement right. A typical easement deed requires a property owner to seek Valley Water's approval for certain construction activities such as grading and fencing.

Property Owner's Responsibility for Creek Maintenance

Every property owner has a duty to maintain his or her property in a reasonably safe condition that does not interfere with a neighbor's ability to enjoy their property. A property owner is not required to enlarge or increase the capacity of a creek for flood protection purposes. Maintenance duties may include vegetation management, erosion repair, and removal of graffiti, trash, debris, and fallen trees. Some activities are subject to permitting by local, state and federal regulatory agencies prior to performing the work.

Property owner's responsibilities for creek management



Site of completed erosion repair.

Exceptions and Joint Efforts

There are limited situations where Valley Water may conduct work on private or other public agency owned property. Work may be conducted, subject to agreements, on other public agency owned property or on private property, with permission, during emergencies or for limited stream stewardship purposes.

Emergency Work

Valley Water may perform urgent and emergency flood protection work on other public or private property where a public purpose is endangered, subject to written permission to enter from the property owner. Staff availability and priorities will likely limit our response in an urgent or emergency situation.

Stream Stewardship

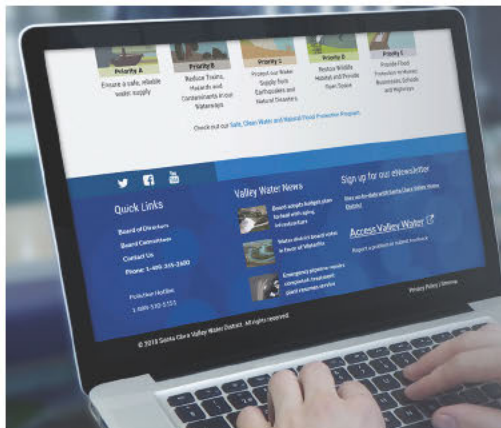
Stream stewardship activities that remove invasive plants along streams are conducted by Valley Water staff. This work may occur on Valley Water property and easements with permission from the property owner. Because it is important to eradicate invasive plants along a creek on a watershed and watershed wide basis and the **Safe Clean Water Program** provides funding for this activity, staff may also seek permission to perform this work on private property.



Crews removing giant reed (*arundo donax*), an invasive plant, from creek.

See link for care guidelines:

<https://www.valleywater.org/learning-center/healthy-creeks-and-ecosystems/creekside-property-program>



CONTACT US

For more information, contact us at (408) 630-2378 or use our **Access Valley Water** customer request and information system at valleywater.org to find out the latest information on district projects or to submit questions, complaints or compliments directly to a district staff person.



To get eNews, drop an email to: info@valleywater.org

Follow us on:



/scvwd



/valleywater



/valleywater

From: [Candice Kwok-Smith](#) on behalf of [Board Correspondence](#)
To: [Mark Bilski](#); [Jennifer Codianne](#); [Shanika Richards](#); [Kathy Nguyen](#)
Cc: [Michele King](#); [Board of Directors](#)
Subject: FW: Screaming throughout day on LGCT behind Willowbrook Townhomes
Date: Monday, July 8, 2024 9:01:49 AM
Attachments: [image003.png](#)

Good morning everyone,

C-24-0157 has been approved, sent and closed.

Thanks,
Candice

From: Candice Kwok-Smith **On Behalf Of** Board of Directors
Sent: Monday, July 8, 2024 9:00 AM
To: mrosemallory [REDACTED]
Subject: Re: Screaming throughout day on LGCT behind Willowbrook Townhomes

Sent on Behalf of Director Keegan:

Dear Melissa Mallory and Timothy Quinn,

Thank you for reaching out to Valley Water and sharing your experiences and frustration regarding the encampments of unsheltered people located along Los Gatos Creek near your home. Valley Water is committed to using the power we have as an environmental stewardship agency to protect our waterways in collaboration with the cities and the County as they fulfill their public safety and social service roles.

As you note, solutions that will allow us to remove unmanaged encampments along the many miles of our waterways will necessarily include the creation of new interim housing or safe sleeping alternatives, with a path toward permanent options elsewhere. Valley Water is actively working with the City of San José and other partners to find solutions to address unsheltered homelessness. This includes identifying and contributing Valley Water land for use as interim housing or safe sleeping sites.

Additionally, on July 9, 2024, the Valley Water Board will consider adopting a proposed Water Resources Protection Zones Ordinance aimed at reducing unsanctioned encampments and preventing re-encampments on Valley Water property. This ordinance is intended to address our agency's responsibility to protect water quality, fish, and wildlife as well as community concerns and concerns about the workplace safety of Valley Water's field staff. Because Valley Water does not possess police powers, local law enforcement agencies would have the authority and responsibility to enforce this ordinance if it is adopted. However, even if the Board chooses to adopt the Water Resources Protection Zones Ordinance, new housing and shelter options will continue to

be a critical and necessary component of any efforts to reduce encampments in the waterways.

Regarding your observation of potentially criminal activities, if you witness illegal activity or a threat to public health and safety, please continue to contact the police and, if possible, file an official report. Concerns relating to unwanted or illegal behaviors are best handled by City resources. Valley Water is not a law enforcement agency and must rely on cities and the County to address these types of activities.

Thank you again for your message. Please contact Assistant Operating Officer Mark Bilski at mbilski@valleywater.org with any follow-up information. You can also report concerns to Valley Water via our online system at <https://access.valleywater.org/sl>.

Sincerely,



Barbara Keegan
Director, District 2

C-24-0157

From: Melissa Mallory <mrosemallory@valleywater.org>
Sent: Saturday, June 29, 2024 2:56 PM
To: district6@sanjoseca.gov; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; HomelessConcerns <homelessconcerns@sanjoseca.gov>; Board of Directors <board@valleywater.org>
Subject: Screaming throughout day on LGCT behind Willowbrook Townhomes

***** 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 All parties involved,

My husband and I have lived approximately 200 feet from the Los Gatos Creek Trail, for over 9 years ([REDACTED])

We decided to move to: [REDACTED], after seeing salmon swimming upstream and hearing and seeing Cooper Hawks flying overhead.

We are surrounded by 16 mature Redwood trees, multiple oak and eucalyptus trees, and pine trees. We see beautiful sunsets from our southwesterly view of the Santa Cruz mountains.

Since living here we have been victims to continuous alarming activities (crime), including having our license plates switched with a felon's, having our cars broken into and items stolen, gas siphoned, windows smashed, mail and packages stolen.

My husband now sleeps downstairs, after a young man tried climbing our back fence to our deck, about a year ago.

Daily/weekly we have observed fights, have heard high pitched screaming, yelling, and motorized vehicles (motorcycles) driving fast, all hours of the day/night.

Currently, we have a young lady living in a green tent on the embankment to LGC, near LGCT, who has been a frequent flyer, who has moved away and then comes back, these last 2 years. **Two days ago, she screamed at the top of her lungs for 15 minutes, starting at 4:30 AM, waking me up as well as some neighbors. I did not call 311, as I have done that many times over the years, and have not had a resolution after doing so.**

All who live parallel to the LGCT are impacted by unhoused people living in 12x12 units, makeshift homes, tents, etc., causing all sorts of issues (much pollution/garbage/fecal matter and urine), which I am sure you have become acutely aware of.

Both my husband and I have witnessed actions from the city, and other organizations (cleaning up, picking up garbage etc.) that have just been temporary fixes and have cost the city/county a lot of money and time.

We believe we have a plan that is a win-win for the Unhoused and Housed as well as the creek, and our beautiful park-like setting, along the Los Gatos Creek Trail.

Ideas for Permanent Solutions:

1. **Homelessness is Not allowed any longer (San Jose can take the lead on this)**
2. Unhoused go into a mandatory 2-3 year program (with their friends), living side by side in 12x12's, tiny houses or containers, inside a fenced parameter, with solar for power and compostable toilets, 1 bed, 1 burner, microwave w/ services, counselors on hand (who use DBT, Mindfulness practices, Byron Katie along w/ NVC and SMART) + be provided skills/training that lights them up, plant gardens, learn how to market and sell their produce, plus have 24 hour security/patrol. They will need to do weekly volunteer work inside of this community, and not be allowed to live inside of the outside community unless they are stable enough (will not hurt themselves or others).
3. **Penal Code 602 will be legally enforced 24/7** (Homeless/Unhoused are no longer allowed to hurt the community and its land/water)
4. Unhoused will not be allowed to come back to build another 12x12, or a series of 12x12's (Safety/fire/health issues)
5. 24/7 patrol of LGCT and Creek areas (most dangerous once dark up to 6 AM).

Putting up more fences and barricades does not stop the Unhoused from coming and going. Fences get cut and tarps and personal items of the Unhoused are propped back up in between fences under the trail and inside the creek area itself, sometimes putting blankets in between private/public lands.

My husband and I have more ideas for real change. I (Melissa) am willing to partake in a permanent solution as I have a wide range of experience helping others with addiction issues, domestic abuse, foster youth, homelessness, teaching, counseling and community building.

So far every agency and person whom we have spoken with (on phone/email) these last 9 years, in Santa Clara County, have all said to continue to call 311 and attend meetings. Still...no change.

We are looking forward to hearing/seeing **permanent steps** that will move us forward in permanent ways.

We appreciate a resolution that is sustainable for All of us.

Much Appreciation,

Melissa Mallory and Timothy Quinn

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<~WRD0001.jpg> ReplyForward