



SANTA CLARA VALLEY WATER DISTRICT

# NON-AGENDA

**August 30, 2024**

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

<b>Page</b>	<b><u>CEO BULLETIN &amp; NEWSLETTERS</u></b>
	CEO Bulletin: None
	<b><u>BOARD MEMBER REQUESTS &amp; INFORMATIONAL ITEMS</u></b>
<b>3</b>	<b>BMR/IBMR Weekly Reports: 08/28/24</b>
<b>4</b>	Memo from Kirsten Struve, Assistant Officer, to the board, dated 08/21/24, responding to Sierra Club questions and discussion items on the Water Supply Master Plan 2050.
<b>22</b>	Memo from Chris Hakes, Chief Operating Officer-Watersheds, to the board, dated 08/23/24, providing information about the requirements and process for land rights transfers to Valley Water.
<b>24</b>	Memo from Sheryl Higa, Risk Manager, to the board, dated 08/26/24, providing risk management unit communication.
	<b><u>INCOMING BOARD CORRESPONDENCE</u></b>
<b>113</b>	<b>Board Correspondence Weekly Report: 08/28/24</b>
<b>114</b>	Email to/from Ron Cachopo to Jennifer Codianne, Deputy Operating Officer-Watersheds Operations and Maintenance, (copied to the board), dated 08/24/24, regarding the Saratoga Creek Bowe Ave. gate being unlocked. C-24-0198
<b>116</b>	Email from LeeAnn Pickering to the board, dated 08/27/24, expressing their opposition for the Youth's Commission proposal for safe sleeping sites. C-24-0210
	<b><u>OUTGOING BOARD CORRESPONDENCE</u></b>
<b>118</b>	Email from Director Beall to Alan Rowe, dated 08/23/24, responding to their inquiry regarding a dead tree behind their property.
<b>121</b>	Email from Director Eisenberg to Robert Liu, dated 08/25/24, contacting them to schedule an appointment after responding to their email about the Hale Creek walls.

# **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-24-0012	08/09/24	Eisenberg	Orellana	Hopper	Can Valley Water implement a match charitable donation program like many other employers in the Bay Area? If so, how?	08/29/24		



# MEMORANDUM

FC 14 (08-21-19)

**TO:** Board of Directors

**FROM:** Kirsten Struve

**SUBJECT:** Response to Sierra Club Questions and Discussion Items on the Water Supply Master Plan 2050

**DATE:** August 21, 2024

Sierra Club submitted a list of questions and discussion items regarding the Water Supply Master Plan 2050. Staff met with Sierra Club representatives (Katja Irvin and Molly Culton) and Rita Norton on August 8, 2024 to respond to their questions and comments. Following the meeting discussion, Sierra Club asked for a summary of responses in writing. The questions and answers are attached for the Board's information.

Signed by:

A handwritten signature in cursive script that reads "Kirsten Struve". The signature is enclosed in a blue rounded rectangular box. Below the signature, a horizontal line is drawn, and the alphanumeric string "F0FE3DD88BEF488..." is printed below the line.

Kirsten Struve  
Assistant Officer  
Water Supply Division

**ATTACHMENTS:**

- Attachment 1: Response to Sierra Club Questions and Discussion Items
- Attachment 2: Handout 6

Cc: A. Baker, G. Adriano, V. Gin, K. Struve, J. Wu, K. Adriano

**Items for Environmental Meeting with Valley Water Staff Regarding WSMP 2050 Update  
August 8, 2024 at 2:30pm  
From Environmental Participants: Katja Irvin, Molly Culton, and Rita Norton**

**Please respond to the following comments and questions in writing.** No discussion required by the environmental participants at this time. If Valley Water staff have any questions, we are happy to clarify.

1. The WSMP update in June said cost of shortage analysis will be included in a future Board update. Will that be in the fall (September)?

Yes, the cost of shortage analysis will be included in the next board update planned for late Fall.

2. For each project, include costs broken down for: planning, permits, consultants, construction, financing fees and legal fees. Without this information, the assumptions are not transparent.

- At this time, many projects are still in the planning stage and evolving; therefore, it is not possible to break the cost estimates down in a meaningful way because these costs are not available.
- The purpose of the cost estimates is to compare projects within each category of projects (among storage projects or among supply projects). The cost estimates presented include capital, operations and maintenance, and financing costs.

3. Cost of imported water. The WSMP should include a comprehensive evaluation of the cost of imported water. A full analysis of current imported water costs for CVP (SLDMWA, Pacheco Division, local costs) vs. SWP (South Bay Aqueduct, local costs) is needed to evaluate how new capital projects increase those different cost elements. Costs-to-date for imported water projects (DCP, Sites, Los Vaqueros/Transfer Bethany, B.F. Sisk, Pacheco, groundwater banking, water transfers, etc.) should be included in the baseline cost of imported water. Costs through 2050 for these projects should be included in imported water cost projections. For storage projects using cost/per capacity, explain how baseline costs are incorporated. The cost of water loss (leaks, evaporation, etc.) should also be accounted for.  
The WSMP 2050 will help the board make decisions on which projects to invest in, therefore it is not appropriate to include all of the projects in imported water costs. Please see attached memo for additional details.

4. Please provide more information about the proposed desalination project, including what would trigger Valley Water to pursue this project. Results of the Feasibility Study should be included in the WSMP 2050. If implementation is unlikely, this project should not be included in any project portfolios.
  - There is not a defined desalination project at this time. A feasibility study for a desalination project was approved by the Board in July and will inform any future decision on pursuing a project.
  - From a long-range planning perspective, it is important to explore and evaluate different project options including desalination.

5. **Adaptive Management.** The WSMP needs to explain how this is different from the MAP (Monitoring and Assessment Program) for the 2040 WSMP which did not result in any adjustments to investment decisions. The Plan also needs to set thresholds for each of the triggers that would result in adjustments (i.e. removing, augmenting, or adding projects to the WSMP). Additional important triggers to consider are: "New project cost estimates," "Extension of project schedules," and "New regulatory and permitting issues."
  - MAP is part of the adaptive management framework. The key difference is that adaptive management is a process to make incremental decisions, while MAP in the 2040 context is to help track progress on recommended projects. We plan to develop a standard MAP report to ensure consistency following WSMP 2050.
  - Triggers and indicators represent information and actual conditions to inform decision-making. It is not feasible or desirable to set thresholds.
  - We will consider the suggested additions.

## Discussion items

1. **Schedule for Completion of the WSMP.** Is it still on track for approval by the end of 2024, or what is the new schedule? The timing for completion of the WSMP by the end of 2024 is problematic because new milestones and cost estimates are expected for several important projects in the first half of 2025 (Pacheco, Los Vaqueros, BF Sisk, Sites, etc). If you extend the update process by six months, the plan will be starting with a more realistic base for the next five years. New information through March 2025 should be included in the Plan.
  - Given the current pace, we most likely won't be able to complete the whole plan for adoption by the end of 2024. We are aiming for early next year.
  - We are trying to incorporate as much emerging information as possible, but at the same time, need to move forward with our planning efforts using the best available information at hand. Projects will continue to evolve. The annual MAP and five-year updates will allow us to incorporate new information and adjust accordingly. We also provide project updates to the board if there are any significant changes.
2. **Water Demand Forecasts.** Why are demand forecasts for WSMP different from forecasts for the rate-setting process? Is the drought rebound happening as expected in the latest demand study? Trends show weaker growth than forecast in the past. Discussion of demand modeling should also explain the number of drought vs. non-drought years assumed, and how that was determined. Considering a possible lower demand forecast, a more flexible mix of supply may be more cost effective.
  - The projected demands are different from the water use projections presented for purposes of setting water rates. This is because, for long range water supply planning, we want to be conservative regarding water use, meaning we want to be conservative about water use on the higher end. For water rate setting, we want to be on the low end of water use to ensure

we are conservative related to revenue forecasting. This is a common practice among water utilities.

- Drought rebound typically takes a few years. We are just out of the last drought, so it is too early to tell the degree of rebound as we are still waiting for FY24 water use data.
- For this plan update, we include a stable demand.
- The demand projection is based on historic water use trends (2000-2018), housing and economic growth, climate change, and post-drought water use rebound. The historic water use reflects all year types, including 2007-2010 and 2012-2016 droughts.

3. **Storage Goals.** Surface Water and Groundwater Storage Goals (capacity and put/take) are needed in addition to the Conservation Goal and Potable Reuse Goal. Otherwise, there is no goalpost for the storage projects and the need to invest in so many storage projects is arbitrary.

- The need to invest is driven by projected shortages, which could be achieved by various combinations of supply, storage, and other projects being evaluated.
- Therefore, how much we need for storage will depend on specific portfolios and what other projects are in the mix.
- It is not desirable to have a storage goal which would limit the options we can explore and may not arrive at cost-effective solutions or water supply reliability.

4. **Storage Capacity vs. Yields.** In addition to capacity, it seems important to compare surface storage projects based on put and take restrictions and estimated yields to really evaluate these projects on a meaningful level. If this cannot be included, the reason for this important omission should be explained in the Plan.

- Storage capacity is only used to calculate unit cost because of challenges in estimating a representative effective yield due to 1) our conjunctive management practices; and 2) changes in effective yield of each storage project depending on the amount of existing storage and how they pair with other projects.
- Actual yields and take/put limits of storage projects are accounted for in the modeling analysis, varying by hydrological conditions and portfolio.

5. **Local Control Theme/Strategy.** The rationale for this strategy (as opposed to other potential strategies) needs more explanation. Any project that is dependent on imported water, including Pacheco, should not be included in this strategy since we do not have control of CVP and SWP operations which will determine any water supply benefits from these projects. If you must include this strategy, the benefits of local control should be explained in more detail.

- The local control theme focuses on local projects for which Valley Water is the implementing agency and manages the project, meaning it is under Valley Water's control how it is constructed and operated.
- Pacheco is included because it is a local project controlled by Valley Water.

- The benefits as well as risk and challenges of each strategy are explained in the June Board memo.
  - The themes are intended to help organize portfolios for Board feedback.
6. **Environmental Strategy.** A more meaningful theme/strategy would be one that aims to reduce environmental impacts **and** to increase climate change resiliency. For example, The diversified portfolio that includes San Jose Direct Potable Reuse, Palo Alto Potable Reuse, B.F. Sisk Dam Raise, Groundwater Banking, and South County Recharge. Can an environmental strategy be added and if not, why not?
- The themes we developed to have a mix of supply and storage projects, which provide flexibility and resiliency to address climate change impact.
  - Environmental considerations are included in the evaluation of each project and are an important part of putting together each portfolio.
  - Developing such a strategy will require defining what constitutes an environmental strategy – to what degree and for what impacts a strategy can be considered ‘environmental’? This is challenging given a broad range of environmental impacts evaluated through CEQA. For example, are biological impacts more important than air quality or greenhouse gas impacts?
  - Sierra Club previously expressed concern about the Palo Alto Potable Reuse project location in the Baylands, underscoring the difficulty in determining which projects would be more environmentally positive than others.
7. **Strategy Portfolios and Surface Storage.** Most portfolios that include new surface storage for imported water should also include the Delta Conveyance Project. Otherwise, the WSMP should explain how the included projects do not depend on new conveyance.
- DCP is a project that will protect our baseline imported water supply against future climate change impact.
  - It is a standalone project and has its own value and independent utility. Therefore, it is included in some portfolios and not others, just like every other project.
  - It is not a baseline project and therefore no reason to include it in all portfolios.
8. **Updated Risk Assessment.** A new Risk Assessment is needed for the WSMP 2050. The risk assessment completed in 2021 is outdated and project risks need to be reassessed. For each potential new or additional water source, probabilities should be factored into ranking potential projects. Not all alternatives have equal probability given varying factors of uncertainty and risk, adverse impact of climate change, potential lawsuits, and other external factors recognized for risks. The framework should be expanded to include data modified and modeled to show these probabilities and risks.
- For this plan update, the evaluation of risk was incorporated as part of the project and portfolio evaluation. We evaluated each project quantitatively and qualitatively to have a

comprehensive assessment of their benefits and risks and challenges, which is similar to the risk analysis we did before.

- We will not be doing a separate risk assessment. The risks and challenges of major projects are evaluated and summarized in the June update memo and PPT.



# MEMORANDUM

FC 14 (01-25-23)

**TO:** Board of Directors **FROM:** Aaron Baker, P.E.

**SUBJECT:** IBMR I-24-0007: Request for Imported Water Program Costs **DATE:** June 17, 2024

In response to Director Jim Beall's request, I-24-0007, this memorandum discusses Valley Water's imported water program costs.

Valley Water initially invested in the State Water Project (SWP) and Central Valley Project (CVP) in the 1960's and 1970's to address land subsidence resulting from depletion of local groundwater basins. The state and federal governments built the South Bay Aqueduct (SBA) and the San Felipe Division, respectively, to bring SWP and CVP supplies to Santa Clara County. These supplies are used in conjunction with groundwater and local water captured and stored in surface reservoirs. Valley Water recharges local and imported water into the groundwater basin and delivers both directly to water treatment plants. During water shortages, the SWP and CVP infrastructure also provides access to supplemental water purchases and state and federal emergency supplies, as well as access to broad statewide partnerships, to increase water supply resiliency. Imported water comprises half of the county's water supply portfolio, with about forty percent from SWP and CVP contract supplies and another 10 percent from the San Francisco Public Utilities Commission, which supplies water directly to some retailers in the county.

Valley Water has paid for our capital, and operations and maintenance (O&M) obligations for the SWP and CVP over the past 62 years and has invested over \$1.4 Billion (\$2.2 Billion in 2023 dollars) to date. Moving forward, capital improvement and O&M costs of both projects will continue to be significant and are included in long-range cost projections. The costs described below are projections based upon available information from the Department of Water Resources (DWR), U.S. Bureau of Reclamation (USBR), and San Luis & Delta-Mendota Water Authority (SLDMWA), as well as escalation of current contract costs.

Imported water costs are described in the following four sections. The information gathered below is the latest data as of June 17, 2024.

## **Current Imported Water Cost**

The current cost of our SWP and CVP supplies are described in a memo from Chief Financial Officer Darin Taylor, dated April 15, 2024. The unit cost provided was calculated based on an average of actual water supply conditions from 2019 to 2023, which captures the most recent historic drought as well as two wet years. Current baseline costs included in the calculation include the following:

- **SWP and CVP Contract Water Delivery Costs (Fixed and Variable Charges)** – SWP and CVP contractual fixed costs, SWP variable charges paid to DWR for water delivery to Valley Water, and CVP variable charges paid to both USBR and SLDMWA for water delivery to Valley Water.
- **San Felipe Division Capital Repayment** – Capital obligation to USBR for the San Felipe Division.
- **San Felipe Reach Capital and O&M Costs** – Valley Water's internal capital and O&M costs for San Felipe Reaches 1, 2 and 3.

The imported water baseline unit cost was calculated to be \$450/acre-feet (AF). Valley Water also has a contract with Semitropic Groundwater Storage District (Semitropic) where imported water supplies can be stored outside the county. Putting water into Semitropic occurs primarily in wet years, while taking water out of Semitropic via exchange occurs primarily in drought years or when needed, for example to mitigate for loss of local supplies while Anderson dam is reconstructed. Utilization of Semitropic is integrated into Valley Water's annual operations decision-making and facilitates efficient use of local surface water and groundwater management as well as imported supplies. Adding the average Semitropic costs from 2019 through 2023, which includes higher costs due to both drought operations and wet-year operations captured during this time period, to the imported water baseline unit cost would result in a combined unit cost of \$490/AF.

### **Future Baseline Imported Water Cost**

Valley Water's long-term imported water baseline costs were included in the long-range financial planning presentation to the Board on March 26, 2024 (Item 10.1 - Receive and Discuss Long Range Financial Planning Models for the Water Utility Enterprise Fund, the Watersheds Stream Stewardship Fund, and the Safe, Clean Water Fund) and are summarized below:

- SWP and CVP Contract Water Delivery Costs (Fixed and Variable Charges) – SWP and CVP contractual fixed costs, SWP variable charges paid to DWR for water delivery to Valley Water, and CVP variable charges paid to both USBR and SLDMWA for water delivery to Valley Water.
- Delta-Mendota Canal (DMC) Subsidence and Extraordinary O&M Project Costs – SLDMWA's total projection is \$578M over the next ten years; Valley Water's portion forecasted at \$30.5M and included in CVP cost projections over the next 30 years.
- San Felipe Division Capital Repayment – Remaining capital obligation to USBR for the San Felipe Division; \$172M remaining through 2035 per the contract repayment schedule.
- San Felipe Reach Capital and O&M Costs – Valley Water's internal capital and O&M costs for San Felipe Reaches 1, 2 and 3.
- California Aqueduct Subsidence Program (CASP) – DWR's total projection is \$1.4B through 2035; Valley Water's portion is included in DWR Statement of Charges projections but is expected to be minimal since planned subsidence repairs are limited to facilities that do not directly service Valley Water.
- South Bay Aqueduct Long Term Repairs – Valley Water's projection for long-term repairs of the South Bay Aqueduct; forecasted at \$50M beginning in 2028 and repaid over the following 35 years; final cost projections and plans to be provided by DWR in the future.

Consistent with the Water Supply Master Plan 2050 (WSMP) cost analysis methodology, the cost of this continued baseline SWP and CVP water service is \$1.91 Billion (in 2023 dollars) over a 50-year time period from 2024-2074.

Climate change projections show precipitation patterns for both local and imported supplies shifting towards more extreme wet years, more intense droughts, and increased temperatures. Modeling scenarios estimate a reduction in our average annual SWP plus CVP supplies from 190,000 AF currently to 128,000 AF by 2040. Consistent with the approach used in the WSMP, a leveled unit cost,

which is the unit cost needed to recover the total cost of the project over the next 50 years, is calculated in Table 1.

**Table 1 – Future Imported Water Costs with 2040 Climate Change Impact**

	<b>Average Annual Supply (AF)</b>	<b>Present Value Cost (Millions)</b>	<b>Levelized Unit Cost (\$/AF)</b>
Baseline Imported Water Supplies**	128,000	\$1,910	\$514

\*\* Baseline imported water supplies are those supplies allocated to Valley Water through long-term water supply contracts executed with the State of California and the U.S. Bureau of Reclamation for SWP and CVP water supplies.

**Potential Imported Water Supply Projects**

Valley Water is participating in the planning phase for several new water supply projects that could help offset projected climate change impacts to our imported water supplies. Valley Water has not yet made a commitment to invest in the construction of these projects, which are being evaluated as part of the WSMP process. The levelized unit cost for these projects are shown in Table 2 below.

**Table 2 – Potential Imported Water Supply Project Costs**

<b>Water Supply Project</b>	<b>Average Annual Supply Produced (AF)</b>	<b>Present Value Lifecycle Cost (Millions)</b>	<b>Levelized Unit Cost (\$/AF)</b>
Delta Conveyance Project	14,000	\$720	\$2,700
Sites Reservoir Project**	5,000	\$130	\$1,200

\*\*This participation level corresponds to the maximum wait-listed participation level (2.65%) for Valley Water. Current participation level is at 0.2%

**Potential Water Storage Projects**

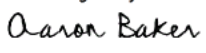
If new investments are made in new imported projects and local projects such as purified water, additional storage investments would likely be required to optimally manage unused wet-year water for use in dry years. Similar to the way Semitropic is currently utilized in Valley Water’s water supply operations, new water supply storage would be incorporated into annual decision-making regarding how Valley Water’s various water supply sources are integrated and utilized. Investment in new storage would also support Valley Water’s planning strategy to diversify storage options to improve overall water supply resiliency in dry years, as well as provide additional tools to manage operations as we approach the expiration date for our Semitropic banking contract in 2035.

Storage projects that are being evaluated as part of the WSMP process include the following:

**Table 3 – Potential Water Storage Projects**

<b>Water Storage Project</b>	<b>Storage (AF)</b>	<b>Present Value Lifecycle Cost (Millions)</b>	<b>Lifecycle Cost PV/Storage Capacity (\$/AF)</b>
Pacheco Reservoir Expansion Project	140,000	\$1,590	\$11,400
B.F. Sisk Dam Raise and Reservoir Expansion Project	60,000	\$470	\$7,900
Las Vaqueros Reservoir Expansion Project	30,000	\$350	\$11,700
New Groundwater Banking Project	350,000	\$350	\$1,000

The combined cost of baseline imported water supplies and new projects depends on the specific portfolio of projects that the Valley Water Board chooses to invest in. The WSMP is evaluating various combinations of projects to meet Valley Water’s level of service (LOS) goal through the planning horizon. The Board will receive an update on the WSMP on June 25, 2024.

DocuSigned by:  
  
 0257272DB36A4DC...  
 Aaron Baker, P.E.  
 Chief Operating Officer  
 Water Utility Enterprise

Attachment 1: Follow Up from April 9, 2024 Board Meeting, Item 23-1065



# MEMORANDUM

FC 14 (01-25-23)

**TO:** Board of Directors

**FROM:** Darin Taylor

**SUBJECT:** Follow Up from April 9, 2024 Board Meeting,  
Item 23-1065.

**DATE:** April 15, 2024

On April 9, 2024 the Board held a public hearing on the February 2024 Annual Report on the Protection and Augmentation of Water Supplies and Recommended Increases in Groundwater Production Charges, Surface Water Charges, and Recycled Water Charges for Fiscal Year 2024-25.

After hearing the staff presentation, members of the Board posed several questions. Staff has prepared responses in the attached question and answer (Q&A) document. The Q&A document also includes responses to related questions received from members of the public.

DocuSigned by:  
*Darin Taylor*  
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Darin Taylor  
Chief Financial Officer  
Office of the Chief Executive Officer

CC: R. Callender, A. Baker, S. Bogale, L. Penilla, J. Collins, V. Gin, K. Struve, C. Narayanan  
CN  
*Memo\_4-9-2024\_Board\_FollowUp*

**1. How are costs allocated across groundwater production zones, and are the allocations equitable?**

- A: Valley Water employs an integrated approach to manage a sustainable water supply through conjunctive management and use of surface water and groundwater resources to maximize water use efficiency. Water utility costs are allocated between the 4 groundwater production zones based upon benefits received. Benefits received within each zone are based on the infrastructure used and activities undertaken to provide a reliable water supply to each zone.

**Groundwater Benefit Zones:**

In 2020 a comprehensive Zone of Benefit Study was completed. Beginning in 2014, the scientific study focused on Valley Water's groundwater benefit zones and is based on up-to-date geologic studies, local groundwater data, and the services Valley Water provides. In 2020 Valley Water Board of Directors adopted changes to update the zones based on the study results. There was extensive community outreach as part of this study. The current zones ensure ratepayers are grouped in a way that reflects the most recent and relevant data regarding services and benefits received by well users, including retailers.

**Cost Allocations:**

In general, costs are driven by infrastructure that provides benefit to a zone, and shared infrastructure costs are allocated to zones primarily based on the amount of water delivered to each zone by that infrastructure. While water rates differ from zone to zone, they are equitable in that a water user only pays for benefits provided to that zone.

The FY 2024-25 PAWS report (<https://www.valleywater.org/your-water/current-water-charges/proposed-water-charges>) provides details for the Basis of Cost Allocations between North and South Zones for operating projects (see Appendix B). Appendix C provides capital cost recovery details for completed capital projects benefiting the 3 South County Zones.

**2. What portion of water rate increases are driven by capital investments?**

- A: Over the next ten years, on average, 63% of total rate increases are driven by the Capital Improvement Program (CIP). It is important to note that due to the South County zone's capital cost recovery mechanism (i.e., once a capital project is completed, the portion benefiting a South County zone is amortized over 30 years), the portion of CIP costs driving annual rate increases will vary. Of note, over the next ten years, Operations & Maintenance (O&M) costs increase by 3.7% per year, on average.

**3. How has inflation impacted the water rate projection? Is it a major cost driver of the rate projection?**

- A: The U.S. experienced severe inflation in 2021 and 2022 due to global events related to COVID-19, supply chain issues, and the Russian invasion of Ukraine. In fact, the U.S. CPI peaked in June 2022 at 9.1% year over year. Since June 2023, the U.S. CPI has ranged between 3% and 4% year over year each month. Nevertheless, the impact of that severe inflation surge is felt today in the prices for labor and goods and services.

The construction cost escalation factors for VW's Capital Projects ranges between 7% and 4.8% from FY25 to FY30, which is a significant contributor to the total project cost of capital projects.

**4. What inflation factors are being used for Water Utility projects?**

A: Valley Water uses several inflation factors. Prior year actuals and current and future year projections are shown in the table below. Construction cost inflation factors are provided to Valley Water by O'Connor Construction Management, Inc. (OCMI) who conducted a San Jose Market Study for the Construction Cost Escalation Rate (CCER) to be used in the FY 2024-25 planning cycle. The OCMI Market Study is attached to this memo.

Valley Water Cost Inflation Factors	Actual	Actual	Actual	Actual	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected
	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY33	FY34
<b>Supplies &amp; Services Inflation*</b>	1.6%	3.2%	6.8%	2.9%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%
<b>Construction Cost Inflation**</b>	5.4%	3.4%	14.1%	0.1%	12.0%	7.0%	5.5%	5.5%	5.5%	5.0%	4.8%	4.8%	4.8%	4.8%	4.8%

\* Actual supplies and services inflation based on the San Francisco-Oakland-Hayward Consumer Price Index for all urban consumers as of June 2023  
 \*\* Actual construction cost inflation based on the City Cost Index of Engineering News Record results for the San Francisco Bay Area as of June 2023

**5. How much is the Water Utility spending on imported water?**

A: The cost of Valley Water’s imported water supplies are competitive with other sources of supply. The unit cost of our contractual supplies from the State Water Project (SWP) and Central Valley Project (CVP) is approximately \$450 per acre-foot based on average annual hydrology. However, these unit costs would be greater in dry years and lower in wet years. Current 2024 water allocations are 30% for SWP and 75% M&I / 35% Ag for CVP, equating to approximately 140,000 AF of supply for Valley Water which is more than half of the water delivered in the County.

In the upcoming biennial budget, total imported water supply costs are close to \$80 million in FY 2024-25 and \$84 million in FY 2025-26, excluding supplemental water transfers and new water supply and storage project costs. CVP contract costs include U.S. Bureau of Reclamation costs for CVP water deliveries and San Felipe Division capital costs, as well as San Luis & Delta-Mendota Water Authority costs. SWP contract costs include all costs for delivery of SWP water, including costs related to the South Bay Aqueduct. Semitropic Groundwater Banking includes annual O&M and water banking activity costs and San Felipe Reach costs include Valley Water’s internal capital and O&M costs for the San Felipe Division.

Imported Water Supply Costs	FY 2024-25	FY 2025-26
<b>Imported Water Contract Costs (Central Valley Project, State Water Project &amp; Semitropic Groundwater Bank)</b>	\$69.9 M	\$72.5 M
<b>San Felipe Reach Capital and O&amp;M Costs</b>	\$ 9.7 M	\$11.3 M
<b>TOTAL</b>	<b>\$79.6 M</b>	<b>\$83.8 M</b>

Potential imported water supply-related project costs are shown in the following table. These projects are being evaluated as part of the Water Supply Master Plan 2050. Updates on each of these projects are being planned for future Water Supply and Demand Management Committee meetings.

Imported Water Supply-Related Projects	FY 2024-25	FY 2025-26
Delta Conveyance <sup>1</sup>	\$5.8 M	\$8.0 M
B.F. Sisk Dam Raise at San Luis Reservoir <sup>2</sup>	\$10.0 M	\$5.0 M
Los Vaqueros Reservoir Expansion <sup>3</sup>	\$ 4.0 M	\$4.5 M
<b>TOTAL</b>	<b>\$19.8 M</b>	<b>\$17.5 M</b>

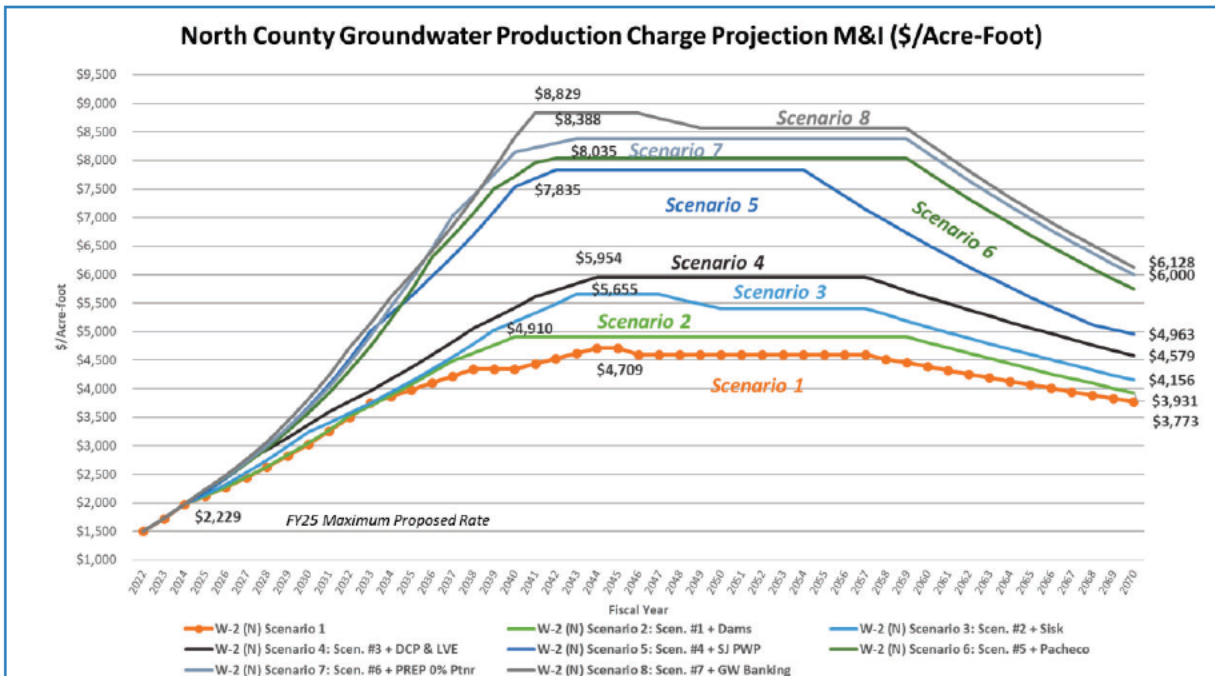
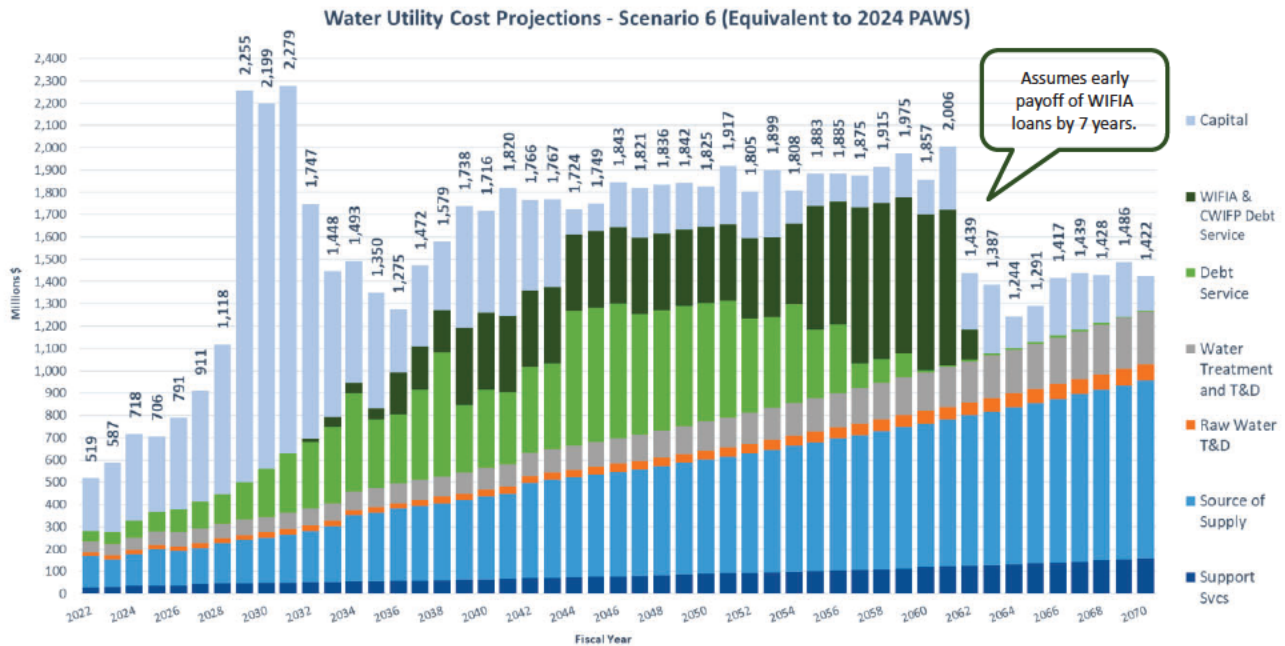
1. Delta Conveyance costs reflected as an Operations Project. Ten-year total investment approximately \$94M.
2. B.F. Sisk Dam Raise costs reflected as an Operations Project. Ten-year total investment approximately \$225M.
3. Los Vaqueros Reservoir Expansion costs reflected as an Operations Project. Ten-year total investment approximately \$130M.

**6. When will an analysis on the elasticity of water usage and water rates be available?**

A: Staff has engaged a consultant for a *Study on Water Use Demand, Elasticity and Rate Affordability*. This study is kicking off this Spring and the Board can expect staff to bring the project scope for review and discussion at an upcoming Water Conservation and Demand Management Committee meeting. Staff anticipates the study to take a year or so to complete, and is hopeful it will be informative to the FY 2025-26 rate setting cycle.

**7. Show debt service repayment schedules for WIFIA/CWIFP loans. What is the corresponding impact on water rates?**

A: The overall impacts of WIFIA and CWIFP loan debt service, is highlighted in the “Water Utility Cost Projections – Scenario 6” graph below, which reflects water supply investments incorporated into the 2024 PAWS Report. In the scenario shown, WIFIA and CWIFP debt is paid off roughly 7 years early due to excess cash generation in the outer years. The subsequent graph shows the North County M&I Groundwater charge projection for several water supply investment scenarios, with each successive scenario building on top of the former. Scenario 6 shows the water rate projection based on the WIFIA and CWIFP debt service projection shown in the Water Utility Cost Projection graph below.



**8. Are conservation savings factored into the water use projection? Is water conservation cost effective and how much is budgeted?**

A: Yes, Water conservation is reflected in District-managed water use for FY 2023-24 adopted budget (207,000 acre-feet) and future projections (222,000 in FY 2024-25). If it were not for the conservation efforts achieved by residents and businesses in Santa Clara County, District-managed water use projections would otherwise be higher, all things being equal. That said, staff anticipates a post-drought water use rebound similar to what has been observed after previous droughts. Next year’s water rate setting cycle will be informed by the summer 2024 water usage and by the consultant study results. The water use projection will be adjusted accordingly.

In 2023 an estimated 84,000 acre-feet of water was conserved in Santa Clara County. Valley Water has a robust conservation program that consists of various rebates and resources for residents and businesses in Santa Clara County, available [through over 20 programs](#). Prior year spending and current year budget is highlighted in the table below.

<b>Programs &amp; Projects</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>
<b>Drought Emergency</b>	\$ -	\$ 4.1	\$ 4.8	\$ -
<b>Water Conservation Program</b>	\$ 4.6	\$ 7.8	\$ 11.6	\$ 12.1
<b>TOTAL (millions) =</b>	<b>\$ 4.6</b>	<b>\$ 11.9</b>	<b>\$ 16.4</b>	<b>\$ 12.1</b>

Water conservation is cost effective on a per acre-foot cost for new water supply and it saves residents and businesses money when implementing conservation. At the same time, water conservation results in less revenue to the Water Utility.

The Water Supply Master Plan analysis has shown that investment beyond conservation and recycling is needed for a reliable water supply in the future, even with the most aggressive possible conservation targets. In order to meet the Board’s current water conservation targets, drought level participation must be maintained even in non-drought years. The water conservation targets are already included in the demand projections and therefore the portfolios being analyzed for the Water Supply Master Plan. While water conservation is a cost-effective new supply, depending on climate change impacts on demands, water conservation may not be sufficient to ensure a reliable supply in the future.

More information can be found online at [www.watersavings.org](http://www.watersavings.org).

**9. Is the San Jose direct potable purified water project funded?**

A: The San Jose Direct Potable Reuse (DPR) Phase 1 Demonstration Facility is validated, funded and included in the included in the CIP Draft FY 2025-29 Five-Year Plan. Preliminary cost projections for the San Jose DPR Phase 2 Full-Scale Facility are included in water utility rate projections in FY 2028-29 and beyond, although not included in the CIP Draft FY 2025-29 Five-Year Plan at this time.

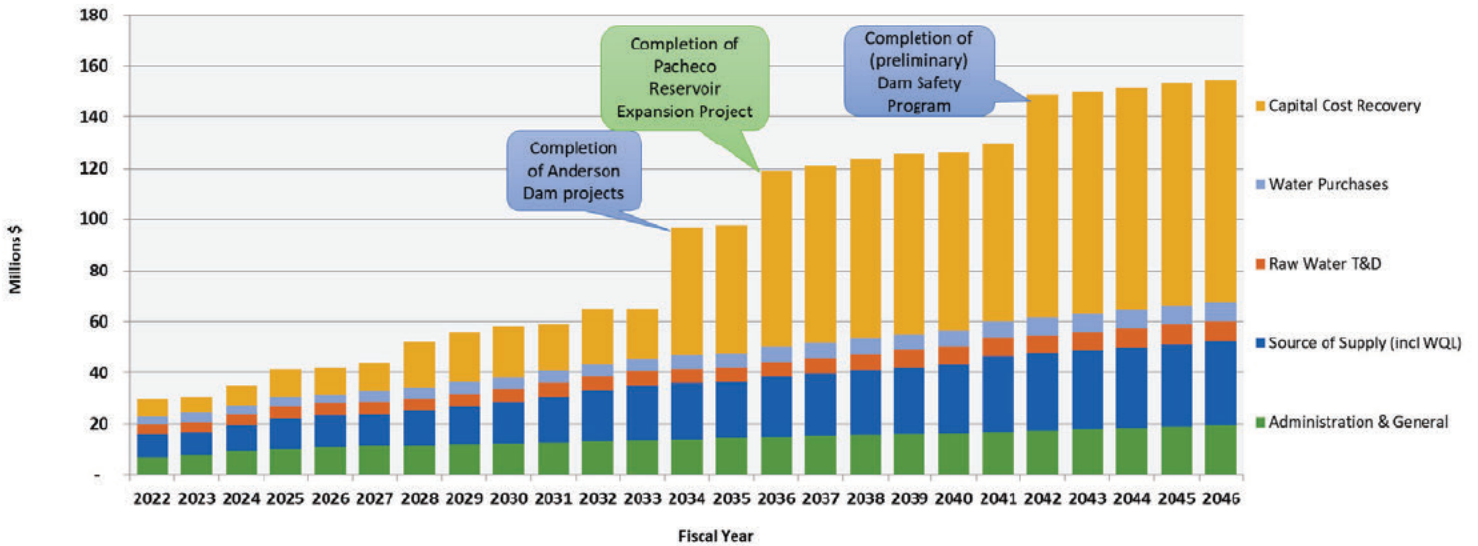
The Palo Alto Indirect Potable Reuse (IPR) Project was placed on the Unfunded Project list in the CIP Draft FY 2025-29 Five-Year Plan and will be reviewed and evaluated over the next 2 years.

**10. Is groundwater recapture being maximized?**

A: Per the District Act and SGMA, Valley Water is the Groundwater Sustainability Agency for the Santa Clara and Llagas subbasins. Valley Water responsibly manages the water supplies of the Santa Clara County by conjunctively managing the surface water and groundwater and has an effective managed aquifer recharge program using water from our ten local reservoirs and imported water. Several additional or expanded recharge facilities are being evaluated as part of the Water Supply Master Plan 2050 to increase recharge capacity and operational flexibility. In addition, Flood Managed Aquifer Recharge is also being evaluated as part of the Board’s no regret policy to recharge on agricultural or open lands.

**11. What happens to the South County cost projections after FY34?**

A: The South County cost projection graph has been extended beyond FY34 as shown in the graph below.



**12. Is the North County Zone W-2 M&I groundwater charge projected to increase by 12X in 11 years versus the FY 23 actual charge of \$1,724/AF?**

A: A 12X increase would mean a projected groundwater charge of \$20,688/AF in FY 34 which is not correct. Instead, the PAWS report reflects a North County groundwater charge of \$5,075 in FY 34.

**For North County Zone W-2 what is the contribution of the increase with and without Pacheco, Sisk, Los Vaqueros Expansion, and Delta Conveyance?**

A: See item 10.1 from the 3/26/24 Board meeting regarding the Long Range Financial Planning Models. Scenario 2 is the North County Zone W-2 groundwater charge projection without Pacheco, Sisk, LVE and Delta Conveyance. Scenario 6 includes all of those projects plus the impact of a San Jose Purified Water Program Phase 2 Full-Scale Facility project.

**What are the cost drivers of VW's groundwater charge projection?**

A: The key cost drivers of the long-term rate projection are large capital projects and investments in new water supply.



# MEMORANDUM

FC 14 (01-25-23)

**TO:** Board of Directors

**FROM:** Christopher Hakes  
Chief Operating Officer –  
Watersheds

**SUBJECT:** Requirements and Process for Land Rights  
Transfers

**DATE:** August 23, 2024

---

On August 8, 2024, Chair Hsueh shared that the Cupertino Creekside HOA had expressed interest in potentially dedicating land to Valley Water. Attached is a response letter that outlines the high-level requirements and process for land rights transfers to Valley Water.

A handwritten signature in black ink, appearing to read "Chris Hakes".

---

Christopher Hakes, P.E.  
Chief Operating Officer  
Watersheds

Enc: 0822a-I\_Valley Water Land Rights Transfer Ltr

August 22, 2024

Ms. Wendy Chung  
Board of Directors  
Cupertino Creekside HOA  
wendychung.creekside@gmail.com

**In re: Requirements and Process for Land Rights Transfers**

Dear Ms. Chung:

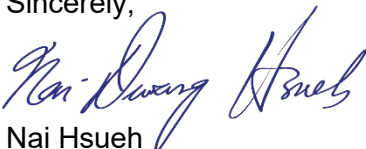
We thank you in advance for your interest in the possible dedication of HOA fee-owned property to the Santa Clara Valley Water District (Valley Water). Following receipt of a formal request to convey land, Valley Water staff will negotiate any terms with the HOA as applicable; prepare the necessary documentation, deeds, and agreements; and then the dedication may be accepted by the CEO (the District's Board of Directors Delegated Officer). Once again, we thank you for your interest in the land transfer process and look forward to working with you.

There are several steps involved regarding the transfer and acceptance of land rights to a government agency, and it is important to note that the process can be lengthy. The first step would be for Valley Water to assess whether the proposed dedication of land would provide an operational value. This assessment would include an internal review by our various business units, a risk vs. benefit analysis, and a site visit. In some cases, Valley Water may decide to not accept an offer of dedication for liability reasons.

If an operational benefit with minimal risk is determined through this preliminary analysis, Valley Water will request a variety of information from the HOA including a current title report; plat maps/legal descriptions prepared by a licensed land surveyor; a Phase 1 due diligence report, if available; and any applicable environmental document and information about the HOA (Covenants, Conditions & Restrictions).

Please contact Carlo Achdjian at [cachdjian@valleywater.org](mailto:cachdjian@valleywater.org) to get started on the land dedication process.

Sincerely,



Nai Hsueh  
Chair, Board of Directors

cc: C. Achdjian, J. Ham, L. Bankosh, J. Bourgeois  
as:jh  
0822a-l  
By email

**BOARD OF DIRECTORS**

John L. Varela (District 1)

Barbara F. Keegan (District 2)

Richard P. Santos / Vice Chair (District 3)

Jim Beall (District 4)

Nai Hsueh / Chair (District 5)

Tony Estremera (District 6)

Rebecca Eisenberg (District 7)

**CHIEF EXECUTIVE OFFICER**

Rick L. Callender, Esq.

**CLERK OF THE BOARD**

Michele L. King, CMC





# MEMORANDUM

FC 14 (01-25-23)

**TO:** Board of Directors

**FROM:** Sheryl Higa

**SUBJECT:** Risk Management Unit Communication

**DATE:** August 26, 2024

---

The purpose of this memorandum is to provide you a with copy of recent Risk Management staff's communication with parties/individuals that have filed a claim against Valley Water.

Please find the following:

- 1) July 18, 2024 - Claim Settlement letter to Jennifer L. Contos (District 2)
- 2) July 24, 2024 - Letter acknowledging receipt of claim to David Seiff and Laurie Faulkner (District 5)
- 3) August 1, 2024 - Claim Settlement letter to Dayna Ellsworth, Esq. Harris Personal Injury Lawyers, Inc. (District 3)
- 4) August 5, 2024 - Letter acknowledging receipt of claim to Robert Martinez, Esq., Estavillo Law Group attorney for Brigitte Rince and Mark Bolger (District 4)
- 5) August 14, 2024 - Letter acknowledging receipt of claim to Robert Liu (District 7)

For additional information, please contact me at 408-630-2213.

Signed by:

A handwritten signature in black ink that reads "Sheryl Higa".

3D3D2976019C4C1...  
Sheryl Higa  
Risk Manager  
Risk Management Unit



July 18, 2024

Jennifer L. Contos  
1596 Creek Drive  
San Jose, CA 95125

Re: Settlement – L2340020

Dear Ms. Contos:

Enclosed is the final settlement check regarding the above-mentioned claim. The total amount of the settlement is \$8,250.00.

On behalf of Valley Water, I apologize for any inconvenience this incident caused and thank you for your cooperation.

Sincerely,

DocuSigned by:

A handwritten signature in black ink that reads "Lilian Dennis".

A16A1D1E4675476...  
**Lilian Dennis**  
Management Analyst II  
Risk Management Unit

Enc: Settlement Check #515559

\*corrected letter\*





July 24, 2024

David Seiff and Laurie Faulkner  
20351 Claridge Court  
Saratoga, CA 95070

Re: Receipt of Claim – L2340021

Dear Mr. Seiff and Ms. Faulkner:

We received your claim regarding the property damage resulting from the oak tree that fell on January 30, 2024.

We are currently investigating the claim and will notify you of our findings.

If you have any questions, please don't hesitate to contact me at (408) 630-2652 or at [ldennis@valleywater.org](mailto:ldennis@valleywater.org)

Sincerely,

DocuSigned by:  
  
A16A1D1E4675476...  
**Lilian Dennis**  
Management Analyst II  
Risk Management Unit



# CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT California Government Code Sections 900 and following



<p><b>The completed form can be mailed, sent electronically or hand delivered. Mail or deliver to:</b></p> <p>Clerk of the Board Santa Clara Valley Water District-HQ 5700 Almaden Expressway San Jose, CA 95118</p> <p>Or submit the completed form electronically to: clerkoftheboard@valleywater.org</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">Clerk of the Board's Date Stamp</td> </tr> <tr> <td colspan="2" style="text-align: center;"><b>For SCVWD Use Only</b></td> </tr> <tr> <td style="width: 50%;">Date Received: <span style="color: red;">7/23/24</span></td> <td style="width: 50%; text-align: center;"><b>ROUTING</b></td> </tr> <tr> <td><input type="checkbox"/> Via U.S. Mail</td> <td><input checked="" type="checkbox"/> CEO</td> </tr> <tr> <td><input type="checkbox"/> Hand Delivered</td> <td><input checked="" type="checkbox"/> District Counsel</td> </tr> <tr> <td><input checked="" type="checkbox"/> Email</td> <td><input checked="" type="checkbox"/> Risk Management</td> </tr> <tr> <td><input type="checkbox"/> Other: _____</td> <td><input checked="" type="checkbox"/> COB</td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/> BOD (District #): <span style="color: red;">5</span></td> </tr> </table>	Clerk of the Board's Date Stamp		<b>For SCVWD Use Only</b>		Date Received: <span style="color: red;">7/23/24</span>	<b>ROUTING</b>	<input type="checkbox"/> Via U.S. Mail	<input checked="" type="checkbox"/> CEO	<input type="checkbox"/> Hand Delivered	<input checked="" type="checkbox"/> District Counsel	<input checked="" type="checkbox"/> Email	<input checked="" type="checkbox"/> Risk Management	<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> COB		<input checked="" type="checkbox"/> BOD (District #): <span style="color: red;">5</span>
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**With certain exceptions, claims for personal injury or property damage MUST be filed within six months of the incident giving rise to the claim. Claimant must complete each section. If information is unknown, write "unknown" in the appropriate box. Please use additional pages if necessary. Please attach itemized receipts, witness statements, photos and all other documentation that you believe will be helpful to process your claim. Claimant MUST sign and date the form; see last page.**

Name of Claimant: <b>DAVID SEIFF &amp; LAURIE FAULKNER</b>		Email Address: <b>DWSEIFF@GMAIL.COM</b>	
Address of Claimant: 20351 Claridge Court,		City: Saratoga	State: CA
Address to which Notices should be sent, if different from above:		City:	State: Zip:
Home Phone Number:	Cell Phone Number: 408-921-0917	Work Phone Number:	
Is this claim being filed on behalf of a minor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If so, please indicate minor's date of birth: Relationship to the minor:	
Date and time of incident or loss: Jan. 30, 2024 around 7:35 pm	Location of incident or loss (address): Rodeo Creek behind 20351 Claridge Ct., Saratoga, CA	Is there a police report? <input type="checkbox"/> Yes    If Yes, Police Report Case #: <input checked="" type="checkbox"/> No	

Describe how the incident or loss happened, and the reason you believe the Santa Clara Valley Water District is responsible for your damages (*Please attach additional sheets if necessary*):

Huge Oak Tree on SCVWD property fell 1/2 on neighbor's property and then the other half on my property about 6 hours later.

On Jan. 30, 2024 at about 1:45 pm I saw a huge oak tree on Rodeo Creek split in half and one half fall away from my property across the creek. The other half remained standing. I immediately reported this to SCVWD through their website portal and was assigned case #AVW-013622. I also called and left a VM to this effect. In my report, I noted the other half may fall on my property at any time.

About 7:35 pm that same evening, the other half of the tree fell onto my yard damaging my property. I again reported to SCVWD through their portal at about 9:00 pm and was assigned case #AVW-013627. I was contacted the next morning in response to the first report but it was too late to do anything except clean-up.

**CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT  
California Government Code Sections 900 and following**



In detail, describe the damage or injury (*Please attach additional sheets if necessary*):

Tree fell onto my Tuff Shed in the backyard damaging the shed, landscape, 20' privots, bushes and fence. Sprinkler system was also damaged. Lawn was damaged by clean-up and some additional bushes were partially and totally pulled out, exposing roots.

SCVWD cleaned up the mess, and repaired the fence.

List Name(s) and contact information of any witness(es) or District employee involved (if any):

Contact: Ray Scott Bramer, SCVWD 408-630-2413 and numerous witnesses, workers saw the damage during clean-up.

**DAMAGES CLAIMED:** Basis for computation of amounts claimed (include copies of bills, invoices, estimates, receipts, photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need not fill in an amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to \$25,000) or Unlimited jurisdiction of the Superior Court.

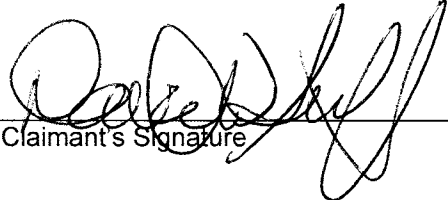
Is the amount of the claim under \$10,000?  Yes  No  
 Court Jurisdiction: (Check One)  Limited Civil  Unlimited Civil

ITEMS	CLAIM AMOUNT
1. shed repair	\$ 1,026
2. new landscape necessary to replace damaged and destroyed plants, including removal	\$
3. of stumps, uprooted plants, etc. sprinkler system repair as needed.	\$ 7,550
4.	\$
<b>TOTAL AMOUNT</b>	<b>\$ 8,576</b>

**WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE OR FRAUDULENT CLAIM (Penal Code Section 72 and 550)**

I have read the matters and statements made in the above claim and I know the same to be true of my own knowledge, except to those matters stated upon information and belief and as to such matters I believe the same to be true. I certify under penalty of perjury that the foregoing is TRUE and CORRECT.

Signed this 23RD day of July, 20 24

  
 Claimant's Signature

Government Code Section 945.6 provides that, with limited exceptions, any suit brought against a public entity must be commenced:

- (1) If written notice is given of a denial of claim in accordance with **Section 913**, not later than six months after the date such notice is personally delivered or deposited in the mail.
- (2) If written notice is not given of a denial of claim in accordance with **Section 913**, within two years from the accrual of the cause of action.

# AJ'S Bay Area Construction

# Invoice

Number: INV0085  
Date: Mar 22, 2024  
Due date: On receipt

Bill to:  
**Lauri Faulkner**

Invoice From:  
**AJ'S Bay Area Construction**  
208 cannikin ct.  
408-417-5486

DESCRIPTION	QUANTITY	UNIT PRICE	TAX	AMOUNT
<b>Tuff shed roof repair</b> There is damage to the roof of shed a tree fell on roof I will repair with the material needed to repair. Flashing, shingles, wood repair and paint. I will provide the material.	1	\$950.00	8.0 %	\$950.00
		SUBTOTAL		\$950.00
		TAX (TAX)		\$76.00
		TOTAL		\$1,026.00
		PAID		\$0.00
		<b>BALANCE DUE</b>		<b>\$1,026.00</b>

Repair Estimate from Nate Fielding, Earthscape Gardens

Cal. Lic. # 1013596

650-316-0073

[Natefielding@earhscapegardens.com](mailto:Natefielding@earhscapegardens.com)

Nate Fielding

From: natefielding@earhscapegardens.com

To: david seiff,

Nate Fielding

Cc: laurie faulkner

Mon, Jun 24 at 8:04 PM

Scope

- Demo - Remove designated patch of privets, including roots/stumps.
  - Prune other privets to clean up a bit after the tree fell.
  - Along back fence, goal is to get evergreen privacy back.
  - Planting (3) 24" box shrubs/trees - along back fence - Privet
  - Plants planted with soil amendment and fertilizer.
  - Irrigation - Utilize existing irrigation zone with sprinklers.
  - Bubblers - Tap into 1 sprinkler by fence, and install bubblers to each new shrub/tree from that same zone. Check and adjust the rest of that zone.
- Extra if we need to add irrigation valve or make any other repairs on that existing zone.

Budget

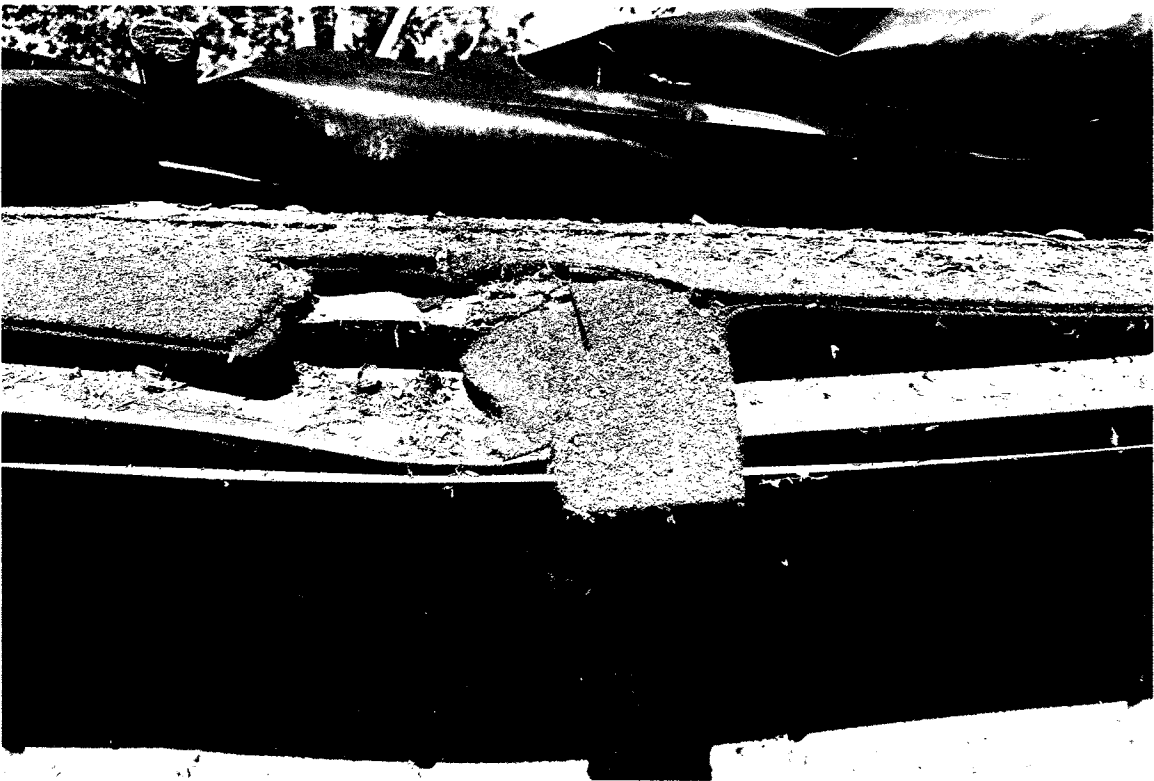
- Dump fees - \$750
- (3) 24" box trees - \$900
- Soil amendment and fertilizer - \$900
- Irrigation pipe and bubblers - \$1,200
- Labor - 40 man hrs - \$3,800

**Total Budget - \$7,550**

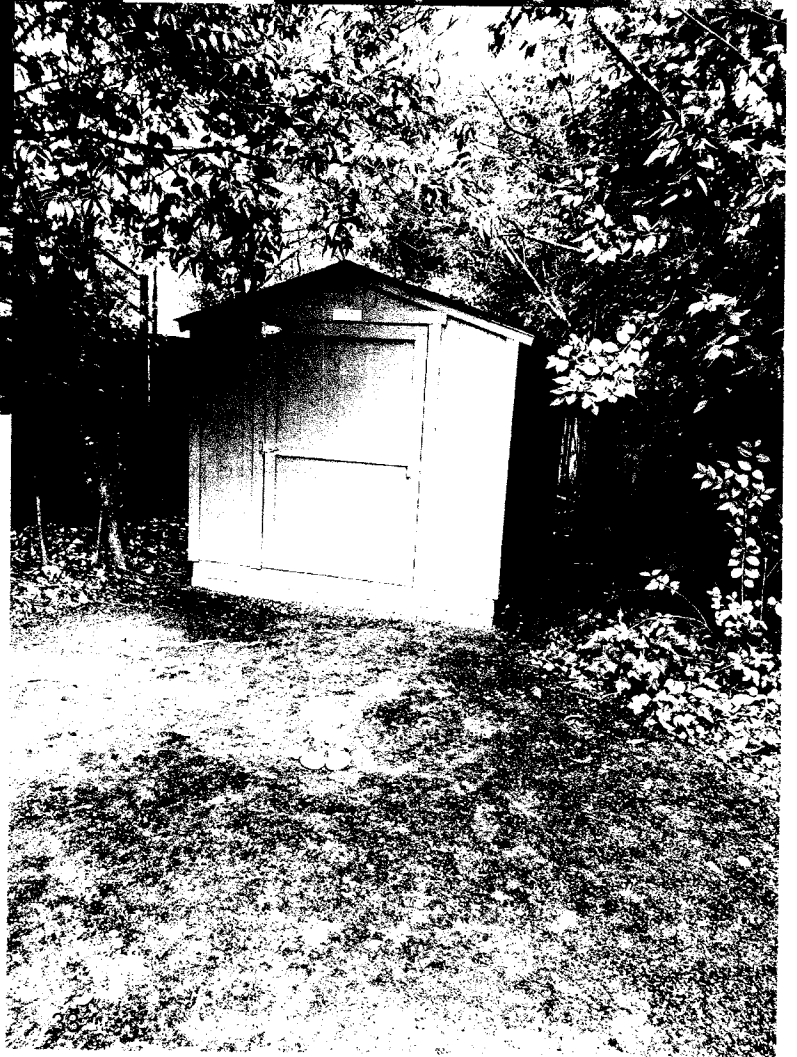


Feb. 2024





Shed Roof damage



Pre damage →



Clean Water • Healthy Environment • Flood Protection

August 1, 2024

Dayna Ellsworth, Esq.  
Harris Personal Injury Lawyers, Inc.  
55 S. Market St. Suite 1010  
San Jose, CA 95113

Re: Settlement – L1890021

Dear Ms. Ellsworth:

Enclosed is the final settlement check in the amount of \$600,000.00 payable to Harris Personal Injury Lawyers, Inc. and Deanna Lacy and Kara Quirke.

Sincerely,

DocuSigned by:  
  
A16A1D1E4675476...

Lilian Dennis  
Management Analyst II  
Risk Management Unit

Enc: Settlement Check #516200





August 5, 2024

Robert Martinez, Esq.  
Estavillo Law Group  
555 12th Street, Suite 1280  
Oakland, CA 94607

Re: Receipt of Claim – L2340022

Dear Mr. Martinez:

We are in receipt of the claim filed on behalf of your clients, Brigitte Rince and Mark Bolger.

We are currently investigating the claim and will notify you of our findings.

If you have any questions, please don't hesitate to contact me at (408) 630-2652 or at [ldennis@valleywater.org](mailto:ldennis@valleywater.org).

Sincerely,

DocuSigned by:  
  
A16A1D1E4675476...  
**Lilian Dennis**  
Management Analyst II  
Risk Management Unit





# CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT

## California Government Code Sections 900 and following

<p><b>The completed form can be mailed, sent electronically or hand delivered. Mail or deliver to:</b></p> <p>Clerk of the Board          Santa Clara Valley Water District-HQ          5700 Almaden Expressway          San Jose, CA 95118</p> <p>Or submit the completed form electronically to:  <a href="mailto:clerkoftheboard@valleywater.org">clerkoftheboard@valleywater.org</a></p>	<p style="text-align: center;">Clerk of the Board's Date Stamp</p> <hr/> <p style="text-align: center;"><b>For SCVWD Use Only</b></p> <p>Date Received: <span style="color: red;">8/1/24</span></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"><input type="checkbox"/> Via U.S. Mail</td> <td style="width: 50%;"><input checked="" type="checkbox"/> <b>ROUTING</b></td> </tr> <tr> <td><input type="checkbox"/> Hand Delivered</td> <td><input checked="" type="checkbox"/> CEO</td> </tr> <tr> <td><input checked="" type="checkbox"/> Email</td> <td><input checked="" type="checkbox"/> District Counsel</td> </tr> <tr> <td><input type="checkbox"/> Other: _____</td> <td><input checked="" type="checkbox"/> Risk Management</td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/> COB</td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/> BOD (District #): <span style="color: red;">4</span></td> </tr> </table>	<input type="checkbox"/> Via U.S. Mail	<input checked="" type="checkbox"/> <b>ROUTING</b>	<input type="checkbox"/> Hand Delivered	<input checked="" type="checkbox"/> CEO	<input checked="" type="checkbox"/> Email	<input checked="" type="checkbox"/> District Counsel	<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> Risk Management		<input checked="" type="checkbox"/> COB		<input checked="" type="checkbox"/> BOD (District #): <span style="color: red;">4</span>
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***With certain exceptions, claims for personal injury or property damage MUST be filed within six months of the incident giving rise to the claim. Claimant must complete each section. If information is unknown, write "unknown" in the appropriate box. Please use additional pages if necessary. Please attach itemized receipts, witness statements, photos and all other documentation that you believe will be helpful to process your claim. Claimant MUST sign and date the form; see last page.***

Name of Claimant: Brigitte Rince and Mark Bolger		Email Address: robert@estavillolaw.com	
Address of Claimant: 6411 El Pato Court	City: Carlsbad	State: CA	Zip: 92009
Address to which Notices should be sent, if different from above: Estavillo Law Group, 555 12th Street, Suite 1280	City: Oakland	State: CA	Zip: 94607
Home Phone Number: (510) 982-3001	Cell Phone Number: (510) 982-3001	Work Phone Number: (510) 982-3001	
Is this claim being filed on behalf of a minor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If so, please indicate minor's date of birth: Relationship to the minor:	
Date and time of incident or loss: May 15, 2024 = Close of Escrow	Location of incident or loss (address): 967 Chynoweth Ave, San Jose, CA 95136	Is there a police report? <input checked="" type="checkbox"/> Yes    If Yes, Police Report Case #: 24-036-0159; 24-033-00308 <input type="checkbox"/> No	

Describe how the incident or loss happened, and the reason you believe the Santa Clara Valley Water District is responsible for your damages *(Please attach additional sheets if necessary)*:

See Attachment 1.



**CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT  
California Government Code Sections 900 and following**

In detail, describe the damage or injury (*Please attach additional sheets if necessary*):

See Attachment 1

List Name(s) and contact information of any witness(es) or District employee involved (if any):

1. Brigitte Rince and Mark Bolger, who may be contacted through their attorneys, Estavillo Law Group, 555 12th Street, Suite 1280, Oakland, CA 94607, (510) 982-3001;
2. Gregg Fussell, gregg.fussell@cbnorcal.com, (408) 857-0957;
3. Robyn Powers, robyn.powers@cbnorcal.com, (408) 528-3785;
4. Captain Steve Donohue, SJPD, Stephen.Donohue@sanjoseca.gov; (continued on Attachment 1)

**DAMAGES CLAIMED:** Basis for computation of amounts claimed (include copies of bills, invoices, estimates, receipts, photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need not fill in an amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to \$25,000) or Unlimited jurisdiction of the Superior Court.

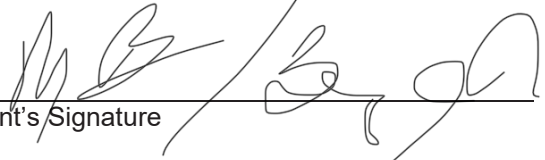
Is the amount of the claim under \$10,000?       Yes                       No  
 Court Jurisdiction: (Check One)               Limited Civil               Unlimited Civil

ITEMS	CLAIM AMOUNT
1. Difference between amount Property sold for v. amount Property would have sold for but for Valley Water's conduct	\$ 300,000
2.	\$
3.	\$
4.	\$
<b>TOTAL AMOUNT</b>	<b>\$ 300,000</b>

**WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE OR FRAUDULENT CLAIM (Penal Code Section 72 and 550)**

I have read the matters and statements made in the above claim and I know the same to be true of my own knowledge, except to those matters stated upon information and belief and as to such matters I believe the same to be true. I certify under penalty of perjury that the foregoing is TRUE and CORRECT.

Signed this 25th day of July, 2024

  
 Claimant's Signature

Government Code Section 945.6 provides that, with limited exceptions, any suit brought against a public entity must be commenced:

- (1) If written notice is given of a denial of claim in accordance with **Section 913**, not later than six months after the date such notice is personally delivered or deposited in the mail.
- (2) If written notice is not given of a denial of claim in accordance with **Section 913**, within two years from the accrual of the cause of action.

August 1, 2024

Via Email and US Mail

Clerk of the Board  
Santa Clara Valley Water District—HQ  
5700 Almaden Expressway  
San Jose, CA 95118  
[clerkoftheboard@valleywater.org](mailto:clerkoftheboard@valleywater.org)

**Re: Brigitte Rince & Mark Bolger v. Santa Clara Valley Water District**  
**Our Clients: Brigitte Rince & Mark Bolger**  
**Subject Property: 967 Chynoweth Ave., San Jose, CA 95136**  
**Date of Loss: May 15, 2024**

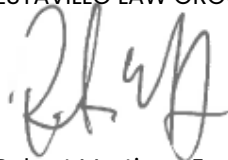
Dear Sir or Madam,

This firm has been retained by Mark Bolger and Brigitte Rince to pursue legal action against Santa Clara Valley Water District. Please allow this correspondence and enclosures to serve as our clients' government claim pursuant to Government Code §§ 900, *et seq.*

We look forward to working with you in reaching an amicable resolution. Should you have any questions please feel free to contact me [robert@estavillolaw.com](mailto:robert@estavillolaw.com).

Respectfully,

ESTAVILLO LAW GROUP



Robert Martinez, Esq.

Encl.

Santa Clara Valley Water District Claim Form  
Attachment 1  
Exhibit A – Photographs: Views from Subject Property, Unhoused and Encampments  
Exhibit B – Photographs: Subject Property  
Exhibit C – Comparative Sales Analysis of Erikson Neighborhood (1/1/24-6/13/24)  
Declaration of Gregg Fussell & Comparative Sales Analysis (1/14/24-5/13/24)  
Declaration of Robyn McKeon Powers

1 **ATTACHMENT 1**

2

3 **I. Describe how the incident or loss happened, and the reason you believe the Santa**

4 **Clara Valley Water District is responsible for your damages (cont.)**

5 **A. Background**

6 For over 20 years, Mark Bolger and Brigitte Rince lived in the Erikson community, at 967

7 Chynoweth Ave. Their home was the very last house at the end of Chynoweth Ave. It shares a fence

8 line with Valley Water property and had (what used to be) beautiful views of the percolation ponds

9 and the Guadalupe River Trail. An aerial photograph is below.



18

19 In recent years, however, Valley Water has allowed unhoused persons to inhabit, deface, and

20 misuse its property, as well as Mark and Brigitte’s neighboring property. Valley Water’s unheeded

21 policies and the free rein given to its unhoused guests to occupy and destroy the area undoubtedly

22 caused a drastic decline in the value of Mark and Brigitte’s home.

23

24 **B. Santa Clara Valley Water District’s Liability**

25 Properties that are of significant deterioration and attract vagrants as a prime location to

26 conduct their criminal activities—like that of Valley Water’s neighboring property—cause instability

27 and deterioration and substantially endanger the health and safety of residents of the surrounding

28 neighborhood. The accumulation of filth, litter, garbage, dirty needles, shopping carts, encampments,

1 unsanitary debris, waste material, and human excrement on Valley Water property further constitutes  
2 a nuisance prohibited by law.

3 Valley Water’s unhoused guests are engaged in theft, arson, prostitution, the possession and  
4 use of drugs, and other criminal activity—not only on Valley Water property but on the private  
5 properties of our Clients and their neighbors in the Erikson community. Your homeless guests  
6 knocked down Mark and Brigitte’s gate and front door on several occasions and broke into the  
7 home.<sup>1</sup> They have stolen water and electricity from Mark and Brigitte and their neighbors’ homes.<sup>2</sup>  
8 They yell at all hours of the day and night. They have started wildfires, discarded used needles and  
9 hazardous materials, destroyed trees and vegetation, and sullied the previously beautiful views from  
10 Mark and Brigitte’s home with graffiti, encampments, piles of trash, shopping carts, and human  
11 waste.

12 Mark and Brigitte have pleaded for help from Valley Water on several occasions with no  
13 action by the water district other than exchanging condolences over email. While there have been  
14 talks and “plans” to keep the area clear of encampments, crime, fires, water pollution, and related  
15 nuisances, there has been no visible action by Valley Water to do so. Contracting with San Jose PD to  
16 conduct mere monthly check-ins has proven to be inadequate to stop and deter these issues. Because  
17 of Valley Water’s failure to take action, Mark and Brigitte no longer felt safe in their community and  
18 were compelled to sell the Property.

19  
20 **II. In detail, describe the damage or injury (cont.)**

21 Mark and Brigitte’s damages are \$300,000, which represents the difference between the  
22 amount that the Property sold for and the amount that the Property would have sold for but for Valley  
23 Water’s allowance of the aforementioned issues on its neighboring property.

24 The subject Property at 967 Chynoweth Ave is a 1572 sqft home with 4 bedrooms, 2  
25 bathrooms, on a 10,735 sqft. lot with a swimming pool. It had a newly remodeled open kitchen with  
26 all new stainless-steel appliances and custom cabinets, remodeled bathroom, a tankless water heater,  
27

28 <sup>1</sup> Valley Water previously denied two claims (L2340008 and L2340009) regarding the reimbursement for the broken door and gate. This is *not* a resubmission of those claims but is only stated herein for context.

<sup>2</sup> See Exhibit A: Views of Unhoused and Encampments from Subject Property.

1 new copper plumbing throughout, newer A/C and furnace, a PebbleTec pool, gazebo and pergola  
2 sundeck, among several other high value selling points.<sup>3</sup>

3 In previous years when Valley Water maintained the percolation ponds and creek area and  
4 there were no encampments, crime, or filth, living in close proximity to the ponds and trails was a  
5 favorable selling feature. Being close to this area was a feature on most realtor marketing materials,  
6 along with photos overlooking the ponds with birdlife and fish in the creek.<sup>4</sup> Reputable realtors with  
7 expertise in the Erikson community will testify that, but for the encampments, noise, vandalism, and  
8 pollution from the unhoused on Valley Water's adjacent property, Mark and Bridgitte's home would  
9 have seen multiple offers between \$1.6m - \$1.7m. This, too, is supported by recent comparative sales.

10 On or about February 15, 2024, based on recent comps in the area and with the guidance of an  
11 experienced brokerage, the Property was listed for sale for \$1,580,000.00 (= \$1,005 per sf).

12 The subject Property was on the market for 65 days, which was significantly longer than the  
13 8.28-day average for other homes in a 0.8-mile radius *without* a view of the homeless.<sup>5</sup> Mark,  
14 Brigitte, and their realtor, Gregg Fussell, witnessed the negative impact that the view of the unhoused  
15 on Valley Water's neighboring property had on several potential buyers.<sup>6</sup> They saw prospective  
16 buyers park in front of Mark and Brigitte's home, look at the encampments across the pond, then turn  
17 away and leave. They saw the troubled looks on the faces of prospective buyers after witnessing the  
18 overrun of encampments from the windows and the backyard of the Property.

19 While the Property was on the market, an unhoused couple broke into the Property and spent  
20 the night there. Two days later, the same thing happened. Mark and Brigitte had to include the  
21 following statement in the disclosures: "There are unhoused persons in the area, they made entry into  
22 the house on two occasions, alarm system has been installed."<sup>7</sup>

23 With 65 days on the market, the home received one single offer. The house sold on May 15,  
24 2024 for \$1,350,000 (= \$859 per sf), from the sole offer.

---

25  
26 <sup>3</sup> See Exhibit B: Photos of the Subject Property.

27 <sup>4</sup> See Declaration of Robyn McKeon Powers, ¶ 12.

28 <sup>5</sup> See Declaration of Gregg Fussell, ¶¶ 3-4; See also Exhibit C: Comparable Sales in Erikson Neighborhood showing average time on the market of 6.77 days, excluding the subject Property.

<sup>6</sup> See Declaration of Gregg Fussell, ¶¶ 5-6.

<sup>7</sup> See Declaration of Gregg Fussell, ¶¶ 7-8.

Below is a breakdown demonstrating the sale of the Property below market value.

Comps for Homes in 0.8-mile radius from 1/14/2024 – 5/13/2024:<sup>8</sup>

Address	Bed	Bath	DOM	SqFt	\$ per SqFt	Lot Size	Sale Price	Sold Over/ Below Asking
4425 Lynfield Lane	3	2 0	6	1,486	\$1,248.32	6,098 sf	\$1,855,000	Over
890 Mulcaster Ct	4	2 0	8	1,794	\$947.60	9,000 sf	\$1,700,000	Over
612 Banta Court	4	2 0	9	1,553	\$1,054.73	6,240 sf	\$1,638,000	Over
4378 Heppner Lane	4	2 1	5	2,039	\$796.96	7,841 sf	\$1,625,000	Over
1034 Rawlings Drive	4	2 1	4	1,514	\$1,063.41	6,000 sf	\$1,610,000	Over
4877 Fell Ave	3	2 0	13	1,192	\$1,325.50	6,111 sf	\$1,580,000	Over
611 Calpella Drive	4	2 0	13	1,640	\$953.05	5,663 sf	\$1,563,000	Over
<b>AVERAGE</b>			<b>8.28</b>	<b>1,602.5</b>	<b>\$1,055.65</b>	<b>6,707 sf</b>	<b>\$1,653,000</b>	-

<b>967 Chynoweth Ave</b>	<b>4</b>	<b>2 0</b>	<b>65</b>	<b>1,572</b>	<b>\$858.78</b>	<b>10,735 sf</b>	<b>\$1,350,000</b>	<b>Below</b>
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Comps for Homes in Erikson neighborhood from 1/1/24 – 6/13/2024:<sup>9</sup>

Address	Bed	Bath	DOM	SqFt	Lot Size	Sale Price
4895 Tonino Drive	4	2 1	8	2,354	6,098 sf	\$1,801,000
4894 Tonino Drive	4	2 1	5	2,354	5,663 sf	\$1,785,000
1034 Rawlings Drive	4	2 1	4	1,514	6,000 sf	\$1,610,000
4639 Hampton Falls	3	2 1	7	2,049	2,049 sf	\$1,470,000
4728 Corrales Drive	3	2 0	7	1,192	6,098 sf	\$1,415,099
<b>AVERAGE</b>			<b>6.2</b>	<b>1,892</b>	<b>5,181.6 sf</b>	<b>\$1,616,220</b>

<b>967 Chynoweth Ave</b>	<b>4</b>	<b>2 0</b>	<b>65</b>	<b>1,572</b>	<b>10,735 sf</b>	<b>\$1,350,000</b>
--------------------------	----------	------------	-----------	--------------	------------------	--------------------

<sup>8</sup> See Comparative Market Analysis attached to Declaration of Gregg Fussell.

<sup>9</sup> See Exhibit C, Comparable Sales in Erikson Neighborhood.

1 Local realtor Robyn McKeon was involved in the comparative sale of 1034 Rawlings Drive, a  
2 4-bed/2.5-bath, 1514 sf home on a 6,000 sf lot in the Erikson neighborhood.<sup>10</sup> Ms. McKeon will  
3 attest that the close proximity of Mark and Brigitte’s home to the encampments on your property and  
4 the visibility of the encampments from their home, as well as the noise from the unhoused guests on  
5 your property, had a detrimental impact on the desirability and sale of their home.<sup>11</sup>

6 The overwhelming evidence demonstrates that Mark and Brigitte’s Property would have and  
7 should have received multiple offers over asking price during the robust spring market with a strong  
8 neighborhood demand, likely between \$1.6m and \$1.7m. Without question, Valley Water’s  
9 neglected property overrun by encampments and permissible trash, blight, and criminal activity was a  
10 direct and proximate cause of the diminished value of their Property.

11 **Mark and Brigitte hereby demand \$300,000 to compensate them for their loss.** This  
12 amount represents the difference between the \$1.35m that the Property actually sold for and the  
13 amount that the Property would have sold for but for Valley Water’s allowance of the aforementioned  
14 issues on its neighboring property.

15  
16 **III. List Names and contact information of any witness(es) or District employee involved**  
17 **(cont.)**

- 18 5. SJPD, Street Crimes Unit, (408) 277-4631;
- 19 6. Officer Dutra (#5092), SJPD;
- 20 7. Rod and Kathy Jensen, 928 Chynoweth Ave., San Jose, CA 95136, (831) 601-0955;
- 21 8. Lilian Dennis, Management Analyst II, Valley Water, [ldennis@valleywater.org](mailto:ldennis@valleywater.org), (408) 630-2652;
- 22 9. Jim Beall, Director District 4, Valley Water, [board@valleywater.org](mailto:board@valleywater.org);
- 23 10. Rick Callender, CEO, Valley Water, [rcallender@valleywater.org](mailto:rcallender@valleywater.org), (408) 406-5203;
- 24 11. Jennifer Codianne, Valley Water, [JCodianne@valleywater.org](mailto:JCodianne@valleywater.org);
- 25 12. Mark Bilski, Assistant Operating Officer, Valley Water, [MBilski@valleywater.org](mailto:MBilski@valleywater.org).

26  
27  
28 <sup>10</sup> See Declaration of Robyn McKeon Powers, ¶¶ 3-10.  
<sup>11</sup> See Declaration of Robyn McKeon Powers, at ¶¶ 9-10.

# **EXHIBIT A**

**Unhoused person stealing water from neighbor's front yard**



**Views of Tents/Encampments from Mark & Brigitte's Property**



**Views of Tents/Encampments from Mark & Brigitte's Property**



# **EXHIBIT B**



**Exhibit B**





















**Exhibit B**



**Exhibit B**



























## Cross Property Agent 1 Line

	S	MLS #	Street Address	Price	DOM	Bds	Bths	SqFt	Lot Size	Postal City	Class	Age
1	S	<a href="#">ML81961998</a>	4895 Tonino Drive	\$1,801,000	8	4	2 1	2,354	6,098	Lot SqFt San Jose	Res. Single Family	59
2	S	<a href="#">ML81961830</a>	4894 Tonino Drive	\$1,785,000	5	4	2 1	2,354	5,663	Lot SqFt San Jose	Res. Single Family	57
3	S	<a href="#">ML81951671</a>	1034 Rawlings Drive	\$1,610,000	4	4	2 1	1,514	6,000	Lot SqFt San Jose	Res. Single Family	61
4	S	<a href="#">ML81955765</a>	4639 Hampton Falls Place	\$1,470,000	7	3	2 1	2,049	2,049	Lot SqFt San Jose	Res. Townhouse	31
5	S	<a href="#">ML81958527</a>	4728 Corrales Drive	\$1,415,099	7	3	2 0	1,192	6,098	Lot SqFt San Jose	Res. Single Family	54
6	S	<a href="#">ML81953686</a>	967 Chynoweth Avenue	\$1,350,000	65	4	2 0	1,572	10,735	Lot SqFt San Jose	Res. Single Family	54
7	S	<a href="#">ML81959829</a>	4762 Eagle Lake Drive	\$1,280,000	8	2	2 0	1,056	3,485	Lot SqFt San Jose	Res. Single Family	49
8	S	<a href="#">ML81962213</a>	4641 Hampton Falls Place	\$1,234,000	5	2	2 1	1,805		Lot SqFt San Jose	Res. Townhouse	31
9	S	<a href="#">ML81960657</a>	4635 Hampton Falls Place	\$1,220,000	8	2	2 1	1,805		Lot SqFt San Jose	Res. Townhouse	31
10	S	<a href="#">ML81965930</a>	872 Corte De Blanco	\$1,005,000	9	2	2 0	1,056	3,049	Lot SqFt San Jose	Res. Single Family	49

### Exhibit C

Comps for Erikson Neighborhood from 1/1/24 - 6/13/24

**DECLARATION OF ROBYN MCKEON POWERS**

I, Robyn McKeon Powers, hereby declare as follows:

1. I am a licensed California Realtor and have been licensed since 2003.

2. I work in primarily in Santa Clara County and in my personal neighborhood of Erikson in San Jose, boarded by Branham Ln, Pearl Ave, Hwy 85 and Guadalupe Creek.

3. In February 2024, I sold a property in Erikson neighborhood, 1034 Rawlings Dr, a 4bed/2.5bath, 1514 square foot (“sf”) home on a 6000+/- lot. The home was nicely updated. The list price was \$1,399,000 and we went into contract within 4 days for \$1,610,000 with 4 offers. Escrow closed on February 28, 2024. The sales price achieved was \$1,063 per sf.

4. During the open house, potential buyers commented on our quiet location within the neighborhood and comfortable distance from Guadalupe Creek and the visible unhoused encampments. Some commented on their concerns about the number of tents under Hwy 85 and along the once well utilized bike trail.

5. The proximity of encampments has become a Real Estate disclosure to potential buyers.

6. Whilst I was not involved with the listing nor the sale of Mark and Bridget’s property on Chynoweth Ave, I am familiar with its location and the potential saleability of the home.

7. The home is slightly larger but generally in comparable overall condition to my listing, with some remodeling and a significantly larger backyard (0.24ac lot) with a well-appointed swimming pool, paved patio area, and side gazebo.

8. The home is located at the end of Chynoweth Ave at the percolation ponds, with the city bike trail and Guadalupe Cr to the full side boundary of the property.

9. I am aware, along with other neighbors/residents, of the growing number of unhoused living in the creek and surrounding pathways. There are frequent reports on our neighborhood Facebook group of unhoused accessing water and electricity without permission from properties bordering the creek. This issue along with fires, noise, exploding gas bottles, trash/shopping carts blocking the creek, and destruction of trees/plants along the creek, etc. are regular topics of discussion with city, water district and police officials at our general meetings and by personal emails from residents.

1 10. In my opinion, the close proximity of Mark and Brigitte’s home to these encampments and  
2 the visibility of the encampments from their home and yard, along with the noise from the  
3 encampment residents, had a detrimental impact on the desirability and eventual sale of their home.  
4 This is also reinforced by the length of time on market compared to other listings (67 days vs the  
5 average of 6.7 days) and the much-reduced sales price.

6 11. In my opinion and based on recent sales, the home should have seen offers between \$1.6m -  
7 \$1.7m and could have sold at the higher end with strong neighborhood demand during a robust spring  
8 market.

9 12. As a footnote, in previous years when the percolation ponds and creek area were maintained  
10 by the water district and city, and there was no public camping, being close to this area was a selling  
11 feature—being able to easily access the bike/walking trail featured on most realtor marketing  
12 materials along with photos overlooking the ponds with birdlife and fish in the creek.

13 I declare under the penalty of perjury under the laws of the State of California that the  
14 foregoing is true and correct.

15 Executed this 14 day of June, 2024, at San Jose, California.

16  
17 *Robyn M Powers*

18  
19 **Robyn McKeon Powers**  
20 Realtor, CDPE, RCS-D, SFR

Title	20240614_Declaration_Powers.pdf
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Document ID	0eb8a8d0df9b30e7c65f44d0595edea97e8d2259
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### Document History



**06 / 14 / 2024**  
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IP: 72.219.106.121



**06 / 15 / 2024**  
00:15:37 UTC

Viewed by Robyn Powers (robyn.powers@cbtnorcal.com)  
IP: 152.39.163.229



**06 / 15 / 2024**  
00:19:59 UTC

Signed by Robyn Powers (robyn.powers@cbtnorcal.com)  
IP: 174.160.1.141



**06 / 15 / 2024**  
00:19:59 UTC

The document has been completed.

1 **DECLARATION OF GREGG FUSSELL**

2 I, Gregg Fussell, hereby declare as follows:

3  
4 1. My proper name is Martin Gregory Fussell, but I address myself as Gregg Fussell. I am a  
5 California licensed real estate salesperson. I have held my California real estate license since 2008  
6 and have primarily practiced real estate sales since 2010. I am affiliated with Coldwell Banker  
7 Realty (“Coldwell Banker”) out of its San Jose, California branch office. Coldwell Banker was the  
8 listing broker, and I was the listing agent, that represented Mark Bolger and Brigitte Rince in the sale  
9 of their home, the Property, this year.

10  
11 2. The subject property is 967 Chynoweth Ave., San Jose, CA 95136 (“Property”). The Property  
12 dwelling was approximately 1,572 square feet with 4 bedrooms and 2 bathrooms, a lot size of  
13 approximately 10,735 square feet, and had a swimming pool. The kitchen and the guest bathroom had  
14 been recently remodeled and it had a tankless water heater, newer A/C and furnace, a gazebo,  
15 pergola, and PebbleTec pool, among other selling features.

16  
17 3. Attached is a Quick Summary of Comparable Properties report (the “Report”) that I prepared  
18 from the Multiple Listing Service. The first page of the Report shows properties listed from January  
19 14, 2024 to May 14, 2024, with a distance from the Property of 0.8 miles or less. The recent sale of  
20 the Property is included in the calculation of the identified average values.

21  
22 4. As reflected in the Report, excluding the sale of the Property, 1) the average lot size of the  
23 identified properties is 6,708 square feet, 2) the average sale price of those properties is  
24 \$1,653,000.00, and 3) the average days on the market is 8.28.

25 967 Chynoweth Ave., on the other hand, 1) had a lot size of approximately 10,735 square  
26 feet., 2) sold for \$1,350,000.00, and 3) was on the market for 65 days.

1 5. The neighborhood surrounding the Property did have issues with unhoused persons in the  
2 area. There were tents and encampments across the pond in the direction of Bass Pro Shop, which  
3 could be seen from the primary bedroom window and the backyard of the Property. There were also  
4 tents and encampments under the Highway 85 overpass that could be seen from the living room  
5 window and from the front yard of the Property.

6  
7 6. During my listing of the Property I witnessed several potential buyers looking across the pond  
8 at the tents from the backyard of the Property. I understood this condition to have caused pause to  
9 potential buyers that were thinking of making an offer.

10  
11 7. Days after the clients moved out, an unhoused couple broke into the Property and spent the  
12 night there. Our contractor found them there the next morning. Two days later, the same thing  
13 happened.

14  
15 8. This statement was placed in the disclosures: "There are unhoused persons in the area, they  
16 made entry into the house on two occasions, alarm system has been installed."

17  
18 9. In my experience as a licensed real estate agent, the presence of unhoused persons in the  
19 neighborhood and the two break-ins likely had a negative impact on the selling price for this  
20 Property.

21  
22 I declare under the penalty of perjury under the laws of the State of California that the  
23 foregoing is true and correct.

24 Executed this 22 day of June, 2024, at Cupertino, California.

25  
26 *Gregg Fussell*

27 \_\_\_\_\_  
28 Gregg Fussell

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Status	● Signed

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### Document History



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06 / 22 / 2024

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IP: 72.219.106.121



VIEWED

06 / 22 / 2024

19:24:55 UTC

Viewed by Gregg Fussell (gregg.fussell@cbtnorcal.com)  
IP: 192.153.71.15



SIGNED

06 / 22 / 2024

19:30:13 UTC

Signed by Gregg Fussell (gregg.fussell@cbtnorcal.com)  
IP: 104.223.118.38



COMPLETED

06 / 22 / 2024

19:30:13 UTC

The document has been completed.



Clean Water • Healthy Environment • Flood Protection

August 14, 2024

Robert Liu  
756 Arroyo Road  
Los Altos, CA 94024

Re: Receipt of Claim – L2450001

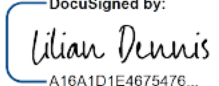
Dear Mr. Liu:

We received your claim regarding damages that occurred on your property adjacent to Hale Creek.

We are currently investigating the claim and will notify you of our findings.

If you have any questions, please don't hesitate to contact me at (408) 630-2652 or at [ldennis@valleywater.org](mailto:ldennis@valleywater.org)

Sincerely,

DocuSigned by:  
  
A16A1D1E4675476...  
**Lilian Dennis**  
Management Analyst II  
Risk Management Unit





# CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT California Government Code Sections 900 and following

<p><b>The completed form can be mailed, sent electronically or hand delivered. Mail or deliver to:</b></p> <p>Clerk of the Board Santa Clara Valley Water District-HQ 5700 Almaden Expressway San Jose, CA 95118</p> <p>Or submit the completed form electronically to: clerkoftheboard@valleywater.org</p>	<p style="text-align: center;">Clerk of the Board's Date Stamp</p> <hr/> <p style="text-align: center;"><b>For SCVWD Use Only</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Date Received: <b>08/05/24</b></td> <td style="width: 50%; text-align: center;"><b>ROUTING</b></td> </tr> <tr> <td><input type="checkbox"/> Via U.S. Mail</td> <td><input checked="" type="checkbox"/> CEO</td> </tr> <tr> <td><input type="checkbox"/> Hand Delivered</td> <td><input checked="" type="checkbox"/> District Counsel</td> </tr> <tr> <td><input checked="" type="checkbox"/> Email</td> <td><input checked="" type="checkbox"/> Risk Management</td> </tr> <tr> <td><input type="checkbox"/> Other: _____</td> <td><input checked="" type="checkbox"/> COB</td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/> BOD (District #): <b>7</b></td> </tr> </table>	Date Received: <b>08/05/24</b>	<b>ROUTING</b>	<input type="checkbox"/> Via U.S. Mail	<input checked="" type="checkbox"/> CEO	<input type="checkbox"/> Hand Delivered	<input checked="" type="checkbox"/> District Counsel	<input checked="" type="checkbox"/> Email	<input checked="" type="checkbox"/> Risk Management	<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> COB		<input checked="" type="checkbox"/> BOD (District #): <b>7</b>
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<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> COB												
	<input checked="" type="checkbox"/> BOD (District #): <b>7</b>												

*With certain exceptions, claims for personal injury or property damage MUST be filed within six months of the incident giving rise to the claim. Claimant must complete each section. If information is unknown, write "unknown" in the appropriate box. Please use additional pages if necessary. Please attach itemized receipts, witness statements, photos and all other documentation that you believe will be helpful to process your claim. Claimant MUST sign and date the form; see last page.*

Name of Claimant: <b>ROBERT LIU</b>		Email Address: <b>LIUROBERT703@GMAIL.COM</b>	
Address of Claimant: <b>756 ARROYO ROAD</b>		City: <b>LOS ALTOS</b>	State: <b>CA</b>
Address to which Notices should be sent, if different from above:		City:	Zip: <b>94024</b>
Home Phone Number:	Cell Phone Number: <b>650-823-7069</b>	Work Phone Number:	
Is this claim being filed on behalf of a minor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If so, please indicate minor's date of birth: Relationship to the minor:	
Date and time of incident or loss: <b>2020 to Present</b>	Location of incident or loss (address):	Is there a police report? <input type="checkbox"/> Yes If Yes, Po ice Report Case #: <input type="checkbox"/> No	

Describe how the incident or loss happened, and the reason you believe the Santa Clara Valley Water District is responsible for your damages (Please attach additional sheets if necessary):

*First reported at least back in 2020 to Valley Water that there were several sizeable Hale Creek concrete wall gaps/cracks in our shared property that allowed squirrels to tunnel and an earth patio foundation material to the surface. Often time the mounts were 12-18" in height. At the time my porch foundation was cracking. I consistently patched the tunnels with soil, rocks, water, etc to deter squirrels (sometimes with poisons) with no success since*



**CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT**  
**California Government Code Sections 900 and following**

In detail, describe the damage or injury (Please attach additional sheets if necessary):  
 the squirrels had escape routes through the concrete wall gaps. I have been working with Valley Water through present. Now my patio foundation is sinking. I lived in this property for 30+ years. These problems are observed in the recent 4-5 years. I did all the abatement I could but no success, the funnel problems are even worst today. If Valley Water addressed the gap problems, in time, my patio & foundation won't be sinking.

List Name(s) and contact information of any witness(es) or District employee involved (if any):  
 Christina Pilson (Employee)     Shree Dharasker (Employee)  
 Jennifer Wehrmeyer (Employee)     ~~Ray~~ Ray Bruner (Employee)  
 Colleen Haggerty (Employee)     Glenn Micko (Employee)

**DAMAGES CLAIMED:** Basis for computation of amounts claimed (include copies of bills, invoices, estimates, receipts, photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need not fill in an amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to \$25,000) or Unlimited jurisdiction of the Superior Court.

Is the amount of the claim under \$10,000?      Yes      No  
 Court Jurisdiction: (Check One)      Limited Civil      Unlimited Civil

ITEMS	CLAIM AMOUNT
1. Crack and sinking patio (backyard under porch)	\$
2. Crack and sinkide (Side yard)	\$
3. Crack and sinking patio (not under porch)	\$
4.	\$
<b>TOTAL AMOUNT</b>	\$

**WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE OR FRAUDULENT CLAIM (Penal Code Section 72 and 550)**

I have read the matters and statements made in the above claim and I know the same to be true of my own knowledge, except to those matters stated upon information and belief and as to such matters I believe the same to be true. I certify under penalty of perjury that the foregoing is TRUE and CORRECT.

Signed this 5 day of August, 2024 [Signature]  
 Claimant's Signature

Government Code Section 945.6 provides that, with limited exceptions, any suit brought against a public entity must be commenced:

- (1) If written notice is given of a denial of claim in accordance with **Section 913**, not later than six months after the date such notice is personally delivered or deposited in the mail.
- (2) If written notice is not given of a denial of claim in accordance with **Section 913**, within two years from the accrual of the cause of action.

## Adelina Del Real

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**From:** Robert Liu [REDACTED]  
**Sent:** Monday, August 5, 2024 10:23 PM  
**To:** Clerk of the Board  
**Cc:** Lilian Dennis  
**Subject:** Fwd: VW File 28164 – Fence Cost Share at Hale Creek

\*\*\* 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. \*\*\*

Few past emails (with pics) for my claim. If you don't get all the pics, please let me know.

thanks  
-Robert

----- Forwarded message -----

**From:** Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)>  
**Date:** Mon, Aug 5, 2024 at 3:59 PM  
**Subject:** RE: VW File 28164 – Fence Cost Share at Hale Creek  
**To:** Robert Liu [REDACTED]  
**Cc:** Shree Dharasker <[sdharasker@valleywater.org](mailto:sdharasker@valleywater.org)>, Ray Bramer <[rbramer@valleywater.org](mailto:rbramer@valleywater.org)>, Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)>, Christine Hoffmann <[CHoffmann@valleywater.org](mailto:CHoffmann@valleywater.org)>

I'm sorry, Robert but I'm not sure who will be assigned to assist you with your case. I'd start with the [riskmanager@valleywater.org](mailto:riskmanager@valleywater.org) email address and whoever ends up responding might be able to provide you with their contact information.

Thanks,

**GLENN MICKO, P.E.**

ASSOCIATE ENGINEER - CIVIL

Watersheds O&M Engineering Support Unit

[gmicko@valleywater.org](mailto:gmicko@valleywater.org)

Tel. (408) 630-2597



SANTA CLARA VALLEY WATER DISTRICT

5750 Almaden Expressway, San Jose CA 95118

[www.valleywater.org](http://www.valleywater.org)

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**From:** Robert Liu [REDACTED]  
**Sent:** Monday, August 5, 2024 3:56 PM  
**To:** Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)>  
**Cc:** Shree Dharasker <[sdharasker@valleywater.org](mailto:sdharasker@valleywater.org)>; Ray Bramer <[rbramer@valleywater.org](mailto:rbramer@valleywater.org)>; Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)>; Christine Hoffmann <[CHoffmann@valleywater.org](mailto:CHoffmann@valleywater.org)>  
**Subject:** Re: VW File 28164 – Fence Cost Share at Hale Creek

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Can I have a name, email address, and phone number so we have a point of contact?

-Robert

On Mon, Aug 5, 2024 at 3:40 PM Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)> wrote:

Hi Robert,

I understand your concern and I'm sorry it feels that way. Since you're looking to bring in legal assistance and potentially file a claim for damages to your property, our practice is to address these types of claims through our Risk Management office.

Just to let you know, we've notified our Risk Management office that you will likely be reaching out to them, and we provided them some background context on your case as well. I'm hoping this will make the transition a bit smoother, but I'm sure they will ask you to reiterate some of the concerns you shared with us along the way. We will also work with our Risk Management office to provide additional background context as well if they have any questions for us.

Thanks,

**GLENN MICKO, P.E.**

ASSOCIATE ENGINEER - CIVIL

Watersheds O&M Engineering Support Unit

[gmicko@valleywater.org](mailto:gmicko@valleywater.org)

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**From:** Robert Liu [REDACTED]  
**Sent:** Monday, August 5, 2024 3:31 PM  
**To:** Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)>  
**Cc:** Shree Dharasker <[sdharasker@valleywater.org](mailto:sdharasker@valleywater.org)>; Ray Bramer <[rbramer@valleywater.org](mailto:rbramer@valleywater.org)>; Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)>; Christine Hoffmann <[CHoffmann@valleywater.org](mailto:CHoffmann@valleywater.org)>  
**Subject:** Re: VW File 28164 – Fence Cost Share at Hale Creek

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Hi All,

What's the hand-off here? Do I restart this whole thing from fresh? I felt like I am a hot potato being tossed around after 4-5 years of communications to an email address.

-Robert

On Mon, Jul 29, 2024 at 2:27 PM Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)> wrote:

Hi Robert,

Understood, and thank you for letting us know. If you'd like to file a claim with Valley Water, the following email address would be the best place to start:

[riskmanager@valleywater.org](mailto:riskmanager@valleywater.org)

Thanks,

**GLENN MICKO, P.E.**

ASSOCIATE ENGINEER - CIVIL

Watersheds O&M Engineering Support Unit

[gmicko@valleywater.org](mailto:gmicko@valleywater.org)

Tel. (408) 630-2597



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**From:** Robert Liu [REDACTED]  
**Sent:** Sunday, July 28, 2024 5:47 PM  
**To:** Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)>  
**Cc:** Shree Dharasker <[sdharasker@valleywater.org](mailto:sdharasker@valleywater.org)>; Ray Bramer <[rbramer@valleywater.org](mailto:rbramer@valleywater.org)>; Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)>; Christine Hoffmann <[CHoffmann@valleywater.org](mailto:CHoffmann@valleywater.org)>  
**Subject:** Re: VW File 28164 – Fence Cost Share at Hale Creek

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I believe I will seek legal help after so many years patiently working with you. I have also contacted the City of Los Altos. They have provided me with more contacts and information.

I am not agreeing with you on "minor" displacements. See pics attached. I can see gaps/holes from my yard into the creek floor.



-Robert

On Wed, Jun 26, 2024 at 7:42 AM Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)> wrote:

Hi Robert,

I was one of the Valley Water representatives that came to visit your property, and I agree that not all of the voids in Valley Water's concrete lined channel were caused by tree roots.

Managing rodent activity beyond Valley Water's right of way is not Valley Water's responsibility.

The fact that there are voids in our concrete lined channel near your property isn't really relevant. Valley Water has earthen channels (ie not lined with concrete) with substantial rodent activity that abut residential properties.

We provide the same advisement to these property owners that we provided you - it is the homeowner's responsibility to find local contractors that provide rodent abatement services for their property.

Thanks,

**GLENN MICKO, P.E.**

ASSOCIATE ENGINEER - CIVIL

Watersheds O&M Engineering Support Unit

[gmicko@valleywater.org](mailto:gmicko@valleywater.org)

Tel. (408) 630-2597



# Valley Water

## SANTA CLARA VALLEY WATER DISTRICT

5750 Almaden Expressway, San Jose CA 95118

[www.valleywater.org](http://www.valleywater.org)

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**From:** Robert Liu [REDACTED]  
**Sent:** Tuesday, June 25, 2024 3:36 PM  
**To:** Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)>  
**Cc:** Shree Dharasker <[sdharasker@valleywater.org](mailto:sdharasker@valleywater.org)>; Ray Bramer <[rbramer@valleywater.org](mailto:rbramer@valleywater.org)>; Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)>  
**Subject:** Re: VW File 28164 – Fence Cost Share at Hale Creek

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Hi Glenn,

I am not sure if you were one of the members who came out to my property. If you haven't been out to my house, please pay me a visit. I can personally show you what I meant. You can see not all the concrete panel gaps are due to tree roots. I have been emailing my issues and pictures to the Valley Water couple years prior to pandemic.

In 'short', squirrels dug tunnels between the openings of the creek walls and my house. They unearth so much foundation materials and caused (and causing) foundation settlements. I have been doing abatements but no use as they have transport/escape tunnels to the concrete wall openings. We need to seal all the exits of tunnel just to give a chance for success. This wasn't a problem when the wall gaps were minimal. If you don't seal the concrete wall, my effort is not productive and wasted.

-Robert

On Fri, Jun 21, 2024 at 10:48 AM Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)> wrote:

Hi Robert,

I'm not sure what you mean when you say "Water should cover/help on foundation issues due to creek wall issue."

Are you referring to your home's foundation? If so, I don't think it would be Valley Water's responsibility to fund foundation settlement repairs to your private property.

During our inspection of the concrete channel adjacent to your property, we noted that there has been minor weathering of the concrete lined channel and some minor displacement of some of the concrete panels which were likely caused by tree roots. I think it would be a bit of a stretch to claim that Valley Water is somehow responsible for your home's foundation settling based on these conditions.

I can't speculate as to what might be causing the foundation settlement on your property, but during our meeting, you stated that you had been filling rodent holes on your property with water, which may be one possibility.

If you still feel that Valley Water is somehow responsible for repairs to your private property, you are welcome to file a claim with Valley Water by emailing [riskmanager@valleywater.org](mailto:riskmanager@valleywater.org)

Thanks,

**GLENN MICKO, P.E.**

ASSOCIATE ENGINEER - CIVIL

Watersheds O&M Engineering Support Unit

[gmicko@valleywater.org](mailto:gmicko@valleywater.org)

Tel. (408) 630-2597

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**SANTA CLARA VALLEY WATER DISTRICT**

5750 Almaden Expressway, San Jose CA 95118

[www.valleywater.org](http://www.valleywater.org)

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**From:** Robert Liu [REDACTED]

**Sent:** Tuesday, June 4, 2024 4:03 PM

**To:** Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)>

**Cc:** Shree Dharasker <[sdharasker@valleywater.org](mailto:sdharasker@valleywater.org)>; Ray Bramer <[rbramer@valleywater.org](mailto:rbramer@valleywater.org)>; Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)>

**Subject:** Re: VW File 28164 – Fence Cost Share at Hale Creek

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Hi All,

My problem is still the sinking foundation. Replacing the fence without addressing the gaps and tunnels are not doing any good.

I understand Water generic policy is not covering abatement. Water should cover/help on foundation issues due to creek wall issue.

Do (can) you have internal walls/foundation crew who can patch the problems in lieu of a permanent fix? Do you have an approve vendor who can help with this? My foundation is still sinking bit by bit.

I have been notifying you for a long time. Can we settle it without external forces?

thanks

-Robert

On Wed, Apr 24, 2024 at 3:14 PM Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)> wrote:

Good afternoon, Robert,

I am touching base again to see if you would still like Valley Water to process your fence cost share permit application. Please let us know your decision and timeline for fence replacement.

As mentioned before, Valley Water will replace in-kind any fence that may need to be removed during channel repairs at no expense to you. Considering the current condition of your fence, Valley Water recommends that you replace your fence through the fence cost share program at this time.

If you prefer to wait to replace your fence, please let us know and we will stop processing your application. Should you choose to wait, a new application will be required once you are ready to replace your fence.

Thank you,

**Gennifer Wehrmeyer**

ASSISTANT ENGINEER, CIVIL

Community Projects Review Unit

Watershed Stewardship and Planning Division

[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)

Tel. (408) 630-2588 Cell. (408) 694-2069

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**SANTA CLARA VALLEY WATER DISTRICT**

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**From:** Gennifer Wehrmeyer  
**Sent:** Wednesday, March 27, 2024 4:21 PM  
**To:** 'Robert Liu' [REDACTED]  
**Cc:** Shree Dharasker <[sdharasker@valleywater.org](mailto:sdharasker@valleywater.org)>; Ray Brammer <[rbrammer@valleywater.org](mailto:rbrammer@valleywater.org)>; Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)>  
**Subject:** RE: VW File 28164 – Fence Cost Share at Hale Creek

Hello Robert,

The Santa Clara Valley Water District (Valley Water) has discussed your question regarding rodent abatement, received on March 22, 2024, and has the following response:

Valley Water's Environmental Support Unit does not perform rodent abatement and cannot recommend an interim solution. Valley Water's levees, dams, and percolation ponds exclusively require ground squirrel trappings and are handled by a contracted rodent abatement company, but Valley Water's creeks do not serve the same function and cannot be abated under Valley Water's rodent abatement contract.

The wildlife residents of Valley Water's local creeks and streams are not Valley Water property, so we are unable to prevent ingress and egress to your property. Valley Water cannot permit the placement of temporary mesh, patch, or fill on Valley Water property to fill the channel gap. If pedestrian access is needed to implement an abatement solution on your property, we recommend performing any squirrel abatement activities simultaneous with your fence replacement to avoid the need for an additional permit.

It is the homeowner's responsibility to find local contractors that provide rodent abatement services for their property. Valley Water will remain in contact to update you on O&M's channel repair timeline. Please let us know your decision and timeline for fence replacement.

Thank you,

**Gennifer Wehrmeyer**

ASSISTANT ENGINEER, CIVIL

Community Projects Review Unit

Watershed Stewardship and Planning Division

[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)

Tel. (408) 630-2588 Cell. (408) 694-2069

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**From:** Robert Liu [REDACTED]  
**Sent:** Friday, March 22, 2024 4:32 PM  
**To:** Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)>  
**Cc:** Shree Dharasker <[sdharasker@valleywater.org](mailto:sdharasker@valleywater.org)>; Ray Bramer <[rbramer@valleywater.org](mailto:rbramer@valleywater.org)>; Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)>  
**Subject:** Re: VW File 28164 – Fence Cost Share at Hale Creek

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Thank you, I will await next week for an update.

All those measures I mentioned on my side of the property, I really doubt it will work as the squirrels can dig different tunnels to my property. At one point, I was thinking of sealing the creek wall gaps by mesh-screens and might pour concrete mixture to secure them in place.

Let's see how the Environmental Support Unit responds.

thanks

-Robert

On Fri, Mar 22, 2024 at 4:14 PM Jennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)> wrote:

Thank you for following up, Robert. I appreciate your response.

While we cannot currently recommend an interim solution, prior to your email today I contacted Valley Water's Environmental Support Unit to learn if there are any rodent abatement procedures we use, and if so, whether those procedures are applicable to your situation. Although this avenue may be fruitless, let me contact you in one week's time with any additional information I find.

Several of the solutions you mentioned may be able to be performed from your side of the yard (ie. mesh screen or chicken wire, concrete placement), but without consulting with a rodent control company, it is impossible to know if these methods would be effective. It is also worth noting that during a fence cost share, we are able to grant temporary pedestrian access to Valley Water property if needed. If your preferred solution would be on your side of the property line but access prevents the implementation of your solution, this may open up additional squirrel deterrent options during fence construction.

Thank you,

**Jennifer Wehrmeyer**

ASSISTANT ENGINEER, CIVIL

Community Projects Review Unit

Watershed Stewardship and Planning Division

[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)

Tel. (408) 630-2588 Cell. (408) 694-2069

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**From:** Robert Liu [REDACTED]  
**Sent:** Friday, March 22, 2024 3:14 PM  
**To:** Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)>  
**Cc:** Shree Dharasker <[sdharasker@valleywater.org](mailto:sdharasker@valleywater.org)>; Ray Bramer <[rbramer@valleywater.org](mailto:rbramer@valleywater.org)>; Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)>  
**Subject:** Re: VW File 28164 – Fence Cost Share at Hale Creek

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Thanks for the quick response.

I understand your statement/position. The issue is that I have been addressing the issue on my ends even several years prior to covid (water, poison, patching tunnels, etc.). The problem is the squirrels have a way out. I can't get to the creek wall since it is your property. This wasn't a problem for decades when the creek walls were closed. I don't know what is the best way to address the creek wall prior to your fix. Perhaps a mesh-screen, temp patch of holes, some deterrent for squirrels to dig, etc. from the creek walls.

There are more intrusive ways of get things under control such as pouring concrete mix and/or minor explosives (poison bombs). What I am trying to work with the Water is an interim solution. This is a 'one-off' to Water guideline on wild-life control.

thanks

-Robert

On Fri, Mar 22, 2024 at 2:49 PM Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)> wrote:

Good afternoon Robert,

The Santa Clara Valley Water District (Valley Water) has received your question regarding the fence cost share permit, received on March 16, 2024, and has the following response:

In response to question 1 regarding your primary concern about the extensive damage squirrels have caused to your property, Valley Water does not handle rodent abatement on private property, but we encourage you to seek a solution to prevent further squirrel damage that does not involve the introduction of water under your home's foundation.

Please note that Valley Water handles rodent abatement along lined channels no differently than abatement along unlined channels and riparian corridors. Channel lining serves to convey storm water efficiently through populated areas, not as a safeguard against rodents. While squirrels appear to use a portion of Hale Creek as one of numerous access routes to your yard, Valley Water does not perform immediate channel repair work to deter squirrels, as there are a number of critical flood control projects that have higher priority for Operations and Maintenance (O&M). Our O&M staff anticipates that channel repairs may occur as early as Summer 2025.

In response to question 2 regarding fence replacement, Valley Water strives to be a good neighbor with property owners along our facilities, and as such, will happily replace in-kind any fence that may need to be removed during channel repairs at no expense to you. Considering the current condition of your fence, Valley Water recommends that you replace your fence through the fence cost share program at this time.

Please let us know your decision and timeline for fence replacement.

Thank you,

**Gennifer Wehrmeyer**

ASSISTANT ENGINEER, CIVIL

Community Projects Review Unit

Watershed Stewardship and Planning Division

[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)

Tel. (408) 630-2588 Cell. (408) 694-2069

<image001.png>

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**From:** Robert Liu [REDACTED]  
**Sent:** Friday, March 22, 2024 2:22 PM  
**To:** Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)>  
**Cc:** Shree Dharasker <[sdharasker@valleywater.org](mailto:sdharasker@valleywater.org)>; Ray Bramer <[rbramer@valleywater.org](mailto:rbramer@valleywater.org)>; Glenn Micko <[GMicko@valleywater.org](mailto:GMicko@valleywater.org)>  
**Subject:** Re: VW File 28164 – Fence Cost Share at Hale Creek

**\*\*\* 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. \*\*\***

Pics attached. They are at it again. Without terminating the tunnels from the concrete wall gaps. There is nothing I can do. I see further cracks on my home.

Is there a petition I can use? Do I need to resort to other actions?

Thanks

-Robert

On Mar 16, 2024, at 11:45 AM, Robert Liu [REDACTED] wrote:

Hi Gennifer,

Thank you for the reply. Couple of questions first.

1. The immediate issue for me is the tunnels from the gaps of the creek wall openings to my foundations. As you observed, much of my house foundations are being unearthed where my patios, walkways, porch, etc are cracking and sinking. This is not something I, as the homeowner, can tackle as I have been trying solutions for years on my side of the property with absolutely no success. This damage isn't small and I had sent many emails and pics in past years. The Water District should provide interim solutions on the creek walls.

2. Do you recommend I wait for the creek repair first then my fence? It would minimize the issues and potential rework.

thanks

-Robert

On Fri, Mar 15, 2024 at 10:59 AM Gennifer Wehrmeyer <[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)> wrote:

Hello Robert,

The Santa Clara Valley Water District (Valley Water) met with you on February 20<sup>th</sup> to investigate the conditions of Hale Creek behind your home and to determine the best course of action to help address your fence and yard concerns.

While a segment of the channel lining behind your home has been scheduled for repair, due to staff workload, channel repairs can only be performed in 2025 at the earliest. Please let me know if you wish to proceed with the fence replacement at this time. Valley Water will then begin circulating your fence cost share permit for review. Construction must be completed before the permit expiry date.

Any fence removal or damage caused by future channel repair operations will be replaced by Valley Water in kind.

Please let me know if you have any questions.

Thank you,

**Gennifer Wehrmeyer**

ASSISTANT ENGINEER, CIVIL

Community Projects Review Unit

Watershed Stewardship and Planning Division

[GWehrmeyer@valleywater.org](mailto:GWehrmeyer@valleywater.org)

Tel. (408) 630-2588 Cell. (408) 694-2069

<image001.png>

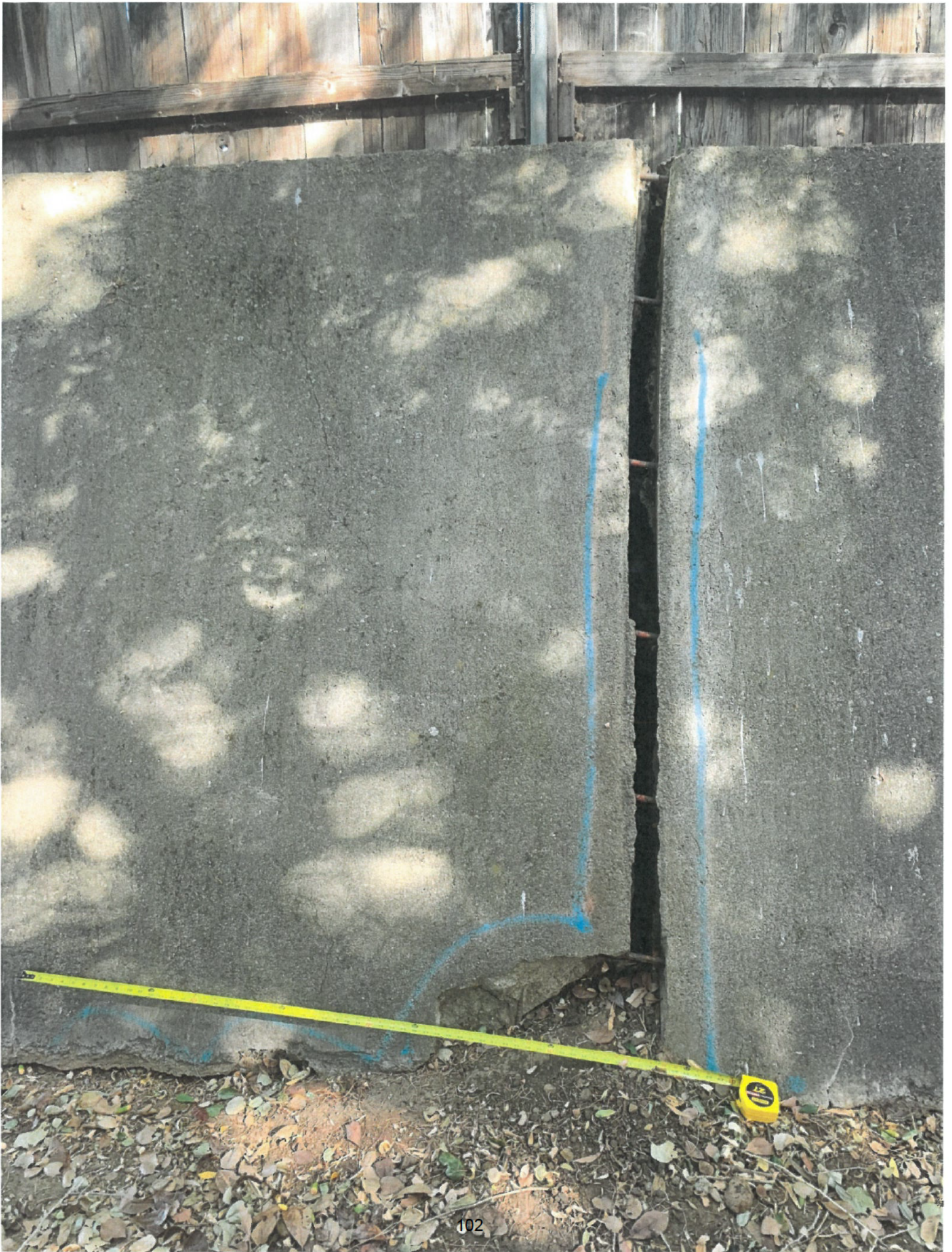
**SANTA CLARA VALLEY WATER DISTRICT**

5750 Almaden Expressway, San Jose CA 95118

[www.valleywater.org](http://www.valleywater.org)

Clean Water · Healthy Environment · Flood Protection









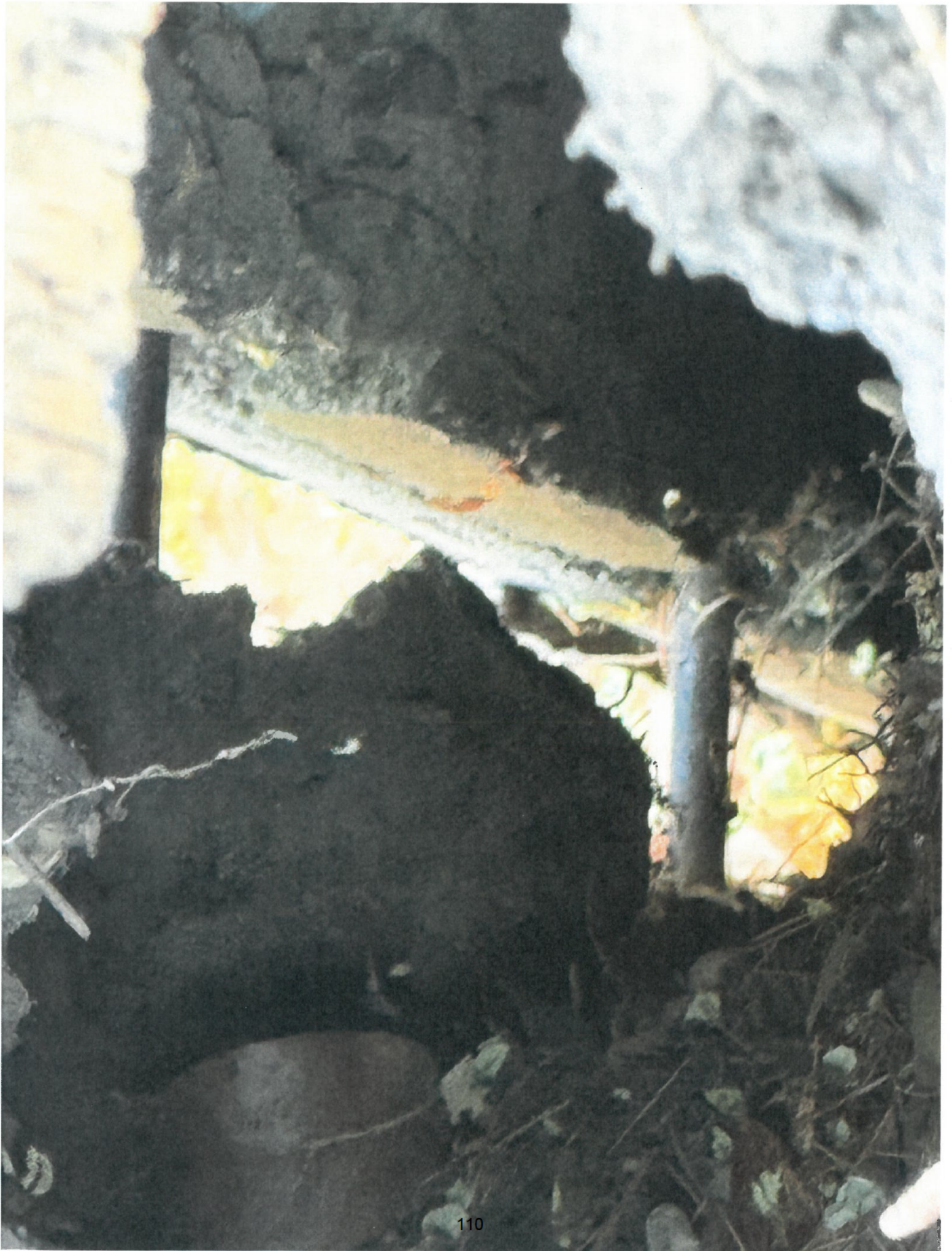














# **INCOMING BOARD CORRESPONDENCE**

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-24-0203	08/12/24	08/13/24	All	ALAN ROWE	Email from Alan Rowe to the Board reporting a downed tree behind home and expressing dissatisfaction in ability to find information on web page.	Refer to Staff	Baker	Williams	08/21/24	08/23/24	n/a	08/27/24
C-24-0208	08/20/24	08/20/24	All	ALICE ORTH	Email from Alice Orth, president of Millpond Resident Association to the board, dated 08/20/24, requesting Valley Water re-evaluates the water restrictions placed on Millpond Mobile home Community.	Refer to Staff	Baker	Struve	08/28/24	08/27/24	n/a	09/03/24

**From:** [Jennifer Codianne](#)  
**To:** [Ron Cachopo](#)  
**Cc:** [Cecilia Rocha](#); [Board of Directors](#); [Diana Martin](#)  
**Subject:** Re: Saratoga Creek Bowe Ave Gate Unlocked  
**Date:** Monday, August 26, 2024 9:27:30 PM

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Hi Ron,  
My apologies, your last two emails went straight to my junk mail. Let me check in with staff in the morning and get back to you. We are aware of the new encampments and are updating our cleanup schedule.  
Jen  
Sent from my iPad

On Aug 24, 2024, at 2:08 PM, Ron Cachopo [REDACTED] wrote:

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Hi Jen,

As of Saturday Morning 08-24-24 the Saratoga Creek New Gate remains unlocked with debris inside the fence.

Is there a Time Estimate on when the Gate will be locked and the debris cleaned up?

Thank you, Ron P. Cachopo

Santa Clara Hampton Place

[REDACTED]  
Santa Clara, CA 95051  
[REDACTED]

On Sunday, August 18, 2024 at 12:23:55 PM PDT, Ron Cachopo [REDACTED] wrote:

Hi Jen,

I was on my walk this Sunday morning and noticed the New Installed Gate is Unlocked and missing the chain and lock. (I am able to freely walk into the creek area.)

Please advise.

Thanks, Ron P. Cachopo

Santa Clara Hampton Place

[REDACTED]  
Santa Clara, CA 95051  
[REDACTED]

**From:** [Clerk of the Board](#)  
**To:** [Board of Directors](#)  
**Subject:** FW: Valley Water  
**Date:** Wednesday, August 28, 2024 8:15:01 AM  
**Attachments:** [image001.png](#)

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**From:** LeeAnn Dunn [REDACTED]  
**Sent:** Tuesday, August 27, 2024 1:04 PM  
**To:** Clerk of the Board <clerkoftheboard@valleywater.org>  
**Subject:** Valley Water

**\*\*\* 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 whom it may concern:

I strongly oppose using Valley Water taxpayer funds to support the youth commission's proposal submitted for vote today. The community has very clearly communicated through surveys, petitions, as well as speaking in front of the Valley Water Board, that it doesn't believe safe sleeping sites are a viable solution. They will be using taxpayer money to fund this and that is unacceptable.

We also believe that Valley Water should focus on water and not housing. Water rates are going up, our infrastructure projects are falling behind. Valley Water should focus on its core competencies, not playing politics.

The youth commission should redirect its attention to working with the environmentalists and water and habitat related projects. Why couldn't it focus on helping cleaning up the waterways instead?

Thank you for your consideration.

LeeAnn Pickering

# **OUTGOING BOARD CORRESPONDENCE**

**From:** [Candice Kwok-Smith](#) on behalf of [Board Correspondence](#)  
**To:** [Emelia Lamas](#); [Aaron Baker](#)  
**Cc:** [Michele King](#); [Board of Directors](#)  
**Subject:** FW: various  
**Date:** Friday, August 23, 2024 1:21:59 PM  
**Attachments:** [image001.png](#)

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Good afternoon,

C-24-0203 has been approved, sent and closed.

Thanks,  
Candice

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**From:** Candice Kwok-Smith **On Behalf Of** Board of Directors  
**Sent:** Friday, August 23, 2024 12:00 PM  
**To:** [REDACTED]  
**Subject:** Re: various

**Sent on Behalf of Director Beall:**

Dear Alan Rowe,

Thank you for reaching out to us regarding your previously submitted Access Valley Water case. I understand staff has surveyed the area and located a small dead oak tree near the Coyote Alamitos Canal. Our staff confirmed the tree is on City of San Jose property and contacted San Jose staff regarding the issue. The City will have an arborist inspect the area and San Jose staff will remove the dead tree. Valley Water staff reached out to you at the information listed in your Access Valley Water case and left a voicemail relaying the findings.

Should you have further questions or concerns, please reach out to: Deputy Operating Office Greg Williams at 408-630-2867 or [GWilliams@valleywater.org](mailto:GWilliams@valleywater.org).

I'm sorry for your difficulty locating contact information. There is a [directory link](#) at the bottom of the website. However, your concern has been related to our Communications team so contact information can be placed in a more visible location.

Sincerely,



Jim Beall  
Director, District 4

C-24-0203

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**From:** Alan Rowe [REDACTED]  
**Sent:** Monday, August 12, 2024 5:20 PM  
**To:** Board of Directors <[board@valleywater.org](mailto:board@valleywater.org)>  
**Subject:** various

**\*\*\* 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 would like to report various issues when dealing with SCVWD.

1. I reported a dead tree (case [AVW-015564](#)) about 3 weeks ago. So far, not a thing has happened on that case. But that's not the problem here.
2. There is a web page on which you can report dead trees. it asks you to locate it on a map. When you do so (on the canal behind curie ct), it unfailingly says **This location may not be property that is maintained by Valley Water. Check with your city, water retailer, or the County of Santa Clara if your concern is located outside of Valley Water property.** This is not true of course, but despite the MAY in the wording, it then refuses to go further. (It does the same on your page which asks for complaints and or compliments).
3. So I said, fine, I'll send email. And could I find out who to send it to? No, I could not. On your main page (or anywhere else I looked) is there a list of email addresses. There is not. I found only one - this one, and I suggest you should arrange that you are not the primary point of contact for customers.
4. Ok, I'll call you. Is there a phone number on your web page? [You might like to try to find it yourself before proceeding]. Not on the main page. Is there a Contacts tab? No. If you put Contacts into the search bar, can you find them? No. Now it is there, under How We Operate->About, which I suggest is more hidden than it needs to be.
5. So yes, I called you about all this, and the person was out, and I left a message asking for a callback, and never got one.

Not impressed.

alan

**From:** [Candice Kwok-Smith](#) on behalf of [Board of Directors](#)  
**To:** [Jennifer Codianne](#); [Mark Biiski](#); [Cecilia Rocha](#)  
**Cc:** [Michele King](#); [Board of Directors](#)  
**Subject:** FW: Board Correspondence: Hale Creek + [REDACTED], Los Altos - District 7?  
**Date:** Monday, August 26, 2024 1:18:26 PM  
**Attachments:** [image003.png](#)

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Good afternoon,

C-24-0198 has been sent and closed.

Thanks,  
Candice

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**From:** Rebecca Eisenberg <[rebecca@rebecca4water.com](mailto:rebecca@rebecca4water.com)>  
**Sent:** Sunday, August 25, 2024 3:59 PM  
**To:** [REDACTED]  
**Cc:** Rebecca Eisenberg <[Reisenberg@valleywater.org](mailto:Reisenberg@valleywater.org)>  
**Subject:** Fwd: Board Correspondence: Hale Creek + [REDACTED], Los Altos - District 7?

**\*\*\* 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 Robert,

I am very sorry that I took so long to respond! I want to help you. As you know, I was elected in 2022, and my predecessor did not leave me any transition notes (nor did the District provide access to his correspondence), so for the most part I have to start from scratch. I recognize that causes an inconvenience for most people, and I am very sorry for that. (Also I apologize for responding from my personal email. It is a faster, more secure, and more reliable way to reach me.)

Is there a time that I can come visit you so that you can show me the problem? I would be happy to stop by on the way back from Tuesday (August 27)'s Board Meeting if that is convenient for you. I can text you the exact time when the meeting ends, but I think I would arrive around 4 PM. If not that time, I am happy to accommodate your schedule for a different time.

The fastest way to reach me is by cell or text at 415-235-8078.

Below is the response to your email that Valley Water staff drafted on my behalf. I made some edits to it, but I wanted to send it on to make sure you understood Valley Water's official position. I recognize, however, that I work for you -- my constituents -- and my job is to represent you. Hence you may notice some inevitable tug and pull. :)

\*\*\*

I understand that staff from Valley Water's Community Projects Review Unit and Watersheds Operations and Maintenance Engineering Support Unit visited your residence

on February 15, 2024, and that you showed Valley Water staff evidence of rodent burrowing activity on your property. Staff also walked along Hale Creek behind your property and noted the presence of voids in the channel's concrete lining and that a few concrete panels had been displaced by tree roots. [Please let me know if this is not your understanding.]

Valley Water's Watersheds Operations and Maintenance Engineering Support Unit is currently in the process of evaluating alternatives for repairing or replacing some of the concrete panels adjacent to your property under Valley Water's Stream Maintenance Program. Repair or replacement of these concrete panels may take place as early as Summer 2025. Valley Water will remain in contact to update you on the channel repair timeline.

Additionally, I understand you initially reached out to Valley Water's Community Projects Review Unit in March 2021 to request to participate in Valley Water's Cost Sharing for Good Neighbor Fencing program, and that you decided not to move forward with replacing your fence under the program based on concerns with rodent burrows along your communal property line with Valley Water. [Again please let me know if this is not accurate.]

Creeks are natural habitats for many types of wildlife, including the native California ground squirrel. These areas are known as riparian corridors or zones, and they are natural ecosystems that occur along the banks of creeks, rivers, and streams. Valley Water believes that it is not their responsibility to prevent wildlife ingress and egress to your property, and that it is the homeowner's job to deal with these issues as they occur. [This is a paraphrase, as I believe that there are exceptions to this rule.]

The following is also directly from me rather than from Valley Water: California ground squirrels are a native species that plays a very important role in the ecosystem and that benefit homeowners in ways that they often cannot see. Here are a few citations about ground squirrels:

<https://biodiversityla.org/species/iconic/ca-ground-squirrel/#:~:text=California%20ground%20squirrel%20is%20a%20native%20species%20that%20plays%20an,also%20live%20in%20their%20burrows.>

California ground squirrel is a native species that plays an important role in our native ecosystems. It is a source of prey for birds and larger mammals, and many other species (including burrowing owls and tiger salamanders) also live in their burrows.

<https://animalia.bio/california-ground-squirrel>

"California ground squirrels play an important role in the ecosystem they live in. They act as seed dispersals when hiding their food and then forget about it. These squirrels help soil aeration due to their habit of digging burrows..."

[https://www.researchgate.net/publication/277248199\\_The\\_Ecological\\_Role\\_of\\_the\\_California\\_Ground\\_Squirrel\\_Spermophilus\\_beecheyi](https://www.researchgate.net/publication/277248199_The_Ecological_Role_of_the_California_Ground_Squirrel_Spermophilus_beecheyi)

These websites point out that efforts to reduce the squirrel population often kill non-target animals, including pet dogs and cats, as well as other wildlife like birds and other mammals. I think it is best to consult with a trustworthy wildlife consultant who can help you potentially keep the squirrels off your property (to the extent reasonably possible) without harming the ecosystem generally. As you know, the ecosystem is a system, so

messing with any one part of it unavoidably has ripple effects, sometimes unexpected, on other parts of it. It will be helpful to know with whom you already spoke, so maybe I can help you identify a better resource... if I understand your situation correctly.

Back to Valley Water's words: Because you have already contacted Valley Water's Risk Management team at [riskmanager@valleywater.org](mailto:riskmanager@valleywater.org) to file a claim for property damage that may have been caused by rodent burrowing activity, please continue to direct all correspondence related to this claim to Risk Management. [Also, you can always email or call me to keep me apprised. It is my job to help you!]

Valley Water says: 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](mailto:jcodianne@valleywater.org) for follow up information. [And, per above, you also can always contact me. I promise to be faster next time!]

Thanks again for reaching out about this issue.

With warm regards,



Rebecca Eisenberg,  
Director, District 7

Rebecca Eisenberg, Esq.  
Director, District 7  
Santa Clara Valley Water District  
[linkedin.com/in/eisenberg](https://www.linkedin.com/in/eisenberg)  
[valleywater.org](http://valleywater.org)  
[rebecca@rebecca4water.com](mailto:rebecca@rebecca4water.com)  
415-235-8078

C-24-0198

**From:** Robert Liu [REDACTED]  
**Sent:** Monday, August 5, 2024 4:25 PM  
**To:** Rebecca Eisenberg [Reisenberg@valleywater.org](mailto:Reisenberg@valleywater.org)  
**Cc:** Board of Directors [board@valleywater.org](mailto:board@valleywater.org)  
**Subject:** Hale Creek + [REDACTED], Los Altos - District 7?

Hi Rebecca,

Apology to reach out in this matter as I have been working with Valley Water for 4-5 years in mitigating Hale Creek concrete walls coming apart (some sections are 6-12" gaps and I can see the

bottom of the creek channel from the gaps inside my fence) where soil erosions and wildlife dug tunnels from those gaps are causing huge issues as my patio and foundations are cracking and sinking. There is no success for a mitigation. As of today, I have been punted it to an email address [riskmanager@vealleywater.org](mailto:riskmanager@vealleywater.org) with no point of contact. These concrete wall problems caused damages to my house and the official response after 4-5 years is that we are not responsible for abatement. I am tired. I plan to consult legal assistance.

If you (and your team) would like to know the progression or can help to mitigate, please contact me.

thanks

-Robert Liu

[REDACTED]

[REDACTED] Los Altos, CA 94024