



## **Santa Clara Valley Water District Board Policy and Monitoring Committee Meeting**

HQ. Bldg. Boardroom, 5700 Almaden Expressway, San Jose, California  
Join Zoom Meeting: <https://valleywater.zoom.us/j/81170871803#>

### **SPECIAL MEETING AGENDA**

**Friday, December 6, 2024  
10:00 AM**

**District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.**

**BOARD COMMITTEE MEMBERS:**

Nai Hsueh, Chairperson  
Director District 5  
Tony Estremera, Vice Chairperson  
Director District 6  
John Varela, Member  
Director District 1

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body, will be available to the public through the legislative body agenda web page at the same time that the public records are distributed or made available to the legislative body. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to participate in the legislative body's meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

**COMMITTEE LIAISONS:**

Rick Calendar  
Michele King  
Theresa Chinte  
Stephanie Simunic  
COB Liaison  
1-408-630 -2408  
[ssimunic@valleywater.org](mailto:ssimunic@valleywater.org)

**Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown Act.**

**Santa Clara Valley Water District**  
**Board Policy and Monitoring Committee**  
**SPECIAL MEETING**  
**AGENDA**

---

Friday, December 6, 2024

10:00 AM

HQ. Bldg. Boardroom, 5700 Almaden  
Expressway, San Jose, California

Join Zoom Meeting:

<https://valleywater.zoom.us/j/81170871803#>

---

**\*\*\*IMPORTANT NOTICES AND PARTICIPATION INSTRUCTIONS\*\*\***

Santa Clara Valley Water District (Valley Water) Board of Directors/Board Committee meetings are held as a “hybrid” meetings, conducted in-person as well as by telecommunication, and is compliant with the provisions of the Ralph M. Brown Act.

To maximize public safety while still maintaining transparency and public access, members of the public have an option to participate by teleconference/video conference or attend in-person. To observe and participate in the meeting by teleconference/video conference, please see the meeting link located at the top of the agenda. If attending in-person, you are required to comply with Ordinance 22-03 - AN ORDINANCE OF THE SANTA CLARA VALLEY WATER DISTRICT SPECIFYING RULES OF DECORUM FOR PARTICIPATION IN BOARD AND COMMITTEE MEETINGS located at <https://s3.us-west-2.amazonaws.com/valleywater.org.if-us-west-2/f2-live/s3fs-public/Ord.pdf>

In accordance with the requirements of Gov. Code Section 54954.3(a), members of the public wishing to address the Board/Committee during public comment or on any item listed on the agenda, may do so by filling out a Speaker Card and submitting it to the Clerk or using the “Raise Hand” tool located in the Zoom meeting application to identify yourself in order to speak, at the time the item is called. Speakers will be acknowledged by the Board/Committee Chair in the order requests are received and granted speaking access to address the Board.

- Members of the Public may test their connection to Zoom Meetings at: <https://zoom.us/test>
- Members of the Public are encouraged to review our overview on joining Valley Water Board Meetings at: <https://www.youtube.com/watch?v=TojJpYCxXm0>

Valley Water, in complying with the Americans with Disabilities Act (ADA), requests individuals who require special accommodations to access and/or participate in Valley Water Board of Directors/Board Committee meetings to please contact the Clerk of the Board’s office at (408) 630-2711, at least 3 business days before the scheduled meeting to ensure that Valley Water may assist you.

This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Sections 54950 et. seq. and has

not been prepared with a view to informing an investment decision in any of Valley Water's bonds, notes or other obligations. Any projections, plans or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of Valley Water's bonds, notes or other obligations and investors and potential investors should rely only on information filed by Valley Water on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System for municipal securities disclosures and Valley Water's Investor Relations website, maintained on the World Wide Web at <https://emma.msrb.org/> and <https://www.valleywater.org/how-we-operate/financebudget/investor-relations>, respectively.

Under the Brown Act, members of the public are not required to provide identifying information in order to attend public meetings. Through the link below, the Zoom webinar program requests entry of a name and email address, and Valley Water is unable to modify this requirement. Members of the public not wishing to provide such identifying information are encouraged to enter "Anonymous" or some other reference under name and to enter a fictional email address (e.g., attendee@valleywater.org) in lieu of their actual address. Inputting such values will not impact your ability to access the meeting through Zoom.

**Join Zoom Meeting:**  
**<https://valleywater.zoom.us/j/81170871803>**  
**Meeting ID: 811 7087 1803**  
**Join by Phone:**  
**1 (669) 900-9128, 81170871803#**

**1. CALL TO ORDER:**

1.1. Roll Call.

**2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA.**

*Notice to the public: Members of the public who wish to address the Board/Committee on any item not listed on the agenda may do so by filling out a Speaker Card and submitting it to the Clerk or using the "Raise Hand" tool located in the Zoom meeting application to identify yourself to speak. Speakers will be acknowledged by the Board/Committee Chair in the order requests are received and granted speaking access to address the Board/Committee. Speakers' comments should be limited to three minutes or as set by the Chair. The law does not permit Board/Committee action on, or extended discussion of, any item not on the agenda except under special circumstances. If Board/Committee action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Board/Committee may take action on any item of business appearing on the posted agenda.*

**3. APPROVAL OF MINUTES:**

3.1. Approval of October 31, 2024 Board Policy and Monitoring Committee (BPMC) Minutes.

[24-1025](#)

Recommendation: Approve the minutes.  
Manager: Candice Kwok-Smith, 408-630-3193  
Attachments: [Attachment 1: 103124 BPMC Minutes](#)  
Est. Staff Time: 5 Minutes

#### 4. REGULAR AGENDA:

- 4.1. Discuss San Francisquito Creek Flood Protection Project (Project) and Issues Related to Santa Clara Valley Water District's Participation in the San Francisquito Creek Joint Powers Authority (SFCJPA) and Provide Feedback. [24-1039](#)

Recommendation: A. Receive an update on Project status and issues related to Santa Clara Valley Water District's participation in the SFCJPA; and  
B. Discuss and identify opportunities for improvement to help resolve these issues and provide feedback to staff on next steps.

Manager: Bhavani Yerrapotu, 408-630-2735  
Attachments: [Attachment 1: Powerpoint](#)  
Est. Staff Time: 45 Minutes

- 4.2. Review Proposed Changes to Board Governance Policies - Executive Limitations (EL) 6 - Asset Management and Related Board Appointed Officer (BAO) Interpretations. [24-1040](#)

Recommendation: A. Review and provide input on the proposed changes to Board Governance Policies, Executive Limitations (EL) 6 - Asset Management and related BAO Interpretations; and  
B. Recommend that the revisions be presented to the full Board for approval.

Manager: Rita Chan, 408-630-2620  
Attachments: [Attachment 1: Current EL-6 and BAO Interpretations](#)  
[Attachment 2: Revised EL-6 and BAO Interpretations \(redline\)](#)  
[Attachment 3: Revised EL-6 \(clean copy\)](#)  
Est. Staff Time: 15 Minutes

- 4.3. Fair Chance and Disabled Hiring Program/ Veteran's Program Update. [24-1050](#)

Attachments: [Attachment 1: Powerpoint](#)  
Est. Staff Time: 45 Minutes

- 4.4. Discuss Board Policy and Monitoring Committee (BPMC) Work Plan Agenda Items. [24-1031](#)

Recommendation: Discuss BPMC Work Plan.

Manager: Candice Kwok-Smith, 408-630-3193

Attachments: [Attachment 1: 2024 BPMC Work Plan](#)

Est. Staff Time: 5 Minutes

**5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS.**

*This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during the meeting.*

**6. ADJOURN:**

6.1. Adjourn.

**THIS PAGE INTENTIONALLY LEFT BLANK**



# Santa Clara Valley Water District

---

**File No.:** 24-1025

**Agenda Date:** 12/6/2024  
**Item No.:** 3.1.

---

## **COMMITTEE AGENDA MEMORANDUM Board Policy and Monitoring Committee**

Government Code § 84308 Applies: Yes ☐ No ☒  
(If "YES" Complete Attachment A - Gov. Code § 84308)

### **SUBJECT:**

Approval of October 31, 2024 Board Policy and Monitoring Committee (BPMC) Minutes.

### **RECOMMENDATION:**

Approve the minutes.

### **SUMMARY:**

In accordance with the Ralph M. Brown Act, a summary of Committee discussions, and details of all actions taken by the Board Policy and Planning Committee, during all open and public Committee meetings, is transcribed and submitted for review and approval.

Upon Committee approval, minutes transcripts are finalized and entered into the District's historical records archives and serve as historical records of the Committee's meetings.

### **ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:**

The approval of minutes is not subject to environmental justice analysis.

### **ATTACHMENTS:**

Attachment 1: 103124 BPMC Minutes

### **UNCLASSIFIED MANAGER:**

Candice Kwok-Smith, 408-630-3193

**THIS PAGE INTENTIONALLY LEFT BLANK**





BOARD POLICY AND MONITORING  
COMMITTEE MEETING

---

# DRAFT MINUTES

---

**SPECIAL MEETING  
THURSDAY, OCTOBER 31, 2024  
12:00 PM**

(Paragraph numbers coincide with agenda item numbers)

**1. CALL TO ORDER:**

A regular meeting of the Santa Clara Valley Water District (Valley Water) Board Policy and Monitoring Committee (Committee) was called to order by Chairperson Hsueh in the Valley Water Headquarters Building Boardroom at 5700 Almaden Expressway, San Jose, California, and by Zoom teleconference, at 12:00 p.m.

**1.1. Roll Call.**

Committee members in attendance were: District 5 Director Nai Hsueh, Chairperson presiding, and District 6 Director Tony Estremera, Vice Chairperson.

Staff members in attendance were: Ingrid Bella, Mark Bilski, Mera Burton, Rick Callender, Isela Chaparro, Theresa Chinte, Rosie Cofre, Meenakshi Ganjoo, Rachael Gibson, Vincent Gin, Brian Hopper, Cody Houston, Michele King, Candice Kwok-Smith, Anna Lee, Courtney Letts, Patrice McElroy, Nicole Merritt, Linda Nguyen, Carlos Orellana, Sasa Seto, Stephanie Simunic, Kirsten Struve, Cheryl Togami, Tina Yoke, Beckie Zisser.

Public in attendance were: District 1 Director John Varela, District 7 Director Rebecca Eisenberg, Blanca, Rebecca Gibson, Katja Irvin and Molly Culton (Sierra Club), Arthur Keller.

**2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA:**

Chairperson Hsueh declared time open for public comment on any item not on the agenda. There was no one who wished to speak.

**3. APPROVAL OF MINUTES:**

### **3.1 Approval of September 30, 2024 Board Policy and Monitoring Committee (BPMC) Minutes.**

Recommendation: Approve the minutes.

The BPMC considered the minutes of the September 30, 2024 BPMC Minutes.

Public Comments: None.

Chairperson Hsueh requested for Item 4.3, relating to the work plan, that policy issues related to Safe Clean Water Program commitment on San Francisquito Creek including the roles and responsibilities of Board Appointed JPA representatives is added.

It was moved by Director Estremera, seconded by Chairperson Hsueh, that the minutes be approved as amended.

## **4. REGULAR AGENDA:**

### **4.1 Review and Discuss Proposed Updates to Board Governance Policy Governance Process-6 (GP-6): Board Members' Code of Conduct, Provide Direction to Staff as Needed and Recommend that an updated GP-6 be presented to the full Board for approval.**

Brian Hopper reviewed the information on this item, per the attached Committee Agenda Memo and in the attachment and was available to answer questions.

Discussion ensued relating to formal vs. informal process of complaints, verbal complaints vs. written complaints, not entertaining anonymous complaints, adding guiding and flexible language for the Chairperson relating to addressing complaints, and final document format.

Public Comment: Arthur Keller inquired relating to complaints rejected and process for informal complaints. The Committee stated all complaints will be discussed and decided if they have merit.

It was moved by Vice Chairperson Estremera, seconded by Chairperson Hsueh, that the proposed updates to GP-6 are incorporated and presented to the full Board for approval.

### **4.2 Review proposed changes to Board Governance Policies – Executive Limitations 3 (EL-3): Human Resources.**

**Recommendation:**

- A. Provide additional review input on the proposed changes to Board Governance Policies – Executive Limitations 3 (EL-3) and**
- B. Recommend that the revisions be presented to the full Board for approval.**

Rick Callender reviewed the information on this item, per the attached Committee Agenda Memo and in the attachment and was available to answer questions. He stated that staff recommends to keep the policy as the April 9, 2024 version.

Public Comment: None.

The BPMC agreed to keep the policy as the April 9, 2024 version and be presented to the full Board for approval.

#### **4.3 Receive the Valley Water 2023 Employee Survey Final Update.**

Patrice McElroy reviewed the information on this item, per the attached Committee Agenda Memo and in the attachment and was available to answer questions.

Vice Chairperson Estremera left his seat at 1:01 p.m. and the meeting paused. Vice Chairperson Estremera returned to his seat at 1:04 p.m. and the meeting resumed.

Public Comment: None.

Rick Callender stated the Valley Water Executives are listening to staff input, another survey will occur, and there is nothing beyond the normal budgetary process the Board of Directors needs to do.

#### **4.4 Discuss Board Policy and Monitoring Committee (BPMC) Work Plan and Agenda Items.**

The Committee reviewed Work Plan items and timeline. Chairperson Hsueh requested that policy issues related to Safe Clean Water Program commitment on San Francisquito Creek including the roles and responsibilities of Board Appointed Joint Powers Authority (JPA) representatives is added to "Other Assignments Requested by Board" section.

Public Comments: None.

The Committee received the information and took no formal action.

### **5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS:**

*This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during the meeting.*

Stephanie Simunic confirmed that Item 4.1, relating to GP-6, was approved with edits to be presented to the full Board for approval, Item 4.2, relating to the EL-6 policy, that it will be kept as the April 9, 2024 version, Item 4.3, relating to the Employee Survey Final update, was received; and, for Item 4.4, relating to the work plan, that policy issues related to Safe Clean Water Program commitment on San Francisquito Creek including the roles and responsibilities of Board Appointed JPA representatives will be added.

Discussion ensued relating to combining the November and December 2024 meetings. Theresa Chinte stated that no immediate action is required for the one water watershed plans and climate change action plan implementation items, which can be heard in 2025. She further stated EL-6 and the San Francisquito Creek JPA items can be heard in December.

Public Comment: None.

The Committee agreed to combine the November and December 2024 meetings and have a meeting early December 2024.

**6. Adjourn:**

**6.1. Adjourn to Special Meeting at 12:00 p.m. on TBD per the Committee.**

Chairperson Hsueh adjourned the meeting at 1:15 p.m.

Date Approved:

Stephanie Simunic  
Assistant Deputy Clerk II



# Santa Clara Valley Water District

File No.: 24-1039

Agenda Date: 12/6/2024

Item No.: 4.1.

---

## COMMITTEE AGENDA MEMORANDUM Board Policy and Monitoring Committee

Government Code § 84308 Applies: Yes ☐ No ☒  
(If "YES" Complete Attachment A - Gov. Code § 84308)

### SUBJECT:

Discuss San Francisquito Creek Flood Protection Project (Project) and Issues Related to Santa Clara Valley Water District's Participation in the San Francisquito Creek Joint Powers Authority (SFCJPA) and Provide Feedback.

### RECOMMENDATION:

- A. Receive an update on Project status and issues related to Santa Clara Valley Water District's participation in the SFCJPA; and
- B. Discuss and identify opportunities for improvement to help resolve these issues and provide feedback to staff on next steps.

### SUMMARY:

At Santa Clara Valley Water District's (Valley Water) September 24, 2024, Board meeting, the Board approved payment of Valley Water's annual member contribution to the SFCJPA Operating Budget. At that time, the Board referred recently encountered policy issues associated with the SFCJPA and the Project to the Board Policy and Monitoring Committee (Committee) for further discussion. The summary below provides the background on the SFCJPA and the Project, a Project status update, and a summary of policy issues to be discussed by the Committee.

### Background

San Francisquito Creek forms the boundary between San Mateo and Santa Clara Counties, with the cities of Menlo Park and East Palo Alto to the north and the City of Palo Alto to the south. The creek has overtopped and caused flooding in the surrounding communities several times in the past. The largest flood on record occurred in 1998 and was considered a once in 70-year flood event. The most recent flood event occurred on December 31, 2022, and was the second-largest flood on record.

The SFCJPA was formed in 1999 following the 1998 flood event and consists of five member agencies: Valley Water, the City of East Palo Alto, the City of Menlo Park, the City of Palo Alto, and the San Mateo County Flood and Sea Level Rise Resiliency District (One Shoreline). Each of the member agencies designate their own elected representative to the SFCJPA Board. Since its formation in 1999, the SFCJPA has been working to implement the San Francisquito Creek Flood

### Protection Project (Project).

The Project is part of Valley Water's Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program) that voters renewed in November 2020. Each project in the Safe, Clean Water Program has established key performance indicators (KPIs) that are used to monitor the progress and completion of the project. Flood protection projects reliant on federal funding have two KPIs; one for the preferred project with federal funding and another for a local-funding-only project. This approach allows progress on local KPIs while pursuing additional federal funding sources. Valley Water is currently aiming to achieve the local funding KPI listed below for this Project:

*"With state and local funding only: Protect approximately 3,000 parcels by providing 1% (100-year) flood protection downstream of Highway 101, and approximately 1.4% (70-year) protection upstream of Highway 101."*

The Project consists of two reaches: The downstream reach from San Francisco Bay to US Highway 101 and the upstream reach from US Highway 101 to Middlefield Road. The downstream reach of the Project was completed in 2018 and provides 100-year flood protection, thus meeting the Safe, Clean Water KPI for the downstream reach. The project included sediment removal, channel widening, levee improvements, and floodwalls. Valley Water took a lead role in implementing the downstream reach of the Project and managed the design and construction. There was no formal agreement for Valley Water to lead the project; rather, it was an informal arrangement between the SFCJPA Executive Director, Valley Water executive management, and other member agencies at the time. Valley Water contributed \$51.2 million, or over 70% of the total cost of the downstream reach. Approximately \$46.8 million was funded by the Safe, Clean Water Program, with the remainder funded by Valley Water's Watershed Stream Stewardship Fund.

The upstream reach of the Project is in progress. An EIR was approved in September 2019, and the preferred alternative included four project elements that would protect from a 70-year flood event. These four elements moved forward into design and have reached various levels of completion, listed below:

1. Pope-Chaucer Bridge Replacement - 90% design (by Valley Water)
2. Channel Widening (4 separate sites) - 90% design (by Valley Water)
3. Newell Road Bridge Replacement - design complete (by City of Palo Alto)
4. Top-of-Bank Improvements (floodwalls) - 60% design (by Valley Water)

### **Current Project Status**

As a result of the December 31, 2022 flooding, Valley Water staff determined that the existing creek capacity was less than estimated in previous models. Consequently, the four above-mentioned project elements would no longer convey the 70-year design flow. The Project, as designed, does not meet the Safe, Clean Water KPI for the upstream reach to provide 70-year flood protection.

Valley Water continued to lead the design of the four upstream project elements until February 2023, when at the SFCJPA's request, Valley Water turned over project design to the SFCJPA to lead. In spring 2024, the SFCJPA hired a consultant to re-evaluate the project alternatives and reaffirm the

preferred alternative (the four elements). Currently, the Pope Chaucer Bridge replacement, channel widening, and top-of-bank improvements are on hold until that analysis is complete.

The City of Palo Alto completed the Newell Road Bridge replacement design and is now proceeding to project construction since it has been determined that the bridge replacement will provide flood protection benefits without transferring risk downstream, and the project has grant funding. This project is being funded by a Caltrans Highway Bridge Program grant, with Valley Water contributing the local match funds for the grant of approximately 11% through a cost-share agreement with the City of Palo Alto.

### **Summary of Issues**

The issues related to Valley Water's participation in the SFCJPA fall into three categories:

1. Valley Water's role in the SFCJPA
2. Project direction
3. Financial concerns

#### **Valley Water's Role in the SFCJPA**

Valley Water has limited authority over the Project outcome. Valley Water has limited voting rights as one of five member agencies, each having one vote. Furthermore, while San Mateo County has three member agencies and three votes (One Shoreline, City of East Palo Alto, and City of Menlo Park), Santa Clara County has only two member agencies and two votes (Valley Water and City of Palo Alto). This creates some inequity in representation on the SFCJPA Board between the two counties. In addition, Valley Water is no longer leading the project and SFCJPA staff has taken over the lead role.

Despite this limited authority over the Project outcome, Valley Water has committed a total of \$81.5 million, which is the majority of funding for the Project. As of Fiscal Year 2024, Valley Water has expended approximately \$60.4 million (which includes both Safe, Clean Water and Watershed Stream Stewardship funding), and approximately \$21.1 million remains in Safe Clean Water funding.

For the downstream reach, Valley Water contributed \$51.2 million (which includes both Safe, Clean Water and Watershed Stream Stewardship funding), while the four other member agencies contributed a combined total of \$4.5 million, as outlined in the First Amended Construction Funding Agreement for the downstream reach. The SFCJPA also received \$8.8 million in Department of Water Resources Proposition 1E and Proposition 84 grant funding for the downstream reach, with Valley Water leading pursuit of the Proposition 84 grant.

For the upstream reach, the City of Palo Alto is currently securing a \$12.5 million Caltrans Highway Bridge Program grant for Newell Bridge Construction. The SFCJPA has executed an agreement for Proposition 1 grant funds in the amount of \$5 million and is pursuing approximately \$8.2 million in U.S. Army Corps of Engineers (USACE) CAP 205 funding.

While other member agency contributions and grant funding have been important to the Project's success, Valley Water's funding has been substantial in comparison.

Additionally, although Valley Water has limited authority over the Project outcome, the Safe, Clean Water Program KPI implies that Valley Water is responsible for project delivery. The Project's KPI calls for delivering 70-year flood protection for the upstream reach. However, Valley Water's altered role more closely aligns with a 'funding contribution' KPI. Several projects in the Safe, Clean Water Program are measured by funding contribution KPIs. One such example is Project F8: Sustainable Creek Infrastructure for Continued Public Safety, with the KPI to *"Provide up to \$7.5 million in the first 15-year period to plan, design and construct projects identified through Watershed Asset Management Plans."*

Lastly, the Project is included in Valley Water's Capital Improvement Program (CIP) Fiscal Years 2025-29 Five-Year Plan. Aside from USACE partnership projects, this is the only project in Valley Water's CIP that is being led by another agency. Other similar projects where Valley Water is not the project owner and only contributing funds through partnership agreements are included in operating budgets rather than the CIP. Examples of these types of projects include the Los Vaqueros Reservoir Expansion Project, the Delta Conveyance Project, and the B.F. Sisk Dam Raise and Reservoir Expansion Project. Valley Water has limited authority over the delivery of these projects, and therefore, they are included in operating budgets rather than the CIP.

#### Project Direction

The next issue, which is also discussed above under 'Project Status,' is that the current project does not meet the Safe, Clean Water KPI to provide 70-year flood protection. Following the December 2022 flood event, it became evident that the Project as designed would no longer provide 70-year flood protection, and the SFCJPA hired a consultant to re-evaluate the preferred project alternative. SFCJPA staff is currently working with its consultant and the JPA Board to reaffirm the preferred alternative and select an updated level of flood protection. It is uncertain what level of protection the SFCJPA will pursue. If the SFCJPA proceeds with the current design, it will not meet Valley Water's KPI. If the SFCJPA proceeds with 70-year flood protection, additional flood protection elements will need to be added to the design.

#### Financial Concerns

Until the updated level of protection for the upstream reach of the Project is determined, the total project costs are unknown. Even with the remaining Safe, Clean Water funding applied to the Project as currently designed, which does not provide 70-year flood protection, there is an approximate \$25 million funding gap. Valley Water estimates that 70-year flood protection would require additional infrastructure, and \$50 to \$100 million or more in funding.

Other financial concerns are related to SFCJPA operations. The SFCJPA Agreement requires annual financial audits, but these have not been completed for the past five (5) years. Financial audits are required by law at least bi-annually.

Additionally, there is no clear delineation of operations expenses between the two projects that the SFCJPA leads: the San Francisquito Creek Flood Protection Project and the SAFER Bay Project. The SAFER Bay Project provides coastal and sea level rise flood protection along the San Mateo County Shoreline. The SAFER Bay Project is located in and fully benefits San Mateo County. At a



---

2022 SFCJPA Board meeting, Valley Water and the City of Palo Alto raised concerns about continuing to contribute toward operating costs unless there was a clear separation of funding between the two projects. The purpose of separating expenses is to ensure that no portion of Valley Water or the City of Palo Alto's annual member contribution (approximately \$350,000) is funding SAFER Bay project operations expenses, which benefits San Mateo County.

### **Next Steps**

Some potential next steps for the Committee's consideration are provided below.

1. *Investigate options for Valley Water's long-term participation in the SFCJPA:* Valley Water staff could investigate options for Valley Water's continued participation in the SFCJPA, how the San Francisquito Creek Flood Protection Project would proceed under each option, and the pros and cons associated with each option. Options include withdrawing from the SFCJPA, taking a lead role in the SFCJPA, or continuing in the current limited role. The SFCJPA Agreement includes a clause for withdrawal, which would need to occur by May 1<sup>st</sup> to avoid payment of the following year's annual member contribution.
2. *Take steps to improve the existing SFCJPA and SFCJPA Agreement:* If Valley Water wishes to continue to participate in the SFCJPA, there are actions that may help resolve some of the identified issues, including:
  - a. *Request to amend the Agreement to include weighted voting rights:* Weighted voting rights would provide Valley Water with more authority over project direction and could be based on funding contribution and/or equal weighting between Santa Clara and San Mateo Counties. Some other JPAs that Valley Water participates in include weighted voting based on funding contribution.
  - b. *Request to amend the Agreement so member contribution is contingent upon financial audits and clear separation of SAFER Bay expenses:* The Agreement could be amended so that payment of member contributions is contingent on the SFCJPA conducting annual financial audits and demonstrating clear separation of expenses between the San Francisquito Creek and SAFER Bay projects. This would provide more transparency regarding how Valley Water funds are being used by the SFCJPA.
  - c. *Confirm and advocate for Valley Water's preferred level of protection:* Valley Water may wish to confirm the level of protection it desires for the project to provide (70-year or other). Confirming the level of protection may include an abbreviated planning effort or other cost-benefit analysis. Once determined, Valley Water's representative on the SFCJPA Board could advocate for Valley Water's preferred level of protection.
  - d. *Advocate for additional funding from other members or outside sources:* It's clear that no matter which level of protection is selected or how Valley Water chooses to continue to participate, additional funding will benefit the Project and the SFCJPA. Valley Water may wish to advocate for additional funding from other SFCJPA members or other local, state, or federal sources.

3. *Consider modifications to the Safe, Clean Water Program:* Depending on how Valley Water chooses to participate in the SFCJPA and the level of protection offered by the Project, Valley Water will need to modify the Safe, Clean Water Program, specifically the Project KPI. If Valley Water continues its current role, a funding contribution KPI more accurately reflects that role. Additionally, the Project level of protection will need to be modified once determined by the SFCJPA unless it remains at the 70-year level.
4. *Consider Changing the Project from a capital to an operations project:* Unless Valley Water becomes the project owner, consider removing the Project from the Capital Improvement Program (CIP) to be more consistent with other similar projects where Valley Water is not the project owner or lead agency.

Staff is requesting feedback from the Committee on proceeding with any of the above listed or other next steps that the Committee recommends.

**ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:**

This action is unlikely to or will not result in adverse impacts and is not associated with an equity opportunity.

**ATTACHMENTS:**

Attachment 1: PowerPoint

**UNCLASSIFIED MANAGER:**

Bhavani Yerrapotu, 408-630-2735



# San Francisquito Creek Project and JPA

Board Policy and Monitoring Committee Update  
December 6, 2024

# Overview

- Background and History
- Project Status
- Summary of Issues
  - Valley Water's Role in the SFCJPA
  - Project Direction
  - Financial Concerns
- Committee Discussion
  - Recommendations and Next Steps

# Flooding History

- **1998:** Highest flow on record, a once in 70-year flood event
- **2022:** Most recent and second highest event on record

## HISTORIC PEAK STREAMFLOW RATES SAN FRANCISQUITO CREEK AT USGS GAGE 11164500 1930 - 1941; 1950 - 2023

	<u>DATE</u>	<u>PEAK FLOW RATE (CFS)</u>
1.	FEBRUARY 3, 1998	7200
2.	DECEMBER 31, 2022	5880
3.	DECEMBER 22, 1955	5560
4.	DECEMBER 23, 2012	5400
5.	JANUARY 4, 1982	5220
6.	JANUARY 1, 2005	4840
7.	FEBRUARY 7, 2017	4820
8.	APRIL 2, 1958	4460
9.	JANUARY 21, 1967	4000
10.	FEBRUARY 13, 2000	3930

# San Francisquito Creek Joint Powers Authority (SFCJPA)

4

- Formed following the 1998 flood event to lead projects that mitigate the risk of flooding along San Francisquito Creek and San Francisco Bay
- Five Member Agencies:



# San Francisquito Creek Project

5

- Downstream Project (Reach 1)
  - Hwy 101 to Bay
  - Complete
- Upstream Project (Reach 2)
  - Middlefield Rd to Hwy 101
  - In progress



# Safe Clean Water Key Performance Indicator (KPI)

6

## Project E5: San Francisquito Creek Flood Protection

With state and local funding only: Protect approximately 3,000 parcels by providing 1% (100-year) flood protection downstream of Highway 101, and approximately 1.4% (70-year) protection upstream of Highway 101.

- ✓ **Downstream Project KPI (complete):**  
Provide 100 Year protection
- **Upstream Project KPI (in progress):**  
Provide 70 Year protection



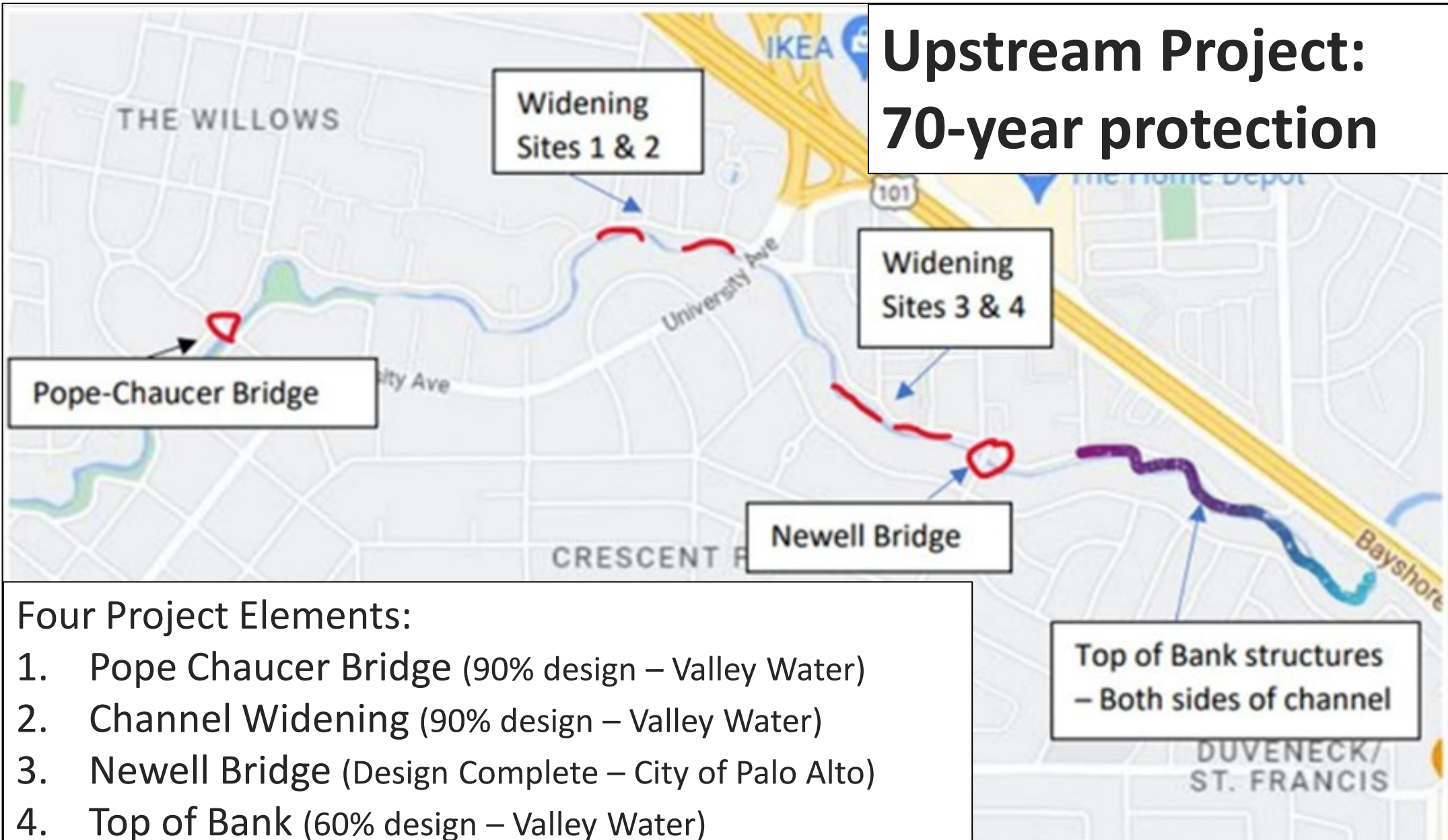
# Downstream Project: 100-year Protection

7



- Construction complete in 2018
  - Sediment removal, channel widening, levee improvements, and floodwalls
- Valley Water informally led the project as a member of the JPA
- Valley Water contributed approximately 70% of total funding (\$51.2 million<sup>1</sup>)

## Upstream Project: 70-year protection



### Four Project Elements:

1. Pope Chaucer Bridge (90% design – Valley Water)
2. Channel Widening (90% design – Valley Water)
3. Newell Bridge (Design Complete – City of Palo Alto)
4. Top of Bank (60% design – Valley Water)

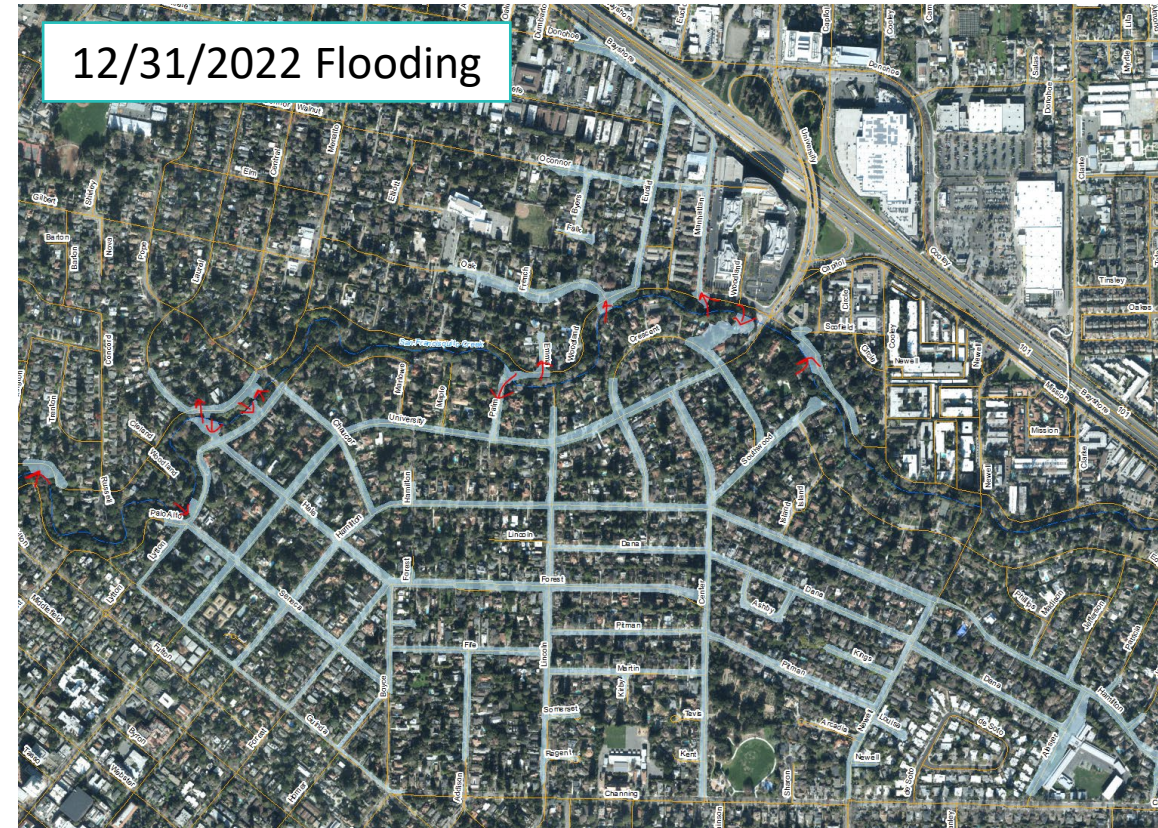


# Upstream Project Status

9

- After flooding on December 31, 2022, staff found that existing creek capacity is lower than estimated
- Proposed project (four elements) will not convey 70-year design flow

***Current design does not meet the SCW KPI to provide 70-year flood protection upstream of Hwy 101***



# Upstream Project Status (continued)

10

- In February 2023 at SFCJPA request, Valley Water turned over design to SFCJPA to lead
- In Spring 2024, SFCJPA executed a consultant agreement to re-evaluate EIR alternatives and reaffirm the preferred alternative
- Channel Widening, Top of Bank, and Pope-Chaucer Bridge designs are **on-hold** pending updated consultant analysis
- Newell Bridge construction planned for 2025
  - City of Palo Alto leads, with grant funding from Caltrans

# Summary of Issues

11

1. **Valley Water's Role:** Valley Water has limited authority over Project outcome, yet:
  - a) Has contributed the majority of Project funding
  - b) The Safe Clean Water KPI indicates Valley Water is responsible for Project delivery
  - c) The Project is included in Valley Water's CIP
2. **Project Direction:** The Project does not provide 70-year protection to meet the Safe Clean Water KPI
3. **Financial Concerns:**
  - a) The Project does not have enough funding for construction
  - b) SFCJPA annual financial audits have not been completed in five years
  - c) No clear delineation of SAFER Bay Project operations expenses

# Issue #1: Limited Authority Over Project Outcome

12

- Valley Water is one of five member agencies with equal voting rights
- Two member agencies represent Santa Clara County while three represent San Mateo County
  - Unequal representation between counties
- Historically, Valley Water led project design and construction, but this changed in 2023
  - Currently SFCJPA staff are leading the project

# Issue #1.a: Valley Water has Contributed the Majority of Project Funding

Total Contributions (millions) Upstream and Downstream Reaches Combined	
Valley Water <sup>1</sup>	\$81.5
Other JPA Members <sup>2</sup>	\$4.5
Grants <sup>3, 4</sup>	\$26.3
<sup>1</sup> \$60.4 expended as of July 1, 2024; \$21.1 remaining	
<sup>2</sup> For downstream project construction	
<sup>3</sup> Includes \$12.5 pending Caltrans Highway Bridge Program Grant for Newell Bridge	
<sup>4</sup> Does not include \$8.2 potential USACE CAP 205 funding	



# Issue #1.b: The Safe Clean Water KPI Indicates Valley Water is Responsible for Project Delivery

14

- Valley Water is contributing funds with limited authority for project delivery
- This role more closely aligns with a 'funding contribution' KPI

## **CURRENT KPI:**

### **Project E5: San Francisquito Creek Flood Protection**

With state and local funding only: Protect approximately 3,000 parcels by providing 1% (100-year) flood protection downstream of Highway 101, and approximately 1.4% (70-year) protection upstream of Highway 101.

## **EXAMPLE OF FUNDING CONTRIBUTION KPI:**

### **Project F8: Sustainable Creek Infrastructure for Continued Public Safety**

Provide up to \$7.5 million in the first 15-year period to plan, design and construct projects identified through Watershed asset management plans.



# Issue #1.c: The Project is Included in Valley Water's CIP

15

- Aside from USACE partnership projects, this is the only project in Valley Water's CIP being led by another agency
- Similar projects led by other agencies where Valley Water is contributing funds are included in VW's operations budget

## *Capital Investments Not Included in the CIP*

Valley Water is currently engaged in planning for the future water supply needs of the county. This effort includes updating the Water Supply Master Plan 2040, which was approved by the Board on November 20, 2019. Development of the Water Supply Master Plan 2050 was initiated in 2023 and is expected to conclude in 2024, with updated recommendations on water supply projects and portfolios.

The following capital water supply projects are being led by other agencies, with Valley Water's participation being evaluated in the Water Supply Master Plan 2050. As Valley Water is not the project owner and only contributing funds through partnership agreements, these projects are not included in the CIP Five-Year Plan, but rather are included in Valley Water's operating budget forecasts:

- Los Vaqueros Reservoir Expansion Project
- Delta Conveyance Project
- B.F. Sisk Dam Raise and Reservoir Expansion Project

*Excerpt from Page II-3 of Valley Water's 2025-2029 Capital Improvement Program Five Year Plan*

# Issue #2: The Project Does Not Provide 70-year Protection to Meet the Safe Clean Water KPI

16

- Current design does not provide 70-year protection
- SFCJPA is re-assessing the current design and level of protection
  - Uncertain what level of protection the SFCJPA Board will select
- 70-year protection would require additional improvements



valleywater.org

# Issue #3.a: The Project Does Not Have Enough Funding for Construction

17

- Upstream Project funding needs are uncertain until an updated level of protection is determined, and design completed
- Even with Safe Clean Water funding, there was an approximate \$25 million funding gap for the current project which does not provide 70-year protection
- 70-year protection would require an estimated additional \$50-100 million or more

# Issue #3.b: SFCJPA Annual Financial Audits Have Not Been Completed in Five Years

18

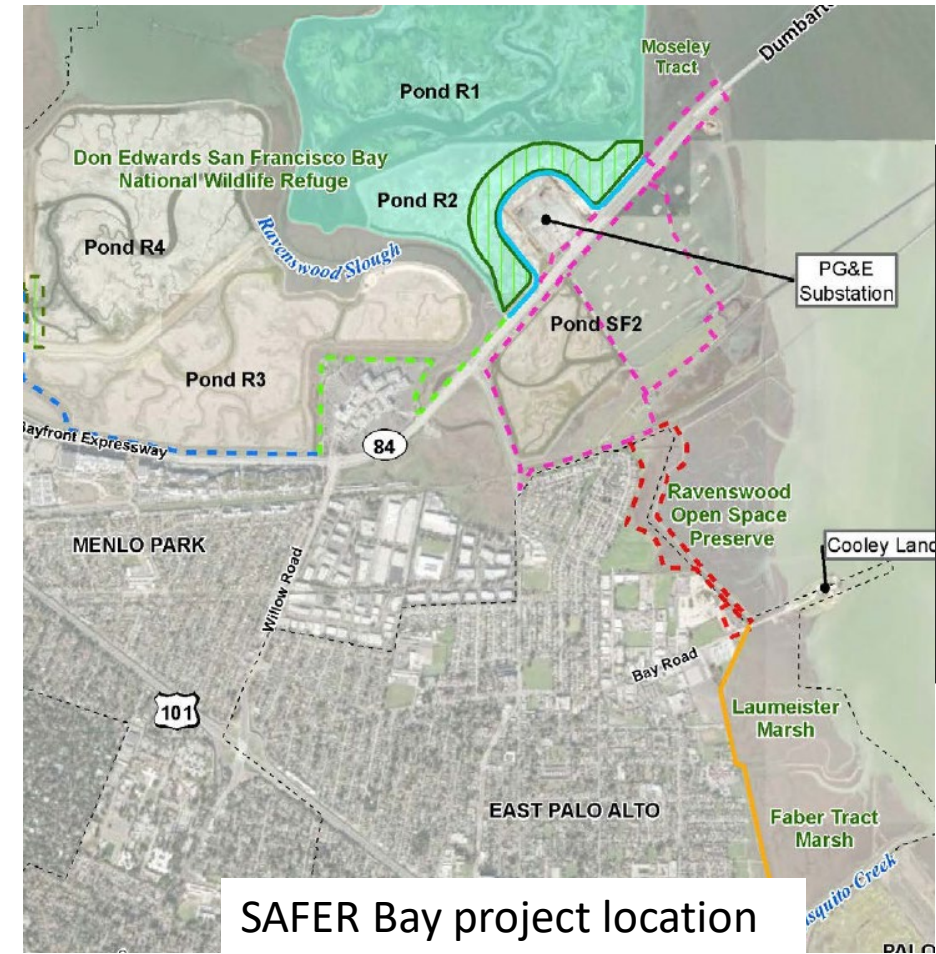
- SFCJPA Agreement requires annual financial audits
  - Also required at a minimum of biannually by law
- Last audit was completed in 2019



# Issue #3.c: No Clear Delineation of SAFER Bay Project Operations Expenses

19

- In addition to the San Francisquito Creek Project, the SFCJPA leads the SAFER Bay Project
- The SAFER Bay Project provides coastal and sea level rise flood protection along the San Mateo County shoreline
  - The project is located outside of Santa Clara County
- In 2022, Valley Water and City of Palo Alto raised concerns about contributing toward the SFCJPA's operating costs unless a clear separation of funds is in place



SAFER Bay project location

# Potential Next Steps

20

- Investigate options for Valley Water's long-term participation in the SFCJPA
  - Withdraw, take a lead role, continue current role
- Take steps to improve the existing SFCJPA and JPA Agreement
  - Weighted voting based on funds contribution and/or equal weighting between counties
  - Payment of member contribution contingent on financial audits and clear separation of SAFER Bay expenses
  - Confirm and advocate for Valley Water's preferred level of protection (70 year, other?)
  - Advocate for additional funding from other members or outside sources
- Consider modifications to the Safe, Clean Water Program
- Consider changing the Project from a capital to an operations project

# Committee Discussion

21

- Opportunities for improvement and resolution of issues
- Recommended next steps



# Valley Water

Clean Water • Healthy Environment • Flood Protection





# Santa Clara Valley Water District

**File No.:** 24-1040

**Agenda Date:** 12/6/2024

**Item No.:** 4.2.

---

## **COMMITTEE AGENDA MEMORANDUM Board Policy and Monitoring Committee**

Government Code § 84308 Applies: Yes ☐ No ☒  
(If "YES" Complete Attachment A - Gov. Code § 84308)

### **SUBJECT:**

Review Proposed Changes to Board Governance Policies - Executive Limitations (EL) 6 - Asset Management and Related Board Appointed Officer (BAO) Interpretations.

### **RECOMMENDATION:**

- A. Review and provide input on the proposed changes to Board Governance Policies, Executive Limitations (EL) 6 - Asset Management and related BAO Interpretations; and
- B. Recommend that the revisions be presented to the full Board for approval.

### **SUMMARY:**

As part of the comprehensive review of the Executive Limitations of the Board Governance Policies, staff has evaluated Executive Limitations (EL) 6 - Asset Management and its related BAO Interpretations. Initially adopted in June 1999, Executive Limitation 6 (EL-6) serves as a governance policy of the Board providing clear directives regarding protecting and maintaining Valley Water's intangible assets, including intellectual property and water rights, as well as physical assets, such as real property, facilities, and infrastructure. The current version of the policy was last updated in July 2015 and the BAO Interpretations were last updated in September 2014 (Attachment 1).

The proposed revisions to EL-6 (Attachment 2) are intended to clarify the existing provisions to improve their practical application. Revisions of note include the following:

- 1) 6.1 - Clarified that the BAO must use reasonable discretion to protect Valley Water, the Board, and employees from potential liability, including procuring necessary liability insurance (currently covered in 6.6);
- 2) 6.2 - Clarified and broadened the types of intangible assets that must be protected, including Valley Water intellectual property, records, and electronic data (including electronic data in backup storage);
- 3) 6.3 - Clarified that emergency responses related to EL-6 pertain to restoring the functionality of

---

Valley Water assets to ensure continuity of essential public services (i.e., water supply distribution and flood protection);

- 4) 6.4 - Clarified the management and maintenance of Valley Water's Asset Management Program, which is critical to realizing the full potential of Valley Water assets;
- 5) 6.5 - Clarified that third-party requests to access or use Valley Water real property assets do not conflict with Valley Water's current and future foreseeable use, and any terms and conditions allowing such third-party use are enforced;
- 6) 6.6 - Clarified the importance of Valley Water's water right assets and requires that they are properly maintained and protected; and
- 7) 6.7 - Clarified the type of inbound and outbound real estate transactions exempt from Board approval.

Because the revisions provide greater clarity to EL-6, the current BAO interpretations related to that Executive Limitation are duplicative and therefore staff is recommending their removal. A clean copy of the revised EL-6 (with no BAO Interpretations) is included as Attachment 3.

Staff asks that the Committee review the proposed revised EL-6 and provide input as necessary.

**ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:**

There are no environmental justice and equity impacts associated with this item.

**ATTACHMENTS:**

Attachment 1: Current EL-6 and BAO Interpretations

Attachment 2: Revised EL-6 and BAO Interpretations (redline)

Attachment 3: Revised EL-6 (clean copy)

**UNCLASSIFIED MANAGER:**

Rita Chan, 408-630-2620

# Governance Policies of the Board

## Current EL-6 and BAO Interpretations

<b>Title:</b> Asset Management		
<b>Category:</b> Executive Limitations		
<b>Policy No. EL-6</b>	Adopted: June 15, 1999 Chair: Larry Wilson	Latest Revision: July 29, 2015 Chair: Gary Kremen
The Board of Directors revised and adopted this policy at its public meeting on the latest revision date.		

The BAOs shall protect and adequately maintain corporate assets.

Further, a BAO shall:

- 6.1. Not unnecessarily expose the organization, its Board and employees to claims of liability.
- 6.2. Protect intellectual property, information, and files from loss or significant damage.
  - 6.2.1. Retain records in accordance with Records Retention Schedules, as adopted by Board resolution, including:
    - 6.2.1.1. Permanently retain the video recordings of the Board of Director meetings.
    - 6.2.1.2. Permanently retain the audio recordings of the Board Committee meetings.
- 6.3. Prepare the organization to respond and recover from an emergency or disaster. [See BAO Interpretation](#)
- 6.4. Maintain an Asset Management Program. [See BAO Interpretation](#)
  - 6.4.1. Keep commercial off-the-shelf software in supported versions.
- 6.5. Protect water rights and rights of way. [See BAO Interpretation](#)
  - 6.5.1. Proactively identify, preserve, and protect District property to ensure its use is consistent with the District mission.
  - 6.5.2. Resolve encroachments on District property.
- 6.6. Maintain adequate insurance. [See BAO Interpretation](#)

# Governance Policies of the Board

## Real Property

- 6.7. Acquire, encumber or dispose real property interest, only when authorized by the Board or one of the following exemptions is applicable:
- 6.7.1. The acquisition of real property interest is part of a Board-approved project, the purchase price does not exceed \$500,000, and the acquisition meets the following criteria:
    - 6.7.1.1. The purchase price equals the statutory offer of just compensation established for the property interest by a State of California licensed appraiser; or
    - 6.7.1.2. The negotiated purchase price does not exceed 10% above said statutory offer of just compensation.
    - 6.7.1.3. To provide public transparency, the CEO will provide a written report to the Board, in open session, prior to acquisition, of anticipated properties to be acquired under EL-6.7.1.
    - 6.7.1.4. A summary of the properties that have been acquired under EL-6.7.1, including the respective statutory offer of just compensation and final negotiated values will be reported to the Board quarterly.
  - 6.7.2. The disposition is a temporary construction easement (TCE) held by the District on lands owned by others when the TCE is no longer needed.
  - 6.7.3. The execution of a correction deed is necessary.
  - 6.7.4. The acquisition or dedication is a permanent or temporary real property interest required to be purchased to meet District obligations to provide such interests under a contract eligible for federal cost-sharing, provided that such acquisitions otherwise meet the requirements of State law.
  - 6.7.5. The acquisition is a dedication of real property interests and acceptance of the dedication is not anticipated to subject the District to unreasonable liability.
  - 6.7.6. The encumbrance is a lease or rental agreement granting the District a possessory real property interests as a lessee or tenant and the District's total financial obligation under the Lease does not exceed the amount specified in the Board-approved annual budget for any such Lease.

# Governance Policies of the Board

- 6.7.7. The disposition is a lease or rental agreement that: (a) conveys only possessory interests in District real property that the District has no need to use during the term of the Lease; (b) can unilaterally be terminated at the District's convenience by providing at least 90 days prior notice; and (c) does not provide rights to construct any improvement whatsoever, without the tenant obtaining a written District permit issued pursuant to the District's permitting procedures.
- 6.7.8. The encumbrance is a license or right-of-entry granting the District non-possessory real property interests.
- 6.7.9. The disposition is a revocable license or right-of-entry that grants non-possessory real property interests so long as the term of any such license or right-of-entry does not exceed two years or the District reserves the right to revoke any such license or right-of-entry at will, and any such license or right-of-entry does not grant the right to construct any permanent improvement on District real property that is incompatible with District purposes.

# BAO Interpretations

## of the Board's Governance Policies

<b>Title: Asset Management</b>		
<b>Category: BAO Interpretations</b>		
<b>Interpretation of Policy No. EL-6</b>	<b>CEO Approval: April 18, 2007</b>	<b>Date of Latest Revision: September 18, 2014</b>

6.3. Prepare the organization to respond and recover from an emergency or disaster.

*I-EL-6.3.a. Utilize the National Incident Management System.*

6.4. Maintain an Asset Management Program.

*I-EL-6.4.a. Minimize asset life-cycle costs while sustainably delivering the levels of service that meet customer expectations at an acceptable level of risk as expressed through the Board.*

*I-EL-6.4.b. Develop and maintain the Asset Management Program.*

6.5. Protect water rights and rights of way.

*I-EL-6.5.a. Meet all legal requirements that apply to the District's water rights, and take action as needed to protect and preserve these rights for long-term beneficial use.*

*I-EL-6.5.a.i. As stated in the FAHCE draft Settlement Agreement of 2003, a primary purpose of the FAHCE Program is to protect the District's water rights.*

*I-EL-6.5.b. Meet all water contract terms and conditions, and take action as needed to protect and preserve water contract rights and benefits.*

*I-EL-6.5.b.i. Governance structures and operating agreements related to the long-term Delta solution must provide the ability to protect the value of the District's imported water assets, including water supply and banking contracts.*

*I-EL-6.5.c. The Board adopted Water Resources Protection Ordinance to protect District assets from the actions of external parties. Because enforcement resources are not unlimited, prioritizing ordinance violations based on the following criteria will enable employees to focus its enforcement efforts. As a general rule, the priority level assigned to a violation will be increased by one level if another agency will partner on an enforcement action (e.g. a Priority 3 violation for the District becomes a Priority 2 where there is a partnership enforcement).*

*I-EL-6.5.c.i. Priority 1 – This is the most serious type of violation that generally will pose a threat to public and/or environmental health and safety, impacts the District's ability to operate and maintain a facility, impacts the District's ability to proceed with the planned construction of a facility, or where the District has or will face possible civil or criminal liability by a third party. Examples include: suspected hazardous material drainage and dumping, major encroachment of structures*

# BAO Interpretations

## of the Board's Governance Policies

- on District property, denuding District property of vegetation, significant fill, grading or structures threatening or blocking flow in the creek.*
- I-EL-6.5.c.ii. Priority 2 – This covers most violations of a serious nature which may threaten water quality, stream stability, and habitat, expose the District to liability, may affect the District's ability to operate and maintain a facility, or may affect the District's ability to construct a future facility. This may also include violations of issued permits, instances where an unauthorized use of District property is conferring a material and quantifiable financial benefit on the user, and situations where the unauthorized use has or may result in adverse public opinion. Examples include: dumping, improperly constructed or failed outfalls that show evidence of erosion, fences or minor retaining walls below top of bank, minor grading or filling, deliberate obvious encroachments on District fee title property.*
- I-EL-6.5.c.iii. Priority 3 – This is an intermediate type of violation that is either a Priority 4 type violation of a more egregious nature or Priority 2 type violation of a less significant nature. An example is an improperly constructed outfall that shows no sign of erosion, discharges suspected from pools or spas where no evidence of damage is observed, removal of native vegetation that could affect habitat, and blocking District access.*
- I-EL-6.5.c.iv. Priority 4 – This covers activities where the responsible party (RP) did not obtain a permit in advance of the activity, but it does not pose any potential threat to public or environmental health and safety or affect District operations or maintenance. Examples include: temporary trespassing, replacement of a fence, landscaping on easement where District approval and permit is required, and removal of a minimal amount of vegetation.*

### 6.6. Maintain adequate insurance.

- I-EL-6.6.a. Maintain property insurance for occupied buildings and contents to at least the value of probable maximum loss, excluding any insurance for the value of non-occupied facilities such as pipelines, dams, canals, reservoirs and the like, and excluding any insurance for the value of vehicles.*
- I-EL-6.6.b. Maintain District Self-Insured Risk Retention for liability with appropriate insurance reserves funding at a level of 90 percent actuarial confidence and a policy or policies of insurance for not less than \$40 million excess coverage for Commercial General Liability. However, in the event that losses are paid from this reserve fund during a fiscal year, the fund balance may drop to a level representing 80 percent actuarial confidence, to be replenished in the next fiscal year.*



**THIS PAGE INTENTIONALLY LEFT BLANK**

# Governance Policies of the Board

## Revised EL-6 and BAO Intrepretations (redline)

<b>Title:</b> Asset Management <b>Category:</b> Executive Limitations		
<b>Policy No. EL-6</b>	Adopted: June 15, 1999 Chair: Larry Wilson	Latest Revision: <u>TBD July 29, 2015</u> Chair: <u>TBD Gary Kremen</u>
The Board of Directors revised and adopted this policy at its public meeting on the latest revision date.		

The BAOs shall protect and properly adequately maintain Valley Water corporate assets.

Further, a BAO shall:

- 6.1. Not unnecessarily expose the organization, its Board, and employees to claims of liability, and maintain adequate property and liability insurance.
- 6.2. Protect intellectual property, information, and files from loss or ~~significant~~ damage.
  - 6.2.1. Maintain Valley Water's intellectual property rights, including patents, copyrights, trademarks, and trade secrets. Retain records in accordance with Records Retention Schedules, as adopted by Board resolution, including:
    - 6.2.1.1. ~~Permanently retain the video recordings of the Board of Director meetings.~~
    - 6.2.1.2. ~~Permanently retain the audio recordings of the Board Committee meetings.~~
  - 6.2.2. Maintain records according to the retention schedules approved by the Board.
  - 6.2.3. Maintain electronic data in easily accessible and usable file formats.
  - 6.2.4. Maintain backup storage of electronic data in a manner that prevents unauthorized access, modifications, or deletions.
- 6.3. Ensure Valley Water can quickly and effectively Prepare the organization to respond to and recover from an emergencies or disasters to enable continuity of operations and maintenance of Valley Water facilities that provide essential public services. See BAO-Interpretation
- 6.4. Maintain an aAsset mManagement pProgram. See BAO-Interpretation

# Governance Policies of the Board

- 6.4.1. Maintain desired levels of service provided by Valley Water facilities and infrastructure at acceptable levels of risk while minimizing asset life cycle costs. Keep commercial off-the-shelf software in supported versions.
- 6.4.2. Manage Valley Water's physical assets by incorporating a full life-cycle approach, starting with effective planning and design, and continuing through optimized operation and maintenance, appropriate rehabilitation, replacement, and asset disposition.
- 6.5. Protect Valley Water's real property and infrastructure (including its facilities, land, ~~water rights and rights-of-way, and easements~~). ~~See BAO Interpretation~~
- 6.5.1. Regulate the alteration or use of, or entry onto, Valley Water's facilities, lands, rights-of-way, and easements ~~Proactively identify, preserve, and protect District property to ensure such its use or entry is consistent with and does not conflict with Valley Water's the District mission.~~
- 6.5.2. Proactively address and resolve encroachments and enforce violations of terms and conditions regarding third-party use of on Valley Water District real property (including Valley Water's real property interests in fee and easement), prioritizing enforcement of violations posing a threat to public health, safety, and welfare; natural resources; and Valley Water's facilities, operations, or maintenance.
- 6.6. Protect Valley Water's water rights. Maintain adequate insurance. ~~See BAO Interpretation~~
- 6.6.1. Protect, preserve, and enforce Valley Water's water rights, including appropriative, riparian, groundwater, and contractual water rights.

## Real Property

- 6.7. Acquire, grant, encumber or relinquish ~~dispose~~ real property interests, only when authorized by the Board or one of the following exemptions applies ~~is applicable~~:
  - 6.7.1. Valley Water's ~~The~~ acquisition of real property interest is part of a Board-approved project, the purchase price does not exceed \$500,000, and the acquisition meets all of the following criteria:
    - 6.7.1.1. The purchase price equals the statutory offer of just compensation established for the property interest by a State of California licensed appraiser. ~~or~~
    - 6.7.1.2. The negotiated purchase price does not exceed 10% above said statutory offer of just compensation.
    - 6.7.1.3. To provide public transparency, the CEO ~~will~~ provides a written report to the Board, in open session, prior to acquisition, of anticipated properties to be acquired under EL-6.7.1.

# Governance Policies of the Board

- 6.7.1.4. A summary of the properties that have been acquired under EL-6.7.1, including the respective statutory offer of just compensation for each acquired property and its final negotiated purchase price values will be reported to the Board quarterly.
- 6.7.2. Valley Water relinquishes ~~The disposition is~~ a temporary construction easement (TCE) acquired held by Valley Water ~~the District~~ on lands owned by others when the TCE is no longer needed.
- 6.7.3. The execution of a correction deed is necessary to correct errors in the deed.
- 6.7.4. Valley Water acquires ~~The acquisition or dedication is~~ a permanent or temporary real property interest that is required to satisfy ~~be purchased to meet~~ Valley Water District obligations to secure provide such interests under a contract eligible for federal funding cost sharing, provided that such acquisitions or acceptance of such dedication otherwise meets applicable legal requirements ~~the requirements of State law~~.
- 6.7.5. Valley Water receives an offer of ~~The acquisition is~~ a dedication of real property interests and acceptance of such ~~the~~ dedication is not anticipated to subject Valley Water ~~the District~~ to unreasonable liability.
- 6.7.6. Valley Water enters into ~~The encumbrance is~~ a lease ~~or rental~~ agreement that ~~granting~~ Valley Water ~~the District~~ a possessory ~~real property~~ interests in real property as a lessee or tenant, and Valley Water's ~~the District's~~ total financial obligation under the ~~!Lease~~ agreement does not exceed the amount specified in the Board-approved annual budget for any such ~~!Lease~~ agreement.
- 6.7.7. Valley Water enters into ~~The disposition is~~ a lease ~~or rental~~ agreement that grants a lessee or tenant; (a) ~~conveys~~ only possessory interests in Valley Water District real property that Valley Water ~~the District~~ has no need to use during the term of the ~~!Lease~~ agreement; (b) can unilaterally be terminated at Valley Water's ~~the District's~~ convenience by providing no more than at least 90 days prior notice; and (c) does not provide rights to construct any improvement whatsoever, without the lessee or tenant obtaining a written Valley Water's permission through a District permit issued by Valley Water ~~pursuant to the District's permitting procedures~~.
- 6.7.8. Valley Water enters into a real property ~~The encumbrance is a~~ license agreement or right-of-entry granting Valley Water ~~the District~~ non-possessory ~~real property~~ interests in real property.

# Governance Policies of the Board

- 6.7.9. Valley Water grants ~~The disposition is~~ a revocable license or right-of-entry that provides grants ~~a~~ non-possessory real property interests ~~s~~ so long as the term of any such license or right-of-entry does not exceed two years or Valley Water ~~the District~~ reserves the right to revoke any such license or right-of-entry at will, and any such license or right-of-entry does not grant the right to construct any permanent improvement on Valley Water ~~District~~ real property that is incompatible with Valley Water's current or foreseeable use of that real property ~~District purposes~~.

# BAO Interpretations

## of the Board's Governance Policies

Title: Asset Management  
Category: BAO Interpretations

Interpretation of  
Policy No. EL-6

CEO Approval: April 18, 2007

Date of Latest Revision: September 18, 2014

### ~~6.3. Prepare the organization to respond and recover from an emergency or disaster.~~

~~I-EL-6.3.a. Utilize the National Incident Management System.~~

### ~~6.4. Maintain an Asset Management Program.~~

~~I-EL-6.4.a. Minimize asset life-cycle costs while sustainably delivering the levels of service that meet customer expectations at an acceptable level of risk as expressed through the Board.~~

~~I-EL-6.4.b. Develop and maintain the Asset Management Program.~~

### ~~6.5. Protect water rights and rights of way.~~

~~I-EL-6.5.a. Meet all legal requirements that apply to the District's water rights, and take action as needed to protect and preserve these rights for long-term beneficial use.~~

~~I-EL-6.5.a.i. As stated in the FAHCE draft Settlement Agreement of 2003, a primary purpose of the FAHCE Program is to protect the District's water rights.~~

~~I-EL-6.5.b. Meet all water contract terms and conditions, and take action as needed to protect and preserve water contract rights and benefits.~~

~~I-EL-6.5.b.i. Governance structures and operating agreements related to the long-term Delta solution must provide the ability to protect the value of the District's imported water assets, including water supply and banking contracts.~~

~~I-EL-6.5.c. The Board adopted Water Resources Protection Ordinance to protect District assets from the actions of external parties. Because enforcement resources are not unlimited, prioritizing ordinance violations based on the following criteria will enable employees to focus its enforcement efforts. As a general rule, the priority level assigned to a violation will be increased by one level if another agency will partner on an enforcement action (e.g. a Priority 3 violation for the District becomes a Priority 2 where there is a partnership enforcement).~~

~~I-EL-6.5.c.i. Priority 1 This is the most serious type of violation that generally will pose a threat to public and/or environmental health and safety, impacts the District's ability to operate and maintain a facility, impacts the District's ability to proceed with the planned construction of a facility, or where the District has or will face possible civil or criminal liability by a third party. Examples include: suspected hazardous material drainage and dumping, major encroachment of structures~~

# BAO Interpretations

## of the Board's Governance Policies

~~on District property, denuding District property of vegetation, significant fill, grading or structures threatening or blocking flow in the creek.~~

~~I-EL-6.5.c.ii. Priority 2 — This covers most violations of a serious nature which may threaten water quality, stream stability, and habitat, expose the District to liability, may affect the District's ability to operate and maintain a facility, or may affect the District's ability to construct a future facility. This may also include violations of issued permits, instances where an unauthorized use of District property is conferring a material and quantifiable financial benefit on the user, and situations where the unauthorized use has or may result in adverse public opinion. Examples include: dumping, improperly constructed or failed outfalls that show evidence of erosion, fences or minor retaining walls below top of bank, minor grading or filling, deliberate obvious encroachments on District fee title property.~~

~~I-EL-6.5.c.iii. Priority 3 — This is an intermediate type of violation that is either a Priority 4 type violation of a more egregious nature or Priority 2 type violation of a less significant nature. An example is an improperly constructed outfall that shows no sign of erosion, discharges suspected from pools or spas where no evidence of damage is observed, removal of native vegetation that could affect habitat, and blocking District access.~~

~~I-EL-6.5.c.iv. Priority 4 — This covers activities where the responsible party (RP) did not obtain a permit in advance of the activity, but it does not pose any potential threat to public or environmental health and safety or affect District operations or maintenance. Examples include: temporary trespassing, replacement of a fence, landscaping on easement where District approval and permit is required, and removal of a minimal amount of vegetation.~~

### ~~6.6. Maintain adequate insurance.~~

~~I-EL-6.6.a. Maintain property insurance for occupied buildings and contents to at least the value of probable maximum loss, excluding any insurance for the value of non-occupied facilities such as pipelines, dams, canals, reservoirs and the like, and excluding any insurance for the value of vehicles.~~

~~I-EL-6.6.b. Maintain District Self-Insured Risk Retention for liability with appropriate insurance reserves funding at a level of 90 percent actuarial confidence and a policy or policies of insurance for not less than \$40 million excess coverage for Commercial General Liability. However, in the event that losses are paid from this reserve fund during a fiscal year, the fund balance may drop to a level representing 80 percent actuarial confidence, to be replenished in the next fiscal year.~~



# Governance Policies of the Board

## Revised EL-6 (clean copy)

<b>Title:</b>	<b>Asset Management</b>	
<b>Category:</b>	<b>Executive Limitations</b>	
<b>Policy No. EL-6</b>	Adopted: June 15, 1999 Chair: Larry Wilson	Latest Revision: TBD Chair: TBD
The Board of Directors revised and adopted this policy at its public meeting on the latest revision date.		

The BAOs shall protect and properly maintain Valley Water assets.

Further, a BAO shall:

- 6.1. Not unnecessarily expose the organization, its Board, and employees to claims of liability, and maintain adequate property and liability insurance.
- 6.2. Protect intellectual property, information, and files from loss or damage.
  - 6.2.1. Maintain Valley Water's intellectual property rights, including patents, copyrights, trademarks, and trade secrets.
  - 6.2.2. Maintain records according to the retention schedules approved by the Board.
  - 6.2.3. Maintain electronic data in easily accessible and usable file formats.
  - 6.2.4. Maintain backup storage of electronic data in a manner that prevents unauthorized access, modifications, or deletions.
- 6.3. Ensure Valley Water can quickly and effectively respond to emergencies or disasters to enable continuity of operations and maintenance of Valley Water facilities that provide essential public services.
- 6.4. Maintain an asset management program.
  - 6.4.1. Maintain desired levels of service provided by Valley Water facilities and infrastructure at acceptable levels of risk while minimizing asset life cycle costs.
  - 6.4.2. Manage Valley Water's physical assets by incorporating a full life-cycle approach, starting with effective planning and design, and continuing through optimized operation and maintenance, appropriate rehabilitation, replacement, and asset disposition.

# Governance Policies of the Board

- 6.5. Protect Valley Water's real property and infrastructure (including its facilities, land, rights-of-way, and easements).
  - 6.5.1. Regulate the alteration or use of, or entry onto, Valley Water's facilities, lands, rights-of-way, and easements to ensure such use or entry is consistent with and does not conflict with Valley Water's mission.
  - 6.5.2. Proactively address and resolve encroachments and enforce violations of terms and conditions regarding third-party use of Valley Water real property (including Valley Water's real property interests in fee and easement), prioritizing enforcement of violations posing a threat to public health, safety, and welfare; natural resources; and Valley Water's facilities, operations, or maintenance.
- 6.6. Protect Valley Water's water rights.
  - 6.6.1. Protect, preserve, and enforce Valley Water's water rights, including appropriative, riparian, groundwater, and contractual water rights.

## **Real Property**

- 6.7. Acquire, grant, or relinquish real property interests, only when authorized by the Board or when one of the following exemptions applies:
  - 6.7.1. Valley Water's acquisition of the real property interest is part of a Board-approved project, the purchase price does not exceed \$500,000, and the acquisition meets all of the following criteria:
    - 6.7.1.1. The purchase price equals the statutory offer of just compensation established for the property interest by a State of California licensed appraiser.
    - 6.7.1.2. The negotiated purchase price does not exceed 10% above said statutory offer of just compensation.
    - 6.7.1.3. To provide public transparency, the CEO provides a written report to the Board, in open session, prior to acquisition, of anticipated properties to be acquired under EL-6.7.1.
    - 6.7.1.4. A summary of the properties that have been acquired under EL-6.7.1, including the respective statutory offer of just compensation for each acquired property and its final negotiated purchase price will be reported to the Board quarterly.

# Governance Policies of the Board

- 6.7.2. Valley Water relinquishes a temporary construction easement (TCE) acquired by Valley Water on lands owned by others when the TCE is no longer needed.
- 6.7.3. The execution of a correction deed is necessary to correct errors in the deed.
- 6.7.4. Valley Water acquires a permanent or temporary real property interest or a dedication of such real property interest that is required to satisfy Valley Water's obligations to secure such interest under a contract eligible for federal funding, provided that such acquisition or acceptance of such dedication otherwise meets applicable legal requirements.
- 6.7.5. Valley Water receives an offer of a dedication of a real property interest and acceptance of such dedication is not anticipated to subject Valley Water to unreasonable liability.
- 6.7.6. Valley Water enters into a lease agreement that grants Valley Water a possessory interest in real property as a lessee or tenant, and Valley Water's total financial obligation under the lease agreement does not exceed the amount specified in the Board-approved annual budget for any such lease agreement.
- 6.7.7. Valley Water enters into a lease agreement that grants a lessee or tenant: (a) only possessory interest in Valley Water real property that Valley Water has no need to use during the term of the lease agreement; (b) can unilaterally be terminated at Valley Water's convenience by providing no more than 90 days prior notice; and (c) does not provide rights to construct any improvement whatsoever, without the lessee or tenant obtaining Valley Water's permission through a permit issued by Valley Water.
- 6.7.8. Valley Water enters into a real property license agreement granting Valley Water non-possessory interest in real property.
- 6.7.9. Valley Water grants a revocable license or right-of-entry that provides a non-possessory real property interest in Valley Water property so long as the term of any such license or right-of-entry does not exceed two years or Valley Water reserves the right to revoke any such license or right-of-entry at will, and any such license or right-of-entry does not grant the right to construct any permanent improvement on Valley Water real property that is incompatible with Valley Water's current or foreseeable future use of that real property.

**THIS PAGE INTENTIONALLY LEFT BLANK**



# Santa Clara Valley Water District

---

**File No.:** 24-1050

**Agenda Date:** 12/6/2024  
**Item No.:** 4.3.

---

## **COMMITTEE AGENDA MEMORANDUM Board Policy and Monitoring Committee**

Government Code § 84308 Applies: Yes ☐ No ☒  
(If "YES" Complete Attachment A - Gov. Code § 84308)

### **SUBJECT:**

Fair Chance and Disabled Hiring Program/ Veteran's Program Update.

### **RECOMMENDATION:**

Receive an update on Valley Water's recruitment programs geared toward expanding our applicant pools, including the Fair Chance and Disabled Hiring Programs as well as our veterans' hiring initiatives.

### **SUMMARY:**

Staff previously presented the framework to launch programs for Veterans, Fair Chance, and Disabled applicants at Valley Water, as requested by the committee. Staff partnered with Community Based Organizations that serve the Fair Chance and Disabled communities and will present the progress made to advance the initiatives of both programs, along with success measures and next steps. Staff will also provide an update on the Veterans Hiring Initiative.

### **ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:**

Further analysis is necessary to determine the Environmental Justice impacts associated with this item and will be included in any additional updates provided to the committee.

### **ATTACHMENTS:**

Attachment 1: PowerPoint

### **UNCLASSIFIED MANAGER:**

---

**File No.:** 24-1050

**Agenda Date:** 12/6/2024  
**Item No.:** 4.3.

---

Patrice McElroy, 408-630-3159



# Valley Water

Clean Water • Healthy Environment • Flood Protection





# Update on Fair Chance and Disabled Hiring Programs

Board Policy and Monitoring Committee December 6, 2024

Presented by: Laurel Hanchett

# AGENDA

Fair Chance and Disabled Hiring Program Review

Meet Hector and Antonio

Thank you

# FAIR CHANCE AND DISABLED HIRING PROGRAM

Reach disadvantaged community

Expand applicant pool

Reflect the community we serve

BPMC Committee Request

Change a life



## Goals

- **Partner with CBOs**
  - Center for Employment Opportunities Works
  - Friends of Childrens with Special Needs
  - Goodwill of Silicon Valley
- **HR and Business Unit Partner**
- **Hire 4 temporary works**

## Current Status

### Fair Chance Hiring Program

- 4 candidates successfully hired/onboarding

### Disabled Hiring Program

- Mentor Identified
- Selection Process with CBO initiated

# FAIR CHANCE AND DISABLED HIRING PROGRAM REVIEW

# HECTOR

“This has given me structure and I feel good leaving for work everyday. It has brought stability, and I am proud.”





# ANTONIO

“I am happy to be a part of this opportunity. I like everything about the job. The team I work with is great.... I love everything. I am financially stable, and this opportunity is helping my family.”



# THANK YOU FOR YOUR SUPPORT

“We’re thrilled for Watersheds to be participating in the Fair Chance Program. Hector and Antonio have been great additions to our Good Neighbor encampment cleanup crew, bringing valuable contributions and energy to the team.”







# Valley Water – Veteran Initiatives Updates

Presented by: **Sasa Seto**, Acting Recruitment Supervising Program Administrator  
**Talent Acquisition & Career Pathways**

# Agenda

1. Overview and updates of initiatives implemented in mid-2023

2. Outreach Efforts

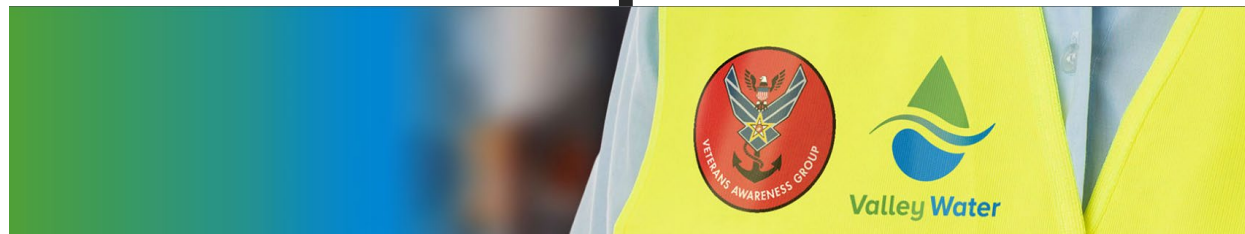
3. Hiring Outcomes & Success Stories

# Veteran Initiatives Overview & Updates

Veteran Hiring Pledge displayed on career pages.

Completed and published Veteran career page.

Implemented Veteran hiring preference and trained staff.



[HOME](#) > WE'RE COMMITTED TO HIRING VETERANS

## We're Committed to Hiring Veterans

### Overview

Jump-start your post-military career with a company that values your service and invests in your future. We value your commitment, strong leadership, and decision-making skills. At Valley Water, you can continue to be part of a culture that takes care of each other and makes a difference in our community by providing safe, clean water, flood protection and stewardship of streams on behalf of Santa Clara County's 2 million residents.

### Valley Water's feature on Military Makeover Operation Career segment



### Veteran Hiring Preference Language



Meets minimum qualifications



Submits their DD214 (Certificate of Release or Discharge from Active Duty)



# Outreach Efforts

Expanded outreach by posting on relevant job boards.

Attending Veteran specific hiring events and career fairs.

Connected with ESGR-Employer Support of The Guard & Reserve





# Hiring Outcomes & Success Stories

Uptick in Veteran applications received when comparing 2022-2023 to 2023-2024.

7 Veteran selections since 2023  
3 New Hires  
4 Promotions



# Next Steps

Explore and expand opportunities to integrate the Fair Chance and Disabled Hiring Programs across the Agency

Further strengthen and refine Veteran Outreach strategies to attract and engage talented candidates

Continue to foster collaboration and partnerships with Valley Water Employee Resource Groups (ERGs) to enhance diversity and inclusion in hiring initiatives



# QUESTIONS



75







# Valley Water

Clean Water • Healthy Environment • Flood Protection



# Santa Clara Valley Water District

---

**File No.:** 24-1031

**Agenda Date:** 12/6/2024  
**Item No.:** 4.4.

---

## **COMMITTEE AGENDA MEMORANDUM Board Policy and Monitoring Committee**

Government Code § 84308 Applies: Yes ☐ No ☒  
(If "YES" Complete Attachment A - Gov. Code § 84308)

### **SUBJECT:**

Discuss Board Policy and Monitoring Committee (BPMC) Work Plan Agenda Items.

### **RECOMMENDATION:**

Discuss BPMC Work Plan.

### **SUMMARY:**

Under direction of the Clerk, Work Plans are used by Board Committees to increase Committee efficiency, provide increased public notice of intended Committee discussions, and enable improved follow-up by staff. Work Plans are dynamic documents managed by Committee Chairs and are subject to change.

### **ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:**

The review of the Committee's Work Plan is not subject to environmental justice analysis.

### **ATTACHMENTS:**

Attachment 1: 2024 BPMC Work Plan

### **UNCLASSIFIED MANAGER:**

Candice Kwok-Smith, 408-630-3193

THIS PAGE INTENTIONALLY LEFT BLANK

## 12/6/2024 Board Policy Monitoring Committee Meeting

### 2024 Board Policy and Monitoring Committee Work Plan and Schedule

Subject	Task	5/15/24	6/19/24	Canceled 7/17/24	8/30/24	9/30/24	10/31/24	12/6/24	TBD 2025
Board Planning Process	<b>A. Provide Support for Board Planning Activities</b>								
	1. Develop Draft FY24-25 Board Work Plan	X							
	2. Planning for Board's FY25-26 Strategic Planning Workshop								X
	<b>B. Provide Support for Board Policy Review</b>								
	1. One Water Watershed Plans								X
	2. Update on Climate Change Action Plan Implementation								X
	3. Review Governance Policies of the Board: Governance Process (GP)-6, Board Members Code of Conduct	X	X		X	X	X		
	4. Review Governance Policies of the Board: Executive Limitations (EL)-3, Executive Limitations, Recruitment and Employment				X		X		
	5. Review EL-5, Procurement							X	
	6. Review EL-6, Asset Management							X	
Board Committees Principles and Structures	<b>C. Align Board Committees' Work Plans with Board Planning Calendar</b>								
REDI Office	<b>D. REDI Office</b>								
	1. DEI Strategic Master Plan Implementation Update				X				
	2. Naming/Renaming of Valley Water Facilities								X
	3. Tribal Land Acknowledgement								X
Human Resources	<b>E. Human Resources</b>								
	1. Next Generation Career Pathway Update				X				
	2. Apprenticeship Program				X				
	3. Employee Survey						X		
	4. Fair Chance and Disabled Hiring Program/ Veteran's Program Update							X	
Other Assignments Requested by Board	<b>F. Other Assignments as Requested by the Board</b>								
	1. Policy issues related to Safe Clean Water Program commitment on San Francisquito Creek including roles and responsibilities of Board Appointed Joint Powers Authority (JPA) representatives.							X	

THIS PAGE INTENTIONALLY LEFT BLANK