



SANTA CLARA VALLEY WATER DISTRICT

# NON-AGENDA

September 02, 2022

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

Page	<a href="#"><u>CEO BULLETIN &amp; NEWSLETTERS</u></a>
	CEO Bulletin: None.
	<a href="#"><u>BOARD MEMBER REQUESTS &amp; INFORMATIONAL ITEMS</u></a>
	<b>BMR/IBMR Weekly Reports:</b> None.
4	Memo from Bhavani Yerrapotu, DOO, Watersheds Design and Construction, to Rick Callender, CEO. Dated 08/16/22, regarding Report of Properties Acquired Under Executive Limitation 6.7.1.
7	Memo from Rechelle Blank, COO, Watersheds, to the Board of Directors, dated 08/25/22, regarding Watershed Communication.
21	Memo from Darin Taylor, CFO, to the Board of Directors, dated 09/02/22, regarding Memo from New Financial Auditors (Vasquez and Company LLP) to the Board Related to the Planned Financial Audit for FY2021-22.
	<a href="#"><u>INCOMING BOARD CORRESPONDENCE</u></a>
27	<b>Board Correspondence Weekly Report:</b> 09/01/22
28	Email from Chris Newman, to the Board of Directors, dated 08/24/22, regarding San Jose Water Bill Rates (C-22-0144).
36	Email from Peggy Griffin, to the Board of Directors, dated 08/25/22, regarding Water Bills in Santa Clara County (C-22-0145).
37	Email from Connie De La Cruz, to the Board of Directors, dated 08/26/22, regarding Property Claim (C-22-0146).
41	Email from Swanee Edwards, to the Board of Directors, dated 08/26/22, regarding the Water Summit (C-22-0147).
42	Email from Linda Goytia, to the Board of Directors, dated 08/26/22, regarding Vandalism in Ross Creek/Faraday Court Area (C-22-0148).
	<a href="#"><u>OUTGOING BOARD CORRESPONDENCE</u></a>
50	Email from Director Santos, to Zhiqing "Qing" Wang, PH.D., dated 08/25/22, regarding Property along Penitencia East Channel and Planting Vegetation to Create Green Infrastructure (C-22-0138).
54	Email from Chair Pro Tem Varela, to Connie De La Cruz, dated 08/26/22, regarding Property Claim (C-22-0139).
56	Email from Chair Pro Tem Varela, to Mark Turner, dated 08/29/22, regarding Valley Water Rebate Programs (C-22-0142).
60	Email from Directors Hsueh and Santos, to Alison Rao, dated 08/30/22, regarding Homeless Activity at Fair Oaks Park (C-22-0140).
65	Email from Director LeZotte, to Linda Goytia, dated 08/30/22, regarding Vandalism in Ross Creek/Faraday Court Area (C-22-0148).

Board correspondence has been removed from the online posting of the Non-Agenda to protect personal contact information. Lengthy reports/attachments may also be removed due to file size limitations. Copies of board correspondence and/or reports/attachments are available by submitting a public records request to [publicrecords@valleywater.org](mailto:publicrecords@valleywater.org).

# **CEO BULLETIN**

# **BOARD MEMBER REQUESTS and Informational Items**



## MEMORANDUM

FC 14 (08-21-19)

**TO:** Rick L. Callender, Esq.

**FROM:** Bhavani Yerrapotu

**SUBJECT:** Report of Properties Acquired Under  
Executive Limitation 6.7.1

**DATE:** August 16, 2022

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### **BACKGROUND:**

Executive Limitation (EL) 6.7 and 6.7.1 allows the CEO to acquire, encumber or dispose real property interest, only when authorized by the Board, or is part of a Board approved project and does not exceed \$500,000. EL 6.7.1.3 requires that the CEO provide a written report to the Board of anticipated properties to be acquired under EL 6.7.1. Additionally, EL 6.7.1.4 requires that the CEO provide a quarterly summary report of the properties acquired under EL 6.7.1, including the respective statutory offer of just compensation and final negotiated values.

### **PURPOSE:**

This memo complies with the provisions of EL 6.7.1.3 and 6.7.1.4 by providing the following:

1. A report of the properties which may be acquired under EL 6.7.1 in the upcoming quarter, July 1, 2022, through September 30, 2022. (Attachment 1)
2. A report of the properties that have been acquired under EL 6.7.1 in the last four quarters, July 1, 2021, through June 30, 2022. (Attachment 2)

If you have questions or need additional information, please contact Kathy Bradley at (408) 630-3109.

DocuSigned by:

*Bhavani Yerrapotu*

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Bhavani Yerrapotu, P.E.  
Deputy Operating Officer  
Watersheds Design and Construction

Attachment 1 (Properties which may be acquired)

Attachment 2 (Properties acquired)

cc: R. Blank, M. Richardson, K. Bradley, B. Magleby, C. Herrera

## Attachment 1

## REPORT OF PROPERTIES WHICH MAY BE ACQUIRED UNDER E.L. 6.7.1 IN THE UPCOMING QUARTER

DISTRICT FILE	PROJECT NAME	ASSESSOR'S PARCEL NUMBER (APN)	INTEREST
1024-176	Permanente Creek Retrofit Project	116-09-140	Temporary Construction Easement
1027-177	Permanente Creek Retrofit Project	116-09-140	Temporary Ingress/Egress Easement
4021-297	Coyote Creek Flood Management Measures	241-05-015	Permanent Easement
4021-380	Coyote Creek Flood Management Measures	241-05-015	Temporary Construction Easement
4021-296	Coyote Creek Flood Management Measures	241-05-014	Permanent Easement
4021-378	Coyote Creek Flood Management Measures	241-05-001	Temporary Construction Easement
4021-294	Coyote Creek Flood Management Measures	241-04-024	Permanent Easement
4021-302	Coyote Creek Flood Management Measures	254-13-090	Permanent Easement
4021-304	Coyote Creek Flood Management Measures	254-17-043	Permanent Easement
4021-385	Coyote Creek Flood Management Measures	254-17-043	Temporary Construction Easement
4021-306	Coyote Creek Flood Management Measures	254-17-073	Permanent Easement
4021-387	Coyote Creek Flood Management Measures	254-17-073	Temporary Construction Easement
4021-301	Coyote Creek Flood Management Measures	254-01-024	Permanent Easement
4021-382	Coyote Creek Flood Management Measures	254-01-024	Temporary Construction Easement
4021-299	Coyote Creek Flood Management Measures	254-01-017, 254-01-019	Permanent Easement
4021-381	Coyote Creek Flood Management Measures	254-01-017, 254-01-019	Temporary Construction Easement
4021-307	Coyote Creek Flood Management Measures	467-29-028	Permanent Easement
4021-390	Coyote Creek Flood Management Measures	467-29-028	Temporary Construction Easement
4021-408	Coyote Creek Flood Management Measures	241-17-072	Permanent Easement
4021-411	Coyote Creek Flood Management Measures	241-17-072	Temporary Construction Easement
4021-303	Coyote Creek Flood Management Measures	254-13-101, 254-13-098	Permanent Easement
4021-384	Coyote Creek Flood Management Measures	254-13-101, 254-13-098	Temporary Construction Easement
4021-305	Coyote Creek Flood Management Measures	254-17-052	Permanent Easement
4021-386	Coyote Creek Flood Management Measures	254-17-052	Temporary Construction Easement
4021-298	Coyote Creek Flood Management Measures	254-01-004	Permanent Easement
4021-289	Coyote Creek Flood Management Measures	467-29-035	Permanent Easement
4021-392	Coyote Creek Flood Management Measures	467-29-035	Temporary Construction Easement
4021-292	Coyote Creek Flood Management Measures	467-39-102	Permanent Easement
4021-395	Coyote Creek Flood Management Measures	467-39-102	Temporary Construction Easement
4021-293	Coyote Creek Flood Management Measures	467-50-065	Permanent Easement
4021-397	Coyote Creek Flood Management Measures	467-50-065	Temporary Construction Easement
4021-308	Coyote Creek Flood Management Measures	467-29-029	Permanent Easement
4021-391	Coyote Creek Flood Management Measures	467-29-029	Temporary Construction Easement
4021-407	Coyote Creek Flood Management Measures	472-31-042	Temporary Construction Easement
4021-320	Coyote Creek Flood Management Measures	472-31-041	Permanent Easement
4021-406	Coyote Creek Flood Management Measures	472-31-041	Temporary Construction Easement
4021-319	Coyote Creek Flood Management Measures	472-31-040	Permanent Easement
4021-405	Coyote Creek Flood Management Measures	472-31-040	Temporary Construction Easement
4021-413	Coyote Creek Flood Management Measures	254-39-021	Temporary Construction Easement
4021-311	Coyote Creek Flood Management Measures	467-39-103	Permanent Easement
4021-396	Coyote Creek Flood Management Measures	467-39-103	Temporary Construction Easement
4021-416	Coyote Creek Flood Management Measures	249-21-005	Temporary Construction Easement

## Attachment 2

### REPORT OF PROPERTIES ACQUIRED UNDER EL 6.7.1 JULY 1, 2021 - JUNE 30, 2022

DISTRICT FILE	PROJECT NAME	AGENT	GRANTOR	INTEREST	REC DATE	DOC#	INITIAL OFFER	FINAL SETTLEMENT
1016-85	Hale Creek Enhancement Pilot Project	GRIMALDO	ORLANDO	EASEMENT IN	4/13/2022	25281362	\$9,200	\$8,900
1016-86	Hale Creek Enhancement Pilot Project	GRIMALDO	ZUNGER	EASEMENT IN	4/21/2022	25287218	\$19,300	\$19,930
1016-87	Hale Creek Enhancement Pilot Project	GRIMALDO	JANG AND HONAKER	EASEMENT IN	1/5/2022	25211747	\$15,400	\$15,400
1016-88	Hale Creek Enhancement Pilot Project	GRIMALDO	CHEN M AND HAUSCH	EASEMENT IN	2/8/2022	25235755	\$20,200	\$28,100
1016-89	Hale Creek Enhancement Pilot Project	GRIMALDO	BAKER TRUSTEE & ET AL	EASEMENT IN	2/25/2022	25248262	\$15,200	\$14,100
1016-90	Hale Creek Enhancement Pilot Project	GRIMALDO	CHIANG	EASEMENT IN	3/4/2022	25253005	\$4,200	\$4,200
1016-91	Hale Creek Enhancement Pilot Project	GRIMALDO	MARIMON	EASEMENT IN	1/5/2022	25211743	\$22,800	\$26,800
1016-92	Hale Creek Enhancement Pilot Project	GRIMALDO	CEN CALIF CONF ASSN SEVENTH DAY ADVENTISTS	TCE IN	5/4/2022	25296255	\$123,866	\$139,700
1016-93						25296254		\$139,700
4033-54	Lower Penitencia Creek Improvement Project	HERRERA	CITY OF MILPITAS	FEE IN	3/4/2022	2525893	\$96,000	\$96,000
4033-61				FEE IN		2525894		
4033-62				EASEMENT IN		2525895		
5010-237	Upper Llagas Creek Flood Protection Project	GRIMALDO	ARRIAGA	FEE IN	7/28/2021	25046396	\$21,600	\$21,600
5027-322	Llagas Creek Flood Protection Project	HERRERA	SANTA CLARA COUNTY	FEE IN	7/23/2021	25038471	\$141,400	\$141,400
9186-41	Anderson Dam Tunnel Project - Slope Anchor Installation and Permanent Easement, Phase I	CAMPERO	PATEL	EASEMENT IN	9/24/2021	25111857	\$3,500	\$3,500

**TO:** Board of Directors**FROM:** Rechelle Blank**SUBJECT:** Watershed Communication**DATE:** August 25, 2022

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The purpose of this memorandum is to provide you with copy of recent Watershed staff's communication with the party that has filed a petition for action from Valley Water.

Please find the following:

- 1) August 10, 2022 Notice of Petition from San Francisco Baykeeper against Valley Water
- 2) August 25, 2022 Letter and Flyer sent in response to Baykeeper's Ben Eichenberg

For additional information, please contact me at 408-630-2615



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Rechelle Blank, P.E.  
Chief Operating Officer  
Watersheds

August 9, 2022

Santa Clara Valley Water District  
5750 Almaden Expressway  
Santa Clara, CA, 95118

*Submitted via email: Board@valleywater.org*

**Petition of San Francisco Baykeeper for Action by Santa Clara Valley Water District (“Valley Water”) to Remedy Violations of Law in the Operation of Valley Water’s Dams and Other Water Diversions**

Dear Valley Water,

San Francisco Baykeeper hereby gives notice to Valley Water of ongoing violations of law concerning the operation of Valley Water’s dams and diversions. San Francisco Baykeeper urges Valley Water to immediately modify operations of its system to allow the survival, and eventual recovery, of endangered Central California Steelhead, threatened fall run Chinook Salmon, and other threatened and endangered species. These changes are required by law, are good public policy, and are decades overdue.

San Francisco Baykeeper (“Baykeeper”) is a non-profit public benefit corporation organized under the laws of the State of California. Baykeeper submits these comments on behalf of its approximately 5,000 members and supporters who live and/or recreate in and around the San Francisco Bay Area. Baykeeper’s mission is to defend San Francisco Bay from the biggest threats and hold polluters and government agencies accountable to create healthier communities and help wildlife thrive. Our team of scientists and lawyers investigate pollution via aerial and on-the-water patrols, strengthen regulations through policy advocacy, and enforce environmental laws on behalf of the public.

Valley Water is the steward of creeks and rivers supporting salmon, steelhead, longfin smelt, riffle sculpin, rainbow trout, and many other public trust resources. Yet Valley Water does not manage those waters to protect habitat values for fish and wildlife. Valley Water routinely brings temperatures and flow rates to levels that are fatal for fish, despite the presence of protected species such as Central California Coast Steelhead trout and Central Valley fall-run Chinook salmon.

As a result, fish populations in Santa Clara County’s Stevens Creek, Guadalupe River, Coyote Creek, and their tributaries are not in good condition. Chinook Salmon inhabit these creeks and tributaries, yet struggle to survive due to inadequate water quality and flows. Rainbow Trout and Steelhead use these creeks and rivers as a home and breeding grounds, yet populations of those

fish are vanishingly small and Central California Coast Steelhead are endangered. Santa Clara valley's unique Riffle Sculpin have been pushed to the brink of extinction by human changes to the flows in these waterways. And Longfin Smelt, also on the brink of extinction, are suffering because of low and inadequate creek flows into San Francisco Bay. Valley Water's management of its dams, reservoirs, diversions, and other uses and extractions of water are the culprit leaving entire populations of historically native fish species all but erased.

Despite many years of implementing various habitat improvement projects, including projects intended to reduce or limit barriers to adult and juvenile migration, fish in these waterways are frequently subjected to flow conditions that are inadequate to maintain viable populations, much less populations that can contribute to local and regional fisheries. Fish and wildlife-related beneficial uses identified in the San Francisco Bay Basin Plan are not supported in area creeks or rivers, or the estuary they feed.

In 2003—19 years ago—the California Department of Fish and Wildlife (CDFW), National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), Guadalupe-Coyote Resource Conservation District (withdrew from the claim in 2020), Trout Unlimited, the Pacific Coast Federation of Fishermen's Associations, California Trout, Inc. and Valley Water executed a settlement agreement. The settlement resulted in the "FAHCE" program, whose objectives are: "to restore and maintain healthy steelhead and Chinook salmon populations by providing: (a) suitable spawning and rearing and (b) adequate passage for adult steelhead trout and Chinook salmon to reach suitable spawning and rearing habitat and for out-migration of juveniles." Yet implementation of the FAHCE program has not started, and in fact Valley Water now proposes at least an additional decade of delay for meaningful operational change. Rather than a means of recovery for endangered Steelhead and Chinook, the FAHCE has become a vehicle for delay and obstruction by Valley Water.<sup>1</sup>

Valley Water's appropriations and infrastructure currently and negatively impact fish and habitat values in the Stevens Creek, Coyote Creek, and Guadalupe River watersheds. These appropriations reduce populations and distribution of Steelhead Trout and other fish within the watershed as a whole. Valley Water's operation of its water supply system is in violation of State Law. Baykeeper therefore requests the following:

- 1) Valley Water immediately implement the "FAHCE Plus" alternative identified in the Draft Environmental Impact Report (SCH No. 2015022008). Valley Water has authority to release water now, and must do so to protect Steelhead and Chinook Salmon and comply with law;

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<sup>1</sup> The unimplemented and long delayed FAHCE and FAHCE+ programs are also ultimately inadequate to keep fish in good condition. Valley Water's own analysis of FAHCE makes clear that it would not create flow conditions that would allow fish to be in good condition.

- 2) Valley Water immediately revise the FAHCE Plus plan, and implement the revised plan as soon as feasible, and at most within one year, to ensure restoration of fish stocks to good condition, to prevent the waste and unreasonable use of water, and to protect public trust resources.
- 3) Valley Water immediately release gauge and monitoring data sufficient to provide operational transparency such that the public can independently verify how much water is entering the system and how much water is being released into creeks and streams.

Under California law, wild fish are recognized public property, held in trust by the State. (*California Trout, Inc. v. State Water Resources Control Bd.* (Cal. App. 3d Dist. Jan. 26, 1989), 207 Cal. App. 3d 585, 255.)

California Fish and Game Code section 5937 is the statutory expression of public trust protections for wild fish, stating that “[t]he owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam.” The plain meaning, legislative history, and state court construction of section 5937 indicates that it places a duty on dam owners to maintain fish in good condition. (*NRDC v. Patterson* (E.D. Cal. Aug. 27, 2004), 333 F. Supp. 2d 906.)

Fish and Game Code section 5948 addresses fish passage and the presence of impassable barriers. Section 5948 states that

No person shall cause or having caused, permit to exist any log jam or debris accumulation or any other artificial barrier, except a dam for the storage or diversion of water, public bridges and approaches thereto, groins, jetties, seawalls, breakwaters, bulkheads, wharves and piers permitted by law, and debris from mining operations, in any stream in this State, which will prevent the passing of fish up and down stream or which is deleterious to fish as determined by the commission, subject to review by the courts.

Article X, section 2 of the California Constitution requires that water resource use be reasonable and beneficial while also prohibiting the waste and unreasonable use of all water resources of the State. This section and its requirement for reasonable and beneficial use applies to all water resources of the State. (*See Peabody v. City of Vallejo* (1935) 2 Cal.2d 351, 367 (“The mandates are plain, they are positive, and admit of no exception. They apply to the uses of all water, under whatever right the use may be enjoyed.”)) Specifically, article X, section 2 of the California Constitution states:

It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that **the waste or unreasonable use or unreasonable method of use of water be prevented**, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. **The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water.** Riparian rights in a stream or water course attach to, but to no more than so much of the flow thereof as may be required or used consistently with this section, for the purposes for which such lands are, or may be made adaptable, in view of such reasonable and beneficial uses; provided, however, that nothing herein contained shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which the owner's land is riparian under reasonable methods of diversion and use, or as depriving any appropriator of water to which the appropriator is lawfully entitled. **This section shall be self-executing**, and the Legislature may also enact laws in the furtherance of the policy in this section contained.

(Emphasis added.) The rule of reasonableness, i.e., the reasonable use doctrine, is the overriding principle governing the use of water in California. (*See Peabody*, 2 Cal.2d at 367-68.)

The Public Trust Doctrine predates modern law and holds that the waters, tidelands, and wildlife resources of the State are held in trust for everyone. The State acts as trustee to protect these resources for present and future generations. That includes a duty to manage public trust resources for the benefit of the people of the State. There are a variety of public trust interests that pertain to California streams where such streams sustain a fishery. Wild fish, as public property, are just such an interest, held in trust by the State. (*California Trout*, 207 Cal. App. 3d at 255.) Under the California Supreme Court's reasoning in its seminal case on the subject, *National Audubon*, diversions from non-navigable upstream tributaries can be regulated to protect public trust uses. (*Nat'l Audubon Soc'y v. Superior Court* (1983) 33 Cal.3d 419.) This reasoning extends to Santa Clara County's hydrologically connected Stevens Creek, Guadalupe River, and Coyote Creek, as well as their tributaries, which should also be regulated to protect public trust resources.

### **Fish & Game Code section 5937**

Valley Water operates a series of dams as part of its water supply system. Since these dams were completed, fish stocks have precipitously declined and some fish in the system have been

designated as endangered. Valley Water's dam operations have resulted in flows of inadequate duration and quantity for successful upstream migration. Valley Water's dam operations have reduced the frequency and changed the timing of flows, which also impacts downstream migration. In addition, Valley Water's dam operations have resulted in short-duration flows that trigger Steelhead migration, but are insufficient in volume or duration to allow successful migration to spawning areas for adults, or to the ocean for smolts, resulting in the entrapment of smolts and/or adult fish in a drying channel, ultimately killing those fish. The premise of the decades-old FAHCE agreement is that Valley Water's operations have resulted in fish stocks in poor condition. Yet Valley Water's operation continues substantially unchanged. Valley Water's operation of its dams is in violation of Fish and Game Code Section 5937.

### **Fish & Game Code section 5948**

In addition, Valley Water's operation of its system has resulted in significant barriers to fish passage in area streams and creeks. Barriers include Valley Water infrastructure, including culverts, and natural features that become barriers when Valley Water reduces instream flow to dangerous levels to maximize extraction. Valley Water's barriers to fish passage in violation of section 5948 threaten the existence of fish stocks in the river system.

### **Waste and Unreasonable Use and Method of Use**

Valley Water's use and method of use of water, including the timing and volume of pumping and diversions, have resulted in endangered California Central Coast Steelhead and threatened fall-run Chinook teetering on the edge of extirpation in the Stevens Creek and Guadalupe River watersheds. Valley Water's use and method of use of water are unreasonable and wasteful, in violation of Article X, section 2 of the California Constitution.

### **The Public Trust Doctrine**

The Public Trust Doctrine provides that "the sovereign owns 'all of its navigable waterways and the lands lying beneath them as trustee of a public trust for the benefit of the people.'" (*National Audubon*, 33 Cal.3d at 434 (internal citations omitted); *see also Illinois Central Railroad Co. v. Illinois* (1892) 146 U.S. 387, 455-56.) And as applied to a water user's right to use water of the State, Valley Water "has an affirmative duty to take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible." (*National Audubon*, 33 Cal.3d at 446.)

Valley Water has never considered the impacts to trust resources resulting from their pumping and diversions, let alone mitigated those impacts. And while under *National Audubon* Valley Water may have discretion to weigh protection of trust resources against the need for appropriative water, Valley Water has no discretion to ignore impacts to trust resources resulting from that use of water. (*National Audubon*, 33 Cal.3d at 446 ("Just as the history of this state shows that appropriation may be necessary for efficient use of water

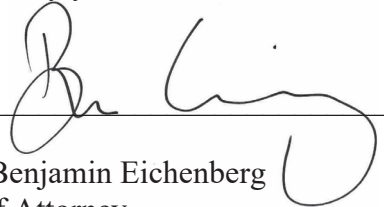
despite unavoidable harm to public trust values, it demonstrates that an appropriative water rights system administered without consideration of the public trust may cause unnecessary and unjustified harm to trust interests”) (internal citations omitted.) This duty is ongoing, and can arise when changed circumstances warrant action. (*National Audubon*, 33 Cal.3d at 436, 445.) Valley Water’s use and method of use of water has resulted in destruction of public trust resources—specifically Steelhead and Chinook Salmon—in violation of law.

## Conclusion

Valley Water’s legal duties are clear. The impact of Valley Water’s current water management on endangered fish and other public trust resources is also beyond reasonable dispute. Valley Water must take action immediately to prevent the extirpation of endangered and threatened fish species in the rivers and creeks it manages.

Baykeeper looks forward to working with Valley Water towards achieving water supply goals while ensuring timely releases of adequate water for fish. However, if the parties are unable to reach agreement on next steps towards releases for fish within 21 days, Baykeeper will seek the intervention of the Court to compel compliance by Valley Water with its Public Trust, Constitutional, and Statutory duties.

Sincerely yours,



M. Benjamin Eichenberg  
Staff Attorney  
San Francisco Baykeeper



Eric Buescher  
Managing Attorney  
San Francisco Baykeeper

August 25, 2022

San Francisco Baykeeper  
1736 Franklin Street, Suite 800  
Oakland CA 94612

*Submitted via email to: [ben@baykeeper.org](mailto:ben@baykeeper.org)*

**Subject: Petition of San Francisco Baykeeper for Action by Santa Clara Valley Water District dated August 9<sup>th</sup>, 2022**

Dear Mr. Eichenberg,

Thank you for meeting with Valley Water staff on August 16, 2022, to discuss the concerns raised in your August 9, 2022, letter. As we discussed, Santa Clara Valley Water District (“Valley Water” or “SCVWD”) entered into a Settlement Agreement (FAHCE Settlement Agreement) in 2003 to resolve a water rights complaint filed in 1996 by the Guadalupe-Coyote Resource Conservation District regarding alleged impacts of Valley Water facilities and their operations on fish populations inhabiting the Guadalupe River, Stevens Creek, and Coyote Creek (Three Creeks) watersheds. The FAHCE Settlement Agreement recognized the need for balancing all beneficial uses as part of Valley Water's operations to “store, divert, and redivert water in a manner that is consistent with the Overall Management Objectives.”<sup>1</sup>

The Fish and Aquatic Habitat Collaborative Effort (FAHCE) is the framework for the design, funding, implementation, management, monitoring, and adaptive management of the enhancement program by Valley Water designed to attain fisheries related Overall Management Objectives identified in the FAHCE Settlement Agreement. The target fish species identified in the FAHCE Settlement Agreement are anadromous steelhead (*Oncorhynchus mykiss*)<sup>2</sup> and Chinook salmon (*O. tshawytscha*), although other native fish are also expected to benefit from the FAHCE management actions.

The FAHCE Settlement Agreement commits Valley Water, environmental groups (California Trout, Trout Unlimited, Pacific Coast Federation of Fishermen's Associations) and fisheries regulatory agencies (National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the California Dept. of Fish and Wildlife), collectively comprising the Initialing Parties (IPs) to the FAHCE Settlement Agreement, to “a program of measures intended to restore and maintain fisheries, wildlife, water quality and other beneficial uses of the Three Creeks in good condition.” Management objectives relate to ecological functions such as instream flows that provide sufficient water depths for juvenile and adult passage, and habitat functions within the designated cold-water management zones (CWMZs) for

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<sup>1</sup> Section 6.2.2 of the FAHCE Settlement Agreement identifies the Overall Management Objectives as “Implementation of the Agreement will restore and maintain health steelhead trout and salmon populations as appropriate to each of the Three Creeks, by providing (A) suitable spawning and rearing habitat within each watershed, and (B) adequate passage for adult steelhead trout and salmon to reach suitable spawning and rearing habitat and for out-migration of juveniles.”

<sup>2</sup> *O. mykiss* includes both resident rainbow trout and anadromous steelhead.

spawning and rearing, suitable substrate size to accommodate spawning and egg incubation, and suitable summer water temperatures for juvenile steelhead rearing. These objectives are expected to be met through implementation of a combination of FAHCE instream flow and non-flow management actions identified in coordination with, and evaluated and approved by, the FAHCE IPs and Adaptive Management Team, which is a team comprised of technical representatives from each of the IPs, i.e., Valley Water, the environmental groups, and the regulatory agencies. Valley Water has already implemented many of the FAHCE non-flow management actions, as well as implemented a pilot FAHCE Plus flow program.

In addition to implementing FAHCE, Valley Water is charged with managing groundwater basins in Santa Clara County for recharge of groundwater supply and prevention of subsidence. With respect to groundwater recharge, Valley Water is the Groundwater Sustainability Agency under the Sustainable Groundwater Management Act (SGMA) responsible for assuring appropriate recharge of groundwater aquifers underlying the Three Creeks and the prevention of overdraft and sea water intrusion.

Regarding the related issue of subsidence, historical land sinking in our region covered 100 square miles and in some places the drop in land surface exceeded 13 feet. If that subsidence were to happen today, the impacts to public health and safety and the damage to critical public and private infrastructure would be significant and costly, given that even a small amount of land surface subsidence could significantly impair infrastructure, including homes, commercial and industrial buildings, many miles of roads, bridges, overpasses, flood control levees, the San Jose International Airport, and the San Jose-Santa Clara Regional Wastewater distribution system.

Finally, Valley Water is also a wholesale water agency responsible for assuring a sustainable water supply for the 2 million people of Santa Clara County. With respect to water supply, Valley Water is a leader in ensuring water efficiency and water conservation. During the current drought, Valley Water has taken exceptional actions to prevent water waste by individual water users, beginning with a declaration of a water shortage emergency condition in June of 2021 and the implementation of mandatory conservation measures with enforcement at the water user level, a first among wholesale water agencies in the state. Our water conservation programs, and community outreach efforts are among the most extensive in the nation; and per capita water use has been cut by 25% in the last 5 years.

To implement all its obligations to protect groundwater recharge, prevent subsidence and sea water intrusion, and sustainably provide a reliable water supply, Valley Water determined in the 1990s that stewardship of the watersheds in which it operates is critical. Accordingly in 1999, Valley Water determined to emphasize stream stewardship when the Board of Directors adopted a mission and policies that added environmental stewardship activities to Valley Water's purposes and obligations. Specifically, the Board's adoption of the Valley Water "Ends Policies" that are directly related to conservation and stewardship of fisheries added Policies E-4.1 and E-4.2 to govern SCVWD activities. The Ends Policies include commitments to using a science-based, inclusive approach to protect Santa Clara County's watersheds and aquatic ecosystems, and sustaining ecosystem health while managing local water resources for flood protection and water supply. These policies are consistent with Valley Water's statutory operating authorities, and the policies are reflected in the fish habitat restoration plan that implements the FAHCE Settlement Agreement, and guides Valley Water's other stewardship efforts.

Valley Water shares San Francisco Baykeeper's (Baykeeper) desire to see the FAHCE program implemented expeditiously and looks forward to having a follow-up conversation from the August 16<sup>th</sup> Zoom meeting to further define the next steps. Valley Water appreciates that August 16<sup>th</sup> conversation because it helped us to better understand your concerns and goals.

At the heart of your letter from August 9, 2022, were three requests. Your letter demanded that Valley Water must respond to these three requests within 21 days of the date of your letter. Below are those key requests and our direct and timely responses:

- 1) *Valley Water immediately implement the “FAHCE Plus” alternative identified in the DRAFT Environmental Impact Report (SCH No. 2015022008). Valley Water has authority to release water now and must do so to protect Steelhead and Chinook Salmon and comply with law.*

Valley Water Response:

Valley Water has been implementing the FAHCE Plus rule curves on Stevens Creek and Guadalupe Creek for the past two years as part of a pilot program established in collaboration with the IPs and regulatory agencies. We are unable to implement pilot FAHCE Plus flows in Coyote Creek because Anderson Reservoir has been drawn down to deadpool and Valley Water has initiated construction of certain components of the Anderson Dam Seismic Retrofit Project on an expedited basis in response to a mandatory Federal Energy Regulatory Commission (FERC) emergency order issued in February of 2020.

As you are likely aware, these FAHCE Plus rule curves for flow releases are storage-based. Given the nature of the current historic drought and lack of available water, Valley Water has been able to release only a few FAHCE Plus rule curve pulse flows for fish during this two-year period. A report on the pilot flow program is being finalized now and is expected to be released to the public in December 2022 (FAHCE web page:

<https://www.valleywater.org/project-updates/creek-river-projects/fahce-fish-and-aquatic-habitat-collaborative-effort>). Updates on the pilot program and these releases have been discussed at multiple public meetings as part of the Stream Planning and Operations Committee (SPOC) on March 11, 2021, May 13, 2021, July 8, 2021, September 9, 2021, November 4, 2021, January 13, 2022, March 10, 2022 and May 12, 2022. For details see the SPOC webpage, including minutes for these meetings: <https://www.valleywater.org/accordion/stream-planning-and-operations-committee-spoc-formerly-fahce-ad-hoc-committee>. In direct response to Baykeeper’s desire for FAHCE Plus flow measures implementation, Valley Water will discuss with the IPs for the potential continuation of the pilot program for 2 more years while the FAHCE process continues.

- 2) *Valley Water immediately revise the FAHCE Plus plan, and implement the revised plan as soon as feasible, and at most within one year, to ensure restoration of fish stocks to good condition to prevent the waste and unreasonable use of water, and to protect public trust resources.*

Valley Water response:

After our August 16<sup>th</sup> meeting, Valley Water more fully understands the intent of this request to specifically mean that you do not believe the FAHCE Plus rule curves are adequate, and you suggest that Valley Water should work directly with Baykeeper and your technical experts to develop an alternative flow measure plan.

As mentioned above, Valley Water has also been implementing the FAHCE Plus rule curves for two years now. Under the FAHCE Settlement Agreement, Valley Water is obligated to implement the FAHCE rule curves unless there is a better alternative to protect and maintain the beneficial uses of these waters and otherwise comply with applicable laws. Using the process provided by the FAHCE Settlement Agreement, the FAHCE Plus rules curves were developed

by the FAHCE Technical Working Group (TWG) after meeting for many years and was approved for implementation by the IPs as a better flow measure alternative. Per the FAHCE Settlement Agreement, any changes to the FAHCE Plus flows should be made through the adaptive management process, which is supervised by the Adaptive Management Team (AMT), consisting, as noted above, of technical representatives of all IPs, including environmental groups, regulatory agencies and Valley Water. Not only would development of a revised FAHCE Plus flow measures (requiring development by the TWG and approval by the IPs) cause further delay in the implementation of the FAHCE Settlement Agreement, but Valley Water would also potentially be in breach of the FAHCE Settlement Agreement if it were implemented outside of the prescribed FAHCE process.

Therefore, we invite Baykeeper to develop a flow program as it proposed, and then present it to the AMT so that the program can be appropriately evaluated through the process established in the FAHCE Settlement Agreement. We can schedule a special session of the AMT for this purpose at your earliest convenience.

As we gather more information about the FAHCE program benefits on fish habitat, including the benefits of FAHCE Plus flow measures, that information will be considered by the AMT in the FAHCE Adaptive Management Program to determine how to best balance water for fish, groundwater recharge, subsidence and sea water intrusion prevention, water supply, and other beneficial uses going forward. In a show of good faith, Valley Water has already started convening the AMT and has had meetings on October 29, 2020, February 2, 2021, July 14, 2021, with our next meeting already scheduled for September 26, 2022. We propose to make a request at that meeting for consensus to invite a Baykeeper representative to attend and observe future AMT meetings.

In addition to early implementation of the FAHCE Plus flow measures, it should be noted that Valley Water has already made considerable strides to implement Phase 1 non-flow stream restoration management actions from the FAHCE program via independent environmental and regulatory approvals for multiple restoration projects. In fact, since initialing the FAHCE Settlement Agreement, Valley Water has completed over 20 fish passage improvement projects in the three watersheds including remediation of 12 of the 18 named priority barriers in the FAHCE Settlement Agreement (only two priority barriers remain that Valley Water has easement rights over, and they are both in the planning phase for remediation; the remaining 4 priority barriers are owned by other entities). For example, just last year Valley Water funded and worked closely with the City of San José to remove a significant fish barrier at Singleton Road which has been a goal of fish advocates for over two decades. In addition, Valley Water has conducted geomorphic restorations in both Stevens Creek and the Guadalupe River System to enhance in stream fisheries habitat for spawning and rearing. Attached for your consideration is additional material on Valley Water's recent environmental stream stewardship efforts.

In short, we encourage Baykeeper to provide its input, expertise, and information regarding an alternative flow measure plan to the AMT and IPs via the FAHCE program framework. This approach not only accommodates compliance with the FAHCE Settlement Agreement for all IPs, including Valley Water, but also presents the opportunity for Baykeeper to obtain "one-stop" review of all new management actions it may recommend by all IPs, which again includes state and federal wildlife agencies and environmental groups.

- 3) *Valley Water immediately release gauge and monitoring data sufficient to provide operational transparency such that the public can independently verify how much water is entering the system and how much water is being released into creeks and streams.*

Valley Water response:

Valley Water shares data transparently in real time as it is collected, and in a manner that exceeds applicable state law requirements. Valley Water releases stream gauge, reservoir and precipitation data on our website (<https://valleywateralert.org/scvwd/index.php?>). The public can also view Valley Water's Statement of Use and Diversion Reports by going to the State Board's Electronic Water Rights Information Management System (<https://ciwqs.waterboards.ca.gov/ciwqs/ewrims/EWPUBLICTerms.jsp>). After accepting the terms of use for accessing record, click on "Water Rights Records Search" and search for "Santa Clara Valley Water District". Monitoring data is also conveyed and discussed at the FAHCE AMT meetings, and all of Valley Water's fisheries monitoring data can also be found on our FAHCE webpage (link provided above).

You expressed to Valley Water staff that you have had challenges in accessing this data and have some questions about its reliability. Therefore, we agreed that Valley Water will be setting up a subsequent call to walk you through our stream gauge system and discuss the QA/QC procedures and regulatory requirements applicable to the generation and reporting of our data. Currently, Valley Water staff is looking to schedule that meeting the week of August 29<sup>th</sup> or September 5<sup>th</sup> if that works with your schedules. I will contact you via email to set up this meeting with our technical team.

Valley Water respectfully submits these timely responses to Baykeeper's key issues. Our responses outline our current activities that are being conducted pursuant to federal and state law and provide an opportunity for our continued work with Baykeeper regarding FAHCE flow measures. Consequently, we trust that this response provides a sufficient basis for Valley Water to move forward in coordination with Baykeeper to protect and enhance the Three Creeks. To that end, please reach out me at [jbourgeois@valleywater.org](mailto:jbourgeois@valleywater.org) or 408-265-2990 with any additional comments, concerns or questions.

Sincerely,



John Bourgeois  
Deputy Operating Officer  
Watershed Stewardship and Planning

CC:

Brenda Blinn, California Department of Fish and Wildlife  
Patrick Samuel, California Trout  
Gary Stern, National Marine Fisheries  
Chuck Hammerstad, Northern California Council of Fisherman's Association  
Mike Conroy, Pacific Coast Federation of Fishermen's Association  
Matt Clifford, Trout Unlimited  
Joseph Terry, U.S. Fish and Wildlife Service

## Protecting the Environment is Fundamental to Our Mission



*Valley Water biologists working in Guadalupe Creek.*

The mission of Valley Water (Santa Clara Valley Water District) is defined in state law and includes environmental responsibilities, unique among California's water agencies, to enhance, protect, and restore streams, riparian corridors, and natural resources in connection with our water supply and flood protection efforts. Since our mission was expanded by the state legislature in 2001, Valley Water has fully embraced its broad responsibilities for environmental stewardship, employing teams of biologists who focus their work on habitat restoration and enhancement, water quality and environmental protection.

## Extensive Investments to Improve Fisheries

The elected Valley Water Board of Directors has demonstrated strong support for environmental protection through substantial investments in stream stewardship, recycled water, groundwater recharge and water conservation programs. The agency advocates for the environment within the water agency community and more broadly at the state and federal levels. Using cutting edge technologies to monitor fish, wildlife, precipitation, streamflow and other environmental factors, Valley Water responds adaptively to enhance aquatic and riparian habitat for fish and other species. Over nearly two decades, Valley Water has invested extensively in efforts to conserve, protect and enhance our natural resources. Some notable efforts include the following.

- Committed \$126 million for fisheries in Stevens Creek, Coyote Creek, and the Guadalupe River through the Fish and Aquatic Habitat Collaborative Effort.
- Maintains extensive stream gauge network with over 100 gauges, including 15 new gauges



*New Singleton Road Bridge constructed across Coyote Creek following the removal of a fish barrier.*

to expand understanding of ecology and stream flows.

- Removed over 20 barriers to fish migration in streams throughout Santa Clara County.
- Funds a regional stormwater program to protect creeks from pollution.
- Modified groundwater recharge operations to enhance fish migration and habitat.
- Manages reservoir releases in consultation with regulators to best support fisheries.

- Restored natural stream channel on 2,100 feet of Stevens Creek to enhance habitat for steelhead.
- Funded studies of barriers to fish migration on Stevens Creek to determine what changes would be most beneficial for fish.
- Initiated a countywide study for prioritizing habitat improvements for steelhead.
- Established fish monitoring program on Coyote Creek, Stevens Creek, and the Guadalupe River to understand the health of threatened species.
- Installed fish cameras and radio-tagged fish to better understand how fish migrate and survive in Coyote Creek and the Guadalupe River.
- Funded scientific studies to support the South Bay Salt Pond Restoration.
- Installed 35 alert radios to enable round-the-clock stream gauge monitoring of critical flow conditions.
- Piloting oxygenation systems to reduce the mercury in streams and fish, improving habitat and addressing public health risks.



*Valley Water biologist holding a riffle sculpin while surveying fish in the Coyote Creek Watershed.*

*Photo by Clayton Leal*

## Fish and Aquatic Habitat Collaborative Effort

### What is FAHCE?

The Fish and Aquatic Habitat Collaborative Effort (FAHCE) is Valley Water's ongoing program established in 1997 to improve passage for fish migration and to enhance habitat for fish in Coyote Creek, Stevens Creek, and the Guadalupe River. Today, the program implements a 2003 settlement agreement born from a water right complaint filed with the State Water Resources Control Board.

The settlement agreement provides a roadmap for resolving water right complaints and for improving habitat conditions for fish in the three watersheds. This broad, long-term settlement agreement affects over 100 miles of creeks and eight reservoirs, including revised reservoir operations, numerous technical studies, and fish passage and habitat improvements.

### Valley Water Advances FAHCE Implementation

- **Combined Environmental Review of FAHCE measures on Coyote Creek with the Anderson Dam Seismic Retrofit Project.** Evaluating both impacts and enhancements on Coyote Creek expedites public safety, environmental improvements, and water supply resilience all as one system.
- **Released the draft Environmental Impact Report (EIR) of FAHCE measures in the Guadalupe River and Stevens Creek watersheds in June 2021.** Valley Water is expediting this effort to begin implementation as soon as possible.
- **Removed 11 out of 18 priority fish migration barriers specified in the Settlement Agreement.**
- **Developed innovative computer model to evaluate fish habitat improvements.** Valley Water developed a new flow model in consultation with FAHCE parties, including environmental advocates and regulators. Each flow scenario produces millions of data points for fish habitat analysis and is being used to determine what habitat improvements will yield the best outcomes for fish.
- **Provides flows to benefit fish in coordination with state and federal resource agencies.** Valley Water has modified reservoir and groundwater recharge operations to provide flows for seasonal fish migration and to support habitat during drought.
- **Completed a \$1 million replacement of the City of San José's Singleton Road crossing using Valley Water funds, removing a major barrier to fish migration.**
- **Initiated a feasibility study on the Santa Clara County-owned Ogier Pond Complex to remove barriers to fish migration.**



## MEMORANDUM

FC 14 (08-21-19)

**TO:** Board of Directors

**FROM:** Darin Taylor

**SUBJECT:** Memo from new Financial Auditors (Vasquez and Company LLP) to the Board related to the planned financial audit for FY 2021-22

**DATE:** September 2, 2022

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Please refer to the attached memo addressed to the Board of Directors from Valley Water's new financial audit firm, Vasquez and Company LLP. The memo discusses planning for the upcoming audit of Valley Water's financial statements for the year ended June 30, 2022. Candice Kwok-Smith will be looking to schedule a 1:1 meeting for each interested director to discuss the upcoming audit with the auditors.

A handwritten signature in blue ink, appearing to read "Darin Taylor", written over a horizontal line.

Darin Taylor  
Chief Financial Officer  
Office of the Chief Executive Officer

655 N. Central Avenue  
Suite 1550  
Glendale, CA 91203

[www.vasquez.cpa](http://www.vasquez.cpa)

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July 12, 2022

**To the Board of Directors**  
**Santa Clara Valley Water District**  
5750 Almaden Expressway  
San Jose, CA 95118

This letter is intended to communicate certain matters related to the planned scope and timing of our audit of Santa Clara Valley Water District (the "District") financial statements and compliance as of and for the year ended June 30, 2022.

### Communication

Effective two-way communication between our firm and the Board of Directors is important to understanding matters related to the audit and developing a constructive working relationship.

Your insights may assist us in understanding the District and its environment, identifying appropriate sources of audit evidence and providing information about specific transactions or events. We will discuss with you your oversight of the effectiveness of internal control and any areas where you request additional procedures to be undertaken. We expect that you will timely communicate to us any matters you consider relevant to the audit. Such matters might include strategic decisions that may significantly affect the nature, timing and extent of audit procedures, your suspicion or detection of fraud, or any concerns you may have about the integrity or competence of senior management.

We will timely communicate to you any fraud involving senior management and other known or likely fraud, noncompliance with provisions of laws, statutes, regulations, rules, provisions of contracts or grant agreements or abuse that is likely to have a material effect on the financial statements. We will also communicate illegal acts, instances of noncompliance or fraud that come to our attention (unless they are clearly inconsequential), and disagreements with management and other serious difficulties encountered in performing the audit. We also will communicate to you and to management any significant deficiencies or material weaknesses in internal control that become known to us during the course of the audit. Additionally we will communicate significant unusual transactions, matters that are difficult or contentious for which the auditor consulted outside the engagement team, and circumstances that affect the form and content of the auditor's report. Other matters arising from the audit that are, in our professional judgment, significant and relevant to you in your oversight of the financial reporting process will be communicated to you in writing.



The Board of Directors  
 Santa Clara Valley Water District  
 July 12, 2022  
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## Independence

Our independence policies and procedures are designed to provide reasonable assurance that our firm and its personnel comply with applicable professional independence standards. Our policies address financial interests, business and family relationships, and non-audit services that may be thought to bear on independence. For example, without our permission, no partner or professional employee of Vasquez and Company LLP is permitted to have any direct financial interest or a material indirect financial interest in a client or any affiliate of a client. Also, if an immediate family member or close relative of a partner or professional employee is employed by a client in a key position, the incident must be reported and resolved in accordance with firm policy. In addition, our policies restrict certain non-audit services that may be provided by Vasquez and Company LLP and require audit clients to accept certain responsibilities in connection with the provision of permitted non-attest services.

## The Audit Planning Process

Our audit approach places a strong emphasis on obtaining an understanding of how your District functions. This enables us to identify key audit components and tailor our procedures to the unique aspects of your operations. The development of a specific audit plan will begin by meeting with you and with management to obtain an understanding of business objectives, strategies, risks and performance.

As part of obtaining an understanding of your organization and its environment, we will obtain an understanding of internal control. We will use this understanding to identify risks of material misstatement and noncompliance, which will provide us with a basis for designing and implementing responses to the assessed risks of material misstatement and noncompliance. We will also obtain an understanding of the users of the financial statements in order to establish an overall materiality level for audit purposes. We will conduct formal discussions among engagement team members to consider how and where your financial statements might be susceptible to material misstatement due to fraud or error or to instances of noncompliance.

## The Concept of Materiality in Planning and Executing the Audit

We apply the concept of materiality in both planning and performing the audit, evaluating the effect of identified misstatements or noncompliance on the audit and the effect of uncorrected misstatements, if any, on the financial statements, forming the opinion in our report on the financial statements, and determining or reporting in accordance with *Government Auditing Standards* and other compliance reporting requirements. Our determination of materiality is a matter of professional judgment and is affected by our perception of the financial and compliance informational needs of users of the financial statements. We establish performance materiality at an amount less than materiality for the financial statements as a whole to allow for the risk of misstatements that may not be detected by the audit. We use performance materiality for purposes of assessing the risks of material misstatement and determining the nature, timing and extent of further audit procedures. Our assessment of materiality throughout the audit will be based on both quantitative and qualitative considerations. Because of the interaction of quantitative and qualitative considerations, misstatements of a relatively small amount could have a material effect on the current financial statements as well as financial statements of future periods. We will accumulate misstatements identified during the audit, other than those that are clearly trivial. At the end of the audit, we will inform you of all individual uncorrected misstatements aggregated by us in connection with our evaluation of our audit test results.



To the Board of Directors  
 Santa Clara Valley Water District  
 July 12, 2022  
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### Significant Risks of Material Misstatement

Our audit of the financial statements includes the performance of risk assessment procedures in order to identify risks of material misstatement, whether due to fraud or error. As part of these risk assessment procedures, we determine whether any risks identified are a significant risk. A significant risk is an identified and assessed risk of material misstatement that, in our professional judgment, requires special audit consideration. As part of our initial risk assessment procedures, we identified the following risks as significant risks. Additional significant risks may be identified as we perform additional audit procedures.

Risk Name	Risk Description	Planned Response
Management override of controls	Management could override controls to commit fraudulent financial reporting, misappropriate assets, and manipulate earnings.	<ul style="list-style-type: none"> <li>Obtain an understanding of the Company's financial reporting process.</li> <li>Examine selected journal entries and other adjustments.</li> <li>Conduct procedures to evaluate fraud risks.</li> </ul>
Revenue recognition	There is a risk that revenue is not properly recognized.	<ul style="list-style-type: none"> <li>Perform revenue testing and cut-off testing around year-end for completeness of revenues.</li> <li>Analyze receivable and revenue balances in relation to prior year balances and current year activity</li> </ul>
Accounting Estimate	Significant risk resulting from risk of material misstatements	<ul style="list-style-type: none"> <li>Obtain understanding of how management developed estimate</li> <li>Review and test management's process, including:               <ul style="list-style-type: none"> <li>Testing data used in forming assumptions</li> <li>Evaluating assumptions</li> <li>Analyzing historical data</li> </ul> </li> <li>Review subsequent events or transactions</li> </ul>

### Our Approach to Internal Control and Compliance Relevant to the Audit

Our audit of the financial statements, including compliance, will include obtaining an understanding of internal control sufficient to plan the audit and determine the nature, timing and extent of audit procedures to be performed. An audit is not designed to provide assurance on internal control or identify significant deficiencies or material weaknesses. Our review and understanding of the District's internal control is not undertaken for the purpose of expressing an opinion on the effectiveness of internal control.

We will issue reports on internal control related to the financial statements and major programs. These reports describe the scope of testing of internal control and the results of our tests of internal control. Our reports on internal control will include any significant deficiencies and material weaknesses in the system of which we become aware as a result of obtaining an understanding of internal control and performing tests of internal control consistent with the requirements of *Government Auditing Standards* issued by the Comptroller General of the United States, the Single Audit Act, and *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* at 2 CFR 200 (Uniform Guidance).



To the Board of Directors  
Santa Clara Valley Water District  
July 12, 2022  
Page 4

We will issue reports on compliance with laws, statutes, regulations, and the terms and conditions of federal awards. We will report on any noncompliance that could have a material effect on the financial statements and any noncompliance that could have a direct and material effect on each major program. Our reports on compliance will address material errors, fraud, violations of compliance requirements, and other responsibilities imposed by state and federal statutes and regulations and assumed contracts; and any state or federal grant, entitlement or loan program questioned costs of which we become aware, consistent with the requirements of the standards identified above.

#### Timing of the Audit

We have scheduled field work for the week of August 1, 2022. Management's adherence to its closing schedule and timely completion of information used by us in performance of the audit is essential to timely completion of the audit.

#### Closing

We will be pleased to respond to any questions you have about the foregoing. We appreciate the opportunity to be of service to Santa Clara Valley Water District.

This communication is intended solely for the information and use of the Board of Directors and is not intended to be, and should not be, used by anyone other than this specified party.

Very truly yours,

VASQUEZ & COMPANY LLP

**Roger A. Martinez**  
Partner – Audit Practice Leader