



SANTA CLARA VALLEY WATER DISTRICT

# NON-AGENDA

October 6, 2022

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

| Page |  | <u><a href="#">CEO BULLETIN &amp; NEWSLETTERS</a></u>   |
|------|--|---|
| 3    |  | CEO Bulletin: 10/05/23  |
|      |  | <u><a href="#">BOARD MEMBER REQUESTS &amp; INFORMATIONAL ITEMS</a></u>  |
| 8    |  | <b>BMR/IBMR Weekly Reports: 10/06/23</b>  |
| 9    |  | Memo from Darin Taylor, CFO to the board, dated 10/02/23, providing the Fourth Quarter Fiscal Year 2022-23 Financial Status Update.   |
|      |  | <u><a href="#">INCOMING BOARD CORRESPONDENCE</a></u>  |
| 20   |  | <b>Board Correspondence Weekly Report: 10/26/23</b>   |
| 24   |  | Email from Paul Tatsuta to Director Hsueh, dated 09/27/23, regarding Calabazas Creek Rehabilitation Project. C-23-0240  |
| 26   |  | Email from Michael Chau to the board, dated 09/27/23, regarding Water Sprinkler Inefficiency at Yerba Buena High School, San Jose. C-23-0241  |
| 27   |  | Email from Brigitte Rince to the board, dated 09/29/23, requesting additional information for unhoused living a flood zone in District 4. C-23-0242   |
| 31   |  | Email from Rae Knapp to the board, dated 09/30/23, providing information on the 10/29/23 creek and trail cleanup on Coyote Creek. C-23-0243   |
| 34   |  | Email from Brigitte Rince to the board, dated 09/30/23 (and copy of Caltrans' response), expressing additional concerns for the unhoused living in a flood zone area in District 4. C-23-0244 |
| 39   |  | Email from Thomas Lawrence to Director Hsueh, dated 09/30/23, regarding erosion concerns along Calabazas Creek near Via Regina Road in Saratoga. C-23-0245                                    |
|      |  | <u><a href="#">OUTGOING BOARD CORRESPONDENCE</a></u>  |
| 44   |  | Email from Director Beall to Kathleen O'Connell, dated 09/27/23, responding to concerns about encampments along Guadalupe River adjacent to Highway 85 in District 4.                         |
| 48   |  | Email from Director Estremera to Michael Chau, dated 10/02/23, responding to concerns of water sprinkler inefficiencies at Yerba Buena High School.   |

# **CEO BULLETIN**

# CEO BULLETIN



**To: Board of Directors**  
**From: Rick L. Callender, CEO**

## **Weeks of September 22 – October 5, 2023**

**Board Executive Limitation Policy EL-7:**

*The Board Appointed Officers shall inform and support the Board in its work. Further, a BAO shall 1) inform the Board of relevant trends, anticipated adverse media coverage, or material external and internal changes, particularly changes in the assumptions upon which any Board policy has previously been established and 2) report in a timely manner an actual or anticipated noncompliance with any policy of the Board.*

| Item     | IN THIS ISSUE   |
|----------|---|
| <u>1</u> | Anderson FERC Application   |
| <u>2</u> | Coastal Cleanup Day – Saturday, September 23, 2023  |
| <u>3</u> | Safe, Clean Water Refill Station Grant Closeout: Union School District's Valley Water Refill Station Project – Guadalupe Elementary School  |
| <u>4</u> | Valley Water Wins WaterSense Partner of the Year Awards from U.S. EPA   |
| <u>5</u> | <u>Eisenberg</u><br>Director Eisenberg is requesting a copy of the Pacheco WIFIA loan application with all applicable and related updates, addenda, amendments and schedules (and/or other relevant docs filed with the EPA). Please include any/all correspondence with and from the EPA and/or its related individuals/entities.<br>I-23-0025 |
| <u>6</u> | <u>Eisenberg</u><br>Director Eisenberg is requesting a list of all moneys spent in calendar year 2023 related to the Pacheco project. Specifically the date, amount, payee and description. Please include legal fees in addition to contractors, consultants, materials, filing fees, and other related expenses.<br>I-23-0026                 |

### **1. Anderson FERC Application**

The Santa Clara Valley Water District (Valley Water) proposes to decommission the hydroelectric facility located at Anderson Dam in Morgan Hill, California. The decommissioning of the hydroelectric facility will occur as a part of the Anderson Dam reconstruction to meet federal and state dam safety requirements, known as the Anderson Dam Seismic Retrofit Project (ADSRP).

In 1984, the Federal Energy Regulatory Commission (FERC) issued Valley Water a small hydroelectric facility "exemption" from licensing (a form of federal permit). Valley Water is filing for the surrender of this federal exemption and as part of this surrender process, the Draft Petition for Surrender of Exemption (Draft Petition) was submitted on September 28, 2023 and is available for a 90-day review period. The Draft Petition is a document that explains Valley Water's plan and



reasoning for surrendering the existing exemption for operation of the hydroelectric facility. The action will include decommissioning of the hydroelectric facility, retrofitting Anderson Dam, and incorporating environmentally beneficial components into ADSRP. The Draft Petition can be found on the Valley Water website at the below link:

<https://www.valleywater.org/project-updates/c1-anderson-dam-seismic-retrofit>

The comment review period for the Draft Petition will conclude on December 28, 2023. Email and written comments will be accepted until 5:00p.m. on December 28, 2023. Please email comments to [Anderson\\_FERC@valleywater.org](mailto:Anderson_FERC@valleywater.org) or send written comments to the following address:

Tiffany Chao  
Senior Environmental Planner  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San José, CA 95118.

As a reminder, Valley Water prepared the draft Environmental Impact Report in compliance with the California Environmental Quality Act, which is also included as a link in Appendix A to the Draft Petition. Valley Water made the draft Environmental Impact Report available for public review on September 1, 2023, and public comments on that document are due on November 1, 2023.

The Draft Petition represents over 5 years of early consultation efforts between Valley Water and all of the natural resource/permitting agencies, which included over 150 meetings, thousands of hours of staff time, and the development of significant conservation measures that will improve habitat conditions in Coyote Creek long after the seismic retrofit is completed. Valley Water anticipates submitting our application for a Lake and Streambed Alteration Agreement for ADSRP in the summer 2024 and we will continue our coordination efforts to develop the permit application and support the permit review process.

Advancing this project as expeditiously as possible continues to be Valley Water's top priority, not only for water supply, public safety, and incidental flood risk reduction benefits, but also for restoring habitat in Coyote Creek and Anderson Lake. Having Anderson Reservoir restored and operable allows Valley Water to implement a suite of conservation measures included in ADSRP. The conservation measures will provide an improved flow regime, directly enhance nearly two miles of steelhead habitat and improve ecosystem function, water quality, and fish passage.

For further information, please contact John Bourgeois at (408) 630-2990.

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## 2. Coastal Cleanup Day – Saturday, September 23, 2023

In support of the 39th annual Coastal Cleanup Day (CCD), Valley Water, in collaboration with the Creek Connections Action Group (CCAG) and the California Coastal Commission, coordinated another successful cleanup event in Santa Clara County on Saturday, September 23, 2023.

The CCAG is a consortium of public agencies and non-profit organizations that share a goal of protecting Santa Clara County's waterways. These agencies include the Santa Clara Valley Water District (Chair), Santa Clara County Parks and Recreation, the City of San José (Parks Recreation and Neighborhood Services, Environmental Services Department), City of Santa Clara, City of Palo Alto, City of Sunnyvale, City of Milpitas, City of Cupertino, and West Valley Clean Water Program (Campbell, Monte Sereno, Saratoga and the Town of Los Gatos).

This year, there were 53 cleanup sites throughout the county. A total of 1,207 volunteers cleaned 61 miles of creek, shoreline, and natural areas, removing approximately 26,071 pounds of trash and recyclables.

One of this year's 53 sites was located at the Guadalupe River behind Valley Water Headquarters and hosted by the Valley Water Youth Commission and attended by Director Beall. A San Jose State University reporter came to the Youth Commission cleanup site to discuss the importance of creek cleanups and volunteer support. Assemblymember Gail Pellerin (D-28) also hosted a cleanup site in Morgan Hill at the Madrone Channel.

Some of the most interesting items volunteers picked up include: a mini fridge, counterfeit \$100 bill, suitcase, "not a through street" sign, bike frames, ATM machine, spaghetti, cable box, smiley face ring, iMac, a statue of liberty figurine, snorkel, credit cards, driver's license, water heater, ship captain statue, an undeveloped roll of film, fishing poles, digital camera, a high school yearbook, computer monitor, mop, full bottle of cleaning agent, fake tree, playing cards, and a keyboard.

Valley Water will continue to leverage the momentum from the volunteers to encourage them to sign up for the Adopt-A-Creek Program and other Valley Water volunteer efforts, including National River Cleanup Day in May of next year.

For further information, please contact Donald Rocha at (408) 630-2338.

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### **3. Safe, Clean Water Refill Station Grant Closeout: Union School District's Valley Water Refill Station Project – Guadalupe Elementary School**

In Fiscal Year 2023, Valley Water awarded Union School District a \$5,000 Safe, Clean Water Program F9 Valley Water Refill Station Grant for their Valley Water Refill Station Project (Project) at Guadalupe Elementary School. Union School District completed the Project on August 24, 2023 and submitted the final invoice items on August 29, 2023, allowing for grant closeout.

Union School District is a public school district that serves over 5,500 students across eight schools in San Jose, CA. The grant funds were used to purchase and install a new water bottle refill station at Guadalupe Elementary School. The Project provides access to safe, clean drinking water to more than 500 school-age students (pre-K to 5th grade). The station features a counter that tracks how many plastic water bottles are saved each time the station is used.

#### **Key Outcomes:**

- Installed one new water bottle refill station at Guadalupe Elementary School to serve more than 500 students.
- Promotes the use of reusable water bottles and reduces the amount of plastic water bottle waste generated by students, staff, and visitors.
- Saved over 300 plastic water bottles within one week of installation.

For further information, please contact Donald Rocha at (408) 630-2338.

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### **4. Valley Water Wins WaterSense Partner of the Year Awards from U.S. EPA**

The U.S. Environmental Protection Agency (EPA) named Valley Water a WaterSense Partner of the Year. The WaterSense Partner of the Year Award is a competitive national award recognizing agencies that have gone above and beyond to promote an ethic of water efficiency to conserve

water resources for future generations. Valley Water will receive its Partner of the Year Award at the WaterSmart Innovations Conference luncheon in Las Vegas, Nevada on October 5, 2023.

As a first-time applicant, Valley Water was recognized for its outstanding water conservation programs, water-saving collaborations, and outreach efforts. The application highlighted Valley Water's conservation programs including the Online Shopping Cart (eCart), Landscape Rebate Program (LRP), and Fixture Replacement Program (FixRP). The application also highlighted Valley Water's outreach efforts including a multilingual water conservation campaign, "Is Your Yard Drought Ready? Our Rebates Can Help Make the Change" and the Speakers Bureau Program which provided drought information to community groups, service clubs, neighborhood associations, homeowners' associations, libraries, senior centers, and city councils across Santa Clara County.

For further information, please contact Kirsten Struve at (408) 630-3138.

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**5. Eisenberg**

**Director Eisenberg is requesting a copy of the Pacheco WIFIA loan application with all applicable and related updates, addenda, amendments and schedules (and/or other relevant docs filed with the EPA). Please include any/all correspondence with and from the EPA and/or its related individuals/entities.**

**I-23-0025**

On September 28, 2023, Valley Water provided Director Eisenberg links to several Egnyte folders that contain the information requested, including all correspondence with U.S. EPA regarding Water Infrastructure Finance and Innovation Act (WIFIA) funding for Pacheco Dam through September 28, 2023, as well as all WIFIA loan application material. In the spirit of providing the response as quick as possible, the data pulled together was the same data provided in response to several public records act requests, and as such certain confidential information was redacted or excluded from public release based on external counsel advice. Examples include: records containing critical infrastructure information; data concerning financial identity; logins, passwords or other data associated with the security of data systems; and records of Native American graves, sacred places and objects. Substantive additional time would be necessary to pull together redacted/exempted information if that is desired, and per Board policy, would require Board approval to do so. The information provided to Director Eisenberg can be obtained by contacting the Clerk of the Board.

For further information, please contact Darin Taylor at (408) 630-3068.

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**6. Eisenberg**

**Director Eisenberg is requesting a list of all moneys spent in calendar year 2023 related to the Pacheco project. Specifically the date, amount, payee and description. Please include legal fees in addition to contractors, consultants, materials, filing fees, and other related expenses.**

**I-23-0026**

In calendar year 2023 to date, \$6.35 million has been spent on the Pacheco Reservoir Expansion Project. In order to provide an accurate list of the expenditures broken down into the categories specified in the request, staff will need over four hours of effort to review and organize data from fiscal years 2023 and 2024. In accordance with EL-7.9.2, this request requires substantive work and therefore direction from the Board is needed to proceed with fulfilling the request.

For further information, please contact Ryan McCarter at (408) 630-2983.

# **BOARD MEMBER REQUESTS and Informational Items**

Report Name: Board Member Requests

| Request   | Request Date | Director  | BAO/Chief  | Staff           | Description  | 20 Days Due Date | Expected Completion Date | Disposition  |
|-----------|--------------|-----------|------------|-----------------|--|------------------|--------------------------|--|
| I-23-0024 | 08/22/23     | Eisenberg | Yoke       | Ndah            | Director Eisenberg requests that the current restroom signs inside the visitor's center at the SVAWPC be replaced with the non-binary symbol.  | 09/11/23         |                          |  |
| I-23-0026 | 09/20/23     | Eisenberg | Richardson | Mccarter        | Director Eisenberg is requesting a list of all moneys spent in calendar year 2023 related to the Pacheco project. Specifically the date, amount, payee and description. Please include legal fees in addition to contractors, consultants, materials, filing fees, and other related expenses. | 10/10/23         |                          |  |
| I-23-0028 | 10/05/23     | Beall     | Baker      | Gin             | Provide Director Beall with a briefing on federal and state transportation funding efforts for the B.F. Sisk Dam Raise project.  | 10/25/23         |                          |  |
| R-23-0010 | 08/08/23     | Beall     | Yoke       | Mcelroy         | Director Beall requested that staff look at the feasibility of VTA supplying transit passes (or clipper cards) for employees and family members.   | 08/29/23         |                          |  |
| R-23-0011 | 08/08/23     | Eisenberg | Taylor     | Chinte Salandan | Director Eisenberg requested a report on BAO travel for the last year, including costs and how time was charged.   | 08/29/23         |                          | 09/08/23 Information Only: Two additional weeks need. Anticipated completion date of September 22.   |
| R-23-0013 | 08/22/23     | Beall     | Baker      | Williams        | Staff to investigate if the small empty pond on Sunnyoaks Avenue in Campbell, between the fire department and the training facility, can be used by the city and the fire department.  | 09/12/23         |                          | 10/03/23 Information Only: This request will be repoded to during the 11/14 or 12/5 board meeting.; 09/19/23 Information Only: This request will be responded on the 10/24/23 board agenda.; 09/15/23 Information Only: Staff requires a few more days to respond to this request. Anticipated completion date 9/22/23.      |
| R-23-0014 | 08/22/23     | Beall     | Baker      | Williams        | Staff to investigate if other small empty ponds within the City of Campbell can be used for other purposes.  | 09/12/23         |                          | 10/03/23 Information Only: This request will be responded to during the 11/14 or 12/5 board meeting.; 09/19/23 Information Only: This BMR will be responded to on the 10/24/23 Board agenda.; 09/15/23 Information Only: Staff requires a few additional days to complete this request. Anticipated completion date 9/22/23. |



**TO:** Board of Directors **FROM:** Darin Taylor, CFO  
**SUBJECT:** Fourth Quarter Fiscal Year 2022-23 Financial Status Update **DATE:** October 2, 2023

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Valley Water's fourth quarter Fiscal Year 2022-23 closed on June 30, 2023. The fourth quarter financial status update presentation, attached, summarizes cash and investment balances, the debt portfolio and includes a detailed comparison, and analysis, of the budget to actual status of revenues and expenditures for all funds as of June 30, 2023.

The presentation was provided to the Board Audit Committee on September 20, 2023 and is being provided to the Board via this non-agenda item and an accompanying CEO bulletin.

  
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Darin Taylor  
Chief Financial Officer

Attachment: Q4 FY2022-23 Financial Status Update

# **Q4 YTD FY2022-23 Financial Status Update**

**September 20, 2023**

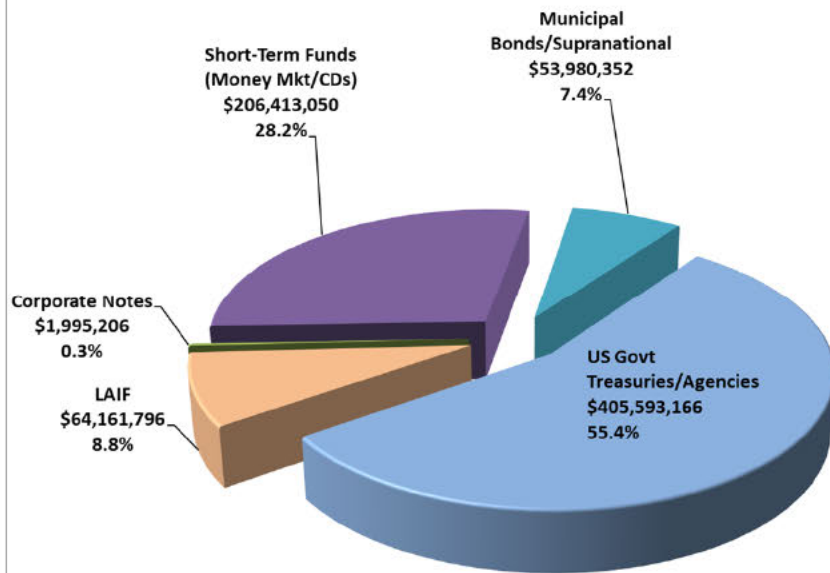
# Agenda

- **Financial Status**
  - **Cash and Investments**
  - **Debt Portfolio**
- **FY23 Unaudited Close Financial Status Update**
  - **Revenue**
  - **Operating and Capital Expenditures**
  - **Reserves**

# Financial Status Update – Cash & Investments

*\$385M or 53% of portfolio very liquid ( $\leq 1$ -year maturity)*

SCVWD Investment Portfolio Composition



SCVWD Portfolio Book Value as of June 30, 2023: \$732,143,570

Valley Water Portfolio Aging Report

June 30, 2023

Portfolio Book Value: \$ 732 Million



valleywater.org

# Financial Status Update – Outstanding Debt

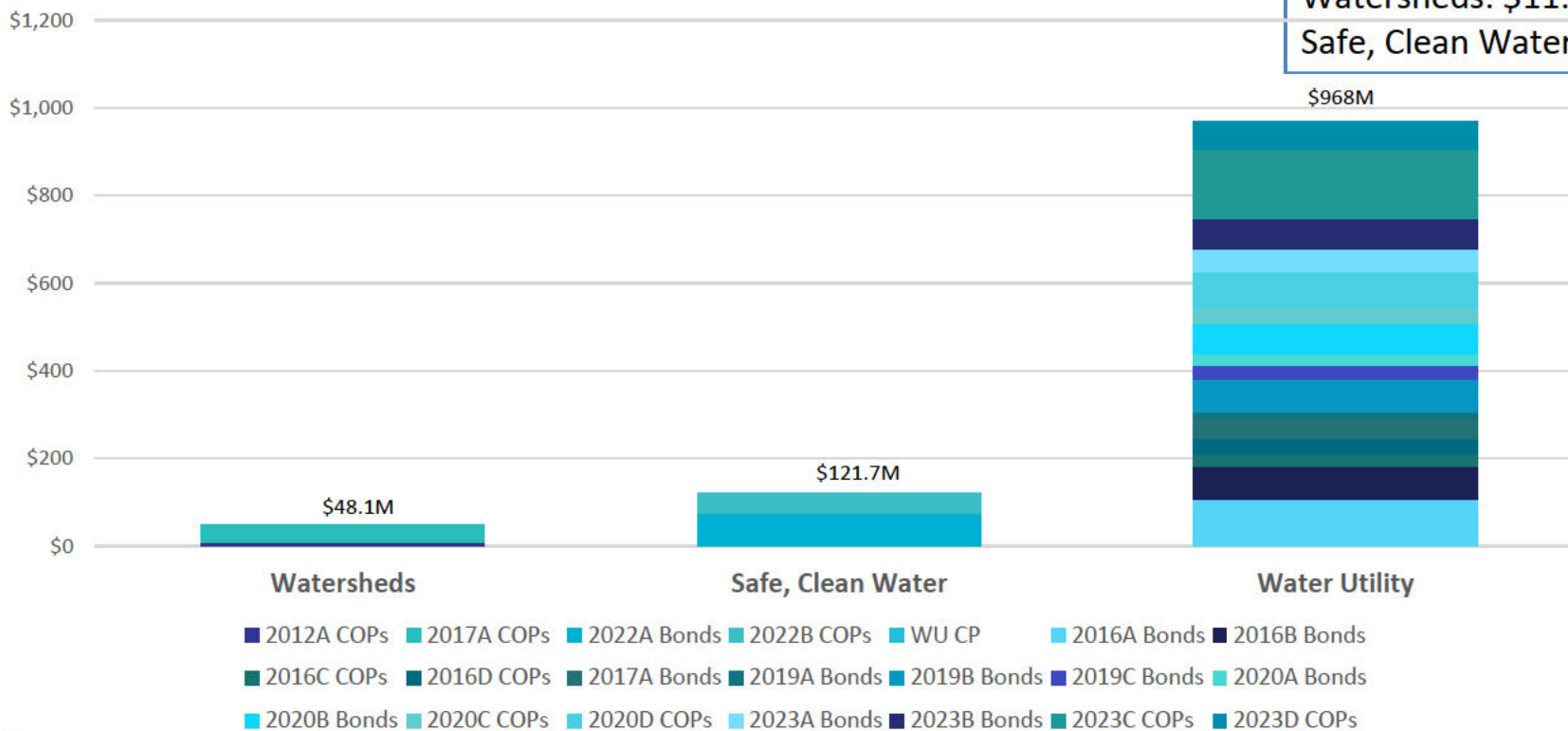
Outstanding Debt 6/30/23: \$1,138 Million

FY 2023 Debt Service Budget: \$72.2M

Water Utility: \$56.6M

Watersheds: \$11.6M

Safe, Clean Water: \$4M





# Financial Status Update – Debt Portfolio

*Ample access to cash at low interest rates*

## **\$320M short-term credit facilities**

- \$150M Commercial Paper & \$170M Bank Line of Credit
  - US Bank Lead (\$150M), Community Bank of the Bay (\$5M), Bank of SF (\$7M), and First Foundation Bank (8M)

## **FY 2023 Financing Results**

- SCW: \$75M Bonds and \$46M COPs closed 12/6/22
- SCW: \$147M WIFIA agreement approved by Board 10/25/22, closed 2/14/23
- WU: \$121M Bonds and \$222.3M COPs closed 1/19/23
- WU: \$2B WIFIA agreement approved by Board 12/13/22; closed \$580M 2/14/23 for Anderson
- WU: Pacheco WIFIA agreement anticipated to close in late 2023

## **FY 2024 Financing Plan**

- \$230M WU planned issuance targeted for March 2024
- \$38M SCW planned issuance targeted for March 2024

# FY23 Unaudited Close – Revenue by Category and Fund

*Water revenues affected by higher than budgeted treated water consumption*

| (\$ in millions)                    | FY23 Adj<br>Budget | FY23<br>Actuals | Over/(Under)<br>Budget | FY23<br>% Rec'd | FY22<br>Actuals | FY22<br>% Rec'd |
|-------------------------------------|--------------------|-----------------|------------------------|-----------------|-----------------|-----------------|
| Groundwater Production Charges      | \$ 122.0           | \$ 110.1        | \$ (11.9)              | 90%             | \$ 125.0        | 93%             |
| Treated Water Revenue               | 139.7              | 159.2           | 19.5                   | 114%            | 145.3           | 97%             |
| Surface/Recycled Water Revenue      | 3.2                | 2.8             | (0.4)                  | 88%             | 2.0             | 96%             |
| 1% Ad-valorem Property Tax          | 126.1              | 138.8           | 12.7                   | 110%            | 127.3           | 108%            |
| Safe Clean Water Special Parcel Tax | 49.6               | 49.5            | (0.1)                  | 100%            | 47.0            | 100%            |
| Benefit Assessment                  | 13.3               | 13.2            | (0.1)                  | 99%             | 13.4            | 100%            |
| State Water Project Tax             | 27.0               | 28.9            | 1.9                    | 107%            | 30.0            | 115%            |
| Capital Reimbursements              | 37.1               | 35.2            | (1.9)                  | 95%             | 21.4            | 63%             |
| Interest Income & Other             | 13.0               | 27.1            | 14.1                   | 208%            | 20.6            | 191%            |
| <b>Total Revenue</b>                | <b>\$531.0</b>     | <b>\$564.8</b>  | <b>\$ 33.8</b>         | <b>106%</b>     | <b>\$532.0</b>  | <b>98%</b>      |

| (\$ in millions)                  | FY23 Adj<br>Budget | FY23<br>Actuals | Over/(Under)<br>Budget | FY23<br>% Rec'd | FY22<br>Actuals | FY22<br>% Rec'd |
|-----------------------------------|--------------------|-----------------|------------------------|-----------------|-----------------|-----------------|
| General Fund                      | \$ 10.5            | \$ 13.8         | \$ 3.3                 | 131%            | \$ 11.6         | 116%            |
| Watershed Stream Stewardship Fund | 137.3              | 135.4           | (1.9)                  | 99%             | 122.0           | 99%             |
| Safe Clean Water Fund             | 53.0               | 62.3            | 9.3                    | 118%            | 54.2            | 96%             |
| Water Utility Enterprise Fund     | 316.5              | 339.2           | 22.7                   | 107%            | 329.9           | 99%             |
| Service Funds                     | 0.4                | 0.9             | 0.5                    | 225%            | 0.8             | 225%            |
| Benefit Assessment Funds          | 13.3               | 13.2            | (0.1)                  | 99%             | 13.5            | 99%             |
| <b>Total Revenue</b>              | <b>\$531.0</b>     | <b>\$564.8</b>  | <b>\$ 33.8</b>         | <b>106%</b>     | <b>\$532.0</b>  | <b>98%</b>      |

## Observations

- FY23 revenue was \$564.8M or 106% of FY23 Budget
- Groundwater production charges \$110.1M or 90% of Budget due to mix shift from groundwater to treated water
- Property Tax Revenue of \$138.8M or 110% of Budget
- Treated water revenue \$159.2M or 114% of Budget due to higher treated water consumption and less groundwater consumption
- Capital reimbursements of \$35.2M, varies year-over-year depending on progress of grant-funded projects
- Interest Income and Other exceeds budget due to CSJ Water Treatment facility payment, insurance reimbursement, and higher interest income

# FY 23 Unaudited Close - Operating and Capital Expenditures

*Operating outlays & Capital expenditures end FY within budgeted levels*

| (\$ in millions)                    | FY23 Adj<br>Budget | FY23<br>Actuals | Remaining<br>Budget | FY23<br>% Spent | FY22<br>Actuals | FY22<br>% Spent |
|-------------------------------------|--------------------|-----------------|---------------------|-----------------|-----------------|-----------------|
| General Fund                        | \$ 81.9            | \$ 74.8         | \$ 7.1              | 91%             | \$ 74.8         | 94%             |
| Watershed Stream Stewardship Fund   | 76.3               | 68.6            | 7.7                 | 90%             | 62.5            | 92%             |
| Safe Clean Water Fund               | 34.4               | 22.1            | 12.3                | 64%             | 17.2            | 61%             |
| Water Utility Enterprise Fund       | 316.3              | 274.2           | 42.1                | 87%             | 280.8           | 94%             |
| Service Funds                       | 39.0               | 34.1            | 4.9                 | 87%             | 34.5            | 91%             |
| Benefit Assessment Funds            | 11.2               | 10.9            | 0.3                 | 97%             | 11.0            | 98%             |
| <b>Total Operating Expenditures</b> | <b>\$559.1</b>     | <b>\$484.7</b>  | <b>\$ 74.4</b>      | <b>87%</b>      | <b>\$480.8</b>  | <b>92%</b>      |

Note 1: Operating Adjusted Budget includes Adopted Budget and current year budget adjustments

Note 2: Budgetary basis Actuals includes actuals and encumbrances as of 6/30/23

| (\$ in millions)                  | FY23 Adj<br>Budget | FY23<br>Actuals | Remaining<br>Budget | FY23<br>% Spent | FY22<br>Actuals | FY22<br>% Spent |
|-----------------------------------|--------------------|-----------------|---------------------|-----------------|-----------------|-----------------|
| General Fund                      | \$ 6.1             | \$ 4.3          | \$ 1.8              | 70%             | \$ 3.3          | 58%             |
| Watershed Stream Stewardship Fund | 60.5               | 44.5            | 16.0                | 74%             | 66.3            | 76%             |
| Safe Clean Water Fund             | 78.7               | 46.9            | 31.8                | 60%             | 52.8            | 45%             |
| Water Utility Enterprise Fund     | 375.0              | 313.1           | 61.9                | 83%             | 237.9           | 83%             |
| Service Funds                     | 8.9                | 7.0             | 1.9                 | 79%             | 12.5            | 82%             |
| <b>Total Capital Expenditures</b> | <b>\$529.2</b>     | <b>\$415.8</b>  | <b>\$ 113.4</b>     | <b>79%</b>      | <b>\$372.7</b>  | <b>73%</b>      |

Note 1: Capital Adjusted Budget includes Adopted Budget and prior year capital carryforward

Note 2: Budgetary basis Actuals includes actuals and encumbrances as of 6/30/23

## Observations

- FY23 Operating Expenditures of \$484.7M or 87% of FY23 Adj Budget
- SCW Fund \$12.3M lower than budget primarily due to delay in CP/WIFIA issuance (\$1.9M), deferral of the 2022A bond issuance (\$5.3M) and Stream Capacity Vegetation Control (\$1.2M)
- WUE Fund \$42.1M lower than budget primarily due to delay in debt related issuances (\$10M), end of drought related expenses (\$10M, emergency water purchases / conservation activities) and IW San Felipe Division Deliveries project (\$8M)
- FY23 Capital Expenditures of \$415.8M or 79% of Adjusted Budget; spending trend percentage improvement vs FY22
- GF Fund 70% spent due to HQ Ops Building project delay (\$1.7M)
- SCW Fund 60% spent primarily due to Almaden Lake Improvement project being placed on hold until funding becomes available (\$10M)
- WUE Fund 83% spent primarily due to less spending than anticipated for Anderson Dam related projects (\$17.6M) and RWTP Reliability Improvement project (\$7.2M)
- Service Funds 79% spent primarily due to IT expenses related to computer and software costs expected to occur in FY24



# Reserve Balances

- FY23 Year-end reserve balances higher than FY23 Adopted Budget due to unexpended capital project funds carried forward from FY22 to FY23 and lower expenditures in the Water Utility Enterprise fund

| (\$ in millions)                    | FY23<br>Adopted<br>Budget | FY23<br>Projected<br>YE Reserve | FY23<br>Est. YE<br>Actuals | FY23 Est.<br>Actual<br>vs Projected |
|-------------------------------------|---------------------------|---------------------------------|----------------------------|-------------------------------------|
| <b>Restricted Reserves</b>          |                           |                                 |                            |                                     |
| Safe Clean Water Fund               | \$ 151.7                  | \$ 210.8                        | \$ 204.4                   | \$ (6.4)                            |
| Water Utility Enterprise Fund       | 67.3                      | 66.9                            | 85.6                       | 18.7                                |
| Restricted Subtotal                 | \$ 219.0                  | \$ 277.7                        | \$ 290.0                   | \$ 12.3                             |
| <b>Committed Reserves</b>           |                           |                                 |                            |                                     |
| General Fund                        | \$ 9.1                    | \$ 10.3                         | \$ 15.8                    | \$ 5.5                              |
| Watershed & Stream Stewardship Fund | 102.3                     | 111.1                           | 117.1                      | 6.0                                 |
| Water Utility Enterprise Fund       | 56.3                      | 99.4                            | 157.3                      | 57.9                                |
| Service Funds                       | 15.9                      | 21.5                            | 28.3                       | 6.8                                 |
| Committed Subtotal                  | 183.6                     | 242.3                           | 318.5                      | 76.2                                |
| <b>Total Reserves</b>               | <b>\$ 402.6</b>           | <b>\$ 520.0</b>                 | <b>\$ 608.5</b>            | <b>\$ 88.5</b>                      |

# FY 23 Financial Update Summary

- Performance of revenues affected by higher treated water consumption and other revenue line items
- Operating expenditures 87% of budget
- Capital expenditures 79% of budget, spending rate trending higher than prior years



# **INCOMING BOARD CORRESPONDENCE**

Board Correspondence (open)

| Correspond No | Rec'd By District | Rec'd By COB | Letter To | Letter From     | Description  | Disposition    | BAO/ Chief      | Staff              | Draft Response Due Date | Draft Response Submitted | Writer Ack. Sent | Final Response Due Date |
|---------------|-------------------|--------------|-----------|-----------------|--|----------------|-----------------|--------------------|-------------------------|--------------------------|------------------|-------------------------|
| C-23-0045     | 02/23/23          | 02/24/23     | All       | MELISSA MALLORY | EMail from Melissa Mallory regarding unhouse along Los Gatos Creek Trail.  | Refer to Staff | Blank           | Codianne Yerrapotu | 03/04/23                | 03/03/23                 | n/a              | 03/10/23                |
| C-23-0076     | 03/31/23          | 04/03/23     | All       | H.K. WILLARD    | Email from H.K. Willard to the Board dated 3/31/23 regarding misleading information in March Water News.   | Refer to Staff | Gibson          | Rocha              | 04/11/23                | 04/07/23                 | n/a              | 04/17/23                |
| C-23-0101     | 05/12/23          | 05/12/23     | All       | STEVE KELLY     | Email from Steve Kelly, to the Board, dated 5/12/23, regarding concern for unhoused that may cause threats to residents living near the creeks in Santa Clara. | Refer to Staff | Blank Yerrapotu | Codianne           | 05/20/23                | 05/22/23                 | n/a              | 05/26/23                |
| C-23-0207     | 08/16/23          | 08/16/23     | All       | KENNETH MURRAY  | Email from Kenneth Murray to board, dated 8/16/23, regarding dead trees along trail on Almaden Expressway.   | Refer to Staff | Hakes           | Infante Bourgeois  | 08/24/23                | 08/24/23                 | n/a              | 08/30/23                |

| Correspond No | Rec'd By District | Rec'd By COB | Letter To | Letter From        | Description   | Disposition    | BAO/ Chief | Staff    | Draft Response Due Date | Draft Response Submitted | Writer Ack. Sent | Final Response Due Date |
|---------------|-------------------|--------------|-----------|--------------------|---|----------------|------------|----------|-------------------------|--------------------------|------------------|-------------------------|
| C-23-0211     | 08/24/23          | 08/24/23     | Varela    | LUIS RAMIREZ       | Email from Luis Ramirez to Chair Varela, dated 8/24/23, regarding homeless in Gilroy on Valley Water property.                                | Refer to Staff | Hakes      | Codianne | 09/01/23                | 08/30/23                 | n/a              | 09/07/23                |
| C-23-0212     | 08/24/23          | 08/24/23     | Santos    | ERIC HA            | Email from Eric Ha to Director Santos, dated 8/24/23, regarding unhoused individual setting fire behind property.                             | Refer to Staff | Hakes      | Codianne | 09/01/23                | 08/30/23                 | n/a              | 09/07/23                |
| C-23-0235     | 09/21/23          | 09/22/23     | All       | JESSICA CALDERON   | Email from Jessica Calderon to the Board, dated 9/21/22 regarding the unhoused at Church st./Howson Creek Monterey Road/Howson Creek, Gilroy. | Refer to Staff | Hakes      | Codianne | 09/30/23                | 09/25/23                 | n/a              | 10/06/23                |
| C-23-0239     | 09/24/23          | 09/25/23     | Beall     | KATHLEEN O'CONNELL | Email from Kathleen O'Connell to the Director Beall, dated 9/24/23, regarding   | Refer to Staff | Hakes      | Codianne | 10/03/23                | 09/27/23                 | n/a              | 10/09/23                |

| Correspond No | Rec'd By District | Rec'd By COB | Letter To | Letter From     | Description   | Disposition    | BAO/ Chief | Staff      | Draft Response Due Date | Draft Response Submitted | Writer Ack. Sent | Final Response Due Date |
|---------------|-------------------|--------------|-----------|-----------------|---|----------------|------------|------------|-------------------------|--------------------------|------------------|-------------------------|
|               |                   |              |           |                 | Water Resource Protection Zone at the upcoming Cherry Avenue EIH project.   |                |            |            |                         |                          |                  |                         |
| C-23-0240     | 09/27/23          | 09/27/23     | Hsueh     | PAUL TATSUTA    | Email from Paul Tatsuta to Director Hsueh, dated 09/27/23, regarding contruction project on Calabazas Creek.            | Refer to Staff | Hakes      | Yerrapotu  | 10/05/23                | -                        | n/a              | 10/11/23                |
| C-23-0244     | 09/30/23          | 10/02/23     | All       | BRIGITTE RINCE  | Email from Brigitte Rince to the board, dated 9/30/23, regarding removing the unhouse from the flood zone in District 4 | Refer to Staff | Hakes      | Codianne   | 10/10/23                | -                        | n/a              | 10/16/23                |
| C-23-0245     | 09/30/23          | 10/02/23     | Hsueh     | THOMAS LAWRENCE | Email from Thomas Lawrence to Director Hsueh, dated 9/30/23, regarding Calabazas Creek errosion and flood concerns.     | Refer to Staff | Hakes      | Codianne   | 10/10/23                | -                        | n/a              | 10/16/23                |
| C-23-0246     | 10/04/23          | 10/05/23     | Beall     | JIM KUHL        | Email from Jim Kuhl to  | Refer to Staff | Baker      | Struve Gin | 10/13/23                | -                        | n/a              | 10/19/23                |

| Correspond No | Rec'd By District | Rec'd By COB | Letter To | Letter From    | Description   | Disposition    | BAO/ Chief | Staff    | Draft Response Due Date | Draft Response Submitted | Writer Ack. Sent | Final Response Due Date |
|---------------|-------------------|--------------|-----------|----------------|---|----------------|------------|----------|-------------------------|--------------------------|------------------|-------------------------|
|               |                   |              |           |                | Director Beall, received 10/4/23, regarding forcing water conseration compliance in an equitable maner within Santa Clara County. |                |            |          |                         |                          |                  |                         |
| C-23-0248     | 10/03/23          | 10/05/23     | Beall     | CHRIS KOURETAS | Email from Chris Kouretas to Director Beall, dated 10/03/23, regarding removing the unhoused from Guadalupe River by his house.   | Refer to Staff | Hakes      | Codianne | 10/13/23                | -                        | n/a              | 10/19/23                |



**Michele King**

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**Subject:** FW: Calabazas Creek Rehabilitation Project-2nd one

**From:** Paul Tatsuta [REDACTED]  
**Date:** September 27, 2023 at 10:44:21 AM PDT  
**To:** Nai Hsueh <[NHsueh@valleywater.org](mailto:NHsueh@valleywater.org)>  
**Subject:** Re: Calabazas Creek Rehabilitation Project

\*\*\* This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. \*\*\*

Thank you Ms. Hsueh. It sounds like their work has come to a close since the noise and pounding stopped after 90 minutes. I would appreciate any guidance you can provide with the understanding that before and after photos of the affected areas are unlikely and the cost of having a structural inspection may be out of reach for our budgets.

Sincerely,  
Paul

On Sep 27, 2023, at 9:27 AM, Nai Hsueh <[NHsueh@valleywater.org](mailto:NHsueh@valleywater.org)> wrote:

Dear Mr. Tatsuta,

Thank you for letting me know. I'll talk to our staff who is responsible for this project, and get back to you and your neighbors soon.

Nai Hsueh  
District 5 Director

Sent from my iPad

On Sep 27, 2023, at 8:29 AM, Paul Tatsuta [REDACTED] wrote:

\*\*\* This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. \*\*\*

Good Morning Ms. Hsueh,

I am writing to you this morning regarding the work on the Calabazas Creek that has been going on for the past several weeks.

Specifically, I am very concerned about the damage to my home and the homes of my neighbors resulting from the repeated pounding of long steel plates into the floor of the creek behind our homes. This technique causes our homes to shake and vibrate at each strike of the equipment. Bookcases and pots & pans rattle and the walls slightly sway.

When the crews began this process several weeks ago it was disturbing but it appeared it was only a brief episode that would be replaced by a different process that involved “drilling” into the soil rather than hammering the steel plates into the ground. We were told that this technique was required because overhead power lines prevented the use of the drilling equipment in the area directly behind our homes.

Since that time the “hammering” has occurred repeatedly and most recently last night from 6pm to 7pm and again at 7:23am this morning. This installation process is exposing our homes to even harsher pounding that is shaking our homes as though we are experiencing repeated earthquakes. In speaking with one of the workers last night, it appears that different equipment is being used to conduct this pounding that is more powerful because they are trying to move more quickly due to their approaching deadline and they acknowledge that shock wave resulting from their pounding.

I would note that the homes that are adjacent to the overhead power line have been exposed to the full impact of this process. We are older residents who are retired and home most of the day and have had to contend with the thought of how much damage is this work doing to our home.

I would hope that the Water District would take steps to address our concerns.

Any assistance that you can provide would be appreciated.

Thank you.

Paul Tatsuta

[REDACTED]  
[REDACTED]  
[REDACTED]

## Michele King

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**From:** Chau, Michael [REDACTED]  
**Sent:** Wednesday, September 27, 2023 3:18 PM  
**To:** Board of Directors  
**Subject:** Water Sprinkler Inefficiency

\*\*\* This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. \*\*\*

To whom it may concern,

As a student of Yerba Buena High School, I write to ask you to consider bringing up the issue of replacing the standard water sprinkler system at schools with a more efficient one. Being a resident of California, I am familiar with the constant droughts that the state has experienced. While water sources have recently been improving in the past year, weather conditions are still worsening, and the temperature levels are rising.

The current sprinkler system used in my school is one of the most wasteful ones. Spray irrigation heads have been known to lose up to 50% of water used due to evaporation and wind. This is a result of their excessively wide and tall ranges and the mist they produce. Even then, the sprinklers are set to activate quite often throughout the day and for long periods of time. This not only further wastes water, but overwaters the grass, sometimes even forming puddles that attract geese like a watering hole.

A much better alternative to this system are drip irrigation that are set to activate fewer times a day and for shorter periods of time. This would not only decrease the amount of water wasted but also the costs of how much the school would have to pay on the water bill. Decreasing the amount of water wasted would also benefit the state of California, in order to prepare for drought by saving water for the future, especially if more efficient water sprinkler systems were to be implemented in multiple Californian schools.

Thank you,  
Michael Chau

## Michele King

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**From:** brigitte rince [REDACTED]  
**Sent:** Friday, September 29, 2023 2:34 PM  
**To:** Board of Directors  
**Subject:** Re: homes on flood zone A

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

\*\*\* This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. \*\*\*

That response did not address the concern I presented  
Please work with FEMA to remove the homeless from the flood zone

On Sep 29, 2023, at 2:16 PM, Board of Directors <board@valleywater.org> wrote:

**Sent on Behalf of Director Beall:**

Dear Brigitte Rince,

Thank you for reaching out to Valley Water to share your concerns regarding the safety of the unsheltered individuals living in encampments along Guadalupe River adjacent to Highway 85. Valley Water and City of San Jose are currently negotiating development of an Emergency Interim Housing (EIH) site on the undeveloped 2.52-acre lot along Cherry Avenue. During the San Jose City Council meeting held on June 6, 2023, the City Council approved staff's recommendation to pursue the Cherry Avenue site for Emergency Interim Housing development and the Water Resources Protection Zone (WRPZ) which will be an identified zone to keep clear of camping, fires, damage to vegetation, wildlife, and pollution to the water. The WRPZ was approved in concept by City Council, but the actual formation needs to occur via an Ordinance, along with approval of the EIH project and the lease. The clear intent of the City Council is to create the WRPZ in collaboration with Valley Water and to house the unsheltered individuals living along this stretch of waterway. To address your concerns regarding flooding safety of unsheltered individuals, prior to inclement weather periods outreach teams across the county reach out to the unsheltered individuals living along waterways to share information about inclement weather shelters and other resources. Santa Clara County coordinates with these outreach teams and has inclement weather criteria that they follow. More information on Storm Safety at the County's Office of Emergency Management can be found at <https://emergencymanagement.sccgov.org/storm-safety>

We recognize the unhoused and encampment situation in our county, region, state, and nation, remains an ongoing societal issue that we must strive to resolve together. Valley Water is in constant coordination with the cities, the County of Santa Clara and local law enforcement, to address encampment concerns.

Valley Water performs large-scale trash cleanups throughout the county to minimize trash generated by encampments that pollute the waterways. In this reach of Guadalupe River, Valley Water staff has already removed 74.18 tons of trash generated from encampments in this reach

of creek this past year, the last cleanup occurred on August 14 - 16. We also wanted to alert you to the upcoming encampment cleanup event in this reach on October 16, 2023, which hopefully will address your trash related concerns. Additionally, Coastal Cleanup Day was September 23, 2023, which also aims to address trash related concerns in this area and countywide.

We share your frustration regarding the impacts of the encampments and acknowledge the multi-agency process involved to address this issue can be extensive.

While Valley Water is committed to using the power that we have as an environmental stewardship agency to protect our waterways in collaboration with the cities and the county, as they fulfill their public safety and social service roles—Valley Water, as with all public agencies, must adhere to related case law and federal public health guidance.

### **Legal Constraints**

Covid related: During the COVID-19 pandemic, the Centers for Disease Control and Prevention (CDC) issued interim guidance to public agencies, recommending they allow people who are living unsheltered or in encampments to remain where they are if no individual housing options are available due to the risk of spreading the disease. As of November 2022, this CDC guidance was updated to state that although people experiencing unsheltered homelessness do not reside in a congregate setting, the risk of severe COVID-19 can be high in this group because of underlying medical conditions and lack of access to healthcare.

**Unhoused Case Law:** Additionally, per the case of *Martin v. Boise*, the U.S. Court of Appeal for the Ninth Circuit held that the City of Boise violated the Eighth Amendment of the U.S. Constitution (prohibiting cruel and unusual punishment) for enforcing two city ordinances that made it a misdemeanor to camp on streets, sidewalks, parks, or public places (camping ordinance), or to sleep in a public place without the owner's permission (part of a disorderly conduct ordinance) when there was not enough beds available in local homeless shelters to house all of the unsheltered.

### **Effects of the Law on Valley Water**

Both the case law and CDC guidance have significantly affected how public agencies like Valley Water are responding to encampments of unsheltered persons. Please note these constraints also apply to the City of San Jose's trails rules; so, while it is important to maintain public access to safe recreation opportunities, enforcement of these rules and ordinances on the unhoused community is subject to the limitations imposed by caselaw and statute.

Prior to the COVID-19 pandemic, Valley Water's approach to encampment management was a complaint-driven, abatement-focused strategy. While this approach addressed the immediate location of an encampment, it rarely led to an outcome of fewer encampments, and often the encampment moved to a new location. The new encampment management strategy seeks to manage encampments by using a variety of tools and approaches to better manage sites and reduce the need for abatements overall until adequate housing is available.

When performing work critical to its core mission, Valley Water will safely relocate encampments on Valley Water property including Valley Water right of way through coordinated efforts with other public agencies if the following criteria are met:

- a) the encampment is in the path of, interferes with or obstructs access to,
  - i. flood protection/ water infrastructure facilities or projects
  - ii. maintenance projects, facilities, or maintenance access roads
  - iii. designated mitigation or vegetation management sites
- b) the encampment poses an immediate safety risk— An immediate safety risk is one that involves safety of Valley Water staff. Safe relocation of encampments may also be



conducted in response to public safety issues as determined by local jurisdictions such as a city, the county, or their police or fire departments. In the case of a public safety issue Valley Water will assist local jurisdictions in addressing encampments on property where Valley Water holds land rights.

Everyone is still encouraged to contact the police if any illegal activity or threat to public health and safety is observed; and contact the fire department for fire and smoke incidents.

### **What Valley Water is Planning**

Also, to address the long-standing issues related to unsheltered encampments, Valley Water's Board of Directors directed staff on January 18, 2023, to proceed with the following actions to address the human, environmental and operational concerns of encampments of unsheltered people in the riparian corridors of Santa Clara County:

1. Proceed with a District Act amendment to give the legal authority for Valley Water to address encampments of unhoused people separately, or in conjunction with a proposed District Act bill.
2. Develop a longer-term solution in global partnership with cities, the County, and other special districts to help ensure better outcomes for unsheltered people. This may take the form of a global agreement, a JPA, or the creation of a continuum of care in Santa Clara County.
3. Consider district owned properties that could be used for the development of housing and create an inventory of those properties.

Again, we want to assure you that Valley Water is actively working in concert with our agency partners and the community to address the unhoused and encampments. We are always appreciative of your comments and should you have additional concerns, please feel free to contact me directly.

Please contact Jennifer Codianne, Deputy Officer for Watersheds Operations and Maintenance at [jcodianne@valleywater.org](mailto:jcodianne@valleywater.org) for follow up information.

You may also use our online system to report issues at <https://access.valleywater.org/customer/s/>.

Sincerely,

<image001.png>

Jim Beall  
Director, District 4

C-23-0238

---

**From:** brigitte rince [REDACTED]  
**Sent:** Saturday, September 23, 2023 1:24 PM  
**To:** [FEMA-EA-General@fema.dhs.gov](mailto:FEMA-EA-General@fema.dhs.gov); [AskIA@fema.dhs.gov](mailto:AskIA@fema.dhs.gov); [caltrans.d4@dot.ca.gov](mailto:caltrans.d4@dot.ca.gov); [district9@sanjoseca.gov](mailto:district9@sanjoseca.gov); [District10@sanjoseca.gov](mailto:District10@sanjoseca.gov); [mayoremail@sanjoseca.gov](mailto:mayoremail@sanjoseca.gov); Board of Directors <[board@valleywater.org](mailto:board@valleywater.org)>  
**Subject:** homes on flood zone A

\*\*\* This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. \*\*\*

Hello,

People are living on the peninsula of the percolation pond which is flood zone. With El Nino expected to bring in a record amount of rain to Northern California, these tents and occupants should be relocated prior to the flooding. Please make arrangements to evacuate these people immediately.  
[Link to map](#)

<image.png>

## Michele King

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**From:** Rae Knapp <rae@keepcoyotecreekbeautiful.org>  
**Sent:** Saturday, September 30, 2023 11:44 AM  
**To:** Board of Directors; Linh Hoang; Meghan Azralon; John Varela; Barbara Keegan; Richard Santos; Jim Beall; Nai Hsueh; tonye@legalaidsociety.org; Rebecca Eisenberg; Nicholas Ingram  
**Cc:** Deb Kramer; Aja Yee  
**Subject:** 10/29 Creepy Crawly Cleanup - Creek and Trail Cleanup  
**Attachments:** 231029-Cleanup-Flyer.jpg

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

\*\*\* This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. \*\*\*

Hello,

Please see the information below for the cleanup event on Sunday, October 29 to share with your constituents. We look forward to seeing new faces from your council districts.

Thanks!

\*\*\*\*\*

### **Creepy Crawler Cleanup!! - Creek and Trail Cleanup**

Location: La Racione, 2467 La Racione Ave, San Jose, CA 95111

Sun Oct 29

9AM to 12PM

We are batty about cleaning up the Coyote Creek and Trail for Bat Appreciation Week!

Help us beautify Coyote Creek and surrounding trails through a community cleanup. Meet new people; improve a neighborhood park; build community around a shared sense of service. The birds will thank you!

Free litter kits!

Community service hours available.

Groups Welcome

In partnership with Grassroots Ecology and Valley Water

RSVP: <https://231029-cleanup.eventbrite.com/?aff=vw>

**Rae Knapp**

Even Assistant

Keep Coyote Creek Beautiful

408-931-1892



Coyote Creek & Trail Cleanup



# CREEPY CRAWLER CLEANUP!



October 29th 🦇 9AM-12PM

CLEANUP LOCATION PROVIDED UPON REGISTRATION

RSVP  
AT  KEEP COYOTE CREEK BEAUTIFUL



[WWW.KEEPCOYOTECREEKBEAUTIFUL.ORG](http://WWW.KEEPCOYOTECREEKBEAUTIFUL.ORG)

## Michele King

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**From:** brigitte rince [REDACTED]  
**Sent:** Saturday, September 30, 2023 3:14 PM  
**To:** FEMA-EA-General@fema.dhs.gov; AskIA@fema.dhs.gov; caltrans.d4@dot.ca.gov; district9@sanjoseca.gov; District10@sanjoseca.gov; mayoremail@sanjoseca.gov; Board of Directors  
**Subject:** Re: homes on flood zone A

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

\*\*\* This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. \*\*\*

Hello,

Please consider finding a large unused parcel of land to relocate people in tents until more housing is available.

These people are stealing, on drugs, mentally ill and suffer from addiction. Many are aggressive and they are preventing the people who live in this area to walk to stores, along trails and enjoy the neighborhoods in fear of being confronted by the homeless.

There are many office buildings and open parking lots that are vacant throughout San Jose.

Please take the appropriate actions to relocate these people to a safer area.

We listen to them fight and scream 24/7. Our quality of life has declined. We pay high taxes (property, income and sales tax), high utilities like PG&E and water continue to rise, gas prices are out of control, we should not have to pay for the homeless on top of everything else.

We are suffering as well, when will the right thing for all concerned happen when all we hear is "Our hands are tied"

When we get sick from the drugs and garbage distributed throughout our neighborhood or the fires that burn constantly all year long, who will be sued for not doing their part to mitigate the risks that should have been dealt with earlier?

We are compromised both physically and mentally.

For those people that do not have the homeless surrounding their homes, it is an easy decision to ignore our pleas for help. What will it take for us to get back to some normalcy?

Who can we turn to to help us? We have exhausted all of our resources and we are begging one of you to help us.

On Sat, Sep 23, 2023 at 1:23 PM brigitte rince [REDACTED] wrote:

Hello,

People are living on the peninsula of the percolation pond which is flood zone.

With El Nino expected to bring in a record amount of rain to Northern California, these tents and occupants should be relocated prior to the flooding.

Please make arrangements to evacuate these people immediately.

[Link to map](#)





## Michele King

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**From:** Davis, Chiconda V@DOT <chiconda.davis@dot.ca.gov> on behalf of Caltrans D4@DOT <caltrans.d4@dot.ca.gov>  
**Sent:** Monday, October 02, 2023 4:47 PM  
**To:** brigitte rince; FEMA-EA-General@fema.dhs.gov; AskIA@fema.dhs.gov; district9@sanjoseca.gov; District10@sanjoseca.gov; mayoremail@sanjoseca.gov; Board of Directors  
**Subject:** Re: homes on flood zone A  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

\*\*\* This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. \*\*\*

Good day, Brigitte Rince,

First, thank you for contacting Caltrans regarding the encampment near the peninsula's percolation pond in San Jose, CA. We appreciate you taking the time to provide us with your concerns, and we value your request for service as they help our maintenance staff to maintain a safe and efficient transportation system.

Secondly, to pinpoint the location of your concern, below, I am providing you a link to our online Customer Service Request (CSR) portal, which is our system of record for the community to report their roadway and right-of-way concerns. The CSR system is a fast, efficient, and user-friendly way to request maintenance for roadway repair, irregular traffic signals, damaged fencing, litter pick-up, landscaping, **encampments**, and much more. Once a CSR is received, the situation can be assessed and placed on a work schedule.

If you would kindly submit your concern using the following link: [Customer Service Request](#), this method provides our maintenance staff with the information and location they'll need to address the concern, and most importantly your concern will be assigned a service request number that can be used to track progress. Please use this six-digit CSR ticket number if you reach out for a status on this matter after 30 days. Please provide one situation type per CSR ticket. Tickets requesting multiple requests will only be processed for one concern.

Please note that Caltrans does not have any law enforcement authority; therefore, illegal activities should be reported to the California Highway Patrol for state-owned property and your local police department for city/county concerns.

In summary, thank you again for your interest in the safety and operations of California's highways. Have a wonderful day.

Respectfully,

**Chiconda V Davis, (She/Her/Hers)**

D4 - Customer Service Liaison

(510) 286-6173 / Customer Service Helpline

[caltrans.d4@dot.ca.gov](mailto:caltrans.d4@dot.ca.gov) / Email

---

**From:** brigitte rince [REDACTED]

**Sent:** Saturday, September 30, 2023 3:14 PM

**To:** FEMA-EA-General@fema.dhs.gov <FEMA-EA-General@fema.dhs.gov>; AskIA@fema.dhs.gov <AskIA@fema.dhs.gov>; Caltrans D4@DOT <caltrans.d4@dot.ca.gov>; district9@sanjoseca.gov <district9@sanjoseca.gov>; District10@sanjoseca.gov <District10@sanjoseca.gov>; mayoremail@sanjoseca.gov <mayoremail@sanjoseca.gov>; board@valleywater.org <board@valleywater.org>

**Subject:** Re: homes on flood zone A

**EXTERNAL EMAIL.** Links/attachments may not be safe.

Hello,

Please consider finding a large unused parcel of land to relocate people in tents until more housing is available.

These people are stealing, on drugs, mentally ill and suffer from addiction. Many are aggressive and they are preventing the people who live in this area to walk to stores, along trails and enjoy the neighborhoods in fear of being confronted by the homeless.

There are many office buildings and open parking lots that are vacant throughout San Jose.

Please take the appropriate actions to relocate these people to a safer area.

We listen to them fight and scream 24/7. Our quality of life has declined. We pay high taxes (property, income and sales tax), high utilities like PG&E and water continue to rise, gas prices are out of control, we should not have to pay for the homeless on top of everything else.

We are suffering as well, when will the right thing for all concerned happen when all we hear is "Our hands are tied"

When we get sick from the drugs and garbage distributed throughout our neighborhood or the fires that burn constantly all year long, who will be sued for not doing their part to mitigate the risks that should have been dealt with earlier?

We are compromised both physically and mentally.

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Who can we turn to to help us? We have exhausted all of our resources and we are begging one of you to help us.

On Sat, Sep 23, 2023 at 1:23 PM brigitte rince [REDACTED] wrote:

Hello,

People are living on the peninsula of the percolation pond which is flood zone.

With El Nino expected to bring in a record amount of rain to Northern California, these tents and occupants should be relocated prior to the flooding.

Please make arrangements to evacuate these people immediately.

[Link to map](#)



## Michele King

---

**Subject:** FW: Impending Danger from Calabazas Creek flooding  
**Attachments:** Carve out west.jpeg; Carve Ount under Via Regina4x6.pdf

**From:** Thomas Lawrence [REDACTED]  
**Date:** September 30, 2023 at 4:42:39 PM PDT  
**To:** Nai Hsueh <[NHsueh@valleywater.org](mailto:NHsueh@valleywater.org)>  
**Cc:** [supervisor.simitian@bos.sccgov.org](mailto:supervisor.simitian@bos.sccgov.org), Senator Cortese <[Senator.Cortese@senate.ca.gov](mailto:Senator.Cortese@senate.ca.gov)>, WheatonSuzanne <[Suzanne.Wheaton@sen.ca.gov](mailto:Suzanne.Wheaton@sen.ca.gov)>, Till Guldemann <[till.guldemann@guldemann.net](mailto:till.guldemann@guldemann.net)>, Tadashi Okuno <[tokuno@gmail.com](mailto:tokuno@gmail.com)>, Michael Chilcoat <[mikchilcoat@yahoo.com](mailto:mikchilcoat@yahoo.com)>, Kookie Fitzsimmons <[kookie@saratoga.ca.us](mailto:kookie@saratoga.ca.us)>, jlindsay <[jlindsay@saratoga.ca.us](mailto:jlindsay@saratoga.ca.us)>  
**Subject:** Impending Danger from Calabazas Creek flooding

\*\*\* This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. \*\*\*

Dear Director Hsueh, I am writing this letter to your office following the direction of Kristine Zanardi from County Supervisor Simitian's Office.

The residents of Via Regina road in Saratoga need urgent help. The atmospheric river rain storms of this past January and February caused Calabazas Creek to flood over its channel banks in the hillsides adjacent to Via Regina and carve away critical hillside support to our road.

Three previously curve shaped channel areas that facilitated the creek flowing downstream were eroded into dagger shaped bulges which now capture the water flow forcing it deeper into the hillsides. If unchecked in the next major storm Calabazas Creek is very likely to sever Via Regina in two places stranding approximately 80 residents with no way to access or leave their homes or to access / receive emergency services.

Calabazas Creek flows under Via Regina about 500 feet from Pierce Road. The erosion to Via Regina's supporting hillsides resulted from severe unmitigated flooding from Calabazas Creek as it flowed through a series of privately owned neighboring parcels. We have been searching, thus far in vain, to secure assistance in repairing the carved out creek embankments before the major rains forecast for this winter completely sever the road. Valley Water, the agency we believe is responsible for flood control of the creeks and streams in Santa Clara County, has declined responsibility for repairing this erosion damage. We ask your urgent help in securing flood control repair support before further flooding severs our road.

Via Regina is a publicly accessible half mile mile long dead end road in the City of Saratoga hillsides accessed from Pierce Road. It is not City of Saratoga owned or maintained. None of the Via rebgina residents, nor any other functioning entity, have the organizational structure, personnel and means to deal with this danger.

I am including photos below of the two major erosion carve outs that most endanger our road.

Please contact me if I can be of any assistance in expediting repairs. I thank you in advance for your attention and help.









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# **OUTGOING BOARD CORRESPONDENCE**

**Michele King**

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**Subject:** FW: Additional concerns to my email to you of Sunday, 9/24/23.....

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**From:** Candice Kwok-Smith **On Behalf Of** Board of Directors

**Sent:** Wednesday, September 27, 2023 2:34 PM

**To:** [REDACTED]

**Subject:** Re: Additional concerns to my email to you of Sunday, 9/24/23.....

**Sent on Behalf of Director Beall:**

Dear Kathleen O'Connell,

Thank you for reaching out to Valley Water to share your concerns regarding encampments along Guadalupe River adjacent to Highway 85. Valley Water and City of San Jose are currently negotiating development of an Emergency Interim Housing (EIH) site on the undeveloped 2.52-acre lot along Cherry Avenue. During the San Jose City Council meeting held on June 6, 2023, the City Council approved staff's recommendation to pursue the Cherry Avenue site for Emergency Interim Housing development and the Water Resources Protection Zone (WRPZ) which will be an identified zone to keep clear of camping, fires, damage to vegetation, wildlife, and pollution to the water. The WRPZ was approved in concept by City Council, but the actual formation needs to occur via an Ordinance, along with approval of the EIH project and the lease. The clear intent of the City Council is to create the WRPZ in collaboration with Valley Water.

We recognize the unhoused and encampment situation in our county, region, state, and nation, remains an ongoing societal issue that we must strive to resolve together. Valley Water is in constant coordination with the cities, the County of Santa Clara and local law enforcement, to address encampment concerns.

Valley Water performs large-scale trash cleanups throughout the county to minimize trash generated by encampments that pollute the waterways. In this reach of Guadalupe River, Valley Water staff has already removed 74.18 tons of trash generated from encampments in this reach of creek this past year, the last cleanup occurred on August 14 - 16. We also wanted to alert you to the upcoming encampment cleanup event in this reach on October 16, 2023, which hopefully will address your trash related concerns. Additionally, Coastal Cleanup Day was September 23, 2023, which also aims to address trash related concerns in this area and countywide.

We share your frustration regarding the impacts of the encampments and acknowledge the multi-agency process involved to address this issue can be extensive.

While Valley Water is committed to using the power that we have as an environmental stewardship agency to protect our waterways in collaboration with the cities and the county, as they fulfill their public safety and social service roles—Valley Water, as with all public agencies, must adhere to related case law and federal public health guidance.

**Legal Constraints**

Covid related: During the COVID-19 pandemic, the Centers for Disease Control and Prevention (CDC) issued interim guidance to public agencies, recommending they allow people who are living unsheltered or in encampments to remain where they are if no individual housing options are available due to the risk of spreading the disease. As of November 2022, this CDC guidance was updated to state that although people experiencing unsheltered homelessness do not reside in a congregate setting, the risk of severe COVID-19 can be high in this group because of underlying medical conditions and lack of access to healthcare.

***Unhoused Case Law:*** Additionally, per the case of *Martin v. Boise*, the U.S. Court of Appeal for the Ninth Circuit held that the City of Boise violated the Eighth Amendment of the U.S. Constitution (prohibiting cruel and unusual punishment) for enforcing two city ordinances that made it a misdemeanor to camp on streets, sidewalks, parks, or public places (camping ordinance), or to sleep in a public place without the owner's permission (part of a disorderly conduct ordinance) when there was not enough beds available in local homeless shelters to house all of the unsheltered.

### **Effects of the Law on Valley Water**

Both the case law and CDC guidance have significantly affected how public agencies like Valley Water are responding to encampments of unsheltered persons. Please note these constraints also apply to the City of San Jose's trails rules; so, while it is important to maintain public access to safe recreation opportunities, enforcement of these rules and ordinances on the unhoused community is subject to the limitations imposed by caselaw and statute.

Prior to the COVID-19 pandemic, Valley Water's approach to encampment management was a complaint-driven, abatement-focused strategy. While this approach addressed the immediate location of an encampment, it rarely led to an outcome of fewer encampments, and often the encampment moved to a new location. The new encampment management strategy seeks to manage encampments by using a variety of tools and approaches to better manage sites and reduce the need for abatements overall until adequate housing is available.

When performing work critical to its core mission, Valley Water will safely relocate encampments on Valley Water property including Valley Water right of way through coordinated efforts with other public agencies if the following criteria are met:

- a) the encampment is in the path of, interferes with or obstructs access to,
  - i. flood protection/ water infrastructure facilities or projects
  - ii. maintenance projects, facilities, or maintenance access roads
  - iii. designated mitigation or vegetation management sites
- b) the encampment poses an immediate safety risk— An immediate safety risk is one that involves safety of Valley Water staff. Safe relocation of encampments may also be conducted in response to public safety issues as determined by local jurisdictions such as a city, the county, or their police or fire departments. In the case of a public safety issue Valley Water will assist local jurisdictions in addressing encampments on property where Valley Water holds land rights.

Everyone is still encouraged to contact the police if any illegal activity or threat to public health and safety is observed; and contact the fire department for fire and smoke incidents.

### **What Valley Water is Planning**

Also, to address the long-standing issues related to unsheltered encampments, Valley Water's Board of Directors directed staff on January 18, 2023, to proceed with the following actions to address the human, environmental and operational concerns of encampments of unsheltered people in the riparian corridors of Santa Clara County:

1. Proceed with a District Act amendment to give the legal authority for Valley Water to address encampments of unhoused people separately, or in conjunction with a proposed District Act bill.
2. Develop a longer-term solution in global partnership with cities, the County, and other special districts to help ensure better outcomes for unhoused people. This may take the form of a global agreement, a JPA, or the creation of a continuum of care in Santa Clara County.
3. Consider district owned properties that could be used for the development of housing and create an inventory of those properties.

Again, we want to assure you that Valley Water is actively working in concert with our agency partners and the community to address the unhoused and encampments. We are always appreciative of your comments and should you have additional concerns, please feel free to contact me directly.

Please contact Jennifer Codianne, Deputy Officer for Watersheds Operations and Maintenance at [jcodianne@valleywater.org](mailto:jcodianne@valleywater.org) for follow up information.

You may also use our online system to report issues at <https://access.valleywater.org/customer/s/>.

Sincerely,



Jim Beall  
Director, District 4

C-23-0239

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**From:** Kathleen [REDACTED]  
**Sent:** Monday, September 25, 2023 9:23 AM  
**To:** Jim Beall <[JBeall@valleywater.org](mailto:JBeall@valleywater.org)>  
**Cc:** Board of Directors <[board@valleywater.org](mailto:board@valleywater.org)>  
**Subject:** Additional concerns to my email to you of Sunday, 9/24/23.....

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Jim:

I sent you a lengthy email yesterday, Sunday, September 24, 2023 concerning the homeless issue and WRPZ.

Something I forgot to mention to you.

I remember about 2-3 years ago, things were so bad with the homeless polluting the waterways AND, endangering employees just trying to do their jobs, there was a PILOT SAN JOSE POLICE SECURITY PROGRAM initiated for an eight month trial period. The SCVWD funded this. I don't believe it was renewed but not sure. We



never heard anything more about it. OBVIOUSLY, THE NEED WAS THERE FOR PROTECTION AND STILL IS. That is why that WRPZ is a MUST.

If the City won't agree to that, what is the SCVWD's position? Can the City just go ahead and trump the water department's position????and proceed with the building of the EIH on Cherry???

Right now, it seems the votes are not there from the City Council to include the WRPZ requirement.

What is the Water Department's strength in this argument?

Also,,,is that land a FLOOD ZONE? Recently, some of the residents in the immediate water land area have realized they have a tax assessment on their taxes for being part of a FLOOD ZONE. Are all those homeless campsites in a FLOOD ZONE? Wouldn't that be a FEMA issue???

Is the City building the proposed EIH in a FLOOD ZONE?

Thanks,

Kathleen O'Connell

**Michele King**

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**Subject:** FW: Water Sprinkler Inefficiency

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**From:** Candice Kwok-Smith **On Behalf Of** Board of Directors

**Sent:** Monday, October 2, 2023 4:13 PM

**To:** [REDACTED]

**Subject:** Re: Water Sprinkler Inefficiency

**Sent on Behalf of Director Estremera:**

Dear Michael Chau,

Thank you for bringing this important matter to our attention and for your commitment to water conservation. Valley Water understands that improving outdoor water use is essential to meeting our long-term water conservation goals and offers a suite of resources to assist schools like Yerba Buena, as well as businesses and residents throughout Santa Clara County be more efficient. From what you have described, the campus would likely benefit from the following programs:

- [Landscape Survey Program](#): The free survey evaluates the current irrigation system and landscape water management practices and provides recommendations for improving system efficiency. These may include upgrading irrigation hardware, and/or providing the site with a calculated irrigation budget based on climate, irrigation system components, and vegetation. Yerba Buena has already taken a great step toward water conservation by being enrolled in the [Waterfluence](#) program which provides appropriate site stakeholders insight into the school's irrigation efficiency by comparing the actual amount of water used in the landscape to a customized budget.
- [Landscape Rebate Program](#): We offer up to \$100,000 per site to upgrade inefficient landscapes and irrigation to high-efficiency alternatives. This includes converting high water-using lawns to climate-appropriate landscapes, irrigation equipment upgrades such as smart irrigation controllers, high-efficiency sprinklers and in-line drip irrigation, and rainwater capture.

Valley Water is also working to develop relationships with school districts throughout our county to encourage them to use water more efficiently and take advantage of our water conservation programs. Our staff will reach out to Yerba Buena High School and East Side Union School District to encourage them to participate. We will use our usual contacts at the schools, but if you have an additional contact that could help champion these efforts, please let our staff know.

Valley Water's water waste team responds to reports of water waste and violations of local water use restrictions. We encourage you to continue reporting water waste through the following options:

- Download our Access Valley Water mobile app (Apple or [Android](#))
- Visit [Access Valley Water](#) and select "Report Water Waste"
- Email [WaterWise@valleywater.org](mailto:WaterWise@valleywater.org)
- Call (408) 630-2000

Additionally, Valley Water has a very robust Education Outreach Program that goes into the classrooms to teach students about various environmental stewardship issues, including water conservation and pollution prevention. If you are interested in having our staff present at your school, please ask your teacher to complete this [request form](#).

We also have a very active Board Advisory Youth Commission that works on water related issues impacting young people in Santa Clara County. During the extreme drought period, the Youth Commission developed a

youth-centric Drought Awareness Toolkit to better engage young people to take action to conserve water and help spread the message. You can learn more about the Youth Commission and the Drought Awareness Toolkit [here](#).

If you any additional questions, Ashley Shannon, Senior Water Conservation Specialist, would be happy to assist and can be reached at [Ashannon@valleywater.org](mailto:Ashannon@valleywater.org).

Sincerely,



Tony Estremera  
Director, District 6

C-23-0241

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**From:** Chau, Michael [REDACTED]  
**Sent:** Wednesday, September 27, 2023 3:18 PM  
**To:** Board of Directors <[board@valleywater.org](mailto:board@valleywater.org)>  
**Subject:** Water Sprinkler Inefficiency

**\*\*\* This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. \*\*\***

To whom it may concern,

As a student of Yerba Buena High School, I write to ask you to consider bringing up the issue of replacing the standard water sprinkler system at schools with a more efficient one. Being a resident of California, I am familiar with the constant droughts that the state has experienced. While water sources have recently been improving in the past year, weather conditions are still worsening, and the temperature levels are rising.

The current sprinkler system used in my school is one of the most wasteful ones. Spray irrigation heads have been known to lose up to 50% of water used due to evaporation and wind. This is a result of their excessively wide and tall ranges and the mist they produce. Even then, the sprinklers are set to activate quite often throughout the day and for long periods of time. This not only further wastes water, but overwaters the grass, sometimes even forming puddles that attract geese like a watering hole.

A much better alternative to this system are drip irrigation that are set to activate fewer times a day and for shorter periods of time. This would not only decrease the amount of water wasted but also the costs of how much the school would have to pay on the water bill. Decreasing the amount of water wasted would also benefit the state of California, in order to prepare for drought by saving water for the future, especially if more efficient water sprinkler systems were to be implemented in multiple Californian schools.

Thank you,  
Michael Chau