



# Revised Encroachment Remediation Program

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August 28, 2018

Santa Clara Valley  
Water District



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## Objective:

Resolve District encroachments using a consistent, comprehensive and policy-driven process



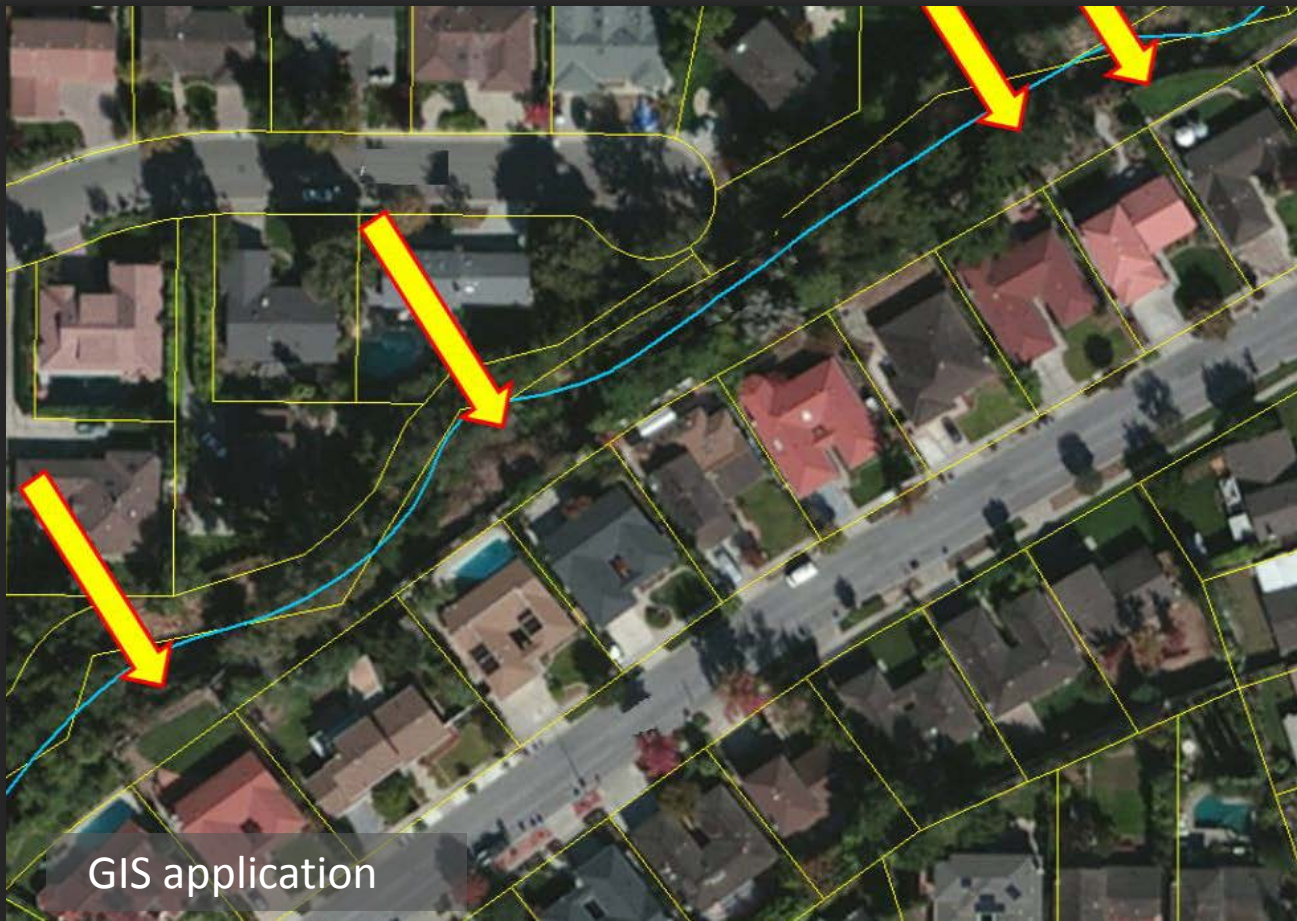
# Governance Policies of the Board

**EL-6.5.1:** Proactively identify, preserve and protect District property to ensure its use is consistent with the District mission

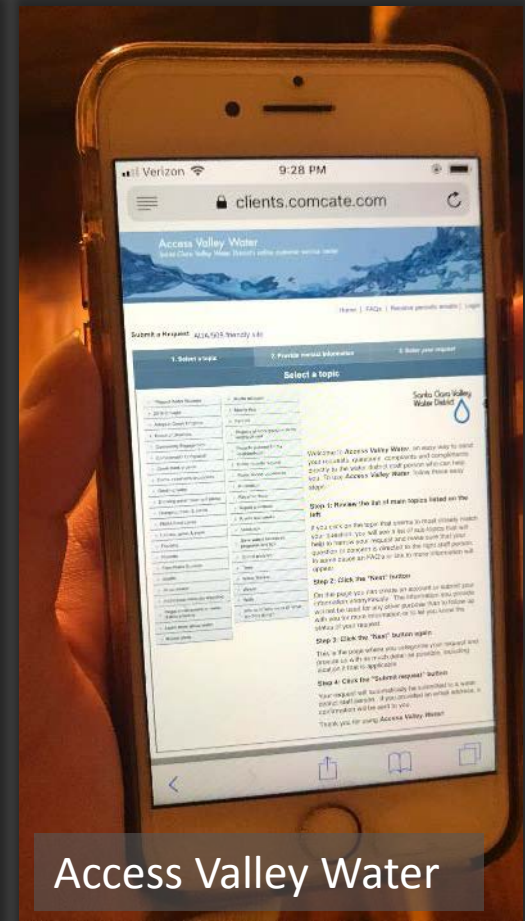
**EL-6.5.2:** Resolve encroachments on District property

09/10/20





GIS application



Access Valley Water

## Tools to identify suspected encroachments



# Santa Clara Valley Water District Board of Directors



0 2 4 6 8 Miles

Approximate Scale



**Richard Santos**  
District 3

Verified: 4  
Suspected: 78



**Tony Estremera**  
District 6

Verified: 1  
Suspected: 92



**Barbara Keegan**  
District 2

Verified: 1  
Suspected: 74



**Gary Kremen**  
District 7

Verified: 28  
Suspected: 167



**Nai Hsueh**  
District 5

Verified: 54  
Suspected: 199



**Linda J. LeZotte**  
District 4

Verified: 9  
Suspected: 104



**John L. Varela**  
District 1

Verified: 7  
Suspected: 176

Estimated Number of Encroachments per District  
("Suspected" encroachments visually identified using GIS aerial maps –  
"Verified" encroachments most often identified by survey)

Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95119-3004

# Matrix for Addressing Encroachments

PRIORITY #	CRITERIA – Does/Is the encroachment:
1	<p>Pose a potential threat to public/staff health and safety or create an actual or potential violation of law by the District or expose the District to potential civil or criminal liability  <i>(Located in a floodway, below or at top of bank, siphoning from creek, hazardous materials, severe erosion, blockage of creek, land slide, hazardous trees, potential pipeline damage or potential liability associated w/Injury to others)</i></p>
2	<p>Located in a riparian corridor with protected/endangered species, protected habitat, active mitigation or otherwise threaten <i>environmental</i> health and safety <i>(Water quality, stream stability, environmental threat)</i></p>
3	<p>Located within a planned project area, a riparian corridor with potential for mitigation, impact the District's ability to operate and/or maintain an existing facility or ability to proceed with the planned construction of a facility <u>scheduled to begin in three years or less</u>  <i>(Blocks maintenance access, impacts a levee or imposes alternative access/project design)</i></p>
4	<p>Located within a planned project area, a riparian corridor with potential for mitigation, impact the District's ability to operate and/or maintain an existing facility or ability to proceed with the planned construction of a facility <u>scheduled to begin in more than three years</u> <i>(Blocks maintenance access, impacts a levee or imposes alternative access/project design)</i></p>
5	<p>Located at the site of a future collaborative project with the city/county that will benefit the public at large (i.e. trails)</p>

# Estimates of Encroachment Sites per Category

## Criteria #1 Safety Issue (593):

- Floodplain: 389
- Pipelines: 162
- Hazardous Trees: 42 (Saratoga Creek – No other data available through GIS maps)

## Criteria #2 Environmental Threat/Mitigation:

- No outstanding estimates: Encroachments that pose an environmental threat or are located on an active mitigation site are resolved as reported

## Criteria #3 Riparian Corridor w/Future Mitigation:

- Approximately 450 (primarily in the West Valley & Lower Peninsula Watersheds)

## Criteria #4 Planned Project Area (2017-2021):

- 178 (77 verified)

# Options for Addressing Encroachments

#	CRITERIA – Does/Is the encroachment:	OPTIONS
1	<p>Pose a potential threat to public/staff health and safety or create an actual or potential violation of law by the District or expose the District to <b>potential civil or criminal liability</b> <i>(Located in a floodway, below or at top of bank, siphoning from creek, hazardous materials, severe erosion, blockage of creek, land slide, hazardous trees, potential pipeline damage or potential liability associated w/Injury to others)</i></p>	Resolve
2	<p>Located in a riparian corridor with protected/endangered species, protected habitat, active mitigation or otherwise threaten <i>environmental</i> health and safety <i>(Water quality, stream stability, environmental threat)</i></p>	Resolve
3	<p>Located within a planned project area, a riparian corridor with potential for mitigation, impact the District's ability to operate and/or maintain an existing facility or ability to proceed with the planned construction of a facility <u><i>scheduled to begin in three years or less</i></u> <i>(Blocks maintenance access, impacts a levee or imposes alternative access/project design)</i></p>	Resolve



# Criteria #1

Resolve safety  
issues



Encroachments near pipelines  
District resolved 2013



Encroachment at top of steep bank  
District resolved 2013



# Hazardous Trees



Resolution in process



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## Criteria #2

Resolve *active*  
mitigation sites

District resolved 2016

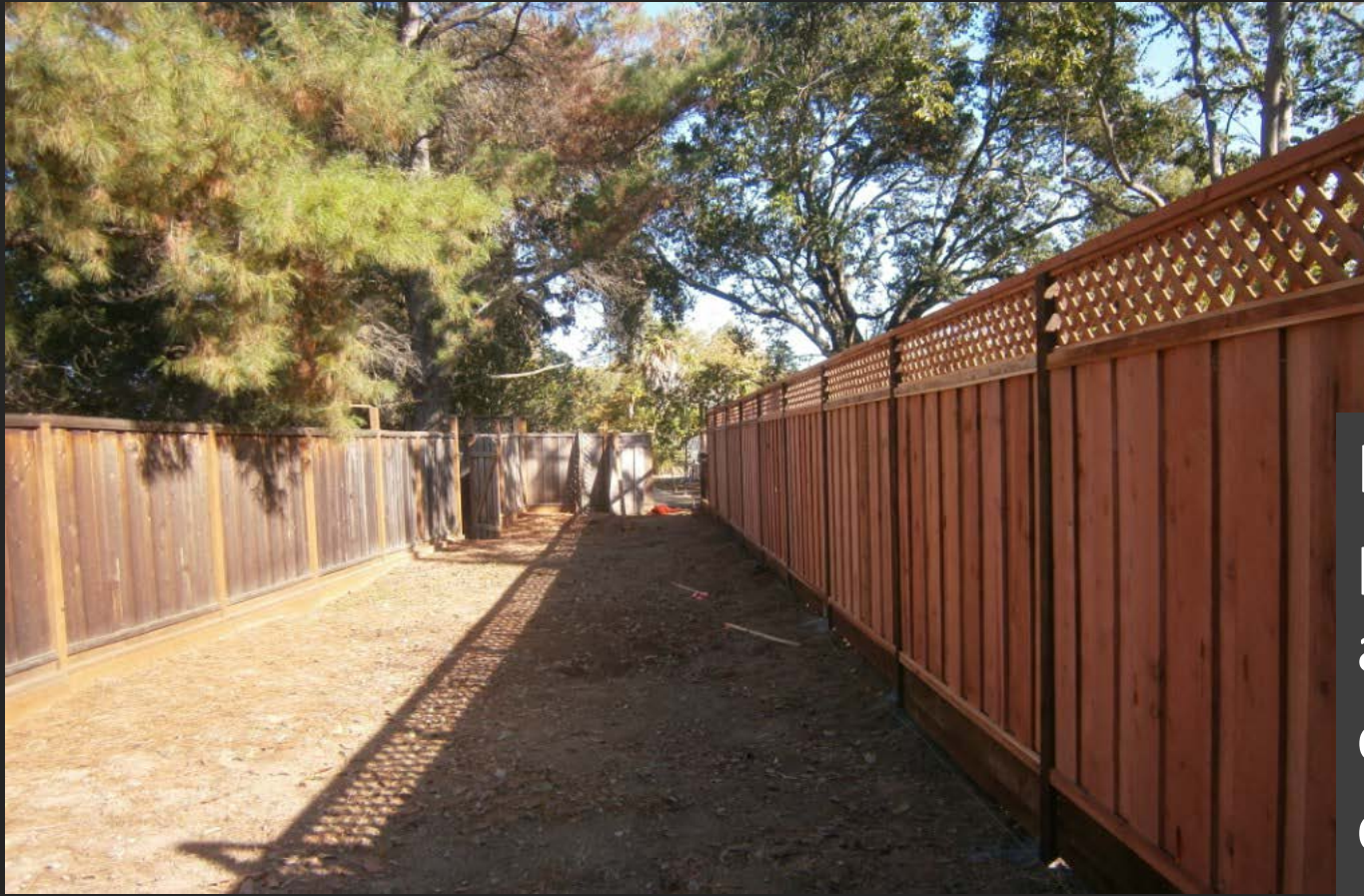


Criteria #3  
Resolve riparian  
corridors with  
*planned* mitigation

District resolved 2015



RESOLVE: District staff will attempt to work amicably with property owner to recover District property



Includes new processes with a focus on education and community relationships



# COMMUNICATION & OUTREACH PLAN

## Focus on relationships

- Communication with board members and internal stakeholders
- Coordinated response with local jurisdictions
- Early notification process allowing additional time to resolve

## Education for creek-side property owners

- Updated information and resource webpage
- Community engagement through education and awareness
- Contact new creek-side property owners

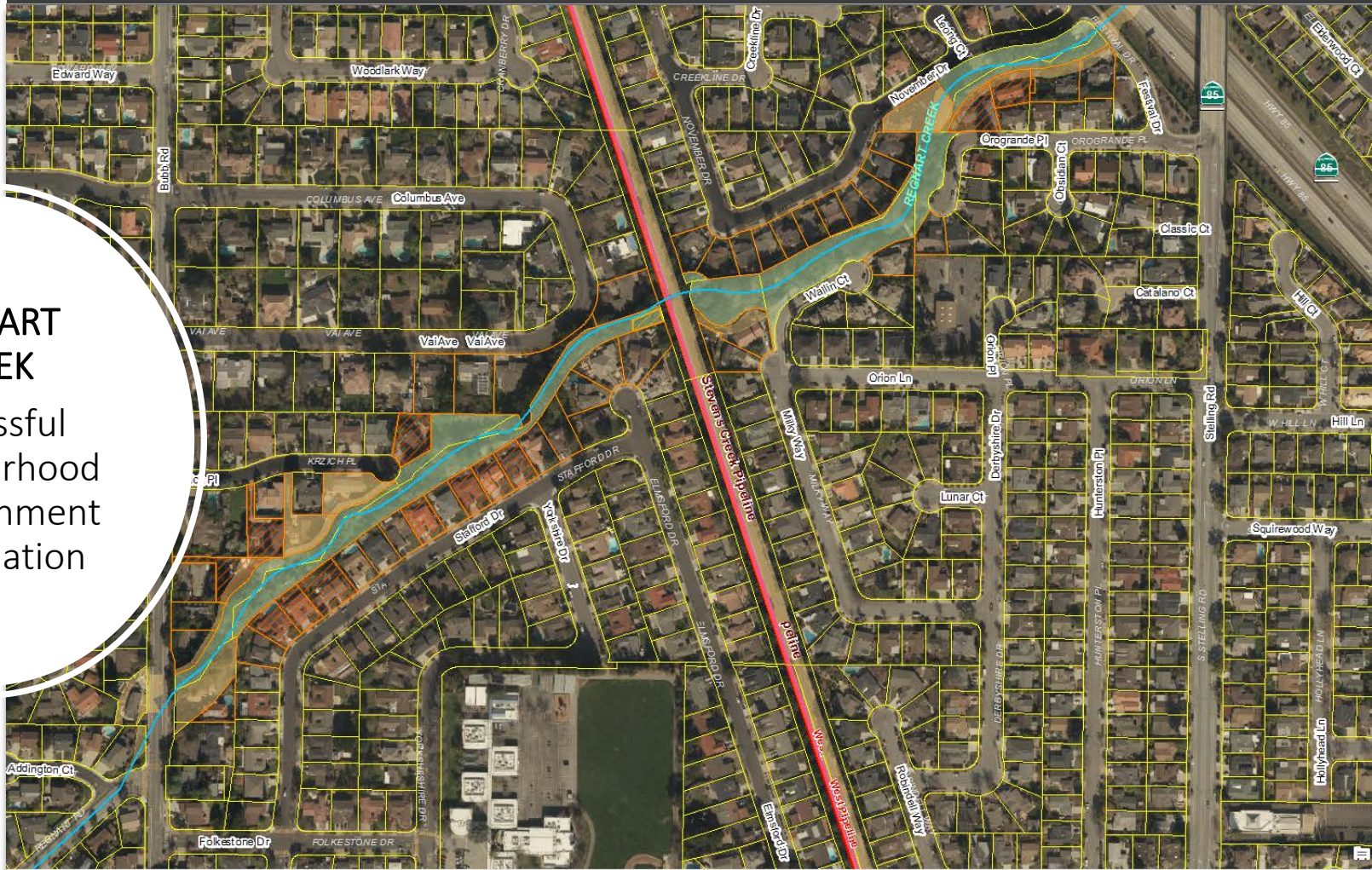
# AMICABLE RESOLUTION

In some cases,  
District assistance  
may include:

- Survey
- Fence cost share
- Inspections  
during fence  
installation



REGNART  
CREEK  
Successful  
Neighborhood  
Encroachment  
Remediation







City of Monte Sereno resolved 2017



District w/assistance of the  
City of San Jose resolved 2018

# Partnering with other agencies



# Additional Options for Addressing Encroachments

#	CRITERIA – Does/Is the encroachment:	OPTIONS
4	Located within a planned project area, a riparian corridor with potential for mitigation, impact the District’s ability to operate and/or maintain an existing facility or ability to proceed with the planned construction of a facility <u>not anticipated to begin in more than three years</u>	Resolve after issuing a license for an interim period
5	Located at the site of a future collaborative project with the city/county that will benefit the public at large (e.g. trails)	Resolve after issuing a license for an interim period
	<p><i>NOTE: Licenses under this program will only be considered for pre-existing encroachments of District property. The program is not designed to encourage or authorize new encroachments</i></p>	

# GENERAL ELEMENTS FOR LICENSE AGREEMENTS

- Description of District property to be licensed
- Application fee
- Limited two-year term with the intent of recovering District property
- Use restrictions (e.g., no grading or excavation; no construction of structures or fixtures; no storage of hazardous materials; etc.)
- Annual license fee (fair market value/administrative costs)
- Termination provisions (no-cause, 30-day notice from District)
- Minimum insurance requirements
- Waiver of damages / Duty to indemnify District
- Acknowledgment that License is personal and non-transferable
- Automatic termination upon sale or lease of property (if earlier than terms)
- Restoration of property by Licensee upon surrender or termination of License
- Attorney's fees to prevailing party in the event of litigation



# Next steps:

- Approve revised encroachment remediation program – Today
- Approve any needed Governance Policy changes – At a future Board meeting
- Approve update to Water Resources Protection Ordinance – At a future Board meeting







# Revised Encroachment Remediation Program

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Water District



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