



Revised Encroachment Remediation Program

August 28, 2018





Objective:

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

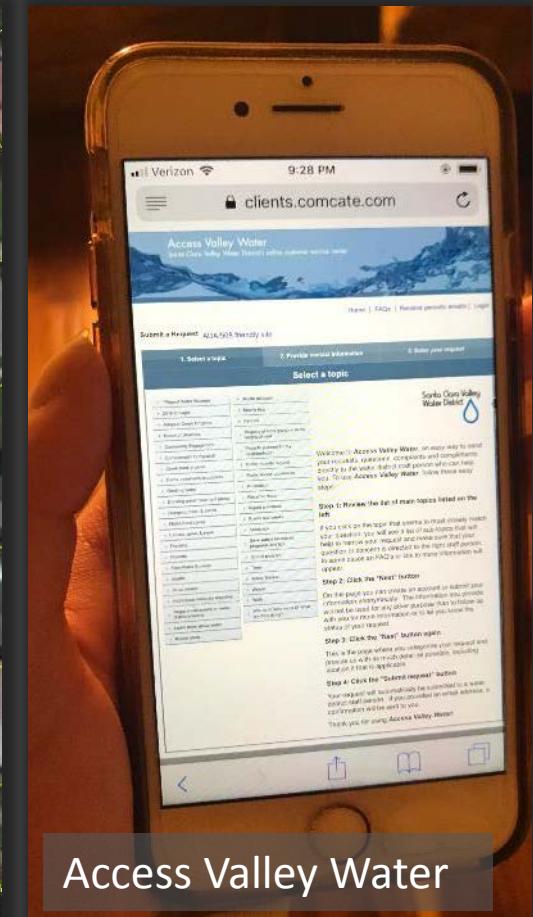
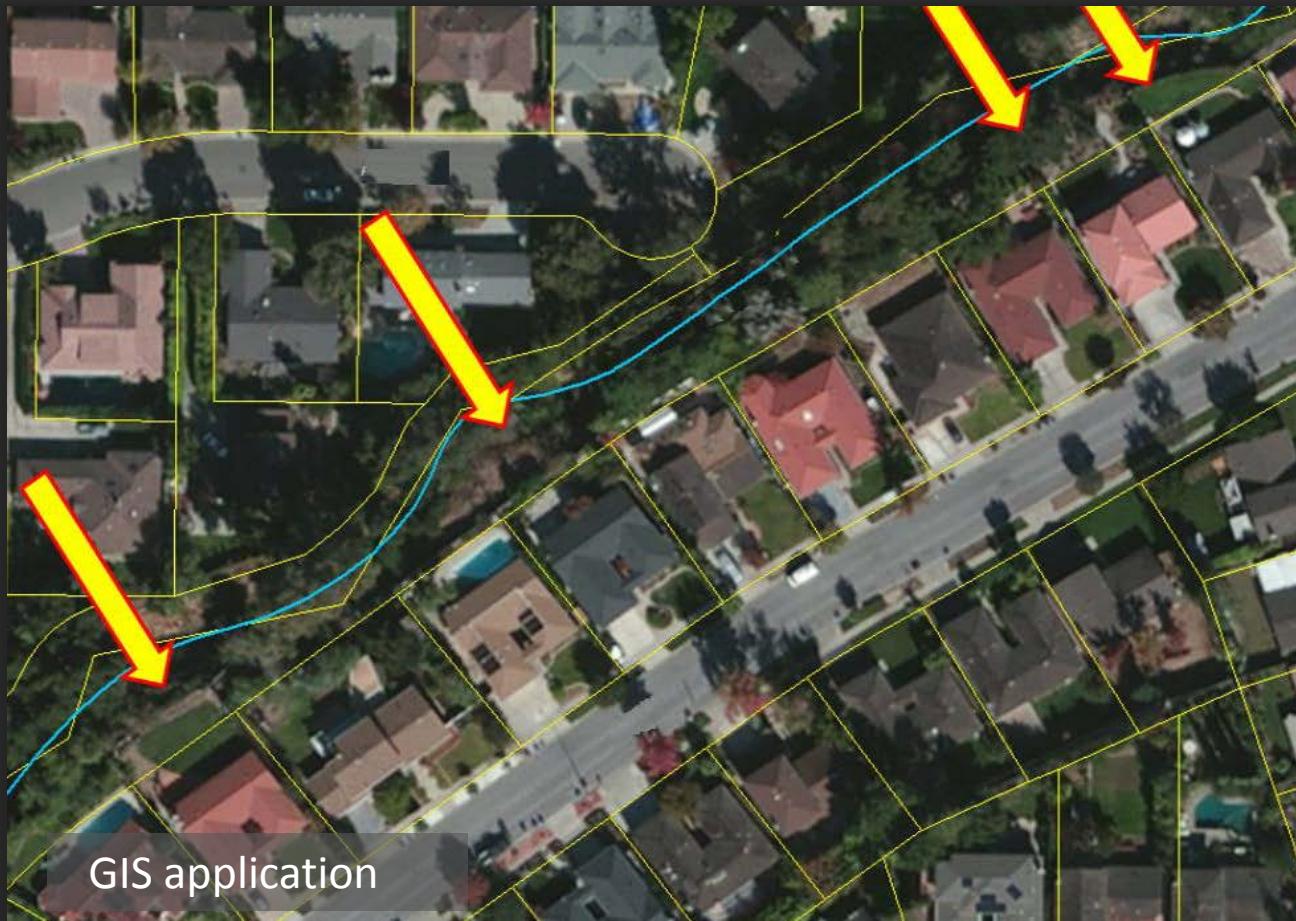
Governance Policies of the Board

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

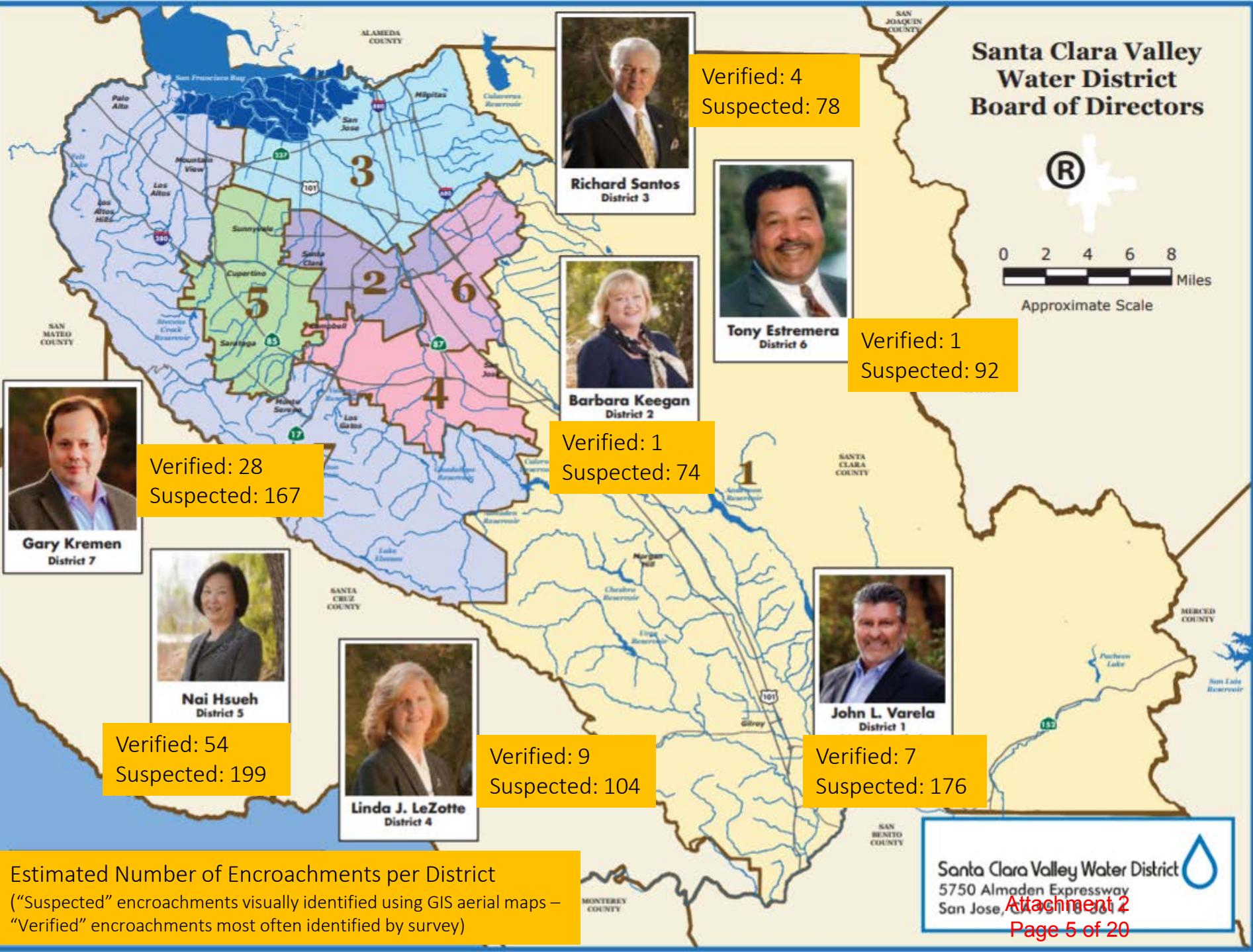


Tools to identify suspected encroachments

Santa Clara Valley Water District Board of Directors

(R)

0 2 4 6 8 Miles
Approximate Scale



Matrix for Addressing Encroachments

PRIORITY #

CRITERIA – Does/Is the encroachment:

1 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
(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)

2 Located in a riparian corridor with protected/endangered species, protected habitat, active mitigation or otherwise threaten *environmental* health and safety (*Water quality, stream stability, environmental threat*)

3 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 scheduled to begin in three years or less
(Blocks maintenance access, impacts a levee or imposes alternative access/project design)

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 scheduled to begin in more than three years
(Blocks maintenance access, impacts a levee or imposes alternative access/project design)

5 Located at the site of a future collaborative project with the city/county that will benefit the public at large (i.e. trails)

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	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>)	Resolve
2	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>)	Resolve
3	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>)	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



Attachment 2
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Criteria #2
Resolve *active*
mitigation sites

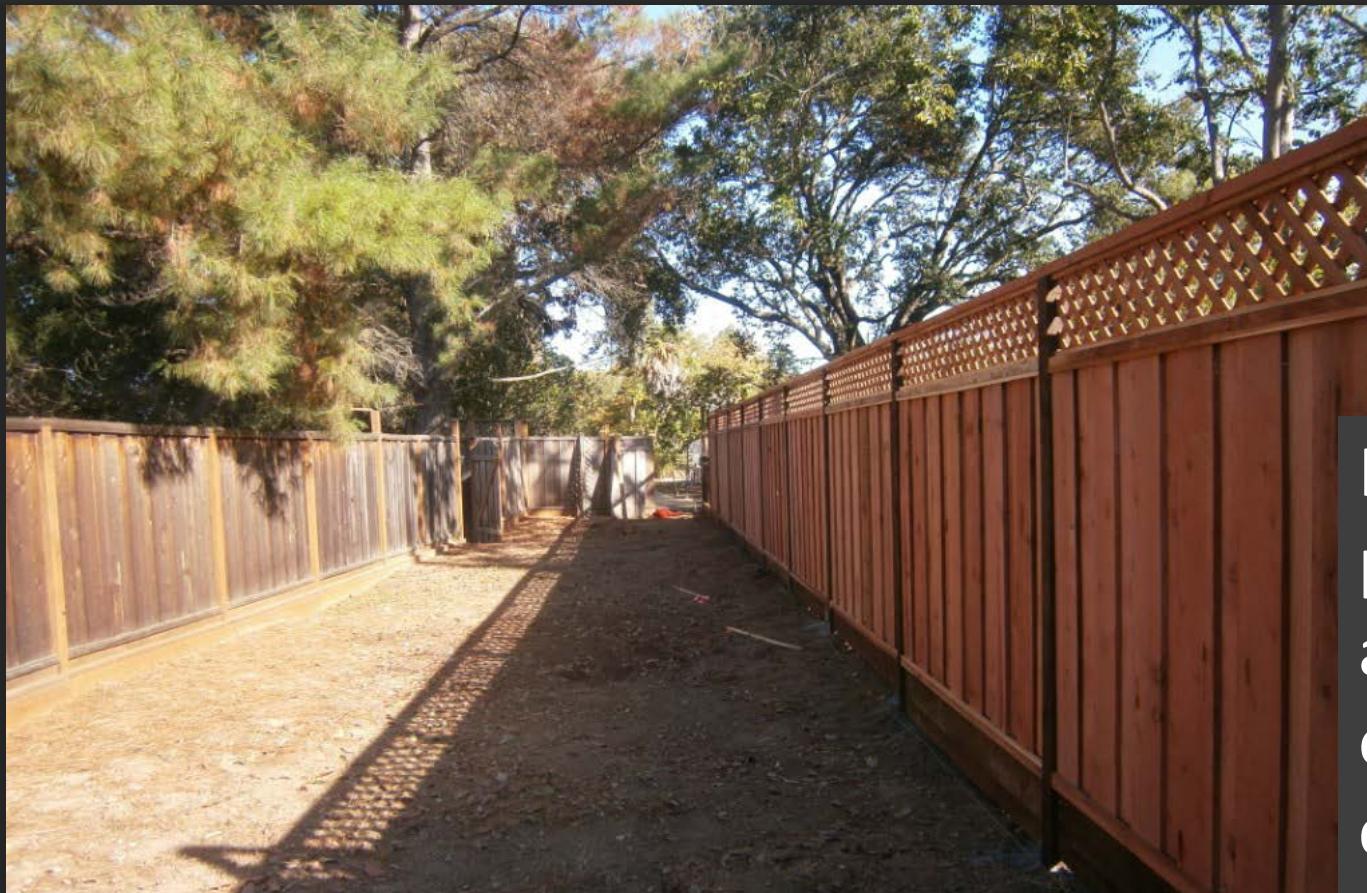
District resolved 2016

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

Attachment 2

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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

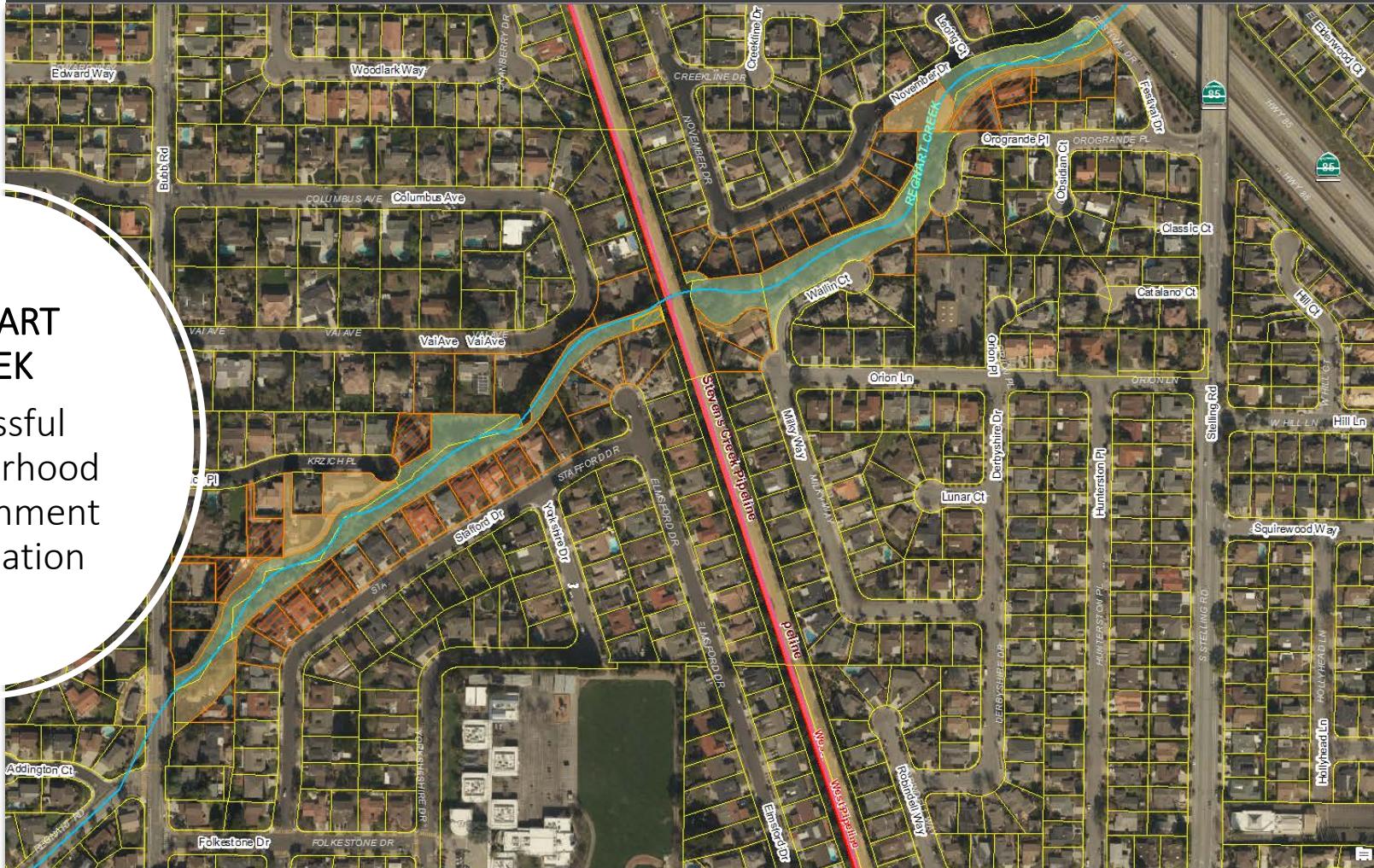
AMICABLE RESOLUTION

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

