



# **Joint Meeting of the Santa Clara Valley Water District Board of Directors**

**and the**

# **Santa Clara County Board of Supervisors**

**Thursday, May 18, 2017**

**10:00 AM**

**Santa Clara County Board of Supervisors' Chambers  
County Government Center  
San Jose, CA 95118**

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

## **DISTRICT BOARD OF DIRECTORS**

John L. Varela, Chair - District 1  
Richard Santos, Vice Chair - District 3  
Barbara Keegan - District 2  
Linda J. LeZotte - District 4  
Nai Hsueh - District 5  
Tony Estremera - District 6  
Gary Kremen - District 7

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the Clerk of the Board at the Santa Clara Valley Water District Headquarters Building, 5700 Almaden Expressway, San Jose, CA 95118, at the same time that the public records are distributed or made available to the legislative body. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to attend Board of Directors' meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

NORMA CAMACHO  
Interim Chief Executive Officer

MICHELE L. KING, CMC  
Clerk of the Board  
(408) 265-2600  
Fax (408) 266-0271  
[www.valleywater.org](http://www.valleywater.org)

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

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**Joint Meeting of the  
Santa Clara Valley Water District  
Board of Directors  
and the**

**Santa Clara County Board of Supervisors**



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Thursday, May 18, 2017

10:00 AM

Santa Clara County Board Chambers County  
Government Center  
70 West Hedding Street, 1st floor , San Jose

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**OPENING:**

1. Call to Order/Roll Call.
2. Pledge of Allegiance.
3. Public Comment.

*Notice to the public: This item is reserved for persons desiring to address the Board on any matter not on this agenda. Members of the public who wish to address the Board on any item not listed on the agenda should complete a Speaker Card and present it to the Clerk of the Board. The Board Chair will call individuals to the podium in turn. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Board action on, or extended discussion of, any item not on the agenda except under special circumstances. If Board action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Board may take action on any item of business appearing on the posted agenda.*

4. Consider Recommendations Relating to the Master Reservoir Lease and Proposed Master Partnership Agreement Between the County of Santa Clara Parks and Recreation Department and Santa Clara Valley Water District.

[17-0318](#)

- Recommendation:
- A. Receive report relating to public recreation at District property, including reservoirs and other joint engagements of the Santa Clara Valley Water District and the County of Santa Clara Parks and Recreation Department;
  - B. Receive report relating to options to develop a County-proposed Master Partnership Agreement between the District and the County that would both replace the Master Reservoir Lease and expand the scope of cooperation to other areas of mutual interest, including trails development, natural resource management, and public recreation at District facilities; and
  - C. Provide direction to County Administration and District staff regarding mutual commitments and processes to coordinate efforts directly for, or associated with, recreation, including planned land acquisition, construction of recreational improvements, pond/lake and stream reconfiguration, and trail development.

Manager: Garth Hall, 408 630-2750

Attachments: [Exhibit 1: District/County Parks Cooperative Project Examples](#)  
[Exhibit 2: Current District/County Master Reservoir Lease](#)  
[Exhibit 3: District Policy Regarding Recreation Use of Groundwater](#)  
[Exhibit 4: District Policy Governing Joint Public Use of District Facilities](#)  
[Exhibit 5: County Draft Statement of Shared Principles](#)  
[Exhibit 6: Chart of Key Issues to Resolve](#)  
[Exhibit 7: District Act](#)  
[Exhibit 8: PowerPoint](#)

Est. Staff Time: 20 Minutes



5. Consider Recommendations Relating to County of Santa Clara County and Santa Clara Valley Water District Efforts to Reduce Homelessness. [17-0317](#)
- Recommendation:     A. Receive report from the Office of Supportive Housing; and  
                              B. Receive report from the Santa Clara Valley Water District.
- Manager:               Melanie Richardson, 408-630-2035
- Attachments:         [Exhibit 1: PowerPoint](#)
- Est. Staff Time:      10 Minutes
- 
6. Consider Recommendations Relating to the South San Francisco Bay Shoreline Study and Shoreline Recreational and Emergency Access. [17-0316](#)
- Recommendation:     A. Receive report relating to the South San Francisco Bay Shoreline Study and Shoreline Opportunities Related to Recreational and Emergency Access; and  
                              B. Direct County Administration to prepare a letter of support for the District's application to the San Francisco Bay Restoration Authority for a grant of the Measure AA funds for the Shoreline Economic Impact Area 11 Authorized Project.
- Manager:               Ngoc Nguyen, 408-630-2632
- Attachments:         [Shoreline Study County of Santa Clara Staff Report](#)  
                              [Exhibit 1: PowerPoint](#)
- Est. Staff Time:      15 Minutes
- 
7. Consider Recommendations Relating to Permanente Creek Flood Protection Project, including the Rancho San Antonio County Park Detention Basin Project. [17-0314](#)
- Recommendation:     A. Receive an Overview and Update of the Project; and  
                              B. Provide direction from the County Board of Supervisors to Administration to support the efforts of the Santa Clara Valley Water District to obtain regulatory permits from state and federal agencies for both maintenance and capital projects in a timely, efficient, and affordable manner.
- Manager:               Ngoc Nguyen, 408-630-2632
- Attachments:         [Permanente Creek County of Santa Clara Staff Report](#)  
                              [Exhibit 1: Map](#)  
                              [Exhibit 2: Regulatory and Permitting Issues](#)  
                              [Exhibit 3: PowerPoint](#)
- Est. Staff Time:      15 Minutes

8. Discuss Past and Future Water Supply Sources.

**CLOSING:**

9. Adjourn to 6:00 p.m. Regular Meeting on May 23, 2017, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

**File No.:** 17-0318

**Agenda Date:** 5/18/2017

**Item No.:** 4.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Consider Recommendations Relating to the Master Reservoir Lease and Proposed Master Partnership Agreement Between the County of Santa Clara Parks and Recreation Department and Santa Clara Valley Water District.

### **RECOMMENDATION:**

- A. Receive report relating to public recreation at District property, including reservoirs and other joint engagements of the Santa Clara Valley Water District and the County of Santa Clara Parks and Recreation Department;
- B. Receive report relating to options to develop a County-proposed Master Partnership Agreement between the District and the County that would both replace the Master Reservoir Lease and expand the scope of cooperation to other areas of mutual interest, including trails development, natural resource management, and public recreation at District facilities; and
- C. Provide direction to County Administration and District staff regarding mutual commitments and processes to coordinate efforts directly for, or associated with, recreation, including planned land acquisition, construction of recreational improvements, pond/lake and stream reconfiguration, and trail development.

### **SUMMARY:**

For over 60 years the Santa Clara Valley Water District (District) and the Santa Clara County Department of Parks and Recreation (County Parks) have worked together to effectively manage an integrated system of land and water that serves multiple purposes. By working together, we have protected water quality, provided for recreational use of the reservoirs and creeks, provided education on water conservation, enhanced natural resources, restored habitats, improved flood protection, and removed mercury from the environment.

Under an agreement with the District, County Parks has the authority to make available for public recreation ten reservoirs and five ponds owned and operated by the District. Of the 52,000 acres that comprise the County's park system, approximately 6,000 acres of District property is leased by County Parks for recreational purposes, and approximately half of the County's 28 parks incorporate or abut District property. County Parks spends millions of dollars each year managing public use of District reservoirs and riparian corridors. Through this partnership, the agencies support public launch of approximately 23,000 boats annually. County Parks conservatively estimates that approximately 66,000 visitors participate in boating and approximately 138,000 visitors participate in

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fishing each year. In addition, approximately 5,000 people camp at the Coyote Lake Campground constructed and operated by County Parks on District property. The combined total of these activities accounts for roughly 7% of the total County Parks visitation. In addition to reservoir use, the multi-jurisdictional regional trails system that follows creek corridors partially controlled by the District supports millions of recreational visits annually. The public values the seamless access and recreational use of the combined system of County and District lands, reservoirs, creeks, and visitor-serving facilities.

Our two organizations successfully collaborate on numerous projects, including, but not limited to, the Vessel Inspection Program, remediation of mercury at Almaden Quicksilver County Park, flood protection, creek clean-up events, the Habitat Conservation Plan, and developing an inter-connected system of trails in cooperation with numerous other agencies. A list of other examples of the cooperative projects between the District and County Parks is included as Exhibit 1.

Historically two core documents have provided formal structure to our partnership: The Master Reservoir Lease, by which the District allows public recreation under the management of County Parks, and the Master License agreement by which the County provides for District access and use of Park property. In July 2014, County Parks staff and District staff met to discuss the renewal of both documents with the goal of developing an updated and expanded agreement that would incorporate the purposes of both agreements prior to the September 2016 expiration of the Master Reservoir Lease. However, staff of the respective agencies were unable to reach agreement on updated agreements and, in August 2016, the respective Boards approved a two-year extension of the existing Master Reservoir Lease. During the District Board's discussion related to approving the extension of the agreement, District Board Members agreed to request a joint meeting of the respective Boards to discuss the policy issues together.

Since August 2016, District and County staffs have continued to meet and discuss the County Parks' goal of negotiating a new agreement that would comprehensively address the policy framework and mutual goals of the broader partnership between the District and County Parks. In seeking to develop an updated agreement, the County is interested in exploring the potential for the District to enhance its District Act-described powers to provide beneficial uses of land and water for recreational purposes in support of the County Parks system. The County is also interested in enhancing the synergy between our organizations in response to the public desire for recreational access to District-owned property and facilities.

Although the agency staffs have made some progress, they have been unable to reach agreement on key provisions related to the level of the District's and the County's commitment to continuing public access and recreational use of District lands and water, particularly as related to:

- Which agency should bear the costs of removing and replacing recreational facilities no longer needed if recreation is terminated at one or more reservoirs during the agreement term or upon termination of the agreement.
- The potential for District cost sharing in recreation facility upgrades or in construction of new recreational amenities, and
- The apportionment of liability between the two agencies arising from public access and recreational activity.

At the Joint Meeting, County Parks will present a summary of the history of the partnership, provide an overview of the integrated system of land and water that is owned by the two agencies. County Parks and District representatives will present a number of important issues for the two agencies to address as we consider the future of County Parks-supported public access and recreational use of District property. Staffs will seek policy direction on the issues from the respective Boards.

### **Contract History**

County Parks has managed District reservoirs for recreational use since 1958. The Board of Supervisors approved a Master Reservoir Lease with the District on September 10, 1996 for a 20-year term. The lease was first amended on December 13, 2005 for the purpose of modifying the areas covered by the lease, with no change to the term. The lease was amended a second time in 2009, approved by the County on September 29, 2009 and fully executed by the District on October 22, 2009 (for the purpose of expanding the area of reservoir lands covered under the existing agreement). The District approved a two-year extension of the current lease on August 23, 2016 and the County of Santa Clara approved the lease extension on August 30, 2016. The current lease is attached as Exhibit 2.

### **Legislation and Agency Policies Related to Public Access and Recreational Use**

#### **District Legislation and Policies**

In support of public recreation, the District Act describes the following purposes and powers where the District may take action:

- i. Section 4(c)(7) Enhance, protect, and restore streams, riparian corridors, and natural resources.
- ii. Section 4(c)(8) Preserve open space in Santa Clara County and support the county park system in a manner that is consistent with carrying out the powers granted by this section.
- iii. Section 5(16) Acquire, construct, maintain, operate and install landscaping or recreational facilities in connection with any dam, reservoir, or other works owned or controlled by the District.

The District Board adopted Ends Policies including:

- i. E4.2 - Improved quality of life in Santa Clara County through appropriate public access to trails, open space and District facilities.
- ii. E4.2.1 - Support healthy communities by providing public access to additional trails, parks, and open space along creeks and in the watersheds.
- iii. E4.2.2 - Support healthy communities by providing appropriate public access to District facilities

The District's Board adopted various policies regarding the District's role in support of public access and recreational use (commonly described by the District as Joint Use), which Park staff interprets as being more limiting than the District Act allows. Resolution No. 72-44 "Stating Policy Regarding Recreation Uses of Groundwater Recharge Facilities" (Exhibit 3) favoring compatible

recreation uses adjacent to and of the water surface of groundwater recharge facilities. The provision of recreational structures, facilities and amenities and their maintenance for safety and sightlines, together with the control of the recreational use shall be the responsibility of the public agency under contract with the District. The resolution further states that water supply revenues will not be used to meet the cost of recreation uses such as on shore facilities, fish stocking and replacement, public liability insurance, policing and supervision.

The District's Board also adopted Resolution No. 74-38 "Declaring Policy Governing Joint Public Use of District Facilities" (Exhibit 4) whereby District lands are made available to public agencies to install, maintain and operate recreational access facilities. "Such joint use shall not unduly interfere with the District's use..." and "The installation, maintenance and removal of improvements or structures necessary or convenient to the joint use shall be at the sole cost of the agency proposing such joint use..."

#### County Policy Documents

- a. The County General Plan identifies numerous strategies, policies, and goals to support a regional system of parks, trails; and protect natural resources, including water quality, and biotic habitats. The General Plan further identifies inter-jurisdictional coordination as a key strategy to achieving these goals.
- b. The Board Approved Strategic Plan for the Parks and Recreation Department describes the following purposes and goals for the Parks and Recreation Department:
  - i. Mission: To provide, protect, and preserve regional park lands for the enjoyment, education, and inspiration of this and future generations.
  - ii. Vision: To create a growing and diverse system of regional parks, trails and open spaces of countywide significance that connects people with the natural environment, offers visitor experiences that renew the human spirit, and balances recreation opportunities with resource protection.

#### Common Goals and Differing Priorities

While the District and County Parks share many common goals, each agency has different core missions. For over sixty years, the agencies have worked together to effectively manage an integrated system of land and water that serves multiple purposes. The District has made its reservoirs available for public recreation. County Parks has managed recreation at the reservoirs and created an expanding regional park system. The County has acquired lands that protect the watersheds around District reservoirs and provide for increased recreational access to the "lake" parks and to build out regional trail system envisioned in the County-wide Trails Master Plan. During negotiations towards a proposed renewal of the Master Reservoir Lease, District staff has consistently focused on the District's core responsibilities of water quality, water supply, stewardship and flood protection, and County Park staff has consistently focused on the Department's core mission of parkland preservation, natural resource protection, and recreational use.

County Parks has proposed a set of "Shared Principles" (Exhibit 5) that sets forth a policy level

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conceptual framework that would undergird a comprehensive partnership between the two agencies and which would guide the specific terms of various sub agreements related to the construction and operation of various facilities. These principles build upon concepts and language within the District Act and other policy level documents already approved by the respective agencies.

The District has generally maintained that it will allow public access and recreational use of its land and water provided such use does not negatively impact the District's mission related to water quality, water supply, stewardship and flood protection. Over time, regulatory restrictions have resulted in a reduced level of public access and use of District facilities. Currently swimming is not allowed in District reservoirs used as a source for treated water supply and is limited under Special Use Permit in the remaining reservoirs. Boating access is limited to five of the ten reservoirs.

The inability of District and County staff to reach closure on a new agreement stems from the desire of County Park staff to have the District strengthen its commitment to public access and recreational use as authorized by the District Act, whereas District staff points to the Joint Use Policies that limit the District's commitment, investment and liability. District staff has stated that investment in recreational amenities would likely be limited and proportional to the extent that those amenities service the District's core purposes of water supply and quality, stewardship and flood protection. The County perspective of the proposed agreement is that the District has also sought to reduce its liability to the greatest extent possible, and to assign the responsibility to the County for any damages or injuries resulting from any public access to District facilities.

### **County Park Charter**

Although the County's first park, Stevens Creek County Park, was acquired in 1924 and the Department of Parks and Recreation was formed in 1956, since 1972 the Park Charter has served as a foundational support for County Parks. Most recently approved by voters in 2016, the Park Charter sets aside a portion (\$0.015 per \$100 of assessed value - approximately \$60M for FY18) of property taxes that would otherwise go into the County General Fund. Park Charter funds must be spent on public park purposes that are consistent with the County's General Plan. Ten percent of Park Charter revenues are dedicated to acquisition, ten percent are dedicated to capital improvements, and the balance is available to support operations.

Following voter approval of the Park Charter extension, County Parks is updating its Strategic Plan and developing a Ten-Year Capital Improvement Program. These plans will set priorities for the future growth, rehabilitation, and operation of the regional park system. Preliminarily, County Parks has identified capital improvement project needs of at least \$187M, which is approximately three times the \$67 million of resources anticipate to be available over the plan's ten-year planning horizon.

The District has plans to undertake major work related to seismic upgrades of two of the three major boating reservoirs and is undertaking significant work to improve flood protection in the valley. These projects are likely to have a significant impact on recreational amenities and use.

County Parks is seeking assurances from the District that it will support continued public access and recreational use of its reservoirs and other District lands upon which recreational trails and other

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improvements are constructed. The County has invested tens of millions of dollars in constructing recreational amenities on District property. Park Charter Funds should only be invested in improvements where continuing public use is assured. The Park Charter Fund has insufficient resources to remove or replace these amenities. In addition, County Parks would welcome District participation in upgrading existing facilities to address the public desired recreational use of its lands and water.

### **Core Issues**

Negotiations between the District and County Parks have been focused on clarifying and attempting to resolve a number of core issues before moving on to develop a potential Master Partnership Agreement and supporting specific agreements. Exhibit 6 is a chart which summarizes the key areas of difference between the District and County Parks and describes the current approach, the desired outcome sought by County Parks, and the District's staff response to the County's requests. While it appears that staff can likely resolve the issues related to the form of agreement and coordination on system and project planning, the negotiating teams need guidance in resolving core issues related to:

- Conditions under which the District would discontinue public access and recreational use of its properties.
- Cost sharing related to the costs of constructing, rehabilitating, removing and replacing recreational amenities on District property.
- Apportioning liability between the agencies.

### **Detailed Discussion of County Parks Primary Interests and District Response**

In addition to County Parks' proposed Shared Principles included as Exhibit 5, during the negotiation process, County staff has outlined several desired objectives, summarized as follows:

1. Compatible provision of (a) safe, reliable drinking water, (b) a safe community and healthy environment through managing natural resources, including watersheds and riparian area, (c) flood risk mitigation, and (d) public access and recreational use of the shared system of land and facilities managed by the District and the County.
2. Shared responsibility in stewarding these resources and providing public access to these lands and facilities.
3. Collaboration, leveraging the two agencies' individual strengths.
4. Bilateral agreements should respect the priorities and requirements of each agency, and minimize conflict. Each agency should seek to empower its staff to make decisions that promote the agencies' mutual goals. Periodic reviews of the working relationship between the agencies should be held to ensure implementation of this collaborative culture.
5. By allowing for public access and recreational use of District property, the District can support the County's purposes and support its own goals of promoting public access and use.
6. County Parks' operation of District property enables the County to enhance its public mission and service delivery to the public. County's management of District property also supports the District's other purposes and relieves the District of substantial costs associated with management of those lands and facilities.
7. The County requests that the District enhance its proactive role in providing recreational facilities by enhancing County's engagement and participation in future District land acquisition, capital improvement, and policy development so that the two agencies can fulfill



their joint and complementary public roles.

8. Reciprocity in mutual access to each agencies' property.

County staff requests a strengthened District commitment to recreational access and use of District lands and facilities, referencing the powers and provisions in the District Act cited above. Primary areas of County interest and the District response are discussed below:

1. Master Partnership Agreement Proposal

The County has proposed developing a Master Partnership Agreement that would comprehensively address the policy framework and mutual goals of the broader partnership between the District and County Parks. The County proposes that this agreement incorporate the Shared Principles detailed in Exhibit 5 and that the Master Partnership Agreement provide direction to staff and inform a number of subordinate individual detailed agreements that would be necessary for each of the areas of collaboration such as recreation and the specific projects identified above.

District Response: A number of County's principles could be beneficial to both agencies. An agreement between the agencies could formalize the commitment to a set of principles and objectives. Additional agreements would be necessary to formalize all the bilateral engagements between the two agencies.

2. Coordination on program and project planning

The County requests a commitment to mutual program planning and early engagement in system and project plans.

District response: Staff concurs that existing Master Reservoir Lease descriptions and scope of language relative to early engagement and project planning related to recreation could be updated and extended to other areas of coordination and cooperation between the District and County Parks.

3. Increased District commitment to continued access and recreation use

The County requests consideration of several provisions in the event the agreement or components thereof are terminated. The County desires specific, limited conditions under which termination of the agreement could occur, such as for critical public safety. Given the expectation that Park Charter funds would be invested in facilities which will be available for park purposes in perpetuity, the County perspective is that this is in accordance with the District Act language which enables the District "To acquire, construct, maintain, operate, construct and install... recreational facilities...in connection with...other works owned or controlled by the District". County Parks requests that the District bear costs associated with the removal of recreational improvements upon termination of the agreement or in the event a recreational improvement needs to be removed or altered for District water supply, flood protection or stewardship interests. The County also requests the District consider providing mitigation for the loss of public access and recreational use in the event of removal or termination of the agreement.

District response: Historically, the District's commitment to recreational access is to make District lands available to public agencies to install, maintain and operate recreational access facilities. The existing Master Reservoir Lease provides measures to cure a violation, measures to modify the lease for occupancy of fewer than all the reservoirs or recharge ponds and a six month notice to terminate by either party. Upon termination, the County is required to restore the site to pre-improved condition unless the District agrees to retain ownership of recreational amenities. The County's proposed approach which shifts the burden of removal of any recreational amenity at any time to the District, would be a significant departure from the current agreement. This departure may require Board consideration of new governance policies, repeal of Resolutions No. 72-44 and No.74-38 and identification of funding to financially support recreational facilities and uses beyond providing a joint use of District lands. The District has limited funding sources for recreational improvements. Groundwater charges (water rates) cannot be utilized for recreation. Clean Safe Creeks funds are directed to specific watershed and flood control projects.

4. Cost sharing

County Park staff clarified that its request for the District's commitment includes financial contribution for recreational capital improvements on District facilities. While specific cost share agreements would be developed for individual projects, the conceptual framework for cost sharing in projects would be identified in the new master agreement along with long term opportunities for coordination and collaboration. Understanding the general level of the District's willingness to invest in recreational amenities on its properties is likely to significantly impact the level of facilities available to public recreational use and similarly affect the extent to which County Parks would manage District property.

District response: Staff supports multi-purpose planning efforts and cost sharing within and limited to the historical framework of District water supply, flood protection and stewardship missions. A current review of opportunities for District cost sharing is limited to extension or repair of boat ramps at two reservoirs, where there is joint use of these facilities by District staff for water monitoring or maintenance activities.

5. Liability

The County seeks what it describes as a balanced approach to the indemnity obligations in the agreement.

The existing agreement requires the County to defend, indemnify, and hold the District harmless from and against specified types of actions and claims. The County also assumes risk of damage to personal property or injury to persons on the leased premises for any cause except District's negligence and except for recreational accidents resulting from the condition of the design or maintenance by District of its improvements. The existing agreement also requires the District to indemnify the County from and against claims and damages arising from District's ownership and use for purposes of storage, regulation and conservation of water on the leased premises, except in situations where the County is required to indemnify the District.

In its proposed revised Draft Master Reservoir Lease, provided to County Parks in April 2016, the District proposed further strengthening protections for the District. County Parks requested that liability be modified to reflect its view of the balanced partnership that should exist between the agencies.

District response: In recent discussions, District staff has proposed resolving this issue by utilizing the indemnity language from the current agreement in the new agreement. Historically, the District has required all joint use agencies to assume a certain amount of liability associated with the public's use of the District's facilities. The indemnity obligation is already prescribed, and the District is even required to indemnify the County under certain circumstances. The existing indemnity obligation is essentially the same as that required of cities subject to joint use agreements for use of District property for trails. The changes sought by the County could expose the District to unknown levels of future liability relating to the public's use of the leased property, so staff is recommending against such a change.

### **Implications for the Future**

While there is no present crisis and the status quo could likely be maintained for several years, the decisions made related to the core issues identified will shape the nature of the relationship between the two agencies and significantly impact the future level of on-going investment in recreational facilities on District property and the breadth of public access to, and recreational use of, District properties.

### **Next Steps:**

Staff of both agencies to work diligently to finalize the terms of an agreement, to include the recreational use of District reservoirs and groundwater recharge facilities, for their respective Board's consideration prior to September 16, 2018.

### **FINANCIAL IMPACT:**

There is no financial impact associated with the consideration of this item.

### **CEQA:**

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

### **ATTACHMENTS:**

- Exhibit 1: District/County Parks Cooperative Project Examples
- Exhibit 2: Current District/County Master Reservoir Lease
- Exhibit 3: District Policy Regarding Recreation Use of Groundwater Recharge Facilities
- Exhibit 4: District Policy Governing Joint Public Use of District Facilities

Exhibit 5: County Draft Statement of Shared Principles

Exhibit 6: Chart of Key Issues to Resolve

Exhibit 7: District Act

Exhibit 8: PowerPoint

**UNCLASSIFIED MANAGER:**

Garth Hall, 408 630-2750

## **Examples of Cooperative Projects between Santa Clara Valley Water District and Santa Clara County Department of Parks and Recreation**

### ***Coyote Parkway Lakes Sites 10 A and 10B***

In 2005, the County completed improvements on Stevens Canyon Road to alleviate flooding from Stevens Creek. To address environmental impacts from the project, the County identified District-owned lands at Stevens Creek reservoir to complete environmental mitigation. In exchange, the County agreed to sell the Coyote Parkway Lakes Sites 10A and 10B, which were used by the District for the Coyote Wetlands Restoration project

### ***Trails***

The 1995 Countywide Trails Master Plan updated trail maps and policies dating from 1980 for inclusion in the County General Plan. The District and the County have worked cooperatively in developing a significant portion of the master plan trail system, including feasibility studies for trail alignments as they pass through and are subsequently implemented by area cities. The District provides trail grants, provides District owned property at no cost, and incorporates trail-compatible design features in its flood protection projects for subsequent trail development. District operational and maintenance activities are modified or prioritized in consideration of this public use.

### ***Ogier Ponds***

The County's Ogier Ponds are located at a flooded former aggregate quarry through which Coyote Creek flows. County Parks is agreeable to the evaluation of the separation pond and creek restoration as an ecological benefit and, if feasible, for subsequent use as a water supply/flood attenuation facility as long as County Parks' primary objective for recreational use is maintained. The County and District entered into a Memorandum of Agreement to study the feasibility of creek/lake separation and a multi-use facility.

### ***Metcalf Ponds***

These ponds, owned in part by both agencies, are also a location where the separation of the creek and the ponds is desired for ecological restoration purposes. Feasibility studies of creek/ pond separation proposals are planned, with the assistance of grant funds from the District.

### ***Edenvale Stream Gauge Project – Coyote Creek***

The District owns and operates the Edenvale Stream Gauge, located on County property, as an important potential flood monitoring instrument and for measuring water supply releases from Anderson Reservoir. The stream channel, which supports the stream gauge, had become overgrown and inoperable. The District worked with County for several months on an onsite mitigation plan that included re-establishment of a low flow channel, removal of invasive plants, pruning heritage oaks for health and vigor and improving the structure of the riparian canopy. The District desires to secure land rights to operate the gage. Access to the Stream Gauge and other District access to County Parks property was provided for in the now expired Master License Agreement which the County proposed be included in the new Master Partnership Agreement.

### ***Lake Silveira Acquisition, Upper Llagas Creek Flood Protection Project***

The District desires to acquire land rights at Lake Silveira in Morgan Hill. Lake Silveira, a flooded former aggregate quarry along Llagas Creek in San Martin, was purchased by the County with the express intent of partnering with the City of Morgan Hill to build an

urban park. Funding was limited, and the park did not get developed. In 2010, the District approached County Parks about purchasing the property for compensatory mitigation for the Upper Llagas Creek Project. Detailed negotiations have been ongoing, with more recent coordination focused on a tri-party agreement between the District, City of Morgan Hill and the County whereby recreation and open space will be preserved within the compensatory mitigation site.

***Rancho San Antonio Detention Basin, Permanente Creek Flood Protection Project***

The County granted approximately 12 acres of easement at Rancho San Antonio Park for a detention basin to reduce downstream flooding from Permanente Creek in Mountain View and Los Altos. The project was designed to minimize disturbance to the park and entailed extensive collaboration with County Parks and Mid Peninsula Regional Open Space District, who manages the park for the County. The project will also replace and expand the existing South Meadow parking lot and provide restrooms. The project will enhance many acres of wildlife habitat, establish native trees and remove non-native trees that compete with native species.

***Master License Agreement for Access***

From 2008 to 2012, the County provided the District with a master license agreement to allow for District access to County Parks land to conduct minor activities such as surveying, environmental sampling, vehicle staging, meter reading, etc. which has benefitted the District.

## MASTER RESERVOIR LEASE

This Master Reservoir Lease ("Lease" hereinafter) is made and entered into this 10th day of September, 1996, between the Santa Clara Valley Water District, a public corporation, ("District" hereinafter) and the County of Santa Clara, a political subdivision of the State of California, ("County" hereinafter).

### RECITALS

WHEREAS, both parties desire that this Lease provide opportunities for recreational sites and facilities on the real property owned by DISTRICT at the reservoirs and percolation ponds listed in Exhibit "A" and delineated on the appended maps A-L (collectively referred to as "the Leased Premises") as a secondary function to the primary function of said reservoir in the storing, regulating and conserving of water and said percolation ponds for recharge of the groundwater basin; and

WHEREAS, COUNTY is willing to provide certain recreational functions, including operation, maintenance and law enforcement on the above-mentioned properties within the Leased Premises consistent with the primary function of the reservoirs and conservation works; and

WHEREAS, the DISTRICT is vested with the authority to acquire, construct, maintain, operate and install recreation facilities in connection with any dam, reservoir, or other works owned or controlled by the DISTRICT; and

WHEREAS, COUNTY is vested with the authority to construct, maintain, operate, and install recreational facilities; and

WHEREAS, DISTRICT policy supports the joint use of its facilities for recreational use by responsible agencies such as COUNTY pursuant to Resolutions 74-38 and 72-44 which provide a process for initiating diversified uses of DISTRICT property; and

WHEREAS, the primary purpose of reservoirs is water supply for the citizens of Santa Clara County and any recreational use of the reservoirs is granted as a privilege and will always be secondary to this primary purpose and shall not adversely impact reservoir water quality as a source of water supply as described below in Paragraph 3, nor made to be dependent on water levels within the reservoirs; and

WHEREAS, over the past 20 years the Santa Clara Valley Water District and County of

Santa Clara, Department of Parks and Recreation have cooperated in maintaining the supply and quality of this local water resource while providing a recreational resource; and

WHEREAS, the DISTRICT recognizes the need for comprehensive watershed management to protect the local water resources, and the County is in the process of extensive recreational facilities master planning within the watershed areas of certain reservoirs; and

WHEREAS, the COUNTY is in the process of implementing the Santa Clara County Trails Master Plan in which the District is identified as an implementor for some purposes, and the District has expressed the intent to encourage use of District levees and maintenance roads as potential trail connections; and

WHEREAS, any development within the watershed of reservoirs will have an impact on the quality of water supply for the citizens of the County of Santa Clara; and

WHEREAS, both DISTRICT and COUNTY recognize the fact that more public ownership of lands within watershed areas can preserve and enhance water supply and quality of water for the citizens of the COUNTY; and

WHEREAS, the District prepared an Initial Studies and Negative Declaration which identified certain conditions to mitigate potentially significant impacts as a result of this Master Lease which are included as a part of this agreement; and

WHEREAS, the DISTRICT and COUNTY agree to coordinate their respective planning efforts; and

WHEREAS, COUNTY and DISTRICT agree that the value of each site may vary for purposes of recreation, COUNTY shall endeavor to keep all sites under lease for the term hereof, and specifically acknowledges the value of Guadalupe and Almaden reservoirs as viewsheds for COUNTY park land.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements mentioned herein, and other good and valuable consideration, the parties agree as follows.

### AGREEMENT

#### 1. Term and Termination of Lease

a) DISTRICT hereby leases to COUNTY all of the property owned by DISTRICT at the ten (10) reservoirs and the Percolation Ponds to the high water mark shown on Exhibit A and delineated upon the maps, Appendices A-L and made a part hereof, for recreational purposes, excepting that property, if any, delineated by shading and cross-hatched upon said Exhibit A, Appendices A-L. The term of this Lease shall be a period of twenty (20) years, commencing with the date written above to and including September 10, 2016. At the option of



the COUNTY, this Lease may be renewed at twenty-year (20) increments upon mutual agreement. This Lease may be terminated by either party after six (6) months written notice to the other party.

b) The parties acknowledge that there may be circumstances under which the COUNTY may determine that its best interests require a modification to the Lease for occupancy of fewer than all of the reservoirs or percolation ponds. In the event that COUNTY determines to propose termination of fewer than all reservoirs or percolation ponds, COUNTY shall authorize staff to negotiate with the DISTRICT regarding the proposal. DISTRICT and COUNTY staffs shall then meet and confer no less than three times within the forty-five days following written notice from COUNTY to DISTRICT to determine whether there are mutually agreeable terms and conditions upon which to recommend continuation of this Lease, or a portion thereof. Staffs shall communicate the position of each party to the Board of Directors and the Board of Supervisors. In the event of agreement between COUNTY and the DISTRICT, this Lease shall be amended accordingly. In the event that the parties do not agree on an amendment to this Lease, either Board may authorize continued negotiations or the delivery of a six-month written notice of termination of the entire Lease to the other party. In the event of delivery by either party of a written notice of termination by either party, this Lease shall terminate six months from the date of delivery of such notice.

c) COUNTY shall observe all statutes, laws, ordinances and regulations applicable to its responsibility assumed under this Lease. In the event that COUNTY is in violation of any provision of this Lease, DISTRICT shall provide COUNTY written notice of the specific violation and a ninety-day period, or such time as is reasonably necessary (which may be less or more than 90 days depending on the necessity for cure), to cure the violation, or to alleviate any threat to public health or safety.

d) The COUNTY shall control, regulate, supervise, and be responsible for all public recreational use throughout the period of this Lease and any renewal thereof.

## 2. Use of Sites

a) County Responsibilities COUNTY shall be fully responsible for the public recreational use on the above-described lands and in and on the water stored thereon. COUNTY shall control, regulate and supervise the public use thereof. COUNTY will be responsible, in its discretion (but consistent with the right of DISTRICT to carry out its use of the site pursuant to Paragraph 2(b) and without substantial diminution of the capacity or function of any reservoirs as now existing or as may hereafter be altered or enlarged by the DISTRICT), for the provision and regulation of recreation functions including, but not be limited to, the posting of warning signs, the installation of guarding, restricting, or fender devices, whether fixed or floating, the improvement, operation and maintenance of recreation areas, to include, but not limited to, launch ramps, recreation parking and access roads, lake patrol, debris removal, park security, launch and lake use fees administration, special events, sanitation

service and picnic trash removal, as in the sole opinion of COUNTY may be necessary or appropriate for the health, safety and enjoyment of the users of the premises for any recreational purposes.

b) District Responsibilities DISTRICT will be responsible for improvements and facilities not related to public recreational uses including, but not limited to, dams, reservoir and appurtenant facilities, non-recreational activity roads and parking areas, and access control installations such as automobile guardrails, berms and/or boulder placement as in the sole opinion of DISTRICT may be necessary or appropriate.

c) Mitigation of Environmental Impacts The DISTRICT has prepared an Initial Studies and Negative Declaration concerning the implementation of this Master Lease which identified certain potentially significant impacts and mitigations thereof which are set forth in Exhibit B attached hereto and incorporated by reference.

### 3. Reservoir Operations and Water Quality

a) Primary Use for Water Supply It is expressly understood by COUNTY that DISTRICT is engaged in the conservation of water and that terms and conditions of this Agreement and the public and recreational use and access afforded thereby shall not in any way interfere with the absolute, free, and unrestricted right of DISTRICT to operate and maintain any dam or reservoir or any appurtenant works thereto, or to repair or reconstruct any of its works, or to raise or lower the height of the water of the reservoir. It is further understood that nothing herein contained shall be construed as conferring a right upon COUNTY or the public, or any member thereof, to have, or a duty upon DISTRICT to provide, water in said reservoir at any time.

b) Water Levels

1) It is expressly understood by COUNTY that the level of water stored upon the leased premises may fluctuate from day-to-day and that such fluctuations may require that the DISTRICT exercise greater control over or restriction of the COUNTY's use of the premises for recreation purposes. DISTRICT shall provide COUNTY annually ("annual notice"), but not later than May 1, the operational levels for each reservoir and all planned maintenance, repair, construction or improvements which will affect the recreational use or create a material change in the water levels, including any anticipated effect on fish or wildlife. The annual notice shall include available information concerning the DISTRICT's capital expenditure plan for each year of operation that will reasonably affect water levels and which will impact recreational uses. In addition, COUNTY shall be responsible for informing itself thereof and of all other conditions of the leased premises, which may in anywise affect the health and safety of the users of the premises for any recreational purpose. The parties acknowledge that the fluctuation of the water level may create greater access for neighboring livestock to the surface water and the parties recognize that the responsibility for notifying the landowner and other actions lies with the DISTRICT in its capacity as the landowner, and not with the COUNTY in its capacity as

the recreation provider.

2) Repair by District. When the DISTRICT conducts repairs to its dam facilities which impact COUNTY recreational facilities or trails, DISTRICT shall conduct the repair in a manner which does not damage or which minimizes damage to COUNTY improvements. Except for emergency conditions, DISTRICT will attempt to provide a 48-hour telephone notice to COUNTY deputy Director of Parks and Recreation or designee prior to conducting maintenance which obstructs the use of the Park facility or trail. DISTRICT shall make every reasonable effort not to damage or affect the use of COUNTY trails and facilities. However, should it become necessary for the DISTRICT to undertake future work which may affect the use of or require reconstruction of a trail or recreational facility the costs associated therewith shall be borne by the COUNTY unless otherwise explicitly agreed to by the DISTRICT.

3) Emergency Work Whenever DISTRICT performs or intends to perform any emergency work or maintenance, repair or reconstruction that affects recreational use on the leased premises, the water level, or on any works appurtenant thereto, DISTRICT shall have the affirmative duty to immediately notify COUNTY as soon as reasonably possible, with at least twenty-four (24) hour prior telephone notice, if possible, or three (3) day prior written notice.

4) Material repairs not included in the Annual Notice For DISTRICT repairs not included in the annual notice, not anticipated in the capital improvements report or water level report, and which effect a material change in the water level of any reservoir which will reasonably affect recreational uses, DISTRICT shall provide COUNTY at least sixty (60) days' written notice, or as much advance notice as is reasonably practicable.

c) Water Quality

1) DISTRICT shall have the right to limit or restrict the type, intensity, or water quality control location of recreational use as necessary to meet any California Department of Health Services, Regional Water Quality Control Board, or District policies, requirements or regulations regarding the quality of drinking water supply sources. This right to limit or restrict the type or location of recreational use as reasonably necessary shall be exercised when the DISTRICT determines that there is or threatens to be a significant degradation of water quality associated with recreational activity. Prior to effecting any limitations or restrictions, DISTRICT shall first convey immediately to COUNTY notice in writing of the specific reasons which necessitate such action. The notice shall be given not later than thirty (30) days prior to effecting such limitations or restrictions or a shorter time if reasonably required by the authority.

2) DISTRICT will perform all reservoir and groundwater quality monitoring and analyses that are necessary or advisable, in DISTRICT's sole discretion.

d) Repairs, Maintenance and Improvements The parties agree that the costs for repairs, maintenance or improvements shall be paid by COUNTY if related to COUNTY's recreation program and by DISTRICT if related to DISTRICT's water conservation program. The parties agree to share the cost for items which are mutually agreed to relate to both the COUNTY's recreation program and the DISTRICT's water conservation program. If a dispute results for the allocation or division of an expense, then the parties shall resolve the matter in accordance with paragraph [13] 11 (Dispute Resolution).

4. Operation and Maintenance of the Leased Premises

a. COUNTY shall maintain and manage the Leased Premises and assume all costs thereof as relates to paragraph 2.a). To the extent consistent with this Lease, COUNTY shall have all powers related to maintenance and management of the leased premises, including, without limitation, the powers to:

- 1) Determine staffing for recreational maintenance and operations;
- 2) Determine hours of operation of the Leased Premises and time for public access;
- 3) Determine COUNTY and public activities to be allowed at the Leased Premises consistent with state and federal laws and regulations.

b. Maintenance shall be at the level comparable to COUNTY's maintenance of COUNTY-owned parks of a similar size and with similar improvements. DISTRICT shall serve written notice to the COUNTY when additional maintenance is required as a result of local, state or federal water quality laws or regulations which require it. COUNTY shall have 30 days to respond to the notice in writing concerning its time estimate for corrective action or to propose another alternative, provided that COUNTY shall respond as appropriate in a shorter period of time as directed by a state or federal regulatory agency. The parties shall meet and confer if necessary concerning issues of shared responsibility.

5. Fees

Fees received by the COUNTY from recreational use services shall inure to COUNTY and may be used to cover the costs of future improvements, maintenance, and operation (including administration and overhead costs attributable to the leased premises).

6. Subleases, Assignments, and Concessions

Any subleases, assignments or concession agreements initiated by COUNTY shall be subject to the approval of DISTRICT. Such approval shall not be unreasonably withheld.

7. Restrictions on the Use of Regulated Materials on District Leased Property

a) Regulated materials shall be defined for purposes of this agreement as any material which is defined as a "hazardous material, hazardous waste, hazardous substance, designated waste or special waste" in accordance with applicable local, state and federal ordinances, statutes and regulations.

b) The County has provided an inventory of regulated materials and quantities which are stored or used in the operations of the County recreational uses. District acknowledges receipt of the inventory statement and quantities. Parties acknowledge that any one or more of the materials contained on the list may be used in the leased premises relative to the operation of the recreational facilities.

c) Lessee shall provide District copies of any amendments to modifications or supplemental information concerning the inventory as it is prepared by the County.

d) In the event of a discharge or release of a hazardous substance or waste from, or resultant of, the Lessee's operations, whether with or without the explicit or implicit knowledge of the District, the Lessee is responsible for:

1) Notification of all authorities in accordance with all Federal, state, and local regulations.

2) Immediate notification to the District's Environmental Compliance Division, followed by written notification within 24 hours of discovery of the release.

3) The investigation, including contaminant characterization, removal, monitoring, disposal, and regulatory clearance for remediation of the hazardous substance or waste, to the satisfaction of the District and any regulatory agency.

4) Any and all costs, including District costs, associated with all corrective actions.

## 8. Improvements

a) Approval Process COUNTY shall have the right to build any improvements necessary or convenient for the development of any lands leased from DISTRICT under this Lease for purposes authorized by this Lease, provided that the location and suitability for use of such improvements are, in each case, first approved by DISTRICT. The COUNTY shall provide construction improvement plans for all proposed COUNTY development on Leased Premises transmitted by letter requesting approval of intended improvements. DISTRICT shall have sixty (60) days in which to comment on said plans. After this time the plans shall be deemed approved by DISTRICT if no comment is made by the DISTRICT. Alternatively COUNTY may utilize the DISTRICT's process as set forth in Resolution No. 74-38 on Joint Public Use of District Facilities attached hereto as Exhibit "B".

b) Water Quality Protection Measures The DISTRICT reserves the right to require that all proposed improvements include reasonable water quality protection measures. All proposed facility improvements must include DISTRICT review of a detailed plan and program for operations and maintenance designed to protect water quality and response to water quality emergencies.

c) Applicable Law COUNTY shall observe all statutes, laws, ordinances and regulations applicable to the construction of the improvements under this Lease.

d) Improvements at Termination of Lease Upon termination of this Lease for any reason whatever, COUNTY may remove any improvements built by it. COUNTY shall within six (6) months restore the DISTRICT's properties to their pre-improved conditions unless the DISTRICT agrees to retain ownership of the improvements. DISTRICT shall maintain the dam and reservoir and any and all improvements and appurtenances thereto which provide, as a primary function for the storage, regulation and conservation of water.

e) Planning Process The COUNTY agrees to integrate the master planning efforts for Calero, Stevens Creek, Anderson and Coyote reservoirs with the DISTRICT in the DISTRICT's development of a Comprehensive Reservoir Watershed Management Project. The COUNTY's parks facilities master plans which describe the recreational capacities projected by the COUNTY for watershed areas will be used by the DISTRICT as a basis for evaluating potential impacts of recreation on the reservoirs and watersheds. The COUNTY agrees to withhold finalization of the Calero, Anderson, Stevens Creek and Coyote Master Plans until such time as their consistency with the Comprehensive Reservoir Watershed Management Project can be determined. Prior to this determination, the COUNTY will limit improvements so as not to place additional facilities within the watershed areas within the Leased Premises substantially increase the intensity of recreational use beyond the current levels. Such improvements will be subject to the review of DISTRICT staff. The DISTRICT agrees to provide the COUNTY full participation in the comprehensive watershed planning process to facilitate interpretation of the Park master plans. The DISTRICT's Comprehensive Reservoir Watershed Management Project field work is targeted to be completed by February 1998. Progress updates will be provided to the COUNTY every six months from the date of this Master Reservoir Lease.

f) Projects/Opportunities with Mutual Benefit The parties shall cooperate and work mutually on shoreline erosion protection projects and share in the benefits and costs. Further, the parties shall look for opportunities to partner on projects of mutual concern and create plans for public information and education as part of the implementation of the project(s), including such things as working together to achieve a competitive edge on grant applications, creating informational brochures and public relations, all of which benefit the citizens of Santa Clara County.

g) Signage The parties shall cooperate to create and install signage which benefits the programs of each party, such as warnings, entrance signage, interpretive signs, and

joint uses when applicable. The General Manager of the DISTRICT and the Director of the Parks and Recreation Department of the COUNTY or their designees shall meet and confer on a periodic basis to plan and install appropriate signage which serves the needs of both parties.

9. Indemnification

a) Indemnification by County

1) To the fullest extent permitted by law, the COUNTY shall indemnify and hold harmless the DISTRICT, and its agents and employees, from and against claims, damages, losses and expenses arising out of or resulting from any damage or injury to person or property of any kind caused or allegedly caused by:

i) any condition of the Leased Premises for which the COUNTY is responsible;

ii) the act or omission, on said Leased Premises, of the COUNTY or of any person in, on or about said premises with the permission of the COUNTY, or

iii) any matter connected with the COUNTY's occupation and use of said premises over which it has control.

2) The COUNTY hereby assumes all risk of damage to personal property or injury to persons in, upon or about the premises from any cause, except for DISTRICT's negligence whether arising from the ownership or use of DISTRICT's property, and except for recreational accidents which result from the condition of the design or maintenance by DISTRICT of its improvements, and the COUNTY hereby waives all claims in respect thereof against the DISTRICT. DISTRICT and its agents shall not be liable for any damaged property or any injury or damage to persons or be liable for any damaged property or any injury or damage to persons or property resulting from any cause whatsoever unless 1) caused by or due to the active negligence or willful misconduct of the DISTRICT, its agents or employees, or 2) the failure of the dam.

3) If any action or proceeding is brought by reason of any such claim for which the COUNTY bears responsibility and/or liability pursuant to this Lease and in which the DISTRICT is named as a party, the COUNTY shall defend the DISTRICT therein at the COUNTY's expense.

b) Indemnification by District To the fullest extent permitted by law, the DISTRICT shall indemnify and hold harmless the COUNTY and its agents and employees from and against any claims, damages or injury, losses and expenses to persons or property of every kind arising from or resulting from DISTRICT's ownership and use for purposes of storage, regulation and conservation of water on the leased premises and appurtenances thereof, except

in situations where COUNTY is required to indemnify the DISTRICT pursuant to subparagraph 9(a).

10. Relations with the Public

The parties recognize the unique nature of the resources and recreational uses covered by this Lease and of the beneficial effects to both parties of providing these resources to the public. The parties resolve to utilize their respective offices to mutually support the efforts of each other to deliver such services to the public. The parties further agree to cooperate in order to resolve disputes and assist each other in responding to public inquiries arising from the activities of the parties or either of them.

11. Dispute Resolution

a) The parties acknowledge that issues may arise that require resolution between the parties. The parties agree to meet and confer to resolve such issues. The COUNTY hereby appoints the Director of Parks and Recreation, or his designee, and the DISTRICT appoints its General Manager, or his designee, as its representative for dispute resolution. Either party may notify the other party upon a 48-hour telephone notice or three (3) day written notice whenever a party desires to meet and confer and the other party shall attend at a mutually agreed upon date, time and location. The parties agree to utilize this procedure prior to instituting any legal action which pertains to this Lease. Except as specifically provided herein, nothing contained herein shall diminish any right or remedy of either party at law.

b) Arbitration The parties may mutually agree that a dispute shall be submitted to arbitration in San Jose, California (or other venue agreed to by the parties) conducted by a retired judge of the Superior Court of California to be agreed upon by the parties. In the absence of an agreement governing the arbitration process, the arbitration shall be by and according to the Rules of the American Arbitration Association but shall include a Statement of Decision and shall be according to California law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The cost of the arbitrator initially shall be borne equally by the parties, but the prevailing party in the proceeding shall be entitled to recover its contribution for the reasonable cost of the arbitrator from the other party.

12. Miscellaneous

a) Binding Effect The covenants and agreements contained in this Lease shall bind the respective successors, assigns, heirs and legal representatives of the parties hereto.

b) Entire Agreement This Lease and any exhibits or addenda attached hereto set forth all covenants, agreements, conditions and understandings between COUNTY and DISTRICT concerning the Premises. There are no covenants, agreements, conditions or understandings, either oral or written, between the parties hereto other than as herein set forth.



c) Modification Provisions of this Lease may be modified, waived or added to only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

d) Waiver The waiver by either party of a violation or breach of any provision of this Lease by the other party shall not constitute a waiver of any subsequent violation or breach.

### 13. Notices


Communications relating to this Lease or under the unlawful detainer statutes of California shall be in writing and shall be delivered personally, sent by United States mail, first class postage prepaid, or by private messenger or courier service, to the addresses set forth below:

If DISTRICT: General Manager  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, California 95118-3686

If COUNTY: Director  
Santa Clara County Parks and  
Recreation Department  
298 Garden Hill Drive  
Los Gatos, California 95030

IN WITNESS WHEREOF, the parties have executed this Lease the day and year first above written.

SANTA CLARA VALLEY  
WATER DISTRICT

By   
Chairperson of the Board of  
Directors


COUNTY OF SANTA CLARA

By   
Chairperson of the Board of  
Supervisors  
Dianne McKenna


ATTEST:

  
Clerk of the Board of  
Directors

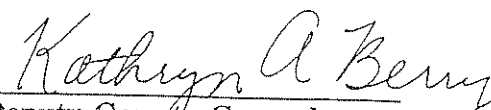
ATTEST:

  
Clerk of the Board of  
Supervisors  
PHYLLIS A. PEREZ

APPROVED AS TO FORM:

  
General Counsel

APPROVED AS TO FORM AND  
LEGALITY:

  
Deputy County Counsel

luberry\scvwd\lease.oth

# MITIGATION MONITORING PLAN

EXHIBIT "B"

page 1 of 4

## Attachment A, Part 4

The following mitigation measures are recommended to reduce potentially significant project impacts to insignificance and are required to be monitored. For those measures which are to be attached as a condition of the proposed lease, the District shall monitor implementation by requiring the SCCPRD to submit a letter annually which reports on the status of the lease requirements. This letter is referred to as the SCCPRD Lease Status Report.

**IMPACT:** *Water Quality*--Illegal swimming in reservoirs which are emergency water sources for the District has the potential to result in a violation of DHS water quality orders resulting in a significant water quality impact.  
*Potentially significant.*

**Park(s):** Initial Focus on ALMADEN, ANDERSON, CALERO, AND COYOTE Reservoirs with application at all 12 lease areas.

**Mitigation:** SCCPRD, in cooperation with SCVWD, should implement an improved and aggressive swimming prohibition sign program. Signs should convey both the "NO SWIMMING" message in a multilingual format using succinct language and symbolism demonstrating the rationale for this restriction at the reservoirs. Additional NO SWIMMING signs should be placed in all likely areas where visitors access the lakeshore (e.g., all developed recreation areas, volunteer trails, automobile pulloffs, etc). Phase 1 of the swimming prohibition sign program will focus on Almaden, Anderson, Calero and Coyote Reservoirs which are considered emergency water supply sources by the SCVWD. At the completion of Phase 1, Phase 2 signing will extend the new program to the remaining 8 lease areas and any other appropriate bodies of water owned by the SCVWD.

**Effect:** The impact would be reduced to a less than significant level (C. Ling, Department of Health Services, September 8, 1994).

**Implementation:** Attached as a condition of the proposed lease.

**Monitoring:** SCCPRD Lease Status Report

November 1994

**IMPACT:** *Animal Life*-Use of live bait fish by the fishing public at the lease area reservoirs and percolation ponds potentially increases the risk of adverse impact to the red-legged frog, a species proposed for listing under the Federal Endangered Species Act. *Potentially significant.*

EXHIBIT "B"

**Parks:** ALL PARKS

page 2 of 4

**Mitigation:** Within 12 months of the approval of the lease agreement the Santa Clara County Parks and Recreation Commission shall petition the State Fish and Game Commission to amend the California Sport Fishing Regulations, Article 3, Section 4.20 (4) to include a prohibition on the use of live bait fish in the lease area reservoirs and percolation ponds.

If the California Fish and Game Commission amends the California Sport Fishing Regulations as requested by the Parks and Recreation Commission, the following actions shall be effected:

1. The SCCPRD shall coordinate with the CDFG for the posting of temporary signing noticing the ban on bait fish. Temporary signing shall be posted at entrances and principal access areas to Parks.
2. The SCCPRD shall coordinate with the CDFG in the development of a notice announcing the ban on bait fish at lease area reservoirs. The notice shall be mailed to all Santa Clara County outlets for live bait fish for posting.
3. The Santa Clara County Parks and Recreation Department shall coordinate with CDFG in the development of a permanent signing program incorporating interpretive and regulatory information about the bait fish ban.

**Effect:** Should reduce the potential for impacts on the red-legged frog from activities conducted pursuant to the lease agreement.

**Implementation:** Attached as a condition of the proposed lease.

**Monitoring:** SCCPRD Lease Status Report

IMPACT: *Animal Life/Pla. Life-Recreational activities or actions to support recreation, such as fish stocking, could have an adverse impact on aquatic life at Coyote Percolation Pond. Potentially significant.*

EXHIBIT "B"

Parks: COYOTE PERCOLATION POND

page 3 of 4

Mitigation: Prior to the granting of any special use permits, or the development of a park use plan, an environmental assessment of the proposed use on the Coyote Percolation Pond lease area shall be completed.

Effect: Should identify potential impacts and constraints within the lease area and avoid significant adverse impacts to animals, plants and sensitive habitats.

Implementation: Attached as a condition of the proposed lease.

Monitoring: SCCPRD Lease Status Report; a copy of the environmental assessment of the proposed use shall be attached.

IMPACT: *Public Health & Safety-Lack of continuous fencing around the dam spillway creates a hazardous condition for the public. Potentially significant.*

Park(s): ALMADEN

Mitigation: As a condition of lease renewal, SCVWD shall install a sign warning the public of the hazard and seek DOSD approval to install approximately 100 feet of continuous chain-link fencing along all exposed edges associated with the spillway.

Effect: This impact would be reduced to a less than significant level.

Implementation: Attached as a condition of the proposed lease.

Monitoring: SCCPRD Lease Status Report

IMPACT: *Public Health & Safety*-Possible adverse impact on human health and safety resulting from a limited number of and the poor condition of existing warning signs along the perimeter of the reservoir regarding mercury contamination of fish. *Potentially significant.*

EXHIBIT "B"

Park(s): ALMADEN, GUADALUPE

page 4 of 4

Mitigation: As a condition of lease renewal, SCCPRD shall implement an improved signage program at Almaden and Guadalupe reservoirs. Existing warning signage shall be replaced, and additional multilingual warning signs shall be positioned at conspicuous volunteer trail cutting locations.

Effect: This impact would be reduced to a less than significant level.

Implementation: Attached as a condition of the proposed lease.

Monitoring: SCCPRD Lease Status Report

RESOLUTION NO. 74-38

DECLARING POLICY GOVERNING  
JOINT PUBLIC USE OF  
DISTRICT FACILITIES

RESOLVED by the Board of Directors of Santa Clara Valley Water District that, it being deemed in the public interest to secure diversified uses of District property to the greatest extent compatible with the primary purpose of such property, it is hereby declared to be the policy of this Board that, upon conditions outlined below and others of like nature deemed necessary by this Board, the joint use of District facilities by properly empowered public agencies is favored.

A. Such joint use shall not unduly interfere with the District's use;

B. The agency which it is proposed shall make such joint use will assume full responsibility for maintenance and policing of the use and full responsibility for damage or claim of damage of every kind resulting from the use and will further provide adequate public liability insurance coverage;

C. The installation, maintenance and removal of improvements or structures necessary or convenient to the joint use shall be at the sole cost of the agency proposing such joint use; and

D. The agency proposing such joint use will secure the

Resolution Declaring Policy Governing Joint Public Use of District Facilities.

comment and opinion of the adjacent property owners and of the affected community by public hearing and make a report of such comment as part of its proposal; provided, that the requirement of a public hearing may in any appropriate case be waived by the District.

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District, this 7th day of May, 1974, by the following vote:

AYES: Directors J. CHIRI, M. E. DULLEA, P. T. FERRARO,  
~~J. J. Lenihan, E. A. Mirassou~~, C. RUSH, R. T. SAPP.

NOES: Directors None

ABSENT: Directors J.J. Lenihan, E.A. Mirassou

SANTA CLARA VALLEY WATER DISTRICT

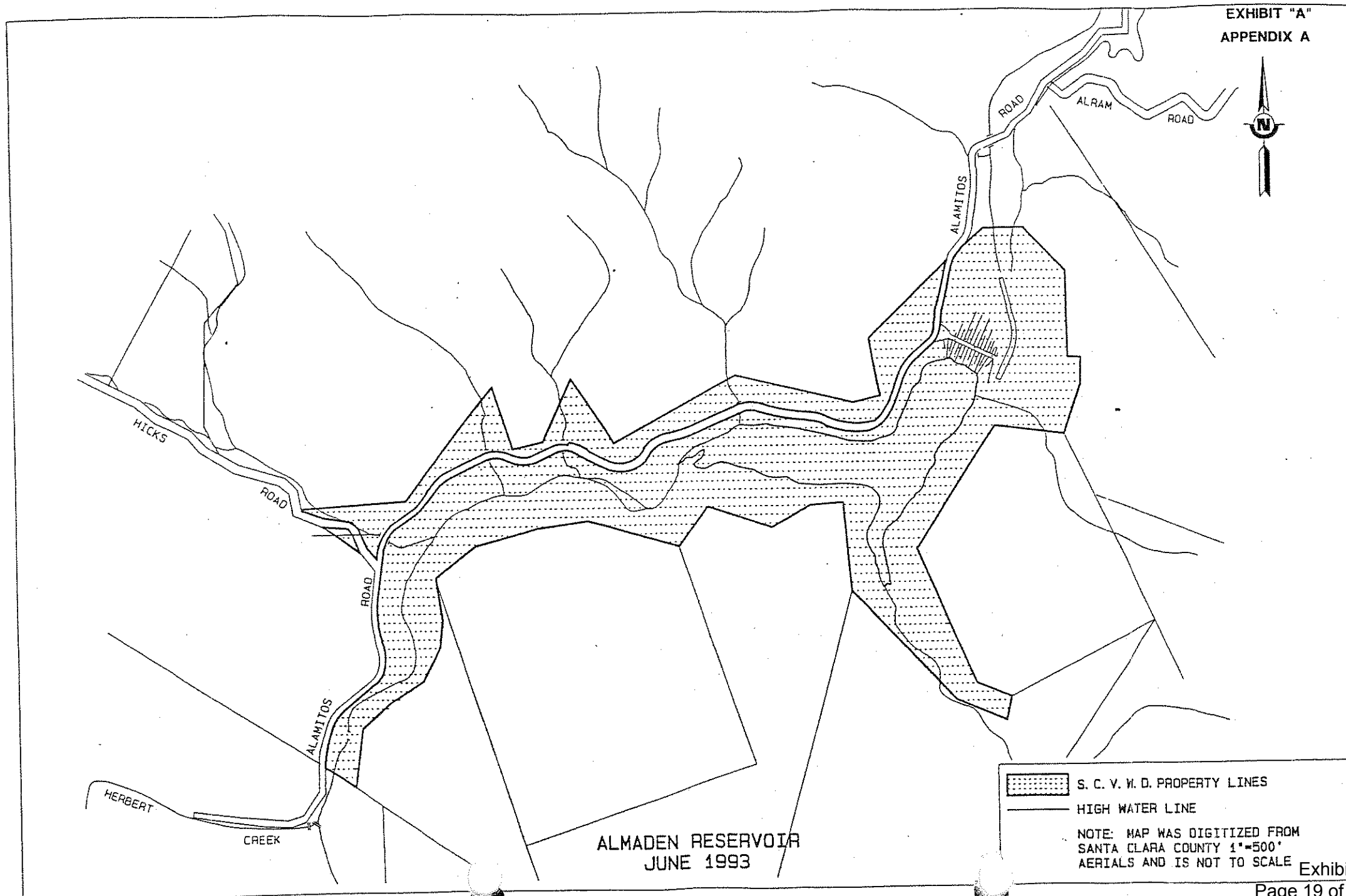
By: Joseph Chiri  
Chairman of the Board of Directors

ATTEST: VIOLET V. ENANDER

Violet V. Enander  
Clerk of said Board of Directors



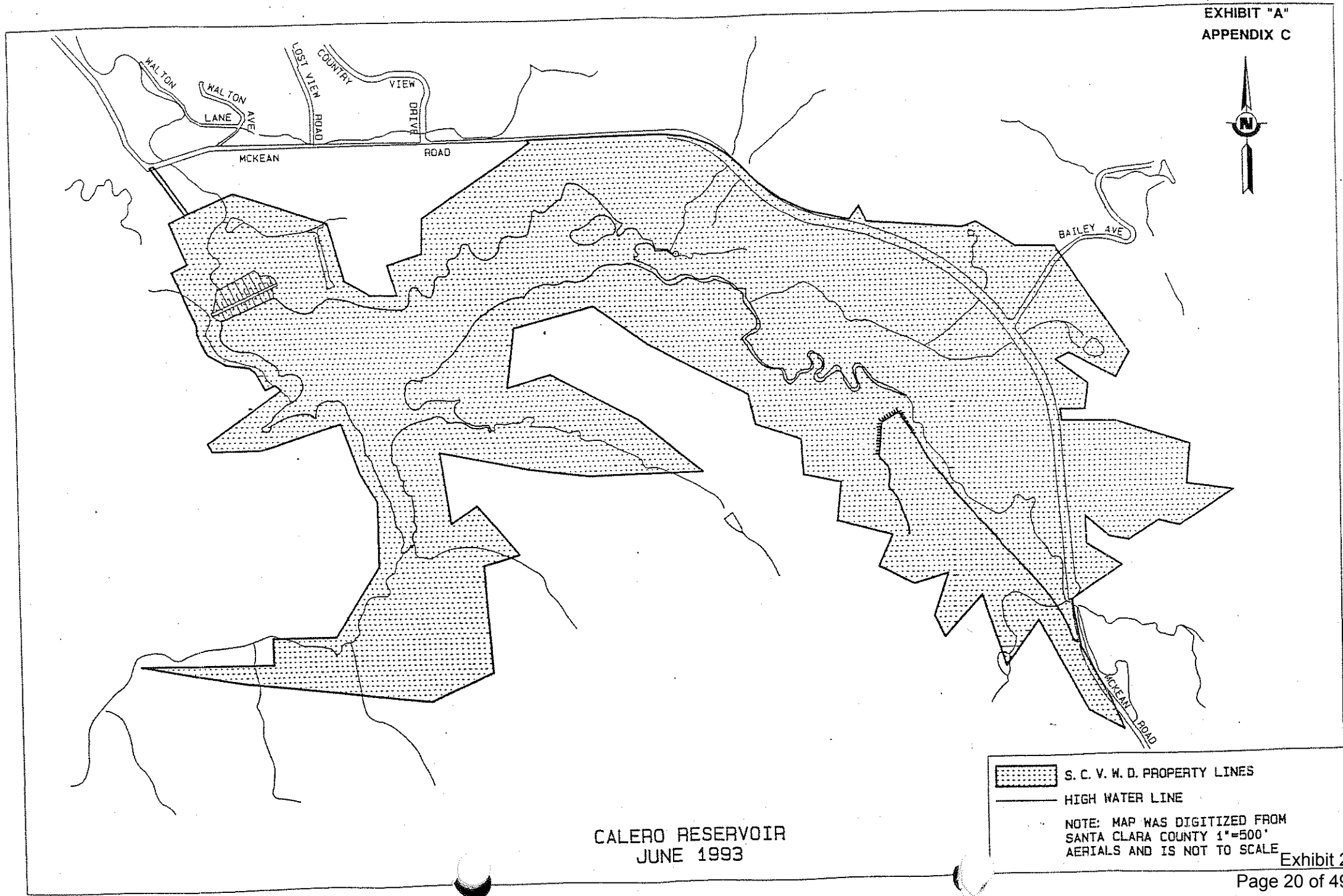
EXHIBIT "A"  
APPENDIX A



■ S. C. V. W. D. PROPERTY LINES  
— HIGH WATER LINE

NOTE: MAP WAS DIGITIZED FROM  
SANTA CLARA COUNTY 1"=500'  
AERIALS AND IS NOT TO SCALE

Exhibit 2





CALERO RESERVOIR  
JUNE 1993

■ S. C. V. W. D. PROPERTY LINES  
— HIGH WATER LINE

NOTE: MAP WAS DIGITIZED FROM  
SANTA CLARA COUNTY 1"=500'  
AERIALS AND IS NOT TO SCALE



ANDERSON RESERVOIR  
JUNE 1993

 S. C. V. W. D. PROPERTY LINES  
 HIGH WATER LINE

NOTE: MAP WAS DIGITIZED FROM  
SANTA CLARA COUNTY 1"=500'  
AERIALS AND IS NOT TO SCALE

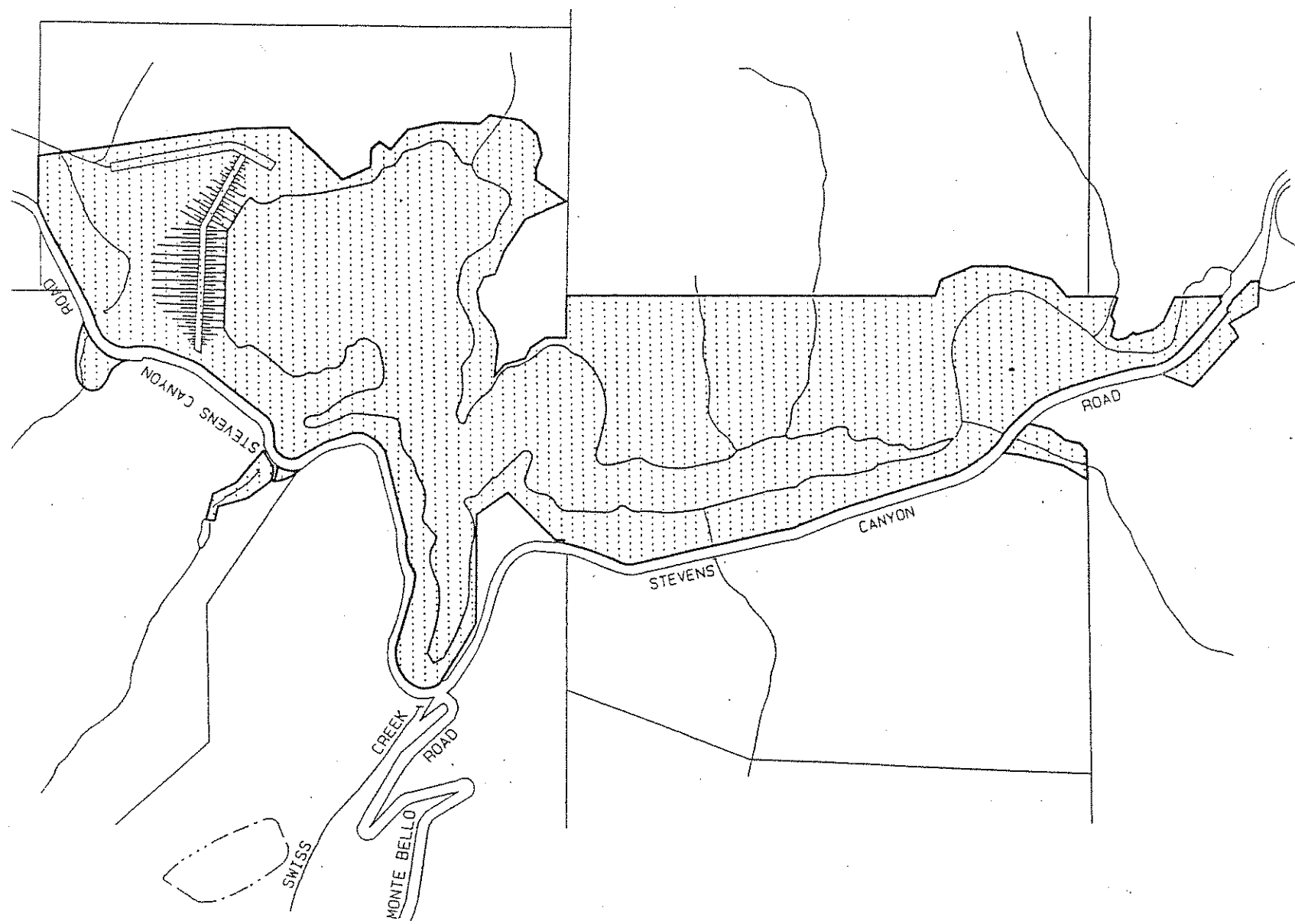


EXHIBIT "A"  
APPENDIX J

S. C. V. W. D. PROPERTY LINES  
HIGH WATER LINE  
NOTE: MAP WAS DIGITIZED FROM  
SANTA CLARA COUNTY 1"-500'  
AERIALS AND IS NOT TO SCALE

STEVENS CREEK RESERVOIR  
JUNE 1993

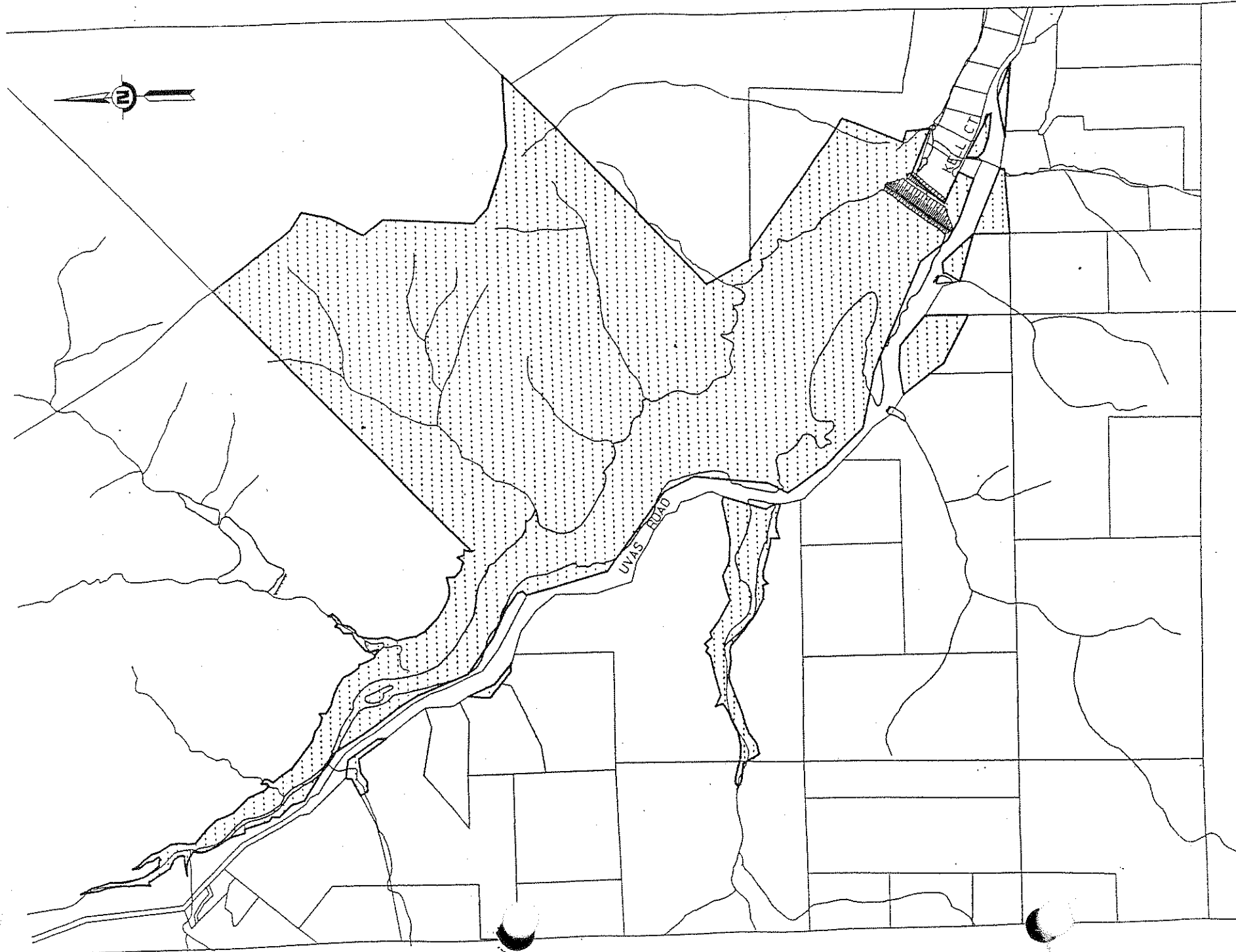
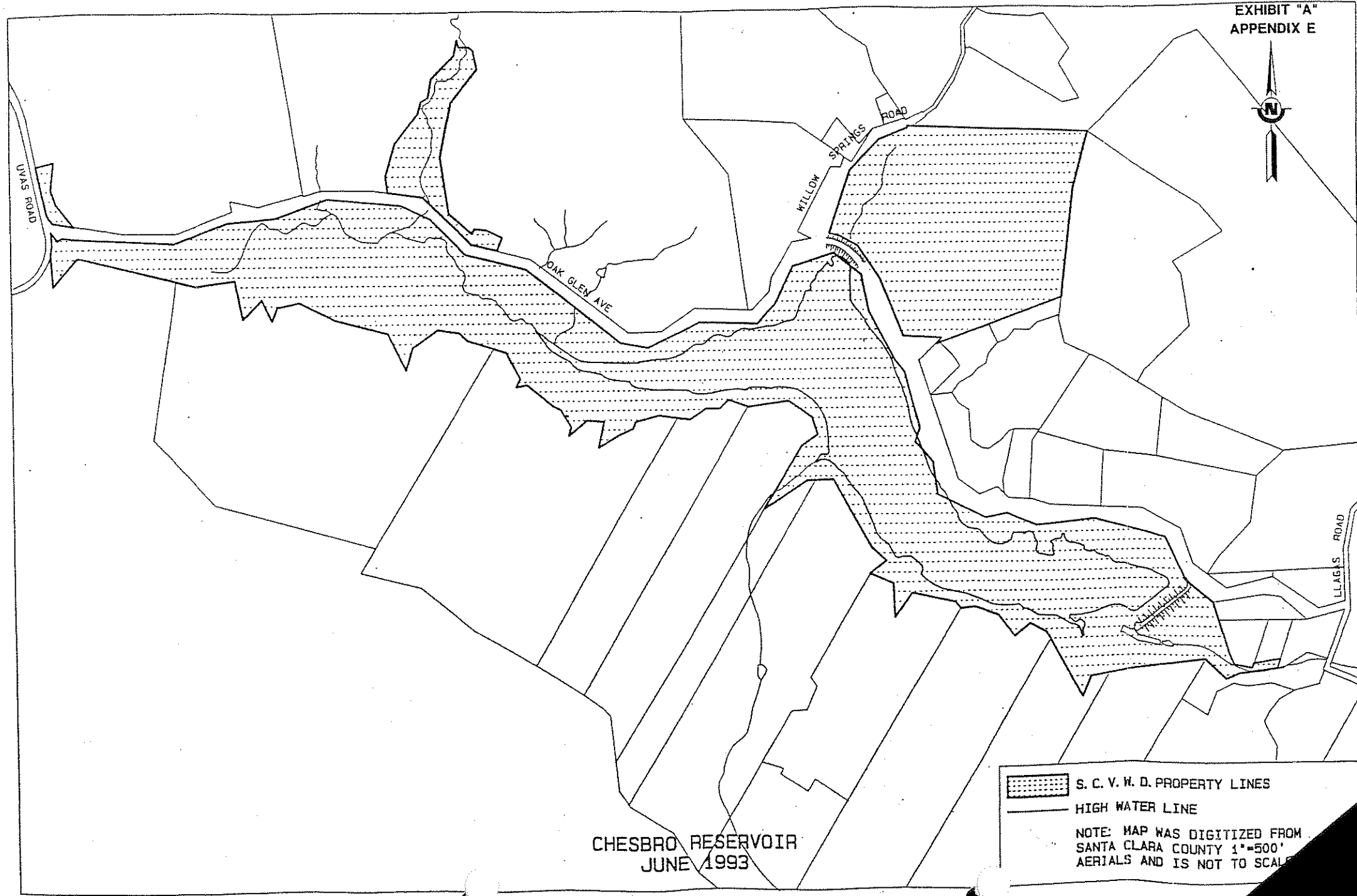


EXHIBIT "A"  
APPENDIX K

S. C. V. W. D. PROPERTY LINES  
HIGH WATER LINE  
NOTE: MAP WAS DIGITIZED FROM  
SANTA CLARA COUNTY 1"=500'  
AERIALS AND IS NOT TO SCALE

UVAS RESERVOIR  
JUNE 1993

EXHIBIT "A"  
APPENDIX E



CHESBRO RESERVOIR  
JUNE 1993

■ S. C. V. W. D. PROPERTY LINES  
— HIGH WATER LINE

NOTE: MAP WAS DIGITIZED FROM  
SANTA CLARA COUNTY 1"=500'  
AERIALS AND IS NOT TO SCALE

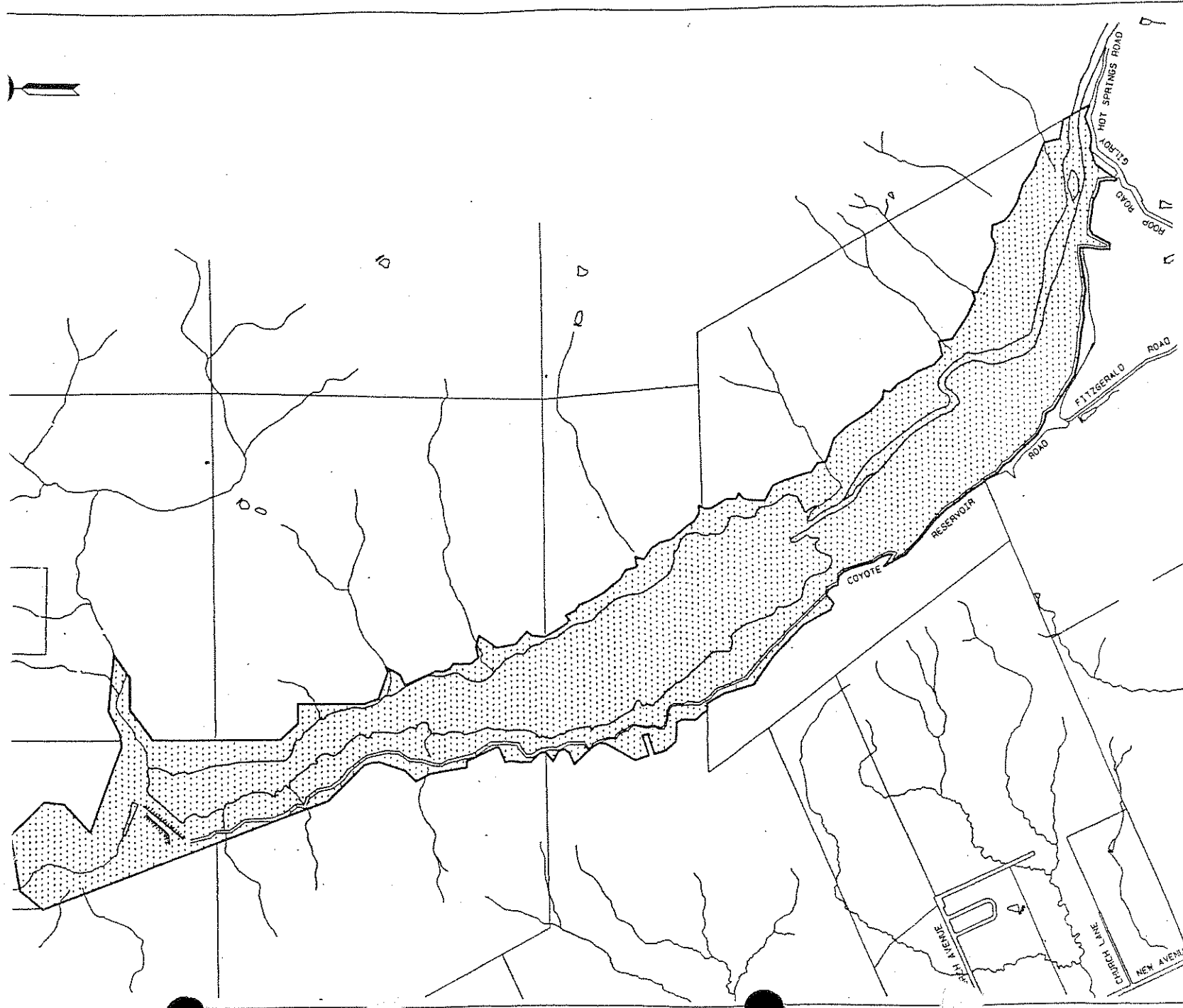
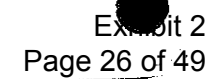


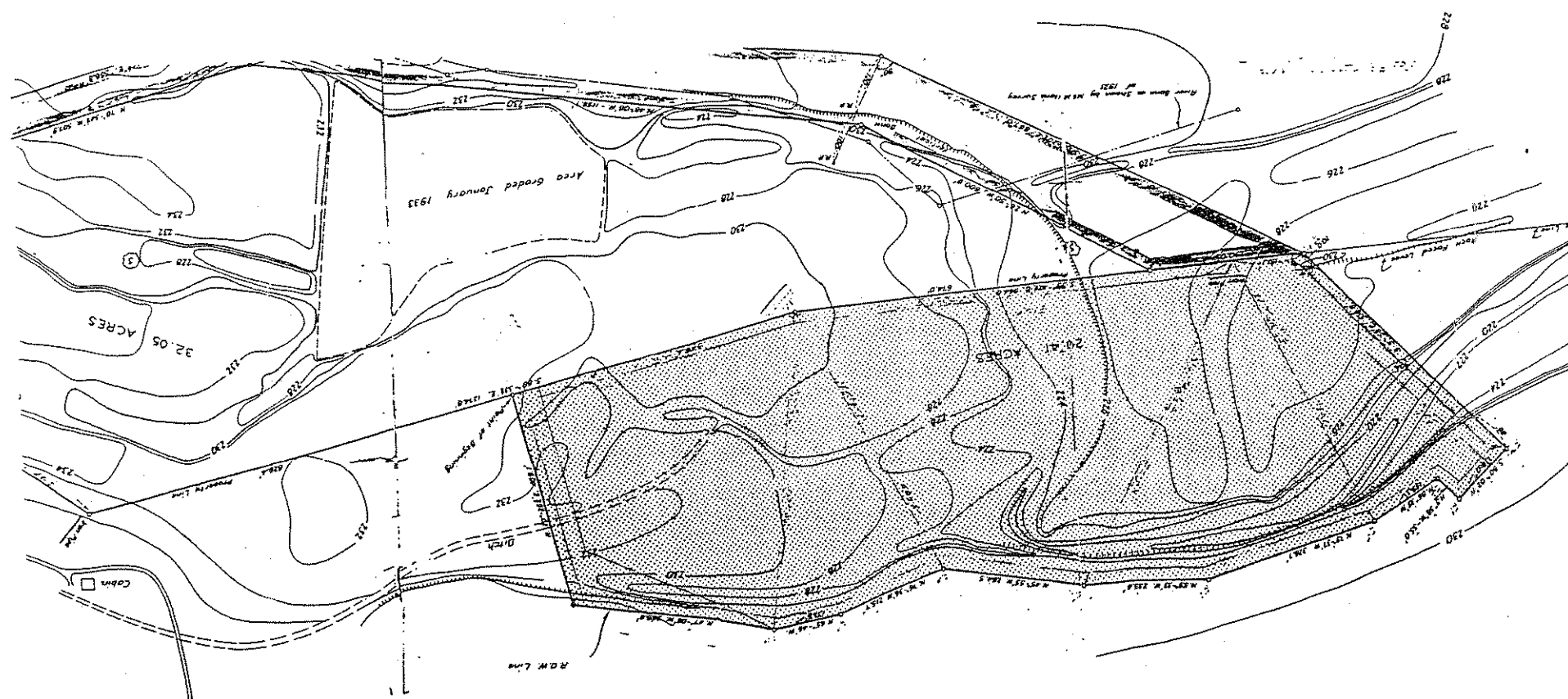
EXHIBIT "A"  
APPENDIX F

S. C. V. W. D. PROPERTY LINES  
HIGH WATER LINE  
NOTE: MAP WAS DIGITIZED FROM  
SANTA CLARA COUNTY 1"-500'  
AERIALS AND IS NOT TO SCALE

COYOTE RESERVOIR  
JUNE 1993







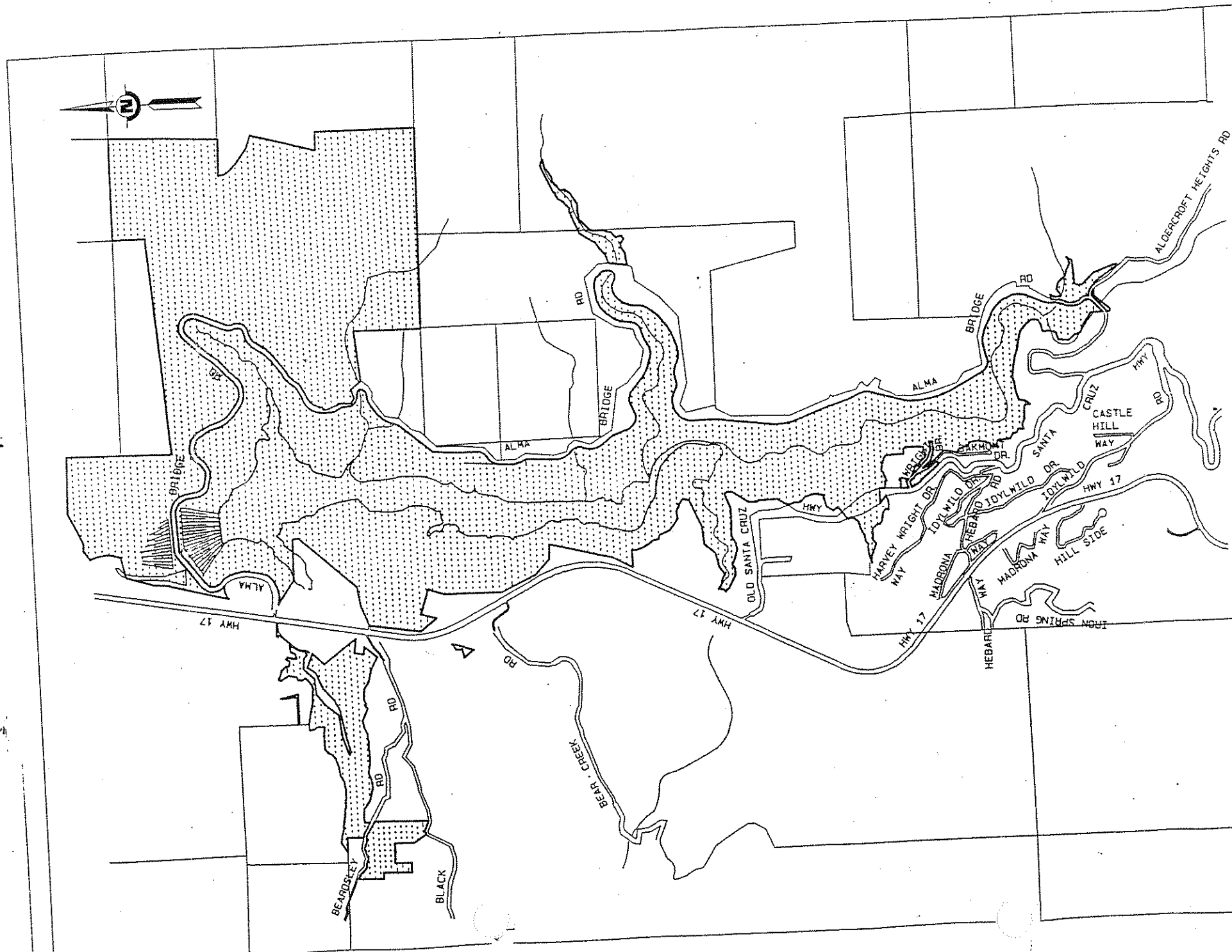


EXHIBIT "A"  
APPENDIX I

S. C. V. W. D. PROPERTY LINES  
HIGH WATER LINE  
NOTE: MAP WAS DIGITIZED FROM  
SANTA CLARA COUNTY 1"=500'  
AERIALS AND IS NOT TO SCALE

LEXINGTON RESERVOIR  
JUNE 1993

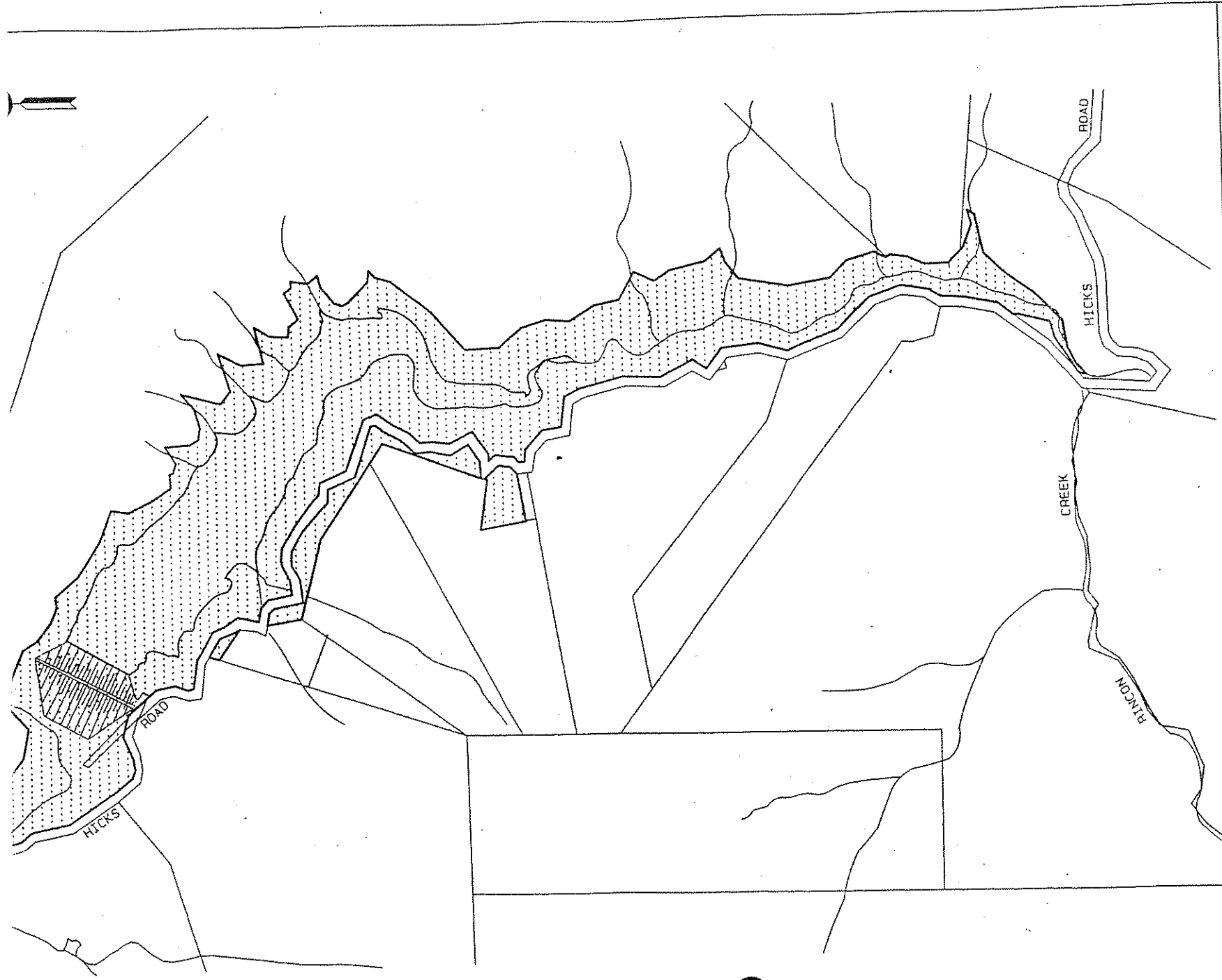


EXHIBIT "A"  
APPENDIX H

S. C. V. W. O. PROPERTY LINES  
HIGH WATER LINE  
NOTE: MAP WAS DIGITIZED FROM  
SANTA CLARA COUNTY 1"=500'  
AERIALS AND IS NOT TO SCALE

GUADALUPE RESERVOIR  
JUNE 1993

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## FIRST AMENDMENT TO MASTER RESERVOIR LEASE

This First Amendment to the September 10, 1996, Master Reservoir Lease (SCVWD Agreement No. A1969) between the Santa Clara Valley Water District, a public corporation, (District) and the County of Santa Clara, a political subdivision of the State of California, (County) is entered into this 13<sup>th</sup> day of December 2005.

WHEREAS; the Master Lease Agreement has been in effect for nine years and still has eleven years to go under the original term, and in that time it has become clear that certain changes to the property area covered would be to the mutual benefit of the parties; and

WHEREAS; the parties wish to make certain modifications in the property covered by the lease and to clarify that the leased areas do not include property where the District is not owner in fee or where property is not accessible to the public for recreational purposes;

WHEREAS; nothing herein shall preclude the parties from amending the Master Reservoir Lease in the future;

NOW THEREFORE, for good and valuable consideration the parties agree as follows.

1. Exhibit A to the Master Lease Agreement (including map Appendices A-L) is hereby replaced with the attached Amended Exhibit "A-1(2005)" map Appendices A(1) through L(1). The maps are more specifically identified as follows:

1993 Exhibit A maps (original maps) replaced w/Exhibit A-1 (2005) (updated maps):

Appendix A (Almaden Reservoir)	Appendix A(1) (Almaden Reservoir)
Appendix B (Anderson Reservoir)	Appendix B(1) (Anderson Reservoir)
Appendix C (Calero Reservoir)	Appendix C(1) (Calero Reservoir)
Appendix D (Camden Percolation System)	Appendix D(1) (Camden Percolation System)
Appendix E (Chesbro Reservoir)	Appendix E(1) (Chesbro Reservoir)
Appendix F (Coyote Reservoir)	Appendix F(1) (Coyote Reservoir)
Appendix G (Coyote Percolation Area)	Appendix G(1) (Coyote Percolation Area)
Appendix H (Guadalupe Reservoir)	Appendix H(1) (Guadalupe Reservoir)
Appendix I (Lexington Reservoir)	Appendix I(1) (Lexington Reservoir)
Appendix J (Stevens Creek Reservoir)	Appendix J(1) (Stevens Creek Reservoir)
Appendix K (Uvas Reservoir)	Appendix K(1) (Uvas Reservoir)
Appendix L (Vasona Reservoir)	Appendix L(1) (Vasona Reservoir)

2. All other terms and conditions not mentioned herein remain in effect.

The parties have executed this Amendment the day and year first above written.

**SANTA CLARA VALLEY  
WATER DISTRICT**

By 

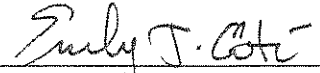
Richard P. Santos  
Chairperson of the Board  
of Directors

Date: DEC 20 2005

ATTEST: 

Clerk/Board of Directors

APPROVED AS TO FORM:



Emily J. Cote  
District Counsel

Date: December 2, 2005

**COUNTY OF SANTA CLARA**

By 

Liz Knise, Chair  
Board of Supervisors

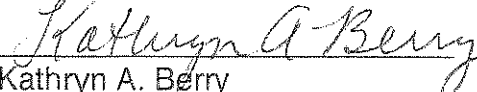
Date: DEC 13 2005

Signed and certified that a copy of this document has been delivered by electronic or other means to the Chair, Board of Supervisors.

ATTEST: 

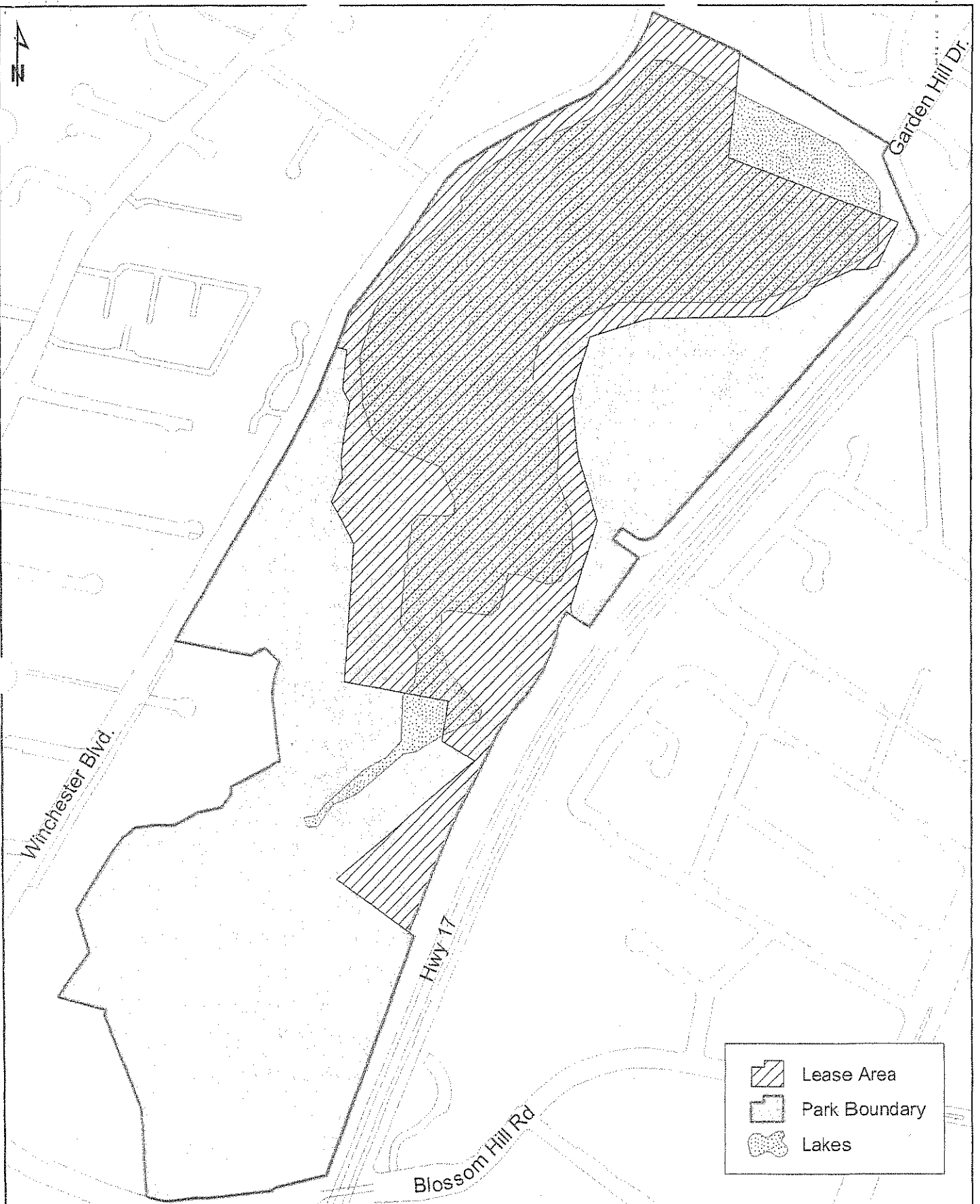
Phyllis A. Perez, Clerk  
Board of Supervisors

Date: DEC 13 2005  
APPROVED AS TO FORM AND  
LEGALITY:



Kathryn A. Berry  
Deputy County Counsel

Date: Dec. 2, 2005



**SANTA CLARA  
COUNTY PARKS**

This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Title:

Vasona Reservoir

Date:

October 6, 2005

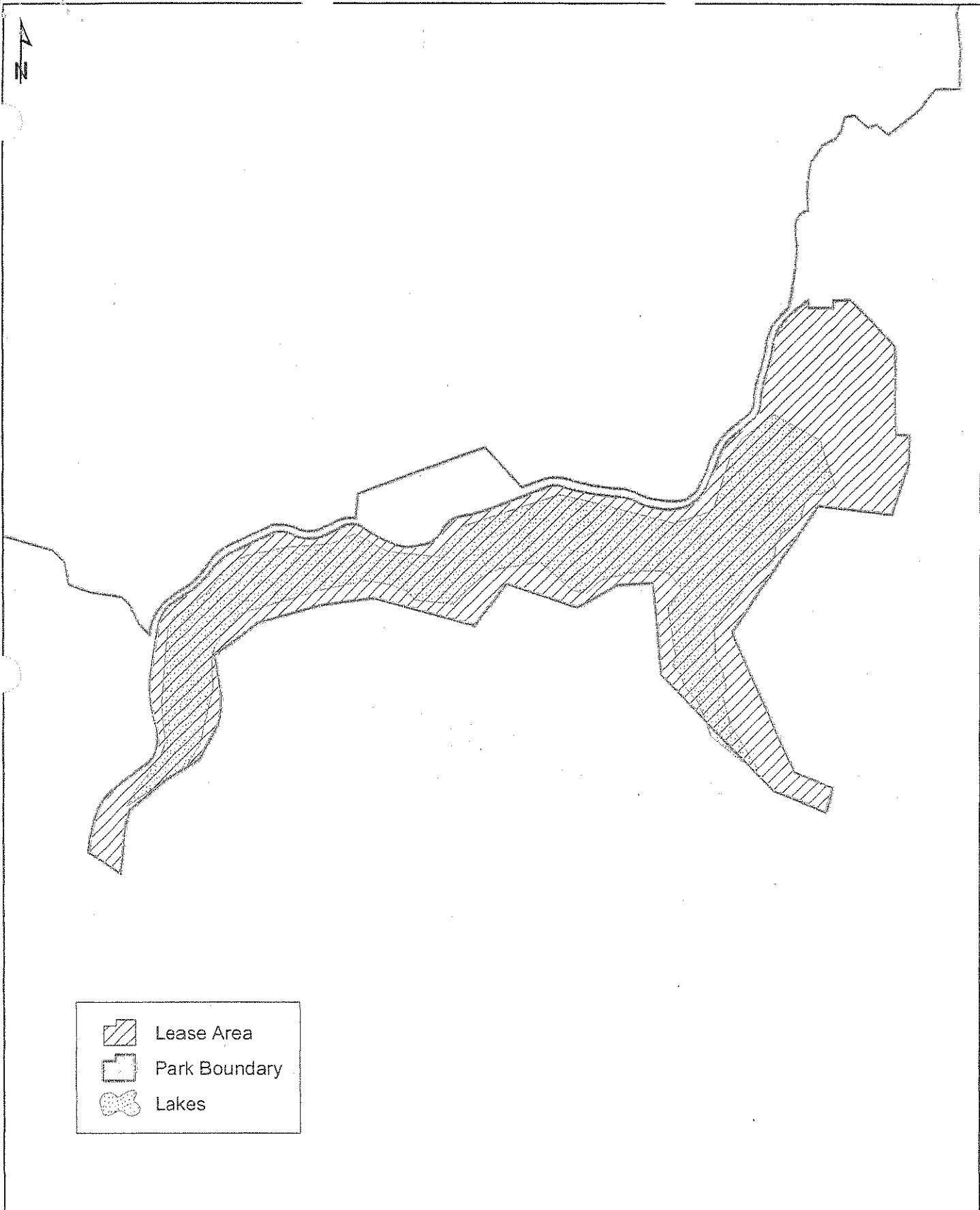
Comments:




Updated Exhibit A-1(2005)  
Appendix L-1


Created By:

Scale:

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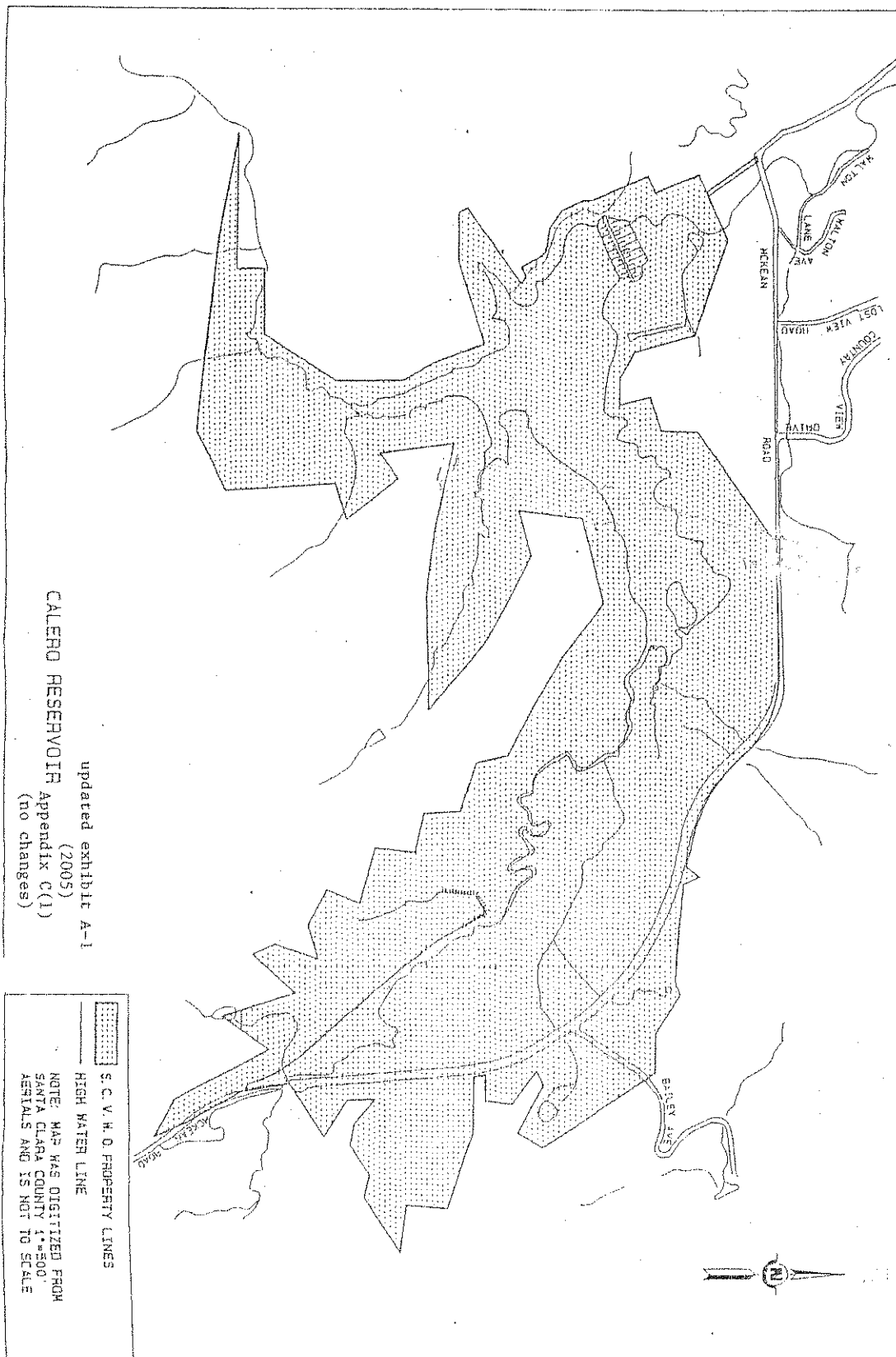


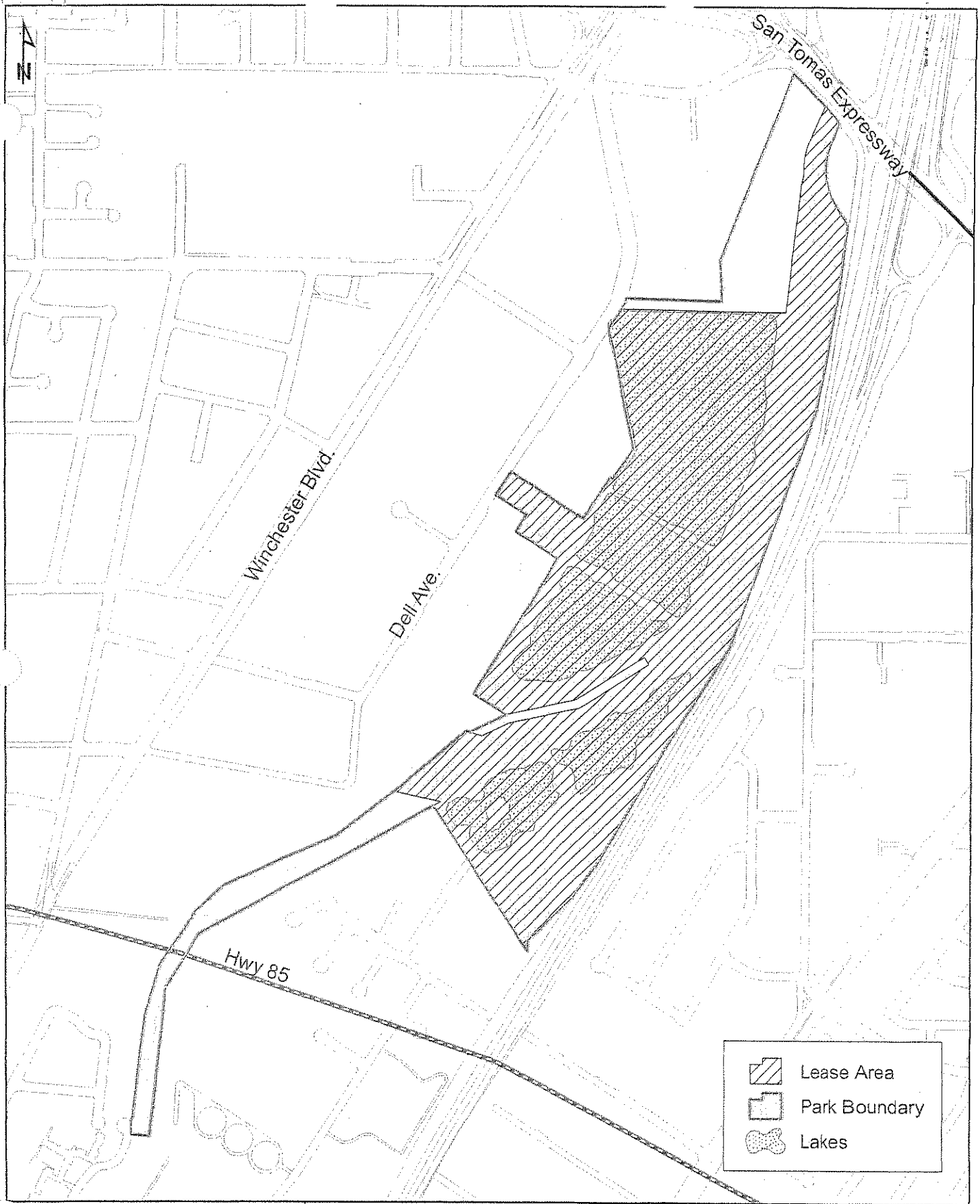
	Lease Area
	Park Boundary
	Lakes

 <b>SANTA CLARA COUNTY PARKS</b>  <small>This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.</small>	<b>Title:</b> Almaden Reservoir	<b>Comments:</b> Updated Exhibit A-1 (2005) Appendix A(1)
	<b>Date:</b> October 6, 2005	<b>Created By:</b> <div> <b>Scale:</b>            0 200 400 800 1,200 Feet         </div>









**SANTA CLARA  
COUNTY PARKS**

This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Title:

Camden Percolation Ponds

Date:

October 6, 2005

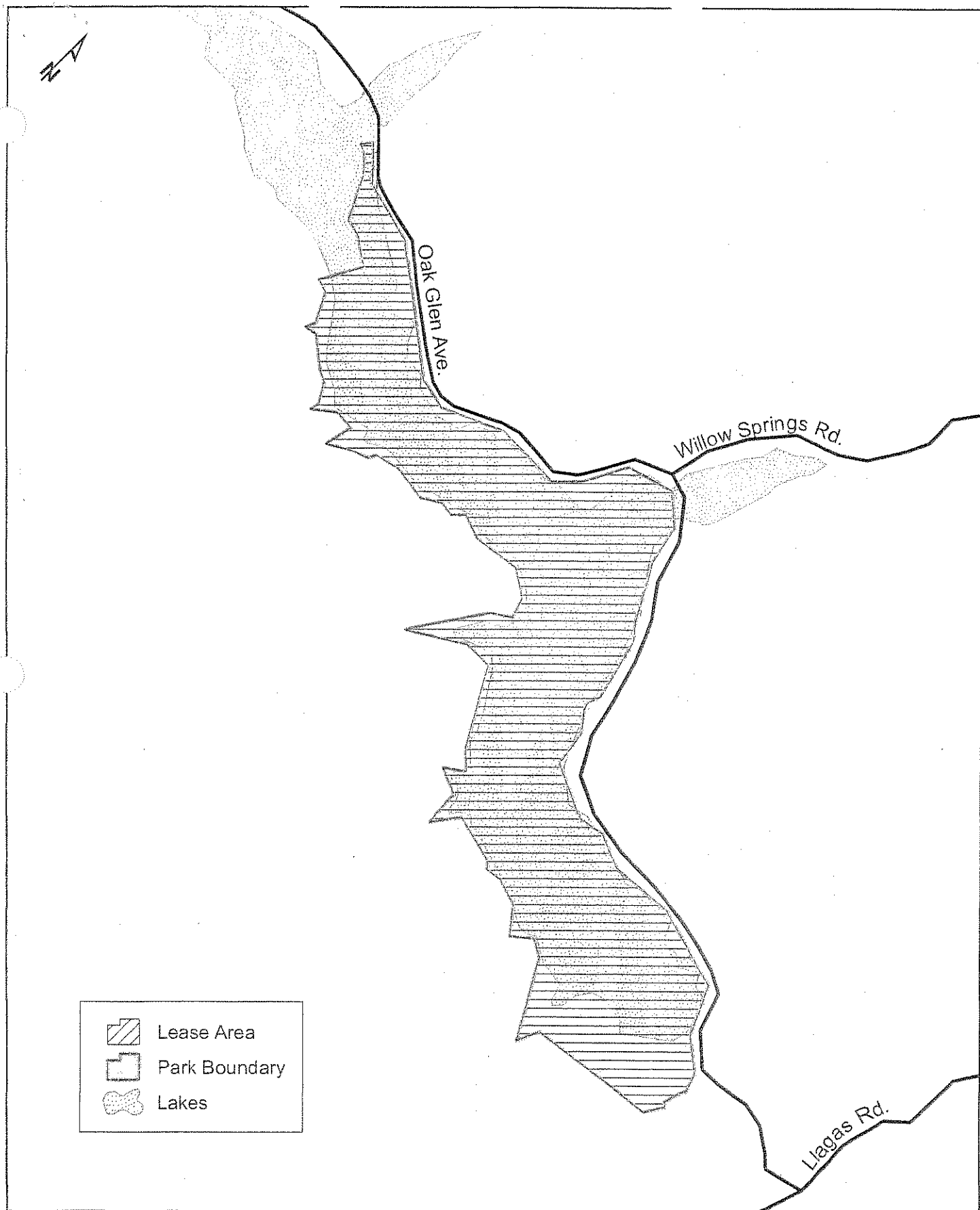
Comments:




Updated Exhibit A-1 (2005)  
Appendix D-1

Created By:

Scale:

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Feet



	Lease Area
	Park Boundary
	Lakes

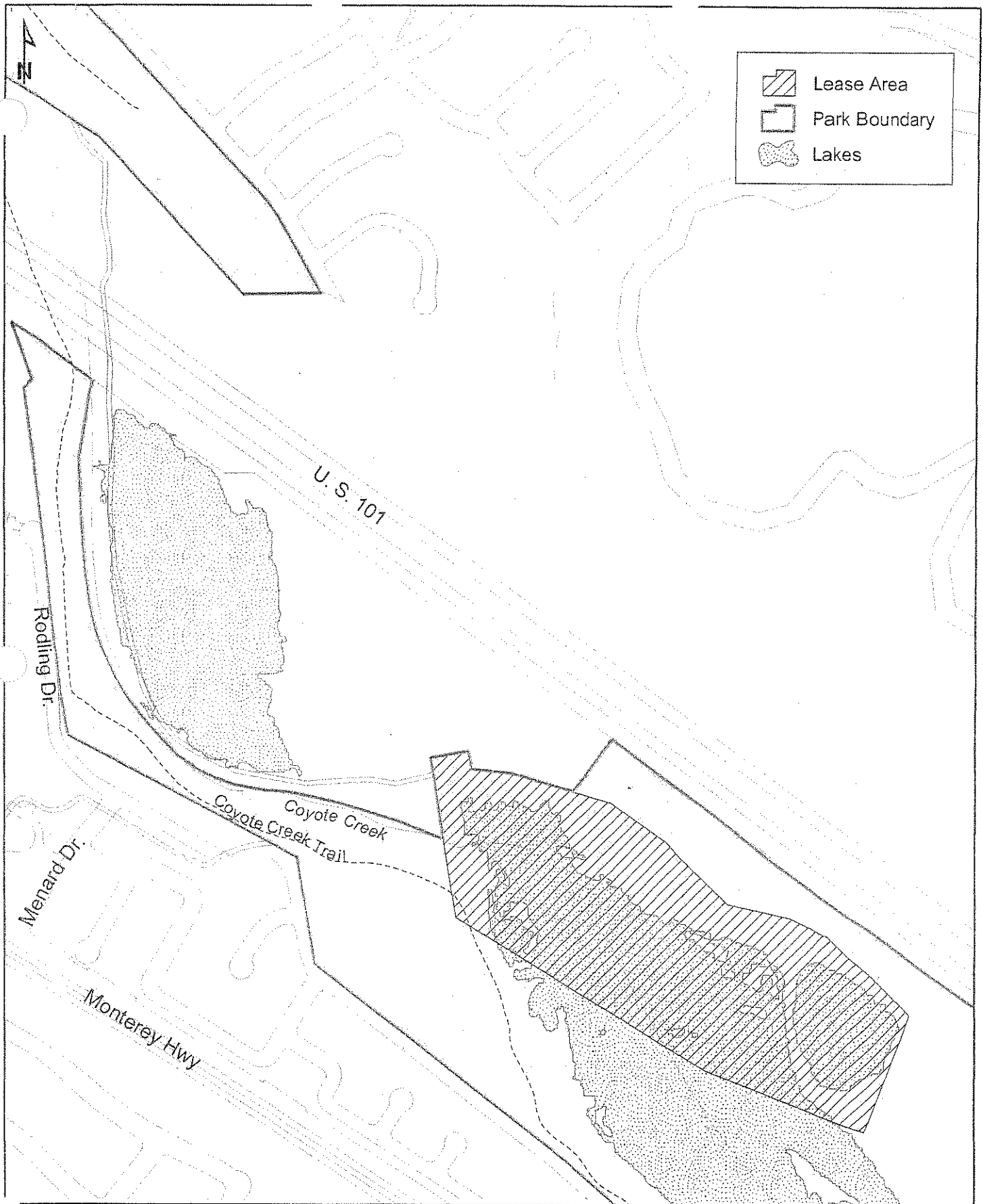


**SANTA CLARA  
COUNTY PARKS**

This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

<b>Title:</b> Chesbro Reservoir	<b>Comments:</b> Updated Exhibit A-1 (2005) Appendix E(1)		
<b>Date:</b> October 6, 2005	<table border="1"> <tr> <td data-bbox="954 1898 1084 1971"><b>Created By:</b></td><td data-bbox="1084 1898 1484 1971"> <b>Scale:</b>            0 275 550 1,100 1,650            Feet         </td></tr> </table>	<b>Created By:</b>	<b>Scale:</b> 0 275 550 1,100 1,650 Feet
<b>Created By:</b>	<b>Scale:</b> 0 275 550 1,100 1,650 Feet		





**SANTA CLARA  
COUNTY PARKS**

This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Title:

**Coyote Percolation Area**

Date:

**November 7, 2005**

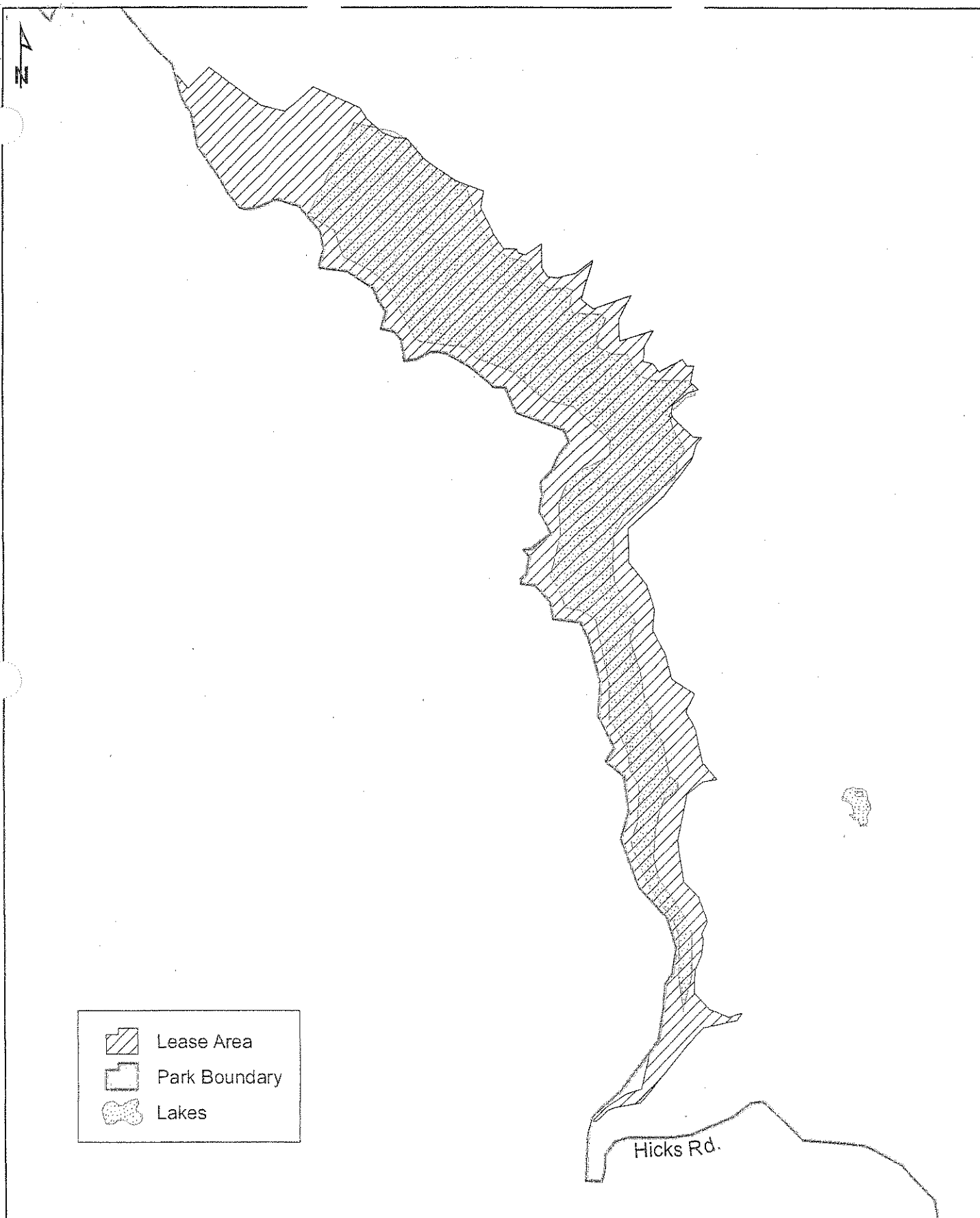
Comments:


**Updated Exhibit A-1(2005), Appendix G(1)**

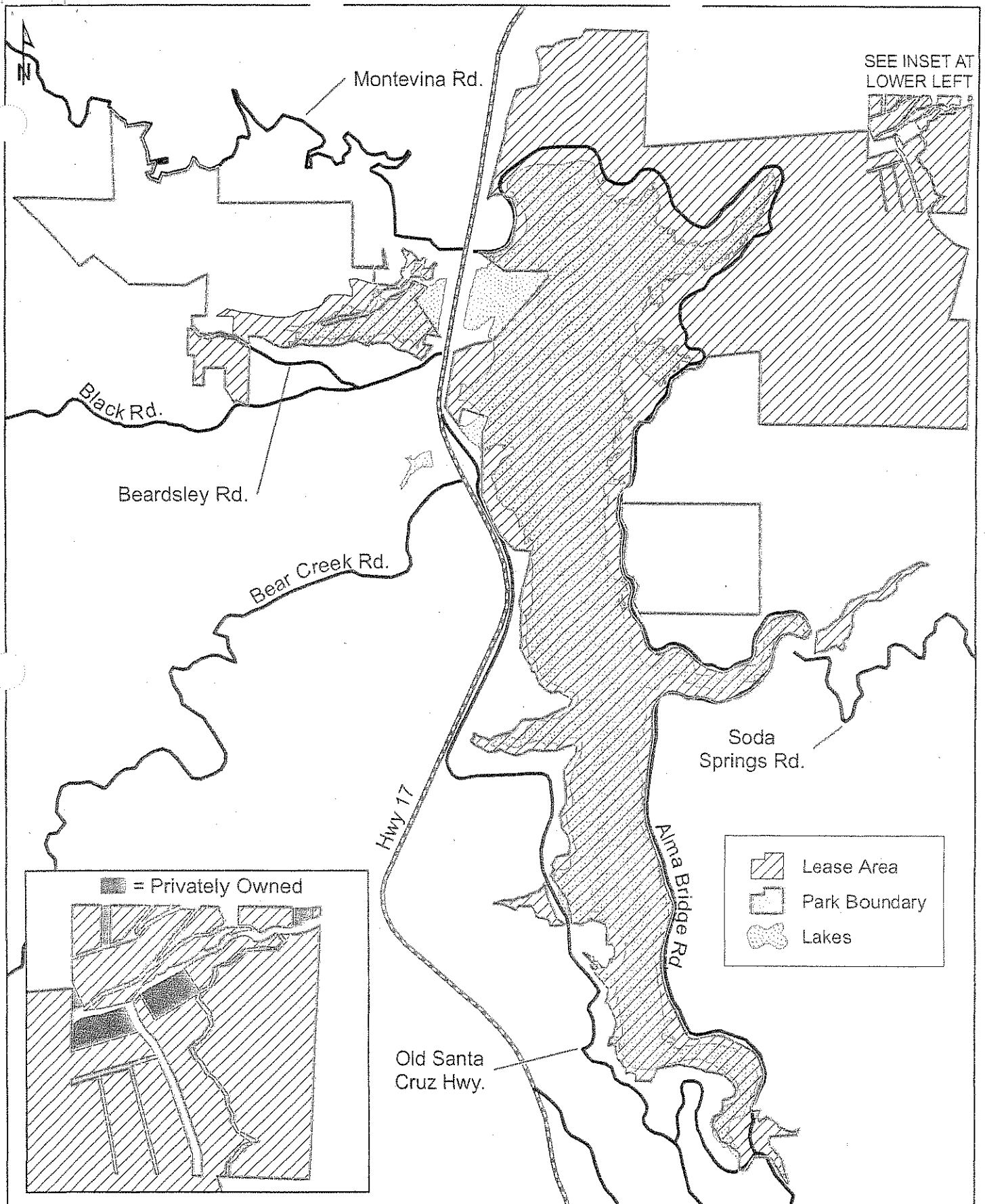
Created By:


Scale:

0 125 250 500 750 Feet



 <p><b>SANTA CLARA COUNTY PARKS</b></p> <p><small>This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.</small></p>	<p>Title: <b>Guadalupe Reservoir</b></p>	<p>Comments: <b>Updated Exhibit A-1(2005) Exhibit H(1)</b></p>	
	<p>Date: <b>October 6, 2005</b></p>	<p>Created By:</p>	<p>Scale: 0 200 400 800 1,200 Feet</p>



 <b>SANTA CLARA COUNTY PARKS</b> <small>This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.</small>	Title: <b>Lexington Reservoir</b>	Comments: Updated Exhibit A-1(2005) Appendix I(1)	
	Date: <b>October 6, 2005</b>	Created By:	Scale: 0 375 750 1,500 2,250 Feet





**SANTA CLARA  
COUNTY PARKS**

This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Title:

Stevens Creek Reservoir

Date:

October 6, 2005

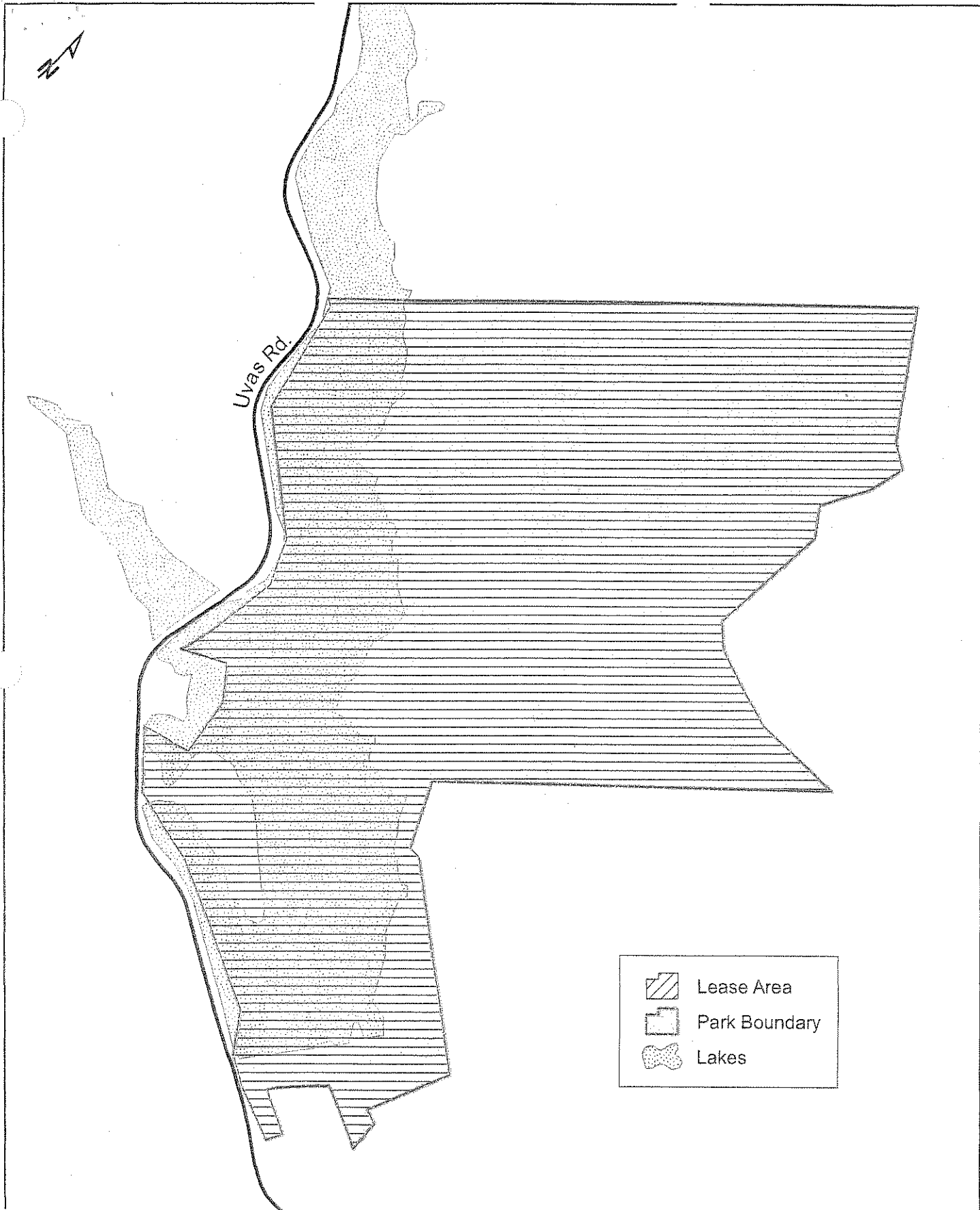
Comments:




Updated Exhibit A-1(2005)  
Appendix J(1)

Created By:

Scale:

0 275 550 1,100 1,650 Feet



	Lease Area
	Park Boundary
	Lakes



**SANTA CLARA  
COUNTY PARKS**

This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

Title: Uvas Reservoir

Date: October 6, 2005

Comments: Updated Exhibit A-1(2005)  
Appendix K(1)

Created By:	Scale:
	0 275 550 1,100 1,650 Feet

## **SECOND AMENDMENT TO MASTER RESERVOIR LEASE**

This Second Amendment to the September 10, 1996 Master Reservoir Lease Agreement-SCVWD Agreement No. A1969 (Master Reservoir Lease Agreement) between the Santa Clara Valley Water District, a California Special District (District), and the County of Santa Clara, a political subdivision of the State of California (County) is entered into as of the date it is fully executed (Amendment Effective Date).

WHEREAS: The District will acquire a fee simple interest in real property located in the Vasona Reservoir, which is described in Exhibit A of this Second Amendment (Additional Property); and

WHEREAS: The parties desire that this Additional Property become part of the Leased Premises that the County leases from the District under the terms of the Master Reservoir Lease Agreement.

NOW THEREFORE, the parties hereby agree to the following:

1. As of the date that the District obtains title to the Additional Property described in Exhibit A of this Second Amendment, the Additional Property becomes part of the Leased Premises and is subject to the terms and conditions of the Master Reservoir Lease Agreement.
2. Except as amended by this Second Amendment, all other terms of the Master Reservoir Lease Agreement will remain in full force and effect.

**IN WITNESS WHEREOF, THE PARTIES HAVE SET FORTH BELOW THEIR CONSENT TO**

THE TERMS AND CONDITIONS OF THIS SECOND AMENDMENT THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.

Santa Clara Valley Water District

By: [Signature]

~~Sig Sanchez~~ Beau Goldie  
Chief Executive Officer  
Chairperson of the Board of Directors

Date: 10-22-09

ATTEST: [Signature]

Name: Lauren Knoff

Clerk/Board of Directors

APPROVED AS TO FORM

By: [Signature]

Anthony T. Fulcher

Assistant District Counsel

County of Santa Clara

By: [Signature]

Liz Kniss, President

Board of Supervisors

Date: SEP 29 2009

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST: [Signature]

Maria Marinos, Clerk

Board of Supervisors

APPROVED AS TO FORM

By: [Signature]

Katherine Harasz

Deputy County Counsel

Attachment 5

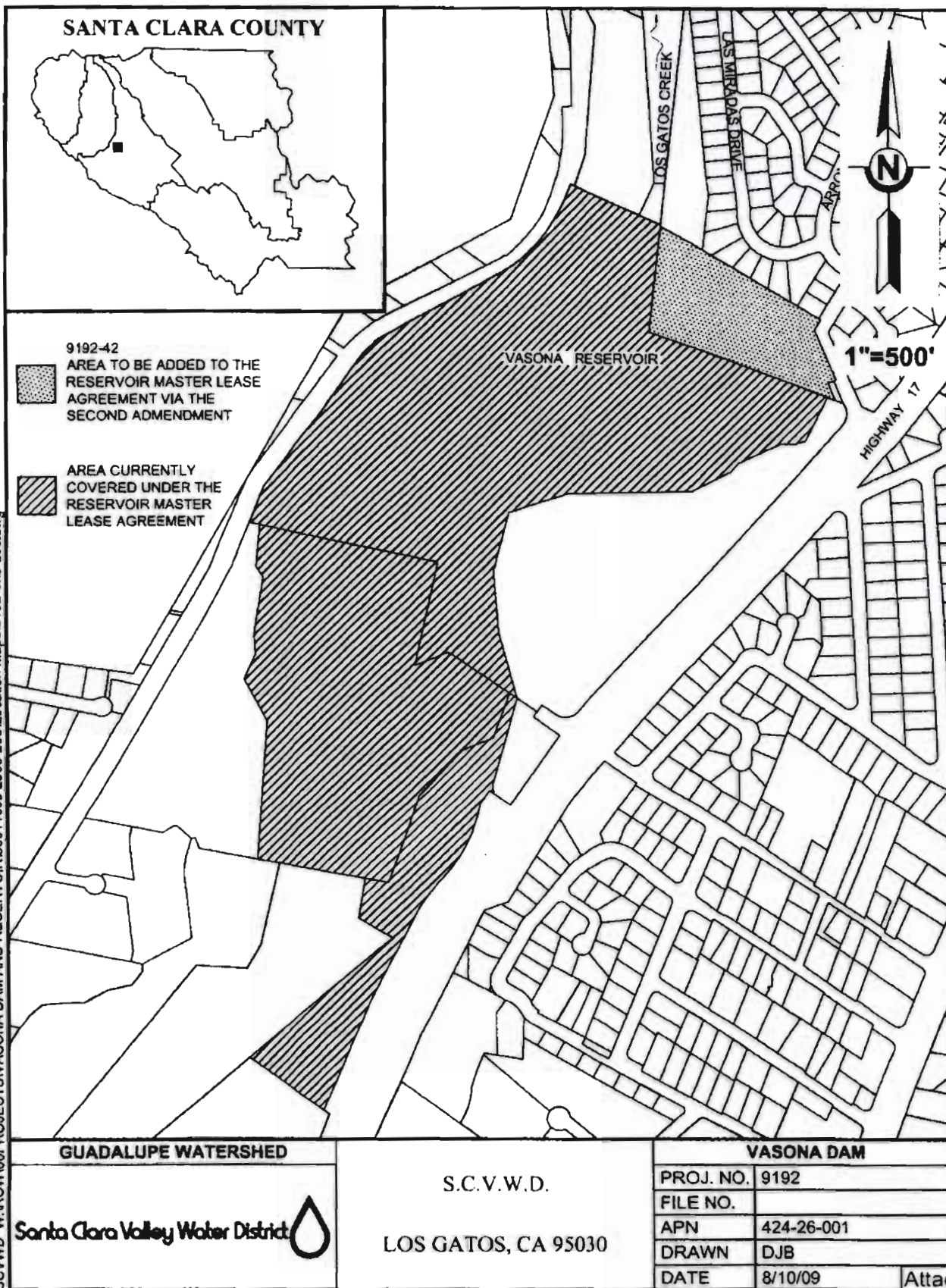
Sheet 2 of 4

**EXHIBIT A TO THE SECOND AMENDMENT  
OF THE  
MASTER RESERVOIR LEASE AGREEMENT  
BETWEEN THE  
SANTA CLARA VALLEY WATER DISTRICT AND THE COUNTY OF SANTA CLARA**

**Attachment 5  
Sheet 3 of 4.**



SCVWD W:\ROW\00PROJECTS\VASONA DAM AND RESERVOIR\95011003 2009-2081 Location Maps\9192-exb Loc.dwg



Attachment 5  
Sheet 4 of 4

### THIRD AMENDMENT TO MASTER RESERVOIR LEASE

This Third Amendment to the September 10, 1996, Master Reservoir Lease (SCVWD Agreement No. A1969) between the Santa Clara Valley Water District, a California Special District, (District) and the County of Santa Clara, a political subdivision of the State of California, (County) is entered into this 30<sup>th</sup> day of August 2016.

WHEREAS; the Master Lease Agreement has been in effect since September 10, 1996, and was amended on December 13, 2005 and on October 22, 2009 ; and

WHEREAS; the parties wish to consider a partnership agreement to include modifications of the Master Reservoir Lease agreement and are currently discussing terms of this proposed partnership agreement; and

WHEREAS; nothing herein shall preclude the parties from amending the Master Reservoir Lease in the future;

NOW THEREFORE, for good and valuable consideration the parties agree to the foregoing and as follows:

1. **AMENDMENT.** The Master Reservoir Lease, as previously amended by the First Amendment of December 13, 2005 and the Second Amendment of October 22, 2009 is hereby amended as follows: The Master Reservoir Lease is amended to extend its termination date to September 16, 2018.

2. **FULL FORCE AND EFFECT.** Except as modified herein, the terms and conditions of the Master Reservoir Lease, as previously amended, are hereby ratified and confirmed and are and shall remain in full force and effect. This Third Amendment shall be construed to be part of the Master Reservoir Lease, as previously amended, and shall be deemed incorporated into the Master Reservoir Lease, as previously amended, by this reference.

3. **AUTHORITY.** Each of the undersigned warrant and represent that they have the authorization to sign this Third Amendment on behalf of his or her respective Party.

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Third Amendment to Master Lease Agreement between Santa Clara Valley Water District and Santa Clara County

Page 1 of 2

**VENDOR'S COPY**

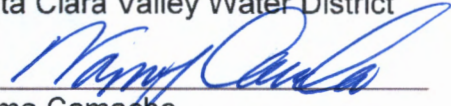
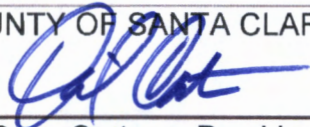
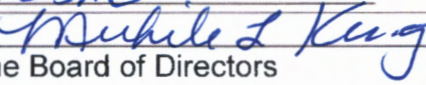
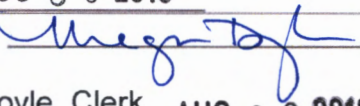
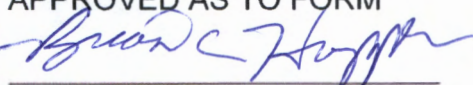
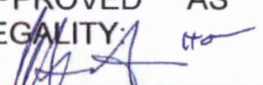
82585

**AUG 30 2016**  
Page 48 of 49



4. COUNTERPARTS. This Third Amendment may be executed in several counterparts, and all of such counterparts so executed together shall be deemed to constitute one and the same agreement, and each such counterpart shall be deemed to be an original. Facsimile or electronic signatures shall have the same legal effect as original or manual signatures if followed by mailing of a fully executed original to both parties.

IN WITNESS WHEREOF, the undersigned have executed this Third Amendment effective as of the last date signed below by all of the parties.

Santa Clara Valley Water District By: <u></u> Norma Camacho Interim Chief Executive Officer Date: <u>8/23/16</u>	COUNTY OF SANTA CLARA <u></u> By: Dave Cortese, President Board of Supervisors Date: <u>AUG 30 2016</u>
ATTEST: <u></u> Clerk of the Board of Directors	ATTEST: <u></u> Megan Doyle, Clerk Board of Supervisors <u>AUG 30 2016</u>
APPROVED AS TO FORM <u></u> Brian Hopper Senior Assistant District Counsel	APPROVED AS TO FORM AND LEGALITY: <u></u> Shirley R. Edwards Deputy County Counsel



## RESOLUTION NO. 72-44

STATING POLICY OF  
SANTA CLARA COUNTY FLOOD CONTROL AND WATER DISTRICT  
REGARDING RECREATION USES OF GROUNDWATER  
RECHARGE FACILITIES

WHEREAS, groundwater recharge facilities, consisting of spreading basins or percolation ponds, have and will be constructed, operated and maintained by this District in order to supplement the natural recharge of the underground water basins of Santa Clara County; and

WHEREAS, such facilities provide an opportunity for water-oriented, public recreation; and

WHEREAS, a public recreation use of groundwater recharge facilities can only be compatible with the recharge function under certain restrictions upon such recreation use all as more fully set forth in "Statement Regarding Recreation Use of Groundwater Recharge Facilities" of June 1972 to which reference is hereby made; now, therefore, be it

RESOLVED, by the Board of Directors of Santa Clara County Flood Control and Water District that the following statement of policy regarding recreation use of this District's groundwater recharge facilities shall be and the same is hereby adopted:

1. Compatible public recreational use of the lands adjacent to, and of the water surface of, groundwater recharge facilities is favored.

2. Said facilities shall be so operated and maintained as to permit such joint use wherever feasible.

3. The provision of recreational structures, facilities and amenities and their maintenance for safety and sightliness, together with the control of the recreation use, shall be wherever possible the responsibility of an appropriate public agency by contract with this District.

4. The following recreational activities are incompatible with the water conservation objective of the facilities and will be prohibited:

- a. Swimming and wading.
- b. Motorboating.
- c. The operation of motor vehicles or the presence of large animals within, on or immediately adjacent to the side slopes of a recharge basin.

5. District water supply revenues will not be used to meet the cost of such recreation uses as on-shore facilities, fish stocking and replacement, public liability insurance, policing and supervision.

PASSED AND ADOPTED by the Board of Directors of Santa Clara County Flood Control and Water District this 13th day of June 1972,

Resolution No. 72-44, STATING POLICY OF SANTA CLARA COUNTY FLOOD  
CONTROL AND WATER DISTRICT REGARDING RECREATION USES OF GROUND-  
WATER RECHARGE FACILITIES, by the following vote:

AYES:	Directors	J. CHIRI, V. F. CORSIGLIA, M. E. DULLEA, J. J. LENIHAN, R. T. SAPP, R. J. STURLA, F. A. WILCOX
NOES:	Directors	NONE
ABSENT:	Directors	NONE

SANTA CLARA COUNTY FLOOD CONTROL  
AND WATER DISTRICT

By: Maurice E. Dullea  
Chairman of the Board of Directors

ATTEST: VIOLET V. ENANDER

Violet V. Enander  
Clerk of said Board of Directors

STATEMENT REGARDING RECREATION USE  
OF GROUNDWATER RECHARGE FACILITIES

June 1972

The Santa Clara County Flood Control and Water District has been asked to discuss the cost or policy matters relating to the use of groundwater recharge ponds for recreation. It is clear from our studies and those of others that some aspects of recreation and groundwater recharge conflict with each other. However, this does not mean that groundwater recharge ponds cannot be used for recreation. Groundwater recharge ponds can be used for recreation provided that appropriate coordinated efforts are made by the respective jurisdictions handling groundwater recharge and recreation, and further, that appropriate cost allocations are made between these two purposes.

For example, the recreation activity must accept full responsibility for the handling of people who would use the groundwater recharge facility, such as accepting liability responsibility, taking care of policing, and providing parking facilities. As in all recreation areas, there is the problem of trash and litter which requires continual attention. The use of groundwater recharge facilities for recreation provides greater opportunities for vandalism of the control works necessary to the basic function of groundwater recharge. Some recreation users plug outlets, change controls, block overflow weirs, and break valves and other

control mechanisms. The cost of preventing this type of vandalism together with the repair of such damages can be appropriately shared by the recharge and recreation agencies.

Wading or swimming in groundwater recharge ponds is not acceptable and must be prohibited. These types of activities break down the agglomerated particles and stir up the fine soil materials which settle to create a thin film of relatively impermeable material over the sides and bottoms of the ponds. This prevents infiltration of water and therefore reduces, by a considerable amount, the groundwater recharge capability. In addition, there is a public health problem which arises from the fact that the recharge water is not chlorinated and a concentrated use of the facility by swimmers creates an unsanitary condition which is not acceptable to the Public Health regulatory agencies.

The passive recreation uses such as aesthetic enjoyment, fishing, perhaps some forms of model boating or even sailing and rafting (which may not be exactly passive in themselves) can be considered compatible to some extent with groundwater recharge under appropriate regulations. It is clear that any recreation activity in and around the percolation ponds provides an opportunity for the disposal of trash and litter into the water system. This trash and litter has a tendency to seal off the sides and bottom of the ponds, reducing the total amount of groundwater recharge. In order to maintain the groundwater recharge capability

the ponds would have to be cleaned more often at an increased cost.

It may, in some locations, be possible to increase the number of percolation ponds so that the reduction in groundwater recharge caused by recreation activities is made up by the increased number of recharge facilities. However, it is clear that the cost of the increased number of recharge facilities required to make up the lost groundwater recharge capability should be assigned to the recreation users.

There are also operational problems which must be faced in a cooperative fashion by the recreation and water agencies. For example, it appears that a wet and dry cycling operation with the dry periods relatively frequent increases the total quantity of water recharged. It also reduces insect problems and algae and weed growth. It is also obvious that such a wet-dry operation would adversely affect any fish population and would cause complaints by the recreation users who desire to see the basins full of water at all times. It may be possible to operate the groundwater recharge facilities in a relatively continuous fashion; that is, keep them full until the groundwater recharge rates are reduced to the point of diminishing returns and then the ponds could be dried and cleaned in order to reestablish the recharge rates. Under this form of operation cleaning would normally be done about once or twice a year. During these cleaning operations the fish would have to be transferred into holding ponds in order

to maintain a fish population or the area restocked after cleaning. This can be done, but the cost of such handling and restocking are appropriately charged to the recreation users.

It is clear that a combined recreation-groundwater recharge facility would result in a less flexible operation from a water supply standpoint. The recreation user would be in large numbers and when recreation was adversely affected by some water supply operation you could expect considerable complaints. However, little or nothing is heard in the way of complaints over the lack of groundwater recharge. Recharge apparently is something that few people fully appreciate.

To make groundwater recharge facilities more acceptable for recreational use, it would be desirable if there were areas adjacent to the water suitable for parking, picnicking, and other recreation activities. Naturally, from a groundwater recharge standpoint, a minimum amount of adjacent land area is acceptable for operation and maintenance and, therefore, the area obtained for groundwater recharge is primarily the water surface. This adjacent land needed for recreational services can be obtained by the recreation agency either at the time of purchase of the recharge area or later if the area is undeveloped. In some cases it may be possible to add recharge facilities to existing park and recreation areas using some of the area already available if it is desirable to add a water body to the park.

From a groundwater recharge standpoint, a number of small ponds provide a greater ease and flexibility of operation as well as allowing them to fit in with the terrain. Therefore, small areas are more suitable for groundwater recharge, while larger water areas are more desirable from a recreation standpoint. It is also desirable to have groundwater recharge facilities that are easy to maintain and in the smaller facilities the rectangular units are preferable. However, the recreation users desire, from an aesthetic standpoint, curved ponds with projections and convolutions to improve the appearance of the water-land area. These types of aesthetic treatments are more adaptable to larger size ponds, considering maintenance problems, but the larger ponds have less flexibility of operation.

The deeper the groundwater recharge ponds are, the better they are for groundwater recharge; this parameter would appear to agree with the recreation uses of boating and fishing. The ponds should be shallower for wading or swimming but since these uses should be prohibited for other reasons then the depth of pond does not seem to be important from a recreation standpoint. However, deeper ponds do present a problem from a public safety standpoint.

The steeper the side slope of the recharge ponds the better it is for groundwater recharge while the flatter side slopes are more desirable from a public safety standpoint. If recharge facilities are to be used for recreation, then it would appear



desirable to add a benched trailway at or immediately above the water surface in the pond. This would provide a means for people who fall into the water to climb out of the ponds where otherwise they may not be able to climb the steep side slopes. This bench or trail adjacent to the water surface would also provide a safe means to meet the desire of people to get closer to the water. The cost of constructing a benched trailway on the side slopes of recharge ponds appears to be a recreation user cost.

It may be concluded, then, that in spite of the fact that recreation and groundwater recharge have some major areas of incompatibility, appropriate cooperation and allocations of cost between water and recreation agencies would permit groundwater recharge facilities to be used for recreation. This dual use requires a full recognition of the problems and appropriate cooperation between the responsible agencies. The recreation agencies should provide appropriate insurance protection, the necessary onshore facilities, fish stocking and replacement, and policing or supervision of the recreation activities at the groundwater recharge facilities. Swimming and wading would have to be prohibited, the use of motor boats on the water would be prohibited and the use of motor vehicles and horses, which cause erosion of the side slopes of the pond areas, would also be prohibited. The water agency would have to develop an appropriate operations program to provide maximization of the groundwater recharge while

at the same time considering the recreation needs, develop vandal proof operation devices and fence critical areas, and take appropriate measures to control insects and aquatic weeds as well as generally maintaining the groundwater recharge facility.

Lloyd C. Fowler  
Director of Engineering  
Santa Clara County Flood Control  
and Water District  
June 1972

## RESOLUTION NO. 74-38

DECLARING POLICY GOVERNING  
JOINT PUBLIC USE OF  
DISTRICT FACILITIES

RESOLVED by the Board of Directors of Santa Clara Valley Water District that, it being deemed in the public interest to secure diversified uses of District property to the greatest extent compatible with the primary purpose of such property, it is hereby declared to be the policy of this Board that, upon conditions outlined below and others of like nature deemed necessary by this Board, the joint use of District facilities by properly empowered public agencies is favored.

A. Such joint use shall not unduly interfere with the District's use;

B. The agency which it is proposed shall make such joint use will assume full responsibility for maintenance and policing of the use and full responsibility for damage or claim of damage of every kind resulting from the use and will further provide adequate public liability insurance coverage;

C. The installation, maintenance and removal of improvements or structures necessary or convenient to the joint use shall be at the sole cost of the agency proposing such joint use; and

D. The agency proposing such joint use will secure the

Resolution Declaring Policy Governing Joint Public Use of District Facilities.

comment and opinion of the adjacent property owners and of the affected community by public hearing and make a report of such comment as part of its proposal; provided, that the requirement of a public hearing may in any appropriate case be waived by the District.

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District, this 7th day of May, 1974, by the following vote:

AYES: Directors J. CHIRI, M. E. DULLEA, P. T. FERRARO,  
~~J. LENIHAN, E. A. MIRASSOU~~, G. RUSH, R. I. SAPP.

NOES: Directors None

ABSENT: Directors J.J. Lenihan, E.A. Mirassou

SANTA CLARA VALLEY WATER DISTRICT

By: Joseph Chiri  
 Chairman of the Board of Directors

ATTEST: VIOLET V. ENANDER

Violet V. Enander  
 Clerk of said Board of Directors

# **SCC Parks and SCV Water District – Master Partnership Agreement**

## **DRAFT Statement of Shared Principles (May 18, 2017)**

### **Core Principles:**

1. The District and the County share common goals and service populations. Our land holdings are inextricably linked and the public does not recognize any demarcation in ownership, but rather values the seamless access and recreational experience our joint system provides. Our agencies have worked together for the common good of the Santa Clara County community for over 60 years.
  - a. SCVWD Act and Ends Policies describe the following purposes and goals for the District:
    - i. Enhance, protect, and restore streams, riparian corridors, and natural resources... (District Purpose 7)
    - ii. Preserve open space in Santa Clara County and support the county park system... (District Purpose 8)
    - iii. To acquire, construct, maintain, and install landscaping or recreational facilities in connection with any dam, reservoir, or other works owned or controlled by the district. (District Purpose 16)
    - iv. Improve quality of life and support healthy communities by providing public access to District facilities and additional trails, parks, and open space along creeks and in the watersheds. (District Ends Policy 4.2.1&2 combined)
  - b. The County General Plan identifies numerous strategies, policies, and goals to support a regional system of parks, trails; and protect natural resources, including water quality, and biotic habitats. The general plan further identifies inter-jurisdictional coordination as a key strategy to achieving these goals.
  - c. SCC Parks Mission and Vision describe the following purposes and goals for the Parks and Recreation Department:
    - i. Provide, protect, and preserve regional park lands for the enjoyment, education, and inspiration of this and future generations.
    - ii. Provide a diverse regional parks, trails, and natural areas that connects people with nature, supports healthy lifestyles, offers outstanding visitor experiences... while balancing recreational opportunities with the preservation of natural, cultural, historic and scenic resources.
2. Providing safe, reliable drinking water, and providing for a safe community and healthy environment through managing natural resources, including watersheds and riparian areas and mitigating flood risk is generally compatible with providing for public access and recreational use of the shared system of land and facilities managed by the District and the County.
3. Stewarding these resources and providing public access to these lands and facilities is a shared responsibility. Our agreements and policies should recognize the unique relationship of County Parks and District.

**Board of Supervisors:** Mike Wasserman, Dave Cortese, Ken Yeager, S. Joseph Simitian, Cindy Chavez

**County Executive:** Jeffrey V. Smith



4. Collaboration, leveraging our individual strengths, and sharing resources can maximize the public good and generate efficiencies to each agency.
5. Our agreements and working relationship should seek to maximize collaboration, respect the priorities and requirements of each agency, and minimize conflict. This collaborative approach should be consistently defined as a line staff responsibility and the leadership of each agency should seek to empower its staff to make decisions that promote our mutual goals. A periodic review of the working relationship between the agencies to ensure implementation of this collaborative culture would be beneficial.
6. By allowing for public access and recreational use of District property, the District supports Park purposes and supports its own goals of promoting public access and use.
7. The County's operation of District property enables Parks to enhance its public mission and service delivery to the public; Park's management of District property also supports the District's other purposes and relieves the District of substantial costs associated with the management of those lands and facilities.
8. Mutual systematic and early engagement and coordination in policy development, system planning, land acquisition, and capital improvement projects will enable both agencies to better fulfill our joint and complementary public roles.

**Board of Supervisors:** Mike Wasserman, Dave Cortese, Ken Yeager, S. Joseph Simitian, Cindy Chavez

**County Executive:** Jeffrey V. Smith



# Key Issues to Resolve

Issue	District Proposal	County Proposal
Assets Upon Termination or Discontinued Access to Some Reservoirs	<p>County removes any County improvements incompatible with subsequent use of property.</p> <p>District to clarify what conditions may allow it to terminate/discontinue early, and notice period.</p>	<p>Discontinuance of Use limited to critical public safety or other defined need.</p> <p>District to bear costs for removal of recreational amenities.</p> <p>District to consider mitigation for loss of public access and recreational use</p>
Liability	No modification of existing indemnity obligations.	Modify indemnity obligations to extend greater risk and liability to the District
Cost Sharing	District will consider cost sharing on only joint-use facilities, such as boat ramps	Identify long term opportunities for coordination, collaboration & cost sharing on new/replacement facilities
Coordination in Planning	Broaden descriptions & scope of mutual early planning & engagement	Commit to mutual systematic & early engagement in system & project plans

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# Santa Clara Valley Water District Act

## § 1. Short title

This act shall be known and may be cited as the Santa Clara Valley Water District Act.

## § 2. Creation; name of district; boundaries; district

A flood control and water district is hereby created to be called the Santa Clara Valley Water District. Said district shall consist of all the territory of the County of Santa Clara lying within the exterior boundaries of said county. As used in this act "district" means the Santa Clara Valley Water District.

## § 3. Zones; establishment; change of boundaries

The board of the district created by this act, by resolutions thereof adopted from time to time, may establish zones within said district without reference to the boundaries of other zones, setting forth in such resolutions descriptions thereof by metes and bounds and entitling each of such zones by a zone number, and institute zone projects for the specific benefit of such zones. The board may, by resolution, amend the boundaries by annexing property to or by withdrawing property from said zones or may divide existing zones into two or more zones or may superimpose a new or amended zone on zones already in existence, setting forth in such resolutions descriptions of the amended, divided or superimposed zones by metes and bounds and entitling each of such zones by a zone number.

Proceedings for the establishment of such zones may be conducted concurrently with and as a part of proceedings for the instituting of projects relating to such zones, which proceedings shall be instituted in the manner prescribed in Section 12 of this act.

## § 4. Objects and purposes

(a) The purposes of this act are to authorize the district to provide comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County.

(b) It is the intent of the Legislature that the district work collaboratively with other appropriate entities in Santa Clara County in carrying out the purposes of this act.

(c) The district may take action to do all of the following:

(1) Protect Santa Clara County from floodwater and stormwater of the district, including tidal floodwater and the floodwater and stormwater of streams that have their sources outside the district, but flow into the district.

(2) Protect from that floodwater or stormwater the public highways, life and property in the district, and the watercourses and watersheds of streams flowing within the district.

(3) Provide for the conservation and management of floodwater, stormwater, or recycled water, or other water from any sources within or outside the watershed in which the district is located for beneficial and useful purposes, including spreading, storing, retaining, and causing the water to percolate into the soil within the district.

(4) Protect, save, store, recycle, distribute, transfer, exchange, manage, and conserve in any manner any of the waters.

(5) Increase and prevent the waste or diminution of the water supply in the district.

## Santa Clara Valley Water District Act

(6) Obtain, retain, protect, and recycle drainage, stormwater, floodwater, or treated wastewater, or other water from any sources, within or outside the watershed in which the district is located for any beneficial uses within the district.

(7) Enhance, protect, and restore streams, riparian corridors, and natural resources in connection with carrying out the purposes set forth in this section.

(8) Preserve open space in Santa Clara County and support the county park system in a manner that is consistent with carrying out the powers granted by this section.

### § 5. Nature of district; powers

The district is hereby declared to be a body corporate and politic and, in addition to other powers granted by this act, may take action to carry out all of the following purposes:

1. To have perpetual succession.
2. To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.
3. To adopt a seal and alter it at pleasure.
4. To acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and to hold, use, enjoy, sell, let, and dispose of real and personal property of every kind, including lands, structures, buildings, rights-of-way, easements, and privileges, and to construct, maintain, alter, and operate any and all works or improvements, within or outside the district, necessary or proper to carry out any of the objects or purposes of this act and convenient to the full exercise of its powers, and to complete, extend, add to, alter, remove, repair, or otherwise improve any works, or improvements, or property acquired by it as authorized by this act.
5. To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district or of any zone or zones affected; to conserve, reclaim, recycle, distribute, store, and manage water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district and to conserve within or outside the district, water for any purpose useful to the district; and to do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the district, including, but not limited to, the acquisition, storage, and distribution of water for irrigation, domestic, fire protection, municipal, commercial, industrial, environmental, and all other beneficial uses; to distribute, sell, or otherwise dispose of, outside the district, any waters not needed for beneficial uses within the district; to commence, maintain, intervene in, defend, or compromise, in the name of the district on behalf of the landowners therein, or otherwise, and to assume the costs and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or outside the district, used or useful for any purpose of the district or of common benefit to any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend, and compromise and to assume the cost and expenses of any and all actions and proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare rights in the natural flow of any stream or surface or subterranean supply of water used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from the district; to prevent contamination, pollution, or otherwise rendering unfit for beneficial use the surface or subsurface water used or useful in the district, and to commence, maintain, and defend actions and proceedings to prevent any such interference with the described waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that the district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights that do not affect the interests of the district.
6. To control the flood and storm waters of the district and the flood and storm waters of streams that have their sources outside of the district, but which streams and the floodwaters thereof, flow into said district, and to conserve such waters for beneficial and useful purposes of the district by spreading, storing, retaining, and causing to percolate into the soil within or without the district, or to save or conserve in any manner all or any of those waters and protect from damage from those flood or storm waters the watercourses, watersheds, public

## Santa Clara Valley Water District Act

highways, life, and property in the district, and the watercourses outside of the district of streams flowing into the district.

7. To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways, and other rights-of-way; to acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair, and improvement of the works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to that end, and for those purposes and uses, to acquire and to hold in the name of the state, the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers, and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to cooperate with, act in conjunction with, enter into and to do any acts necessary for the proper performance of any agreement with the State of California, or any of its engineers, officers, boards, commissions, departments, or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments, or agencies or with any state, city and county, city, county, district of any kind, public or private corporation, association, firm, or individual, or any number of them, for the ownership, joint acquisition, leasing, disposition, use, management, construction, installation, extension, maintenance, repair, or operation of any rights, works, or other property of a kind which might lawfully be acquired or owned by the district or for the lawful performance of any power or purpose of the district provided for in this act, including, but not limited to, the granting of the right to the use of any water or the right to store that water in any reservoir of the district or to carrying that water through any tunnel, canal, ditch, or conduit of the district or for the delivery, sale, or exchange of any water right, water supply, or water pumped, stored, appropriated, or otherwise acquired or secured for the use of the district, or for controlling drainage waters, or flood or storm waters of streams in or running into the district, or for the protection of life or property therein, or for the purpose of conserving any waters for the beneficial use within the district, or in any other works, uses, or purposes provided for in this act; and to adopt and carry out any definite plan or system for accomplishing, facilitating, or financing all work which may lawfully be accomplished by the district and to enforce that plan or system by resolution or ordinance.

8. To carry on technical and other necessary investigations, make measurements, collect data, make analyses, studies, and inspections pertaining to water supply, water rights, control of flood and storm waters, and use of water both within and outside the district relating to watercourses or streams flowing in or into the district. For these purposes, the district shall have the right of access through its authorized representatives to all properties within the district and elsewhere relating to watercourses and streams flowing in or into said district. The district, through its authorized representatives, may enter upon such lands and make examinations, surveys, and maps thereof.

9. To prescribe, revise, and collect fees and charges for facilities furnished or to be furnished to any new building, improvement, or structure by the use of any flood control or storm drainage system constructed or to be constructed in a zone of the district, and whenever a drainage or flood control problem is referred to the district by the County of Santa Clara, or any incorporated city therein, to require the installation of drainage or flood control improvements necessary and/or convenient for needs of the zone, including, but not limited to, residential, subdivision, commercial, and industrial drainage and flood control needs, that county and those cities being hereby authorized to refer all drainage and flood control problems, arising under the Subdivision Map Act (Division 2 (commencing with *Section 66410*) of *Title 7 of the Government Code*) or otherwise, to the district for solution. Revenues derived under this section shall be used for the acquisition, construction, reconstruction, maintenance, and operation of the flood control or storm drainage facilities of the zone, to reduce the principal or interest of any bonded indebtedness thereof, or to replace funds expended on behalf of that zone derived from the fund created pursuant to subdivision 1 of Section 13.

10. To incur indebtedness, and to issue bonds in accordance with this act.

11. To cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this act, in the manner hereinafter provided.

**12. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in the district or any of the officers thereof, by this act.**

**13.** To have the power and right to disseminate information concerning the rights, properties, activities, plans, and proposals of the district; provided, however, that expenditures during any fiscal year for those purposes shall not exceed one-half cent (\$0.005) for each one hundred dollars (\$100) of assessed valuation of the district.

**14.** To pay to any city, public agency, district, or educational institution recognized under Chapter 3 (commencing with *Section 94301*) of *Part 59 of the Education Code*, a portion of the cost of water imported by that city, public agency, district, or educational institution into, for use within, and of benefit to the Santa Clara Valley Water District.

**15.** To establish designated floodways in accordance with the Cobey-Alquist Flood Plain Management Act (Chapter 4 (commencing with *Section 8400*) of *Part 2 of Division 5 of the Water Code*).

**16. To acquire, construct, maintain, operate, and install landscaping or recreational facilities in connection with any dam, reservoir, or other works owned or controlled by the district.**

**17.** To acquire, construct, maintain, operate and install, lease, and control facilities for the generation, transmission, distribution, sale, exchange, and lease of electric power.

**18.** To require the sealing of abandoned or unused wells according to standards adopted by the board by ordinance and designed to protect the groundwater resources of the district from contamination. Upon and following the effective date of the ordinance, the County of Santa Clara or any incorporated city therein shall require all persons applying for any land development permit or approval to show the existence and location of any water well upon a map of the property the subject of the application. When a well is shown, the map shall be referred to the district immediately upon receipt for review and investigation. If upon review and investigation the district determines that the well or wells are to be sealed by the applicant pursuant to the ordinance, the determination shall be transmitted promptly to the applicant by the district as a requirement in writing.

## **§ 6. Eminent domain**

The district may exercise the right of eminent domain, either within or without said district, to take any property necessary to carry out any of the objects or purposes of this act. The district in exercising such power shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal or relocation of any structure, railways, mains, pipes, conduits, wires, cable, poles, of any public utility which is required to be moved to a new location. Nothing in this act contained shall be deemed to authorize said district, or any person or persons to divert the waters of any river, creek, stream, irrigation system, canal or ditch, from its channel, to the detriment of any person, or persons having any interest in such river, creek, stream, irrigation system, canal or ditch, or the waters thereof or therein, unless compensation therefor be first provided in the manner provided by law.

Nothing in this act shall authorize the district to condemn any of the properties, structures or works, now owned or hereafter to be constructed or acquired, by any water conservation district within the County of Santa Clara.

### **§ 6.1. Water contamination hazard; public nuisance; standards; notice to property owner to abate; hearing; clearance letter or recordation; order to abate; abatement by district; payment of costs by owner; notice of lien; recordation; effect**

Any abandoned or unused water well endangering the public health and safety by creating a water contamination hazard is a public nuisance. The board shall, by ordinance, establish standards for what constitutes a water contamination hazard.

Whenever the district determines that a public nuisance, as so defined, exists, it shall, by certified mail, notify the then current record owner of the property to abate the public nuisance and that it is the intention of the district to record a notice of violation of the ordinance. The notice to the owner shall describe the violation and

specify a time, date, and place for a hearing, at which the owner may present evidence to the board that a public nuisance does not actually exist and that the notice should not be recorded. The notice to the owner shall state that, unless the public nuisance is abated within the time specified by the board following the hearing, the district may abate the public nuisance and the costs of the abatement will be assessed against the property. The meeting shall take place no sooner than 30 days and no later than 60 days from date of mailing. If, within 15 days of receipt of the notice, the owner of the real property fails to inform the district of his or her objection to recording the notice of violation, the board shall record the notice of violation with the county recorder. If, after the owner has presented evidence, it is determined that there has been no violation, the district shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, the board determines that a violation has in fact occurred, the board shall record the notice of violation with the county recorder. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in the property. The county recorder shall index the names of the fee owners in the general index.

If the board determines, at the conclusion of the hearing, that a public nuisance actually exists, the board shall order the property owner to abate the public nuisance within a specified time.

If the public nuisance is not abated within the time specified in the order of the board following a hearing, the district may abate the public nuisance. Any entry upon private property by the district for this purpose shall be preceded by written notice to the owner by certified mail stating the date and place of entry, the purpose thereof, and the number of persons entering. If the mailed notice is returned undelivered, the district may post a copy thereof at the proposed entry point five days prior to entry.

Any costs incurred by the district in abating a public nuisance pursuant to this section are a lien upon the property upon which the public nuisance existed when notice of the lien is filed and recorded.

Notice of the lien, particularly identifying the property on which the nuisance was abated and the amount of the lien, and naming the owner of record of the property, shall be recorded by the district in the office of the Santa Clara County Recorder within one year after the first item of expenditures by the district or within 90 days after the completion of the work, whichever first occurs. Upon recordation of the notice of lien, the lien shall have the same force, effect, and priority as a judgment lien, except that it shall attach only to the property described in the notice, and shall continue for 10 years from the time of recording of the notice unless sooner released or otherwise discharged.

### **§ 7. Board of directors; continuance of service**

Except as otherwise provided in this act, the individuals who serve on the board of the Santa Clara Valley Water District on December 31, 2008, in accordance with the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951, as amended) shall continue to serve on the board of the district established by this act.

#### **§ 7.1. Directors; composition until noon on December 3, 2010**

Until noon on December 3, 2010, the board shall consist of the following directors:

(a) Two appointed directors who serve on the board of the Santa Clara Valley Water District on December 31, 2008, pursuant to Section 7.2 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Section 4 of Chapter 279 of the Statutes of 2006).

(b) Five directors who are elected pursuant to Section 7.1 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951, as amended by Chapter 906 of the Statutes of 1993).

#### **§ 7.2. Appointed directors; qualifications; terms**

[Section repealed 2010.]

**§ 7.3. Service of directors from the first and fourth supervisorial districts until noon on December 3, 2010**

Directors described in subdivision (b) of Section 7.1 from the first and fourth supervisorial districts who are elected in 2006 shall serve until noon on December 3, 2010.

**§ 7.4. Service of directors from the second, third, and fifth supervisorial districts until noon on December 7, 2012.**

Directors described in subdivision (b) of Section 7.1 from the second, third, and fifth supervisorial districts who are elected in 2008 shall serve until noon on December 7, 2012.

**§ 7.5. Service of specified directors until noon on December 3, 2010**

Directors described in subdivision (a) of Section 7.1 shall serve until noon on December 3, 2010.

**§ 7.6. Director composition as of December 3, 2010**

Notwithstanding any other provision of law, commencing at noon on December 3, 2010, the number of elected directors on the board shall be increased from five to seven and the number of appointed directors shall be reduced from two to zero.

**§ 7.7. Electoral districts**

(a) On or before June 30, 2010, the board shall adopt a resolution that divides the district into seven electoral districts and that assigns a number to each district.

(b) Using the most recent census data as a basis, the electoral districts shall be as nearly equal in population as possible.

(c) In establishing the boundaries of the electoral districts, the board may give consideration to the topography, geography, cohesiveness, contiguity, integrity, compactness of territory, and the community of interests of the electoral districts.

**§ 7.8. First elections for first through seventh electoral districts; term of office; eligibility**

(a) The first elections for the first, fourth, sixth, and seventh electoral districts established pursuant to Section 7.7 shall be conducted at the November 2, 2010, statewide general election. The first elections for the second, third, and fifth electoral districts established pursuant to Section 7.7 shall be conducted at the November 6, 2012, statewide general election.

(b) Except as otherwise provided by this act, the term of office for each director elected pursuant to subdivision (a) shall be four years beginning at noon on the first Friday in December following his or her election and the director shall hold office until his or her successor qualifies and takes office.

(c) Elections for the electoral districts established pursuant to Section 7.7 shall be conducted in accordance with the Uniform District Election Law (Part 4 (commencing with *Section 10500*) of *Division 10 of the Elections Code*).

(d)

(1) One director shall be elected in accordance with this section by the voters of each electoral district.

(2) A candidate for the board of directors shall be a resident in the electoral district for which he or she is a candidate.

(3) A director shall continue to reside within the electoral district during his or her term of office, except that no change in boundaries of an electoral district shall affect the term of office of any incumbent director.

(e) The directors elected pursuant to this section are to exercise their independent judgment on behalf of the interests of the entire district, including the residents, property owners, and the public as a whole in furthering the purposes and intent of this act.

#### **§ 7.9. Vacancies in office**

A vacancy in the office of any director shall be filled pursuant to *Section 1780 of the Government Code*. Any director appointed to fill a vacancy in either of the offices described in subdivision (a) of Section 7.1 shall represent the district at large and shall be a qualified elector residing in the County of Santa Clara.

#### **§ 7.10. Recall**

Any elected director may be recalled by the voters pursuant to Chapter 1 (commencing with *Section 11000*) of *Division 11 of the Elections Code*.

#### **§ 7.11. Review and adjustment of electoral district boundaries**

The board shall review the boundaries of the seven electoral districts established pursuant to Section 7.7 before November 1 of the year following the year in which each decennial census is taken. The boundaries shall be adjusted if needed in accordance with *Section 22000 of the Elections Code* so that each electoral district is as nearly equal in population to the others as possible. In making the adjustments, the board may give consideration to the factors described in subdivision (c) of Section 7.7.

#### **§ 8. Compensated employment; regulations governing lobbyists; prohibited contact; severance pay; public reporting; expense reimbursements**

(a) While serving as a member of the board of directors, and for one year immediately following the end of the director's term of office, no director shall seek or accept compensated employment with the district.

(b) The board, by ordinance, shall adopt regulations governing the activities of persons who lobby the district. Those regulations shall include provisions requiring registration of lobbyists, reporting requirements governing the activities of lobbyists and communications with board members, and disclosure by directors of contact with lobbyists prior to voting on matters related to the contact. This ordinance shall be adopted no later than July 1, 2010.

(c)

(1) No director shall contact staff on behalf of a party who is bidding or intends to bid on a district contract or who has or intends to submit a response to a request for proposals or request for qualifications, nor shall a director inquire about the identity of bidders or proposers prior to the time that staff has made a recommendation for selection of a contractor, vendor, or consultant.

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(2) Paragraph (1) does not prohibit a director from making general inquiries about the status of a particular procurement, or from providing a member of the public with information about the appropriate staff contact concerning procurement of goods and services by the district.

(d) The board may not authorize severance pay for a board-appointed employee of the district when the employee voluntarily separates from district employment. "Severance pay" does not include any otherwise lawful payment required to be paid by the district under a preexisting employment agreement or under a separation and release agreement resolving a claim or claims made or threatened to be made against the district. The board shall not agree to amend an employment contract after the employee announces or requests a voluntary separation, except upon a board determination, in open session, that an adjustment in compensation is required to retain the employee and is in the best interest of the district.

(e) A public report made pursuant to *Section 54957.1 of the Government Code* of actions taken in closed session shall be reflected in the minutes of the board meeting at which the report was made.

(f)

(1) Except as provided in paragraph (2), reports prepared by district staff for the board that recommend action on any item to be considered at a regular public meeting of the board, or at a public hearing conducted by the board, shall be made available to the public no later than six days prior to the date of that meeting or hearing.

(2) Notwithstanding paragraph (1), the following reports shall be made available to the public within the time period required by the Ralph M. Brown Act (Chapter 9 (commencing with *Section 54950*) of *Part 1 of Division 2 of Title 5 of the Government Code*):

(A) Reports relating to a contract award, if the contract has been considered at a prior board meeting.

(B) Reports recommending board action necessary to meet a legal deadline, including a deadline for a grant funding application.

(C) Reports conveying a recommendation from a board committee.

(D) Reports recommending immediate board action to address urgent health, safety, or financial matters identified in the report.

(E) Supplemental reports conveying additional information received after the initial report was released.

(3) If a recommendation in a staff report is revised based upon direction from a member of the board, the revision shall be disclosed in the applicable report.

(4) This subdivision does not require the public release of any document that is exempt from disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with *Section 6250*) of *Division 7 of Title 1 of the Government Code*) or any other provision of law.

(g) On a quarterly basis, a report of the expense reimbursements to each director shall be placed on an open session board meeting agenda for review and a determination by the board whether the expense reimbursements comply with the board's reimbursement policies adopted pursuant to *Section 53232.3 of the Government Code*. Only expenses in compliance with those policies may be reimbursed by the district.

### **§ 9. Ordinances and resolutions; rules and regulations; officers and employees**

The board shall have power to adopt resolutions for the district which shall be adopted, certified to, recorded, and published, in the same manner except as herein otherwise provided for, as are resolutions for the County of Santa Clara.

The board shall have the power to adopt ordinances for the district. All ordinances shall be enacted only by rollcall vote entered into the proceedings of the board. An ordinance shall be in full force and effect 30 days after adoption, and shall be published once in full in a newspaper of general circulation, printed, published, and circulated in the district within 10 days after adoption. It is a misdemeanor for any person to violate any district ordinance adopted pursuant to this section from and after the effective date of the ordinance. The violation



shall be punishable by a fine not exceeding five hundred dollars (\$500), or imprisonment in the county jail not to exceed 30 days, or both that fine and that imprisonment. Any violation or threatened violation may also be enjoined by civil action. The board shall have power to make and enforce all needful rules, regulations, standards, and procedures for the administration and government of the district, and to appoint and employ all needful agents, superintendents, engineers, attorneys, and employees to properly look after the performance of any work provided for in this act and to operate and maintain those works, and to perform all other acts necessary or proper to accomplish the purposes of this act.

In addition to the officers and employees herein otherwise prescribed, the board may in its discretion appoint a chairman, a clerk and such other officers and employees for the board or district as in its judgment may be deemed necessary, prescribe their duties and fix their compensation. Those officers and employees shall be employed, suspended, or their employment terminated in accordance with an ordinance setting forth rules, regulations, standards and procedures for appointment, suspension and termination of employment.

#### **§ 10. Engineers; plans for projects; reports; cost estimates; removal**

The board shall have jurisdiction and power to employ competent registered civil engineers to investigate and carefully devise a plan or plans for a project, and to obtain such information in regard thereto, as may be deemed necessary or useful for carrying out the purposes of this act; and the board may direct such engineer or engineers to make and file reports from time to time

1. A general description of the project, together with general plans, profiles, cross-sections, and general specifications relating thereto, on each project.

2. A general description of the lands, rights of way, easements and property proposed to be taken, acquired or injured in carrying out said project.

3. A map or maps which shall show the location and zones, as may be required, of each of said projects, and lands, rights of way, easements and property to be taken, acquired or injured in carrying out said project, and any other information in regard to the same that may be deemed necessary or useful.

4. An estimate of the cost of each project, including a statement of the portion, if any, of such cost theretofore advanced by the district for said project for which the district proposes to reimburse itself from the proceeds of sale of any bonds to be issued to pay for said project and an estimate of the cost of lands, rights-of-way, easements and property proposed to be taken, acquired or injured in carrying out said project, and also of all incidental expenses likely to be incurred in connection therewith, including legal, clerical, engineering, superintendence, inspection, printing and advertising, and, if deemed advisable, a sum sufficient to pay interest on any bonds proposed to be issued during all or any part of the period of construction of said project and for not to exceed 12 months thereafter; and the total amount of bonds, if any, necessary to be issued to pay for said project.

Such engineer or engineers shall from time to time and as directed by the board file with the board supplementary, amendatory and additional reports and recommendations, as necessity and convenience may require.

Such engineer or engineers, employed by the board, shall have power and authority, subject to the control and direction of the board, to employ such engineers, surveyors, and others, as may be required for making all surveys or doing any other work necessary for the making of any such report.

The board may at any time remove any or all of the engineers or employees appointed or employed under this act, and may fill any vacancies occurring among them from any cause.

#### **§ 11. Selection of projects; determination of benefits**

The board shall determine which projects or works of improvement shall be carried out and shall determine, as to each project or work of improvement, that it is either:

1. For the common benefit of the district as a whole; or
2. For the common benefit of two or more zones hereinafter referred to as participating zones; or
3. For the benefit of a single zone.

**§ 12. Institution of zone or joint zone projects; hearing; determination; majority protest**

The board may institute projects for single zones and joint projects for two or more zones, for the financing, constructing, maintaining, operating, extending, repairing or otherwise improving any work or improvement of common benefit to such zone or participating zones. For the purpose of acquiring authority to proceed with any such project, the board shall adopt a resolution specifying its intention to undertake such project, together with the engineering estimates of the cost of same to be borne by the particular zones or participating zones and fixing a time and place for public hearing of said resolution and which shall refer to a map or maps showing the general location and general construction of said project. Notice of such hearing shall be given by publication once a week for two consecutive weeks prior to said hearing, the last publication of which notice must be at least seven (7) days before said hearing, in a newspaper of general circulation designated by the board, circulated in such zone or each of said participating zones, if there be such newspaper, and if there be no such newspaper then by posting notice for two consecutive weeks prior to said hearing in five public places designated by the board, in such zone or in each of said participating zones. Said notice must designate a public place in such zone or in each of said participating zones where a copy or copies of the map or maps of said joint project may be seen by any interested person; such map must be posted in each of said public places so designated in said notice at least two weeks prior to said hearing.

At the time and place fixed for the hearing, or at any time to which said hearing may be continued, the board shall consider all written and oral objections to the proposed project. Upon the conclusion of the hearing the board may abandon the proposed project or proceed with the same, unless prior to the conclusion of said hearing written protests against the proposed project signed by a majority in number of the registered voters residing within such zone or participating zones be filed with the board, in which event further proceedings relating to such project must be suspended for not less than six months following the date of the conclusion of said hearing, or said proceeding may be abandoned in the discretion of the board.

**§ 12.5. Advisory boards, committees or commissions**

The board may create by resolution such advisory boards, committees, or commissions for the district or any zone therein as in its judgment are required to serve the best interests of said district or zones, and may grant to them such duties as are consistent with the provisions of this act. The number of members of any such board, committee, or commission shall be not less than three (3) and shall be specified in the resolution. Members thereof shall serve at the pleasure of the board. The board shall create an advisory committee consisting of farmers to represent users of agricultural water.

**§ 13. Taxation**

The board shall have the power, in any year:

1. To levy ad valorem taxes or assessments in the district, to pay the general administrative costs and expenses, including maintenance and operation of established works, of the district, to carry out any of the objects or purposes of this act of common benefit to the district, and to provide a fund which may be used by the district to pay the costs and expenses of constructing or extending any or all works established within or on behalf of a zone or participating zones within the district; provided, that funds so used are replaced from funds derived from either of the following sources:

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**(a)** Taxes or assessments levied pursuant to subdivision 2 or 3 within the zone or participating zones benefited by such construction in the year or years immediately following the use of those funds.

**(b)** Fees or charges collected under authority of Section 5, subdivision 9, or Section 26.

Taxes or assessments under paragraph (a) of subdivision 1 may be levied for purposes of this subdivision of this section by either of the following methods:

**(a)** By a levy or assessment upon all property within the district, including land, improvements thereon, and personal property.

**(b)** By a levy or assessment upon all real property within the district, including both land and improvements thereon.

**2.** To levy taxes or assessments in each or any of the zones and participating zones, to pay the cost of carrying out any of the objects or purposes of this act performed or to be performed on behalf of the respective zones, including the constructing, maintaining, operating, extending, repairing or otherwise improving any or all works or improvements established or to be established within or on behalf of the respective zones, according to the benefits derived or to be derived by the respective zones, by any of the following methods:

**(a)** By a levy or assessment upon all property within a zone or participating zone, including land, improvements thereon, and personal property.

**(b)** By a levy or assessment upon all real property within a zone or participating zones, including both land and improvements thereon.

**(c)** By a levy or assessment upon land only within a zone or participating zones.

It is declared that for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

**3.** To levy assessments upon any property in each or any of said zones, according to the provisions and procedures of the Improvement Act of 1911, the Improvement Bond Act of 1915, the Municipal Improvement Act of 1913, or the Refunding Assessment Bond Act of 1935.

In the event of project cooperation with any of the governmental bodies as authorized in subdivision 7 of Section 5 of this act, and the making of a contract with any such governmental body for the purposes set forth in the subdivision 7 of Section 5, by the terms of which work is agreed to be performed by any such governmental body in any specified zone or participating zones, for the particular benefit thereof, and by the contract it is agreed that the district is to pay to the governmental body, a sum of money in consideration or subvention for the performance of the work by the governmental body, the board may levy and collect a special tax or assessment upon the property in the zone or participating zones, whereby to raise funds to enable the district to make the payment, in addition to other taxes or assessments herein otherwise provided for.

The taxes or assessments shall be levied and collected together with, and not separately from taxes for county purposes, and the revenues derived from the district taxes or assessments, together with penalties thereon, shall be paid into the county treasury to the credit of the district, or the respective zones thereof, and the board may control and order the expenditure thereof for those purposes; provided, however, that no revenues, or portions thereof, derived in any of the several zones from the taxes or assessments levied under the provisions of subdivision 2 of this section shall be expended for constructing, maintaining, operating, extending, repairing or otherwise improving any works or improvements located in any other zone, except in the case of joint projects, or for projects authorized or established outside such zone, or zones, but for the benefit thereof. In cases of projects joint to two or more zones, the zones will become, and shall be referred to as, participating zones.

**§ 13.2. Special taxes at minimum uniform rates according to land use category and size; exemption**

For the purposes of levying special taxes pursuant to paragraph (2) of Section 13, the district may impose special taxes in accordance with Article 3.5 (commencing with *Section 50075*) of *Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code* at minimum uniform rates according to land use category and size. The district may provide an exemption from these taxes for residential parcels owned and occupied by one or more taxpayers who are at least 65 years of age, or who qualify as totally disabled under the federal Social Security Act, if the total household income is less than an amount that is approved by the voters of the district.

**§ 14. Bonded indebtedness; procedure**

(1) Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any project in any zone or zones, the board may by resolution, determine and declare the respective amounts of bonds to be issued to raise the amount of money necessary for each project and the denomination and the maximum rate of interest of said bonds. In determining each amount of bonds and the amount of money necessary for each project, the board may include therein the portion, if any, of the cost of such project theretofore advanced by the district for which the district proposes to reimburse itself from the proceeds of sale of any bonds to be issued to pay for said project and the cost of lands, rights-of-way, easements and property proposed to be taken, acquired or injured in carrying out said project and also of all incidental expenses likely to be incurred in connection therewith, including legal, clerical, engineering, superintendence, inspection, printing and advertising, and, if deemed advisable, a sum sufficient to pay interest on any bonds proposed to be issued during all or any part of the period of construction of said project and for not to exceed 12 months thereafter. The board shall cause a copy of the resolution, duly certified by the clerk, to be filed for record in the Office of the Recorder of Santa Clara County within five (5) days after its issuance. From and after said filing of said copy of said resolution the board shall be deemed vested with the authority to proceed with the bond election.

(2) After the filing for record of the resolution specified in subdivision (1) of this section, the board may call a special bond election in said zone or participating zones at which shall be submitted to the qualified electors of said zone or participating zones the question whether or not bonds shall be issued in the amount or amounts determined in said resolution and for the purpose or purposes therein stated. Said bonds and the interest thereon shall be paid from revenue derived from annual taxes or assessments levied as provided in this act.

(3) Said board shall call such special bond election by ordinance and not otherwise and submit to the qualified electors of said zone or participating zones, the proposition of incurring a bonded debt in said zone or participating zones in the amount and for the purposes stated in said resolution and shall recite therein the objects and purposes for which the indebtedness is proposed to be incurred; provided, that it shall be sufficient to give a brief, general description of such objects and purposes, and refer to the recorded copy of such resolution adopted by said board, and on file for particulars; and said ordinances shall also state the estimated cost of the proposed project, the amount of the principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on said indebtedness, and shall fix the date on which such special election shall be held, and the form and contents of the ballot to be used. The rate of interest to be paid on such indebtedness shall not exceed eight percent (8%) per annum. For the purposes of said election, said board shall in said ordinance establish special bond election precincts within the boundaries of each zone and participating zone and may form election precincts by consolidating the precincts established for general elections in said district to a number not exceeding six general precincts for each such special bond election precinct, and shall designate a polling place and appoint one inspector, one judge, and one clerk for each such special bond election precincts.

In all particulars not recited in said ordinance, such special bond election shall be held as nearly as practicable in conformity with the general election laws of the state, except as provided herein.

Said board shall cause a map or maps to be prepared covering a general description of the project, which said map shall show the location of the proposed projects, and shall cause the said map to be posted in a

prominent place in the county courthouse for public inspection for at least thirty (30) days before the date fixed for such election.

Said ordinance calling for such special bond election shall, prior to the date set for such election, be published pursuant to *Section 6062 of the Government Code* in a newspaper of general circulation circulated in each zone and participating zone affected. The last publication of such ordinance must be at least fourteen (14) days before said election, and if there be no such newspaper, then such ordinance shall be posted in five public places designated by the board, in each zone and participating zone for at least thirty (30) days before the date fixed for such election. No other notice of such election need be given nor need polling place cards be issued.

Any defect or irregularity in the proceedings prior to the calling of such special bond election shall not affect the validity of the bonds authorized by said election. If at such election two-thirds (2/3) of the votes cast are in favor of incurring such bonded indebtedness, then bonds for such zone or participating zones for the amount stated in such proceedings shall be issued and sold as in this act provided.

#### **§ 15. Bonds; forms; terms; maturity; denominations; signatures**

The board shall, subject to the provisions of this act, prescribe by resolution the form of said bonds, which must include a designation of the zone or participating zones affected, and of the interest coupons attached thereto. Said bonds shall be payable annually or semiannually at the discretion of the board each and every year on a day and date, and at a place to be fixed by said board, and designated in such bonds, together with the interest on all sums unpaid on such date until the whole of said indebtedness shall have been paid.

The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series. The maturity of each series shall comply with this section. The board may fix a date, not more than two years from the date of issuance, for the earliest maturity of each issue or series of bonds. The final maturity date shall not exceed 40 years from the time of incurring the indebtedness evidenced by each issue or series. The board may provide for call and redemption of all or any part of any issue or series of bonds before maturity at prices determined by the board. No bond shall be subject to call or redemption prior to maturity unless it contains a recital to that effect.

The bonds shall be issued in such denominations as the board may determine, except that bonds shall be issued in denominations of one thousand dollars (\$1,000) or more, and shall be payable on the days and at the place fixed in said bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of eight percent (8%) per annum, and shall be made payable annually or semiannually, and said bonds shall be numbered consecutively and shall be signed by the chairman of the board, and countersigned by the auditor of said district, and the seal of said district shall be affixed thereto by the clerk of the board. Either or both such signatures may be printed, engraved or lithographed. The interest coupons of said bonds shall be numbered consecutively and signed by the said auditor by his printed, engraved or lithographed signature. In case any such officer whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such bonds and coupons and signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until the delivery of the bonds.

#### **§ 16. Bonds; issuance and sale; proceeds; payments**

The board may issue and sell the bonds of such zones authorized as hereinbefore provided at not less than par value, and the proceeds of the sale of such bonds shall be placed in the treasury of the County of Santa Clara to the credit of said district and the respective participating zones thereof, for the uses and purposes of the zone, or zones voting said bonds; and the proper record of such transactions shall be placed upon the books of said county treasurer, and said respective zone funds shall be applied exclusively to the purposes and objects mentioned in the ordinance calling such special bond election as aforesaid, subject to the provi-

sions in this act contained. Payments from said zone funds shall be made upon demands prepared, presented, allowed and audited in the same manner as demands upon the funds of the County of Santa Clara.

**§ 17. Bonds; payment from tax or assessment revenue**

Any bonds issued under the provisions of this act and the interest thereon shall be paid by revenue derived from an annual tax or assessment, levied as provided in clause (a) or (b) of subdivision 2 of Section 13 of this act. No zone nor the property therein shall be liable for the share of bonded indebtedness of any other zone, nor shall any moneys derived from taxation or assessment in any of the several zones be used in payment of principal or interest or otherwise of the share of bonded indebtedness chargeable to any other zone, except in the case of joint projects by participating zones.

**§ 18. Bond tax**

The board shall levy a tax or assessment each year sufficient to pay the interest and such portion of the principal of said bonds as is due or to become due before the time for making the next general tax levy. Such taxes or assessments shall be levied and collected in the respective zones of issuance together with and not separately from taxes for county purposes, and when collected shall be paid into the county treasury of said Santa Clara County to the credit of the zone of payment, and be used for the payment of the principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer of said Santa Clara County in the manner provided by law for the payment of principal and interest on bonds of said county.

**§ 19. Taxation; law applicable**

The provisions of law of this State, prescribing the time and manner of levying, assessing, equalizing and collecting county property taxes, including the sale of property for delinquency, and the redemption from such sale, and the duties of the several county officers with respect thereto, are, so far as they are applicable, and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof.

**§ 20. Adoption of budget**

(a) On or before June 15 of each year, the board shall meet, at the time and place designated by published notice, at which meeting any member of the general public may appear and be heard regarding any item in the proposed budget or for the inclusion of additional items.

(b) At the same time and place designated in the public notice, the board shall review its financial reserves, including the justification therefor, and its reserve management policy.

(c) After the conclusion of the meeting, and not later than June 30 of each year, and after making any revisions of, deductions from, or increases or additions to, the proposed budget that the board determines advisable during or after the meeting, the board, by resolution, shall adopt the budget as finally determined.

**§ 21. Bonds; legal investments**

The bonds of the district issued for any zone or zones thereof pursuant to this act, shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts or municipalities

in the State of California, such money or funds may be invested in the said bonds of said district issued in accordance with the provisions of this act, and whenever bonds of cities, cities and counties, counties, school districts or municipalities, may by any law now or hereafter enacted be used as security for the performance of any act, such bonds of said district may be so used.

This section of this act is intended to be and shall be considered the latest enactment with respect to the matters herein contained, and any and all acts or parts of acts in conflict with the provisions hereof are hereby repealed.

**§ 22. Bonds; tax exemption; nature of district**

All bonds issued by said district under the provisions of this act shall be free and exempt from all taxation within the State of California. It is hereby declared that the district organized by this act is a reclamation district and an irrigation district within the meaning of Section 1 3/4 of Article XIII and Section 13 of Article XI of the Constitution of this State.

**§ 23. [Section repealed 1985.]**

**§ 24. Bonded improvements; conformity to report, plans, specifications, etc.**

Any improvement for which bonds are voted under the provisions of this act, shall be made in conformity with the report, plans, specifications and map theretofore adopted, as above specified, unless the doing of any of such work described in said report, shall be prohibited by law, or be rendered contrary to the best interests of the district by some change of conditions in relation thereto, in which event the board may order necessary changes made in such proposed work or improvements and may cause any plans and specifications to be made and adopted therefor.

**§ 25. Additional bonds**

Whenever bonds have been authorized by any zone or participating zone of said district and the proceeds of the sale thereof have been expended as in this act authorized, and the board shall by resolution determine that additional bonds should be issued for carrying out the work of flood control, or for any of the purposes of this act, the board may again proceed as in this act provided, and submit to the qualified voters of said zone or participating zone, the question of issuing additional bonds in the same manner and with like procedure as hereinbefore provided, and all the above provisions of this act for the issuing and sale of such bonds, and for the expenditure of the proceeds thereof, shall be deemed to apply to such issue of additional bonds.

**§ 25.1. Revenue bonds; issuance; law governing**

In addition to proceedings authorized under Sections 13, 14, 15, 16, 17, 18 and 24 of this act, whenever the board determines that it is in the public interest, it may borrow money to provide funds to pay the cost of any work or improvement in the district or in any zone or zones thereof by the issuance of revenue bonds pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with *Section 54300*) of *Part 1, Division 2, Title 5 of the Government Code*). If the work or improvement is determined by the board to be for a zone or zones comprising less than all the district, the election at which the proposition to issue such revenue bonds is submitted shall be held only in such zone or zones. Proceeds from the sale of any such revenue bonds shall be expended only in the zone or zones in which the proposition to issue such revenue bonds is approved. In the case of any conflict between the provisions of this act and the provisions of the Revenue Bond Law of 1941, the provisions of the Revenue Bond Law of 1941 shall control.

**§ 25.2. Revenue bonds; water and electric power facilities; special election**

(a) Notwithstanding any other provision of this act, the district may from time to time, subject to the provisions of this section, issue bonds in accordance with the Revenue Bond Law of 1941, (Chapter 6 (commencing with *Section 54300*) of *Part 1 of Division 2 of Title 5 of the Government Code*) for the purpose of financing the construction, reconstruction, replacement, acquisition or improvement of any facility or facilities necessary or convenient for the storage, treatment, including reclamation, transmission, or distribution of water for beneficial use within the district and for the purpose of generation or transmission of electric power; provided, that this section shall not apply to the acquisition of any facility or facilities already employed in any such public utility use, except where the acquisition of the facility or facilities is by mutual agreement between the district and the owner of the property.

(b) The provisions of *Sections 54380 to 54387, inclusive, of the Government Code* shall not apply to the issuance and sale of bonds pursuant to this section.

(c) The board shall not proceed under this section until it has submitted to the qualified voters of the district at a special election called by a resolution of the board a proposition as to whether the district may authorize and sell revenue bonds under this section. If a majority of the voters of the district voting on the proposition at the election vote in favor of the proposition, the board may proceed to issue and sell revenue bonds as provided by this section. If the proposition fails to carry at the election, the proposition shall not again be voted upon until at least six months have elapsed since the date of the last election at which the proposition was submitted.

(d) The resolution calling the election shall fix the date on which the election is to be held, the proposition to be submitted thereat, the manner of holding the election and of voting for or against the proposition, and shall state that in all other particulars the election shall be held and the votes canvassed as provided by law for the holding of elections within the district. The election may be held separately or may be consolidated with any other election authorized by law at which the voters of the district may vote. The resolution calling the election shall be published and no other notice of the election need be given.

**§ 25.5. Defeated bond proposal; waiting period before new election**

Should a proposition for issuing bonds for any zone or participating zones submitted at any election under this act fail to receive the requisite number of votes of the qualified electors voting at such election to incur the indebtedness for the purpose specified, the board shall not for six months after such election call or order another election in such zone or participating zone for incurring indebtedness and issuing bonds under the terms of this act for the same objects and purposes.

**§ 25.6. Indebtedness; limitation; purpose; short-term notes**

(a) The district may borrow money and incur indebtedness, not to exceed the amount of eight million dollars (\$8,000,000) as provided in this section by action of the board of directors and without the necessity of calling and holding an election in the district.

(b) Indebtness may be incurred pursuant to this section for any purpose for which the district is authorized to expend funds.

(c) Indebtedness incurred under this section shall be evidenced by short-term notes payable at stated times fixed by the board. The maturity of short-term notes shall be not later than five years from the date of issuance. Short-term notes shall bear interest at a rate not exceeding 10 percent per annum payable annually or semiannually. Short-term notes shall be general obligations of the district payable from revenues, charges, taxes, and assessments levied for purposes of the district.



(d) Short-term notes shall not be issued pursuant to this section which are payable in any fiscal year in an amount which, when added to the interest thereon, exceeds 85 percent of the estimated amount of the revenues, charges, taxes, and assessments of or allocable to the district which will be available in that fiscal year for payment of short-term notes and the interest thereon.

**§ 26. Ground water charge; power to levy and collect**

The board shall have the power, in addition to the powers enumerated elsewhere in this act, to levy and collect a ground water charge for the production of water from the ground water supplies within a zone or zones of the district which will benefit from the recharge of underground water supplies or the distribution of imported water in such zone or zones.

**§ 26.1. Definitions relative to ground water charge**

As used in connection with the groundwater charge, the following words shall mean:

"Person," "owner," or "operator" means public agencies, federal, state, and local, private corporations, firms, partnerships, limited liability companies, individuals or groups of individuals, whether legally organized or not; "owner" or "operator" also means the person to whom a water-producing facility is assessed by the county assessor, or, if not separately assessed, the person who owns the land upon which a water-producing facility is located.

"Groundwater" means nonsaline water beneath the natural surface of the ground, whether or not flowing through known and definite channels; "nonsaline water" means water which has less than 1,000 parts of chlorides to 1,000,000 parts of water, both quantities measured by weight.

"Production" or "producing" means the extraction or extracting of groundwater, by pumping or any other method, from shafts, tunnels, wells (including, but not limited to, abandoned oil wells), excavations or other sources of groundwater, for domestic, municipal, irrigation, industrial, or other beneficial use, except that the terms do not mean or include the extraction of groundwater produced in the construction or reconstruction of a well, or water incidentally produced with oil or gas in the production thereof, or water incidentally produced in a bona fide mining or excavating operation or water incidentally produced in the bona fide construction of a tunnel, unless the groundwater so extracted shall be used or sold by the producer for domestic, municipal, irrigation, industrial, or other beneficial purpose.

"Water-producing facility" means any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within the district or a zone thereof.

"Water production statement" means the certified statement filed by the owner or operator of a water-producing facility with the district of the production of groundwater of the facility in a specified period.

"Water year" means July 1st of one calendar year to June 30th of the following calendar year.

"Agricultural water" means water primarily used in the commercial production of agricultural crops or livestock.

**§ 26.2. Ground water charge zones; establishment; amendment**

Prior to the establishment of any ground water charge, the board shall establish a zone or zones within the district within which the ground water charge will be effective. Said zone or zones shall be established and may be amended to the extent and in the manner prescribed in Section 3 of this act.

**§ 26.3. Purpose of ground water charges; use of revenues**

Ground water charges levied pursuant to this act are declared to be in furtherance of district activities in the protection and augmentation of the water supplies for users within a zone or zones of the district which are necessary for the public health, welfare and safety of the people of this State. The ground water charges are authorized to be levied upon the production of ground water from all water-producing facilities, whether public or private, within said zone or zones of the district for the benefit of all who rely directly or indirectly upon the ground water supplies of such zone or zones and water imported into such zone or zones.

The proceeds of ground water charges levied and collected upon the production of water from ground water supplies within such zone or zones of the district are authorized and shall be used exclusively by the board for the following purposes:

1. To pay the costs of constructing, maintaining and operating facilities which will import water into the district which will benefit such zone or zones, including payments made under any contract between the district and the State of California, the United States of America, or any public, private or municipal utility.
2. To pay the costs of purchasing water for importation into such zone or zones, including payments made under contract to the State of California, the United States of America, or any public, private or municipal utility.
3. To pay the costs of constructing, maintaining and operating facilities which will conserve or distribute water within such zone or zones, including facilities for ground water recharge, surface distribution, and the purification and treatment of such water.
4. To pay the principal or interest of any bonded indebtedness or other obligations incurred by the district on behalf of such zone or zones for any of the purposes set forth in paragraphs 1, 2 and 3 of this section.

The district may apply to any one or more of the purposes set forth in paragraphs 1, 2, 3 and 4 of this section any or all revenues received by the district from water sale contracts executed by the district pursuant to this act.

**§ 26.4. Registration of water-producing facilities; violation; penalty**

Within six months after the date of establishing any such zone or zones, all water-producing facilities located within the boundaries of such zone or zones shall be registered with the district and, if required by the board, measured with a water-measuring device satisfactory to the district installed by the district or at the district's option by the operator thereof. Any new water-producing facility, constructed or reestablished, or any abandoned water-producing facility which is reactivated, after such date, shall be registered with the district and, if required by the board, measured with a water-measuring device satisfactory to the district within 30 days after the completion or reestablishment, or reactivation thereof.

Failure to register any water-producing facility, as required by this act, is a misdemeanor punishable by a fine of not to exceed five hundred dollars (\$500), or imprisonment in the county jail for not to exceed six months, or by both such fine and imprisonment.

In addition to other information which the district may determine is necessary and may require in the registration form provided, there shall also be given information as to the owner or owners of the land upon which each water-producing facility is located, a general description and location of each water-producing facility, the name and address of the person charged with the operation of each water-producing facility, and the name or names and addresses of all persons owning or claiming to own an interest in the water-producing facility.

**§ 26.5. Annual report on district's activities; contents**

(a) The district shall annually prepare a written report upon the district's activities in the protection and augmentation of the water supplies of the district. The report shall include, among other information the board may order, a financial analysis of the district's water utility system; information as to the present and future water requirements of the district, the water supply available to the district, and future capital improvement and maintenance and operating requirements; a method of financing those requirements; a recommendation as to whether or not a groundwater charge should be levied in any zone or zones of the district during the ensuing water year and, if any groundwater charge is recommended, a proposal of a rate or rates per acre-foot for agricultural water and a rate or rates per acre-foot for all water other than agricultural water for the zone or zones, which rate or rates, as applied to operators who produce groundwater above a specified annual amount, may be subject to prescribed, fixed, and uniform increases in proportion to increases by that operator in groundwater production over the production of that operator for a prior base period to be specified by the board.

(b) The report shall not contain a recommendation of any increases in proportion to increased production in a zone unless based upon an analysis showing the cause of the reduction in the groundwater levels of the zone requiring the increases, with attention given to the effect of extractions of pumpers outside of, as well as within the zone, and with an evaluation of alternative measures which may feasibly be taken within the entire affected groundwater basin and of any alternative supplies of water available for that zone, including the availability of treated water supplied by the district or treated groundwaters or groundwaters extracted in a cleanup operation and available to the district for reuse. The report shall be consistent with any conservation and reuse plan approved by the State Water Resources Control Board. The report shall also include all of the following:

- (1) The amount of groundwater produced in the proposed zone and alternative water sources.
- (2) The estimated costs of recharging each zone or zones.
- (3) The estimated costs of mitigating any effects of pumping.
- (4) Information specifying the benefits that have been received and will be received within the zone or zones where a groundwater charge has been levied and collected, or is recommended to be levied and collected.

**§ 26.6. Hearing on report; notice**

On or before the first Tuesday in April of each year the report shall be delivered to the clerk of the district board in writing. The clerk shall publish, pursuant to *Section 6061 of the Government Code*, a notice of the receipt of the report and of the public hearing to be held on or before the fourth Tuesday in April in a newspaper of general circulation printed and published within the district, at least 10 days prior to the date at which the public hearing regarding the report shall be held. The notice, among other information which the district may provide, shall contain an invitation to all operators of water-producing facilities within the district and to any person interested in the district's activities in the protection and augmentation of the water supplies of the district to call at the offices of the district to examine the report. There shall be held on or before the fourth Tuesday of April of each year, in the chambers of the board, a public hearing at which time any operator of a water-producing facility within the district, or any person interested in the district's activities in the protection and augmentation of the water supplies of the district, may in person, or by representative, appear and submit evidence concerning the subject of the written report.

**§ 26.7. Levy and collection of ground water charges; rates; new or adjusted charges; reports; notice; hearing; errors**

**(a)**

**(1)** Prior to the end of the water year in which the hearing is held, and based upon the findings and determinations from the hearing, the board shall determine whether or not a groundwater charge should be levied in any zone or zones.

**(2)** If the board determines that a groundwater charge should be levied, it shall levy, assess, and affix the charge or charges against all persons operating groundwater-producing facilities within the zone or zones during the ensuing water year.

**(3)**

**(A)** The charge shall be computed at a fixed and uniform rate or rates per acre-foot for agricultural water, and at a fixed and uniform rate or rates per acre-foot for all water other than agricultural water.

**(B)** Different rates may be established in different zones, except that in each zone the rate or rates for agricultural water shall be fixed and uniform.

**(C)** The rate or rates, as applied to operators who produce groundwater above a specified annual amount, may, except in the case of any person extracting groundwater in compliance with a government-ordered program of cleanup of hazardous waste contamination, be subject to prescribed, fixed, and uniform increases in proportion to increases by that operator in groundwater production over the production of that operator for a prior base period to be specified by the board, upon a finding by the board that conditions of drought and water shortage require the increases. The increases shall be related directly to the reduction in the affected zone groundwater levels in the same base period.

**(D)** The rates shall be established each year in accordance with a budget for that year approved by the board pursuant to this act, or amendments or adjustments to that budget, and shall be fixed and uniform rates for agricultural water and for all water other than agricultural water, respectively, except that each rate for agricultural water shall not exceed one-fourth of the rate for all water other than agricultural water.

**(b)**

**(1)** The board may also impose or adjust any groundwater charge, and the rate of any charge, on or before January 1 of each water year whenever the board determines that the imposition or adjustment of the charge is necessary.

**(2)** The board shall prepare a supplemental report to the annual report prepared pursuant to Section 26.5, explaining the reasons for the imposition or adjustment of the charge. The board shall file the supplemental report with the clerk of the board at least 45 days before the date the new or adjusted charge is proposed to take effect.

**(3)**

**(A)** The clerk shall publish in a newspaper of general circulation published within the district, pursuant to *Section 6061 of the Government Code*, a notice of the receipt of the supplemental report and a hearing to be held on the proposed imposition or adjustment of the groundwater charge at least 31 days before the date on which the new or adjusted charge is proposed to take effect and at least 10 days before the date of the hearing.

**(B)** The notice shall invite any operator of a water-producing facility within the district and other interested parties to examine the supplemental report prepared pursuant to paragraph (2) at the district office.

**(4)**

**(A)** A public hearing shall be held at least 21 days before the date on which the new or adjusted groundwater charge is proposed to take effect in the chambers of the board.

**(B)** Any operator of a water-producing facility within the district may, in person or by means of a representative, present evidence at the hearing concerning the imposition or adjustment of the groundwater charge.

(c) Any groundwater charge levied pursuant to this section shall be in addition to any general tax or assessment levied within the district or any zone or zones thereof.

(d) Clerical errors occurring or appearing in the name of any person or in the description of the water-producing facility from which the production of water is otherwise properly charged, or in the making or extension of any charge upon the records that do not affect the substantial rights of the assessee or assesses, shall not invalidate the groundwater charge.

#### **§ 26.8. Notice to owners or operators**

The district, after the levying of the ground water charge, shall give notice thereof to each owner or operator of each water-producing facility in the zone or zones as disclosed by the records of said district, which notice shall state the rate for each class of water of the ground water charge for each acre-foot of water to be produced during the ensuing water year. Said notice may be sent by postal card or by other first-class mail and with postage prepaid by the district.

#### **§ 26.9. Water production statement; computation of charges; interest; penalties, and administrative charges**

(a) After the establishment of a zone in which a groundwater charge may be levied, each owner or operator of a water-producing facility within the zone, until the time that the water-producing facility has been permanently abandoned, shall file with the district, on or before the 30th day following the end of collection periods established by the board, a water production statement setting forth the total production in acre-feet of water for the preceding collection period, a general description or number locating each water-producing facility, the method or basis of the computation of the water production, and the amount of the groundwater charge based on the computation. The collection periods may be established at intervals of not more than one year or less than one month. If no water has been produced from the water-producing facility during a preceding collection period, this statement shall be filed as provided for in this section, setting forth that no water has been produced during the applicable period. The statement shall be verified by a written declaration under penalty of perjury.

(b) The groundwater charge is payable to the district on or before the last date upon which the water production statements shall be filed, and is computed by multiplying the production in acre-feet of water for each classification as disclosed in the statement by the groundwater charge for each classification of water. The owner or operator of a water-producing facility that is being permanently abandoned shall give written notice of the abandonment to the district. If any owner or operator of a water-producing facility fails to pay the groundwater charge when due, the district shall charge interest at the rate of 1 percent each month on the delinquent amount of the groundwater charge.

(c) If any owner or operator of a water-producing facility fails to register each water-producing facility, or fails to file the water production statements as required by this act, the district shall, in addition to charging interest, assess a penalty charge against the owner or operator in an amount of 10 percent of the amount found by the district to be due. The board may adopt regulations to provide that in excusable or justifiable circumstances the penalty may be reduced or waived.

(d) If any owner or operator of a water-producing facility fails to file a water production statement as required by this act, the district shall, in addition to charging interest and assessing a penalty charge, assess an administrative charge to recover the costs of collection. The board may adopt regulations to provide that in excusable or justifiable circumstances the administrative charge may be reduced or waived.

(e) If a water-measuring device is permanently attached to a water-producing facility, the record of production as disclosed by the water-measuring device shall be presumed to be accurate and shall be used as the basis for computing the water production of the water-producing facility in completing the water production statement, unless it can be shown that the water-measuring device is not measuring accurately.

(f) If a water-measuring device is not permanently attached to a water-producing facility, the board may establish a method or methods to be used in computing the amount of water produced from the water-producing facilities. The methods may be based upon any or all of the following criteria: the minimum charge sufficient to cover administrative costs of collection, size of water-producing facility discharge opening, area served by the water-producing facility, number of persons served by the water-producing facility, use of land served by the water-producing facility, crops grown on land served by the water-producing facility, or any other criteria that may be used to determine with reasonable accuracy the amount of water produced from that water-producing facility. The district may levy an annual charge upon a water-producing facility for which no production has been recorded but that has not been permanently abandoned if that charge does not exceed the annual cost to the district of maintaining and administering the registration of that facility.

**§ 26.10. Amendment of statement; correction of records**

Upon good cause shown, an amended statement of water production may be filed or a correction of the records may be made at any time within six months of filing the water production statement; provided that if pursuant to Section 26.13, the owner or operator has been notified of a determination by the district that the production of water from the water-producing facility is in excess of that disclosed by the sworn statement covering such water-producing facility, and such owner or operator fails to protest such determination in the manner and in the time set forth in Section 26.13, the owner or operator shall be precluded from later filing an amended water production statement for that period for such water-producing facility.

**§ 26.11. Record of water production and ground water charges**

The district shall prepare each year a record called "The Record of Water Production and Ground Water Charges" in which shall be entered a general description of the property upon which each water-producing facility is located, an identifying number or code which is assigned to such facility, the annual water production for each class of water produced from each water-producing facility, and the ground water charge for each class of water.

**§ 26.12. Injunctive relief; grounds; process; procedure**

The superior court of the county in which the district lies may issue a temporary restraining order upon the filing by the district with said court of a petition or complaint setting forth that the person named therein as defendant is the operator of a water-producing facility which has not been registered with the district, or that such defendant is delinquent in the payment of a ground water charge. Such temporary restraining order shall be returnable to said court on or before ten days after its issuance.

The court may issue and grant an injunction restraining and prohibiting the named defendant from the operation of any water-producing facility when it is established at the hearing that the defendant has failed to register such water-producing facility with the district, or that the defendant is delinquent in payment of ground water charges thereon. Such court may provide that the injunction so made and issued shall be stayed for a period not to exceed ten days to permit the defendant to register the water-producing facility or to pay the delinquent ground water charge.

Service of process is completed by posting a copy of the summons and complaint upon the water-producing facility or the parcel of land upon which it is located and by personal service upon the named defendant.

The right to proceed for injunctive relief granted herein is an additional right to those which may be provided elsewhere in this act or otherwise allowed by law. The procedure provided in Chapter 3 (commencing with *Section 525*), *Title 7, Part 2, of the Code of Civil Procedure*, regarding injunctions shall be followed except

insofar as it may herein be otherwise provided. The district shall not be required to provide an undertaking or bond as a condition to granting injunctive relief.

**§ 26.13. Excess water production; investigation and report; fixing amount of production; protest**

If the district has probable cause to believe that the production of water from any water-producing facility is in excess of that disclosed by the sworn statements covering such water-producing facility, or if no statements are filed covering any water-producing facility, the district may cause an investigation and report to be made concerning the production of water from each such water-producing facility. The district may fix the amount of water production from any such water-producing facility at an amount not to exceed the maximum production capacity of such water-producing facility; provided, however, where a water-measuring device is permanently attached thereto, the record of production, as disclosed by such water-measuring device, shall be presumed to be accurate.

After such determination has been made by the district, a written notice thereof shall be mailed to the person operating such water-producing facilities at the address shown by the district's records. Any such determination made by the district shall be conclusive on all persons having an interest in such water-producing facility, and the groundwater charge, interest and penalties thereon, shall be paid forthwith, unless such person files with the board within 15 days after the mailing of such notice, a written protest setting forth the ground or grounds for protesting the amount of production so fixed. Upon the filing of such protest, the board thereafter shall hold a hearing at which time the total amount of the water production and the groundwater charge thereon shall be determined, which shall be conclusive if based upon substantial evidence. If the water production statement was filed and the amount disclosed thereon was paid within the time required by this act, and the board finds that the failure to report the amount of water actually produced resulted from excusable or justifiable circumstances, the board may waive the charge of interest on the amount found to be due. A notice of such hearing shall be mailed to the protestant at least 10 days before the date fixed for the hearing. Notice of the determination by the board shall be mailed to each protestant, who shall have 20 days from the date of mailing to pay the groundwater charge, interest or penalties provided by the provisions of this act.

Notice as required in this section shall be given by deposit thereof in any postal facility regularly maintained by the government of the United States in a sealed envelope with postage paid, addressed to the person on whom it is served at the name and address disclosed by the records of the district. The service is complete at the time of deposit.

**§ 26.14. Collection of delinquent charges; interest and penalties; attachment**

The district may bring a suit in the court having jurisdiction against any operator of a water-producing facility within the district for the collection of any delinquent ground water charge. The court having jurisdiction of said suit, may, in addition to allowing recovery of costs to said district as allowed by law, fix and allow as part of the judgment interest and penalties as provided in Section 26.9. Should the district, as a provisional remedy in bringing such suit, seek an attachment against the property of any named defendant therein, the district shall not be required to provide a bond or undertaking as is otherwise provided for in the Code of Civil Procedure of the State of California in Chapter 4 (commencing with Section 537), Title 7, Part 2, thereof.

**§ 26.15. Production from unregistered facilities; violations; penalties**

It shall be unlawful to produce water from any water-producing facility required to be registered pursuant to the terms of this act unless such water-producing facility has been registered with the district within the time required by the provisions of this act and, if required by the board, has a water-measuring device affixed thereto capable of registering the accumulated amount of water produced therefrom.

Violation of this provision shall be punishable by a fine not to exceed five hundred dollars (\$500), or imprisonment in the county jail for not to exceed six months, or by both such fine and imprisonment. Each day of operation in violation hereof shall constitute a separate offense.

**§ 26.16. Interfering or tampering with measuring device; filing fraudulent statements**

Any person who injures, alters, removes, resets, adjusts, manipulates, obstructs or in any manner interferes or tampers with or procures or causes or directs any person to injure, alter, remove, reset, adjust, manipulate, obstruct or in any manner interfere or tamper with any water-measuring device affixed to any water-producing facility as required by this act, so as to cause said water-measuring device to improperly or inaccurately measure and record said water production, or any person who willfully does not file with the district a water production statement as prescribed and within the time required by this act, or any person who willfully removes or breaks a seal attached to an abandoned water-producing facility, or any person who with intent to evade any provision or requirement of this act files with the district any false or fraudulent water production statement is guilty of a misdemeanor and is punishable by a fine not to exceed five hundred dollars (\$500), or imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment.

**§ 26.17. Enforcement powers**

In implementing the enforcement of the provisions of this act relating to ground water charges, the district shall have the power, in addition to the powers enumerated elsewhere in this act:

1. To install and maintain water-measuring devices, and other devices which will aid in determining accurate water production, on water-producing facilities not owned by the district.
2. To affix seals to water-producing facilities which the owner or operator thereof has declared to be abandoned, or are in fact permanently abandoned.
3. To enter on to any land for the purposes enumerated in this section and for the purpose of making investigations relating to water production.

**§ 27. Repeal or amendments; effect upon obligations**

The repeal or amendment of this act or the change in boundaries of any zone of the district shall not in any way affect or release any of the property in said district or any zone thereof from the obligations of any outstanding bonds or indebtedness until all such bonds and outstanding indebtedness have been fully paid and discharged.

**§ 28. Right of way over public lands**

There is hereby granted to the district the right-of-way for the location, construction and maintenance of flood control channels, ditches, waterways, conduits, canals, storm dikes, embankments, and protective works in, over and across public land of the State of California, not otherwise disposed of or in use, not in any case exceeding in length or width that which is necessary for the construction of such works and adjuncts or for the protection thereof. Whenever any selection of a right-of-way for such works or adjuncts thereto is made by the district the board thereof must transmit to the State Lands Commission, the Controller of the State and the recorder of the county in which the selected lands are situated, a plat of the lands so selected, giving the extent thereof and the uses for which the same is claimed or desired, duly verified to be correct. If the State Lands Commission shall approve the selections so made it shall endorse its approval upon the plat and issue to the district a permit to use such right-of-way and lands.



**§ 29. [Section repealed 1976.]**

**§ 30. Claims for money or damages; law governing; other claims; procedure**

Claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with *Section 940*) of *Division 3.6 of Title 1 of the Government Code*, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared and presented to the governing body and all claims shall be audited and paid, in the same manner and with the same effect as are similar claims against the county.

**§ 31. Property**

The legal title to all property, except shares of stock in mutual water companies or corporations, as provided in *Section 17 of Article XVI of the California Constitution*, acquired under this act shall immediately and by operation of law vest in the district, and shall be held by the district, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act. The board may hold, use, acquire, manage, occupy, and possess the property, as herein provided; and the board may determine, by resolution duly entered in their minutes that any real property, or interest therein, held by the district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell, lease, or otherwise dispose of the property pursuant to this section.

Real property that, in the unanimous judgment of the board, has no access to a public road, or that consists of an easement for ingress and egress to property that, by the terms of the easement, will terminate when ingress and egress is supplied to the property by a public road, may be sold, leased, or conveyed by the board on terms prescribed by it.

The board may reconvey real property to the former owner by whom the property was conveyed, or from whom the property was condemned by the district, or the owner's successor in interest for fair market value. Fair market value shall be determined by a qualified real estate appraiser. However, the district may reconvey real property to the former owner or his or her successor in interest for less than fair market value if the district finds that a public purpose exists justifying that reconveyance for less than fair market value.

The board may by a majority vote exchange real property of equal value with any person, firm, or corporation for the purpose of removing defects in the title to real property owned by the district or where the real property to be exchanged is not required for district use and the property to be acquired is required for district use.

In all other cases, the board shall be governed in the sale, lease, or other disposition of real property by the requirements of law governing that action by counties; provided, however, that notice of the board's intended action shall be as prescribed in *Section 25363 of the Government Code*.

The board may by resolution prescribe a procedure for the leasing of real property owned by the district alternative to the requirements of law governing counties.

The board may by a majority vote sell, lease, or otherwise transfer to the state, the County of Santa Clara, or to any city, school district, or other special district within the Santa Clara Valley Water District, or exchange with the public entities, any real or personal property or interest therein belonging to the district upon the terms and conditions that are agreed upon.

The board shall establish regulations for the trade in, survey, sale, or other disposition of personal property held by the district and no longer necessary to be retained for the uses and purposes thereof; provided, however, that any sale of personal property having a sale value in excess of that value stated from time to time by *Section 1041.6 of Article 2 of Subchapter 3 of Chapter 2 of Division 2 of the California Code of Regulations* as a definition of "fixed assets," or any lower value as may be determined by the board, shall be made upon

public bid preceded by notice of the board's intended action given as prescribed in *Section 25363 of the Government Code*.

**§ 32. Action to test validity of district**

The district formed under this act in order to determine the legality of its existence, or any contract entered into by the district, may institute a proceeding therefor in the superior court of this State, in and for the County of Santa Clara, by filing with the clerk of said county a complaint setting forth the name of the district, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal flood control and water conservation and development district formed under the provisions of this act, or setting forth the name of the district, the parties to and nature of the contract, a copy of the contract, and a prayer that it be adjudged a legal contract. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in a newspaper of general circulation published in said county. The State of California shall be a defendant in such action, and consent therefor is given. Service of summons therein shall be made on the Attorney General. The Attorney General shall appear in such action on behalf of the State in the same manner as with appearances in civil actions. Within thirty (30) days after proof of publication of said summons shall have been filed in said proceeding, the State, any property owner or resident in said district, or any person interested may appear as a defendant in said action by serving and filing an answer to said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of the district, or the contract, and shall be served upon the attorney for said district before being filed in such proceeding. Such proceeding is hereby declared to be a proceeding in rem and the final judgment rendered therein shall be conclusive against all persons whomsoever, including the district and the State of California.

**§ 33. Qualification of officers and employees; oath; compensation of directors**

Each person elected or appointed to the office of director shall, within 10 days after receiving his or her certificate of election, or notice of appointment, qualify as such by taking and subscribing to an official oath. The director shall file his or her official oath with the clerk of the board.

The board may authorize each director to receive compensation not exceeding one hundred dollars (\$100) per day for each day's attendance at meetings of the board, or committees thereof, or for each day's service rendered as a director by request of the board. No director may receive total compensation, other than for actual and necessary expenses, in excess of six hundred dollars (\$600) per month.

Employees appointed by the board under this act, when required by the board of the district, shall execute bonds conditioned, executed, approved, filed, and recorded in the general manner and form provided by law for officers, other than supervisors, of the county, before entering upon the duties of their respective employments.

**§ 34. Liberal construction**

This act, and every part thereof, shall be liberally construed to promote the objects thereof, and to carry out its intents and purposes.

**§ 34.5. Exemption from special assessment investigation, limitation and majority protest act**

The provisions and procedures of law available under this act are not subject to "The Special Assessment Investigation, Limitation and Majority Protest Act of 1931."

**§ 35. Partial invalidity**

If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

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# Joint Meeting of the Santa Clara Valley Water District Board of Directors and County of Santa Clara Board of Supervisors

- Strengthening the Partnership Between the Santa Clara Valley Water District and the County of Santa Clara
- The Master Partnership Agreement (providing recreational opportunities on District and County properties)



# Sixty Years: Multiple Benefits of Shared Use





# Sixty Years: Multiple Benefits of Shared Use Roles and Responsibilities



# Purpose: Seek Policy Guidance, Based on the District Legislative Act

- emphasizing stewardship, county parks support, land acquisition, and construction and long-term management of recreational improvements



# Legislative Framework: District and County



Joint Meeting of the Santa Clara Valley Water District Board of Directors and County of Santa Clara Board of Supervisors



- County Charter – County Purposes
- Parks General Plan Parks and Recreation Element – Park Purposes
- Park Charter



# Legislative Framework:

## District

## County

- Regional Parks and Public Open Space Lands
- Trails and Pathways
- Strategies, Policies, and Implementation including interjurisdictional coordination
- Countywide Trails Master Plan
- Master Plans and Strategic Plan
- Acquisition Plan



# Santa Clara Valley Water District Act (Legislative Act Creating District): Powers

Section 5: Nature of District;  
powers: Subsections 4,  
12,16

- Contract and employ labor for full exercise of powers

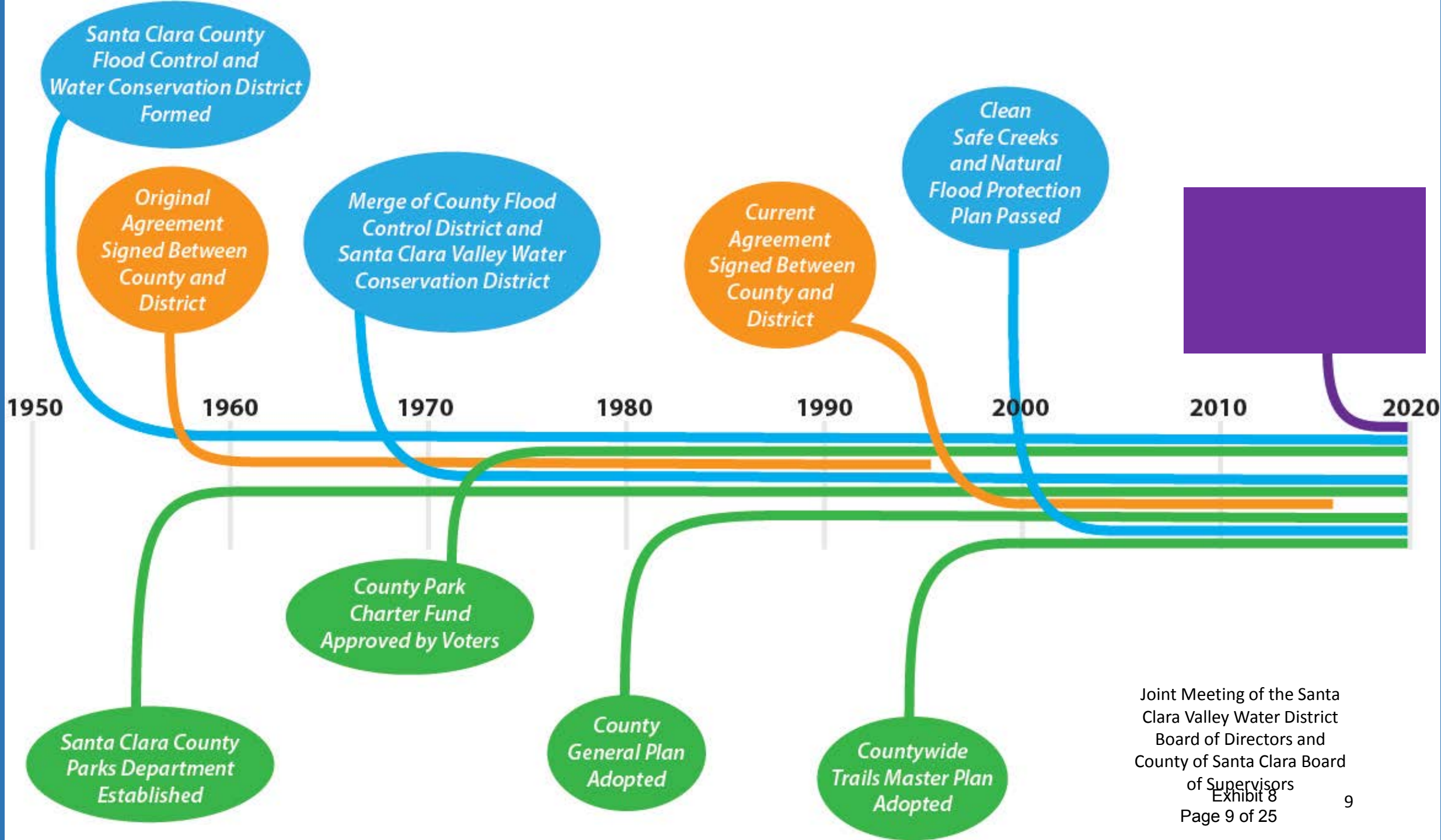
- Acquire, construct, maintain, operate, and install recreational facilities



- Recent Funding Measures
  - Joint Management
  - Reservoirs and Trails
- 
- District Legislative Act
  - County Park Charter (Relates to General Plan)







# Early Days of Public Access







# Where we are Today





# Public Use/Recreation



Joint Meeting of the Santa Clara Valley Water District Board of Directors and County of Santa Clara Board of Supervisors



Exhibit 8  
Page 12 of 25



# Safe, Clean Water and Natural Flood Protection Program

- Measure B, 2012
- 15 years (expires 2028)
- 73.69% Yes

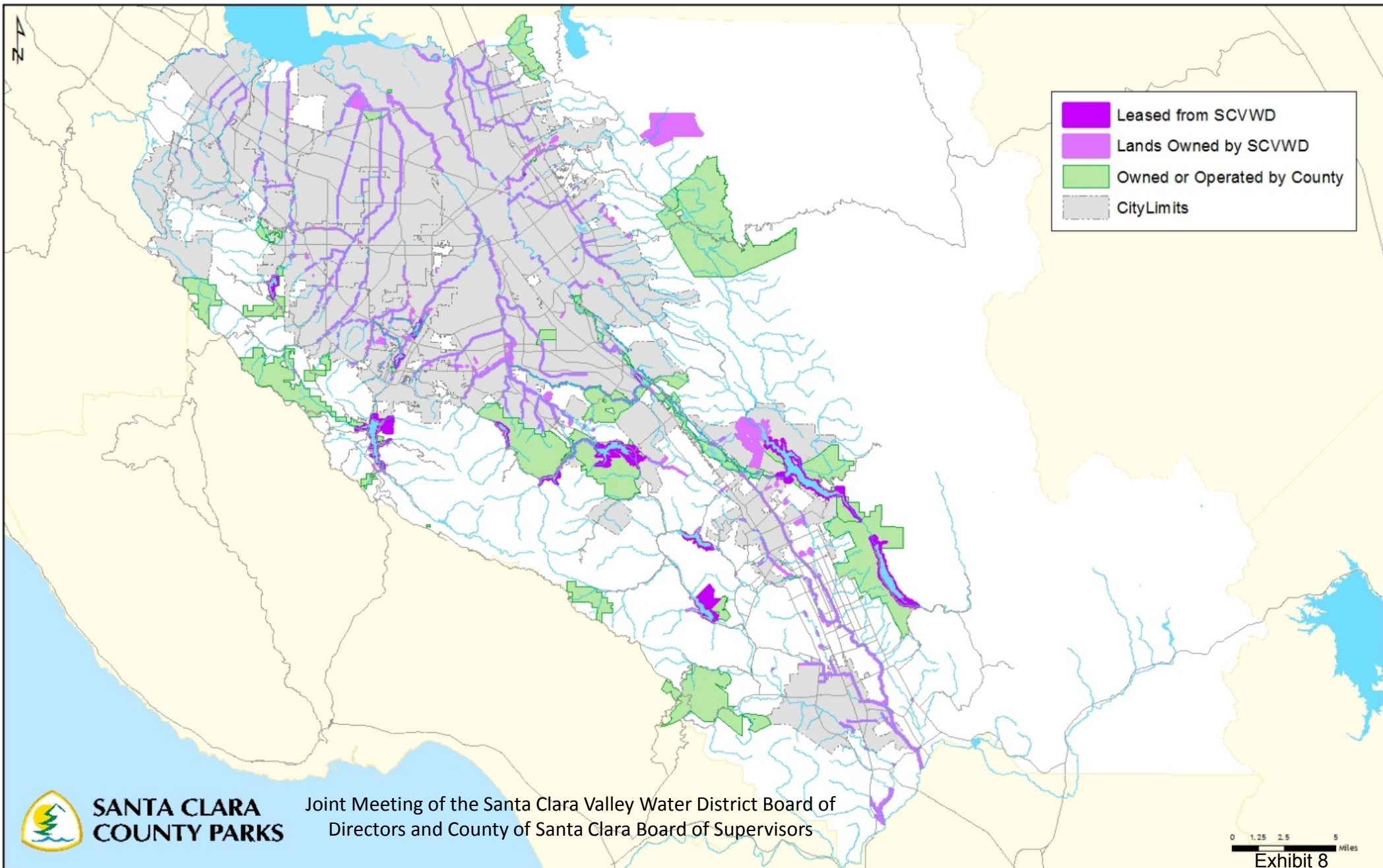


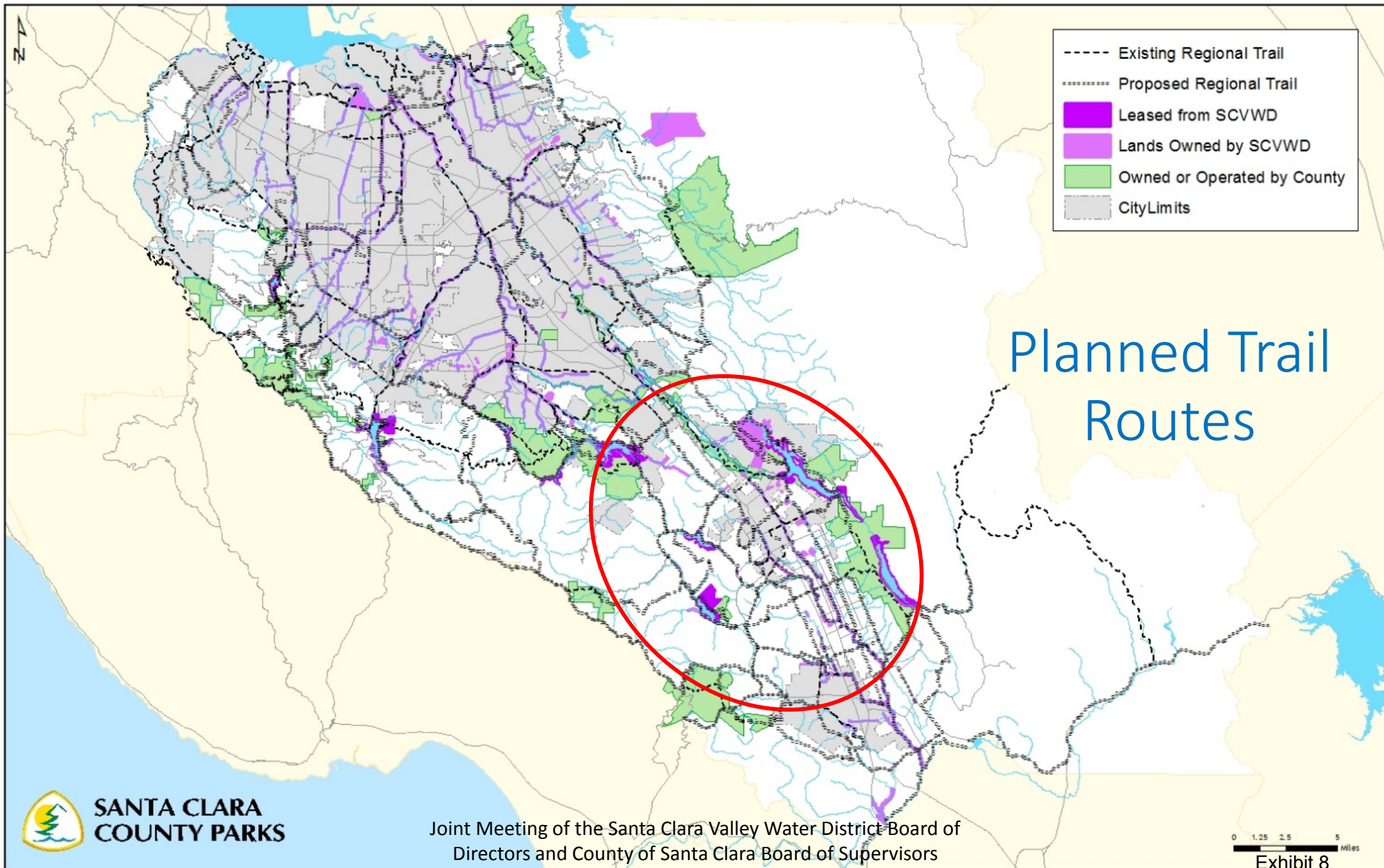
Joint Meeting of the Santa Clara Valley Water District Board of  
Directors and County of Santa Clara Board of Supervisors

alternative driving trails  
recreational connections Improving water park  
ecosystems resources Reducing residents  
health access historic services Providing  
regional role healthy programs experience  
trail impacts county more  
cultural educational physical  
Expanding parks sites buildings  
Adding change climate visitor  
enhance Playing recreation natural  
Preserving existing habitat  
technology everyone  
countywide Protecting  
facilities quality  
well-being  
Maintaining including

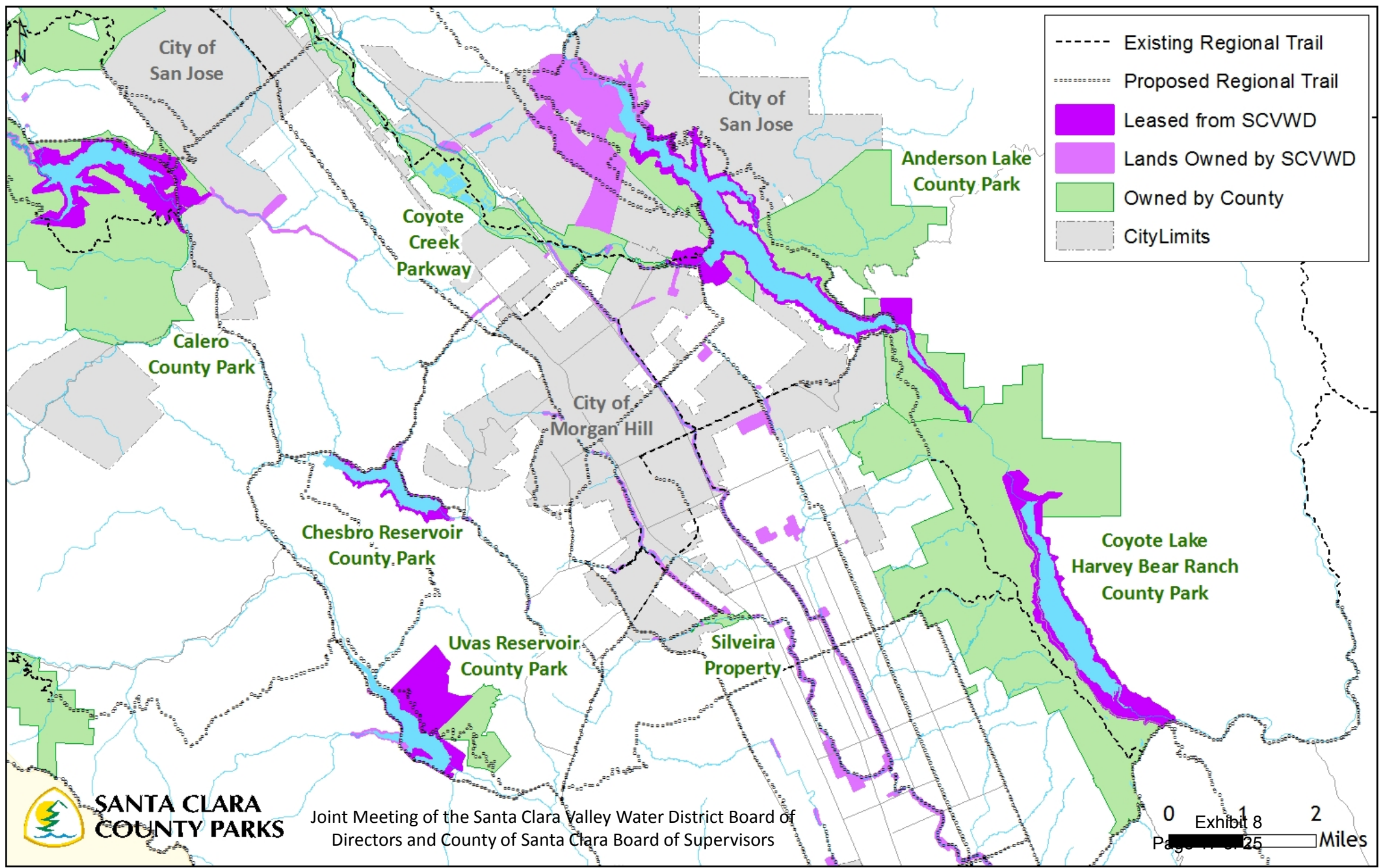








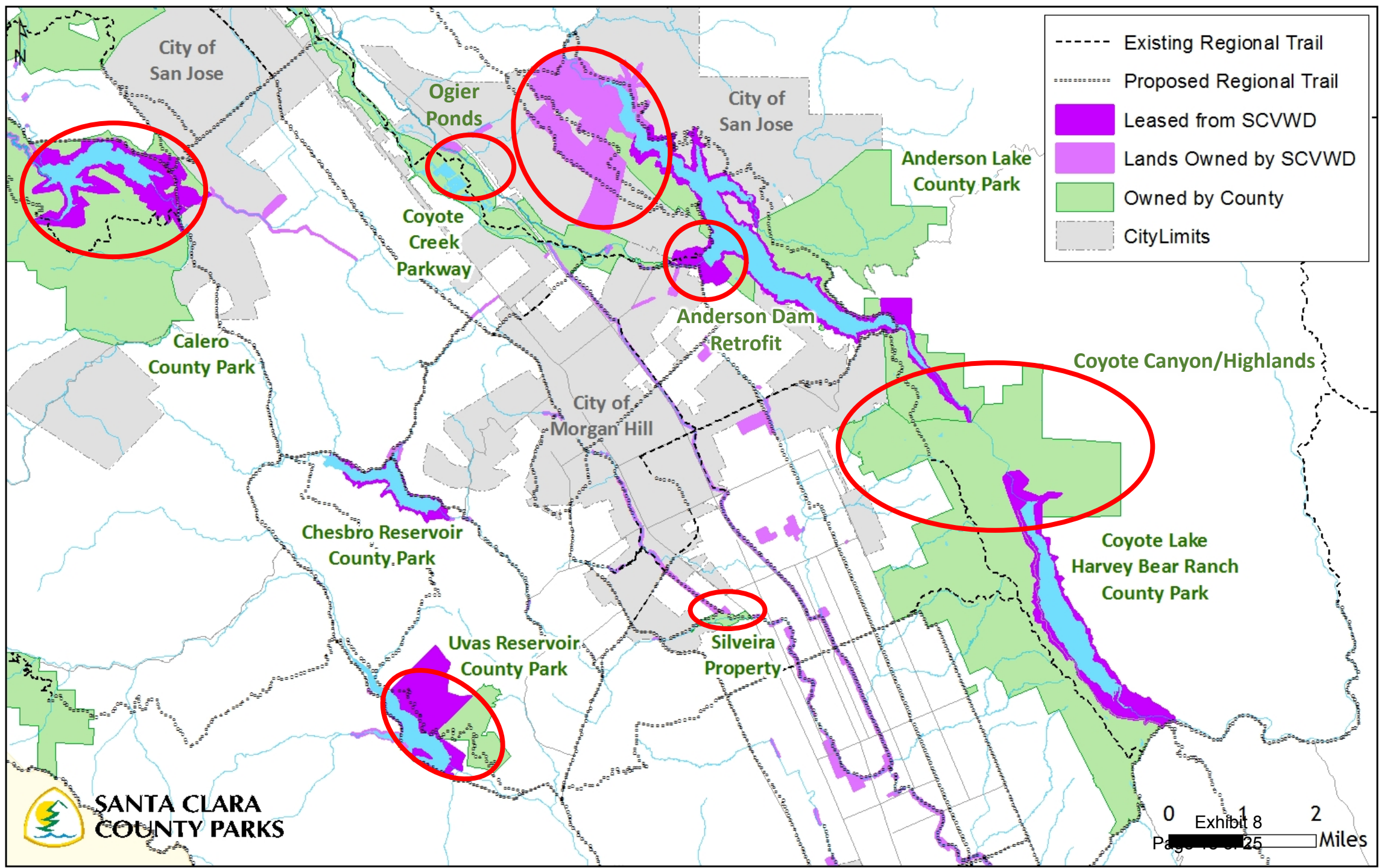




**SANTA CLARA  
COUNTY PARKS**

Joint Meeting of the Santa Clara Valley Water District Board of  
Directors and County of Santa Clara Board of Supervisors

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Exhibit 8  
Page 17 of 25 Miles

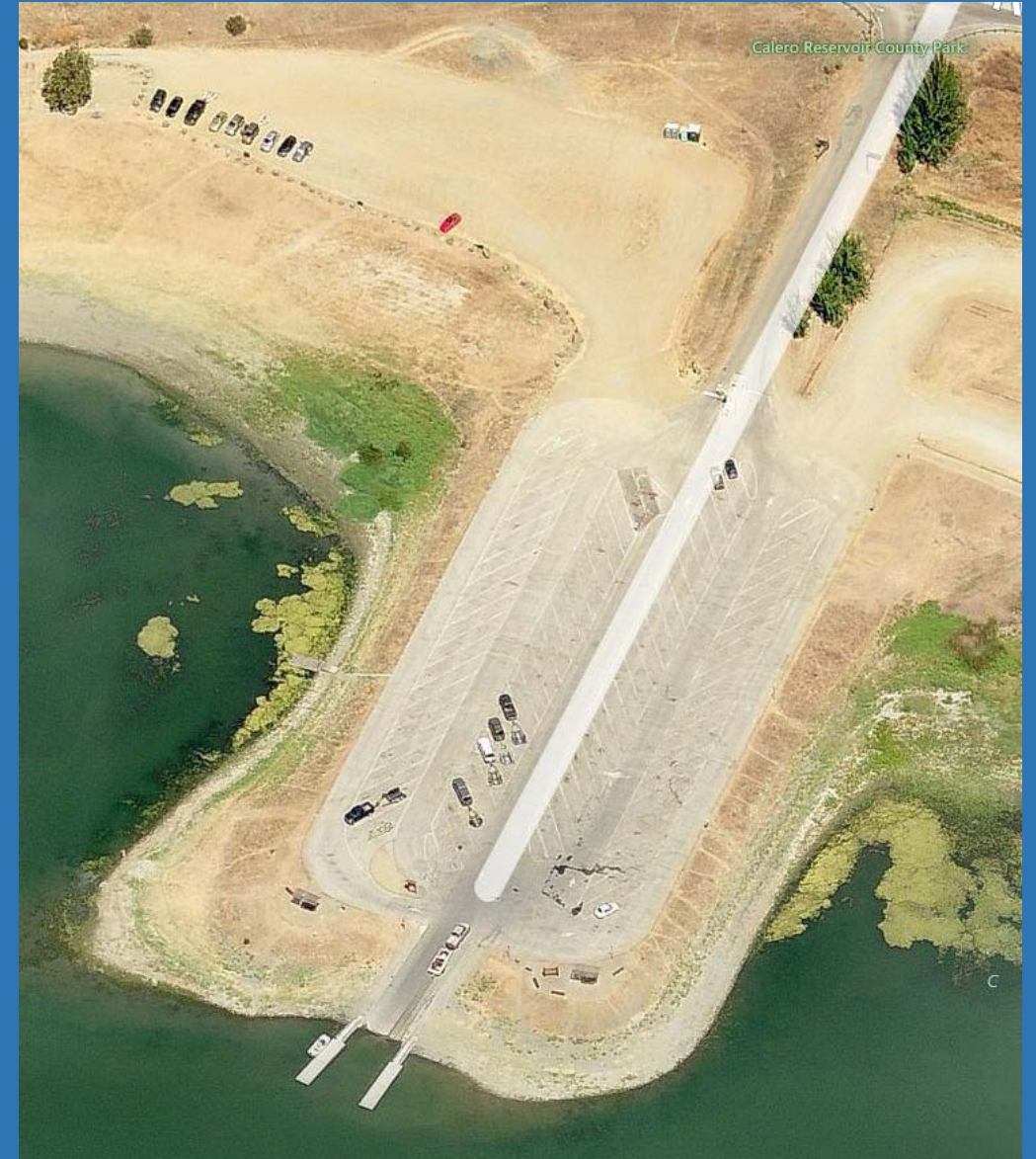








# Infrastructure Developed on District Lands at Calero





# Looking Forward: Collaboration on Capital Projects

- Recreational improvements related to water access (boat ramps, dock installation)
- Trail linkage and construction parallel to riparian corridors (Use of existing/planned levees)
- Incorporate trails and other recreational improvements into public works
- Use of District properties not currently covered by agreement for trail and/or recreational uses
- Other possible future partnerships (e.g. visitor centers, shared use facilities)
- Other possibilities not yet considered

# County Requests for Strengthened Commitment At Policy Level within new Master Agreement

## Public Access and Recreational Use of District Property

- Clarifying limited conditions for discontinuing recreational use
- Removing County responsibility for paying to remove recreational amenities
- Agreeing to consider mitigating the loss of recreational use due to District decisions and project impacts
- Agreeing to balanced apportionment of liability

# Key Issues to Resolve

Issue	District Proposal	County Proposal
Assets Upon Termination or Discontinued Access to Some Reservoirs	<p>County removes any County improvements incompatible with subsequent use of property.</p> <p>District to clarify what conditions may allow it to terminate/discontinue early, and notice period.</p>	<p>Discontinuance of Use limited to critical public safety or other defined need.</p> <p>District to bear costs for removal of recreational amenities.</p> <p>District to consider mitigation for loss of public access and recreational use</p>
Liability	No modification of existing indemnity obligations.	Modify indemnity obligations to extend greater risk and liability to the District
Cost Sharing	District will consider cost sharing on only joint-use facilities, such as boat ramps	Identify long term opportunities for coordination, collaboration & cost sharing on new/replacement facilities
Coordination in Planning	Broaden descriptions & scope of mutual early planning & engagement	Commit to mutual systematic & early engagement in system & project plans



# Key Issues to Resolve

Issue	District Proposal	County Proposal
Assets Upon Termination or Discontinued Access to Some Reservoirs	<p>County removes any County improvements incompatible with subsequent use of property.</p> <p>District to clarify what conditions may allow it to terminate/discontinue early, and notice period.</p>	<p>Discontinuance of Use limited to critical public safety or other defined need.</p> <p>District to bear costs for removal of recreational amenities.</p> <p>District to consider mitigation for loss of public access and recreational use</p>
Liability	No modification of existing indemnity obligations.	Modify indemnity obligations to extend greater risk and liability to the District
Cost Sharing	District will consider cost sharing on only joint-use facilities, such as boat ramps	Identify long term opportunities for coordination, collaboration & cost sharing on new/replacement facilities
Coordination in Planning	Broaden descriptions & scope of mutual early planning & engagement	Commit to mutual systematic & early engagement in system & project plans

**File No.:** 17-0317

**Agenda Date:** 5/18/2017

**Item No.:** 5.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Consider Recommendations Relating to County of Santa Clara County and Santa Clara Valley Water District Efforts to Reduce Homelessness.

### **RECOMMENDATION:**

- A. Receive report from the Office of Supportive Housing; and
- B. Receive report from the Santa Clara Valley Water District.

### **SUMMARY:**

This report provides an update on the efforts of the County's Office of Supportive Housing and the District to reduce homelessness in Santa Clara County.

### **The Office of Supportive Housing**

#### **Supportive Housing System**

There are a number of program models for responding to homelessness, some of which are more effective than others at helping families and individuals return to permanent housing. Shelter or housing-based responses to homelessness can be divided into two main types: *temporary housing* (including emergency shelter and transitional housing programs) and *permanent housing* (including rapid rehousing, permanent supportive housing, and homelessness prevention programs).

**Emergency shelter (ES)** programs respond to the crisis of homelessness, providing immediate shelter from the elements, access to meals, and connections to services and resources. Most shelters for adults offer bunks or cots in shared rooms with strict rules regarding behavior and alcohol and drug use. Shelter guests are usually required to leave the shelter during the day, and when demand is higher than the available beds, might not be guaranteed access to a bed the following night. Both nationally and in Santa Clara County, emergency shelter has been found to be ineffective in moving people out of homelessness. In FY 2013-14, only 15% of people exiting emergency shelters moved into permanent housing in Santa Clara County.

**Transitional Housing (TH)** programs provide temporary housing (usually no more than 2 years) with attached services focused on helping people prepare to obtain housing upon program exit. Units can be anything from an enclosed cubicle with reserved bed at a shelter facility to an apartment in the community. Transitional housing programs are intended to provide time and resources for individuals

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and families to gain education, employment, and income so that they are able to obtain housing upon exiting the program. Transitional housing can be effective for people who need and desire a temporary structured program environment and who have the potential to increase their income to the point that they can afford housing in the local market. However, those with fixed incomes and other barriers to obtaining and maintaining housing face the same challenges upon exiting a transitional program that they did when they entered it. In FY 2013-14, only 34% of people exiting transitional housing programs in Santa Clara County exited to permanent housing.

**Rapid Rehousing (RRH)** is a permanent housing program that provides short-term financial assistance and support (4 to 6 months, on average) to quickly re-house homeless households in their own independent housing. Programs participants may start off paying 30% of their adjusted gross income towards rent, but their subsidies could gradually decrease and become shallower. Eventually, RRH participants are expected to transition in place and take over the full lease of the unit in which they currently reside. The goal is to quickly move households out of homelessness and back into permanent housing, providing the lightest level of service necessary to assist the household. Supportive services typically include housing search, landlord mediation, and case management. Rapid rehousing is effective for families and individuals who are episodically homeless and have the ability to generate sufficient income to afford housing long-term. According to the United States Interagency Council on Homelessness, “data from some experienced programs indicate that 90 percent of households served by rapid rehousing are successfully housed and do not return to shelter.” Under the federal stimulus funded Homelessness Prevention and Rapid Rehousing Program (HPRP) in San Jose, 75% of homeless households receiving rapid rehousing assistance from 2009-2012 successfully maintained their housing at program exit.

**Permanent supportive housing (PSH)** is designed for chronically homeless and other highly vulnerable individuals and families who need long-term support to stay housed. Residents typically face significant barriers to housing, such as serious mental illness, substance abuse, chronic health conditions, and other disabilities. Programs move people directly into housing and provide deep housing subsidies, case management, and other supportive services. Permanent supportive housing has no time limitation, providing support for as long as needed and desired by the resident. Nationally, permanent supportive housing is considered a highly successful strategy for ending chronic homelessness. The national 100,000 Homes campaign, which supported local communities in housing 100,000 chronically homeless individuals through permanent supportive housing, found that 84% of people housed remained housed for at least one year. In FY 2013-14, 98% of people in permanent supportive housing programs in Santa Clara County maintained their housing for at least 12 months.

**Homelessness prevention (HP)** programs stop homelessness before it starts by providing financial assistance and services to prevent families and individuals from losing their housing. Assistance may be one-time or for a short period. Supportive services may be provided in addition to financial assistance, or households might be connected to other resources in the community. In Santa Clara County the Emergency Assistance Network provides one-time financial assistance to households facing eviction. Prevention services are also provided by Supportive Services for Veteran Families grantees. The effectiveness of prevention programs is difficult to prove because it is unknown if the household would have become homeless without assistance or if they would have found another way to stay housed. Under the federal stimulus funded HPRP Program in San Jose, 83% of homeless

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households receiving prevention assistance from 2009-2012 successfully maintained their housing at program exit.

**Temporary and Permanent Housing.** While emergency shelter serves a purpose in keeping people off the streets and transitional housing can be successful for some populations, national research and local experience show that permanent housing solutions are the most effective response to homelessness. *The Community Plan to End Homelessness in Santa Clara County 2015-2020 (Community Plan)*, endorsed by the County Board of Supervisors in January 2015, proposes three program models: permanent supportive housing for those who are chronically homeless, rapid rehousing for those experiencing episodic homelessness, and prevention programs for those at risk. For individuals who are enrolled in permanent housing programs but who are still searching for a housing unit, shelters, motels, or transitional housing can serve as “interim” or “bridge” housing.

**Continuum of Care (CoC).** In addition to temporary and permanent housing programs, the Office of Supportive Housing (OSH) is responsible for managing and supporting the ongoing improvement of the supportive housing system. The OSH accomplishes this through a countywide Homeless Management Information System (HMIS), a Coordinated Entry System (i.e., streamlined assessments and referral processes), and a system-wide performance management system. Most, but not all, of these activities are mandated by the U.S. Department of Housing and Urban Development (HUD) as part of the HUD CoC Program.

### ***Status of the Supportive Housing System***

Since the adoption of the *Community Plan*, the County has worked with the cities, the Housing Authority, Destination: Home, service providers, and other stakeholders to expand and improve the supportive housing system. Key accomplishments include the following:

- In 2015, 1,215 homeless persons housed; in 2016, 1,741 homeless persons were housed.
- In the first year of the campaign to end veteran homelessness (All the Way Home), 510 homeless veterans were housed.
- The *Community Plan* calls for the addition of 6,000 housing opportunities for homeless persons. The opportunities include tenant-based rental assistance programs and new housing units that are set aside for homeless persons. According the 2016 Annual Report, Santa Clara County added 1,505 housing opportunities between January 2015 and December 2016.

In FY 2017, the County and its partners will implement several new programs including a \$3.4 million 24-month homelessness prevention pilot program and approximately in new rapid rehousing programs for families and individuals. Equally important, the County will begin implementing the 2016 Measure A Affordable Housing Bond. One of the goals will be to develop or finance 4,800 new housing units that are affordable to extremely low income and very low income households, with at least 1,900 of the units set aside as permanent supportive housing.



**Santa Clara Valley Water District**

As the agency responsible for managing an integrated water resources system in Santa Clara County, the District utilizes valuable public resources to address the negative impacts of homeless encampments to creeks and streams. Many of these encampments reappear in the same location or further down the creek and undermine the health of our watersheds as they result in damage to creek banks, deterioration of water quality and substantial increases in the volume of trash and debris that wind up in creeks and the San Francisco Bay.

**Homeless Encampment Ad Hoc Committee Established**

The District Board recognizes that homelessness is a regional crisis requiring creative solutions, shared resources, and collaboration among service providers, government agencies, and the community. On January 26, 2016, the Board established a Homeless Encampment Ad Hoc Committee to discuss homelessness and encampment issues, and bring discussion and recommendations back to the Board. During the year, the committee has had held meetings to identify solutions to homelessness encampments, heard from experts and the community, and brought recommendations to the Board.

**Board Supports Measure A**

In July 2016, the Board voted to support the \$950 million Santa Clara County (County) Affordable Housing Bond Measure (Measure A), which provides funding for housing. The District has a unique interest in being part of that solution, because the District spends millions of dollars each year on cleaning up homeless encampments along local waterways.

**\$350,000 for Partnership with the City of San José to Fund Downtown Streets Team**

In November 2016, the Board authorized investing \$350,000 from the voter-approved Safe, Clean Water and Natural Flood Protection Program to fund an extension of the City of San Jose's Downtown Streets Team program to remove trash and debris at encampments along local waterways. The Downtown Streets Team is a local non-profit that provides job training and other services to homeless individuals. It also connects the homeless with social services.

**Municipalities with Housing Authority Given First Right to Purchase District Surplus Lands**

In November 2016, the Board directed that the District give municipalities with housing authorities the first right to purchase its surplus lands to support the development of permanent housing. These include the County's Pay for Success programs, which prioritizes providing shelter for homeless individuals and families in the county.

**60 Acres Land Declared Surplus**

During the year, the Board declared nearly 60 acres of land as surplus, and these were offered for sale to the County and local municipalities to support the development of permanent housing. The surplus lands are located within county unincorporated areas, and in the cities of San José, Morgan Hill, and Gilroy. However, no agency offered to buy the lands.

**Encampment Cleanups with Cities**

The District conducts encampment cleanups along the streams to prevent trash and debris getting into the waterways, where it can potentially degrade water quality, impact flood flow conveyance and

the health of watersheds.

Since the 1990s, the District has carried out encampment cleanups along waterways. Because the District does not have police powers or the supportive housing/social services authority, we partner with cities, such as San Jose and Gilroy, police departments and social service providers on homeless cleanups, and to link the homeless population with appropriate health and human services.

In Fiscal Year 2017, the District removed a total of 697 tons (3,233 cubic yards) of trash and debris from 313 encampment sites throughout Santa Clara County. Since July 2013, the District has spent over \$3.1 million on homeless encampment cleanups. The joint efforts with cities include:

- Posting notices at locations with information about upcoming cleanups
- Coordinating with the city, County and social service organizations to provide support before and during cleanups for those displaced
- Police support before and during cleanups
- Sorting, bagging and storing personal belongings of those displaced and supervision of those belongings
- Supervising labor crews

#### Supporting City of San José Park Ranger

Since 2013, the Board has invested \$175,000 annually in the City of San Jose's Park Ranger Program to prevent re-encampment at sites already cleaned up through the joint efforts. The goal is to:

- Improve public safety along local waterways in San Jose
- Reduce camping, dumping and prevent re-encampment
- Reduce stream pollution and litter in the riparian corridor
- Protect water quality, fish and wildlife, and reduce blockages in local creeks for improved flood protection.

The presence of park rangers has had a significant impact in reducing the number of large and more heavily entrenched encampments along the Guadalupe River and to a lesser extent those along Coyote Creek and Los Gatos Creek.

#### Legislative Updates

##### *SB 519 (Beall) District Act Revision - Now a Two-Year Bill*

SB 519, authored by Senator Jim Beall, is the District-sponsored bill that would amend the District Act to require that a vacancy of the Board be appointed from the electoral district from which the vacancy occurred, and to clarify the District's authority to address homeless encampments. The bill was scheduled to be heard on April 5 in the Senate Governance and Finance Committee (Committee), but was pulled from the agenda at the request of Senator Beall.

The Committee's consultant had several concerns with the way in which the language was drafted. Despite the District staff offering two alternative versions of the language to satisfy the Committee's concerns, each more limiting in scope for the District, the Chair rejected all the language proposed

and offered to move the bill only if the homelessness provision was removed from the bill.

Although the bill had garnered significant support from advocates for the homeless, the Committee's concerns were too much to overcome, and after conferring with Senator Beall's staff, the decision was made to pull the bill from the Committee agenda.

This action forced the bill to miss key legislative deadlines for passage in 2017, as such the bill has becomes a 2-year bill. District staff is continuing to work on the homelessness provision with the Committee over the fall in order to remove the concerns for next year. Under legislative rules, the bill may be reconsidered in January 2018.

### *SB 3 (Beall) Affordable Housing Bond Act - In Senate Appropriations Committee*

In 2006, voters passed Proposition 1C, the Housing and Emergency Shelter Trust Fund Act of 2006, which authorized \$2.85 billion in general obligation bonds for housing and related capital improvements. A report by the California Department of Housing and Community Development's Division of Financial Assistance states that, as of June 30, 2015, Santa Clara County (County) has received \$146,815,755 from Proposition 1C (6.4% of total bond funds available), which has assisted in the creation of 7,804 units of affordable housing throughout the County. The cost per unit has averaged \$18,812.89. Proposition 1C was approved by voters by a margin of 57.8% to 42.2%.

SB 3 would authorize the issuance of \$3 billion in general obligation bonds, subject to the approval of a simple majority of voters in the November 2018 general election, for the following affordable housing purposes.

1. \$1.5 billion to the Multifamily Housing Program, to be used to assist in the construction, rehabilitation, and preservation of permanent and transitional rental housing for persons with incomes of up to 60 percent of the area's medium income (\$56,312.40 in 2014 dollars).
2. \$600 million for the Transit-Oriented Development Implementation Fund, which shall be used for the following purposes.
  - a. \$200 million for the Transit-Oriented Development Implementation Fund;
  - b. \$300 million for the Infill Infrastructure Financing Account, to be used to assist in the new construction and rehabilitation of infrastructure that supports high-density affordable and mixed-income housing in locations designed as infill; and
  - c. \$100 Million for the Building Equity and Growth in Neighborhoods (BEGIN), to be used for down payment assistance for low- and moderate-income buyers purchasing newly constructed homes in a BEGIN project.
3. \$600 million to be deposited in the Special Populations Housing Account, which shall be used

for the following purposes:

- a. \$300 million for the Joe Serna, Jr. Farmworker Housing Grant Fund; and
  - b. \$300 million for the Local Housing Trust Matching Grant Program Account, which provides matching grant funds for public agencies and nonprofit organizations that raise money for affordable housing.
4. \$300 million for the Home Ownership Development Account to be used for the CalHome Program.

If SB 3 is passed and approved by voters in the November 2018 general election, it would provide state and local housing agencies with funding which may potentially increase the County's affordable housing stock and assist in addressing homelessness in Santa Clara County. The District Board voted to take a "Support" position on SB 3 on March 28, 2017. The bill is currently in the Senate Appropriations Committee and is set to be heard as part of the suspense file on May 26th.

Homelessness is a regional crisis requiring creative solutions, shared resources, and collaboration among service providers, government agencies, and the community. The District supports a countywide approach which not only aligns with a commitment to explore relevant solutions, but also advances District goals in preventing further damage to creeks, habitat, and mitigates costs associated with cleanups.

**FINANCIAL IMPACT:**

This is an information item and has no financial impact.

**CEQA:**

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

Exhibit 1: PowerPoint

**UNCLASSIFIED MANAGER:**

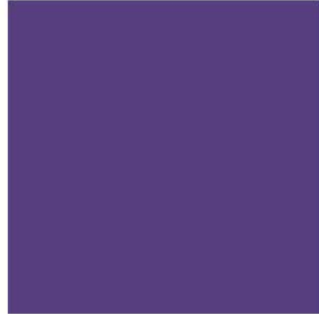
Melanie Richardson, 408-630-2035

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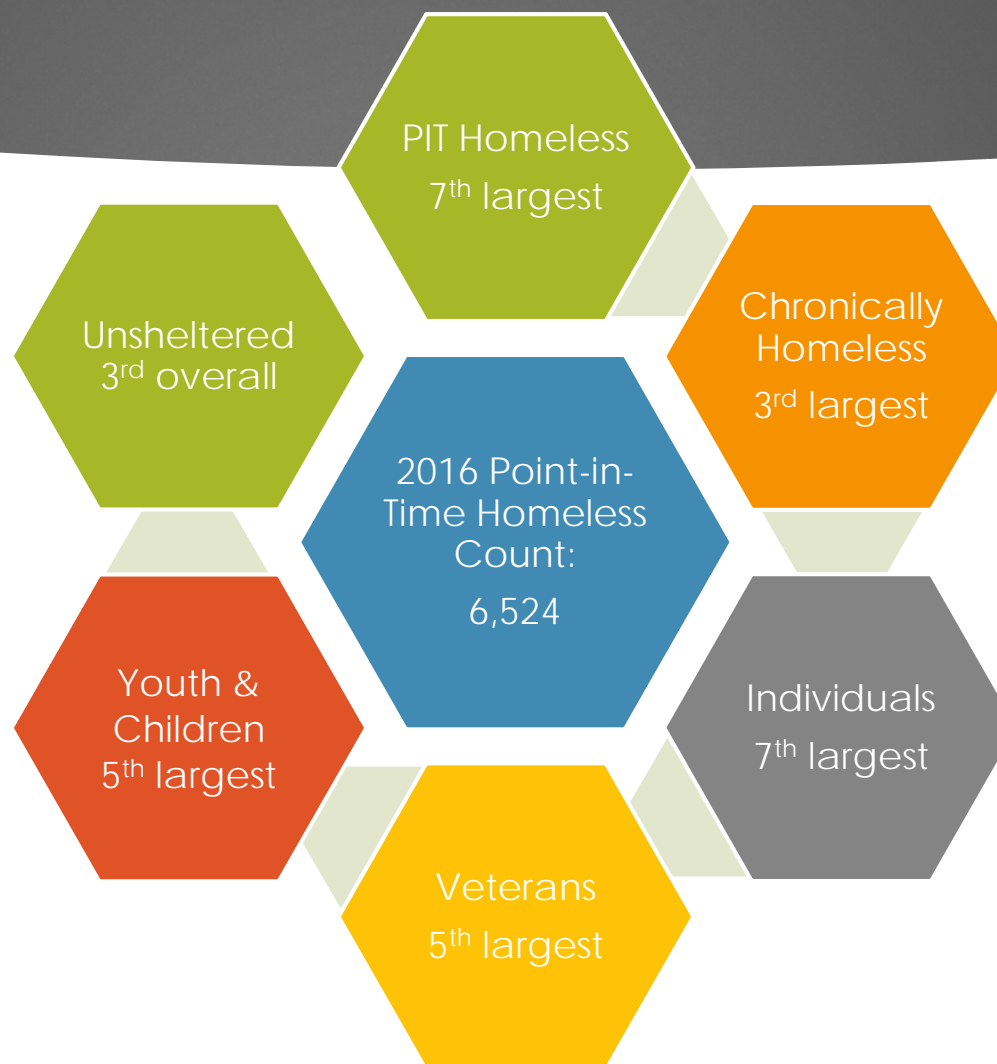
# Supportive Housing System Overview

*An end to homelessness means that every community will have a systematic response in place that ensures homelessness is prevented whenever possible or is otherwise a rare, brief, and non-recurring experience.*



# SCC Homelessness compared to other major metropolitans

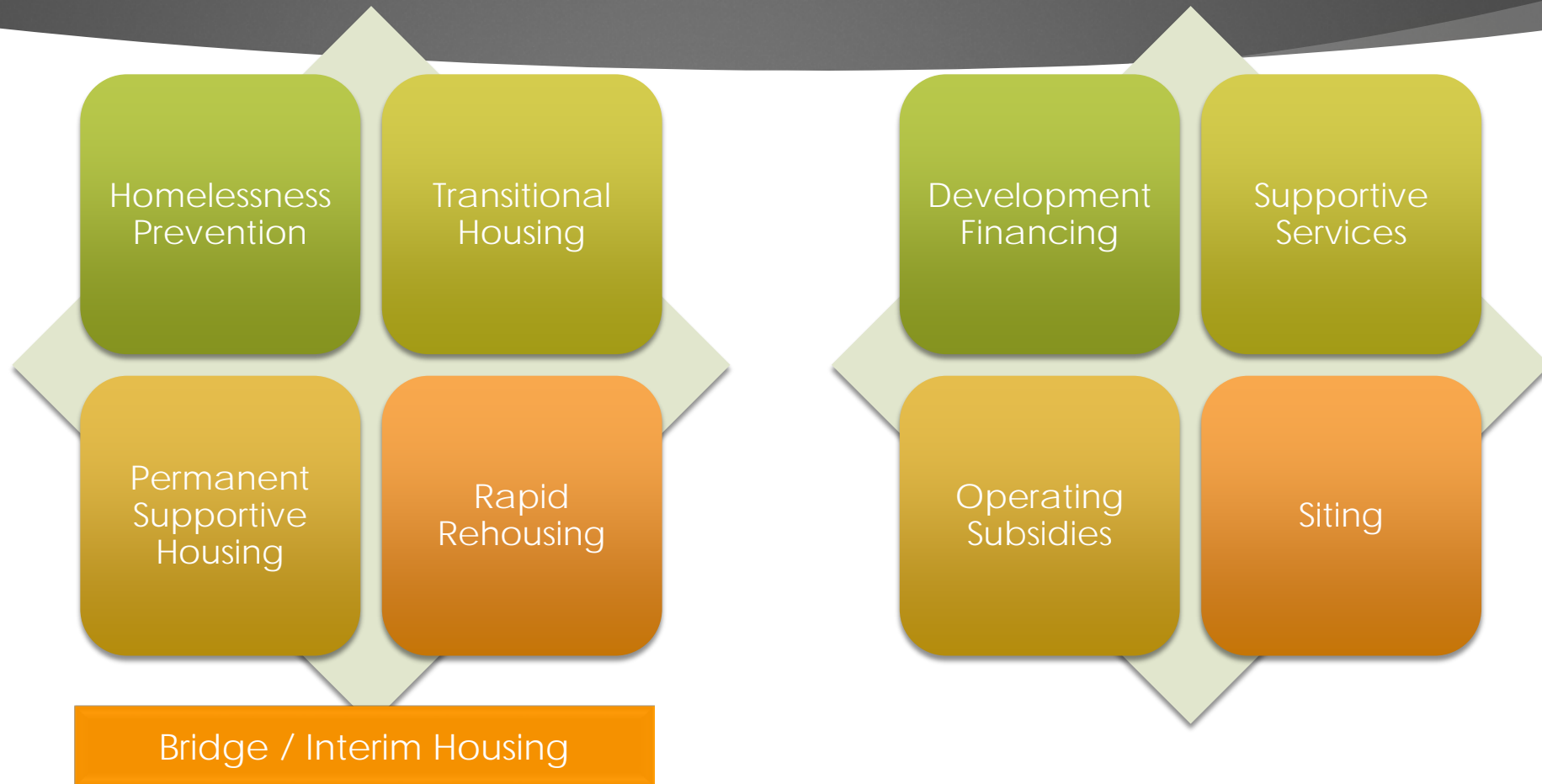
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Source: HUD's 2016 Annual Homeless Assessment Report



# System Components



# Summary of Accomplishments

COMMUNITY PLAN TO END  
HOMELESS, 2015-2020  
2016 UPDATE

# Strategies

**1**

## DISRUPT SYSTEMS

Disrupt and transform existing homeless response systems

**2**

## BUILD THE SOLUTION

Build new and better solutions

**3**

## SERVE THE PERSON

Deploy the new solutions with a client-centered approach to meet each individual's needs.

# 2016 Accomplishments

Total New Housing Opportunities Created



2015  
27.92%



2016  
48.11%



Percentage Who Exited Other Programs to Permanent Housing

Percentage Who Remained Stably Housed in PSH



2015

96.02%

2016

97.26%

100%



2016  
1,741

2015  
1,212



Total Housed

# Build the Solution

## New Housing Opportunities: Units and Rental Subsidies



**Measure A**  
**\$950 million**  
for affordable housing



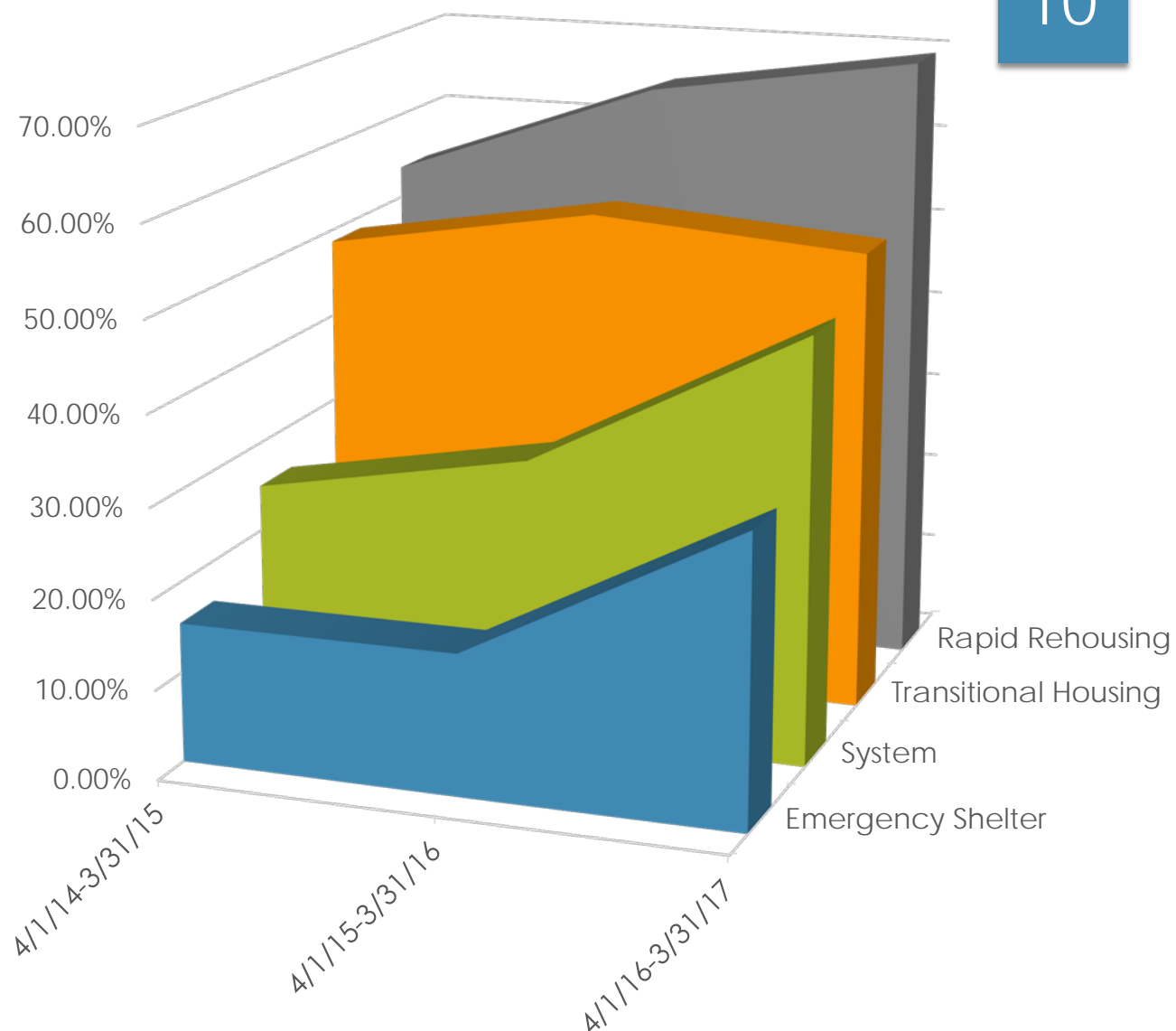
**Joint RFP for**  
**\$48 million**  
in capital funds

# System Performance Measures

MEASURING THE IMPACT OF  
PROGRAMS AND SYSTEM  
IMPROVEMENTS

## Percentage of Exits to Permanent Housing Destinations

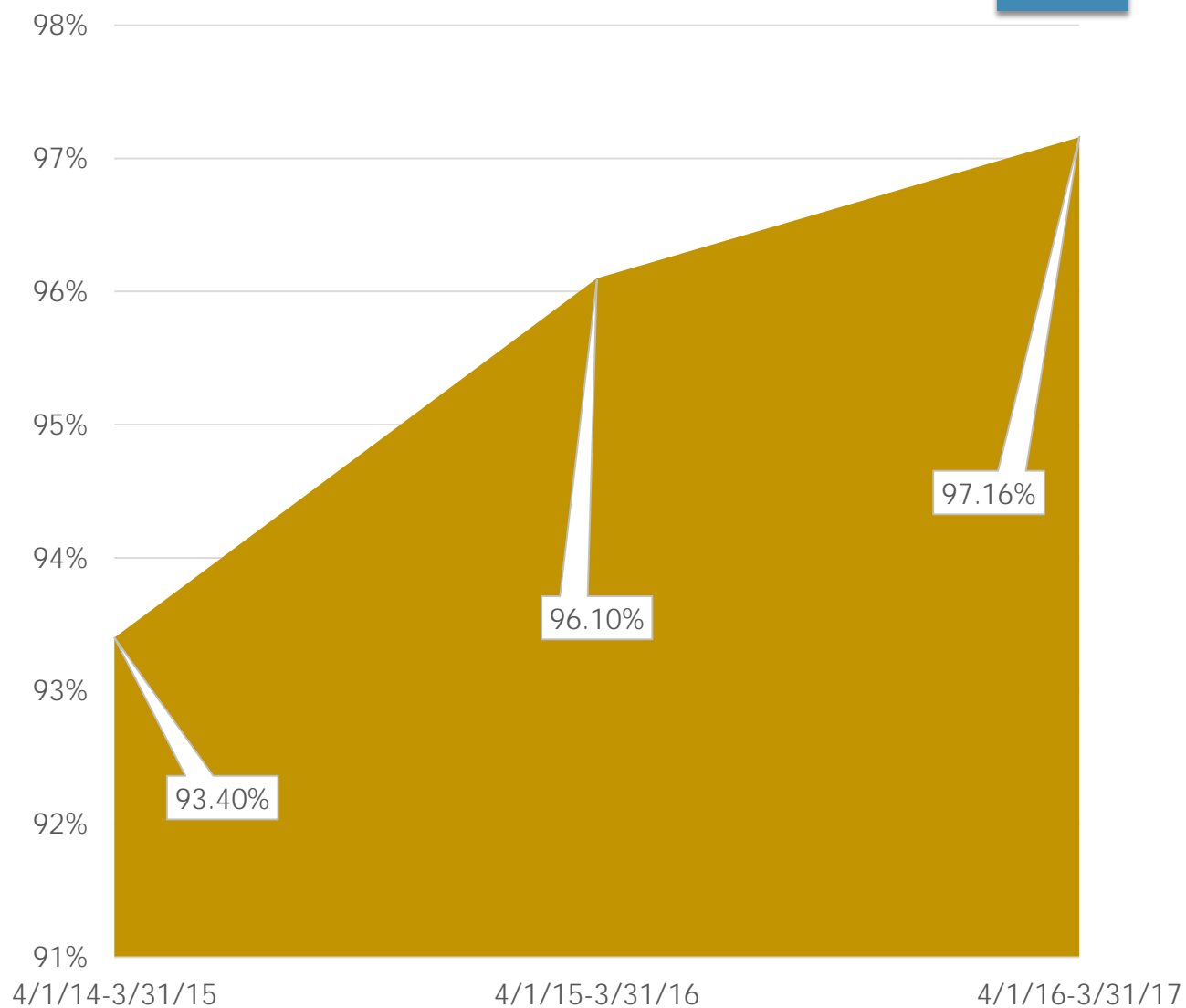
How many people are in a long-term housing situation when they leave temporary housing programs?





## Permanent Housing Retention

*How many people were still housed in a Permanent Supportive Housing program or exited to a stable housing situation?*

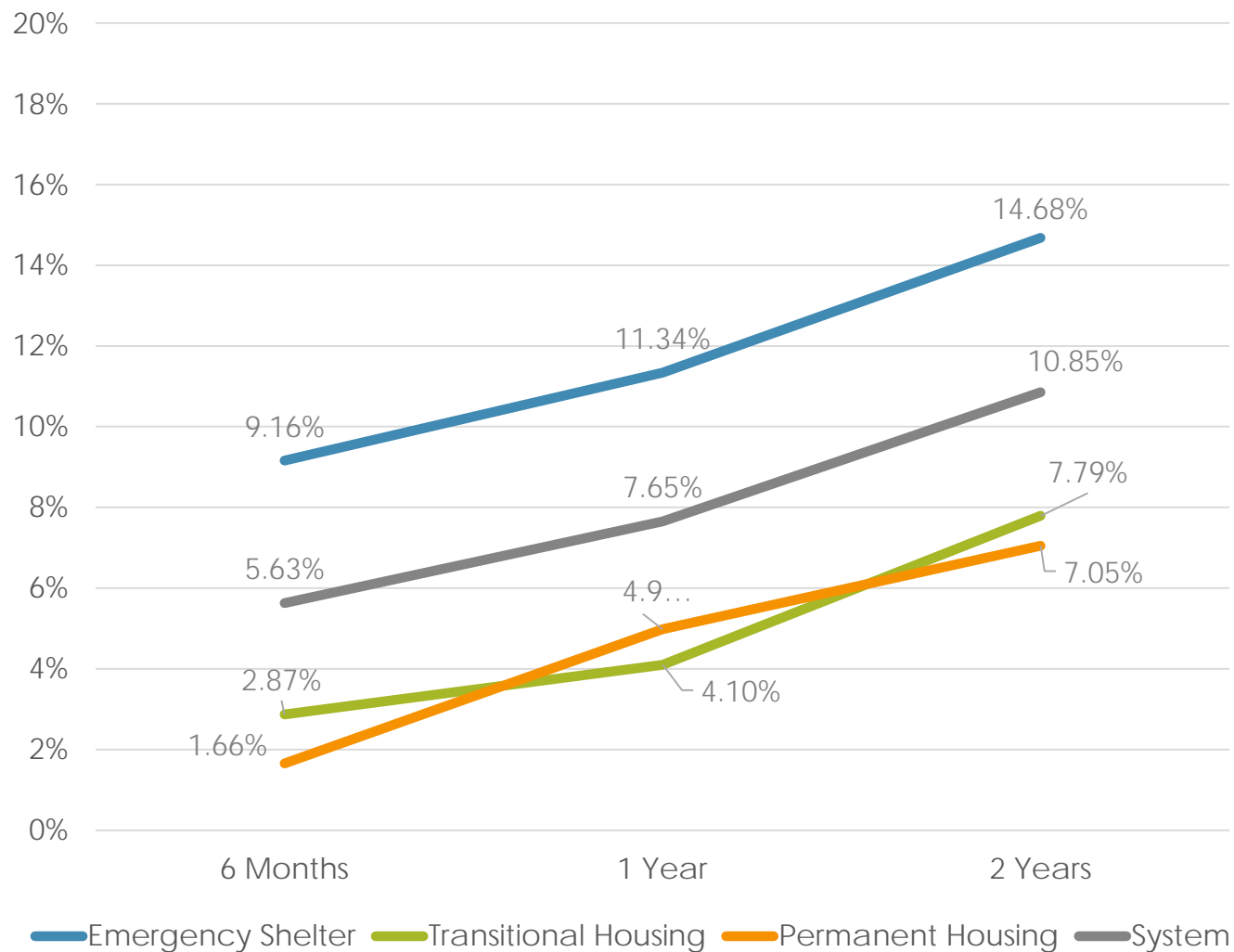




## Recidivism

How many people returned to homelessness after 6 months, 1 year, or 2 years?

*Chart looks at people who were housed from April 2014 through March 2015*



# Planned Activities

2017 AND BEYOND

## Do More of What Works

- ▶ Increase Permanent Supportive Housing opportunities
- ▶ Increase Outreach to homeless individuals
- ▶ Increase Rapid Rehousing programming for individuals and families involved in the criminal justice system

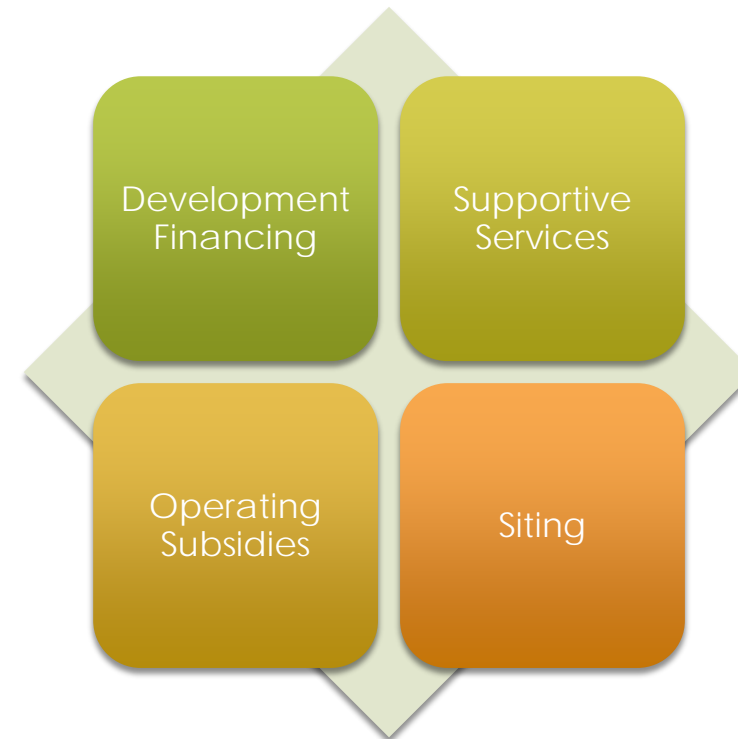
## Implement New Initiatives

- ▶ Increase focus on Youth and Families
  - Homelessness Prevention System Demonstration
  - School-linked Rapid Rehousing
  - Rapid Rehousing for Survivors of Violence and Human Trafficking
- ▶ Rapid Rehousing for Individuals
- ▶ Employment Initiative

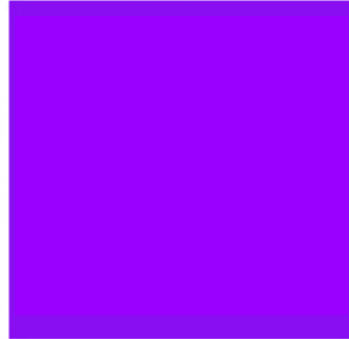
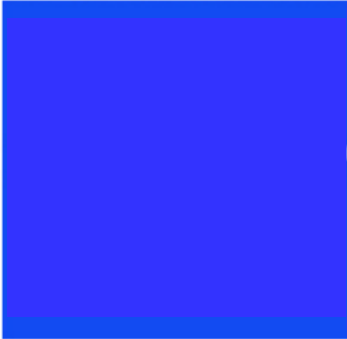
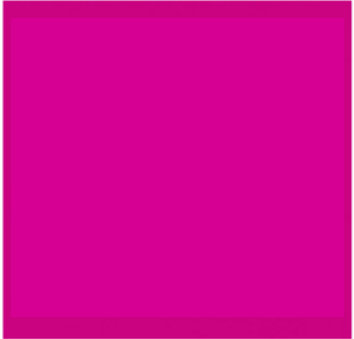
## Build Housing

Goal: 4,800  
constructed or  
financed in 10 years

- ▶ Implement Housing Bond
  - First issuance of \$317 million in September 2017
- ▶ Housing Ready Communities Campaign
- ▶ Estimated 120-140 developments needed to achieve goal







Questions?



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**File No.:** 17-0316

**Agenda Date:** 5/18/2017

**Item No.:** 6.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Consider Recommendations Relating to the South San Francisco Bay Shoreline Study and Shoreline Recreational and Emergency Access.

### **RECOMMENDATION:**

- A. Receive report relating to the South San Francisco Bay Shoreline Study and Shoreline Opportunities Related to Recreational and Emergency Access; and
- B. Direct County Administration to prepare a letter of support for the District's application to the San Francisco Bay Restoration Authority for a grant of the Measure AA funds for the Shoreline Economic Impact Area 11 Authorized Project.

### **SUMMARY:**

This item has been prepared for the joint Santa Clara Valley Water District (District) meeting with the County of Santa Clara (County) to discuss Santa Clara County recreation and emergency access opportunities along the South San Francisco Bay shoreline area.

At the April 12, 2016 County Board of Supervisors meeting, the County Board approved President Cortese's referral to County Administration to prepare a work plan with the District for the study of the South Bay shoreline as well as waterfront issues and opportunities relating to flood control, emergency access, economic development, parks and recreation, and tourism. President Cortese directed County Administration to provide an initial work plan to the County Board's Housing, Land Use, Environment, and Transportation Committee (HLUET) at its August 2016 meeting.

At the August 18, 2016 HLUET meeting, the County Administration presented a status report and work plan. The Committee requested a refinement to the work plan to further explicate anticipated South Bay shoreline project milestones, and directed County Administration to report back on additional areas of joint study and activity with the District.

At the October 20, 2016 HLUET meeting, County Administration presented a refined work plan for HLUET's consideration. Chairperson Cortese directed the County Administration to provide a report to the Committee on a date uncertain relating to joint opportunities to pursue public and recreational

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access to County and Federal facilities at the South Bay shoreline. Chairperson Cortese indicated that his office would contact the Office of the Mayor of San Jose relating to a joint meeting of the City and County economic development teams to discuss this matter. This report was originally scheduled to be discussed at the January 19, 2017 HLUET meeting, but was deferred by the Committee Chair until the May 2017 joint meeting between the District Board and the County Board of Supervisors for further discussion.

### **Executive Summary of County Staff's Reports**

County Parks and Recreation staff presented a Feasibility Study for a project to construct a public dock to be located in Alviso, at the April 2017 meeting of HLUET. County staff will provide the District with updates related to the County's efforts to increase public recreational access at the South Bay shoreline, including the expansion of the Salt Marsh Safari pilot into an ongoing program.

Based on input received from HLUET at the October 2016 meeting, County Administration is considering issuing a Request for Information (RFI) in the fall to potentially retain an Events Promotion Consultant(s) to consider and develop potential opportunities at existing recreational facilities located at the shoreline, including the Alviso Marina County Park, Don Edwards National Wildlife Refuge, Alviso Levee Trail / Bay Trail, and San Francisco Bay Area Water Trail as well as Alviso proper.

County Administration believes the recommendation would be consistent with the County Board's recent action to identify the increased utilization of the shoreline in the County's Legislative Priorities document:

*"Funding and policies that promote the response to climate change in the South Bay and the increased utilization of the San Francisco Bay Trail, San Francisco Bay Area Water Trail, Alviso Marina County Park and Don Edwards San Francisco Bay National Wildlife Refuge"*

The County Administration will also continue to work with local emergency response agencies to explore the feasibility of having the Alviso Marina County Park or other Santa Clara County South Bay locations be designated for emergency access to the South Bay for disaster relief.

### Next Steps / Timeline

- **May 2017** - County's operation of its the Salt Marsh Safari Program resumes for season
- **September 2017** - County prepares and releases an RFI for shoreline events promotion
- **September 2017** - District submits grant application for San Francisco Bay Restoration Authority Measure AA Funds for the Shoreline Economic Impact Area 11 Authorized Project.
- **November 2017** - County staff reports to HLUET on results of RFI for shoreline events promotion

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***Overview and Update of the South San Francisco Bay Shoreline Study***

The overall goal of the South San Francisco Bay Shoreline Study (Shoreline Study) is to safeguard hundreds of homes, schools, and business along Santa Clara County's 18 miles of shoreline from the risk of tidal flooding. The Shoreline Study also has a goal to allow restoration of tidal marsh and related habitat that was lost due to former salt production activities and to provide opportunities for continued recreational and public access along the bay shoreline. Additionally, the Shoreline Study takes into consideration protection from 2.59 feet of high sea level rise over a 50-year period (through Year-2067).

The Shoreline Study is being undertaken by the district in partnership with the United States Army Corps of Engineers (USACE) and the State Coastal Conservancy (SCC). Authorization to conduct the Shoreline Study was granted by the Water Resources Development Act (WRDA) in 1976. SCC and the District are the non-federal sponsors, also referred to as 'local project sponsors.' The feasibility study efforts began in 2005 for all of Santa Clara County which was divided into 11 areas, called Economic Impact Areas (EIA). In September 2010, the District requested USACE re-evaluate the project scope and conduct the study in phases beginning with the area with the highest potential economic impacts. The District's Board endorsed this new scope in March 2011 and the study was thereafter refocused to start with just EIA 11.

**Shoreline EIA 11 Authorized Project**

USACE has authorized a project for EIA 11 that will provide 1-percent tidal flood risk management for the urban area of north San Jose including the community of Alviso and the San Jose-Santa Clara Regional Wastewater Facility and ecosystem restoration of approximately 2,900 acres of former salt ponds with recreational elements. Tidal flood risk management consists of 4 miles of new levee and closure structures at the Union Pacific Railroad and Artesian Slough crossings. In the EIA 11 area, a 1-percent tidal flood event could cause more than \$200 million in damages (2014 price levels) and affect a population of 5,500, approximately 1,100 structures and the Facility.

Recreational elements that are included in EIA 11 will be compatible with the flood risk management levee and ecosystem restoration. American with Disabilities Act compliant trails will be built on top of the new levee along with viewing platforms and benches. The trail will connect the Alviso Marina to the Coyote Creek corridor at the McCarthy Boulevard bridge with connection to the San Francisco Bay Regional Trail network.

**Shoreline EIA 11 Authorized Project Funding**

The Shoreline Study completed the Feasibility Study of EIA 11 on December 18, 2015 when the USACE's Chief of Engineers signed the Chief's Report. The report makes a recommendation to Congress to authorize design and construction of EIA 11's recommended plan. The total feasibility cost was \$22 million and the total estimated cost of preconstruction engineering, design and construction is \$174 million (2015 dollars). The District and SCC total share of this expense is \$103.8 million. The District and SCC do not yet have all the local funding secured and will be applying for San Francisco Bay Restoration Authority's Measure AA funds.

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The Measure states that 50-percent of the \$25 million raised each year shall be allocated and divided amongst each of the four Bay Area Regions (North, South, East and West Bay), the south bay will be receiving 12-percent of the overall \$500 million (or \$60 million). The Authority plans to issue its first request for proposals for funds in September 2017 and applications will be due in November 2017. The District will be submitting a grant application in September for the Shoreline EIA 11 Authorized Project and as such recommends the County provide a letter of support for granting these funds.

### **Shoreline Study for EIAs 1-10**

In 2015, in addition to working with the USACE on the next EIA or set of EIAs, the District hired a consultant to begin preparing a Preliminary Feasibility Study for EIAs 1 -10, which is located between San Francisquito Creek in Palo Alto to Guadalupe River in San Jose. The goal of this Study was to identify a preliminary 1-percent tidal flood risk management alignment and its related benefits and costs for the EIAs 1-10 shoreline area (14 miles) to aid in determining the District's next study phase(s) and to identify potential study partners. The preliminary alignment was identified in June 2015 and was used to move forward with conducting the study analysis.

The City of Palo Alto, City of Mountain View, City of Sunnyvale, City of San Jose, NASA Moffett Field, US Fish and Wildlife Service, California State Coastal Conservancy and Mid-Peninsula Open Space Authority were all consulted in the identification of the preliminary alignment. In March 2017, the Preliminary Feasibility Study for EIAs 1-10 was completed. A report was prepared and finalized after receipt and consideration of comments from all consulted agencies noted above and a final meeting with those agencies was conducted in March 2017.

The EIAs 1-10 study effort will next focus on preparing material for a workshop meeting (Charrette) with the USACE which is anticipated to occur in late 2017, pending the USACE receipt of federal funding to conduct the Charrette.

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As set forth in the County's previous reports to HLUET, in addition to ongoing projects related to levee improvements, the Bay Trail extension, and marsh restorations at the shoreline, the County is proceeding with several programs at the shoreline. These County programs include the Salt Marsh Safari program transitioning from its pilot status into an ongoing program in 2017 and the completion of a Feasibility Study for a public dock in Alviso, the results of which were reported to the County's HLUET Committee in April by Parks and Recreation staff.

As previously reported to HLUET, with one-time funds to purchase a larger boat and to provide storage, and ongoing funds for operations and additional staffing, County Parks would be able to

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In addition to current County projects and programs, the County Administration recognizes there are opportunities to build recreational/community activities in Alviso to make it a destination, such as, the County's collaboration with the Silicon Valley Bike Coalition and San Jose Bike Party to organize a Bike to the Bay as part of this year's Day on the Bay in October - a community bike ride from Guadalupe Park along the Guadalupe River Trail to Alviso. The County Administration believes these type of activities would be best effectuated by the issuance of a RFI by the Asset and Economic Development team, seeking qualified consultants to provide new events promotion and/or to supplement current County activities, as well as to increase public access to existing recreational facilities located at the shoreline, including the Alviso Marina County Park, Don Edwards National Wildlife Refuge, Alviso Levee Trail / Bay Trail, the San Francisco Bay Area Water Trail and in Alviso proper to make it a more attractive destination. It is expected that the results of that solicitation will be reported to HLUET in November, including estimated costs and formal recommendations.

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County Office of Emergency Services (OES) confirmed that the County Marina is not currently designated as an emergency access point for disaster relief in any of the County's emergency plans, nor is there any "Marine Access Point" for Santa Clara County designated in any of the State Emergency Plans. OES indicated that while a marine access point would be beneficial to the operational area, staff is unaware of any feasible location along the shoreline at this time that could be used in its current condition, including the County Marina. OES indicated that if emergency supplies were to be transported via marine water ways to Santa Clara County for disaster relief, the most likely port of entry would be in San Mateo County, and supplies would then be transported by land to Santa Clara County. Additionally, OES is unaware of any such emergency access designation in the Water Emergency Transportation Authority (WETA) or Metropolitan Transportation Commission (MTC) emergency plans.

WETA is the regional public transit agency tasked with planning and building an emergency response and disaster recovery water transportation system for the region to respond to an earthquake or other disaster, and to coordinate the Bay Area's publicly owned ferry fleet in response to emergencies affecting the Bay Area transportation system. The MTC develops coordinated emergency response capabilities for transportation agencies throughout the nine-county San Francisco Bay Area.

In March, staff in the Office of the County Executive met with WETA staff to discuss the agency's inclusion of the South Bay region in WETA's Strategic Plans, and to understand the process for including regional ferry terminals or marinas in their Emergency Response Plan. Initial response from WETA indicated that consideration of South Bay locations, after implementation of the Redwood City terminal, even for Emergency access, would likely prioritize other South Bay locations with closer proximity to the Bay proper. WETA reports that previous analysis indicates that it would take as long for a ferry to travel up the Alviso Slough as it would to cross the Bay, effectively doubling transit time as compared to other potential locations in the South Bay. Staff will continue to engage WETA and will contact MTC to explore the feasibility of Santa Clara County - South Bay locations being designated for emergency access for disaster relief.

### **Previous San Jose Deep-Water Port Proposals**

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As noted in a 1958 report from the Greater San Jose Chamber of Commerce, in the early part of the last century there was considerable interest in the development of a deep-water port at Alviso to accommodate ocean shipping. In 1928, members of the San Jose Real Estate Board formed the San Jose Port Association with the intention of establishing a deep-water port at Alviso, to be called Port San Jose. The Association sought governmental assistance for the project, and a team from the USACE conducted a feasibility study and approved the project. The recommended plan for the development of the port called for a widening of Alviso Slough to 300 feet, and dredging to a depth of 27 feet, from a mile southeast of Dumbarton Point to the mouth of the Guadalupe River.

On August 30, 1935, Congress approved the River and Harbor Act, authorizing \$300,000 for the project on a joint federal-local basis and imposing stipulations on local interests for the development to proceed. The City of San Jose sought to sponsor bonds totaling \$1,250,000 for the project, but there were numerous delays and the bond measure was never placed before the voters. In May 1939, the San Jose City Council determined that there was insufficient interest in the project, and the proposal was dropped.

The Greater San Jose Chamber of Commerce sought to revive the project in 1958, and in 1964, the USACE issued a report indicating that the project would cost significantly more than would be feasible given the estimated annual revenues for the port. The plan was never constructed, and in 1975 with the passage of the Water Resources Development Act of 1974, Congress deauthorized the project.

### **South San Francisco Bay Emergency Access Study**



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In 2009, the County participated in the funding of a local study of emergency water access and economic development opportunities for the South San Francisco Bay. Led by the District and the San Jose Silicon Valley Chamber of Commerce, the South San Francisco Bay Emergency Port Access Study (Emergency Port Access Study) received grant funding from the U.S. Department of Commerce's Economic Development Agency and matching local funds from the County, the District, and the City of San Jose.

The consulting firm AECOM performed the Emergency Port Access Study, a high-level analysis of the feasibility of an emergency access port in Alviso and four potentially complementary development concepts; evaluation of the projects was completed in three phases (preliminary screening, alternatives refinement, and economic analysis). Stakeholder involvement was an important component of the Emergency Port Access Study, achieved through meetings of a Technical Advisory Committee with representatives from agencies and organizations in the South Bay (including the County), and public workshops were held in the community in July 2010, December 2010, and March 2011.

The preliminary screening phase of the Emergency Port Access Study evaluated the physical requirements (channel dimensions, landside facilities, and transportation and access), potential environmental impacts (such as to water quality, wetlands, and wildlife, as well as federal, state, and local regulatory compliance), and economic considerations (market and service area) for each of five concepts:

- **Cargo Port** - to provide infrastructure for receiving and sending unboxed commodity cargo by water.
- **Emergency Port** - to facilitate response and recovery following a catastrophe, such as, a major earthquake, which may result in widespread devastation across the entire Bay Area.
- **Entertainment Waterfront** - containing a mix of retail, entertainment, and potentially hotel, convention, and residential uses.
- **Ferry Terminal** - to provide water-based transportation to popular home, work, and recreation destinations.
- **Recreation Marina** - to provide for boating, storage, and launching facilities.

After initial evaluation of the physical requirements and potential environmental impacts of a **Cargo Port or Ferry Terminal project, both concepts were eliminated from further consideration** - both projects would require extensive dredging and the widening of the channel. The three remaining alternatives (Emergency Port, Entertainment Waterfront, and a Recreational Marina) were identified for a more detailed engineering review of the physical requirements of the projects.

During the alternative refinement phase of the Emergency Port Access Study, it was determined that most water-based projects would require considerable dredging given the shallow depth of Alviso Slough and its distance to the bay (approximately 4.5 miles). Given the potential presence of contaminated sediments and increased disposal expenses, any new dredging project would impose

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considerable costs (estimated to be between \$39 million - \$440 million for initial dredging, and an additional \$44 million - \$285 million for maintenance over 20 years) and significant challenges associated with permitting - challenges which, according to the Emergency Port Access Study, **rendered any concept that required extensive dredging infeasible**. The remaining development concepts that would not require dredging were an Emergency Port served by a hovercraft (Emergency Hovercraft Port), and an Entertainment Waterfront.

The final phase of the Emergency Port Access Study was an analysis of the costs and economic benefits to the South Bay of the proposed Emergency Hovercraft Port and Entertainment Waterfront concepts. The evaluation of the Emergency Hovercraft Port estimated the increased capacity for emergency response in the event of a major disaster relative to the potential capital and operation expenses. For the Entertainment Waterfront concept, the Emergency Port Access Study analyzed both the direct fiscal benefits to the City of San Jose and the economic benefits in direct earnings in Santa Clara County, and compared those against the public costs to prepare the property for development and to make open improvements on the waterfront.

Draft study findings were presented at a March 2011 public workshop in Alviso, and the final Emergency Port Access Study report was released the same month, concluding that both concepts - an Emergency Hovercraft Port and an Entertainment Waterfront development - **were feasible and were estimated to result in net benefits to the South Bay**.

- **Emergency Hovercraft Port** - The Emergency Access Port Study report indicates the primary objective of the **Emergency Hovercraft Port concept** would be to allow for the transport (import and export) of people, goods, and/or emergency supplies following a catastrophic event. The Emergency Hovercraft Port concept would serve primarily as an access point for first response personnel, and could also provide limited “recovery transportation” via a ferry between Alviso and San Francisco. According to the report, the concept would contribute to redundancy of emergency response in the South Bay, complementing the area’s existing emergency network and the Water Emergency Transportation Authority.

The Emergency Port Access Study report estimated the public benefits of an Emergency Hovercraft Port related to emergency response would range between approximately \$10.4 million and \$31.3 million over the next 30 years, and the benefits related to recovery transportation would add an additional \$86,000 to \$2.5 million benefit over 30 years. According to the report, **the total benefits associated with the Emergency Hovercraft Port concept are valued at approximately \$10.5 million to \$33.8 million over 30 years**.

According to the report, the Emergency Hovercraft Port concept would require public investment to fund capital costs, annual operations and maintenance, emergency response and recovery transportation. Depending on the size and carrying capacity of the hovercraft, capital costs for the Emergency Hovercraft Port would range between \$1.2 million and \$7.6 million, annual operations costs range from \$1.4 million to \$7.7 million, and increased costs of emergency response and recovery transportation would be between \$35,000 and \$225,000.

The Emergency Port Access report indicated that the **total costs associated with the**

**Emergency Hovercraft Port concept over 30 years would be between \$2.6 million and \$15.5 million.**

- **Entertainment Waterfront** - As stated in the report, the Entertainment Waterfront concept includes approximately 83,000 square feet of destination commercial development along Alviso waterfront between the east side of the flood control levee between the community of Alviso and Alviso Slough, and would result in improvements to the existing Bay Trail. Constructions of the development would face several potential challenges, including existing restrictions on any construction that would alter or compromise the existing flood control levee, and approval would be required from multiple regulatory agencies (e.g. BCDC, District, USACE, City of San Jose). The report indicated that further geotechnical analysis would be necessary in future stages of implementation.

The report estimates that **total public investment required for the development would be \$4.2 million, and \$33 million in private investment would be necessary**, with the City of San Jose expected to receive approximately \$4.4 million in tax revenues, not including indirect or induced fiscal benefits of such a project.

The Emergency Port Access Study concluded that the net value of the emergency response and recovery transportation benefits provided by the Emergency Hovercraft Port concept would range from approximately \$7.9 million to \$18.3 million over 30 years, and the Entertainment Waterfront concept would, over a 20-year period, generate direct economic impacts of \$530 million in Santa Clara County and would create 622 new jobs.

## Project Initiation and Implementation

The Emergency Port Access Study report identified a proposed project initiation timeline for both concepts of at least five years, given that both projects would require additional planning and permitting, collaboration with regional stakeholders, and the identification of funding sources:



Source: South San Francisco Bay Emergency Port Access Study, AECOM

According to the report, the recommended next steps would be to secure necessary funding to perform more detailed site analysis and land use planning, complete Environmental Impact Statements / Environmental Impact Reports, and to obtain regulatory approval from the BCDC, the U.S. Department of Fish and Wildlife, and the City of San Jose, among others agencies.

### **Historical Uses of Alviso Slough**

While Alviso Slough was historically used for navigation, boating, and public access to the South Bay, sediment accumulation and vegetation encroachment over the last twenty-five years has led to a gradual decline in both channel width and overall depth, thereby limiting these uses.

Alviso Slough, 1939-2004



Source: South San Francisco Bay Emergency Port Access Study, H.T. Harvey & Associates

**FINANCIAL IMPACT:**

There is no financial impact associated with this item.

**CEQA:**

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

Exhibit 1: PowerPoint

**UNCLASSIFIED MANAGER:**

Ngoc Nguyen, 408-630-2632





84378

**DATE:** May 18, 2017

**TO:** Board of Supervisors

**FROM:** Sylvia Gallegos, Deputy County Executive

**SUBJECT:** Joint Report on South San Francisco Shoreline Study and Shoreline Recreational and Emergency Access

**RECOMMENDED ACTION**

Consider recommendations relating to the South San Francisco Shoreline Study and shoreline opportunities related to recreational and emergency access.

Possible action:

- a. Receive report relating to the South San Francisco Bay Shoreline Study and shoreline opportunities related to recreational and emergency access.
- b. Direct County Administration to prepare a letter of support for the District's Application to the San Francisco Bay Restoration Authority for a grant of the Measure AA funds for the Shoreline Economic Impact Area 11 Authorized Project.

**FISCAL IMPLICATIONS**

The recommended actions will have no fiscal implications.

**REASONS FOR RECOMMENDATION**

This item has been prepared for the joint County of Santa Clara (County) meeting with the Santa Clara Valley Water District (District) to discuss Santa Clara County recreation and emergency access opportunities along the South San Francisco Bay shoreline area.

At the April 12, 2016 County Board of Supervisors meeting, the County Board approved President Cortese's referral to the County Administration to prepare a work plan with the District for the study of the South Bay shoreline as well as waterfront issues and opportunities relating to flood control, emergency access, economic development, parks and recreation, and tourism. County Board President Supervisor Cortese directed the County

Administration to report to the Housing, Land Use, Environment, and Transportation Committee (HLUET) at the August 2016 meeting with an initial work plan.

At the August 18, 2016 HLUET meeting, the County Administration presented a report and work plan. The Committee requested a refinement to the work plan to further explicate anticipated South Bay shoreline project milestones, and directed the County Administration to report back on additional areas of joint study and activity with the District.

At the October 20, 2016 HLUET meeting, the County Administration presented a refined work plan for HLUET's consideration. Supervisor Cortese directed the County Administration to provide a report to the Committee on date uncertain relating to joint opportunities to pursue public and recreational access to County and Federal facilities at the South Bay shoreline. Supervisor Cortese indicated that his office would contact the Office of the Mayor of San Jose relating to a joint meeting of the City and County economic development teams. This report was originally scheduled to be heard at the January 19, 2017 HLUET meeting, but was deferred by the Committee Chair until the May joint meeting between the Santa Clara Valley Water District Board and the County Board of Supervisors for further discussion.

## **Executive Summary**

The County Parks and Recreation Department presented a Feasibility Study for a public dock at Alviso at the April meeting of HLUET, and it will provide future updates related to County efforts to increase public recreational access at the South Bay shoreline, including the expansion of the Salt Marsh Safari pilot into an ongoing program.

Based on input received from HLUET at the October 2016 meeting, the County Administration proposes to issue a Request for Information (RFI) in the fall for an Events Promotion Consultant(s) for potential opportunities at recreational facilities located at the shoreline, including the Alviso Marina County Park, Don Edwards National Wildlife Refuge, Alviso Levee Trail / Bay Trail, and San Francisco Bay Area Water Trail as well as Alviso proper. The County Administration will also continue to work with local emergency response agencies to explore the feasibility of having the Alviso Marina County Park or other Santa Clara County South Bay locations be designated for emergency access to the South Bay for disaster relief.

Additionally, on June 7, 2016, residents of the nine-county San Francisco Bay Area voted with a 70% majority to pass Measure AA, the San Francisco Bay Clean Water, Pollution Prevention and Habitat Restoration Measure. This measure is a parcel tax of \$12 per year that will raise approximately \$25 million annually for twenty years to fund shoreline projects that

would protect and restore San Francisco Bay. The District plans to apply for funds from this program to help pay for its Shoreline Economic Impact Area 11 Authorized Project.

The District is requesting that the County prepare a letter of support for the District's application for Measure AA funds for the South San Francisco Bay Shoreline Study. The County Administration believes these projects are consistent with the County Board's recent identification of the increased utilization of the shoreline in the County's Legislative Priorities document:

*“Funding and policies that promote the response to climate change in the South Bay and the increased utilization of the San Francisco Bay Trail, San Francisco Bay Area Water Trail, Alviso Marina County Park and Don Edwards San Francisco Bay National Wildlife Refuge”*

#### Timeline / Next Steps

- **April 2017** – HLUET Report on Feasibility Study of a Public Dock in Alviso
- **May 2017** – Operations of the Salt Marsh Safari Program Resumes for Season
- **September 2017** – Preparation and Release of RFI for Shoreline Events Promotion
- **September 2017** – District Grant Application for Measure AA Funds for EIA 11
- **November 2017** – HLUET Report on Results of RFI for Shoreline Events Promotion

#### **District's Update of the South San Francisco Bay Shoreline Study**

The overall goal of the South San Francisco Bay Shoreline Study (Shoreline Study) is to safeguard hundreds of homes, schools, and business along Santa Clara County's 18 miles of shoreline from the risk of tidal flooding. The Shoreline Study also has a goal to allow restoration of tidal marsh and related habitat that was lost due to former salt production activities and to provide opportunities for continued recreational and public access along the bay shoreline. Additionally, the Shoreline Study takes into consideration safeguarding against 2.59 feet of high sea level rise over a 50-year period (through Year-2067).

The Shoreline Study is being undertaken by the District in partnership with the United States Army Corps of Engineers (USACE) and the State Coastal Conservancy (SCC).

Authorization to conduct the Shoreline Study was granted by the Water Resources Development Act (WRDA) in 1976. SCC and the District are the non-federal sponsors, also referred to as “local project sponsors.” The feasibility study efforts began in 2005 for all of Santa Clara County, which was divided into 11 areas, called Economic Impact Areas (EIA). In September 2010, the District requested USACE reevaluate the project scope and conduct

the study in phases beginning with the area with the highest potential economic impacts. The District's Board endorsed this new scope in March 2011 and the study was thereafter refocused to start with just EIA 11.

### Shoreline EIA 11 Authorized Project

USACE has authorized a project for EIA 11 that will provide 1-percent tidal flood risk management for the urban area of north San Jose including the community of Alviso and the San Jose-Santa Clara Regional Wastewater Facility and ecosystem restoration of approximately 2,900 acres of former salt ponds with recreational elements. Tidal flood risk management consists of four miles of new levee and closure structures at the Union Pacific Railroad and Artesian Slough crossings. In the EIA 11 area, a 1-percent tidal flood event could cause more than \$200 million in damages (2014 price levels) and affect a population of 5,500, approximately 1,100 structures and the Facility.

Recreational elements that are included in EIA 11 will be compatible with the flood risk management levee and ecosystem restoration. American with Disabilities Act compliant trails will be built on top of the new levee along with viewing platforms and benches. The trail will connect the Alviso Marina to the Coyote Creek corridor at the McCarthy Boulevard bridge with connection to the San Francisco Bay Regional Trail network.

### Shoreline EIA 11 Authorized Project Funding

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The City of Palo Alto, City of Mountain View, City of Sunnyvale, City of San Jose, NASA Moffett Field, US Fish and Wildlife Service, California State Coastal Conservancy and Mid-Peninsula Open Space Authority were all consulted in the identification of the preliminary alignment. In March 2017, the Preliminary Feasibility Study for EIAs 1-10 was completed. A report was prepared and finalized after receipt and consideration of comments from all consulted agencies noted above and a final meeting with those agencies was conducted in March 2017.

The EIAs 1-10 study effort will next focus on preparing material for a workshop meeting (Charrette) with the USACE which is anticipated to occur in late 2017, pending the USACE receipt of federal funding to conduct the Charrette.

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Slough to 300 feet, and dredging to a depth of 27 feet, from a mile southeast of Dumbarton Point to the mouth of the Guadalupe River.

On August 30, 1935, Congress approved the River and Harbor Act, authorizing \$300,000 for the project on a joint federal-local basis and imposing stipulations on local interests for the development to proceed. The City of San Jose sought to sponsor bonds totaling \$1,250,000 for the project, but there were numerous delays and the bond measure was never placed before the voters. In May 1939, the San Jose City Council determined that there was insufficient interest in the project, and the proposal was dropped.

The Greater San Jose Chamber of Commerce sought to revive the project in 1958, and in 1964, the USACE issued a report indicating that the project would cost significantly more than would be feasible given the estimated annual revenues for the port. The plan was never constructed, and **in 1975 with the passage of the Water Resources Development Act of 1974, Congress deauthorized the project.**<sup>1</sup>

#### South San Francisco Bay Emergency Access Study

In 2009, the County participated in the funding of a local study of emergency water access and economic development opportunities for the South San Francisco Bay. Led by the District and the San Jose Silicon Valley Chamber of Commerce, the South San Francisco Bay Emergency Port Access Study (Emergency Port Access Study) received grant funding from the U.S. Department of Commerce's Economic Development Agency and matching local funds from the County, the District, and the City of San Jose.

The consulting firm AECOM performed the Emergency Port Access Study, a high-level analysis of the feasibility of an emergency access port in Alviso and four potentially complementary development concepts, and the evaluation of the projects was completed in three phases (preliminary screening, alternatives refinement, and economic analysis). Stakeholder involvement was an important component of the Emergency Port Access Study, achieved through meetings of a Technical Advisory Committee with representatives from agencies and organizations in the South Bay (including the County), and public workshops were held in the community in July 2010, December 2010, and March 2011.

The preliminary screening phase of the Emergency Port Access Study evaluated the physical requirements (channel dimensions, landside facilities, and transportation and access), potential environmental impacts (such as to water quality, wetlands, and wildlife, as well as

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<sup>1</sup> See Projects Recommended For Deauthorization: First Annual Report: Communication From the Secretary of the Army Transmitting A Report Recommending Deauthorization of Certain Projects. Pursuant to Section 12 of Public Law 93-251. U.S. Congress, House of Representatives, House Document 94-192, 94th Congress, 1st Session, 1975.

federal, state, and local regulatory compliance), and economic considerations (market and service area) for each of five concepts:

1. **Cargo Port** – to provide infrastructure for receiving and sending unboxed commodity cargo by water.
2. **Emergency Port** – to facilitate response and recovery following a catastrophe, such as, a major earthquake, which may result in widespread devastation across the entire Bay Area.
3. **Entertainment Waterfront** – containing a mix of retail, entertainment, and potentially hotel, convention and residential uses.
4. **Ferry Terminal** – to provide water-based transportation to popular home, work, and recreation destinations.
5. **Recreation Marina** – to provide for boating, storage, and launching facilities.

After initial evaluation of the physical requirements and potential environmental impacts of a **Cargo Port or Ferry Terminal project, both concepts were eliminated from further consideration** – both projects would require extensive dredging and the widening of the channel. The three remaining alternatives (Emergency Port, Entertainment Waterfront, and a Recreational Marina) were identified for a more detailed engineering review of the physical requirements of the projects.

During the alternative refinement phase of the Emergency Port Access Study, it was determined that most water-based projects would require considerable dredging given the shallow depth of Alviso Slough and its distance to the bay (approximately 4.5 miles). Given the potential presence of contaminated sediments and increased disposal expenses, any new dredging project would impose considerable costs (estimated to be between \$39 million - \$440 million for initial dredging, and an additional \$44 million - \$285 million for maintenance over 20 years) and significant challenges associated with permitting – challenges which, according to the Emergency Port Access Study, **rendered any concept that required extensive dredging infeasible**. The remaining development concepts that would not require dredging were an Emergency Port served by a hovercraft (Emergency Hovercraft Port), and an Entertainment Waterfront.

The final phase of the Emergency Port Access Study was an analysis of the costs and economic benefits to the South Bay of the proposed Emergency Hovercraft Port and Entertainment Waterfront concepts. The evaluation of the Emergency Hovercraft Port estimated the increased capacity for emergency response in the event of a major disaster relative to the potential capital and operation expenses. For the Entertainment Waterfront concept, the Emergency Port Access Study analyzed both the direct fiscal benefits to the City

of San Jose and the economic benefits in direct earnings in Santa Clara County, and compared those against the public costs to prepare the property for development and to make open improvements on the waterfront.

Draft study findings were presented at a March 2011 public workshop in Alviso, and the final Emergency Port Access Study report was released the same month, concluding that both concepts – an Emergency Hovercraft Port and an Entertainment Waterfront development – **were feasible and were estimated to result in net benefits to the South Bay.**

- **Emergency Hovercraft Port** – The Emergency Access Port Study report indicates the primary objective of the **Emergency Hovercraft Port concept** would be to allow for the transport (import and export) of people, goods, and/or emergency supplies following a catastrophic event. The Emergency Hovercraft Port concept would serve primarily as an access point for first response personnel, and could also provide limited “recovery transportation” via a ferry between Alviso and San Francisco. According to the report, the concept would contribute to redundancy of emergency response in the South Bay, complementing the area’s existing emergency network and the Water Emergency Transportation Authority.

The Emergency Port Access Study report estimated the public benefits of an Emergency Hovercraft Port related to emergency response would range between approximately \$10.4 million and \$31.3 million over the next 30 years, and the benefits related to recovery transportation would add an additional \$86,000 to \$2.5 million benefit over 30 years. According to the report, **the total benefits associated with the Emergency Hovercraft Port concept are valued at approximately \$10.5 million to \$33.8 million over 30 years.**

According to the report, the Emergency Hovercraft Port concept would require public investment to fund capital costs, annual operations and maintenance, emergency response and recovery transportation. Depending on the size and carrying capacity of the hovercraft, capital costs for the Emergency Hovercraft Port would range between \$1.2 million and \$7.6 million, annual operations costs range from \$1.4 million to \$7.7 million, and increased costs of emergency response and recovery transportation would be between \$35,000 and \$225,000.

The Emergency Port Access report indicated that the **total costs associated with the Emergency Hovercraft Port concept over 30 years would be between \$2.6 million and \$15.5 million.**

- **Entertainment Waterfront** – As stated in the report, the Entertainment Waterfront concept includes approximately 83,000 square feet of destination commercial development along Alviso waterfront between the east side of the flood control levee

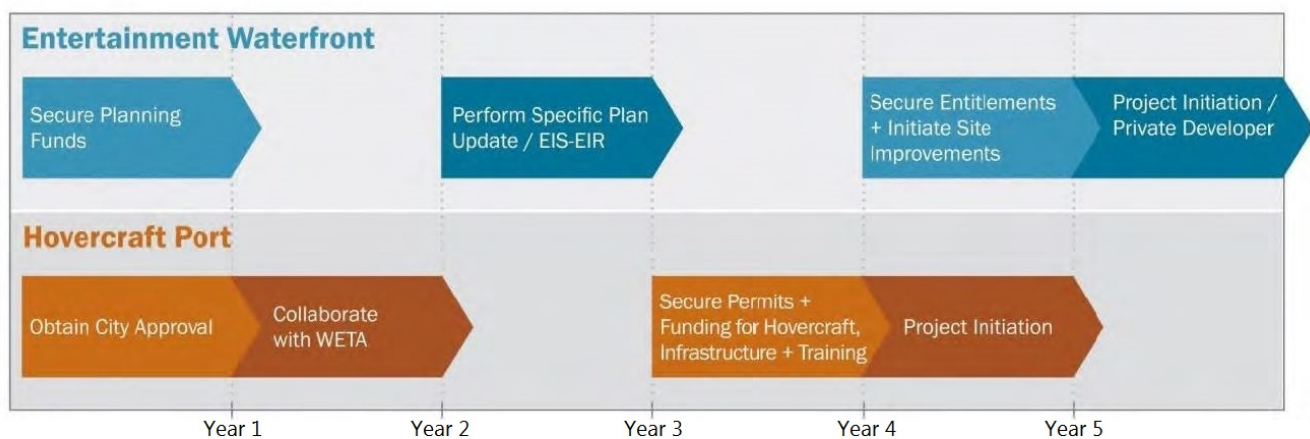
between the community of Alviso and Alviso Slough, and would result in improvements to the existing Bay Trail. Constructions of the development would face several potential challenges, including existing restrictions on any construction that would alter or compromise the existing flood control levee, and approval would be required from multiple regulatory agencies (e.g. BCDC, District, USACE, City of San Jose). The report indicated that further geotechnical analysis would be necessary in future stages of implementation.

The report estimates that **total public investment required for the development would be \$4.2 million, and \$33 million in private investment would be necessary**, with the City of San Jose expected to receive approximately \$4.4 million in tax revenues, not including indirect or induced fiscal benefits of such a project.

The Emergency Port Access Study concluded that the net value of the emergency response and recovery transportation benefits provided by the Emergency Hovercraft Port concept would range from approximately \$7.9 million to \$18.3 million over 30 years, and the Entertainment Waterfront concept would, over a 20-year period, generate direct economic impacts of \$530 million in Santa Clara County and would create 622 new jobs.

### *Project Initiation and Implementation*

The Emergency Port Access Study report identified a proposed project initiation timeline for both concepts of at least five years, given that both projects would require additional planning and permitting, collaboration with regional stakeholders, and the identification of funding sources:



Source: South San Francisco Bay Emergency Port Access Study, AECOM

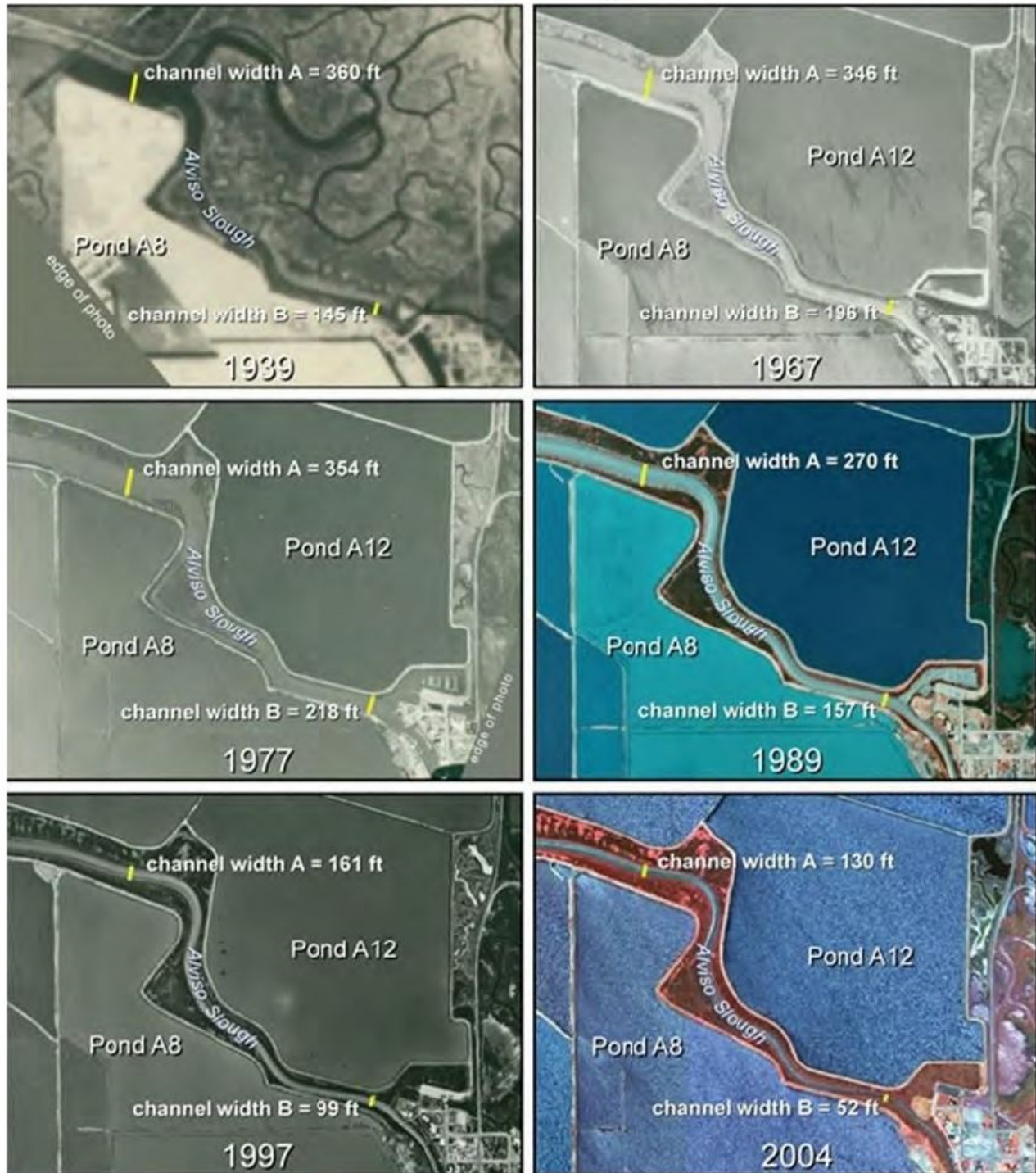
According to the report, the recommended next steps would be to secure necessary funding to perform more detailed site analysis and land use planning, complete Environmental Impact Statements / Environmental Impact Reports, and to obtain regulatory approval from the BCDC, the U.S. Department of Fish and Wildlife, and the City of San Jose, among others agencies.



## Historical Uses of Alviso Slough

While Alviso Slough was historically used for navigation, boating, and public access to the South Bay, sediment accumulation and vegetation encroachment over the last twenty-five years has led to a gradual decline in both channel width and overall depth, thereby limiting these uses.

**Alviso Slough, 1939-2004**



Source: South San Francisco Bay Emergency Port Access Study, H.T. Harvey & Associates



## **CHILD IMPACT**

The recommended action will have no/neutral impact on children and youth.

## **SENIOR IMPACT**

The recommended action will have no/neutral impact on seniors.

## **SUSTAINABILITY IMPLICATIONS**

The recommended action will have no/neutral sustainability implications.

## **BACKGROUND**

On March 24, 2009, the Board of Supervisors approved an allocation of \$60,000 in one-time funds to the San Jose Silicon Valley Chamber of Commerce for the County's share of a local match of funds for completion a South San Francisco Bay Emergency Port Access Study.

On March 20, 2012, at the Board of Supervisors' meeting, Supervisor Cortese made a Board referral to the County Administration to report back to Finance and Government Operations Committee on possible next steps in the study and planning for an Alviso Emergency Access Port.

On April 12, 2016, at the Board of Supervisors' meeting, Supervisor Cortese made a Board referral to the County Administration to prepare a work plan jointly with the District for the study of the South Bay shoreline and waterfront issues and opportunities in the areas of flood control, emergency access, economic development, parks and recreation, and tourism. Supervisor Cortese directed the County Administration to report to HLUET at the August 2016 meeting with an initial work plan.

At the August 18, 2016 meeting of HLUET, the Committee requested a chronological work plan of anticipated South Bay shoreline project milestones, and directed the County Administration to report back on additional areas of joint study and activity with the Water District.

At the October 20, 2016 HLUET meeting, Chairperson Cortese directed the County Administration to provide a report to the Committee on date uncertain relating to joint opportunities to pursue parks and recreational access to County and Federal facilities at the South Bay shoreline. Chairperson Cortese indicated that his office would contact the Office of the Mayor of San Jose relating to a joint meeting of the City and County economic development teams.

A report back by the County Administration to the HLUET Committee was originally scheduled to be heard at the January 19, 2017 meeting of HLUET, but was deferred by the Committee Chair's office until the May 2017 joint meeting with the District.

At the April 11, 2017 Board of Supervisors meeting, the Board directed the County Administration to amend the County's Legislative Priorities, under Planning, Land Use and Development to read:

*“Funding and policies that promote the economic prosperity development of Alviso while preserving the character of its rich historic, cultural and recreational heritage.”*

Additionally, the Board directed the County Administration to add to the Legislative Priorities Document, under Planning, Land Use and Development, “Funding and policies that promote the response to climate change in the South Bay and the increased utilization of the San Francisco Bay Trail, San Francisco Bay Area Water Trail, Alviso Marina County Park and Don Edwards San Francisco Bay National Wildlife Refuge.”

**ATTACHMENTS:**

- Shoreline District-County 5-18 Meeting (PDF)



# South San Francisco Bay Shoreline Study

## District – County Meeting

May 18, 2017



US Army Corps  
of Engineers.



Coastal  
Conservancy

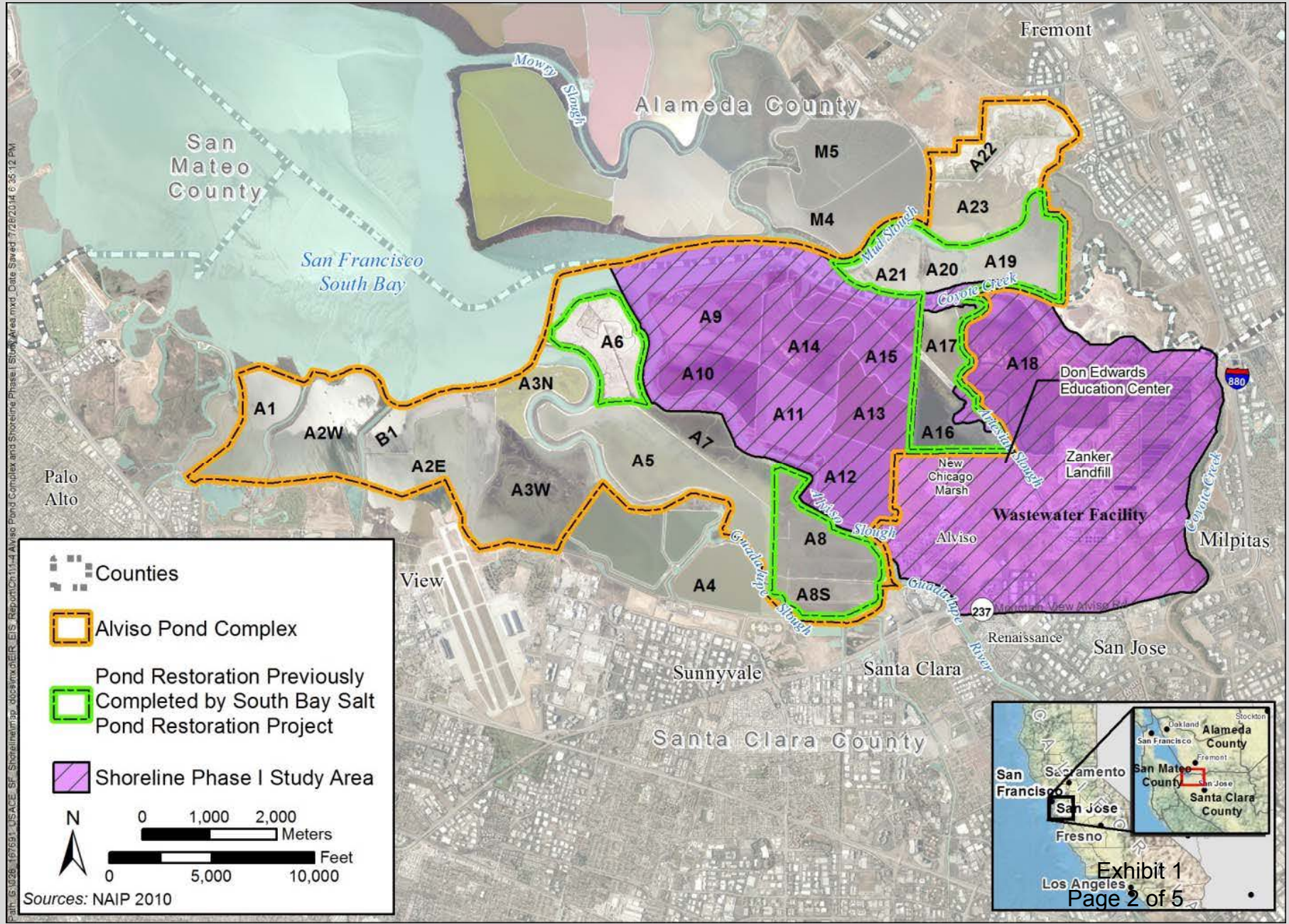
Santa Clara Valley  
Water District



Exhibit 1  
Page 1 of 5



# Shoreline Study Area





# Shoreline EIA 11

## Authorized Project

### ✦Flood Risk Management (FRM)

- ▶ 4-mile long levee, 2 closure structures
- ▶ Manages risk for population of ~5,500, ~1,100 structures, and the regional wastewater facility
- ▶ 2.69 feet of high sea level change
- ▶ Integrated fluvial and tidal FRM

### ✦Ecosystem Restoration

- ▶ 2,900 acres of tidal wetlands including ecotone

### ✦Recreation

- ▶ Provides key connections to San Francisco Bay Trail & viewpoints

### Total Project First Cost

\$174 million (Oct 2015 Price Level)

### FRM BCR (@3.375%)

Sea Level Change scenario

Low/Intermediate/High:

4.2 / 5.3 / 9.4

### Ecosystem Restoration

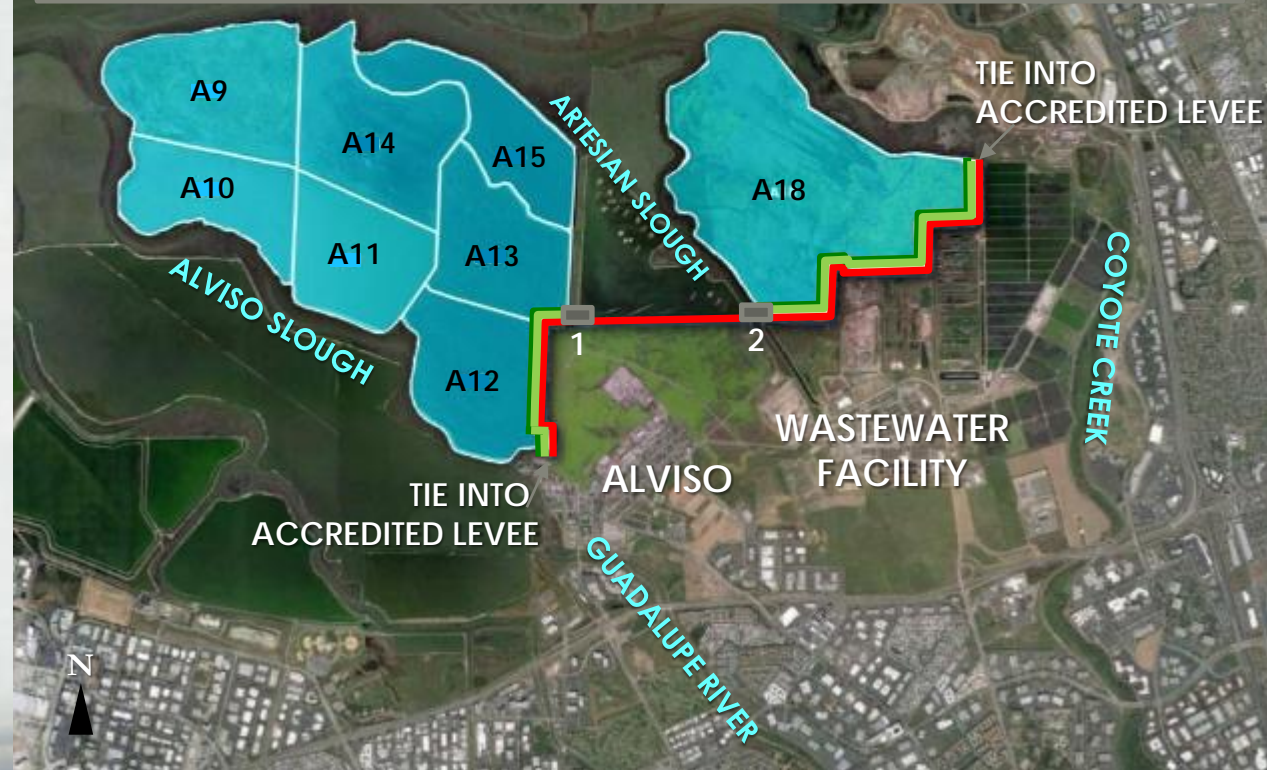
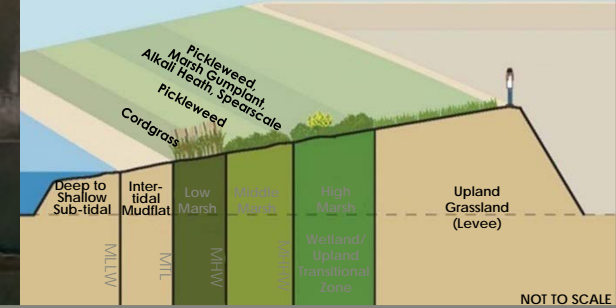
48,308 habitat units; 2,900 acres

Monitoring/Adaptive Management

### Recreation BCR (@3.375%) 1.1

- Levee
- Ecotone (transitional habitat)
- Tidal Marsh Restoration
- 1 Union Pacific Railroad Crossing
- 2 Artesian Slough Tide Gate & Pedestrian Bridge

### ECOTONE AND LEVEE CROSS SECTION





This map illustrates the proposed pedestrian bridge project area in San José Alviso. The map includes the following elements:

- Legend:**
  - Bench
  - Observation Platform
  - Phase I Shoreline Study Area
  - Project Trails
  - Existing Trail System
  - Alviso North WPCP South Levee Alignment
  - \*Proposed Bay Trail
  - Future Reaches 9, 9B, and 7A
  - Existing Bay Trail
- Scale and Orientation:**
  - North arrow pointing up.
  - Scale bars: 0 to 800 Meters and 0 to 4,000 Feet.
- Geographic Labels:**
  - Counties:** Santa Clara County, Milpitas.
  - Landmarks:** Wastewater Facility, Los Esteros Rd, Zanker Rd, Mountain View Alviso Rd, Renaissance, Santa Clara, Alviso, New Chicago Marsh, San Jose, Santa Clara County Park.
  - Highways:** 880, 237.
  - Waterways:** San José Alviso Slough, San Antonio Slough, San Lorenzo Slough, San Juan Slough, San Gabriel Slough, San Felipe Slough, San Carlos Slough, San Benito Slough, San Luis Slough, San Juan Slough, San Gabriel Slough, San Felipe Slough, San Carlos Slough, San Benito Slough, San Luis Slough.
- Map Details:**
  - The map shows the proposed project trails (yellow lines) and existing trails (red lines) within the Phase I Shoreline Study Area (blue outline).
  - The map also shows the Alviso North WPCP South Levee Alignment (black line) and the proposed Bay Trail (orange dashed line).
  - The map includes a legend, scale bars, and a north arrow.
  - The map is titled "San José Alviso Slough Pedestrian Bridge Feasibility Study" and is dated 2014.



# Shoreline EIAs 1-10 Preliminary Alignment



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**File No.:** 17-0314

**Agenda Date:** 5/18/2017

**Item No.:** 7.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Consider Recommendations Relating to Permanente Creek Flood Protection Project, including the Rancho San Antonio County Park Detention Basin Project.

### **RECOMMENDATION:**

- A. Receive an Overview and Update of the Project; and
- B. Provide direction from the County Board of Supervisors to Administration to support the efforts of the Santa Clara Valley Water District to obtain regulatory permits from state and federal agencies for both maintenance and capital projects in a timely, efficient, and affordable manner.

### **SUMMARY:**

The Project will protect approximately 2,200 parcels by implementing flood detention and channel improvement elements over 10 linear miles of waterways. This Project is a prime example of the successful implementation of the principles of a watershed-wide planning approach and of a fruitful partnership and collaboration with multiple agencies, including the County of Santa Clara and its Parks and Recreation Department. The Project represents the culmination of the District's Natural Flood Protection planning process, a multi-objective approach to providing environmental quality, community benefit, and protection from creek flooding in a cost-effective manner.

Due to the wide geographical area covering a 17.5 square mile watershed and the goal to meet multiple objectives, the scope of work for this Project was complex and involved many stakeholders (i.e., County of Santa Clara, Mid-Peninsula Regional Open Space District, Cities of Mountain View, Los Altos, and Cupertino). Through multiple project task force and public meetings, interested members of the affected communities worked collaboratively with the District, the County, and representatives from natural resource agencies, and local cities, to develop the final Project. Ultimately, with the invaluable assistance of the County's Parks staff over the years and approval of an agreement in June 2013 under the leadership of the County Board of Supervisors during critical Project milestones, this Project was able to move forward, to the benefit of the local and regional communities.

### ***Rancho San Antonio Detention Basin Overview***

The Project utilizes two strategically located flood detention areas throughout the watershed to maximize flood protection benefits at an acceptable cost. The focus of this discussion is on the

detention area at Rancho San Antonio County Park.

An approximately 8-acre detention basin (referred to as the north basin) on the east side of Permanente Creek and another 2-acre basin (referred to as the south basin) on the west side of the Creek is currently being constructed in Rancho San Antonio County Park (Attachment 1). The new basins will be approximately 8 to 15 feet deep, with gently sloped sides contoured for a natural appearance. Short berms up to 5 feet high with similarly natural slopes will fill in the low areas around the basins. An inlet structure, which will replace an existing stream crossing, will be constructed between the two basins. High flows in Permanente Creek resulting from the area upstream of the detention basins will spill into the structure and be transmitted to the basins through inlet pipes. Outlets from each basin will begin to return temporarily detained water back to the creek a few hours after the peak flow passes. Depending on the magnitude of the storm, the basins will empty in one to four days.

To accommodate the north basin, the District worked closely with County Parks and Mid-Peninsula Regional Open Space District (MROSD) to plan/design the relocation of an existing parking lot and installation of new restroom facilities with the new parking lot. The District also worked collaboratively with County Parks and MROSD on a well relocation, realignment/relocation of the Hammond-Snyder Trail, and site restoration including re-vegetation to accommodate the detention basin and meet recreational needs of the County Park. This Project design would not have been possible without this multi-agency collaboration, and it represents public agencies working together toward the benefit of their mutual constituents.

At completion of the Project, almost 20 acres of natural habitats will be restored or enhanced, including planting of over 200 native trees, widening nearly 3,000 linear feet of creek riparian habitat, more than doubling the size of site seasonal wetlands, and enhancing 1.7 acres of endangered California red-legged frog upland dispersal habitat.

### ***Current Project Status***

The Rancho San Antonio detention basin construction contract was awarded to Granite Construction for \$14,432,368.95 on October 11, 2016 and the contractor began work in December 2016. Currently, the first phase of work on the new parking area and restroom is underway and the next phase of work on the detention basins is expected to begin in July. The District continues to coordinate with the County and MROSD during construction. The Project is anticipated to be completed by February 2019.

### ***Regulatory Issues re District Maintenance and Capital Projects***

Given the extensive community input received and regulatory requirements imposed on the Project, the planning and design phase ultimately took over fifteen years to complete. Natural resource agency permitting alone took three years to obtain. The following permits from four different regulatory agencies and the dates that they were received are: the U.S. Army Corps of Engineers waters of the U.S. fill permits (June 2016), U.S. Fish and Wildlife Service biological opinion (May 2016), California Department of Fish and Wildlife Streambed Alteration Agreement (July 2016), and



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San Francisco Bay Regional Water Quality Control Board Water Quality Certification (December 2015). The fact that it took three years to get just four permits for the Permanente Project demonstrates the increasing challenge the District faces in obtaining permits in a timely, affordable, and efficient manner.

This Project provides just one example of the challenges faced by the District in securing regulatory permits for both its watershed and water utility maintenance and capital projects. Consequently, staff recommends that the Board of Supervisors direct County staff to support the District's efforts to lobby for and obtain regulatory permits from state and federal agencies for both maintenance and capital projects in a timely, efficient, and affordable manner.

Examples of regulatory and permitting issues consistently impeding the District's efforts to progress its work are discussed in Attachment 2. This Attachment is a detailed document regarding these matters which was provided by District staff to federal government representatives for purposes of discussing challenges encountered in securing permits. County support for the District's efforts at the state and federal level would be appreciated to:

1. Obtain flexibility from regulatory agencies in long-term financial assurances (including exemptions from endowments);
2. Ensure adequate funding for regulatory agencies to improve the overall permit process and prevent project delays (e.g., through streamlined permitting processes and consistent standards for environmental review);
3. Seek ways to expedite permit issuance for routine maintenance of channels; and
4. Better coordinate mitigation requirements amongst agencies.

**FINANCIAL IMPACT:**

There is no financial impact associated with this item.

**CEQA:**

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

- Exhibit 1: Map  
Exhibit 2: Regulatory and Permitting Issues  
Exhibit 3: Power Point

**UNCLASSIFIED MANAGER:**

Ngoc Nguyen, 408-630-2632

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**County of Santa Clara  
Parks and Recreation Department**



86509

**DATE:** May 18, 2017

**TO:** Board of Supervisors

**FROM:** Robb Courtney, Director of Parks and Recreation Department

**SUBJECT:** Permanente Creek Flood Protection Project – Rancho San Antonio Detention Basin.

**RECOMMENDED ACTION**

Consider recommendations relating to Permanente Creek Flood Protection Project – Rancho San Antonio Detention Basin.

Possible action:

- a. Receive an Overview and Update on the project.
- b. Provide direction from the County Board of Supervisors to Administration to support the efforts of the Valley Water District to obtain regulatory permits from State and federal agencies for both maintenance and capital projects in a timely, efficient and affordable manner.

**FISCAL IMPLICATIONS**

This is no impact to the General Fund as a result of this report.

**CONTRACT HISTORY**

On June 25, 2013, The Board Adopted a Resolution to consider the Santa Clara Valley Water District final supplemental Environmental Impact Report for the Permanente Creek Flood Protection Project involving County property at Rancho San Antonio County Park; making all necessary findings to approve a License Agreement with the District to construct and maintain a flood detention basin in Rancho San Antonio County Park; delegating authority to Director, Parks and Recreation Department, to take all action and execute all documents necessary to implement the License Agreement; and, identifying the location and custodian of documents that form the basis for this decision. Delegation of authority shall expire on June 25, 2053. (Roll Call Vote)

**REASONS FOR RECOMMENDATION**

See Attachment A – District Board Agenda Memorandum for the District's overview and update on the Permanente Creek Flood Protection Project.



## **CHILD IMPACT**

The recommended action will have no/neutral impact on children and youth.

## **SENIOR IMPACT**

The recommended action will have no/neutral impact on seniors.

## **SUSTAINABILITY IMPLICATIONS**

The recommended action will have no/neutral sustainability implications.

## **CONSEQUENCES OF NEGATIVE ACTION**

County and District staff will not have current direction from the Board of Supervisors.

## **STEPS FOLLOWING APPROVAL**

Upon processing, notify Don Rocha and Tim Heffington, Parks and Recreation Department.

## **LINKS:**

- Linked To: BOS-2013-121 : Adopt Resolution to consider the Santa Clara Valley Water District final supplemental Environmental Impact Report for the Permanente Creek Flood Protection Project involving County property at Rancho San Antonio County Park; making all necessary findings to approve a License Agreement with the District to construct and maintain a flood detention basin in Rancho San Antonio County Park; delegating authority to Director, Parks and Recreation Department, to take all action and execute all documents necessary to implement the License Agreement; and, identifying the location and custodian of documents that form the basis for this decision. Delegation of authority shall expire on June 25, 2053. (Roll Call Vote)

## **ATTACHMENTS:**

- Permanente Creek Valley Water District Board Agenda Memorandum (PDF)
- Exhibit 1 - Rancho San Antonio Map (PDF)
- Exhibit 2 - Regulatory and Permitting Issues (PDF)
- Exhibit 3 - District County Mtg PPT - 051017 (PDF)



Permanente Creek Flood Protection Project  
**Rancho San Antonio Detention Basin**





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## Requests:

- Flexibility in long-term financial assurances including exemption from endowments.
- Provide adequate funding for regulatory agencies to improve the overall permit process and prevent project delays.
- Establish procedures which streamline the permitting process.
- Provide standards and guidance to facilitate consistent environmental review of projects.
- Seek ways to expedite timeliness of permit issuance for the routine maintenance of channels.
- Better coordination of mitigation requirements among agencies.
- Require federal and state agencies to agree to accept the same mitigation for the same project impacts.
- In lieu fee programs should be an allowable mitigation option.
- Remove permitting for routine maintenance when determined it would not cause additional environmental impacts than for which were originally mitigated.
- Environmental restoration projects should be exempt from mitigation.

**Goal:** The ability to effectively and efficiently work with regulatory agencies to ensure that permits are obtained in a timely and predictable manner ensures that our financial resources are appropriately utilized. Delays in obtaining permits, conflicting guidance from regulatory agencies, and inflexible financial assurance vehicles negatively impact the ability of the Santa Clara Valley Water District (District) from building/repairing vital water supply and flood protection infrastructure which benefits Santa Clara County's approximately 2 million residents.

## Brief Background:

### Public Entities Need Flexibility in Financial Assurance Mechanisms for Long-Term Management of Compensatory Mitigation Sites

Permitting agencies are requiring financial assurances for long-term management of compensatory mitigation sites as a condition of permit issuance. Although existing policy does allow for flexibility in financial assurance options, some federal agencies have recently been insistent that endowments are the only avenue to ensure the long-term sustainability of a compensatory mitigation site.

For the District, in particular, an endowment unnecessarily ties up capital which would otherwise be used towards flood protection and other projects.

### Create a Balanced Approach to Watershed Based Regulatory Permitting and Financing for Public Agencies

The District wants to ensure that it is able to work effectively and efficiently with regulatory agencies to ensure that permits are obtained in a timely and predictable manner and that our financial resources are appropriately utilized. To that end, in situations where it can be determined that routine maintenance would not cause additional

environmental impacts than which were originally mitigated for, there should not be a need for permitting the maintenance. Removing this permitting requirement would both simplify the process and expedite the overall timeline for conducting routine maintenance. Furthermore, environmental restoration projects, by their very nature, are intended to protect, restore, and enhance the environment, and should be exempt from mitigation.

The District will pursue efforts that will: 1) allow for public agencies, which are performing routine maintenance, to bring flood protection projects back to their original capacity to be exempt from needing to obtain a permit, as long as the maintenance would not cause any additional environment impacts which were originally mitigated for; 2) allow for true environmental restoration projects to be exempt from requiring mitigation, and 3) pursue efforts which will provide agencies alternatives and exemptions to endowments if the agency has adopted the local or regional watershed management plan.

### **Provide Adequate Funding for Regulatory Agencies to Improve the Overall Permit Process and Prevent Project Delays**

Regulatory agencies appear to lack adequate staff to process permits in a timely and predictable manner. The issuance of routine permits for both construction and routine maintenance can take years. Adequate funding would ensure the regulatory agencies have the staff to streamline permit issuance which is essential to getting local agency projects out in a timely and cost effective manner.

Where feasible, support standardizing regulatory agency internal processes and procedures to optimize the permitting application process.

### **Improve Permitting for Routine Channel Maintenance**

Local Flood Protection Agencies are increasingly reluctant to create or restore habitat and wildlife corridors in flood protection channels due to the difficulty in obtaining natural resource agency permits to perform routine maintenance, including vegetation management. Improvements to the permitting processes for routine channel maintenance are needed to manage flood protection channels to meet both habitat and flood protection goals.

### **Better Coordination of Mitigation Requirements Among Regulatory Agencies is Needed**

Complying with multiple and often conflicting mitigation requirements of state and federal agencies has become increasingly common, often driving up the price tag on projects and delaying projects which often are responsible for the protection of the health and safety of the community. It has become increasingly difficult to comply with conflicting regulations that govern day-to-day operations and the building of infrastructure projects.

The best mitigation option may be the establishment of an in-lieu fee program. In-lieu fee programs have priority level in the Federal Mitigation Rule and in-lieu fee is considered an effective and useful approach to satisfy compensatory mitigation requirements.

A forum or process should be created which allows for agencies to understand the requirements being placed on permittees, which will decrease the conflicts which are often present. Federal and state agencies should agree to and accept the same mitigation for the same project impacts to reduce the financial burden on public agencies. This will allow for more efficient permitting and responsible spending of public funds. In-lieu fee programs should be an allowable mitigation option.

Permanente Creek Flood Protection Project

# Update on Rancho San Antonio Detention Basin

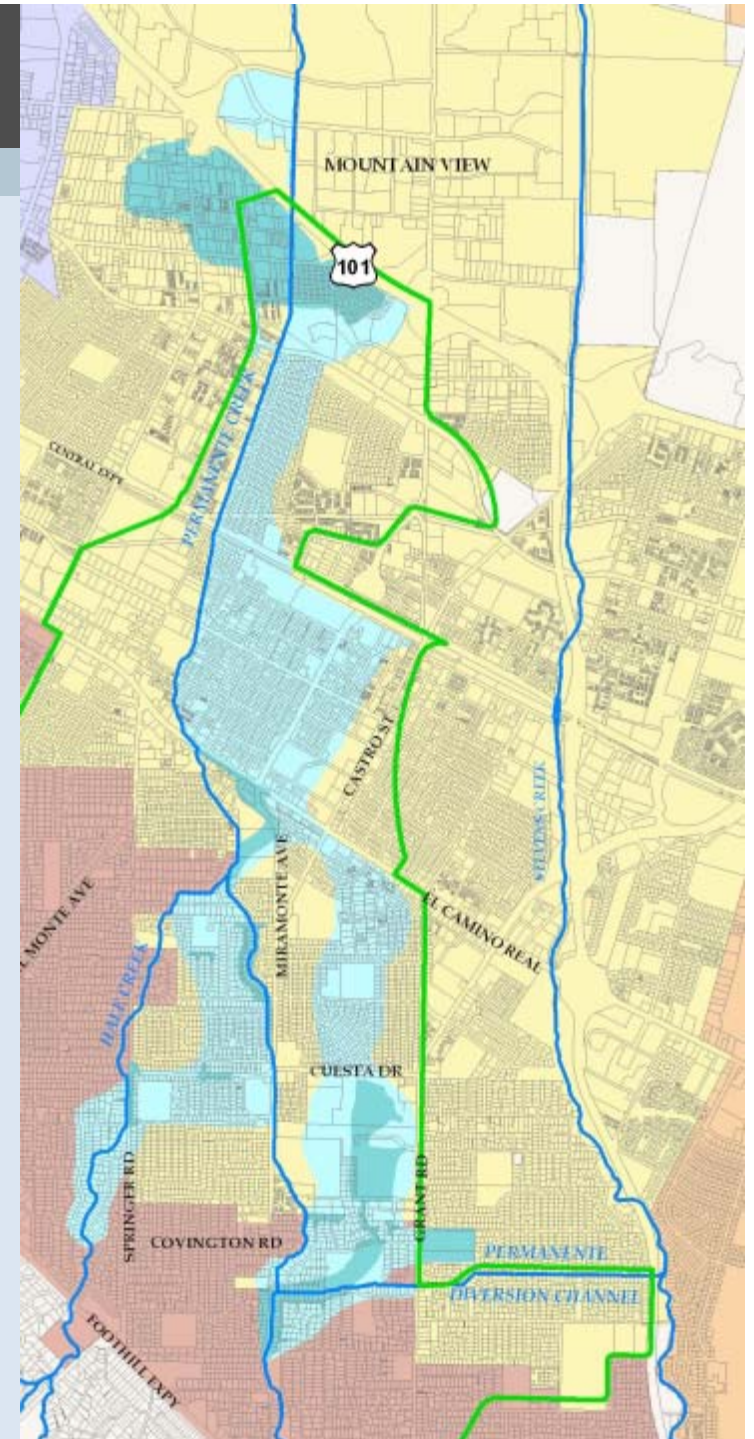
Joint SCVWD – SCCBOS Meeting  
May 18, 2017





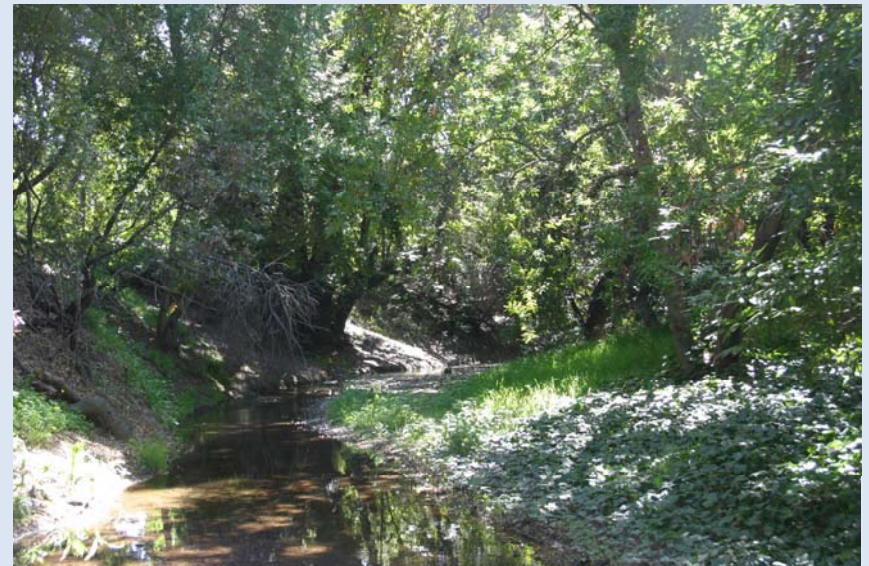
# Historical flooding

- 12 major floods in the past century
- Most recent major floods in 1995 and 1998
- Potential flood damages in this area are estimated in excess of \$48 million (1999 value)

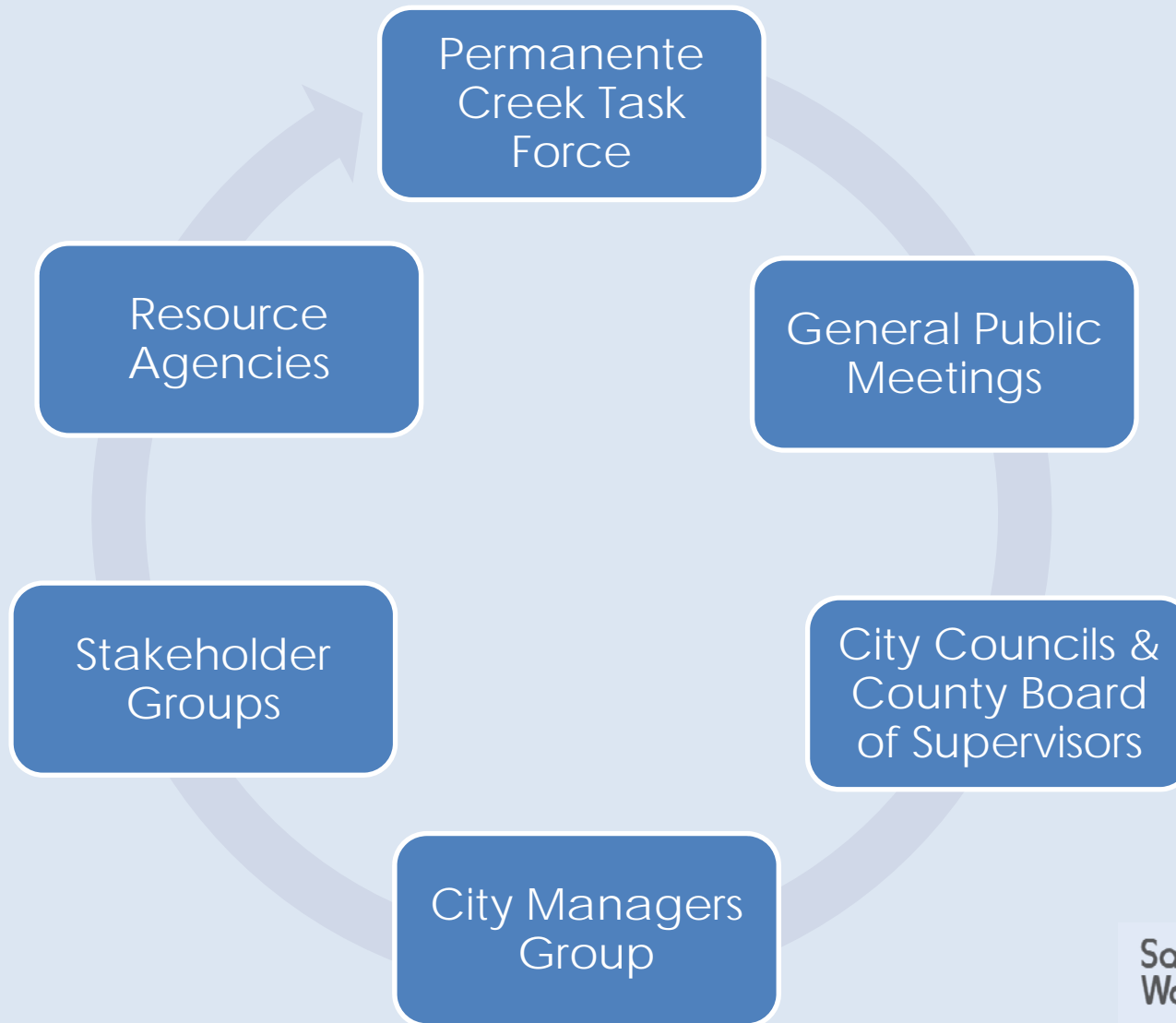


# Project objectives

- Provide one-percent flood protection to the citizens of Mountain View and Los Altos using a natural flood protection approach
- Protect Central Expressway and Middlefield Road
- Address deteriorating concrete channels
- Provide opportunities for environmental enhancements and trail extensions
- Minimize long-term maintenance costs



# Extensive outreach during planning & design





# Major project elements

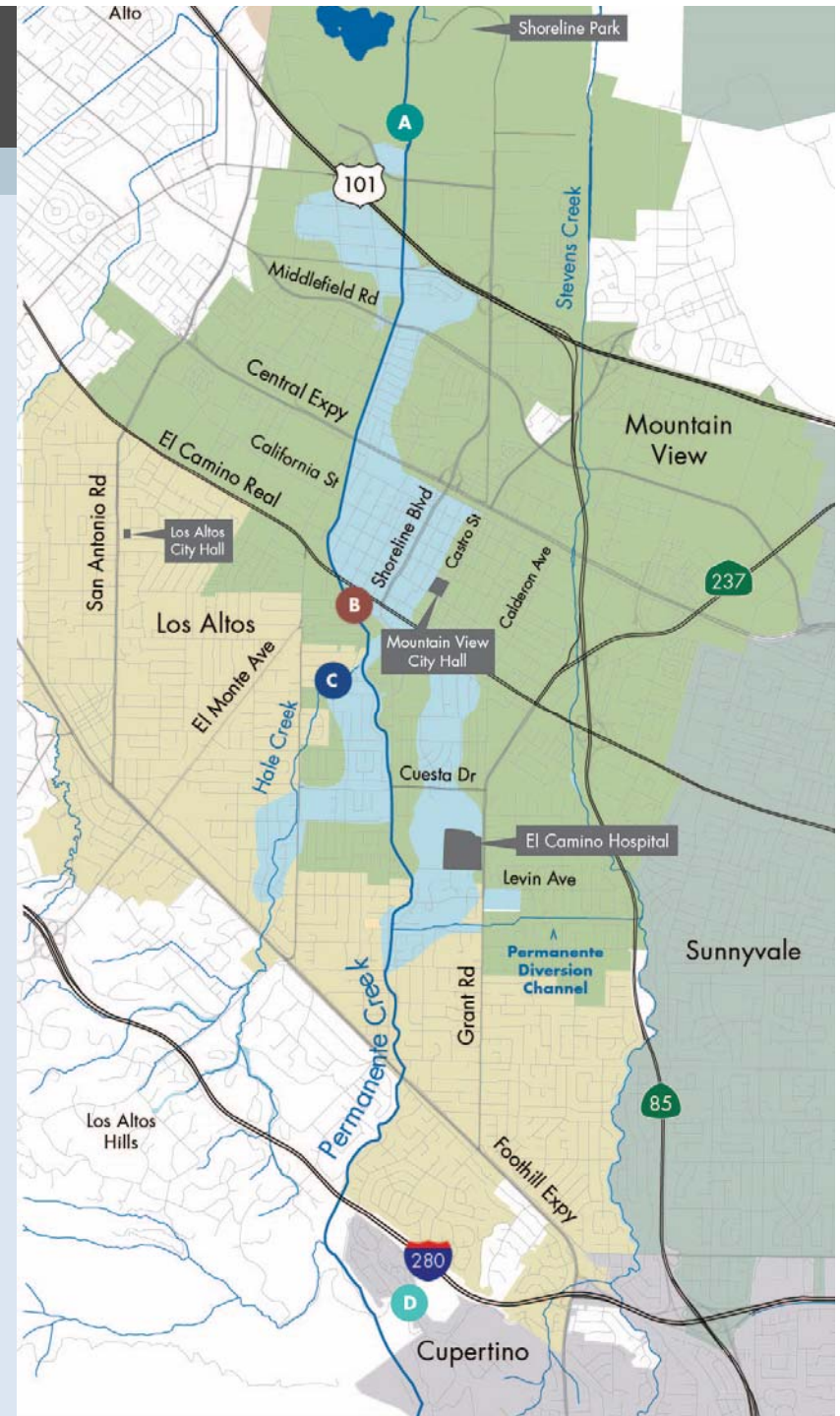
- A** Floodwalls
- C** Channel widening

## Flood detention areas:

- B** McKelvey Park
- D** Rancho San Antonio Park

The project will protect 2,200 parcels in Mountain View and Los Altos from a one-percent flood.

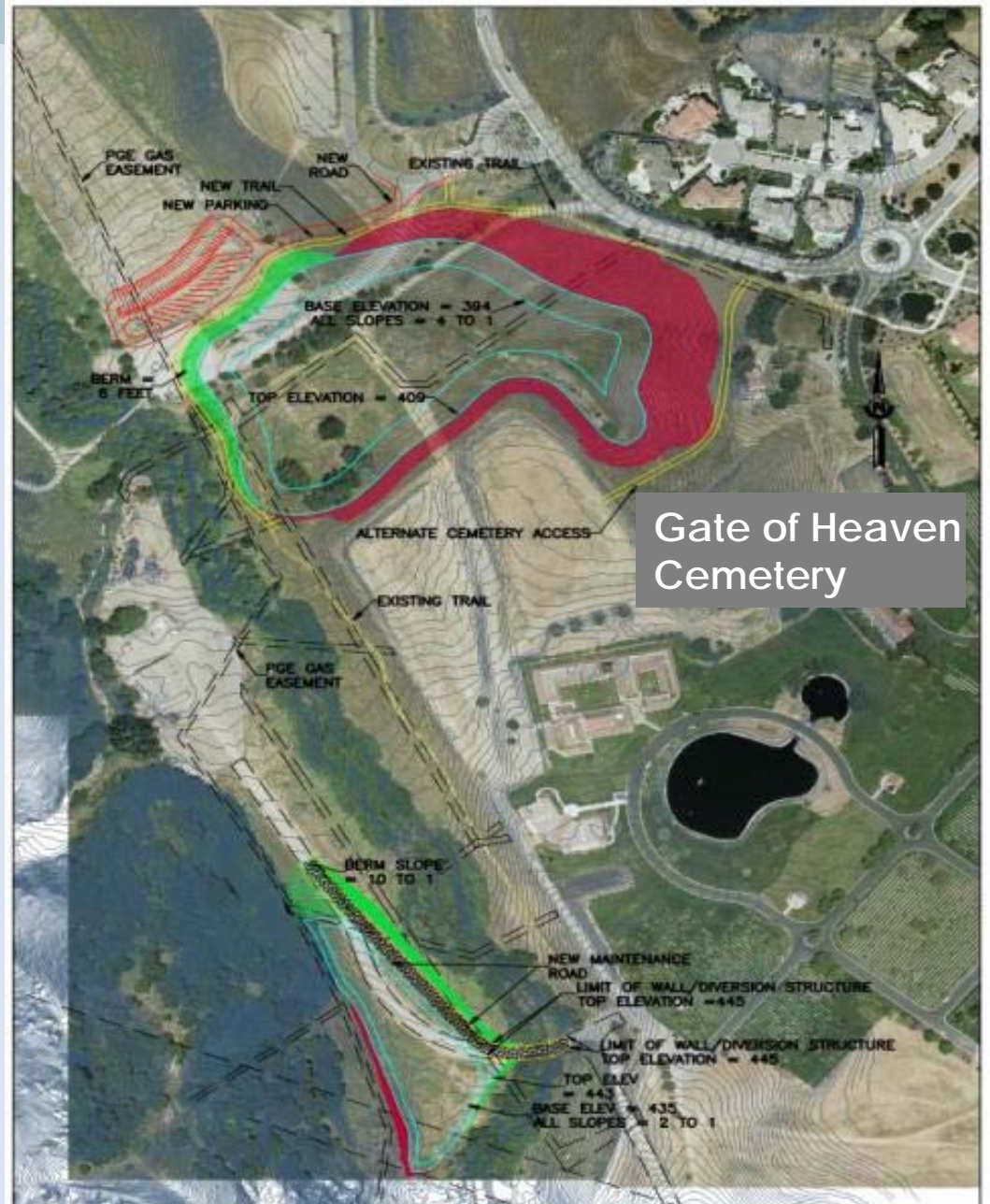
*Light blue area shows the historical flood area*



# D. Rancho San Antonio (RSA)

## Features:

- Detention basins
- New parking area
- New restroom
- New maintenance bridge
- Plant new native trees
- Remove non-native trees



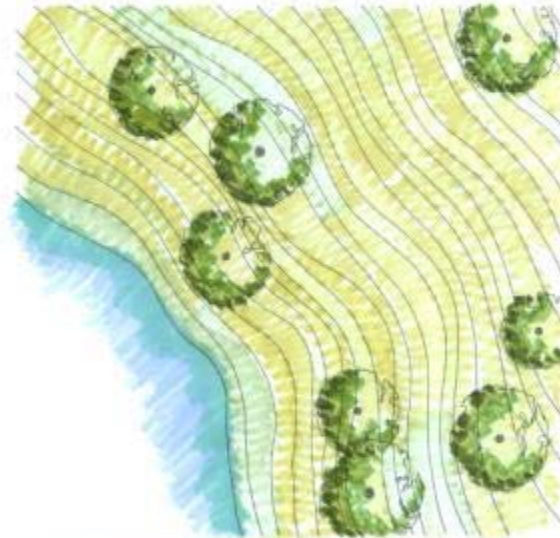








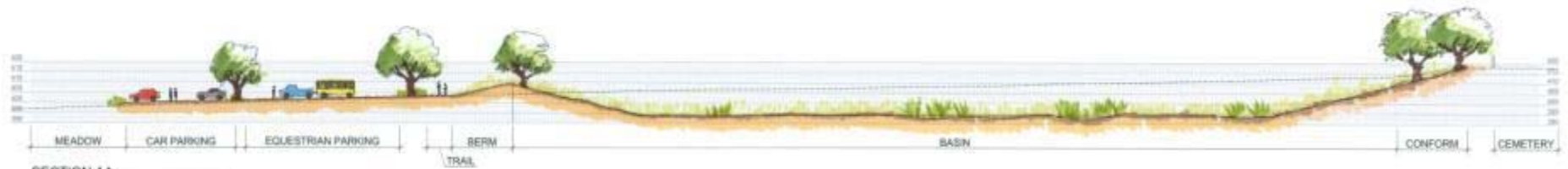
KEY PLAN  
Scale 1" = 100'-0"



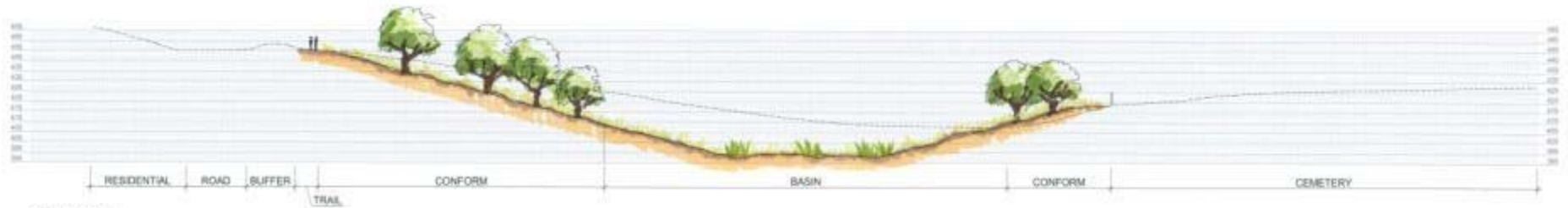
ILLUSTRATIVE SLOPE PLAN  
Scale 1" = 10'-0"



ILLUSTRATIVE SLOPE SECTION  
Scale 1" = 10'-0"



SECTION AA  
Scale 1" = 20'-0"



SECTION BB  
Scale 1" = 20'-0"

# D. RSA: Visual Rendering



Existing view from Cristo Rey Drive looking southwest

Left:  
**Current view**

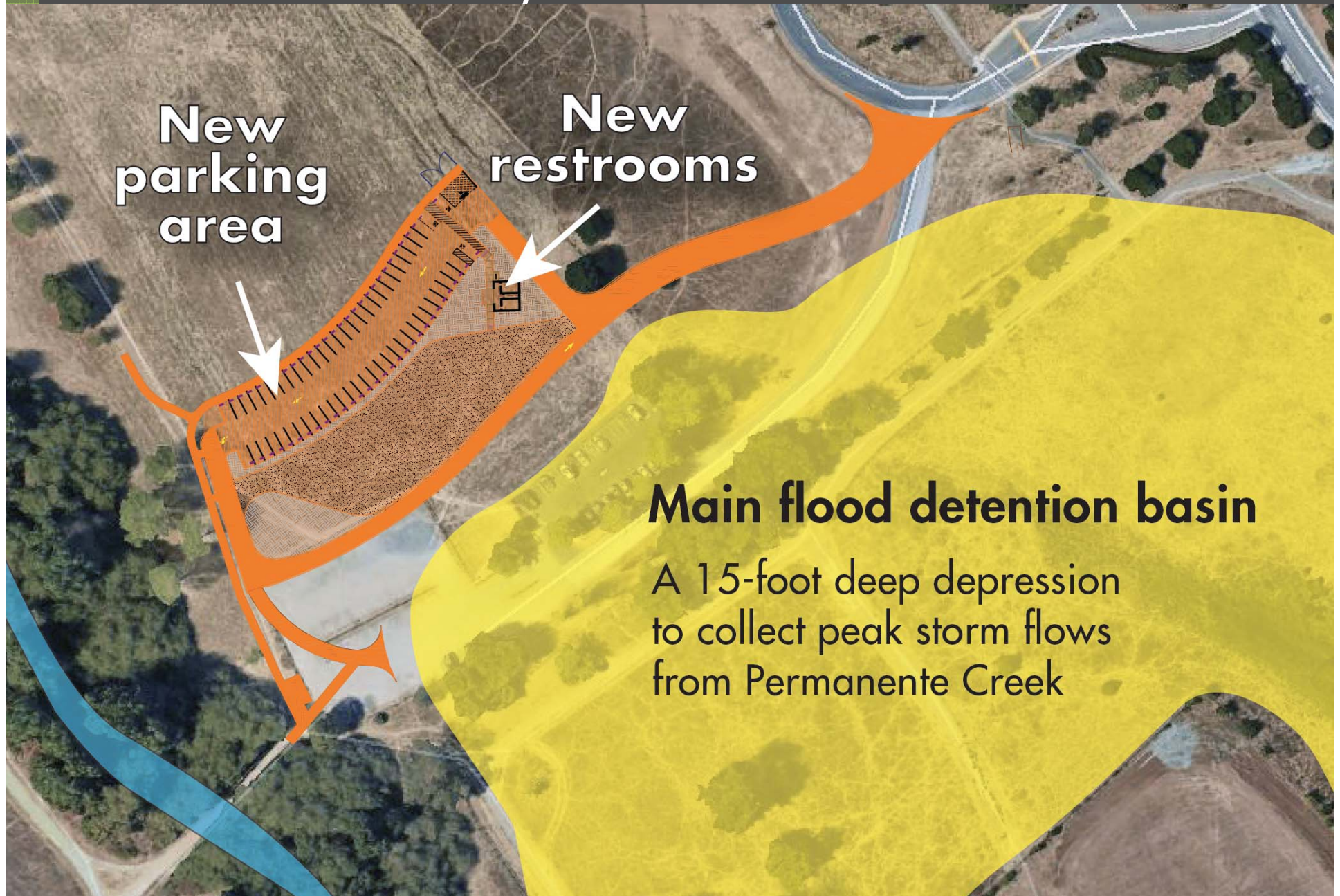
Right:  
**Rendering of  
future view**



Visual simulation of proposed project

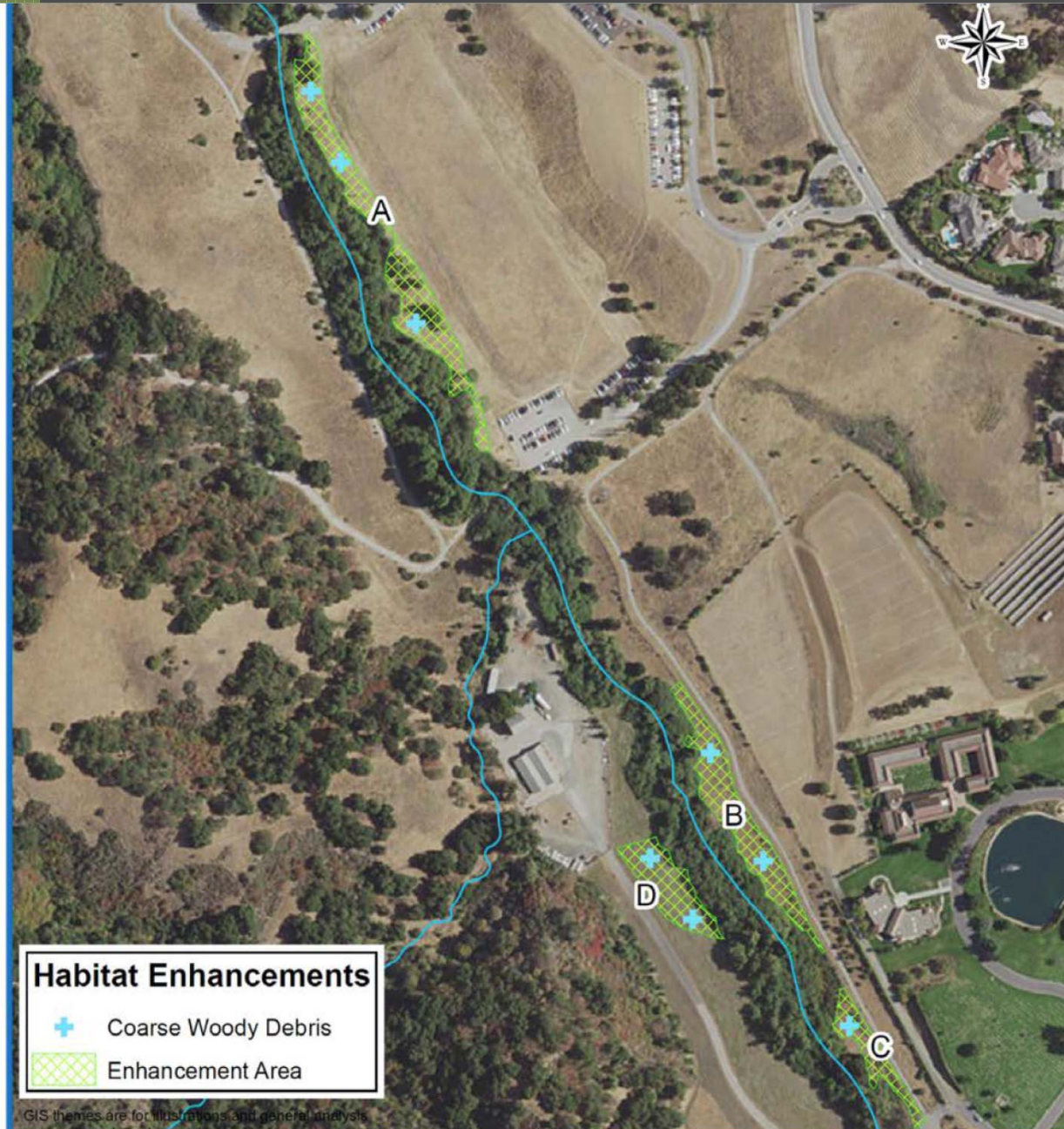


## D. RSA: Parking Area





## D. RSA: Enhanced Habitat



- Restore almost 20 acres of habitat for the endangered California Red-Legged Frog
- Allows for riparian restoration downstream

## D. RSA: Current Status

Construction Activity	Estimated Date
Awarded to Granite Construction	Oct 2016
Construction Start	Dec 2016
New Parking Lot & Restroom	Jan – June 2017
Inlet structure and south basin construction	May to Oct 2017
South basin outlet construction	May to Jul 2017
North basin construction	July 2017 to Feb 2018
Site restoration	Spring 2018









# Support District's Efforts Regarding Regulatory Permits

1. Obtain flexibility from regulatory agencies in long-term financial assurances
2. Ensure adequate funding for regulatory agencies to improve the overall permit process and prevent project delays
3. Seek ways to expedite permit issuance for routine maintenance of channels
4. Better coordinate mitigation requirements amongst agencies



# For more information

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(408) 630-2795

<http://valleywater.org/services/PermanenteCreek.aspx>

- Sign up to receive project updates via email.
- View project reports, maps, history and other information.

