



## Santa Clara Valley Water District Board of Directors Meeting

District Headquarters Board Room  
5700 Almaden Expressway  
San Jose, CA 95118

### **\*AMENDED/APPENDED AGENDA**

**Tuesday, October 10, 2017  
11:30 AM**

**\*ITEMS AMENDED AND/OR APPENDED SINCE THE ORIGINAL PUBLICATION OF THIS AGENDA  
ARE IDENTIFIED BY AN ASTERISK (\*) HEREIN**

**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  
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**



**Santa Clara Valley Water District  
Board of Directors**

**\*AMENDED/APPEDED  
AGENDA**

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Tuesday, October 10, 2017

11:30 AM

District Headquarters Board Room

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**1. CALL TO ORDER:**

1.1. Roll Call.

**2. TIME CERTAIN:**

**11:30 AM**

*Notice to the Public: The Board of Directors meets in Closed Session in accordance with the Ralph M. Brown Act. Following the conclusion of Closed Session discussion, the Board will return for the remaining items on the regular meeting agenda.*

2.1. CLOSED SESSION: LIABILITY CLAIMS

[17-0678](#)

Government Code Section 54956 (e)(3)

Receipt of Claim

Claimant: Edward and Annamarie Murphy, against: Santa Clara Valley  
Water District

2.2. CLOSED SESSION

[17-0655](#)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957

Chief Executive Officer

**1:00 PM**

2.3. District Counsel Report.

2.4. Pledge of Allegiance/National Anthem.

2.5. Orders of the Day.

*A. Approximate Discussion Time (Board); and*

*B. Adjustments to the Order of Agenda Items.*

2.6. Time Open for Public Comment on any Item not on the Agenda.

*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.*

\*2.7. Hearing to Consider Adoption of Resolution of Necessity Relating to Acquisition of Real Property Interests from Morgan Hill Plaza, Necessary to Complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051 (Morgan Hill) (District 1) (Continued From September 26, 2017).

[17-0668](#)

- Recommendation:
- A. Conduct Hearing to consider adoption of Resolution of Necessity relating to acquisition of real property interests from Morgan Hill Plaza necessary to complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051; and
  - B. Adopt the Resolution of Necessity DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*), by two-thirds vote.

Manager: Katherine Oven, 408-630-3126

Attachments: [Attachment 1: Map](#)  
[Attachment 2: Resolution](#)  
[\\*Handout: Item 2.7-A, PowerPoint](#)



- \*2.8. Hearing to Consider Adoption of Resolution of Necessity Relating to Acquisition of Real Property Interests from Eleanor Sade, Trustee, Necessary to Complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051 (Morgan Hill) (District 1) (Continued From September 26, 2017).

[17-0669](#)

- Recommendation: A. Conduct Hearing to consider adoption of Resolution of Necessity relating to acquisition of real property interests from Eleanor Sade, Trustee necessary to complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051; and
- B. Adopt the Resolution of Necessity DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*), by two-thirds vote.

Manager: Katherine Oven, 408-630-3126

Attachments: [Attachment 1: Map](#)  
[Attachment 2: Resolution](#)  
[\\*Handout 2.8-A, PowerPoint](#)

- \*2.9. Hearing to Consider Adoption of Resolution of Necessity Relating to Acquisition of Real Property Interests from MH Sterling Group, LLC, Necessary to Complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051 (Morgan Hill) (District 1) (Continued From September 26, 2017).

[17-0670](#)

- Recommendation: A. Conduct Hearing to consider adoption of Resolution of Necessity relating to acquisition of real property interests from MH Sterling Group, LLC necessary to complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051; and
- B. Adopt the Resolution of Necessity DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*), by two-thirds vote.

Manager: Katherine Oven, 408-630-3126

Attachments: [Attachment 1: Map](#)  
[Attachment 2: Resolution](#)  
[\\*Handout 2.9-A, PowerPoint](#)

- \*2.10 Expedited Purified Water Program - San Diego County Water Authority's [17-0621](#)  
Experiences with Project Delivery Methods; Additional Information on  
Design/Build and Public-Private Partnership for Program Delivery;  
Program Status Update.

- Recommendation: A. Receive information from San Diego County Water Authority on their experiences with various project delivery methods;
- B. Receive staff's response to questions posed by the Board at its March 27, 2017 Board Work Study Session regarding various impacts of choosing Design/Build (DB) or a Public-Private Partnership (P3);
- C. Receive information on the Program Status; and
- D. Provide direction to staff on next steps for the Expedited Purified Water Program procurement process.

Manager: Katherine Oven, 408-630-3126

Attachments: [Attachment 1: Summary of Prior Board Work Study Sessions](#)  
[Attachment 2: Biography, B. Yamada, Director of Water Resource](#)  
[Attachment 3: SDCWA PowerPoint](#)  
[Attachment 4: SCVWD PowerPoint](#)  
[Attachment 5: 021517 Letter from City of San Jose](#)  
[\\*Supplemental Agenda Memorandum](#)  
[\\*Supplemental Attachment 1: PowerPoint](#)

Est. Staff Time: 20 Minutes

**3. CONSENT CALENDAR: (3.1 - \*3.6) (Est. Time: 5 Minutes)**

*Notice to the public: There is no separate discussion of individual consent calendar items. Recommended actions are voted on in one motion. If an item is approved on the consent vote, the specific action recommended by staff is adopted. Items listed in this section of the agenda are considered to be routine by the Board, or delegated to the Board Appointed Officers (BAOs) yet required by law or contract to be Board approved (EL-7.10). Any item may be removed for separate consideration at the request of a Board member. Whenever a resolution is on the consent calendar, a roll call vote will be taken on the entire calendar. Members of the public wishing to address the Board on any consent items should complete a Speaker Card and present it to the Clerk of the Board.*

- 3.1. Resolution Recognizing the 27th Anniversary of the Americans with Disabilities Act and National Disability Employment Awareness Month. [17-0606](#)
- Recommendation: Adopt the Resolution RECOGNIZING THE 27th ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT AND NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH.
- Manager: Garth Hall, 408-630-2750
- Attachments: [Attachment 1: Resolution](#)
- 3.2. Notice of Completion of Contract and Acceptance of Work for the John D. Morgan Park Monitoring Wells Project, Cascade Drilling, L.P., Contractor, Project No. 91304001, Contract No. C0622 (Campbell) (District 4). [17-0619](#)
- Recommendation: A. Accept the work as complete; and
- B. Direct the Clerk of the Board to sign the Notice of Completion of Contract and Acceptance of Work and submit for recording to the Santa Clara County Clerk-Recorder.
- Manager: Katherine Oven, 408-630-3126
- Attachments: [Attachment 1: Notice Completion of Contract/Acceptance of Work](#)  
[Attachment 2: Recommendation of Construction Acceptance](#)  
[Attachment 3: Project Completion Letter](#)  
[Attachment 4: PowerPoint](#)  
[Attachment 5: Project Delivery Process Chart](#)
- 3.3. Update of the Condition of the Coyote Percolation Dam (San Jose) (District 1) and Determination that the Condition of the Coyote Percolation Dam Continues to Constitute an Emergency. [17-0638](#)
- Recommendation: Determine by a four-fifths vote that there is a need to continue the emergency action declared by the Board on August 22, 2017, pursuant to California Public Contract Code §22050, to repair the Coyote Percolation Dam.
- Manager: Kurt Arends 408-630-2284

- 3.4. Update on the Condition of the Stevens Creek Bank Erosion Repair Emergency Project, Project No. 62062003 (El Nino Flood Emergency Response) (Mountain View) (District 7), and Determination that the Condition of the Stevens Creek Bank Erosion Continues to Constitute an Emergency. [17-0639](#)

Recommendation: A. Receive an update on the condition of the Stevens Creek bank erosion emergency project; and

- B. Determine by a four-fifths vote of the Board, that there is a need to continue the emergency action declared by the Chief Executive Officer (CEO) on August 18, 2017, pursuant to California Public Contract Code §22050, to repair Stevens Creek bank erosion, downstream of El Camino Real, (SR-82) (Project) Project No. 62062003 (El Nino Flood Emergency Response), Task Code No. 1062, Facility ID No. 1029, (Mountain View) (District 7).

Manager: Ngoc Nguyen, 408-630-2632

- \*3.5. CEO Bulletins for the Weeks of September 22 - 28, 2017 and September 29 - October 5, 2017. [17-0677](#)

Recommendation: Accept the CEO Bulletins.

Manager: Norma Camacho, 408-630-2084

Attachments: [Attachment 1: 092217 CEO Bulletin](#)  
[Attachment 2: 100517 CEO Bulletin](#)

- \*3.6. Approval of Minutes. [17-0645](#)

Recommendation: Approve the minutes.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: 082217 Regular Meeting](#)  
[Attachment 2: 082517 Special Meeting](#)

#### **REGULAR AGENDA:**

#### **4. BOARD OF DIRECTORS:**

- \*4.1. Coyote Creek Flood Risk Reduction Ad Hoc Committee's Recommendations and Associated Staff Analysis from the Committee's October 5, 2017, Meeting. [17-0658](#)

Recommendation: A. Receive a report from the Coyote Creek Flood Risk Reduction Ad Hoc Committee and staff analysis.

B. Provide direction to staff to operate the Anderson Reservoir system through the winter of 2017/2018 following the 40% exceedance rule curve that was recommended by the Coyote Creek Flood Risk Reduction Ad Hoc Committee at the October 5, 2017 meeting to reduce the risk of flooding along Coyote Creek and provide adequate water supply while balancing other beneficial uses.

Manager: Kurt Arends, (408) 630-2284

Attachments: [Attachment 1: 083117 CCFRR Ad Hoc Committee Agenda and M](#)  
[Attachment 2: 100517 CCFRR Ad Hoc Committee Agenda and M](#)

Est. Staff Time: 10 Minutes

- \*4.2. Fiscal Year 2018-2019 Board Strategic Priorities Planning Session Development. [17-0673](#)

Recommendation: Review and provide input on the Board Policy and Planning Committee's recommended planning process to engage the Board in the Fiscal Year 2018-2019 Strategic Priorities planning session.

Manager: Michele King, 408-630-2711

Est. Staff Time: 10 Minutes

- \*4.3. Board Committee Reports. (Previously Listed as Item 4.1.)

**5. WATER UTILITY ENTERPRISE: NONE**

**6. WATERSHEDS: NONE**

**7. EXTERNAL AFFAIRS: NONE**

**8. CHIEF EXECUTIVE OFFICER:**

8.1. Chief Executive Officer Report.

**9. ADMINISTRATION: NONE**

**10. DISTRICT COUNSEL: NONE**

**11. ADJOURN:**

- 11.1. Board Member Reports/Announcements.
- 11.2. Clerk Review and Clarification of Board Requests.
- 11.3. Adjourn to Special Meeting at 1:00 p.m., on October 17, 2017, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.





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**File No.:** 17-0678

**Agenda Date:** 10/10/2017  
**Item No.:** 2.1.

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**NON-EXHIBIT/CLOSED SESSION ITEM**

**SUBJECT:**

CLOSED SESSION: LIABILITY CLAIMS

Government Code Section 54956 (e)(3)

Receipt of Claim

Claimant: Edward and Annamarie Murphy, against: Santa Clara Valley Water District



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**File No.:** 17-0655

**Agenda Date:** 10/10/2017  
**Item No.:** 2.2.

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**NON-EXHIBIT/CLOSED SESSION ITEM**

**SUBJECT:**

CLOSED SESSION  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Pursuant to Government Code Section 54957  
Chief Executive Officer



**File No.:** 17-0668

**Agenda Date:** 10/10/2017

**Item No.:** \*2.7.

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## BOARD AGENDA MEMORANDUM

### SUBJECT:

Hearing to Consider Adoption of Resolution of Necessity Relating to Acquisition of Real Property Interests from Morgan Hill Plaza, Necessary to Complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051 (Morgan Hill) (District 1) (Continued From September 26, 2017).

### RECOMMENDATION:

- A. Conduct Hearing to consider adoption of Resolution of Necessity relating to acquisition of real property interests from Morgan Hill Plaza necessary to complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051; and
- B. Adopt the Resolution of Necessity DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*), by two-thirds vote.

### SUMMARY:

The Santa Clara Valley Water District (District) is undertaking the Upper Llagas Creek Flood Protection Project (Project) in partnership with the U.S. Army Corps of Engineers (Corps) and the City of Morgan Hill (City) to provide flood protection. The Project is approximately 13 miles long and encompasses the Cities of Morgan Hill, Gilroy, and various unincorporated areas of Santa Clara County, including San Martin.

The Project has been divided into two phases for construction as identified in Attachment 1. Phase 1 construction is approximately 4.2 miles in length and includes Reach 4, a portion of Reach 5, Reach 7a (diversion channel), and Lake Silveira (on-site compensatory mitigation). Phase 2 construction is approximately 9.7 miles in length and includes a portion of Reach 5 and Reaches 6, 7b, 8, and 14.

This proposed acquisition of property is required for Phase 2 construction of the Project.

Background. The Project was originally administered by the United States Natural Resources Conservation Service (NRCS). In 1999, the Corps was authorized by Congress to take over from NRCS and construct the Project. However, due to lack of federal funding, the Corps' progress on the Project stalled. The Corps approved the District's request to assume the lead role in the Project's

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planning and design phases in order to advance the Project to eventual construction.

On September 22, 2009, the Board approved a cost sharing agreement with the City of Morgan Hill (City) for preparing the environmental document and the design plans and specifications for the Project. The Board action set the course for the District to take on Project tasks normally performed by the Corps, so that the Project could advance. The District is responsible for acquisition of necessary property for the Project.

On October 22, 2013, the District Board of Directors approved a Real Estate Consultant Agreement with Overland, Pacific & Cutler (OPC) to assist District staff in acquiring an estimated 146 parcels needed for the Project.

On June 10, 2014, the Board considered an Environmental Impact Report (EIR) and adopted a Resolution Making Findings of Fact and a Statement of Overriding Considerations regarding the EIR for the Project and adopted a Mitigation Monitoring and Reporting Program. At the same meeting, the Board approved the Project.

Description of the Public Project. The Project improvements are designed to improve flood protection in Upper Llagas Creek, including enhanced protection for 1,100 homes and 500 businesses. Specifically, the Project will provide one percent conveyance capacity in Reaches 7 and 8 of the Project, no induced flooding in Reaches 4, 5, and 6 due to upstream improvements, and ten percent conveyance capacity in Reach 14.

Acquisition of the Property Interests. To construct the Project, the District must acquire various real property interests from the property owners within the Project footprint. Real property interests from 41 property owners are needed for Phase 1 [Reaches 4, 5 (a portion), 7A, and Lake Silveira] and real property interests are needed from 105 property owners for Phase 2 [Reaches 5 (a portion), 6, 7B, 8, and 14] (see Attachment 1, page 1 of 2). To date, the District has acquired the necessary property interests, or the properties are in the legal process to be acquired, for all but two of the properties required for Phase 1 of the Project. Staff continues to acquire the necessary property interests for Phase 2 of the Project. To date, 68 offers have been made, and 55 owners have reached resolution with the District. Staff continues to negotiate and communicate with the remaining property owners.

Amongst the other properties needed, the District requires the property rights shown in Attachment 1 (page 2 of 2) from property owned by Morgan Hill Plaza. To construct the box culvert for the Project, the District must acquire permanent easement and temporary construction easements over a portion of this property (APN 767-09-016) as described and depicted in Exhibits A and B to the Resolution of Necessity (RON) (Attachment 2).

The District made good faith attempts to negotiate a settlement with the property owner. Offers were made to the Owner on April 19, 2016, June 27, 2016, and February 7, 2017, but other than confirming receipt of the offers, Owner has been unresponsive to the various attempts made by OPC to negotiate a settlement.

In conformance with the Code of Civil Procedure Section 1245.235, the District will send a notice on

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adopting the Resolution of Necessity (Attachment 2) by certified mail to the person or persons whose name and address appears on the last equalized county assessment roll for APN 767-09-016 to provide them a reasonable opportunity to be heard by the Board.

The hearing by the Board and the adoption of the RON are legal preconditions to the exercise of the District's power of eminent domain. This statutory requirement is designed to ensure that public entities verify and confirm the validity of their intended use of the power of eminent domain. A RON must contain a general statement of the public use for which the property is taken, a reference to the authorizing statutes, a description of the property, and a declaration stating that the Board has found and determined each of the following underlined findings to be true:

1. The public's interest and necessity for the Project. To provide flood protection to the numerous properties in the cities of Morgan Hill, Gilroy, and San Martin, the Project must acquire the property rights from Morgan Hill Plaza to construct the Project.
2. The Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury. This design impacts the fewest private properties to the least extent possible while providing the conveyance capacity necessary to reduce flood risk from the one percent flood event, ten percent flood event, or no induced flooding. The design also provides for a stable channel, preserving and enhancing habitat, and reducing long-term maintenance of the creek.
3. The properties are necessary for the Project. The Project cannot be executed without the portions of APN 767-09-016, as described and depicted in Exhibits A and B attached to the RON, Attachment 2.
4. The Government Code Section 7267.2(a) offer has been made to the owner or owners of record. On February 7, 2017, the District sent via certified mail a final written offer to the owner for 767-09-016 to acquire the property interests, and the District has received confirmation of the owner's receipt. The District's offer complies with California Government Code Section 7267.2.

Attached for the Board's consideration is the proposed RON (Attachment 2). The RON includes direction from the Board authorizing acquisition of the subject property interests described therein by eminent domain.

As stated above, the District has attempted to acquire the needed property interests through a negotiated purchase and has reached an impasse; therefore, adoption of the RON should be considered to meet the Project schedule. If the RON is adopted, the District will still continue efforts to negotiate and achieve a mutual settlement prior to any court action.

The Upper Llagas Creek Project EIR Final May 2014 State Clearinghouse No. 2012102032 and the documents and reports included and referenced therein and the offer(s) made to and appraisal(s) provided to fee owners are incorporated by reference and made a part of this staff report. They are available for the Board of Directors to review and they support the findings to be made by the Board.

**FINANCIAL IMPACT:**

The property acquisition costs will be funded from the Upper Llagas Creek Project Clean Safe Creeks and Safe Clean Water Program funds, and are consistent with the FY 18-22 Capital Improvement Program. The District will be responsible for the appraised value of the parcel and any court ordered eminent domain costs.

There are adequate funds in Project's Fiscal Year 2017-2018 budget to complete this transaction required for the Upper Llagas Creek Flood Protection Project.

**CEQA:**

The District Board of Directors approved the Project and certified the Project Environmental Impact Report (EIR) on June 10, 2014.

**ATTACHMENTS:**

Attachment 1: Map

Attachment 2: Resolution

\*Handout: Item 2.7-A, PowerPoint

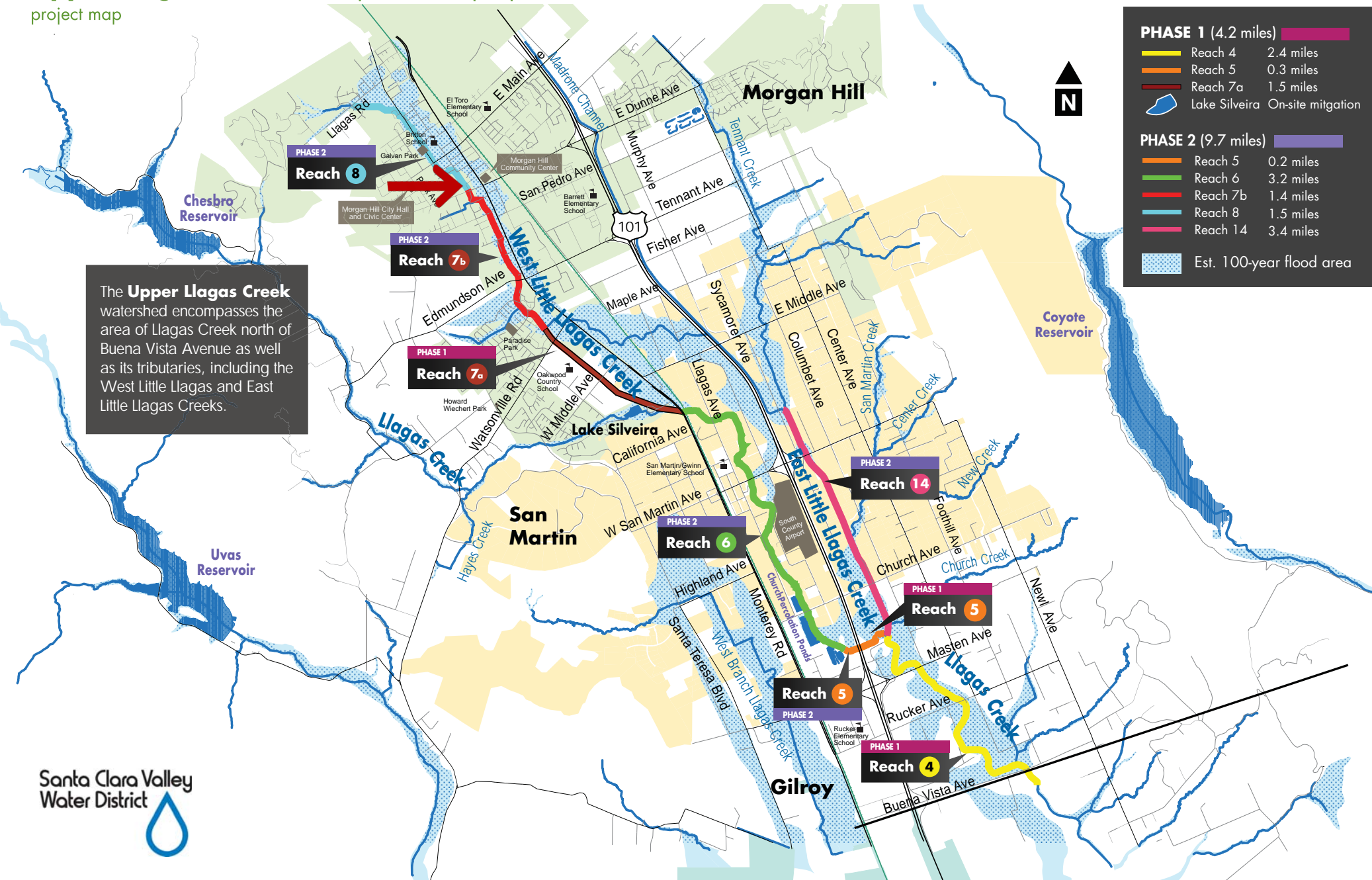
**UNCLASSIFIED MANAGER:**

Katherine Oven, 408-630-3126



# Upper Llagas Creek flood protection project

project map





**MORGAN HILL PLAZA (767-09-016)**  
**File No. 5027-224**  
**File No. 5012-208**

**Legend**

- Construction Work Limit
- Temporary Construction Easement
- Proposed Acquisition Area
- Morgan Hill Plaza ROW

Proposed Creek Diversion  
Underground Box Culvert

Current Creek Alignment

WEST LITTLE LLAGAS CREEK

**TEMPORARY CONSTRUCTION EASEMENT**

PARCEL 1 (TCE)= 3,682 SF +/- OR 0.084 Ac. +/- TOTAL AREA  
PARCEL 2 (TCE)= 1,828 SF +/- OR 0.042 Ac. +/- TOTAL AREA

**AREA TO BE ACQUIRED**

2,859 SF +/- OR 0.066 Ac. +/-

Area to be Acquired

Parcel 2 TCE

**MORGAN HILL PLAZA**  
**767-09-016**  
**File No.: 5027-224**  
**File No.: 5012-208**

Parcel 1 TCE

DEWITT STORM DRAIN

Santa Clara Valley  
Water District



Approximate Scale

0 100 200 400 Feet

Source: Esri, DigitalGlobe, GeoEye, Earthstar, GeoWorld, IGN, IGP, swisstopo, TomTom, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

GIS themes are for illustration and general analysis purposes only and are not accurate to surveying or engineering standards. Information is not guaranteed to be accurate, current, or complete and use of this information is your responsibility.

Watershed:	Uvas/Llagas
Project:	Upper Llagas Creek
Real Estate File No.:	5027-224 5012-208

**BOARD OF DIRECTORS  
SANTA CLARA VALLEY WATER DISTRICT**

**RESOLUTION NO. 17-**

**DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE  
ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL  
PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK  
FLOOD PROTECTION PROJECT NO. 26174051  
(CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*)**

WHEREAS, pursuant to a cost-sharing agreement with the City of Morgan Hill, the Santa Clara Valley Water District (District) is working to construct the Upper Llagas Creek Flood Protection Project No. 26174051 (the Project), which will provide flood protection for 1,100 homes, 500 businesses, and over 1,300 acres of agricultural land in southern Santa Clara County; and

WHEREAS, the District is authorized to condemn property for the Project pursuant to Article I, Section 19 of the California Constitution, Part 3, Title 7 of the California Code of Civil Procedure, Section 6 of the Santa Clara Valley Water District Act, and other provisions and principles of law; and

WHEREAS, the property interests to be acquired for the Project are located on 16965 Monterey Road, Morgan Hill, California 95037, Santa Clara County Assessor's Parcel No. 767-09-016, and are described and depicted in Exhibits A and B attached hereto and incorporated herein (Property); and

WHEREAS, the Project cannot be completed without the Property, and acquisition of the Property is accordingly necessary and in the public interest; and

WHEREAS, the use of the Property for the Project will not interfere with or impair any known, existing public uses and, therefore, is compatible with any other public uses pursuant to Code of Civil Procedure section 1240.510; and

WHEREAS, the District has made several offers to the owners of record including on February 7, 2017, pursuant to Government Code section 7267.2 based on the January 11, 2017 appraisal; and

WHEREAS, the District provided by certified mail to all persons whose names appear on the last Equalized County Assessment Roll as having an interest in the Property a notice that the District's Board of Directors would hold a hearing on September 26, 2017 to consider the adoption of a resolution of necessity authorizing the District to acquire the Property by eminent domain; and

DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *ET SEQ.*)

Resolution No. 17-

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WHEREAS, the District's notice advised all such interested persons of the time and place for the hearing, their right to be heard in relation to that matter, and that their failure to file a written request to appear and be heard at the hearing within 15 days from the mailing of the notice would result in a waiver of their right to be heard; and

WHEREAS, the District has calendared this Resolution as an item on its Agenda and invited public comment prior to the meeting; and

WHEREAS, the District's Board of Directors held a public hearing on September 26, 2017 to consider the adoption of this resolution, and all interested parties were given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the District finds, determines, and hereby declares:

1. The public interest and necessity require the Project;
2. The Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
3. The Property described and depicted herein in Exhibits A and B is necessary for the Project;
4. The District made the offer required by Government Code section 7267.2 to the owners of record;
5. The District has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property;
6. The District has complied with the requirements of the California Environmental Quality Act (CEQA) for the Project, the District's Board having on June 10, 2014, adopted a Final Environmental Impact Report;
7. The District's Office of the District Counsel and/or its designee is hereby authorized to commence and prosecute an eminent domain proceeding to acquire the Property, to deposit the amount of probable compensation pursuant to Code of Civil Procedure section 1255.010, and to acquire prejudgment possession of the Property as may be necessary for the Project.

DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *ET SEQ.*)

Resolution No. 17-

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PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District on by the following vote on October 10, 2017.

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

By: \_\_\_\_\_  
JOHN L. VARELA  
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC

\_\_\_\_\_  
Clerk/Board of Directors

### **Exhibit A**

A Temporary Construction Easement for the construction (and other related activities incidental to construction) of the Upper Llagas Creek Flood Protection Project (Project), under, upon, over and across a portion of the property described in the document recorded on March 14, 1972, as Instrument No. 4211932, Santa Clara County Official Records, situated in the City of Morgan Hill, California, the location of said Temporary Construction Easement being described and depicted in Exhibit "A-1" attached hereto and made a part hereof.

This easement is necessary for the purpose of constructing the Project and related activities incident to construction. This TCE will begin upon effective possession or when the property is first occupied for use for the Project's civil construction, and will continue for a duration of thirty-six continuous months.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.



**Exhibit A-1**

**Temporary Construction Easement Interests**

**SANTA CLARA VALLEY WATER DISTRICT**  
San Jose, California

By: K. Comerer  
Date: 08/04/15

Date Revised: 08/22/15  
Revised By: K. Comerer

Checked by: \_\_\_\_\_ Date: \_\_\_\_\_

PROJECT: UPPER LLAGAS CREEK  
PROPERTY: MORGAN HILL PLAZA

File No.: 5012-208

All of that certain parcel of land situate in the City of Morgan Hill, County of Santa Clara, State of California, more particularly described as follows:

Being a portion of Parcel 3, as shown on the Parcel Map filed on May 3, 1983 in Book 511 of Maps at Pages 46 and 47, said Santa Clara County records, more particularly described as follows:

Parcel 1 (T.C.E. 1)

BEGINNING at the southwesterly corner of said Parcel 3, as shown on said map; thence along the southwesterly and northwesterly lines of said Parcel 3 the following two (2) courses: 1) North 23° 37' 23" West, 59.99 feet and 2) North 66° 22' 37" East, 42.40 feet; thence leaving said northwesterly line, South 41° 43' 12" East, 23.82 feet; thence South 71° 45' 30" East, 55.97 feet to a point on the southeasterly line of said Parcel 3; thence along said southeasterly line, South 66° 22' 37" West, 91.48 feet to the POINT OF BEGINNING.

Containing 3,682 square feet or 0.085 acre of land, more or less.

Parcel 2 (T.C.E. 2)

BEGINNING at the southwesterly corner of said Parcel 3, as shown on said map; thence along the southeasterly line of said Parcel 3, North 66° 22' 37" East, 142.43 feet to the TRUE POINT OF BEGINNING; thence leaving said southeasterly line, North 71° 45' 30" West, 84.78 feet; thence North 41° 43' 12" West, 3.58 feet to a point on the northwesterly line of said Parcel 3; thence along said northwesterly line, North 66° 22' 37" East, 27.86 feet; thence leaving said northwesterly line, South 71° 45' 30" East, 89.89 feet to a point on the southeasterly line of said Parcel 3; thence along said southeasterly line, South 66° 22' 37" West, 30.55 feet to the TRUE POINT OF BEGINNING.

Containing 1,828 square feet or 0.042 acre of land, more or less.

END OF DESCRIPTION

**BASIS OF BEARINGS:**

Bearings and distances described herein are based on the California Coordinate System of 1983, Zone 3, Epoch 2011.43. Multiply herein described distances by 1.00001657 to obtain ground level distances.

**SURVEYOR'S STATEMENT:**

Legal description prepared by Cross Land Surveying, Inc. in August 2015 and is based on boundary resolution by SCVWD and was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

Kristina D. Comer  
Kristina D. Comerer, PLS 6766

Date: Sept. 2, 2015





MORGAN HILL PLAZA

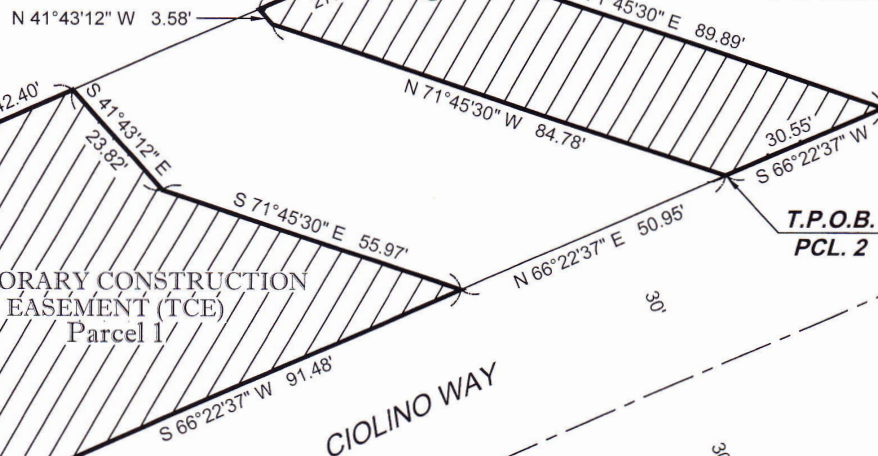
767-09-017  
SADE, TRUSTEE



TEMPORARY CONSTRUCTION  
EASEMENT (TCE)  
Parcel 2

PM 511-M-46 & 47  
PARCEL 3

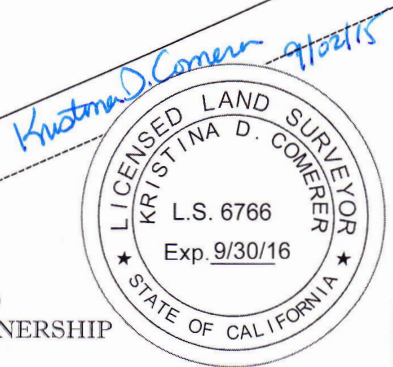
767-09-016  
MORGAN HILL PLAZA  
DOC. 4211932



TEMPORARY CONSTRUCTION  
EASEMENT (TCE)  
Parcel 1

P.O.B.  
PCL. 1 & PCL. 2

CIOLINO WAY



767-09-028  
VILLA CIOLINO  
ASSOCIATES LTD. PARTNERSHIP

TCE

PARCEL 1 (TCE) = 3,682 SF +/- OR 0.084 Ac. +/- TOTAL AREA  
PARCEL 2 (TCE) = 1,828 SF +/- OR 0.042 Ac. +/- TOTAL AREA

Santa Clara Valley Water District



SCALE: 1" = 30'

PROJ. NO.	26174051
FILE NO.	5012-208
APN	767-09-016
TITLE REPORT NO.	616011233
DRAWN	G. Comerer
DATE	08/21/15

REV.	APPR.	DATE	DESCRIPTION
1		8/15	CHANGE FILE NO.
2			

Sheet 1 of 1

## **Exhibit B**

An easement for water management and/or storm water drainage purposes in, upon, over, and across that certain real property in the City of Morgan Hill, County of Santa Clara, State of California, said Easement being described and depicted on Exhibit B-1 attached hereto and made a part hereof.

See Exhibit "B-1" attached hereto and made a part hereof.

This easement area shall be kept clear of any type of building, fences, structure, pavement, or trees unless prior written approval is obtained from the District.

The easement shall include the right to construct, reconstruct, inspect, maintain, and repair a channel, protection works, and appurtenant structures, together with the right to trim or remove such trees or brush within the easement area as may constitute a hazard to persons or property or may interfere with the use of said area for the purpose granted. It also shall include the right to enter upon said land with vehicles, tools, implements, and other materials, take there from and use earth, rock, sand, and gravel for construction, maintenance, and repair of said channel, protection works, and appurtenant structures by said District, its officers, agents, and employees, and by persons under contract with it and their employees whenever and wherever necessary for flood control or storm drainage purposes.

District shall also have the right to mark the location of said described area by suitable markers, but said markers shall be placed in fences or other locations which will not interfere with any reasonable use first party shall make of said strip.

The provisions hereof shall inure to the benefit and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

**Exhibit B-1**

**Permanent Easement Interest**

**SANTA CLARA VALLEY WATER DISTRICT**  
San Jose, California

By: K. Comerer  
Date: 08/01/15

Date Revised: 08/22/15  
Revised By: K. Comerer

Checked by: \_\_\_\_\_ Date: \_\_\_\_\_

PROJECT: UPPER LLAGAS CREEK  
PROPERTY: MORGAN HILL PLAZA

File No.: 5027-224

All of that certain parcel of land situate in the City of Morgan Hill, County of Santa Clara, State of California, more particularly described as follows:

Being a portion of Parcel 3, as shown on the Parcel Map filed on May 3, 1983 in Book 511 of Maps at Pages 46 and 47, said Santa Clara County records, more particularly described as follows:

BEGINNING at the southwesterly corner of said Parcel 3, as shown on said map; thence along the southeasterly line of said Parcel 3, North  $66^{\circ} 22' 37''$  East, 91.48 feet to the TRUE POINT OF BEGINNING; thence leaving said southeasterly line, North  $71^{\circ} 45' 30''$  West, 55.97 feet; thence North  $41^{\circ} 43' 12''$  West, 23.82 feet to a point on the northwesterly line of said Parcel 3; thence along said northwesterly line, North  $66^{\circ} 22' 37''$  East, 35.77 feet; thence leaving said northwesterly line, South  $41^{\circ} 43' 12''$  East, 3.58 feet; thence South  $71^{\circ} 45' 30''$  East, 84.79 feet to a point on the southeasterly line of said Parcel 3; thence along said southeasterly line, South  $66^{\circ} 22' 37''$  West, 50.95 feet to the TRUE POINT OF BEGINNING.

Containing 2,859 square feet or 0.066 acre of land, more or less.

END OF DESCRIPTION

**BASIS OF BEARINGS:**

Bearings and distances described herein are based on the California Coordinate System of 1983, Zone 3, Epoch 2011.43. Multiply herein described distances by 1.00001657 to obtain ground level distances.

**SURVEYOR'S STATEMENT:**

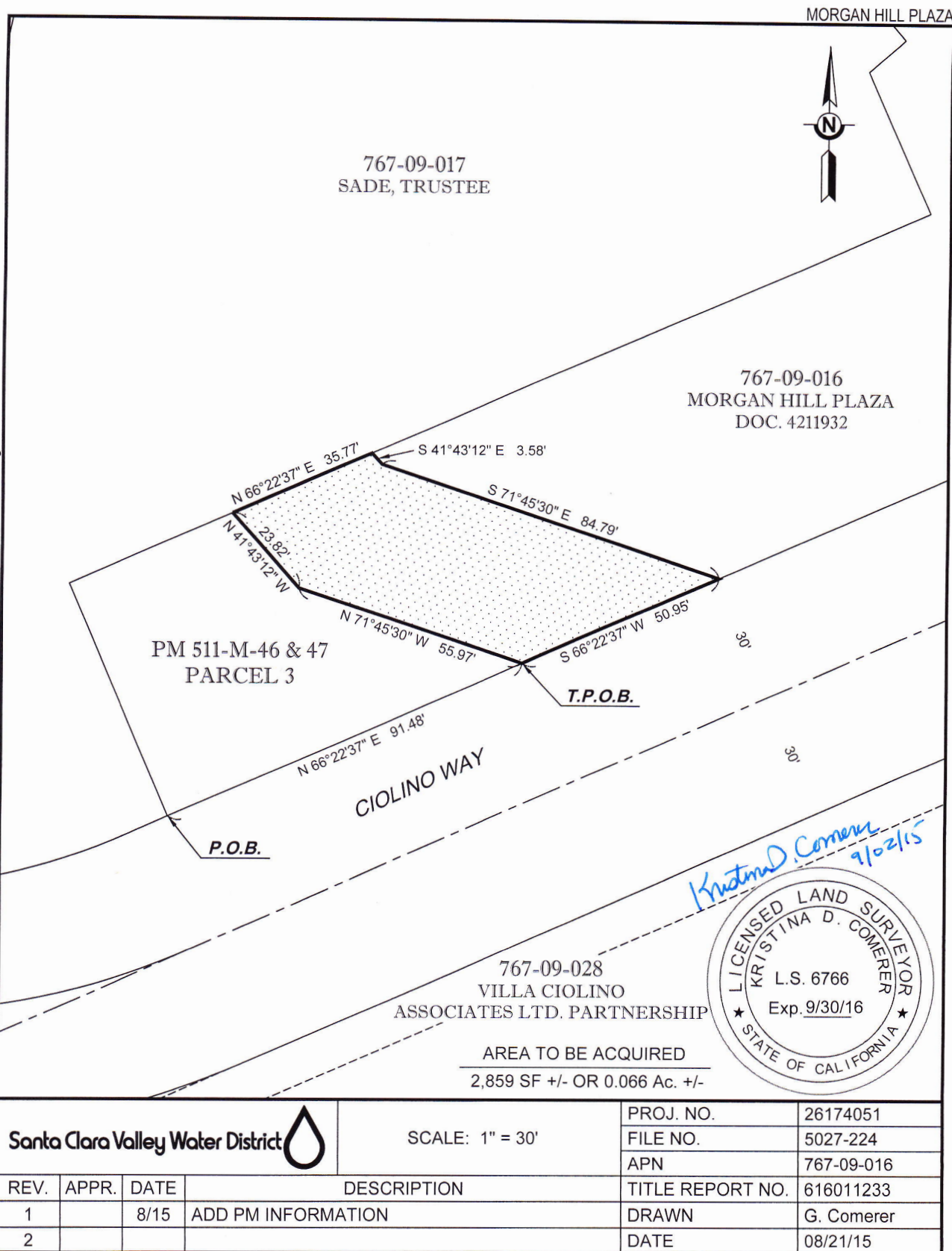
Legal description prepared by Cross Land Surveying, Inc. in August 2015 and is based on boundary resolution by SCVWD and was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

Kristina D. Comer  
Kristina D. Comerer, PLS 6766

Date: Sept. 2, 2015



SCVWD C:\Civil 3D Projects 2011\RMCLLG09\PLATSMORGAN HILL PLAZA 767-09-016 R7B FN 5027-224 PLAT\_V2.dwg



<b>Santa Clara Valley Water District</b>				SCALE: 1" = 30'		PROJ. NO. 26174051
						FILE NO. 5027-224
						APN 767-09-016
						TITLE REPORT NO. 616011233
REV.	APPR.	DATE	DESCRIPTION	DRAWN		G. Comer
1		8/15	ADD PM INFORMATION	DATE		08/21/15
2						



# Public Hearing to Consider Adoption of Resolution of Necessity: Upper Llagas Creek Project

September 26, 2017





# Public Necessity for the Proposed Project

- ▶ **Finding:** The public interest and necessity require the proposed project:
  - ▶ Provide 100-year flood protection to downtown Morgan Hill (Reaches 7 & 8)
  - ▶ Provide 10-year level of flood protection in Reach 14 and no induced flooding in Reaches 4, 5 & 6 (rural lands)
  - ▶ Design a stable channel
  - ▶ Preserve and enhance habitat
  - ▶ Reduce long-term maintenance
  - ▶ Improve creek conditions

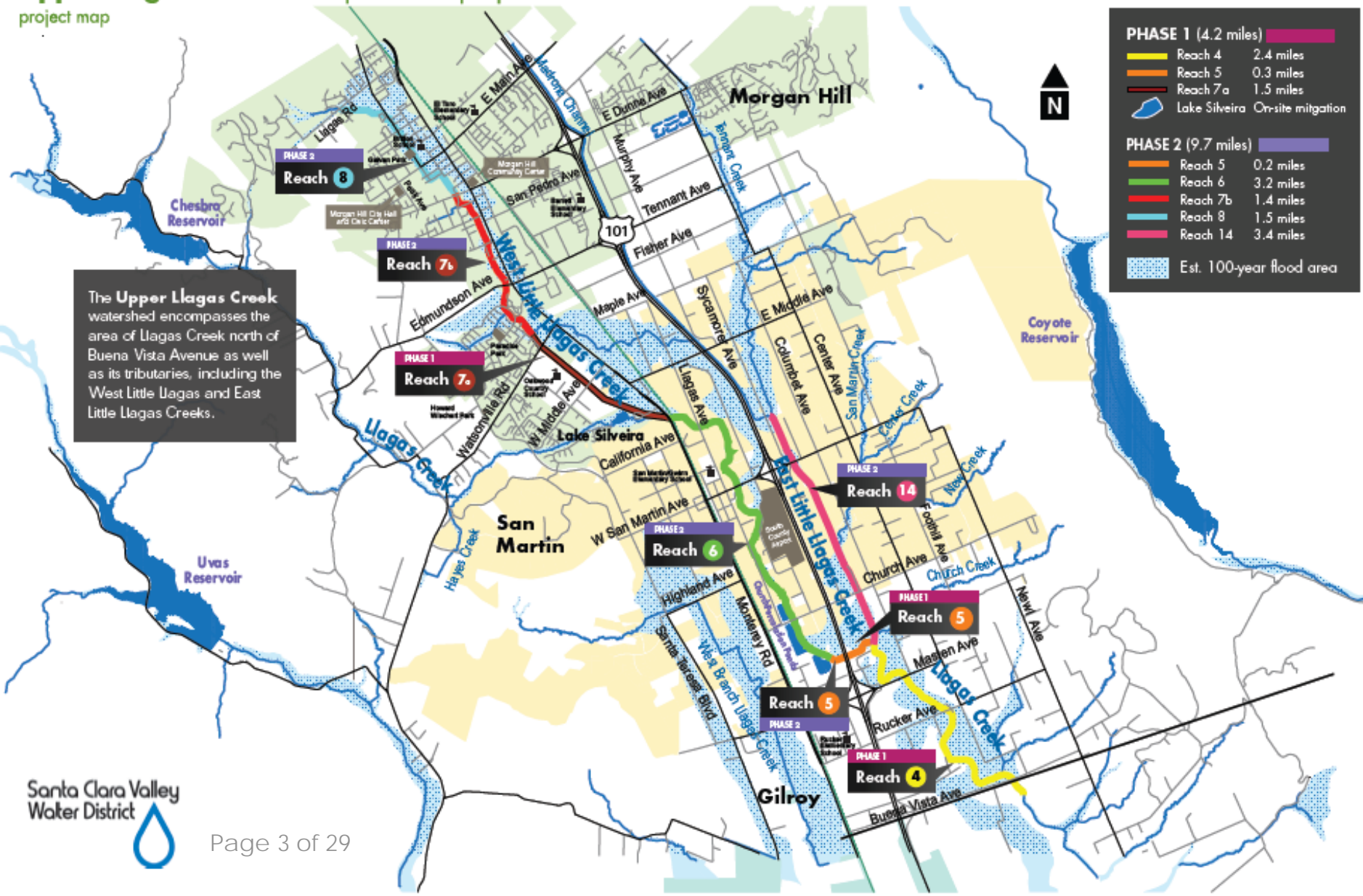




# Upper Llagas Creek Flood Protection Project

Handout  
Item 2.7-A

## Upper Llagas Creek flood protection project project map



# Existing Constraints on Project Design

Handout  
Item 2.7-A

- The Geography and Footprint of the Creek determines which Private Properties will be impacted
  - Private Property is Located on Both Sides of the Creek
  - The Creek is Located In and Flows Through Private Property
  
- The Project Design Must Qualify as the Least Environmentally Damaging Practicable Alternative
  - Must Preserve, Enhance, and Restore Natural Habitat

- **Finding:** The proposed project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury
- Achieved through Holistic Approach to Project Design
  - Apply Hydraulic Modeling and Geomorphology to
    - Prevent incision
    - Reduce erosion
    - Reduce long term maintenance
    - Prevent induced flooding



- Achieved through Holistic Approach to Project Design
  - Avoid Private Structures
    - Examine the Possibility of Locating Project Features In a Manner that Minimizes Impacts to Private Structures
- Preserve Habitat of Greater Environmental Value
  - Minimize disturbance to native vegetation
  - Preserve, enhance, and create aquatic habitat
- Align project features with existing creek alignment

# Other Project Benefits

**Handout  
Item 2.7-A**

- Improve creek conditions
- Remove invasive species
- Remove legacy trash and debris
- Preserve natural creek footprint and open space
- Increase native vegetation
- Incorporate topsoil to support plantings
- Improve water quality
- Reestablish abandoned creek  
(around Lake Silveira)





- The District has complied with the requirements of the California Environmental Quality Act ("CEQA") with the District's Board certifying the Final Environmental Impact Report on June 10, 2014

# Property Acquisitions Necessary for Project

Handout  
Item 2.7-A

- Project requires acquisition of 146 properties:
  - ▶ Phase 1 - 41 Properties (39 acquired)
  - ▶ Phase 2 - 105 Properties, including temporary construction areas (55 acquired)
- Resolutions of Necessity due to impasse are proposed for 3 properties within Phase 2 owned by the following owners of record:
  - ▶ Morgan Hill Plaza, a Partnership
  - ▶ Eleanor Sade, Trustee
  - ▶ MH Sterling Group, LLC, a California limited liability company

# Separate Hearings For Each Property

Handout  
Item 2.7-A

- ▶ At this point in the presentation, the District will conduct a separate hearing for each specific property
- ▶ The Chair of the Board of Directors will describe the process for each hearing



# Morgan Hill Plaza Property: Least Private Injury

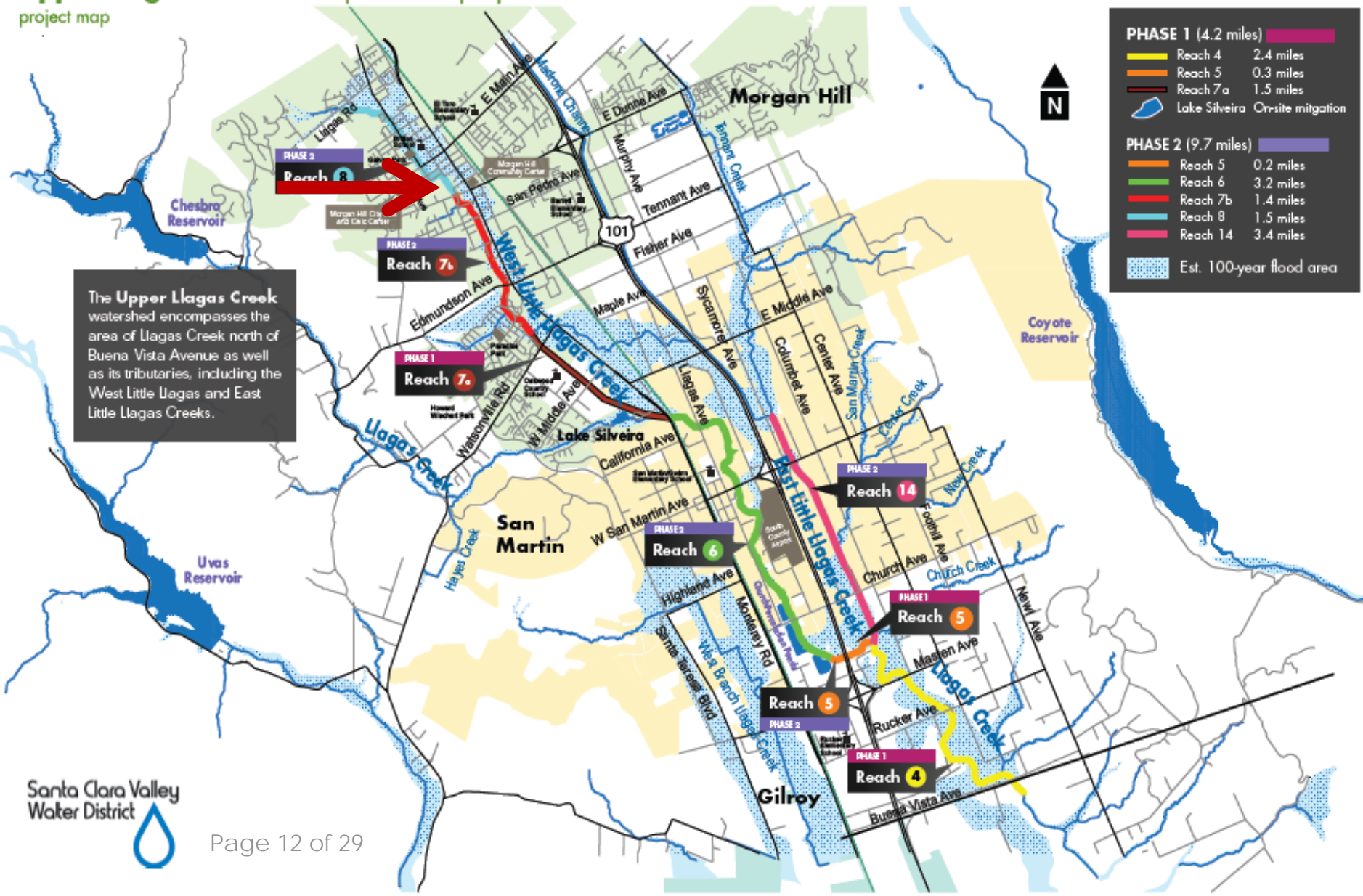
Handout  
Item 2.7-A

- ▶ The acquisition area is in back of the property behind the structure
- ▶ High flow creek diversion will be in an underground box culvert
- ▶ The proposed area to be acquired does not impact any existing private structures or access to these structures
- ▶ After project is constructed, the area will be returned to its existing use

# Upper Llagas Creek Flood Protection Project

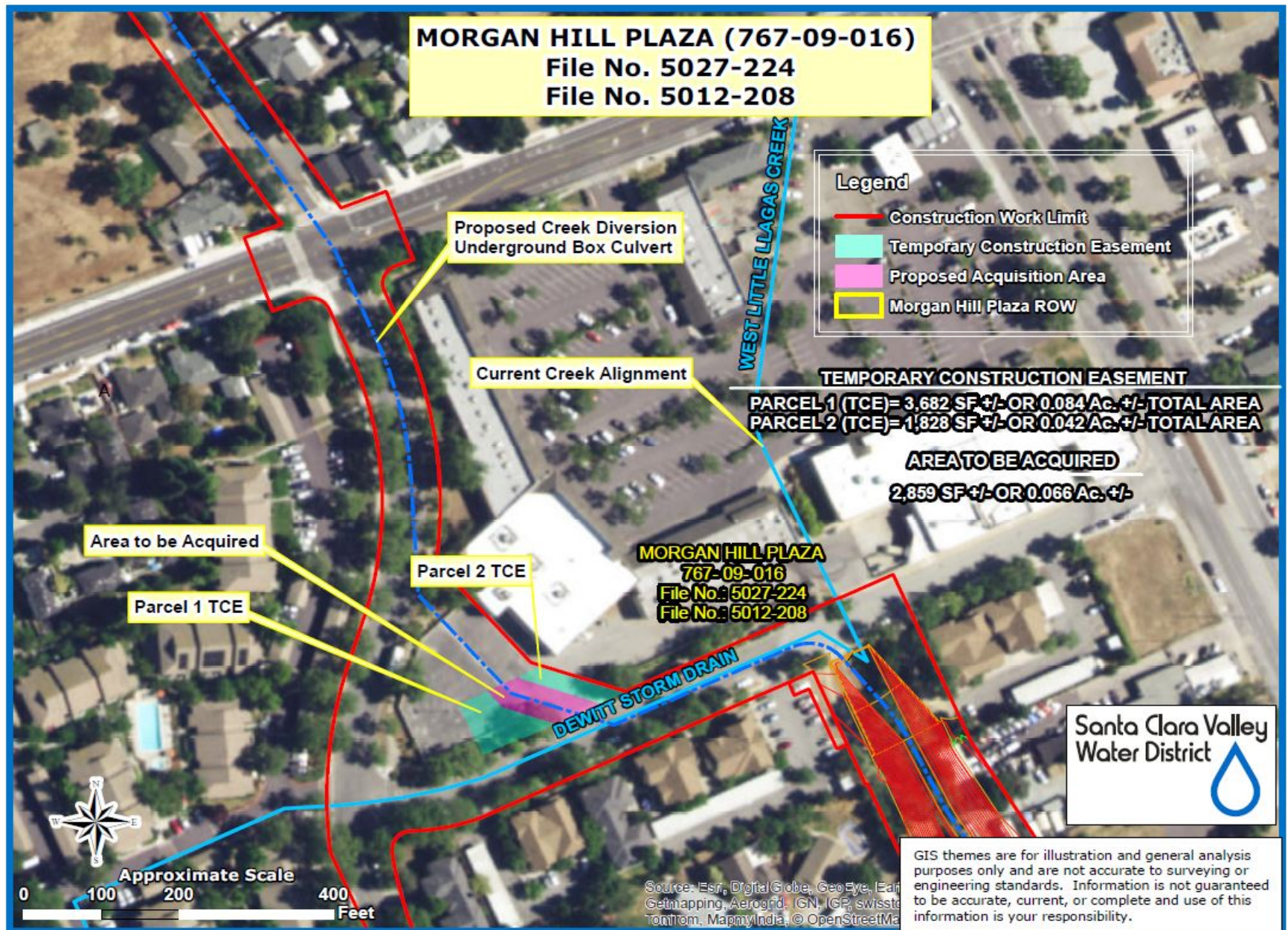
Handout  
Item 2.7-A

## Upper Llagas Creek flood protection project project map





**Handout  
Item 2.7-A**



# Morgan Hill Plaza Property is Necessary for the Project

- Finding: The property described in the resolution is necessary for the proposed project

- ▶ **Finding:** The Offer Required by Section 7267.2(a) of the Gov. Code has been made to the owners of record
- ▶ On February 7, 2017, the District sent a final written offer to Morgan Hill Plaza via certified mail
- ▶ District's offer complies with Gov. Code Section 7267.2(a)
- ▶ District has received confirmation of the owners' receipt of the offer
- ▶ Staff has reached an impasse

- ▶ This completes the District's presentation regarding acquisition of the Morgan Hill Plaza property.
- ▶ After the Board receives comments from the property owner and public, staff is ready to answer questions.

# Sade Property: Least Private Injury

Handout  
Item 2.7-A

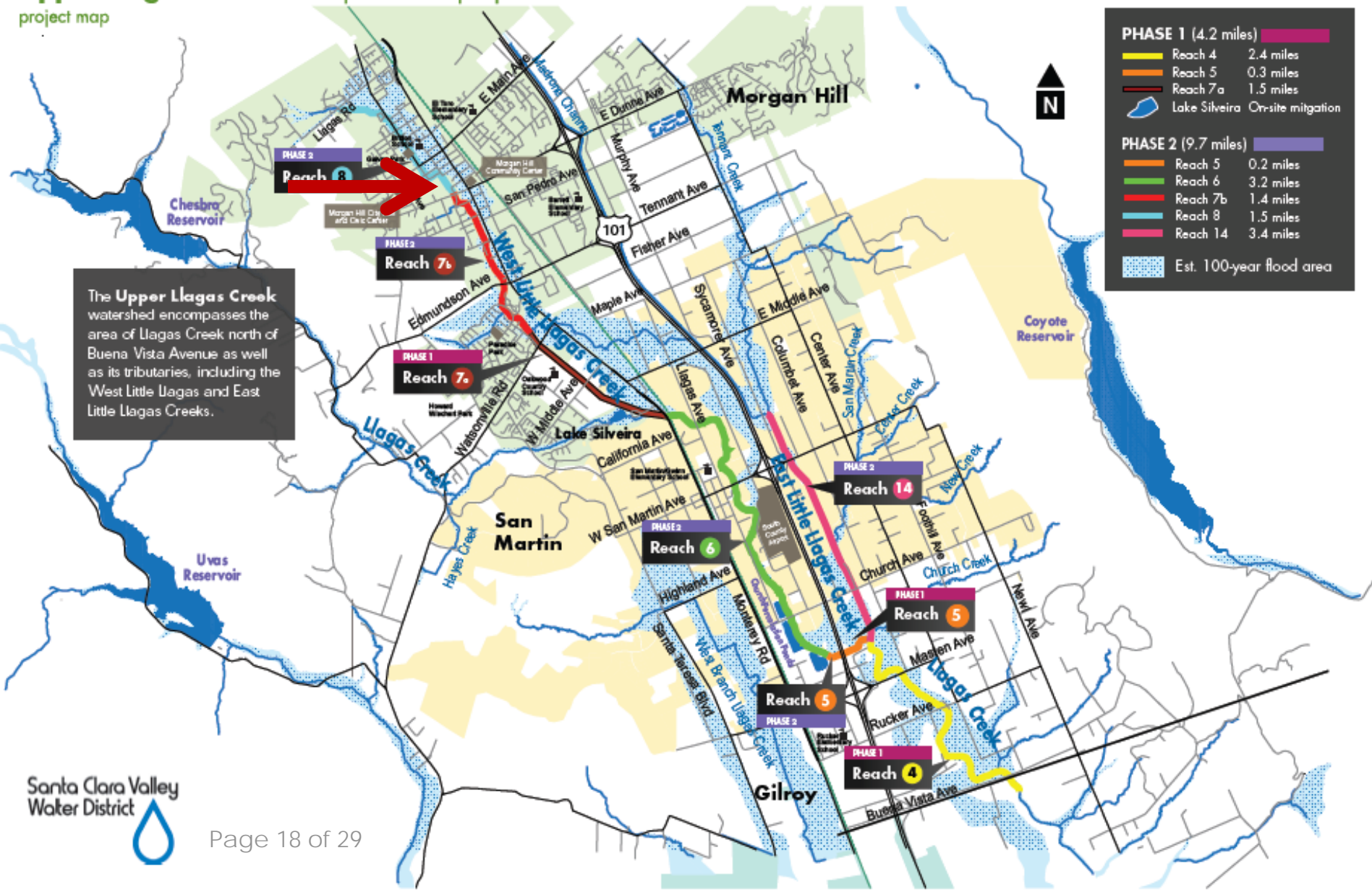
- ▶ The acquisition area is in back of the property behind the structure
- ▶ High flow creek diversion will be in an underground box culvert
- ▶ The proposed area to be acquired does not impact any existing private structures or access to these structures
- ▶ After project is constructed, the area will be returned to its existing use



# Upper Llagas Creek Flood Protection Project

Handout  
Item 2.7-A

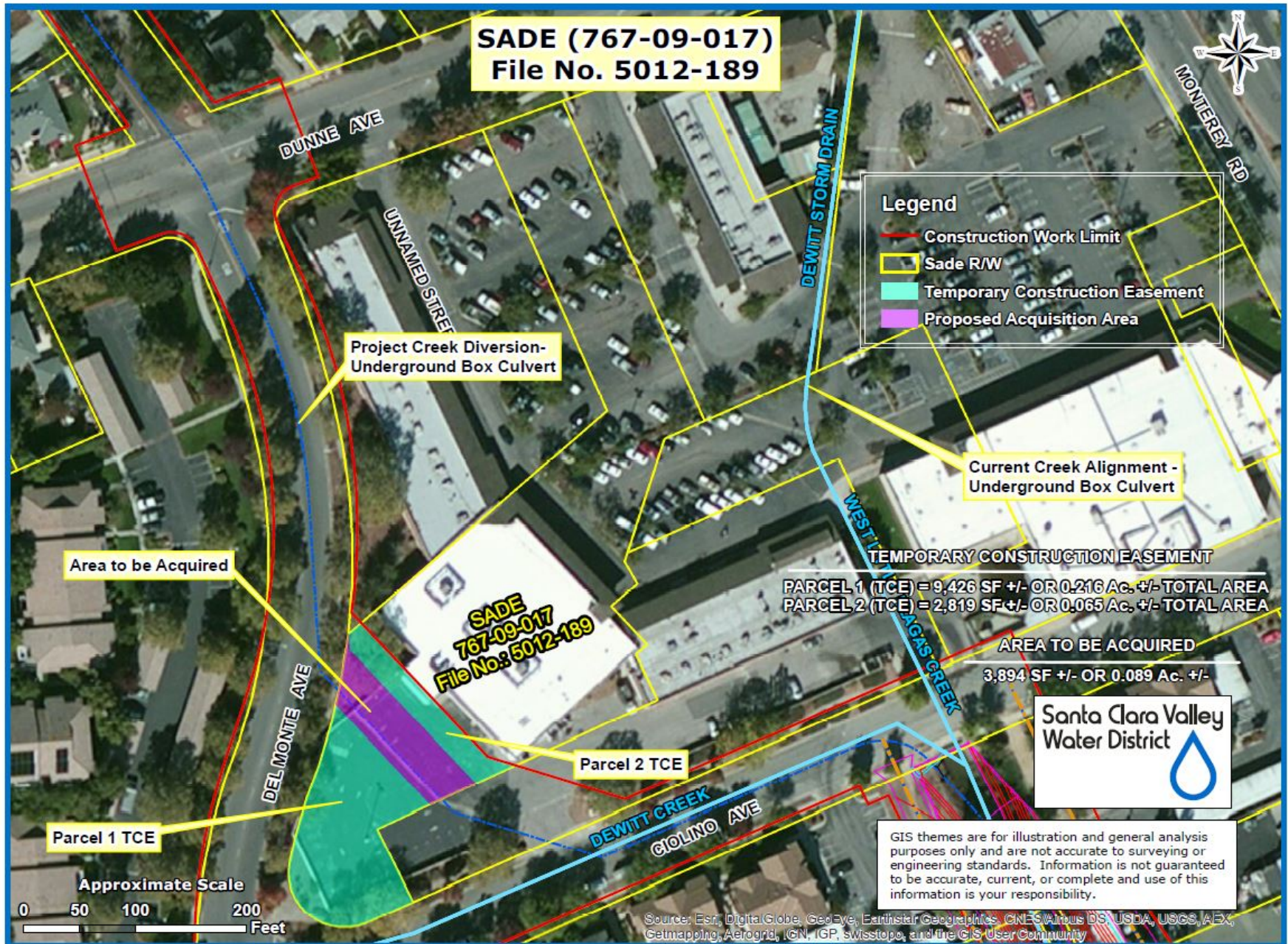
## Upper Llagas Creek flood protection project project map





# Sade Exhibit

Handout  
Item 2.7-A



- Finding: The property described in the resolution is necessary for the proposed project

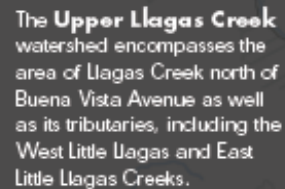
- ▶ **Finding:** The Offer Required by Section 7267.2(a) of the Gov. Code has been made to the owners of record
- ▶ On February 7, 2017, the District sent a final written offer to Sade via certified mail
- ▶ District's offer complies with Gov. Code Section 7267.2(a)
- ▶ District has received confirmation of the owners' receipt of the offer
- ▶ Staff has reached an impasse as a result of lack of response from the owner

- ▶ This completes the District's presentation regarding acquisition of the Sade property.
- ▶ After the Board receives comments from the property owner and public, staff is ready to answer questions.



- ▶ Avoids Impact to Private Structures
- ▶ The proposed project maintenance road is located at the top of bank and aligned with the creek
- ▶ Acquisition includes portion of property that constitutes a non-economical remnant without access to a public road

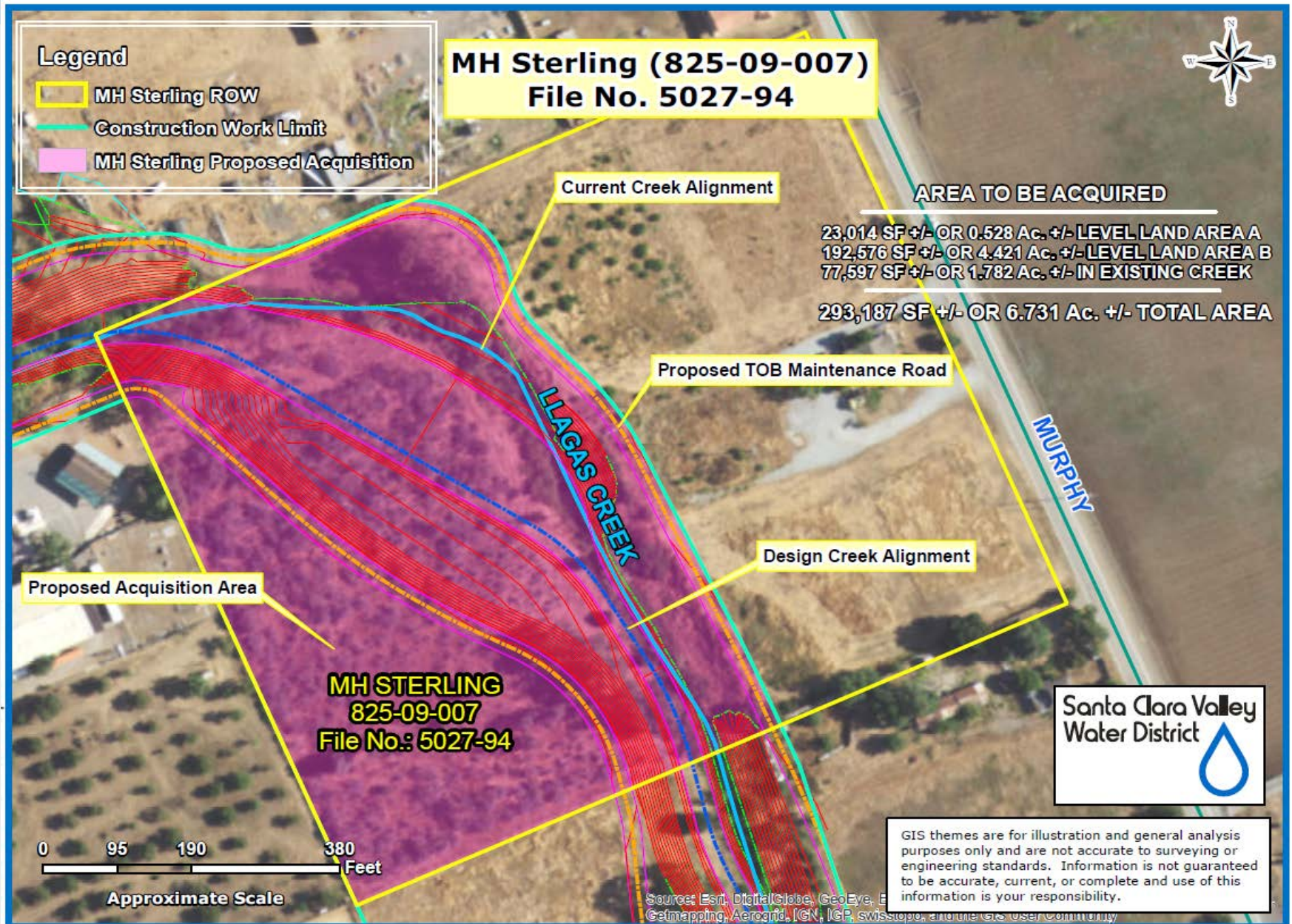
project map





# MH Sterling Group Exhibit

Handout  
Item 2.7-A



- Finding: The property described in the resolution is necessary for the proposed project



- ▶ **Finding:** The Offer Required by Section 7267.2(a) of the Gov. Code has been made to the owners of record
- ▶ On January 19, 2017, the District sent a final written offer
- ▶ District's offer complies with Gov. Code Section 7267.2(a)
- ▶ District has received confirmation of the owners' receipt of the offer
- ▶ Staff has reached an impasse with the owner

- ▶ This completes the District's presentation regarding acquisition of the MH Sterling Group property.
- ▶ After the Board receives comments from the property owner and public, staff is ready to answer questions.

# Public Hearing to Consider Adoption of Resolution of Necessity: Upper Llagas Creek Project

September 26, 2017





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**File No.:** 17-0669

**Agenda Date:** 10/10/2017

**Item No.:** \*2.8.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Hearing to Consider Adoption of Resolution of Necessity Relating to Acquisition of Real Property Interests from Eleanor Sade, Trustee, Necessary to Complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051 (Morgan Hill) (District 1) (Continued From September 26, 2017).

### **RECOMMENDATION:**

- A. Conduct Hearing to consider adoption of Resolution of Necessity relating to acquisition of real property interests from Eleanor Sade, Trustee necessary to complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051; and
- B. Adopt the Resolution of Necessity DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*), by two-thirds vote.

### **SUMMARY:**

The Santa Clara Valley Water District (District) is undertaking the Upper Llagas Creek Flood Protection Project (Project) in partnership with the U.S. Army Corps of Engineers (Corps) and the City of Morgan Hill (City) to provide flood protection. The Project is approximately 13 miles long and encompasses the Cities of Morgan Hill, Gilroy, and various unincorporated areas of Santa Clara County, including San Martin.

The Project has been divided into two phases for construction as identified in Attachment 1. Phase 1 construction is approximately 4.2 miles in length and includes Reach 4, a portion of Reach 5, Reach 7a (diversion channel), and Lake Silveira (on-site compensatory mitigation). Phase 2 construction is approximately 9.7 miles in length and includes a portion of Reach 5 and Reaches 6, 7b, 8, and 14.

This proposed acquisition of property is required for Phase 2 construction of the Project.

Background. The Project was originally administered by the United States Natural Resources Conservation Service (NRCS). In 1999, the Corps was authorized by Congress to take over from

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NRCS and construct the Project. However, due to lack of federal funding, the Corps' progress on the Project stalled. The Corps approved the District's request to resume the lead role in the Project's planning and design phases in order to advance the Project to eventual construction.

On September 22, 2009, the Board approved a cost sharing agreement with the City of Morgan Hill (City) for preparing the environmental document and the design plans and specifications for the Project. This Board action set the course for the District to take on Project tasks normally performed by the Corps, so that the Project could advance. The District is responsible for acquisition of necessary property for the Project.

On October 22, 2013, the District Board of Directors approved a Real Estate Consultant Agreement with Overland, Pacific & Cutler (OPC) to assist District staff in acquiring an estimated 146 parcels needed for the Project.

On June 10, 2014, the Board considered an Environmental Impact Report (EIR) and adopted a Resolution Making Findings of Fact and a Statement of Overriding Considerations regarding the EIR for the Project and adopted a Mitigation Monitoring and Reporting Program. At the same meeting, the Board approved the Project.

Description of the Public Project. The Project improvements are designed to improve flood protection in Upper Llagas Creek, including enhanced protection for 1,100 homes and 500 businesses. Specifically, the Project will provide one percent conveyance capacity in Reaches 7 and 8 of the Project, no induced flooding in Reaches 4, 5, and 6 due to upstream improvements, and ten percent conveyance capacity in Reach 14.

Acquisition of the Property Interests. To construct the Project, the District must acquire various real property interests from 146 property owners. Real property interests from 41 property owners are needed for Phase 1 [Reaches 4, 5 (a portion), 7A, and Lake Silveira] and real property interests are needed from 105 property owners for Phase 2 [Reaches 5 (a portion), 6, 7B, 8, and 14] (see Attachment 1, page 1 of 2). To date, the District has acquired the necessary property interests, or the properties are in the legal process to be acquired, for all but two of the properties required for Phase 1 of the Project. Staff continues to acquire the necessary property interests for Phase 2 of the Project. To date, 68 offers have been made, and 55 owners have reached resolution with the District. Staff continues to negotiate and communicate with the remaining property owners.

Amongst the other properties needed, the District requires the property rights shown in Attachment 1 (page 2 of 2) from property owned by Eleanor Sade, Trustee. To construct the box culvert for the Project, the District must acquire a permanent easement and temporary construction easements over a portion of this property (APN 767-09-017) as described and depicted in Exhibits A and B attached to the Resolution of Necessity (RON) (Attachment 2).

The District made good faith attempts to negotiate a settlement with the property owner. Offers were made to the Owner on April 19, 2016, June 27, 2016, and February 7, 2017, but other than confirming receipt of the offers, Owner has been unresponsive to the various attempts made by OPC to negotiate a settlement.

In conformance with the Code of Civil Procedure Section 1245.235, the District sent a notice of the hearing on adopting the Resolution of Necessity (Attachment 2) by certified mail to the person or persons whose name and address appears on the last equalized county assessment roll for APN 767-09-017, to provide them a reasonable opportunity to be heard by the Board.

The hearing by the Board and the adoption of the RON are legal preconditions to the exercise of the District's power of eminent domain. This statutory requirement is designed to ensure that public entities verify and confirm the validity of their intended use of the power of eminent domain. A RON must contain a general statement of the public use for which the property is taken, a reference to the authorizing statutes, a description of the property, and a declaration stating that the Board has found and determined each of the following underlined findings to be true:

1. The public's interest and necessity for the Project. To provide flood protection to the numerous properties in the cities of Morgan Hill, Gilroy, and San Martin, the Project must acquire the property rights from Eleanor Sade, Trustee to construct the Project.
2. The Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury. This design impacts the fewest private properties to the least extent possible while providing the conveyance capacity necessary to reduce flood risk from the one percent flood event, ten percent flood event, or no induced flooding. The design also provides for a stable channel, preserving and enhancing habitat, and reducing long-term maintenance of the creek.
3. The properties are necessary for the Project. The Project cannot be executed without the portions of APN 767-09-017, as described and depicted in Exhibits A and B attached to the RON, Attachment 2.
4. The Government Code Section 7267.2(a) offer has been made to the owner or owners of record. On February 7, 2017, the District sent via certified mail a final written offer to the owner for 767-09-017 to acquire the property interests, and the District has received confirmation of the owner's receipt. The District's offer complies with California Government Code Section 7267.2.

Attached for the Board's consideration is the proposed RON (Attachment 2). The RON includes direction from the Board authorizing acquisition of the subject property interests described therein by eminent domain.

As stated above, the District has attempted to acquire the needed property interests through a negotiated purchase and has reached an impasse; therefore, adoption of the RON should be considered to meet the Project schedule. If the RON is adopted, the District will still continue efforts to negotiate and achieve a mutual settlement prior to any court action.

The Upper Llagas Creek Project EIR Final May 2014 State Clearinghouse No. 2012102032 and the documents and reports included and referenced therein and the offer(s) made to and appraisal(s)

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provided to fee owners are incorporated by reference and made a part of this staff report. They are available for the Board of Directors to review and they support the findings to be made by the Board.

**FINANCIAL IMPACT:**

The property acquisition costs will be funded from the Upper Llagas Creek Project Clean Safe Creeks and Safe Clean Water Program funds, and are consistent with the FY 18-22 Capital Improvement Program. The District will be responsible for the appraised value of the parcel and any court ordered eminent domain costs.

There are adequate funds in Project's Fiscal Year 2017-2018 budget to complete this transaction required for the Upper Llagas Creek Flood Protection Project.

**CEQA:**

The District Board of Directors approved the Project and certified the Project Environmental Impact Report (EIR) on June 10, 2014.

**ATTACHMENTS:**

Attachment 1: Map

Attachment 2: Resolution

\*Handout 2.8-A, PowerPoint

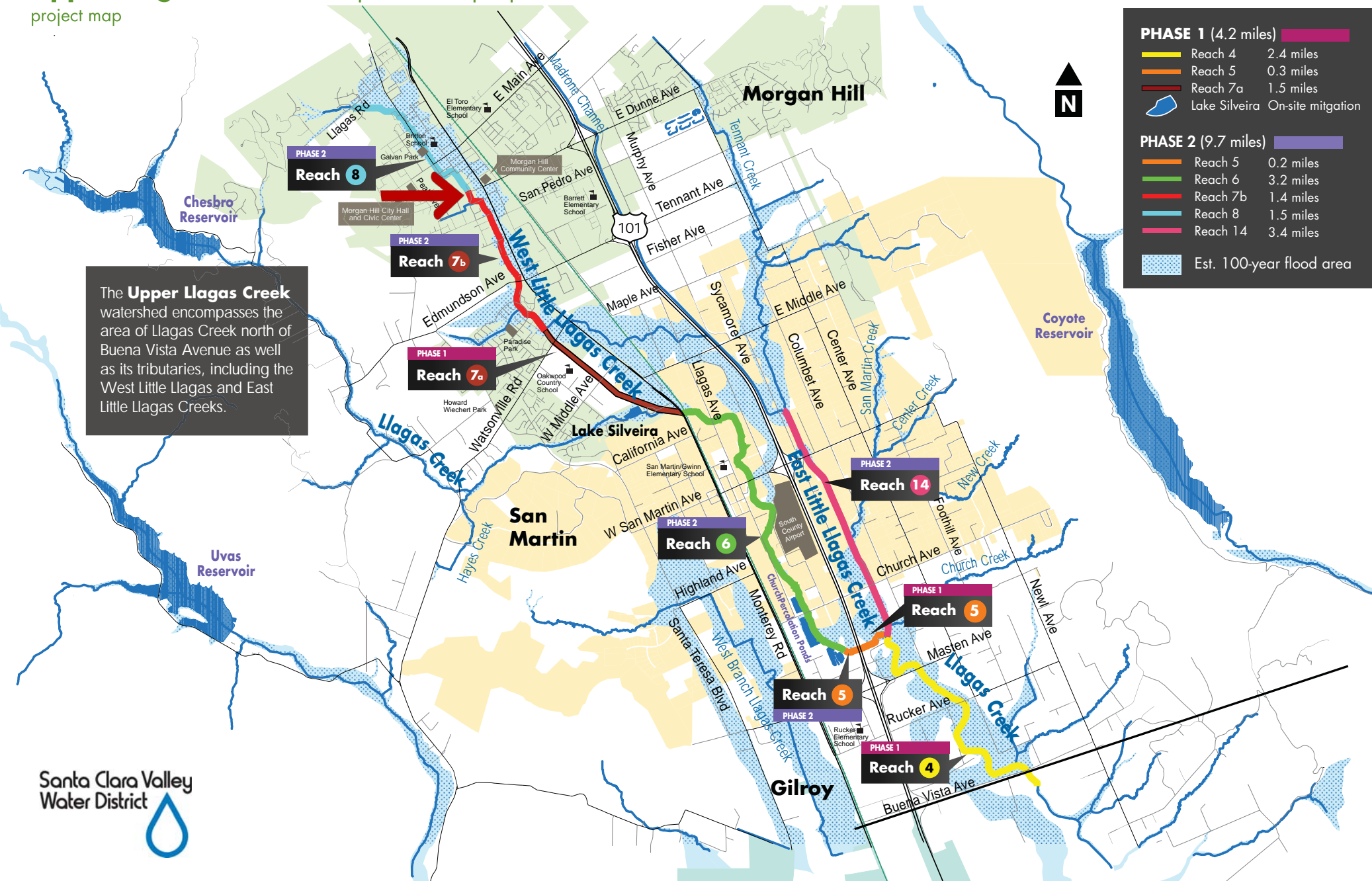
**UNCLASSIFIED MANAGER:**

Katherine Oven, 408-630-3126



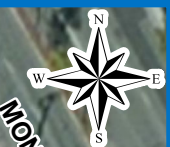
# Upper Llagas Creek flood protection project

project map





**SADE (767-09-017)  
File No. 5012-189**



**Legend**

- Construction Work Limit
- Sade R/W
- Temporary Construction Easement
- Proposed Acquisition Area

Project Creek Diversion-  
Underground Box Culvert

Current Creek Alignment -  
Underground Box Culvert

Area to be Acquired

**SADE  
767-09-017  
File No: 5012-189**

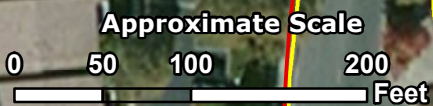
**TEMPORARY CONSTRUCTION EASEMENT**  
PARCEL 1 (TCE) = 9,426 SF +/- OR 0.216 Ac. +/- TOTAL AREA  
PARCEL 2 (TCE) = 2,819 SF +/- OR 0.065 Ac. +/- TOTAL AREA

**AREA TO BE ACQUIRED**  
3,894 SF +/- OR 0.089 Ac. +/-

**Santa Clara Valley  
Water District**

Parcel 2 TCE

Parcel 1 TCE



GIS themes are for illustration and general analysis purposes only and are not accurate to surveying or engineering standards. Information is not guaranteed to be accurate, current, or complete and use of this information is your responsibility.

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



Watershed: Uvas/Llagas  
Project: Upper Llagas  
Creek  
Real Estate File No.: 5012-189,  
5012-202

**BOARD OF DIRECTORS  
SANTA CLARA VALLEY WATER DISTRICT**

**RESOLUTION NO. 17-**

**DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE  
ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL  
PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK  
FLOOD PROTECTION PROJECT NO. 26174051  
(CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*)**

WHEREAS, pursuant to a cost-sharing agreement with the City of Morgan Hill, the Santa Clara Valley Water District (District) is working to construct the Upper Llagas Creek Flood Protection Project No. 26174051 (Project), which will provide flood protection for 1,100 homes, 500 businesses, and over 1,300 acres of agricultural land in southern Santa Clara County; and

WHEREAS, the District is authorized to condemn property for the Project pursuant to Article I, Section 19 of the California Constitution, Part 3, Title 7 of the California Code of Civil Procedure, Section 6 of the Santa Clara Valley Water District Act, and other provisions and principles of law; and

WHEREAS, the property interests to be acquired for the Project are located on 16975 Monterey Road, Morgan Hill, California 95037, Santa Clara County Assessor's Parcel No. 767-09-017, and are described and depicted in Exhibits A and B attached hereto and incorporated herein (Property); and

WHEREAS, the Project cannot be completed without the Property, and acquisition of the Property is accordingly necessary and in the public interest; and

WHEREAS, the use of the Property for the Project will not interfere with or impair any known, existing public uses and, therefore, is compatible with any other public uses pursuant to Code of Civil Procedure section 1240.510; and

WHEREAS, the District has made several offers to the owners of record including on February 7, 2017, pursuant to Government Code section 7267.2 based on the January 11, 2017 appraisal; and

WHEREAS, the District provided by certified mail to all persons whose names appear on the last Equalized County Assessment Roll as having an interest in the Property a notice that the District's Board of Directors would hold a hearing on September 26, 2017 to consider the adoption of a resolution of necessity authorizing the District to acquire the Property by eminent domain; and

DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *ET SEQ.*)

RESOLUTION NO. 17-

---

WHEREAS, the District's notice advised all such interested persons of the time and place for the hearing, their right to be heard in relation to that matter, and that their failure to file a written request to appear and be heard at the hearing within 15 days from the mailing of the notice would result in a waiver of their right to be heard; and

WHEREAS, the District has calendared this Resolution as an item on its Agenda and invited public comment prior to the meeting; and

WHEREAS, the District's Board of Directors held a public hearing on September 26, 2017 to consider the adoption of this resolution, and all interested parties were given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the District finds, determines, and hereby declares:

1. The public interest and necessity require the Project;
2. The Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
3. The Property described and depicted herein in Exhibits A and B is necessary for the Project;
4. The District made the offer required by Government Code section 7267.2 to the owners of record;
5. The District has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property;
6. The District has complied with the requirements of the California Environmental Quality Act (CEQA) for the Project, the District's Board having on June 10, 2014, adopted a Final Environmental Impact Report;
7. The District's Office of the District Counsel and/or its designee is hereby authorized to commence and prosecute an eminent domain proceeding to acquire the Property, to deposit the amount of probable compensation pursuant to Code of Civil Procedure section 1255.010, and to acquire prejudgment possession of the Property as may be necessary for the Project.

DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *ET SEQ.*)

RESOLUTION NO. 17-

---

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District on by the following vote on October 10, 2017.

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

By: \_\_\_\_\_  
JOHN L. VARELA  
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC

\_\_\_\_\_  
Clerk/Board of Directors

### **Exhibit A**

A Temporary Construction Easement for the construction (and other related activities incidental to construction) of the Upper Llagas Creek Flood Protection Project (Project), under, upon, over and across a portion of the property described in the document recorded on February 28, 2012, as Instrument No. 21551382, Santa Clara County Official Records, situated in the City of Morgan Hill, California, the location of said Temporary Construction Easement being described and depicted in Exhibit "A-1" attached hereto and made a part hereof.

This easement is necessary for the purpose of constructing the Project and related activities incident to construction. This TCE will begin upon effective possession or when the property is first occupied for use for the Project's civil construction, and will continue for a duration of thirty-six continuous months.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

## Exhibit A-1

### Temporary Construction Easement Interests

#### SANTA CLARA VALLEY WATER DISTRICT

San Jose, California

By: K. Comerer

Date: 06/25/15

Date Revised: 08/12/15

Revised By:

Checked by: \_\_\_\_\_

Date: \_\_\_\_\_

PROJECT: UPPER LLAGAS CREEK

PROPERTY: SADE, TRUSTEE

File No.: 5012-202

All of that certain parcel of land situate in the City of Morgan Hill, County of Santa Clara, State of California, more particularly described as follows:

Being a portion of PARCEL ONE as described in the Quitclaim Deed from Eleanor Sade, as Trustee of the Paul and Eleanor Sade 1985 Trust to Eleanor Sade, Trustee of the Survivor's Trust established under The Paul and Eleanor Sade Trust dated August 6, 1985, as amended, recorded on February 28, 2012 as Document No. 21551382 of Official Records, Santa Clara County records, being a portion of Parcel 4, as shown on the Parcel Map filed on May 3, 1983 in Book 511 of Maps at Pages 46 and 47, said Santa Clara County records, more particularly described as follows:

#### Parcel 1 (T.C.E. 1)

BEGINNING at the southwesterly corner of Parcel 3, as shown on said Parcel Map, filed on May 3, 1983 in Book 511 of Maps at Pages 46 and 47; thence along the southerly and westerly lines of Parcel 4, as shown on said map, the following six (6) courses: 1) South 66° 22' 37" West, 10.69 feet to the beginning of a tangent curve to the right, having a radius of 149.97 feet, 2) along said curve, through a central angle of 22° 54' 48", for an arc length of 59.98 feet to the beginning of a compound curve, having a radius of 20.00 feet, 3) along said curve, through a central angle of 97° 59' 36", for an arc length of 34.20 feet to the beginning of compound curve, having a radius of 399.92 feet, 4) along said curve, through a central angle of 11° 05' 41", for an arc length of 77.44 feet, 5) North 18° 22' 43" East, 53.73 feet to the beginning of a tangent curve to the left, having a radius of 459.91 feet, and 6) along said curve, through a central angle of 01° 38' 45", for an arc length of 13.21 feet; thence leaving said westerly line, South 41° 43' 12" East, 97.42 feet to a point on the northwesterly line of said Parcel 3; thence along the northwesterly and southwesterly lines of said Parcel 3 the following two (2) courses: 1) South 66° 22' 37" West, 42.40 feet and 2) South 23° 37' 23" East, 59.99 feet to the POINT OF BEGINNING.

Containing 9,426 square feet or 0.216 acre of land, more or less.

#### Parcel 2 (T.C.E. 2)

BEGINNING at the southwesterly corner of Parcel 3, as shown on said Parcel Map, filed on May 3, 1983 in Book 511 of Maps at Pages 46 and 47; thence along the southwesterly and northwesterly lines of said Parcel 3 the following two (2) courses: 1) North 23° 37' 23" West, 59.99 feet and 2) North 66° 22' 37" East, 78.17 feet to the TRUE POINT OF BEGINNING; thence leaving said northwesterly line, North 41°

43° 12" West, 127.85 feet; thence North 02° 51' 08" West, 12.30 feet to a point on the westerly line of said Parcel 4, said point being the beginning of a non-tangent curve, concave westerly, having a radius of 459.91 feet, from which the radius point bears North 79° 35' 35" West; thence along said westerly line, northerly, along said curve, through a central angle of 00° 12' 50", for an arc length of 1.72 feet to a northwesterly corner of said Parcel 4; thence along a northwesterly line of said Parcel 4, North 48° 12' 49" East, 10.93 feet; thence leaving said northwesterly line, South 41° 43' 12" East, 135.94 feet; thence South 71° 45' 30" East, 12.95 feet to a point on the northwesterly line of said Parcel 3; thence along said northwesterly line, South 66° 22' 37" West, 27.86 feet to the TRUE POINT OF BEGINNING.

Containing 2,819 square feet or 0.065 acre of land, more or less.

#### END OF DESCRIPTION

#### BASIS OF BEARINGS:

Bearings and distances described herein are based on the California Coordinate System of 1983, Zone 3, Epoch 2011.43. Multiply herein described distances by 1.00001657 to obtain ground level distances.

#### SURVEYOR'S STATEMENT:

Legal description prepared by Cross Land Surveying, Inc. in June 2015 and is based on boundary resolution by SCVWD and was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

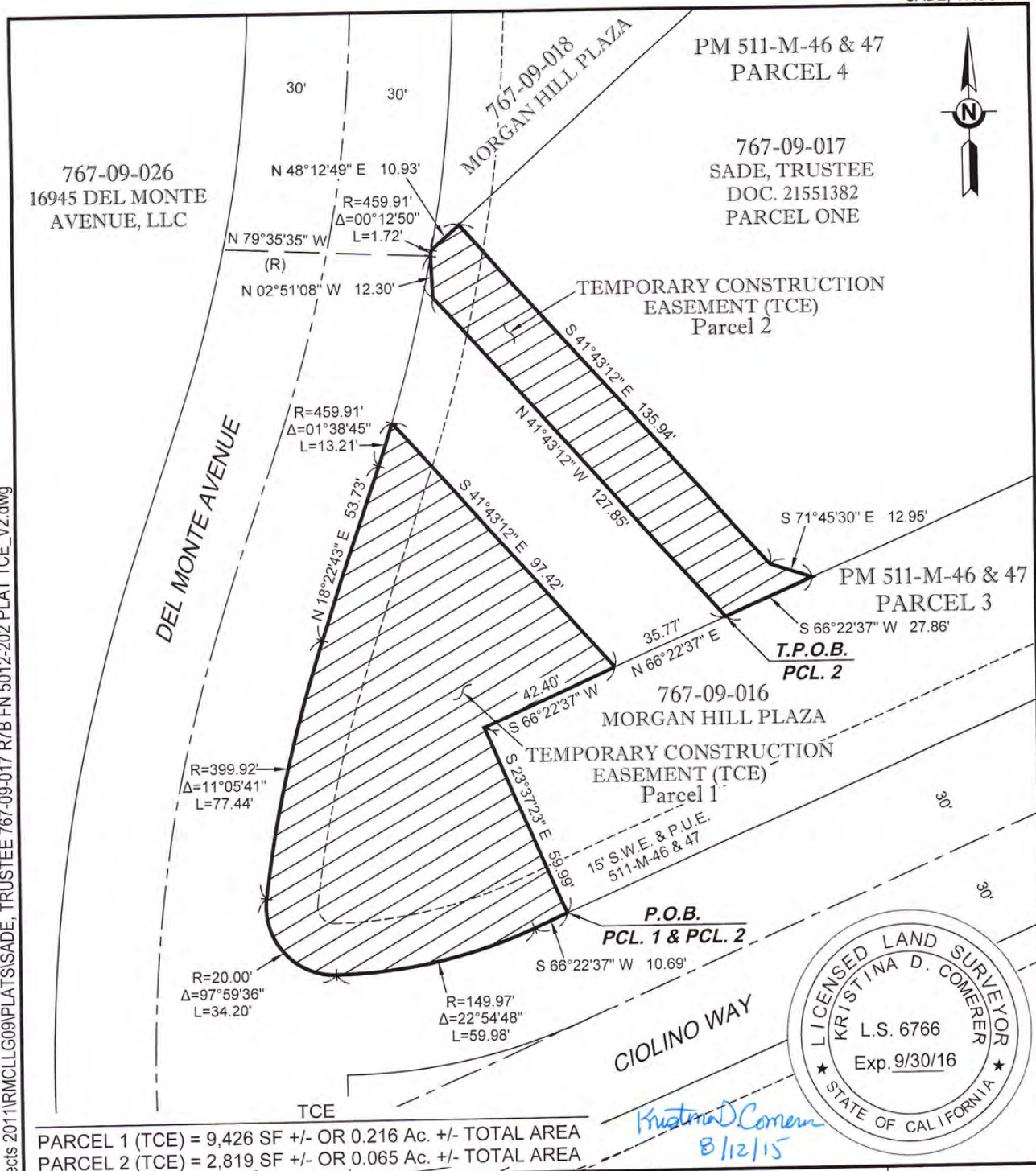
Kristina D. Comer  
Kristina D. Comer, PLS 6766

Date: Aug. 12, 2015





SCVWD C:\Civil 3D Projects 2011\RMCLL\G09\PLATS\SADE, TRUSTEE 767-09-017 R7B FN 5012-202 PLAT TCE\_V2.dwg



**Santa Clara Valley Water District**

SCALE: 1" = 40'

REV.	APPR.	DATE	DESCRIPTION
1		8/15	ADD FILE NO. & TITLE REPORT NO.
2			

PROJ. NO.	26174051
FILE NO.	5012-202
APN	767-09-017
TITLE REPORT NO.	616011234
DRAWN	G. Comerer
DATE	08/13/15

## **Exhibit B**

An easement for water management and/or storm water drainage purposes in, upon, over, and across that certain real property in the City of Morgan Hill, County of Santa Clara, State of California, said Easement being described and depicted on Exhibit B-1 attached hereto and made a part hereof.

See Exhibit "B-1" attached hereto and made a part hereof.

This easement area shall be kept clear of any type of building, fences, structure, pavement, or trees unless prior written approval is obtained from the District.

The easement shall include the right to construct, reconstruct, inspect, maintain, and repair a channel, protection works, and appurtenant structures, together with the right to trim or remove such trees or brush within the easement area as may constitute a hazard to persons or property or may interfere with the use of said area for the purpose granted. It also shall include the right to enter upon said land with vehicles, tools, implements, and other materials, take there from and use earth, rock, sand, and gravel for construction, maintenance, and repair of said channel, protection works, and appurtenant structures by said District, its officers, agents, and employees, and by persons under contract with it and their employees whenever and wherever necessary for flood control or storm drainage purposes.

District shall also have the right to mark the location of said described area by suitable markers, but said markers shall be placed in fences or other locations which will not interfere with any reasonable use first party shall make of said strip.

The provisions hereof shall inure to the benefit and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

**Exhibit B-1**

**Permanent Easement Interest**

**SANTA CLARA VALLEY WATER DISTRICT**  
San Jose, California

By: K. Comerer  
Date: 06/25/15

Date Revised: 08/03/15  
Revised By: K. Comerer

Checked by: \_\_\_\_\_ Date: \_\_\_\_\_

PROJECT: UPPER LLAGAS CREEK  
PROPERTY: SADE, TRUSTEE

File No.: 5012-189

All of that certain parcel of land situate in the City of Morgan Hill, County of Santa Clara, State of California, more particularly described as follows:

Being a portion of PARCEL ONE as described in the Quitclaim Deed from Eleanor Sade, as Trustee of the Paul and Eleanor Sade 1985 Trust to Eleanor Sade, Trustee of the Survivor's Trust established under The Paul and Eleanor Sade Trust dated August 6, 1985, as amended, recorded on February 28, 2012 as Document No. 21551382 of Official Records, Santa Clara County records, being a portion of Parcel 4, as shown on the Parcel Map filed on May 3, 1983 in Book 511 of Maps at Pages 46 and 47, said Santa Clara County records, more particularly described as follows:

BEGINNING at the northwesterly corner of Parcel 3, as shown on said Parcel Map, filed on May 3, 1983 in Book 511 of Maps at Pages 46 and 47; thence along the northwesterly line of said Parcel 3, North 66° 22' 37" East, 42.40 feet to the TRUE POINT OF BEGINNING; thence leaving said northwesterly line, North 41° 43' 12" West, 97.42 feet to a point on the westerly line of said Parcel 4, said point being the beginning of a non-tangent curve, concave westerly, having a radius of 459.91 feet, from which the radius point bears North 73° 16' 02" West; thence along said westerly line, northerly, along said curve, through a central angle of 06° 19' 33", for an arc length of 50.78 feet; thence leaving said westerly line, South 02° 51' 08" East, 12.30 feet; thence South 41° 43' 12" East, 127.85 feet to a point on the northwesterly line of said Parcel 3; thence along said northwesterly line, South 66° 22' 37" West, 35.77 feet to the TRUE POINT OF BEGINNING.

Containing 3,894 square feet or 0.089 acre of land, more or less.

END OF DESCRIPTION

**BASIS OF BEARINGS:**

Bearings and distances described herein are based on the California Coordinate System of 1983, Zone 3, Epoch 2011.43. Multiply herein described distances by 1.00001657 to obtain ground level distances.

**SURVEYOR'S STATEMENT:**

Legal description prepared by Cross Land Surveying, Inc. in June 2015 and is based on boundary resolution by SCVWD and was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

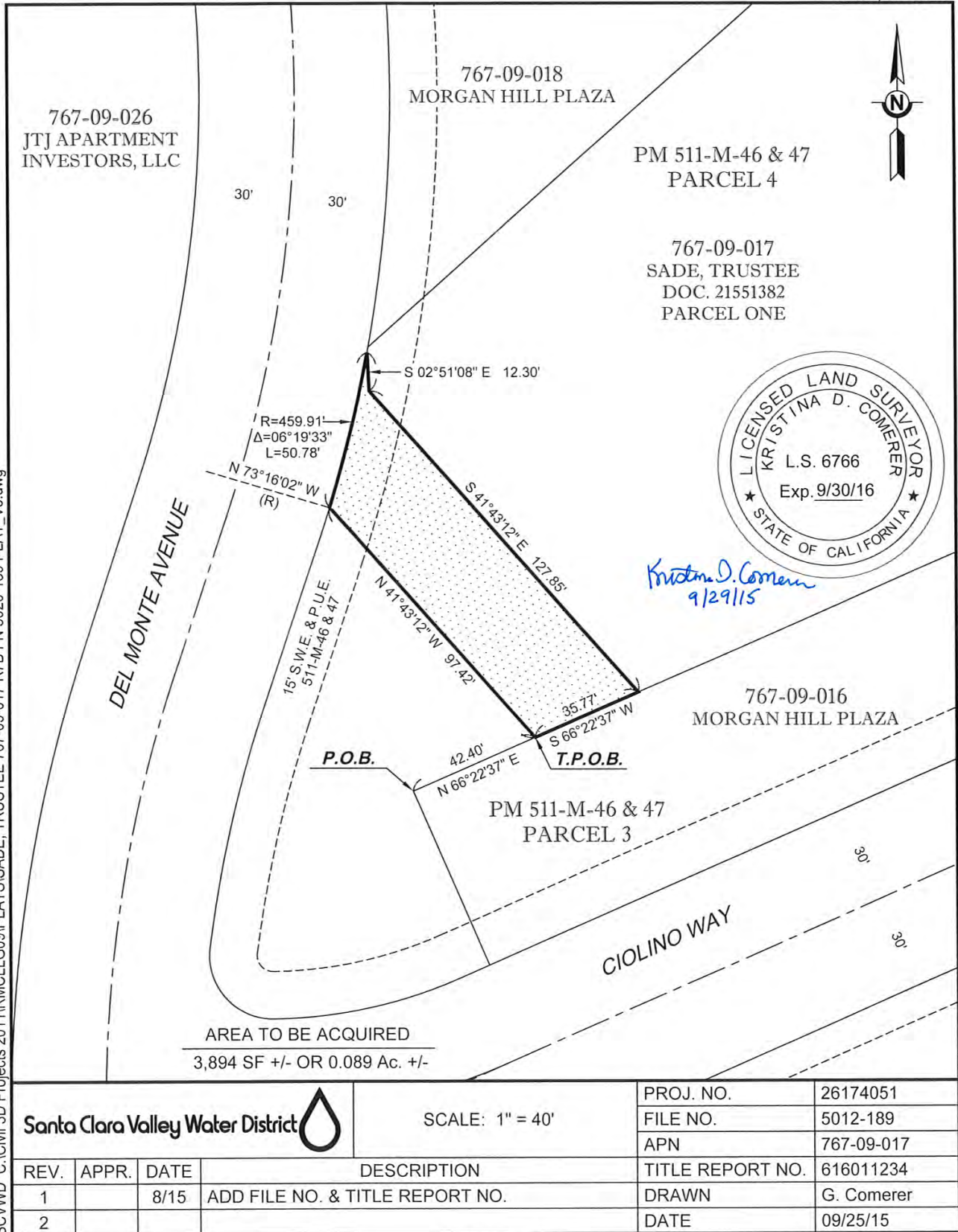
Kristina D. Comer  
Kristina D. Comerer, PLS 6766

Date: Sept. 29, 2015





SCVWD C:\Civil 3D Projects 2011\RMCLLG09\PLATS\SADE, TRUSTEE 767-09-017 R7B FN 5020-189 PLAT\_V3.dwg



Santa Clara Valley Water District



SCALE: 1" = 40'

PROJ. NO.	26174051
FILE NO.	5012-189
APN	767-09-017
TITLE REPORT NO.	616011234
DRAWN	G. Comerer
DATE	09/25/15

REV.	APPR.	DATE	DESCRIPTION
1		8/15	ADD FILE NO. & TITLE REPORT NO.
2			



# Public Hearing to Consider Adoption of Resolution of Necessity: Upper Llagas Creek Project

September 26, 2017



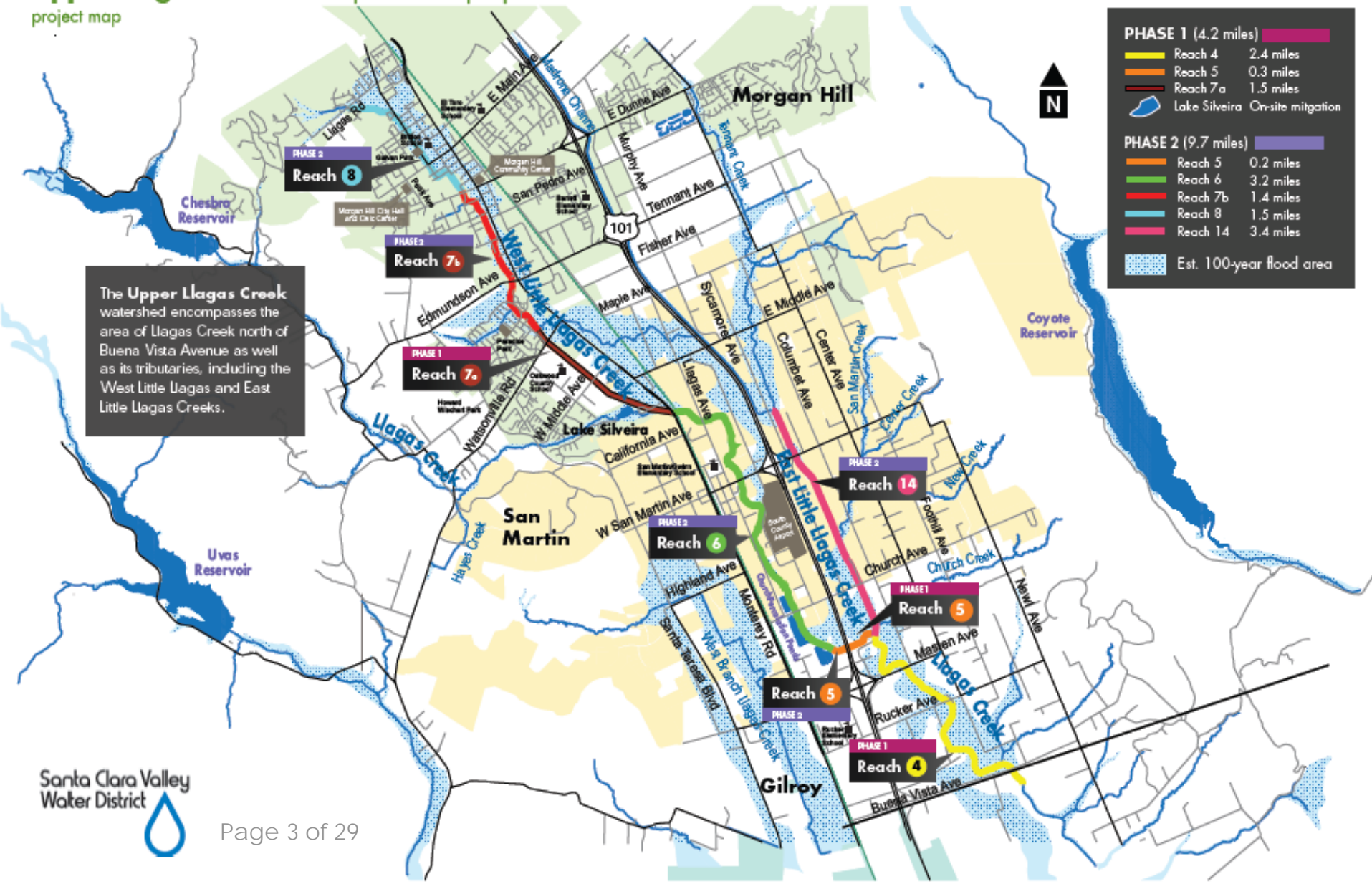
# Public Necessity for the Proposed Project

- ▶ **Finding:** The public interest and necessity require the proposed project:
  - ▶ Provide 100-year flood protection to downtown Morgan Hill (Reaches 7 & 8)
  - ▶ Provide 10-year level of flood protection in Reach 14 and no induced flooding in Reaches 4, 5 & 6 (rural lands)
  - ▶ Design a stable channel
  - ▶ Preserve and enhance habitat
  - ▶ Reduce long-term maintenance
  - ▶ Improve creek conditions





project map



# Existing Constraints on Project Design

- The Geography and Footprint of the Creek determines which Private Properties will be impacted
  - Private Property is Located on Both Sides of the Creek
  - The Creek is Located In and Flows Through Private Property
  
- The Project Design Must Qualify as the Least Environmentally Damaging Practicable Alternative
  - Must Preserve, Enhance, and Restore Natural Habitat

- **Finding:** The proposed project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury
- Achieved through Holistic Approach to Project Design
  - Apply Hydraulic Modeling and Geomorphology to
    - Prevent incision
    - Reduce erosion
    - Reduce long term maintenance
    - Prevent induced flooding



- Achieved through Holistic Approach to Project Design
  - Avoid Private Structures
    - Examine the Possibility of Locating Project Features In a Manner that Minimizes Impacts to Private Structures
- Preserve Habitat of Greater Environmental Value
  - Minimize disturbance to native vegetation
  - Preserve, enhance, and create aquatic habitat
- Align project features with existing creek alignment

# Other Project Benefits

- Improve creek conditions
- Remove invasive species
- Remove legacy trash and debris
- Preserve natural creek footprint and open space
- Increase native vegetation
- Incorporate topsoil to support plantings
- Improve water quality
- Reestablish abandoned creek  
(around Lake Silveira)





- The District has complied with the requirements of the California Environmental Quality Act ("CEQA") with the District's Board certifying the Final Environmental Impact Report on June 10, 2014

# Property Acquisitions Necessary for Project

- Project requires acquisition of 146 properties:
  - ▶ Phase 1 - 41 Properties (39 acquired)
  - ▶ Phase 2 - 105 Properties, including temporary construction areas (55 acquired)
- Resolutions of Necessity due to impasse are proposed for 3 properties within Phase 2 owned by the following owners of record:
  - ▶ Morgan Hill Plaza, a Partnership
  - ▶ Eleanor Sade, Trustee
  - ▶ MH Sterling Group, LLC, a California limited liability company

# Separate Hearings For Each Property

Handout  
Item 2.8-A

- ▶ At this point in the presentation, the District will conduct a separate hearing for each specific property
- ▶ The Chair of the Board of Directors will describe the process for each hearing



# Morgan Hill Plaza Property: Least Private Injury

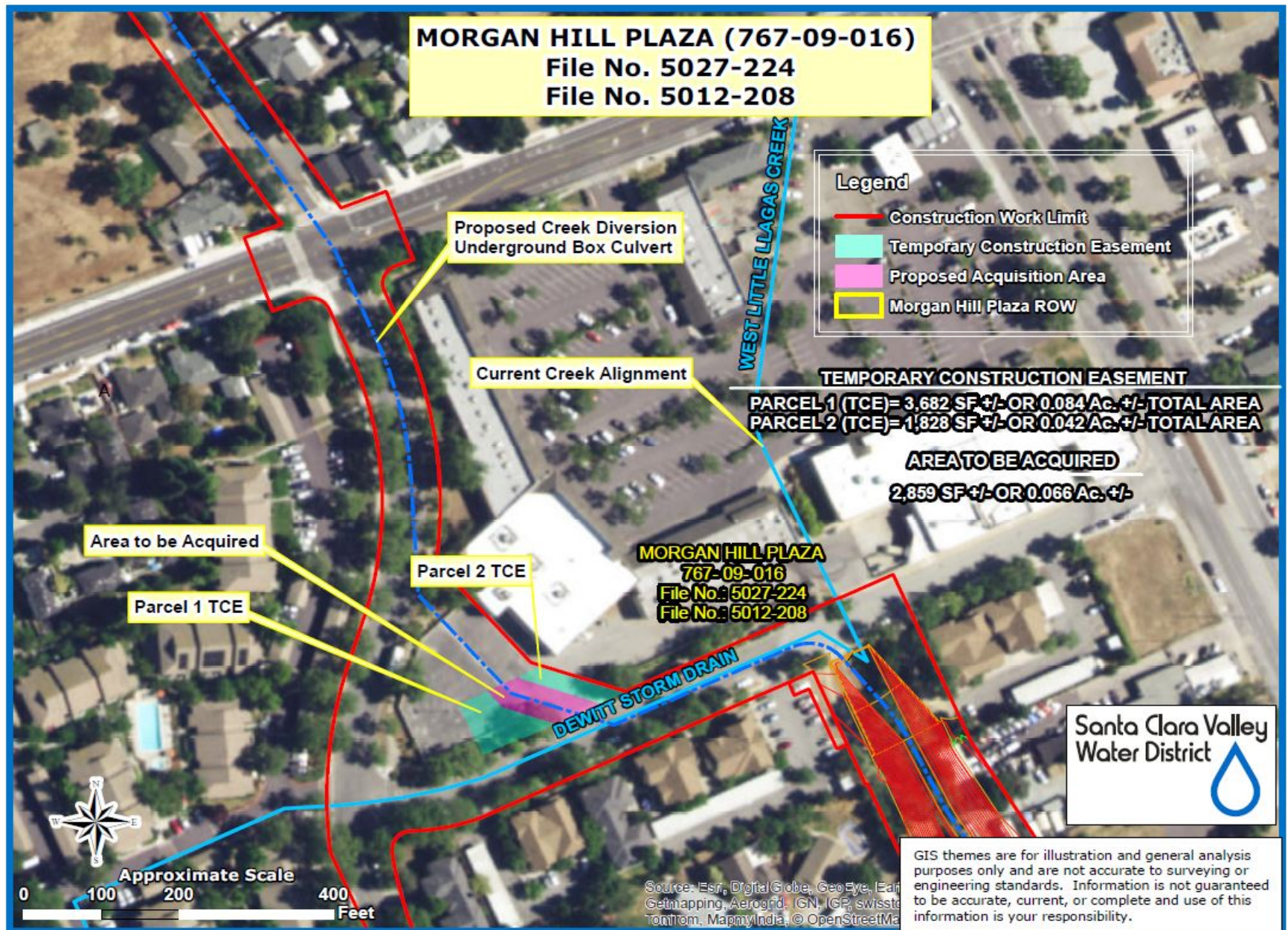
- ▶ The acquisition area is in back of the property behind the structure
- ▶ High flow creek diversion will be in an underground box culvert
- ▶ The proposed area to be acquired does not impact any existing private structures or access to these structures
- ▶ After project is constructed, the area will be returned to its existing use

project map





## Handout Item 2.8-A



# Morgan Hill Plaza Property is Necessary for the Project

- Finding: The property described in the resolution is necessary for the proposed project

# Gov. Code Section 7267.2(a) Offer

- ▶ **Finding:** The Offer Required by Section 7267.2(a) of the Gov. Code has been made to the owners of record
- ▶ On February 7, 2017, the District sent a final written offer to Morgan Hill Plaza via certified mail
- ▶ District's offer complies with Gov. Code Section 7267.2(a)
- ▶ District has received confirmation of the owners' receipt of the offer
- ▶ Staff has reached an impasse

- ▶ This completes the District's presentation regarding acquisition of the Morgan Hill Plaza property.
- ▶ After the Board receives comments from the property owner and public, staff is ready to answer questions.

# Sade Property: Least Private Injury

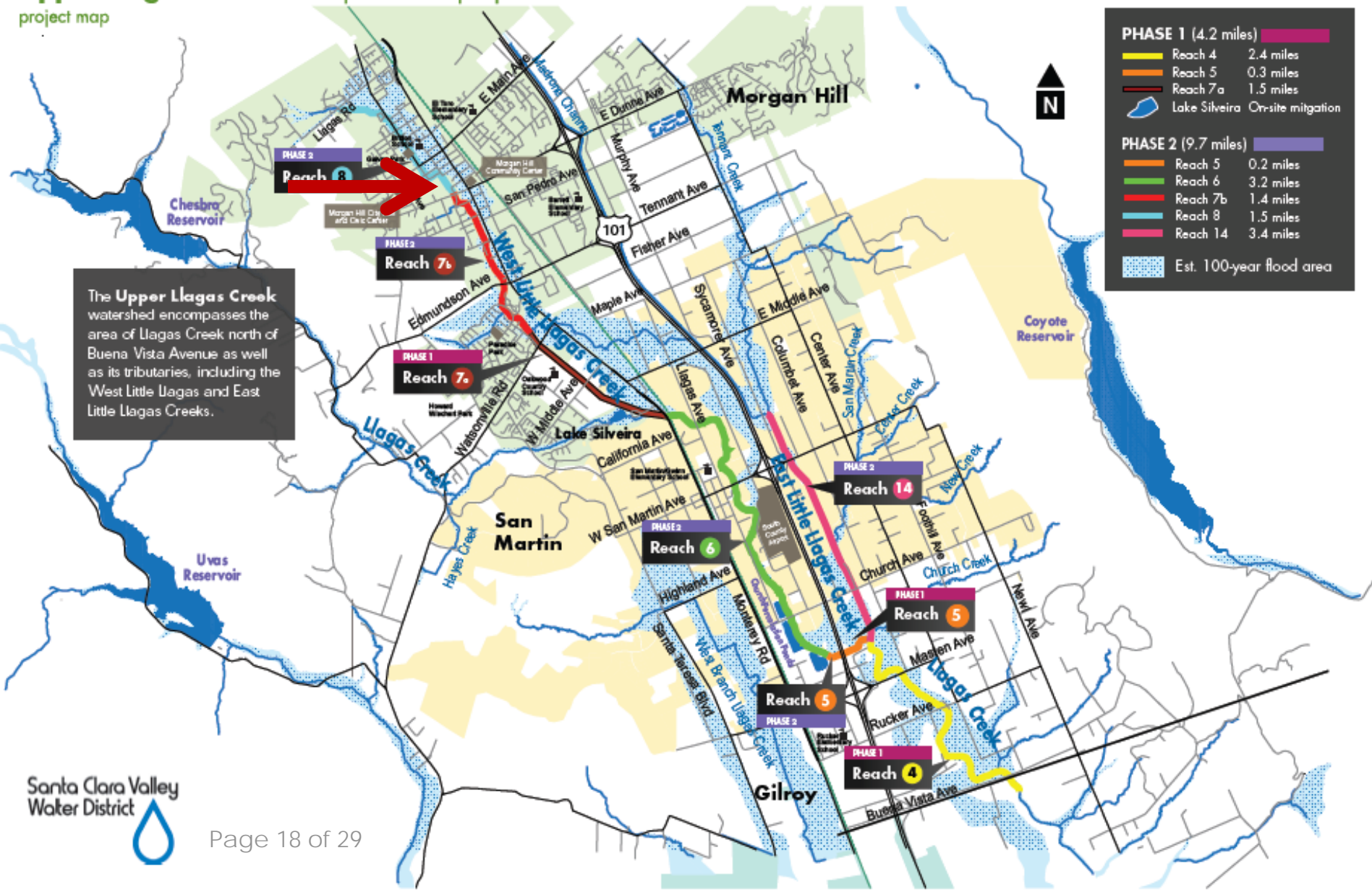
- ▶ The acquisition area is in back of the property behind the structure
- ▶ High flow creek diversion will be in an underground box culvert
- ▶ The proposed area to be acquired does not impact any existing private structures or access to these structures
- ▶ After project is constructed, the area will be returned to its existing use



# Upper Llagas Creek Flood Protection Project

Handout  
Item 2.8-A

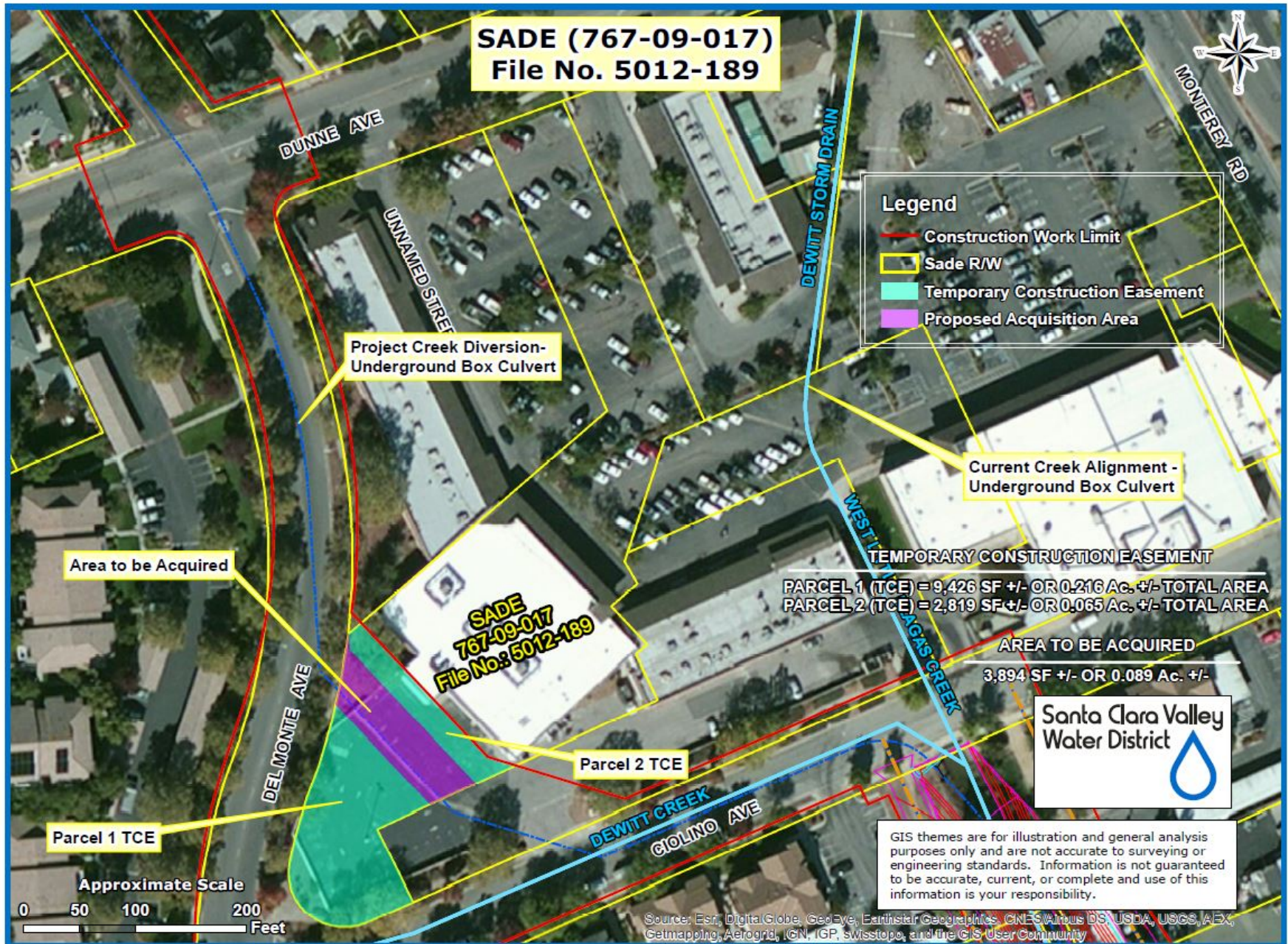
## Upper Llagas Creek flood protection project project map





# Sade Exhibit

Handout  
Item 2.8-A



- Finding: The property described in the resolution is necessary for the proposed project

# Gov. Code Section 7267.2(a) Offer

Handout  
Item 2.8-A

- ▶ **Finding:** The Offer Required by Section 7267.2(a) of the Gov. Code has been made to the owners of record
- ▶ On February 7, 2017, the District sent a final written offer to Sade via certified mail
- ▶ District's offer complies with Gov. Code Section 7267.2(a)
- ▶ District has received confirmation of the owners' receipt of the offer
- ▶ Staff has reached an impasse as a result of lack of response from the owner



- ▶ This completes the District's presentation regarding acquisition of the Sade property.
- ▶ After the Board receives comments from the property owner and public, staff is ready to answer questions.

# MH Sterling Group: Least Private Injury

Handout  
Item 2.8-A

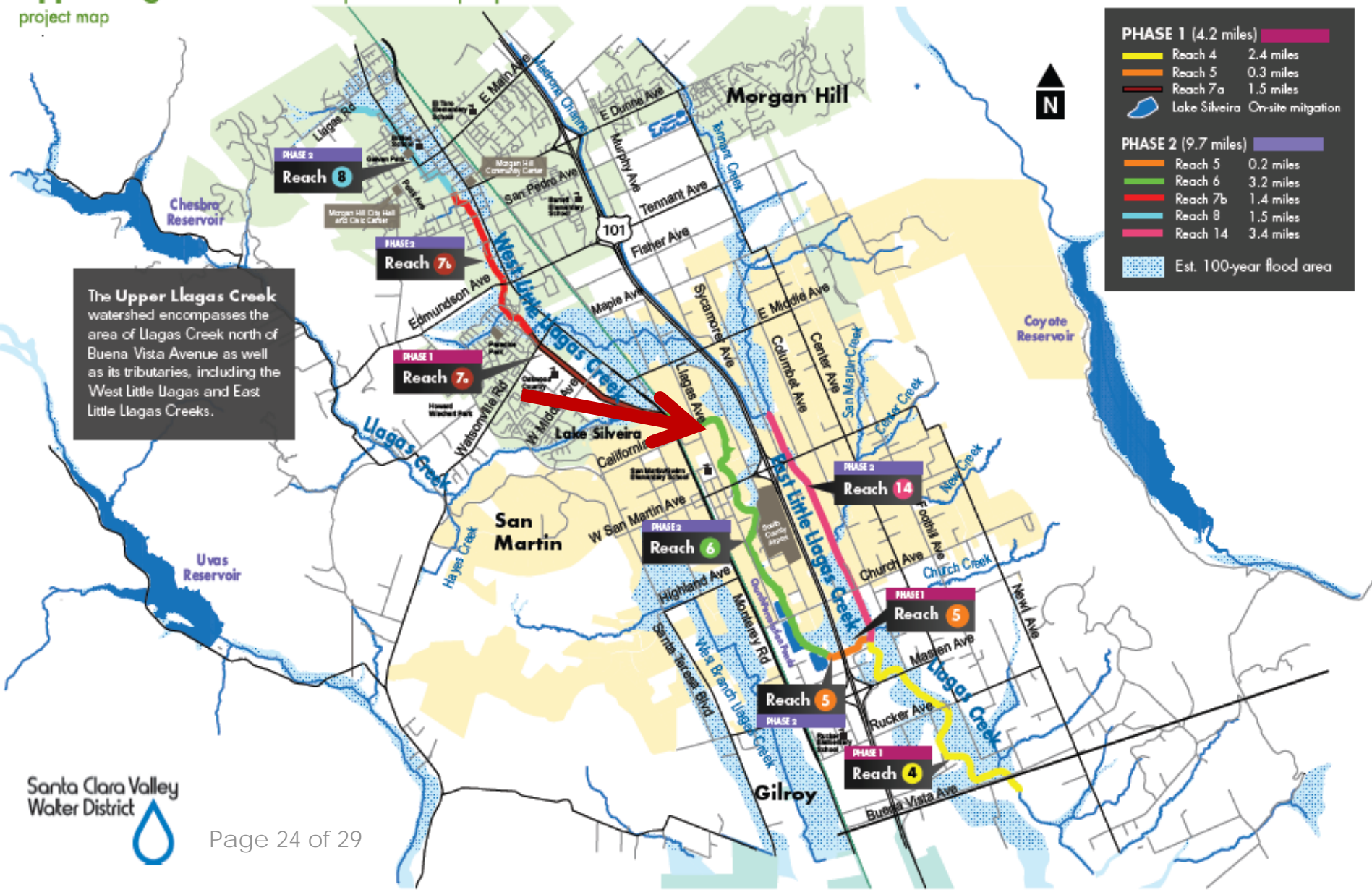
- ▶ Avoids Impact to Private Structures
- ▶ The proposed project maintenance road is located at the top of bank and aligned with the creek
- ▶ Acquisition includes portion of property that constitutes a non-economical remnant without access to a public road



# Upper Llagas Creek Flood Protection Project

Handout  
Item 2.8-A

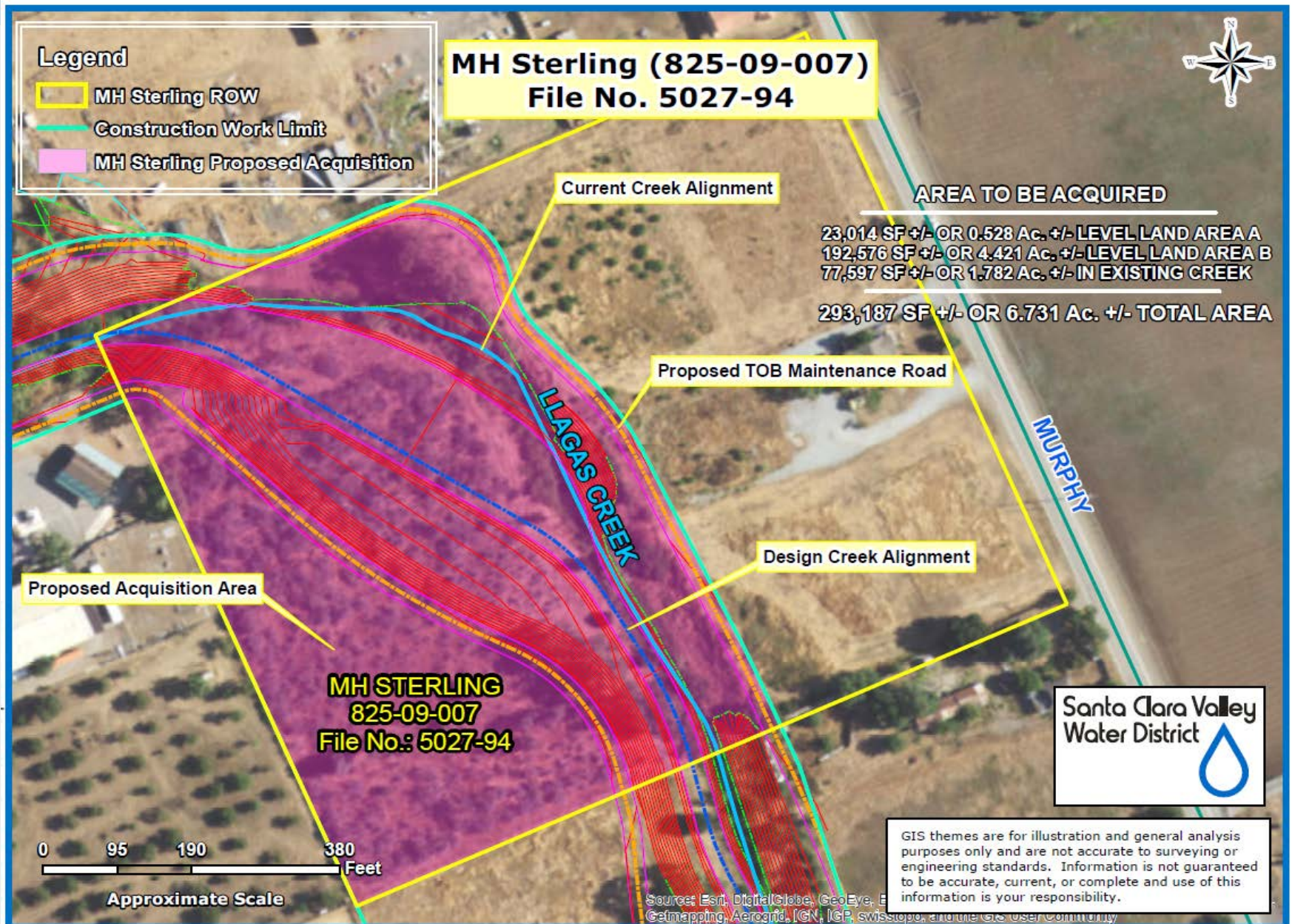
## Upper Llagas Creek flood protection project project map





# MH Sterling Group Exhibit

Handout  
Item 2.8-A



- Finding: The property described in the resolution is necessary for the proposed project

# Gov. Code Section 7267.2(a) Offer

- ▶ **Finding:** The Offer Required by Section 7267.2(a) of the Gov. Code has been made to the owners of record
- ▶ On January 19, 2017, the District sent a final written offer
- ▶ District's offer complies with Gov. Code Section 7267.2(a)
- ▶ District has received confirmation of the owners' receipt of the offer
- ▶ Staff has reached an impasse with the owner

- ▶ This completes the District's presentation regarding acquisition of the MH Sterling Group property.
- ▶ After the Board receives comments from the property owner and public, staff is ready to answer questions.

# Public Hearing to Consider Adoption of Resolution of Necessity: Upper Llagas Creek Project

September 26, 2017







File No.: 17-0670

Agenda Date: 10/10/2017

Item No.: \*2.9.

## BOARD AGENDA MEMORANDUM

### SUBJECT:

Hearing to Consider Adoption of Resolution of Necessity Relating to Acquisition of Real Property Interests from MH Sterling Group, LLC, Necessary to Complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051 (Morgan Hill) (District 1) (Continued From September 26, 2017).

### RECOMMENDATION:

- A. Conduct Hearing to consider adoption of Resolution of Necessity relating to acquisition of real property interests from MH Sterling Group, LLC necessary to complete the Upper Llagas Creek Flood Protection Project, Project No. 26174051; and
- B. Adopt the Resolution of Necessity DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*), by two-thirds vote.

### SUMMARY:

The Santa Clara Valley Water District (District) is undertaking the Upper Llagas Creek Flood Protection Project (Project) in partnership with the U.S. Army Corps of Engineers (Corps) and the City of Morgan Hill (City) to provide flood protection. The Project is approximately 13 miles long and encompasses the Cities of Morgan Hill, Gilroy, and various unincorporated areas of Santa Clara County, including San Martin.

The Project has been divided into two phases for construction as identified in Attachment 1. Phase 1 construction is approximately 4.2 miles in length and includes Reach 4, a portion of Reach 5, Reach 7a (diversion channel), and Lake Silveira (on-site compensatory mitigation). Phase 2 construction is approximately 9.7 miles in length and includes a portion of Reach 5 and Reaches 6, 7b, 8, and 14.

This proposed acquisition of property is required for Phase 2 construction of the Project.

Background. The Project was originally administered by the United States Natural Resources Conservation Service (NRCS). In 1999, the Corps was authorized by Congress to take over from NRCS and construct the Project. However, due to lack of federal funding, the Corps' progress on the

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Project stalled. The Corps approved the District's request to assume the lead role in the Project's planning and design phases in order to advance the Project to eventual construction.

On September 22, 2009, the Board approved a cost sharing agreement with the City of Morgan Hill (City) for preparing the environmental document and the design plans and specifications for the Project. The Board action set the course for the District to take on Project tasks normally performed by the Corps, so that the Project could advance. The District is responsible for acquisition of necessary property for the Project.

On October 22, 2013, the District Board of Directors approved a Real Estate Consultant Agreement with Overland, Pacific & Cutler (OPC) to assist District staff in acquiring an estimated 146 parcels needed for the Project.

On June 10, 2014, the Board considered an Environmental Impact Report (EIR) and adopted a Resolution Making Findings of Fact and a Statement of Overriding Considerations regarding the EIR for the Project and adopted a Mitigation Monitoring and Reporting Program. At the same meeting, the Board approved the Project.

Description of the Public Project. The Project improvements are designed to improve flood protection in Upper Llagas Creek, including enhanced protection for 1,100 homes and 500 businesses. Specifically, the Project will provide one percent conveyance capacity in Reaches 7 and 8 of the Project, no induced flooding in Reaches 4, 5, and 6 due to upstream improvements, and ten percent conveyance capacity in Reach 14.

Acquisition of the Property Interests. To construct the Project, the District must acquire various real property interests from the property owners within the Project footprint. Real property interests from 41 property owners are needed for Phase 1 [Reaches 4, 5 (a portion), 7A, and Lake Silveira] and real property interests are needed from 105 property owners for Phase 2 [Reaches 5 (a portion), 6, 7B, 8, and 14] (see Attachment 1, page 1 of 2). To date, the District has acquired the necessary property interests, or the properties are in the legal process to be acquired, for all but two of the properties required for Phase 1 of the Project. Staff continues to acquire the necessary property interests for Phase 2 of the Project. To date, 68 offers have been made, and 55 owners have reached resolution with the District. Staff continues to negotiate and communicate with the remaining property owners.

Amongst the other properties needed, the District requires the property rights shown in Attachment 1 (page 2 of 2) from property owned by MH Sterling Group, LLC. To construct the creek improvements, the District must acquire fee title over a portion of this property (APN 825-09-007) as described and depicted in Exhibit A to the Resolution of Necessity (RON) (Attachment 2).

The District made good faith attempts to negotiate a settlement with the property owner. Offers were made to the Owner on May 13, 2015, March 8, 2016, October 7, 2016, and January 19, 2017, but other than informing the District that they were currently doing a lot split on the property that was nearing the recording process, Owner has been unresponsive to the various attempts made by OPC to negotiate a settlement.

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In conformance with the Code of Civil Procedure Section 1245.235, the District will send a notice on adopting the Resolution of Necessity (Attachment 2) by certified mail to the person or persons whose name and address appears on the last equalized county assessment roll for APN 825-09-007 to provide them a reasonable opportunity to be heard by the Board.

The hearing by the Board and the adoption of the RON are legal preconditions to the exercise of the District's power of eminent domain. This statutory requirement is designed to ensure that public entities verify and confirm the validity of their intended use of the power of eminent domain. A RON must contain a general statement of the public use for which the property is taken, a reference to the authorizing statutes, a description of the property, and a declaration stating that the Board has found and determined each of the following underlined findings to be true:

1. The public's interest and necessity for the Project. To provide flood protection to the numerous properties in the cities of Morgan Hill, Gilroy, and San Martin, the Project must acquire the property rights from MH Sterling Group, LLC to construct the Project.
2. The Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury. This design impacts the fewest private properties to the least extent possible while providing the conveyance capacity necessary to reduce flood risk from the one percent flood event, ten percent flood event, or no induced flooding. The design also provides for a stable channel, preserving and enhancing habitat, and reducing long-term maintenance of the creek.
3. The properties are necessary for the Project. The Project cannot be executed without the portions of APN 825-09-007, as described and depicted in Exhibit A attached to the RON, Attachment 2.
4. The Government Code Section 7267.2(a) offer has been made to the owner or owners of record. On January 19, 2017, the District sent the written offer to the owner for APN 825-09-007 and the District has received confirmation of the owner's receipt. The District's offer complies with California Government Code Section 7267.2.

Attached for the Board's consideration is the proposed RON (Attachment 2). The RON includes direction from the Board authorizing acquisition of the subject property interests described therein by eminent domain.

As stated above, the District has attempted to acquire the needed property interests through a negotiated purchase and has reached an impasse; therefore, adoption of the RON should be considered to meet the Project schedule. If the RON is adopted, the District will still continue efforts to negotiate and achieve a mutual settlement prior to any court action.

The Upper Llagas Creek Project EIR Final May 2014 State Clearinghouse No. 2012102032 and the documents and reports included and referenced therein and the offer(s) made to and appraisal(s) provided to fee owners are incorporated by reference and made a part of this staff report. They are available for the Board of Directors to review and they support the findings to be made by the Board.

**FINANCIAL IMPACT:**

The property acquisition costs will be funded from the Upper Llagas Creek Project Clean Safe Creeks and Safe Clean Water Program funds, and are consistent with the FY 18-22 Capital Improvement Program. The District will be responsible for the appraised value of the parcel and any court ordered eminent domain costs.

There are adequate funds in Project's Fiscal Year 2017-2018 budget to complete this transaction required for the Upper Llagas Creek Flood Protection Project.

**CEQA:**

The District Board of Directors approved the Project and certified the Project Environmental Impact Report (EIR) on June 10, 2014.

**ATTACHMENTS:**

Attachment 1: Map

Attachment 2: Resolution

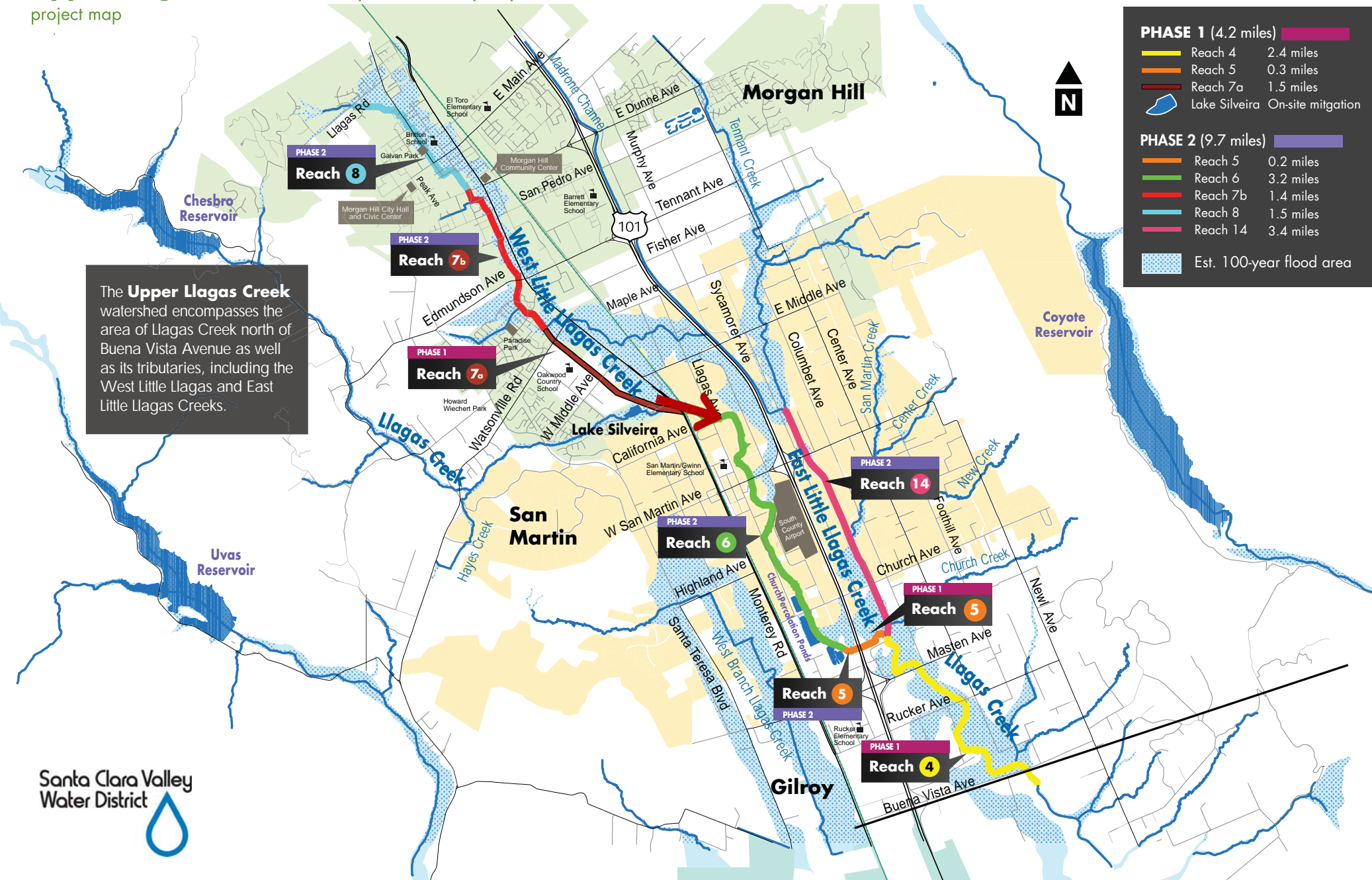
\*Handout 2.9-A, PowerPoint

**UNCLASSIFIED MANAGER:**

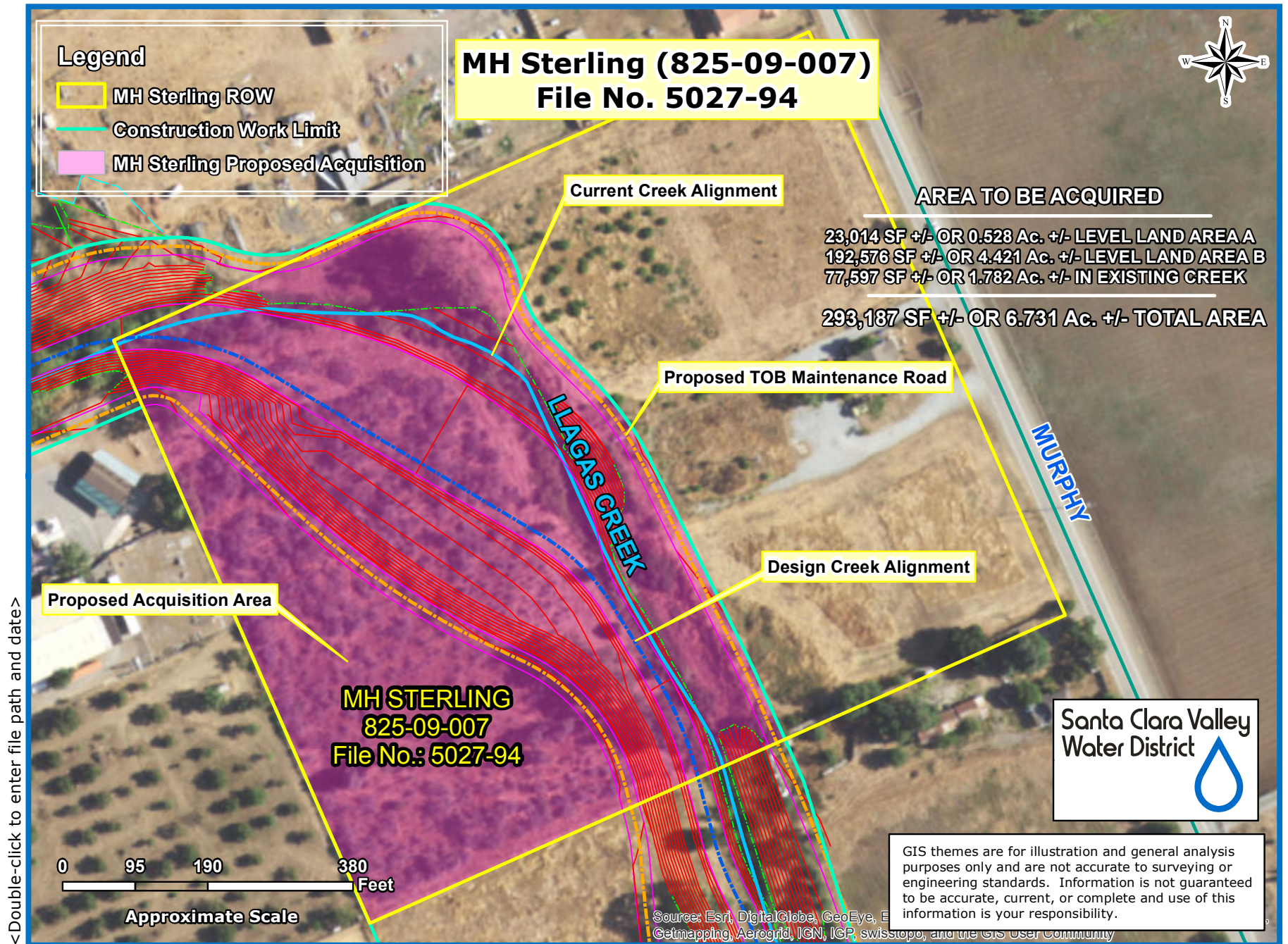
Katherine Oven, 408-630-3126

# Upper Llagas Creek flood protection project

project map







**BOARD OF DIRECTORS  
SANTA CLARA VALLEY WATER DISTRICT**

**RESOLUTION NO. 17-**

**DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE  
ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL  
PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK  
FLOOD PROTECTION PROJECT NO. 26174051  
(CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*)**

WHEREAS, pursuant to a cost-sharing agreement with the City of Morgan Hill, the Santa Clara Valley Water District (District) is working to construct the Upper Llagas Creek Flood Protection Project No. 26174051 (the Project), which will provide flood protection for 1,100 homes, 500 businesses, and over 1,300 acres of agricultural land in southern Santa Clara County; and

WHEREAS, the District is authorized to condemn property for the Project pursuant to Article I, Section 19 of the California Constitution, Part 3, Title 7 of the California Code of Civil Procedure, Section 6 of the Santa Clara Valley Water District Act, and other provisions and principles of law; and

WHEREAS, the property interests to be acquired for the Project are located on 13875 Murphy Avenue, San Martin, California 95046, Santa Clara County Assessor's Parcel No. 825-09-007, and are described and depicted in Exhibit A attached hereto and incorporated herein (Property); and

WHEREAS, the Project cannot be completed without the Property, and acquisition of the Property is accordingly necessary and in the public interest; and

WHEREAS, the use of the Property for the Project will not interfere with or impair any known, existing public uses and, therefore, is compatible with any other public uses pursuant to Code of Civil Procedure section 1240.510; and

WHEREAS, the District has made several offers to the owners of record including on April 19, 2016, and January 19, 2017, pursuant to Government Code section 7267.2 based on an October 10, 2016 appraisal; and

WHEREAS, the District provided by certified mail to all persons whose names appear on the last Equalized County Assessment Roll as having an interest in the Property a notice that the District's Board of Directors would hold a hearing on September 26, 2017 to consider the adoption of a resolution of necessity authorizing the District to acquire the Property by eminent domain; and

WHEREAS, the notice advised all such interested persons of the time and place for the hearing, their right to be heard in relation to that matter, and that their failure to file a written request to appear and be heard at the hearing within 15 days from the mailing of the notice would result in a waiver of their right to be heard; and

WHEREAS, the District has calendared this Resolution as an item on its Agenda and invited public comment prior to the meeting; and

WHEREAS, the District's Board of Directors held a public hearing on September 26, 2017 to consider the adoption of this resolution, and all interested parties were given an opportunity to be heard.

---

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the District finds, determines, and hereby declares:

1. The public interest and necessity require the Project;
2. The Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
3. The Property described and depicted herein in Exhibit A is necessary for the Project;
4. The District made the offer required by Government Code section 7267.2 to the owners of record;
5. The District has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property;
6. The District has complied with the requirements of the California Environmental Quality Act (CEQA) for the Project, the District's Board having on June 10, 2014, adopted a Final Environmental Impact Report;
7. The District's Office of the District Counsel and/or its designee is hereby authorized to commence and prosecute an eminent domain proceeding to acquire the Property, to deposit the amount of probable compensation pursuant to Code of Civil Procedure section 1255.010, and to acquire prejudgment possession of the Property as may be necessary for the Project.

Determining and Declaring the Public Necessity for the Acquisition of Certain Real Property or Interests in Real Property by Eminent Domain for the Upper Llagas Creek Flood Protection Project No. 26174051 (Code Of Civil Procedure Sections 1245.220, *Et Seq.*)

Resolution No. 17-

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PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District on by the following vote on October 10, 2017.

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

By: \_\_\_\_\_  
JOHN L. VARELA  
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC

\_\_\_\_\_  
Clerk/Board of Directors

**Exhibit A**

**SANTA CLARA VALLEY WATER DISTRICT**  
San Jose, California

By: K. Comerer  
Date: 08/17/14

Date Revised: 08/15/16  
Revised By: K. Comerer  
Checked by: \_\_\_\_\_

Date: \_\_\_\_\_

PROJECT: UPPER LLAGAS CREEK  
PROPERTY: MH STERLING GROUP

File No.: 5027-94

All of that certain parcel of land situate in the unincorporated area of Santa Clara County, State of California, more particularly described as follows:

Being a portion of the lands described in the Grant Deed from Jerry L. Shumate and Victoria A. Shumate, as Trustees, or Successor Trustee, of the Shumate Family Trust, dated 9/13/90, to MH Sterling Group, LLC, a California Limited Liability Company, recorded on October 12, 2007 as Document No. 19615222 of Official Records, Santa Clara County records, being a portion of Lot 55 as shown on that certain Map entitled "San Martin Ranch Map No. 2", filed on January 27, 1893 in Book "G" of Maps, at Pages 38 and 39, said Santa Clara County Records, more particularly described as follows:

BEGINNING at the most westerly corner of said Lot 55; thence along the northwesterly line of said Lot 55, North 66° 52' 53" East, 350.27 feet to the beginning of a non-tangent curve, concave southwesterly, having a radius of 100.00 feet, from which the radius point bears South 02° 58' 58" East; thence leaving said northwesterly line, southeasterly, along said curve, through a central angle of 83° 39' 50", for an arc length of 146.02 feet to the beginning of a reverse curve, having a radius of 100.00 feet; thence along said curve, through a central angle of 35° 17' 52", for an arc length of 61.61 feet; thence South 44° 37' 00" East, 13.11 feet to the beginning of a tangent curve to the right, having a radius of 318.00 feet; thence along said curve, through a central angle of 11° 31' 27", for an arc length of 63.96 feet; thence South 33° 05' 32" East, 131.53 feet to the beginning of a tangent curve to the right, having a radius of 318.00 feet; thence along said curve, through a central angle of 07° 19' 16", for an arc length of 40.63 feet; thence South 25° 46' 17" East, 152.03 feet to the beginning of a tangent curve to the right, having a radius of 400.00 feet; thence along said curve, through a central angle of 02° 33' 12", for an arc length of 17.83 feet; thence South 23° 13' 05" East, 68.52 feet to a point on the southeasterly line of said Lot 55; thence along said southeasterly line and the southwesterly line of said Lot 55 the following two (2) courses: 1) South 66° 51' 58" West, 473.80 feet and 2) North 23° 08' 02" West, 660.14 feet to the POINT OF BEGINNING.

Containing 293,187 square feet or 6.731 acres of land, more or less.

END OF DESCRIPTION



**BASIS OF BEARINGS:**

Bearings and distances described herein are based on the California Coordinate System of 1983, Zone 3, Epoch 2011.43. Multiply herein described distances by 1.00001657 to obtain ground level distances.

**SURVEYOR'S STATEMENT:**

Legal description prepared by Cross Land Surveying, Inc. in August 2014 and is based on boundary resolution by SCVWD and was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

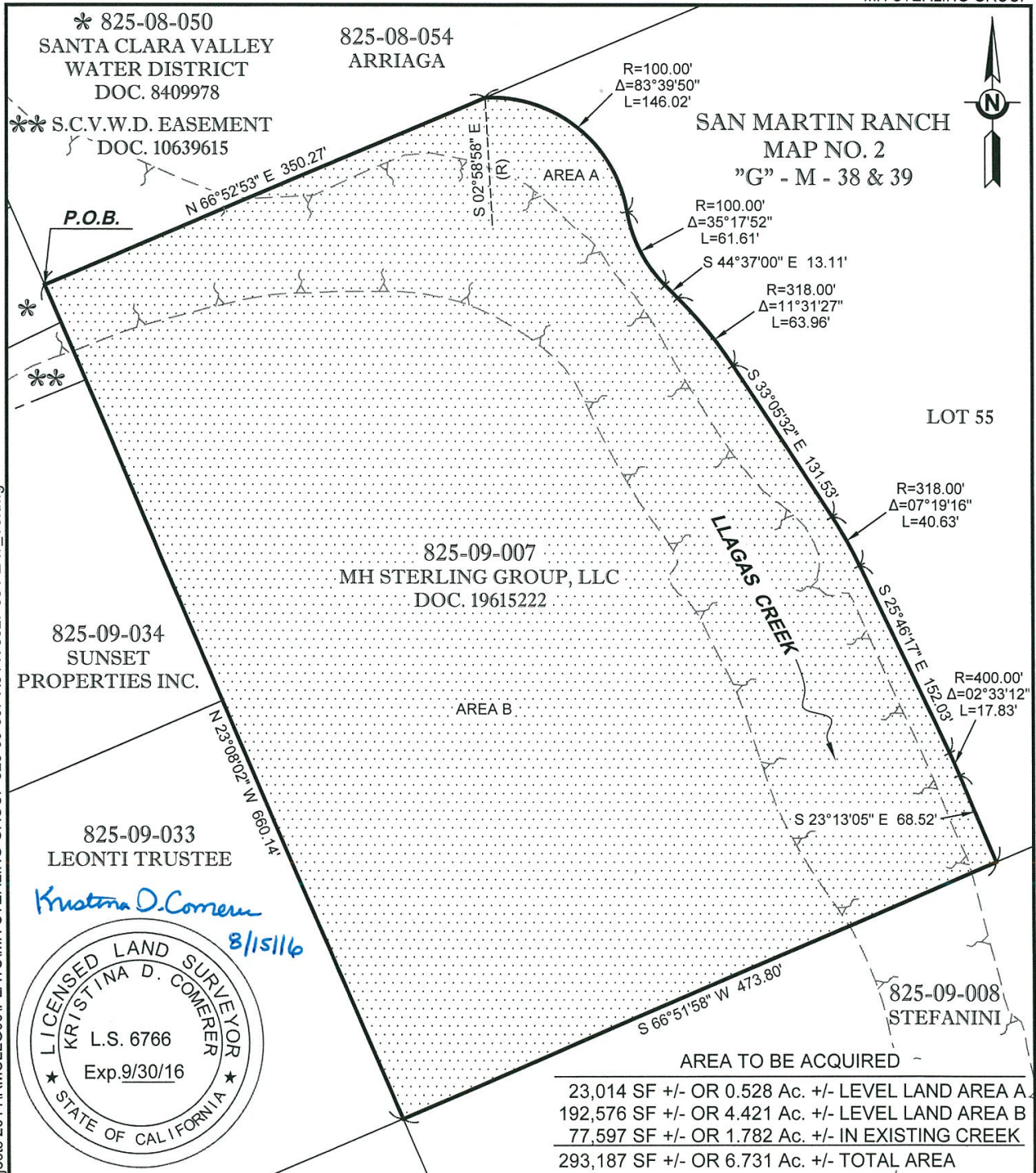
Kristina D. Comer  
Kristina D. Comer, PLS 6766

Date: Aug. 15, 2016





SCVWD C:\civil 3D Projects 2011\RMCLLG09\PLATSMH STERLING GROUP 825-09-007 R6 FN 5027-95 PLAT\_V3.dwg



<b>Santa Clara Valley Water District</b>				<b>SCALE: 1" = 100'</b>		<b>PROJ. NO.</b>	26174051
						<b>FILE NO.</b>	5027-94
						<b>APN</b>	825-09-007
						<b>TITLE REPORT NO.</b>	616011021
<b>REV.</b>	<b>APPR.</b>	<b>DATE</b>	<b>DESCRIPTION</b>			<b>DRAWN</b>	G. Comerer
1		8/16	CHANGE PARCEL CONFIGURATION			<b>DATE</b>	08/12/16
2							

# Public Hearing to Consider Adoption of Resolution of Necessity: Upper Llagas Creek Project

September 26, 2017



# Public Necessity for the Proposed Project

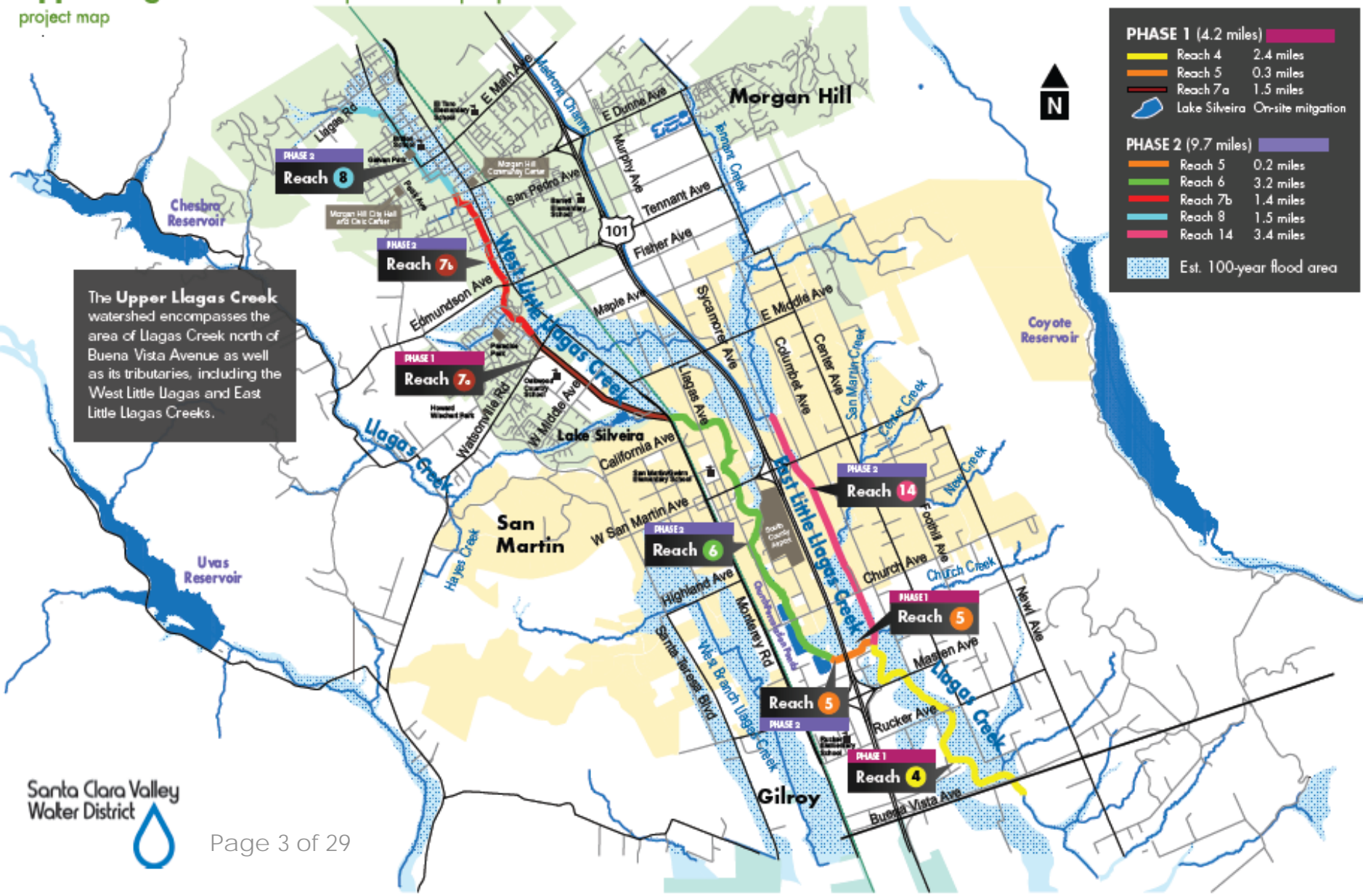
- ▶ **Finding:** The public interest and necessity require the proposed project:
  - ▶ Provide 100-year flood protection to downtown Morgan Hill (Reaches 7 & 8)
  - ▶ Provide 10-year level of flood protection in Reach 14 and no induced flooding in Reaches 4, 5 & 6 (rural lands)
  - ▶ Design a stable channel
  - ▶ Preserve and enhance habitat
  - ▶ Reduce long-term maintenance
  - ▶ Improve creek conditions





# Upper Llagas Creek Flood Protection Project

## Upper Llagas Creek flood protection project project map



# Existing Constraints on Project Design

- The Geography and Footprint of the Creek determines which Private Properties will be impacted
  - Private Property is Located on Both Sides of the Creek
  - The Creek is Located In and Flows Through Private Property
- The Project Design Must Qualify as the Least Environmentally Damaging Practicable Alternative
  - Must Preserve, Enhance, and Restore Natural Habitat

# Project Design Serves the Greatest Public Good with the Least Private Injury

- **Finding:** The proposed project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury
- Achieved through Holistic Approach to Project Design
  - Apply Hydraulic Modeling and Geomorphology to
    - Prevent incision
    - Reduce erosion
    - Reduce long term maintenance
    - Prevent induced flooding





# Project Design Serves the Greatest Public Good with the Least Private Injury

- Achieved through Holistic Approach to Project Design
  - Avoid Private Structures
    - Examine the Possibility of Locating Project Features In a Manner that Minimizes Impacts to Private Structures
- Preserve Habitat of Greater Environmental Value
  - Minimize disturbance to native vegetation
  - Preserve, enhance, and create aquatic habitat
- Align project features with existing creek alignment

# Other Project Benefits

- Improve creek conditions
- Remove invasive species
- Remove legacy trash and debris
- Preserve natural creek footprint and open space
- Increase native vegetation
- Incorporate topsoil to support plantings
- Improve water quality
- Reestablish abandoned creek  
(around Lake Silveira)



# CEQA Compliance

- The District has complied with the requirements of the California Environmental Quality Act ("CEQA") with the District's Board certifying the Final Environmental Impact Report on June 10, 2014

# Property Acquisitions Necessary for Project

- Project requires acquisition of 146 properties:
  - ▶ Phase 1 - 41 Properties (39 acquired)
  - ▶ Phase 2 - 105 Properties, including temporary construction areas (55 acquired)
- Resolutions of Necessity due to impasse are proposed for 3 properties within Phase 2 owned by the following owners of record:
  - ▶ Morgan Hill Plaza, a Partnership
  - ▶ Eleanor Sade, Trustee
  - ▶ MH Sterling Group, LLC, a California limited liability company

# Separate Hearings For Each Property

- ▶ At this point in the presentation, the District will conduct a separate hearing for each specific property
- ▶ The Chair of the Board of Directors will describe the process for each hearing

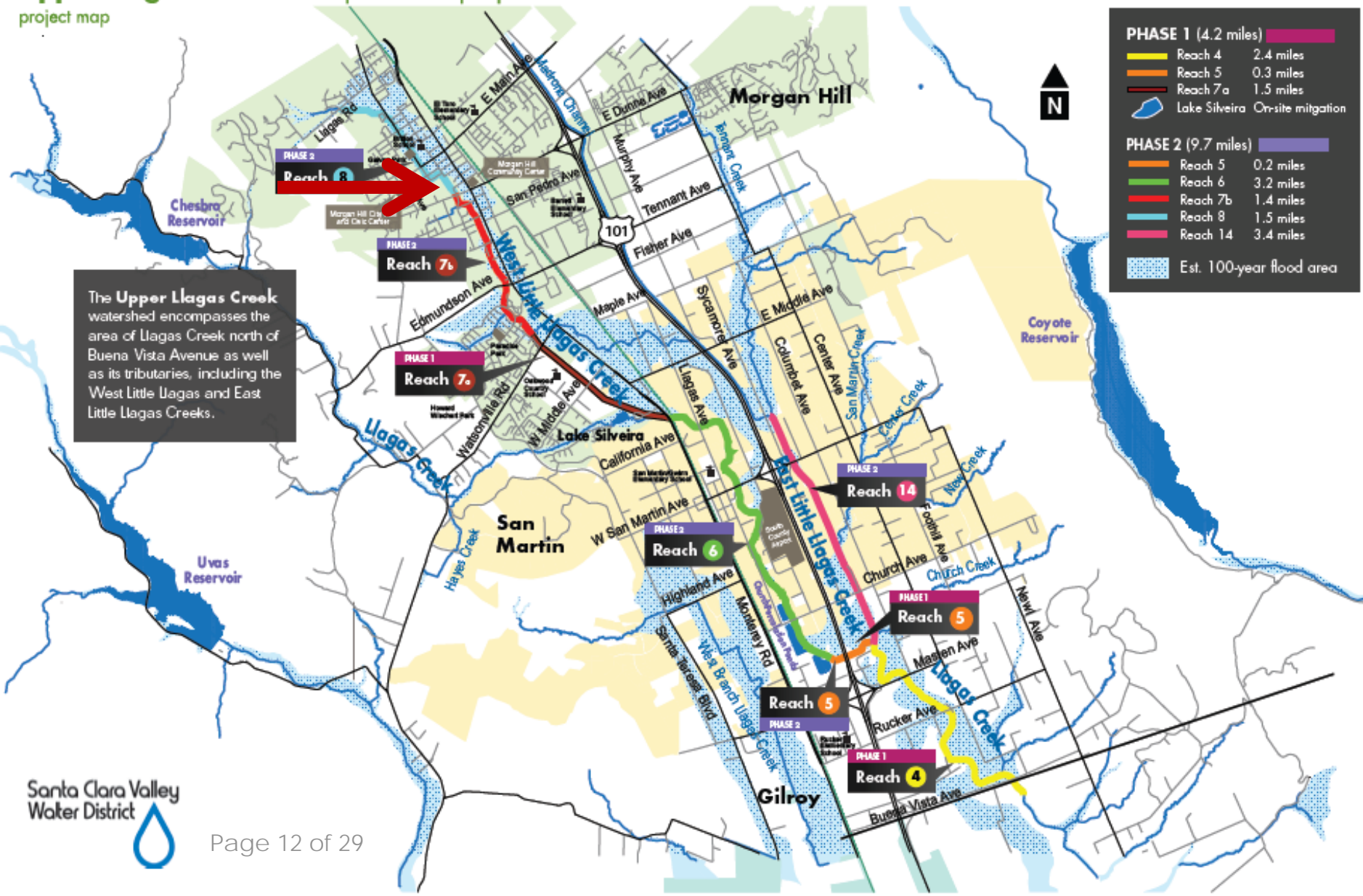
# Morgan Hill Plaza Property: Least Private Injury

- ▶ The acquisition area is in back of the property behind the structure
- ▶ High flow creek diversion will be in an underground box culvert
- ▶ The proposed area to be acquired does not impact any existing private structures or access to these structures
- ▶ After project is constructed, the area will be returned to its existing use



# Upper Llagas Creek Flood Protection Project

## Upper Llagas Creek flood protection project project map





**MORGAN HILL PLAZA (767-09-016)**  
**File No. 5027-224**  
**File No. 5012-208**

**Legend**

- Construction Work Limit
- Temporary Construction Easement
- Proposed Acquisition Area
- Morgan Hill Plaza ROW

**Proposed Creek Diversion Underground Box Culvert**

**Current Creek Alignment**

**Area to be Acquired**

**Parcel 1 TCE**

**Parcel 2 TCE**

**MORGAN HILL PLAZA**  
**767-09-016**  
**File No.: 5027-224**  
**File No.: 5012-208**

**DEWITT STORM DRAIN**

**WEST LITTLE LLAGAS CREEK**

**TEMPORARY CONSTRUCTION EASEMENT**  
**PARCEL 1 (TCE)= 3,682 SF +/- OR 0.084 Ac. +/- TOTAL AREA**  
**PARCEL 2 (TCE)= 1,828 SF +/- OR 0.042 Ac. +/- TOTAL AREA**




**AREA TO BE ACQUIRED**  
**2,859 SF +/- OR 0.066 Ac. +/-**

**Approximate Scale**  
**0 100 200 400 Feet**

**Santa Clara Valley Water District**

GIS themes are for illustration and general analysis purposes only and are not accurate to surveying or engineering standards. Information is not guaranteed to be accurate, current, or complete and use of this information is your responsibility.

Source: Esri, DigitalGlobe, GeoEye, Earthstar, IGN, IGP, swisstopo, TomTom, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

 Construction Work Limit  
 Temporary Construction Easement  
 Proposed Acquisition Area  
 Morgan Hill Plaza ROW

PARCEL 1 (TCE)= 3.682 SF +/- OR 0.084 Ac. +/- TOTAL AREA  
PARCEL 2 (TCE)= 1.828 SF +/- OR 0.042 Ac. +/- TOTAL AREA

**2,859 SF +/- OR 0.066 Ac. +/-**

### Parcel 1 TCE

### Parcel 2 TCE

**MORGAN HILL PLAZA**  
**767-09-016**  
**File No. 5027-224**  
**File No. 5012-208**

### Proposed Creek Diversion Underground Box Culvert

### Current Creek Alignment

**WEST LITTLE LLAGAS CREEK**

DEWITT STORM DRAIN

**Santa Clara Valley  
Water District** 

GIS themes are for illustration and general analysis purposes only and are not accurate to surveying or engineering standards. Information is not guaranteed to be accurate, current, or complete and use of this information is your responsibility.

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNR AeroGris, IGN, IGP, swisstopo, TomTom, MapmyIndia, © OpenStreetMap contributors, Swatch

- Finding: The property described in the resolution is necessary for the proposed project

# Gov. Code Section 7267.2(a) Offer

- ▶ **Finding:** The Offer Required by Section 7267.2(a) of the Gov. Code has been made to the owners of record
- ▶ On February 7, 2017, the District sent a final written offer to Morgan Hill Plaza via certified mail
- ▶ District's offer complies with Gov. Code Section 7267.2(a)
- ▶ District has received confirmation of the owners' receipt of the offer
- ▶ Staff has reached an impasse

# Discussion and Decision

- ▶ This completes the District's presentation regarding acquisition of the Morgan Hill Plaza property.
- ▶ After the Board receives comments from the property owner and public, staff is ready to answer questions.

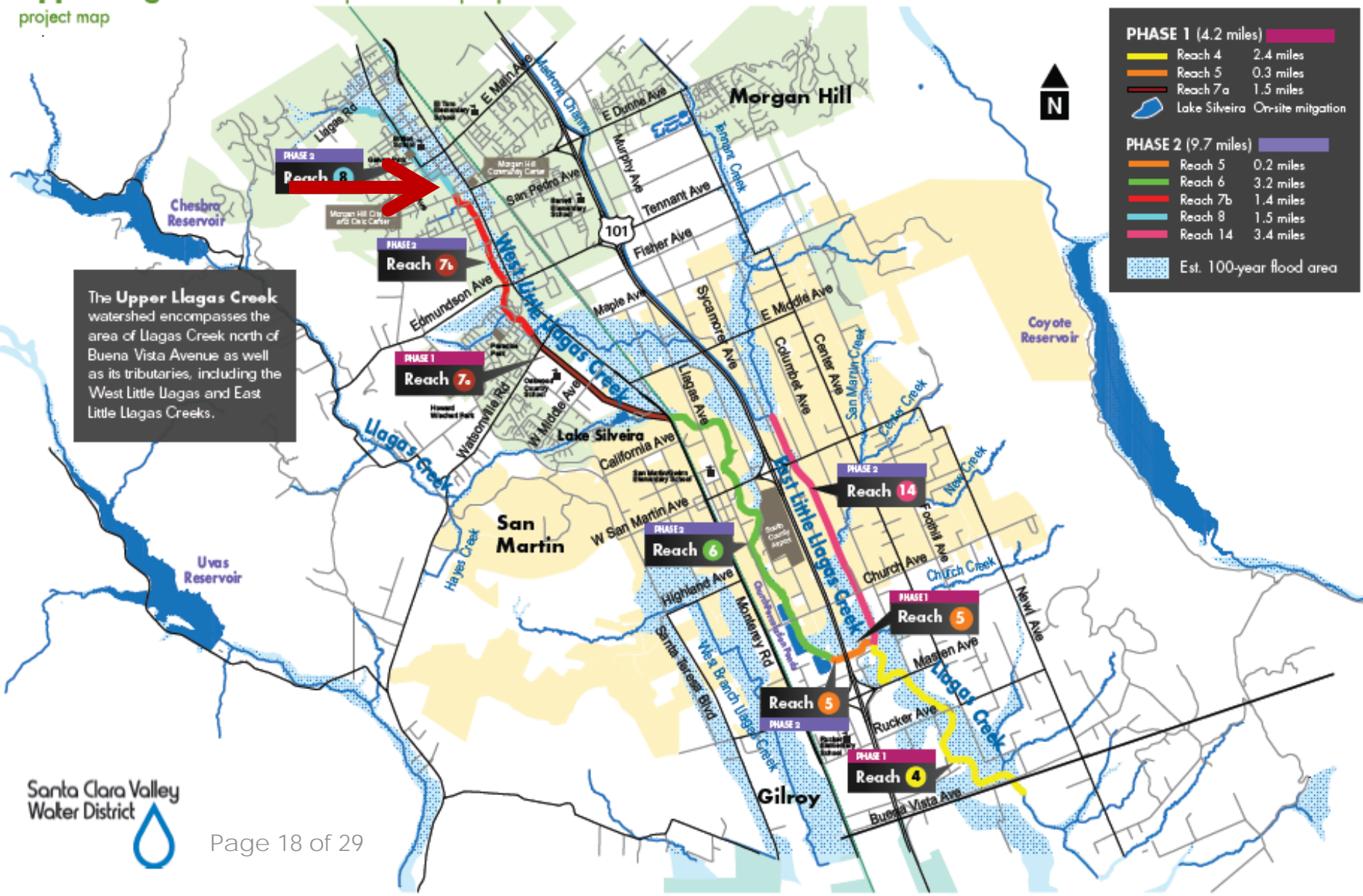
# Sade Property: Least Private Injury

- ▶ The acquisition area is in back of the property behind the structure
- ▶ High flow creek diversion will be in an underground box culvert
- ▶ The proposed area to be acquired does not impact any existing private structures or access to these structures
- ▶ After project is constructed, the area will be returned to its existing use



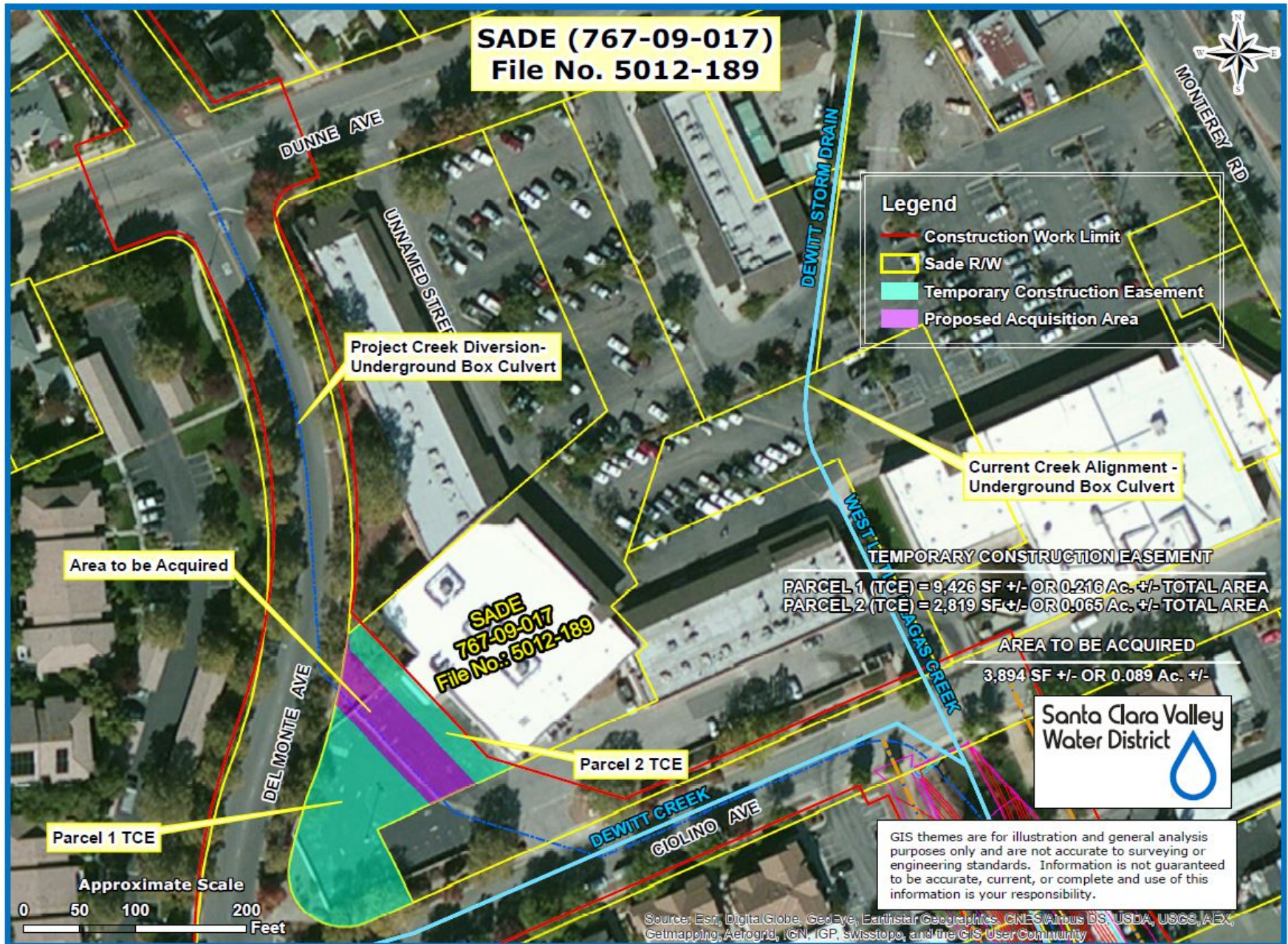
# Upper Llagas Creek Flood Protection Project

## Upper Llagas Creek flood protection project project map





# Sade Exhibit



# Sade Property is Necessary for the Project

- Finding: The property described in the resolution is necessary for the proposed project

# Gov. Code Section 7267.2(a) Offer

- ▶ **Finding:** The Offer Required by Section 7267.2(a) of the Gov. Code has been made to the owners of record
- ▶ On February 7, 2017, the District sent a final written offer to Sade via certified mail
- ▶ District's offer complies with Gov. Code Section 7267.2(a)
- ▶ District has received confirmation of the owners' receipt of the offer
- ▶ Staff has reached an impasse as a result of lack of response from the owner

# Discussion and Decision

- ▶ This completes the District's presentation regarding acquisition of the Sade property.
- ▶ After the Board receives comments from the property owner and public, staff is ready to answer questions.



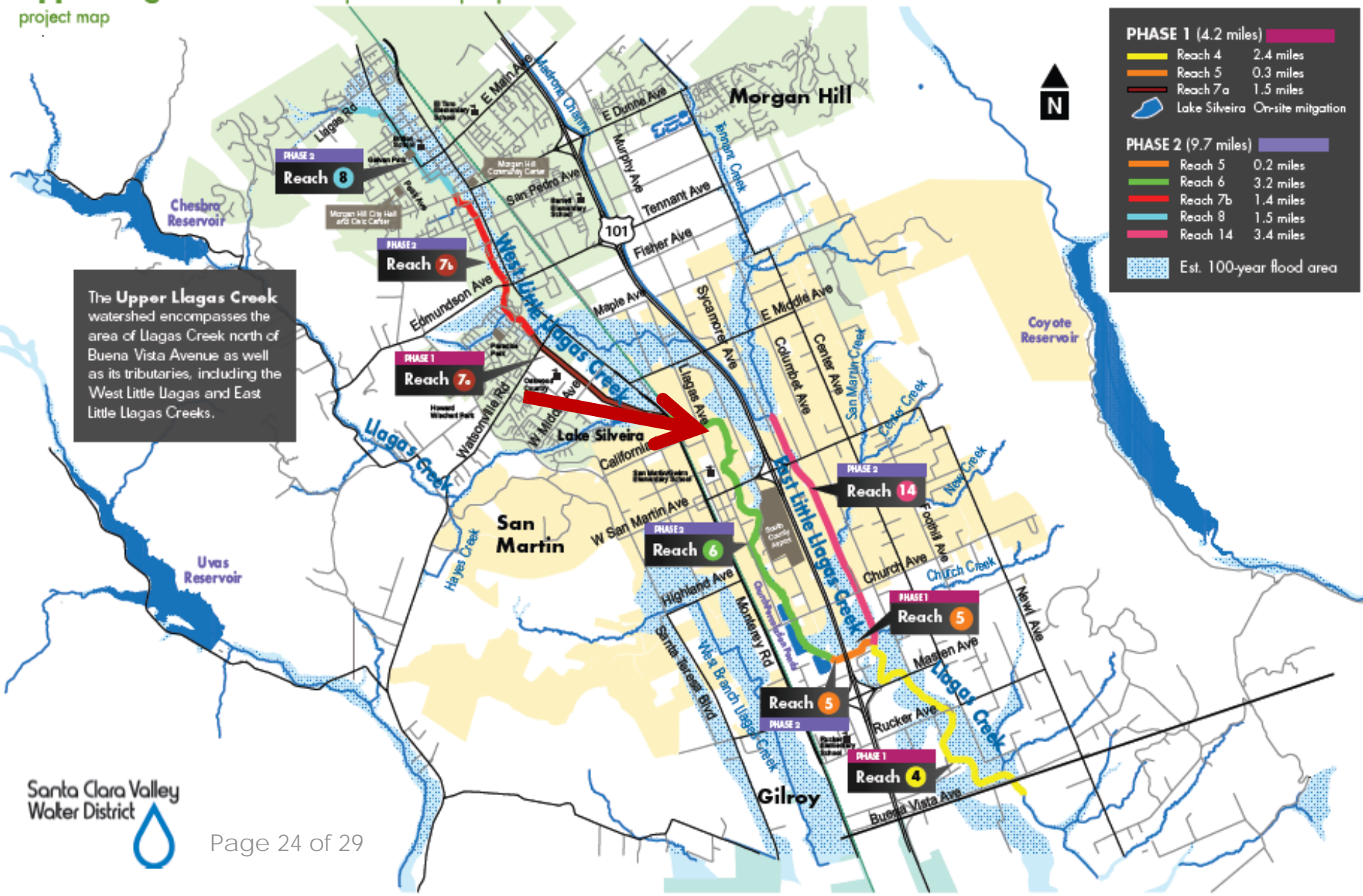
# MH Sterling Group: Least Private Injury

- ▶ Avoids Impact to Private Structures
- ▶ The proposed project maintenance road is located at the top of bank and aligned with the creek
- ▶ Acquisition includes portion of property that constitutes a non-economical remnant without access to a public road



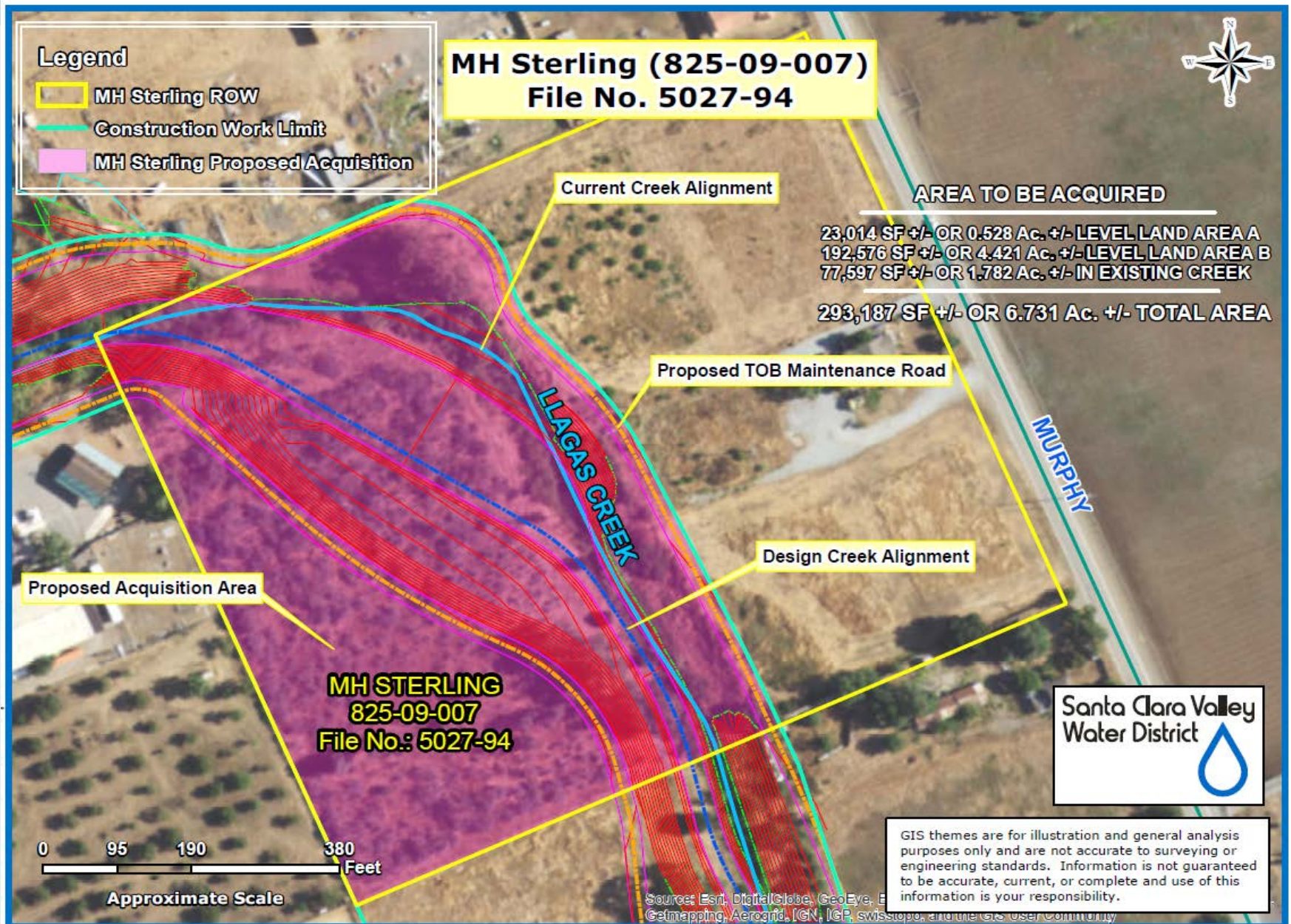
# Upper Llagas Creek Flood Protection Project

## Upper Llagas Creek flood protection project project map





# MH Sterling Group Exhibit



- Finding: The property described in the resolution is necessary for the proposed project

# Gov. Code Section 7267.2(a) Offer

- ▶ **Finding:** The Offer Required by Section 7267.2(a) of the Gov. Code has been made to the owners of record
- ▶ On January 19, 2017, the District sent a final written offer
- ▶ District's offer complies with Gov. Code Section 7267.2(a)
- ▶ District has received confirmation of the owners' receipt of the offer
- ▶ Staff has reached an impasse with the owner

# Discussion and Decision

- ▶ This completes the District's presentation regarding acquisition of the MH Sterling Group property.
- ▶ After the Board receives comments from the property owner and public, staff is ready to answer questions.



# Public Hearing to Consider Adoption of Resolution of Necessity: Upper Llagas Creek Project

September 26, 2017





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**File No.:** 17-0621

**Agenda Date:** 10/10/2017

**Item No.:** \*2.10.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Expedited Purified Water Program - San Diego County Water Authority's Experiences with Project Delivery Methods; Additional Information on Design/Build and Public-Private Partnership for Program Delivery; Program Status Update.

### **RECOMMENDATION:**

- A. Receive information from San Diego County Water Authority on their experiences with various project delivery methods;
- B. Receive staff's response to questions posed by the Board at its March 27, 2017 Board Work Study Session regarding various impacts of choosing Design/Build (DB) or a Public-Private Partnership (P3);
- C. Receive information on the Program Status; and
- D. Provide direction to staff on next steps for the Expedited Purified Water Program procurement process.

### **SUMMARY:**

At its March 27, 2017 special Board Meeting, the Board received information on experiences with various project delivery methods from representatives of the Orange County Water District and the cities of Rialto, San Jose, and Stockton. No decision on project delivery method(s) for the Expedited Purified Water Program (Program) was made at that time. The Board directed staff to arrange a presentation from the San Diego County Water Authority (SDCWA) regarding its project delivery experiences.

The Board also requested staff to return with more information on 1) the District's capacity for publicly funding its capital program and the associated bond rating risks; 2) a meaningful comparison of costs between DB and P3 delivery methods; and 3) how District staffing levels would vary for a DB versus a P3 delivery method for the Program.

A presentation by SDCWA staff and staff's response to the Board's requests are provided in this Agenda Memo.

### ***Background***

Per Board direction in early 2016, staff released a dual track Request for Qualifications (RFQ) on January 15, 2016. Statements of Qualification (SOQs) were due in mid-April 2016. The District received five (5) SOQs for the P3 approach, five (5) SOQs for a progressive design-build (PDB) approach for the Silicon Valley Advanced Water Purification Center (SVAWPC) expansion, and four (4) SOQs for a PDB approach for a pipeline to convey purified water to the Los Gatos Recharge Ponds (Los Gatos Pipeline).

The SOQs were evaluated and short lists for each group of SOQs were published in June 2016.

Prior to the release of the RFQs in mid-January, 2016, staff released a questionnaire to interested proposers regarding the RFQ/RFP process. A key response from several interested parties was a recommendation that the District choose one delivery method prior to proceeding with the Request for Proposal (RFP) stage of the Program.

The Board held special Board Work Study Sessions on September 20, 2016 and on March 27, 2017, to hear presentations from staff and other public agencies on alternative project delivery methods and further deliberate the choice between a DB or P3 approach for Program delivery.

At the September 20, 2016 Work Study Session, staff presented a qualitative and quantitative comparison between the DB and P3 approaches, and made a recommendation to the Board to choose the DB approach. A decision on choice of procurement was not made at this meeting. The Board requested to hear from other public agencies on their experiences with traditional or alternative project delivery methods.

At the March 27, 2017 Work Study Session, representatives from four California agencies-Orange County Water District and the cities of San Jose, Stockton, and Rialto shared their experiences of traditional and alternative project delivery methods. A decision on choice of a delivery method was not made at this meeting. The Board requested that staff arrange a presentation from the San Diego County Water Authority to be heard at a future meeting. The Board also requested additional information from staff as described earlier in this Agenda Memo.

Attachment 1 contains a more detailed summary of staff/agency presentations at the September 20, 2016 and March 27, 2017 Board Work Study Sessions.

### ***San Diego County Water Authority Presentation***

A summary of San Diego County Water Authority's (SDCWA) project delivery experience is as follows:

1. The majority of SDCWA projects have been delivered using the traditional design-bid-build approach.
2. SDCWA employed a design-build-operate-maintain (DBOM) delivery method for its Twin Oaks Valley Water Treatment Plant (a membrane surface water treatment facility). Key drivers for

---

this method were schedule constraints and lack of staff with water treatment operations and maintenance skills. The facility has been operational since 2008.

3. SDCWA entered into exclusive negotiations with a P3 entity to design, construct, finance, operate and maintain (DBFOM) its 50,000 acre-feet/year Carlsbad Desalination Facility. The P3 entity had conducted extensive development of the project for many years before negotiations with SDCWA were initiated. The facility has been operational since December 2015.

The San Diego County Water Authority presentation will be made by Mr. Bob Yamada, SDCWA's Director of Water Resources. Mr. Yamada's biography is provided in Attachment 2; the presentation is in Attachment 3.

### ***Responses to March 27, 2017 Board Requests***

As described earlier, at the March 27, 2017 special Board Meeting, the Board requested staff to return with more information on 1) the District's capacity for publicly funding its capital program and the associated bond rating risks; 2) a meaningful comparison of costs between DB and P3 delivery methods; and 3) how District staffing levels would vary for a DB versus a P3 delivery method for the Program. Staff's responses and information are presented in subsequent sections and in Attachment 4.

### ***Public Financing and District's Bond Ratings***

The capacity to debt finance capital expenditures under consideration (e.g., Water Fix, Storage projects, Dam Safety Program, Purified Program) is subject to Board actions to raise water rates. The District currently has excellent bond ratings: Moody's and Fitch assigned Aa1 and AA+ ratings in March 2017. The District's credit ratings are dependent on many factors, including, but not limited to, the Board's decisions on future water rate increases, the District's ongoing financial management strength, affordability of cost increases for the District's customers, and economic and capital market conditions.

### ***Cost Comparisons Between DB and P3***

There are several considerations if attempting to project cost differences between DB and P3:

1. Both Design-Build and P3 delivery methods may be less costly than the District's traditional design-bid-build project delivery approach. In a DB approach, schedule and cost savings are realized when one entity undertakes the design and construction of a project. In a P3, the possibility of innovative approaches to design/construction/operation by a private entity may also reduce the delivery schedule and long-term operations costs.
2. There is no empirical data available that can be used to estimate the potential cost differential between DB and a P3. Potential savings are highly dependent on project- and transaction-specific considerations. These project-unique considerations include:
  - a. Risk transfer and its associated costs, which are subject to detailed negotiation;
  - b. Innovative approaches by the selected entity to deliver a project;
  - c. Lifecycle costs that must be borne by the public agency in a DB, and negotiated into the



provisions of a long-term contract in a P3.

At this time, these and other considerations are not yet sufficiently defined to support a reliable analysis and projection.

3. Traditionally, alternative delivery approaches are evaluated on a qualitative and quantitative basis.

A DB approach adds a collaborative element to a project's design and construction, which can save time and reduce construction change orders, thus providing a value to the public agency financing the project's delivery.

For a P3 approach, the quantitative comparison is undertaken using a value-for-money analysis, which is a risk-adjusted comparison of life-cycle asset costs under diverse finance and delivery structures. While P3s often produce savings in infrastructure delivery and operations due to accelerated delivery, life-cycle asset management, incentivized performance and innovation, P3s also involve higher financing, procurement and oversight costs. The question is whether the anticipated savings will outweigh (or not) the additional costs associated with a P3, which can be properly estimated only after proposals are presented.

In summary: at this time, a definitive comparison of the project cost differential between these two approaches, and which will create better value to the District and its customers, cannot be determined.

### ***District Workload and Staffing Requirements for a DB vs. a P3***

Staff has benchmarked staffing approaches for capital programs with several agencies and cities, with a particular focus on their experience in staffing for alternative project delivery methods. Included in this evaluation were the San Francisco Public Utilities Commission (SFPUC), the City of San Jose, the Sacramento Regional County Sanitation District, and the San Diego County Water Authority. Data from the Arizona Department of Transportation, the San Antonio Water System, and the cities of Fresno and Honolulu were also evaluated.

The findings include:

1. All large Capital Programs required additional staffing regardless of delivery method choice. The level of internal vs. external staff varies according to agency, labor market, and program size/complexity.
2. A P3 would require internal staffing increases and external support services that would vary in type and in timing from a DB approach.
  - a. Internal: A P3 process would be best served by the leadership of an unclassified manager who would liaise with and engage the Board members throughout the process. This position would require an understanding of the technical aspects of the Program and the legal and financial complexities involved in developing and negotiating

a P3 agreement.

A P3 would require a dedicated Project Management Unit (PMU) that would serve as the transaction implementation unit during the procurement, and then as the contract governance and oversight unit during contract execution. The PMU would be comprised of 5-7 staff, working on a full or part-time basis, and would include engineers, Operations and Maintenance (O&M) staff, and other support staff. The PMU would rely on internal senior-level support from executive staff, legal, finance, environmental planning, and operations and maintenance; and external advisers, consultants and experts.

A P3 approach would generate an intense workload at the outset for development of bridging documents, the procurement process, and contract negotiations and approval. In the long-term, a P3 would eliminate the need for hiring/retaining District O&M staff for the new facilities, though the District would have to retain competency in this area should operations be transferred back to the District.

- b. External: For the P3 procurement process, the District would have to rely on a substantial team of legal, financial and technical advisors to support the procurement and contract negotiation efforts. Once the contract is executed, the District would have to retain engineering, legal, financial, operational and maintenance expertise to assist with contract governance and oversight. Independent engineers and third-party performance monitors may also be required.

- 3. A DB approach would also require internal staffing increases and external support services, albeit with different timing and levels of certain resource needs.

*Overall, the DB approach would need significantly fewer external financial and legal resources initially than the P3 approach, but would require more staff than the P3 to engage with the DB entity in the design and construction phase, and ultimately for operation and maintenance.*

- a. Internal: A DB delivery method would require a dedicated Unit Manager supported by engineers, a senior environmental planner, and dedicated O&M staff. Internal senior-level support from executive staff, legal, and operations and maintenance would also be required. Additional O&M staff would have to be hired to operate and maintain the new facilities.
- b. External: As with the P3 approach, a DB delivery method would also require consultant services for program management/owner representation, engineering, and legal support. With a publicly-funded effort, the need for external legal and financial services would be minimal. The District would have to hire a construction oversight/inspection team during the construction period.

- 4. A traditional Design-Bid Build approach would require similar internal and external resources

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as the DB approach

### ***Expedited Purified Water Program (Program) Status***

Based on staff and consultants' work to date, key results driving the Program, at least in its initial phase, are as follows:

1. The draft District Water Supply Master Plan has identified that about 24,000 AFY of purified water could be beneficially used by 2025 to satisfy primarily dry-year needs, and benefits will also be achieved in non-dry years.
2. The anticipated annual utilization rate of purified water for indirect potable reuse is approximately 75%.
3. Purified water recharged to the groundwater basin has a very low potential of leaching naturally-occurring metals from the soil.

Although District and City of San Jose staff began meeting in 2015 with the purpose of developing a Memorandum of Understanding (MOU) for the expansion of purified water, and have met numerous times in 2016 and 2017, the following key terms of commitment for an MOU have not yet been resolved:

- A minimum volume of treated wastewater for purification purposes;
- Use of the Regional Wastewater Facility's (RWF) outfall for discharge of Reverse Osmosis (RO) concentrate;
- Adequate land area for expansion of advanced water purification facilities adjacent to the existing Silicon Valley Advanced Water Purification Center

A February 15, 2017, letter from the City of San Jose to the Recycled Water Committee (Committee) (Attachment 5) outlined several planning-level issues requiring resolution prior to formalizing an MOU with the District for the Program. In addition to the wastewater volume and management of RO concentrate, the City stated that lack of funding was impeding city staff's ability to review deliverables from the District regarding the terms of commitment.

Acknowledging the planning-level issues raised by City staff, District staff has advised that the Committee that the District's Countywide Recycled/Purified Water Planning effort, recently launched, will help address the wastewater volume issue and that its technical studies of alternative solutions for RO concentrate are under way.

Recently, the District and City executed an agreement whereby certain City staff costs in support of the Program will be reimbursed by the District.

Staff apprised the Recycled Water Committee at its February 16, May 30, and August 9, 2017 meetings of the status of the unresolved issues. At the February 16, 2017 Committee Meeting, City of San Jose staff were present and stated that resolution of the key issues was well underway. At the May 30, 2017 Committee Meeting, District staff reported to the Committee that the issues' resolution was not progressing rapidly. At the August 9, 2017 meeting, Committee members expressed strong concern over schedule delays in obtaining agreement with the City of San Jose and asked that a Joint Recycled Water Policy Advisory Committee (JRWPAC) meeting be scheduled as soon as

possible.

The JRWPAC meeting is scheduled for October 19, 2017.

**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:**

- Attachment 1: Summary of Prior Board Work Study Sessions
- Attachment 2: Biography, B. Yamada, Director Water Resources, SDCWA
- Attachment 3: SDCWA Presentation
- Attachment 4: SCVWD Presentation
- Attachment 5: 021517 Letter from City of San Jose
- \*Supplemental Agenda Memorandum
- \*Supplemental Attachment 1: PowerPoint
- \*Handout 2.10-A, Poseidon

**UNCLASSIFIED MANAGER:**

Katherine Oven, 408-630-3126





## Summary of Prior Board Work Study Sessions

### ***September 20, 2016 Board Work Study Session***

At the September 20, 2016 Board Work Study Session on the dual track procurement process, the Board received details about the two delivery methods<sup>7</sup> and considered staff's recommendation to pursue a Progressive Design-Build (PDB) delivery method for the Purified Water Program. Staff's qualitative and quantitative analyses indicated that PDB best aligns with the District's organizational and operational culture in the following ways:

- PDB provides simplified contract negotiations with nearly equivalent incentive structure (Guaranteed Maximum Price limits cost overruns, incentivized performance to accelerate delivery, etc.) as a public-private partnership (P3) method.
- District remains a "doer" rather than taking on a role as a "regulator" under a P3.
- Given real-time and seasonal operational uncertainties, there is value in retaining control of system integration.
- District leverages and deepens core competencies.
- There is full flexibility in managing the county's water supply.
- Key cost risks (construction, financing, O&M) can be managed.

The Board determined that, prior to making a decision between the two alternative delivery methods; it wanted to hear directly from other agencies who had considered various procurement methods.

### ***March 27, 2017 Board Work Study Session***

Staff invited representatives from four California agencies—Orange County Water District, the City of Rialto, the City of San Jose and the City of Stockton – that have undertaken capital projects using various project delivery methods. Each agency gave presentations that:

- Provided context on the issues, strengths, and constraints that led each agency to select certain project delivery methods.
- Included reflections on lessons learned and future directions.

Table 1 lists the agency representatives and the delivery methods their agencies have utilized to date.

**Table 1. Summary of Public Agency Representatives Presenting at Work Study Session**

Name	Affiliation	Position	Delivery Methods Utilized
Michael Markus	Orange County Water District	General Manager	Design-Bid-Build
Ed Scott	City of Rialto	Mayor Pro Tem	Design-Bid-Build and Design-Build-Operate-Maintain-Finance
Ashwini Kantak	City of San Jose	Assistant Director – Environmental Services	Design-Bid-Build, Progressive Design-Build and Fixed Price Design-Build
Robert Granberg	City of Stockton	Assistant Director – Utilities	Design-Bid-Build, Progressive Design-Build, Private Operations and Maintenance

The Board engaged in dialogue with the presenters. No decision on a choice of a project delivery method for the Expedited Purified Water Program (Program) was made at that time. The Board directed staff to arrange a presentation from the San Diego County Water Authority (SDCWA) regarding its project delivery experiences. The Board also requested staff to return at a future Board meeting with additional information regarding:

1. Financing: Does the District have sufficient capacity to publicly fund all the major capital programs under consideration? Would the District's bond rating be at risk?
2. Cost: How to meaningfully compare costs between the Design-Build (DB) and the Public-Private Partnership (P3) delivery methods;
3. Workload: What District staffing levels would be required using a Design/Build (DB) versus a Public-Private Partnership (P3) delivery method?



## ***Bob Yamada***

Director of Water Resources

Mr. Yamada is the Director of Water Resources for the San Diego County Water Authority. His responsibilities include leading the water supply planning, drought response, Integrated Regional Water Management planning, facility planning and environmental and regulatory compliance activities for the Water Authority. Mr. Yamada led the negotiation of the technical aspects of the Water Purchase Agreement for the Claude “Bud” Lewis Carlsbad Desalination Project and currently oversees Water Purchase Agreement compliance for the Water Authority.

Mr. Yamada has been with the Authority since 1992. Prior to that, he worked as a civil engineering consultant for 8 years. He holds bachelors and masters degrees in civil engineering from San Diego State University, and is a registered civil engineer in California. Mr. Yamada is a past president of the American Membrane Technology Association (AMTA).

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# **The San Diego County Water Authority Experience with Delivery Methods**

**Santa Clara Valley Water District  
Recycled Water Committee  
October 10, 2017**

**(PPT is under construction)**



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# Purified Water Program Update

Board of Directors Meeting  
October 10, 2017



Attachment 4  
page 1 of 12

# March 27, 2017 Board Work Study Session: Board's Additional Information Requests

1. **Financial:** Does the District have sufficient capacity to publicly fund all the major capital programs under consideration? Would the District's bond rating be at risk?
2. **Cost:** How do we meaningfully compare costs between the Design-Build (DB) and the Public-Private Partnership (P3) delivery methods?
3. **Workload:** What District staffing levels would be required using a DB versus a P3 delivery method?

# District's Financial Capacity/Credit Rating

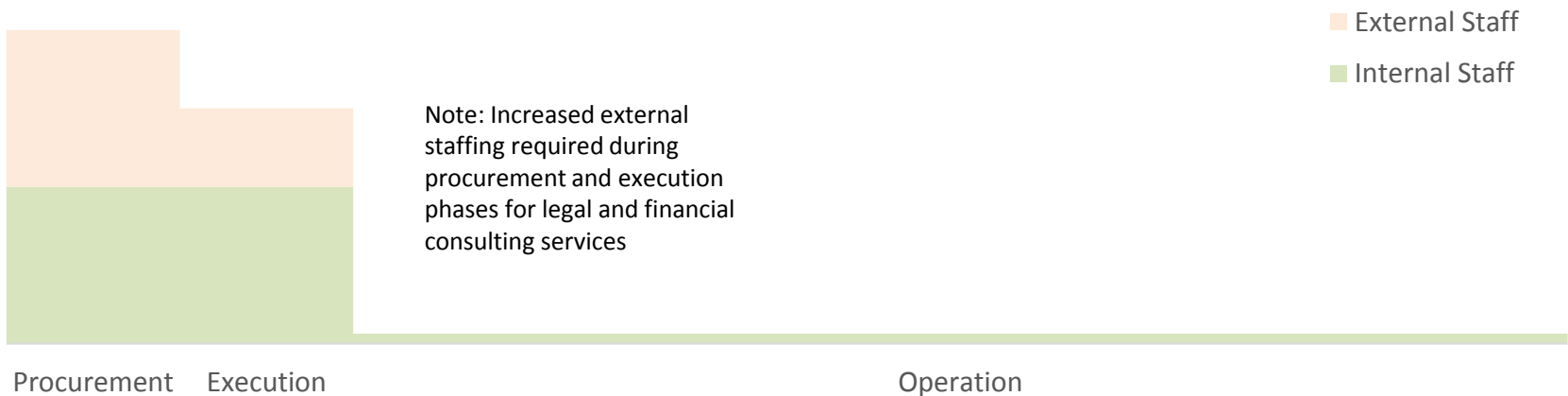
- Capacity to fund capital program subject to Board actions to raise water rates.
- March 2017 bond ratings are excellent (Moody's: Aa1; Fitch: AA+)
- Credit rating depends on current and future financial management.
  - Debt service coverage levels
  - Reserve levels
  - Available water supply
  - Diversity of revenues
  - Liquidity
- Rating agencies silent on choice of project delivery method.
- Purified Water Program viewed as “credit positive” subject to customer acceptance of rate increases.

# P3 vs. DB Cost Comparison

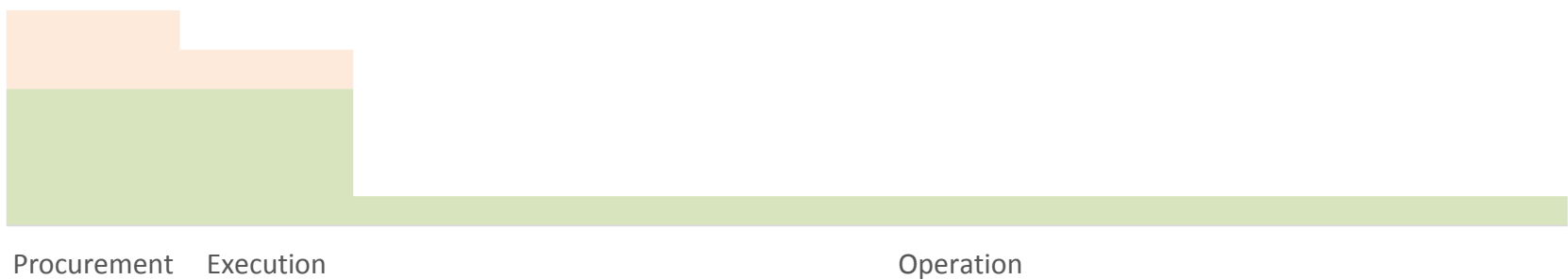
- Either P3 or DB may reduce costs over traditional design-bid-build.
- Cost savings highly dependent on unique project nuances and specifics of agreements:
  - DB: collaboration can save time and reduce construction change orders.
  - P3: can accelerate delivery and reduce costs w/ life-cycle management innovations. Will also incur cost for financing, procurement and oversight.
- Definitive cost comparison cannot be made at this time.

# District Staffing Over Time:

P3 Staffing



DB Staffing



# Program Status – Results of Key Studies

1. Water Supply Master Plan update shows at least 24,000 AFY of purified water would be beneficial by 2025, particularly to meet dry year demands.
2. Any purified water project commitments should be made in the context of alternative supply sources in the Water Supply Master Plan.
3. Anticipated annual utilization rate of purified water for indirect potable reuse is approximately 75%.
4. Purified water recharged to the groundwater basin has a very low potential of leaching naturally-occurring metals from the soil.



# Program Status – Steps Towards Agreement with City of San Jose

## Memorandum of Understanding (MOU) to Expand Water Purification Facility

Issue	District Request or Proposal
Land	~ 25 acres
Treated wastewater quantity	~ 30 MGD initial*
RO Concentrate	~ 6 MGD
Regulatory Compliance Risks	Risk-sharing?

\* 30 MGD inflow yields approx. 24 MGD purified water

# MOU Item – Treated Wastewater Quantity

- City of San Jose (City) - Expansion of non-potable reuse (NPR) may be a higher priority for City's tributary wastewater agencies than potable reuse.
- City – Downward trend in wastewater inflows to Regional Wastewater Facility (RWF). Will future be different?
- City – After meeting NPR future demands:
  - Is there enough treated wastewater for potable reuse?
  - How much will remain for outfall discharge to Bay?
  - Outfall discharge must have adequate dilution cushion if RO concentrate sent to outfall.

# MOU Item – RO Concentrate Management

- District - Discharge via RWF outfall expected to be the most streamlined, cost-effective option for RO concentrate.
- District - Toxicity study results: 6 MGD of RO concentrate would comply with NPDES permit limits.
- City – Key concerns: regulatory risks, South Bay ecosystem impacts.
- City – Awaits District evaluation of other alternatives (i.e., separate/deep outfall, evaporation ponds, engineered wetlands).

# District Activities to Support MOU Resolution

- Executed Master Funding Agreement allows City staff to participate and help resolve key issues.
- RO Concentrate Management Study to be completed by end of 2018.
- Countywide Water Reuse Master Plan
  - Broader analysis of treated wastewater availability
  - Optimal allocation between potable and non-potable reuse
  - Plan completion by December 2018.
- Engaging concurrently with Sunnyvale and Palo Alto/Mt. View on potable reuse options.

## **MOU completion timeframe is uncertain**

- Program Schedule Implications of Delay
  - Allows full evaluation of options to resolve key MOU issues;
  - Provides additional time to refine Program development.
  - Provides Board opportunity to make decisions on other water supply alternatives.
  - Continued water supply vulnerability.
- Program Cost Implications of Delay
  - Costs will escalate:
    - Inflation
    - Potentially higher interest rates
    - Allows resolution of RO concentrate solution and its costs
  - CIP cost shift—may have smaller annual rate increases for delay period

# Reaching Agreement with City – Next Steps

- October 19, 2017 Joint Recycled Water Policy Advisory Committee Meeting
  - Elected officials' discussion of MOU status
  - Is there political will to move forward with purified water expansion at Zanker Road?
- RO concentrate studies and Countywide Master plan to be completed Dec. 2018.



February 15, 2017

Santa Clara Valley Water District  
Joint Recycled Water Committee Members  
5750 Almaden Expressway  
San Jose, CA 95118

Re: Indirect Potable Reuse

Dear Committee Chair Estremera, Committee Vice Chair Kremen, and Committee Member Keegan:

In continuation of our collaboration on the Expedited Purified Water Program we appreciate the opportunity to review a draft of your memo to the Recycled Water Committee. The memo outlines four key issues that need to be resolved to develop a Memorandum of Understanding (MOU) between the City and the District to execute an indirect potable reuse (IPR) project. The memo discusses the results of this collaboration since December 2015, addresses possible next steps and highlights the need for additional time and funding to complete an MOU. We would like to take the opportunity to emphasize our interest in completing an additional preliminary analysis in order to establish an effective MOU.

To date, discussions on an MOU were conducted at a conceptual level and any substantive work was dependent on a private activity analysis to determine viability of the IPR project. This analysis was recently completed in January 2017. We were informed by the District that it only intended to pursue indirect potable reuse so the private activity analysis was limited to IPR. The MOU to be negotiated will only address IPR. Additional private analysis would be required if the District decides to pursue direct potable reuse.

The completion of the private activity analysis was essential to the City decision making process. City staff was also awaiting funding for staff to be able to work on the IPR project. As we have shared with the District before, per Proposition 218, staff funded by utility funding cannot work on projects that are related to water supply. We are currently reviewing the scope of services in the funding agreement that was sent to us on January 23, 2017 and will respond with our comments. Once the scope and funding are finalized, we look forward to working with you on the IPR project.

Key MOU issues related to RO concentrate management and regulatory compliance are also still awaiting additional analysis of alternatives from the District. Although the District staff state that RO concentrate management utilizing the RWF outfall is the most streamlined and inexpensive option, it does present the highest regulatory risk to the City and the wastewater facility and could be

detrimental to the health of the Bay. Thus, we would like to see an evaluation of alternate discharge options. The draft memo indicates that a study evaluating other discharge options will be completed in 2018. The discharge option selected will have substantive implications on the terms of the MOU, especially with regards to permit compliance and risk sharing.

In addition to the items outlined above, other District led initiatives may influence the terms of the MOU. The District is currently circulating a model ordinance for water efficient new developments. Two key components of this ordinance are the requirement for gray water systems and use of recycled water. If this ordinance was to be adopted by all the cities in our treatment plant service area, there would be changes to the quantity and quality of the effluent. The grey water on site recycling systems could materially impact the quality of the effluent; the flow could decrease substantially and alter the chemical composition of the influent and effluent. Mandatory connections to recycled water systems for indoor and outdoor use create challenges related to the available capacity of recycled water. In order for a large amount of new development to connect to recycled water, the quantity of recycled water would need to be significantly increased, thus potentially making less effluent available for IPR. The City cannot commit to a specific amount of effluent without taking the future impact of these water efficiency measures proposed by the District into consideration. We propose further analysis of the long-term impacts of this ordinance on the system's ability to meet all required demands.

We are very committed to working with the District on addressing these next steps and helping forge a path towards a sustainable water supply. We understand this project is very important for the region and look forward to being a vital partner in this endeavor. We also look forward to receiving additional information from the District in order to evaluate the most effective path forward. We take great pride in not only providing an essential service to the South Bay but also acting as stewards of the environment, specifically the South San Francisco Bay. Once all viable alternatives have been evaluated and the discharge option that provides the best value to our community is selected, we can continue to move forward on a project that promotes the well-being of our region, while protecting the environment.

We look forward to continued collaboration with you on this project. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kerrie Romanow', with a long horizontal line extending to the right.

Kerrie Romanow  
Director, Environmental Services

CC: Norma Camacho

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**File No.:** 17-0684

**Agenda Date:** 10/10/2017  
**Item No.:** \*2.10.

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## SUPPLEMENTAL BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Expedited Purified Water Program - San Diego County Water Authority's Experiences with Project Delivery Methods; Additional Information on Design/Build and Public-Private Partnership for Program Delivery; Program Status Update.

### **REASON FOR SUPPLEMENTAL MEMORANDUM:**

This report conveys additional information received after the initial report was released, consistent with Executive Limitations Policy EL-7-10-5.

### **RECOMMENDATION:**

- A. Receive information from San Diego County Water Authority on their experiences with various project delivery methods;
- B. Receive staff's response to questions posed by the Board at its March 27, 2017 Board Work Study Session regarding various impacts of choosing Design/Build (DB) or a Public-Private Partnership (P3);
- C. Receive information on the Program Status; and
- D. Provide direction to staff on next steps for the Expedited Purified Water Program procurement process.

### **SUMMARY:**

This Supplemental Memo contains the PowerPoint presentation from the San Diego County Water Authority.

### **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

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potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

Attachment 1: San Diego County Water Authority Presentation

**UNCLASSIFIED MANAGER:**

Katherine Oven, 408-630-3126

# **San Diego County Water Authority**

## **Experiences with Project Delivery Methods; Additional Information on Design/Build and Public–Private Partnership for Program Delivery**

**Santa Clara Valley Water District  
Board of Directors Meeting  
October 10, 2017**



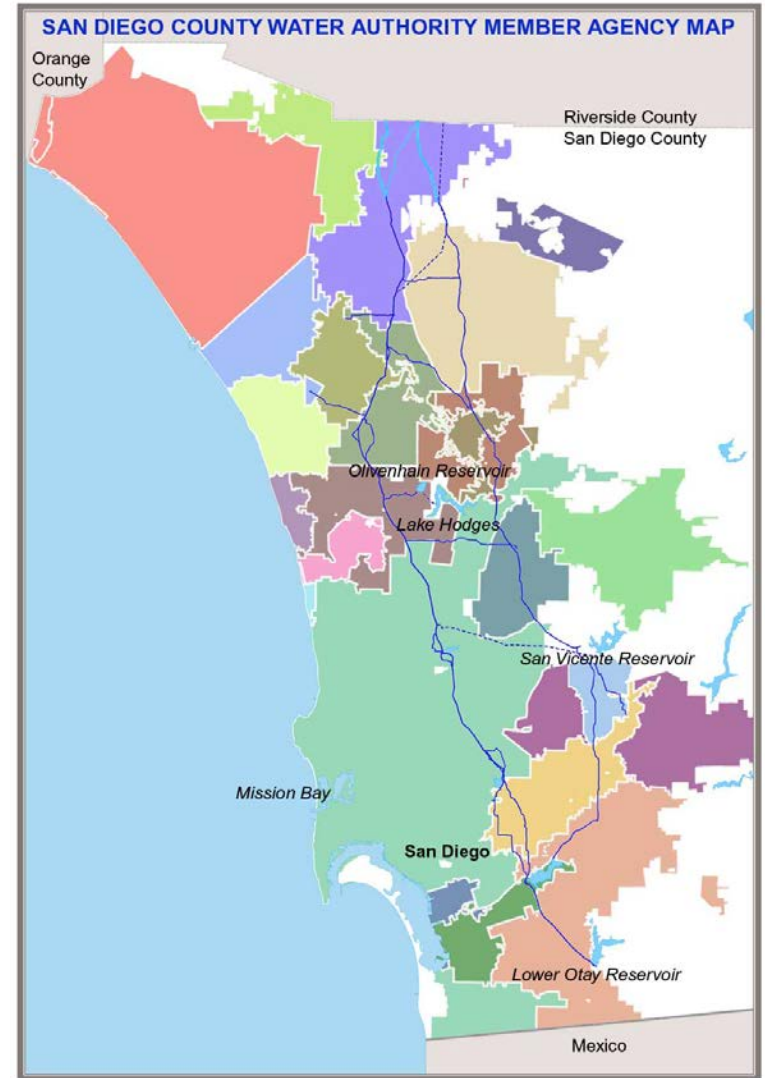
# San Diego County Water Authority

Wholesale water agency created by State Legislature in 1944

- ▶ 24 member agencies
- ▶ 36-member board of directors
- ▶ Serves 3.3 million people and region's \$222 billion economy

Provides 80%–90% of water used in San Diego County

- ▶ Added desalinated seawater to local supply in late 2015
- ▶ Builds, owns, operates and maintains large-scale regional water infrastructure





# Increasing San Diego County's Water Supply Reliability through Supply Diversification

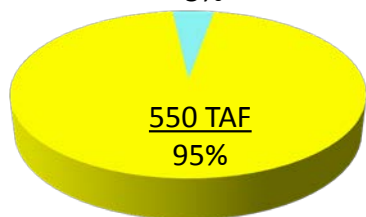
**1991**

28 TAF

5%

550 TAF

95%



**2020\***

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14%

43 TAF

7%

56 TAF

10%

33 TAF

6%

52 TAF

9%

8 TAF

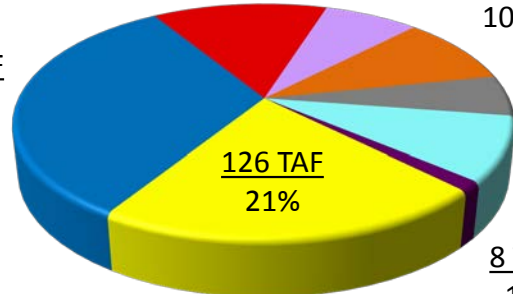
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21%



**2017**

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3%

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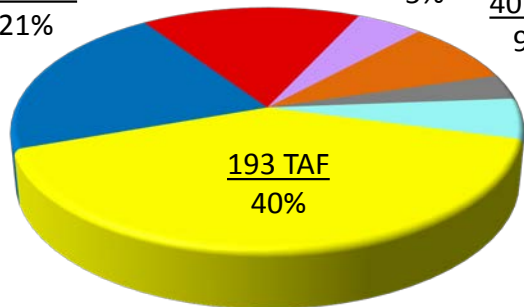
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40%



**2035\***

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12%

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8%

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36 TAF

5%

51 TAF

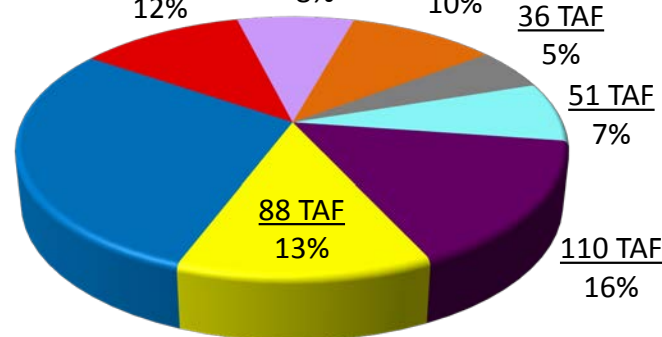
7%

110 TAF

16%

200 TAF

29%



Metropolitan Water District



All American & Coachella Canal Lining



Seawater Desalination



Local Surface Water



Imperial Irrigation District Transfer



Recycled Water



Groundwater



Potable Reuse

Attachment 1

\* Includes verifiable and additional planned local supply projects from 2015 UWMP

Page 3 of 37  
(TAF=Thousand Acre-Feet)

# Water Reliability Investments



Efficient Water Use



Colorado River QSA Supplies



Carlsbad Desal Plant



Infrastructure  
Improvements



Member Agency Local Supply  
Development





# Historic Investments in Infrastructure

**San Vicente Dam Raise & Related Projects**  
\$816 million



**Carlsbad Seawater Desalination Projects**  
\$1 billion

Plant Site



**Olivenhain Dam & Reservoir**  
\$198 million



**Twin Oaks Valley Water Treatment Plant**  
\$179 million



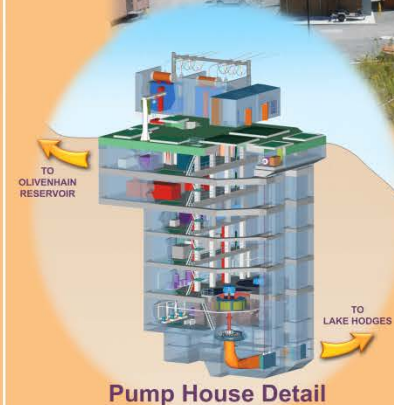
**All-American & Coachella Canal Lining Projects**  
\$447 million  
(\$190 million from Water Authority)



**Pipeline Relining**  
\$493 million



**Lake Hodges Projects**  
\$208 million



Pump House Detail



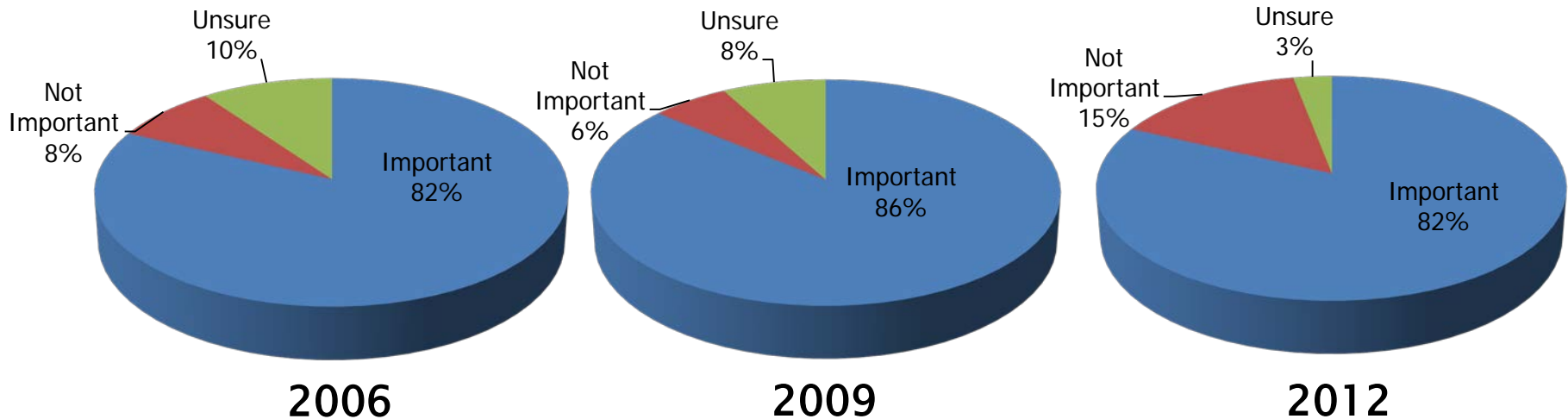
# Lewis Carlsbad Desalination Plant

- Owned and operated by Poseidon Water
- 30 year contract
- \$1 billion investment
- 48,000-56,000 acre-feet/year of drought-proof supplies
- Largest, most advanced seawater desalination facility in North America
- On-line in December 2015





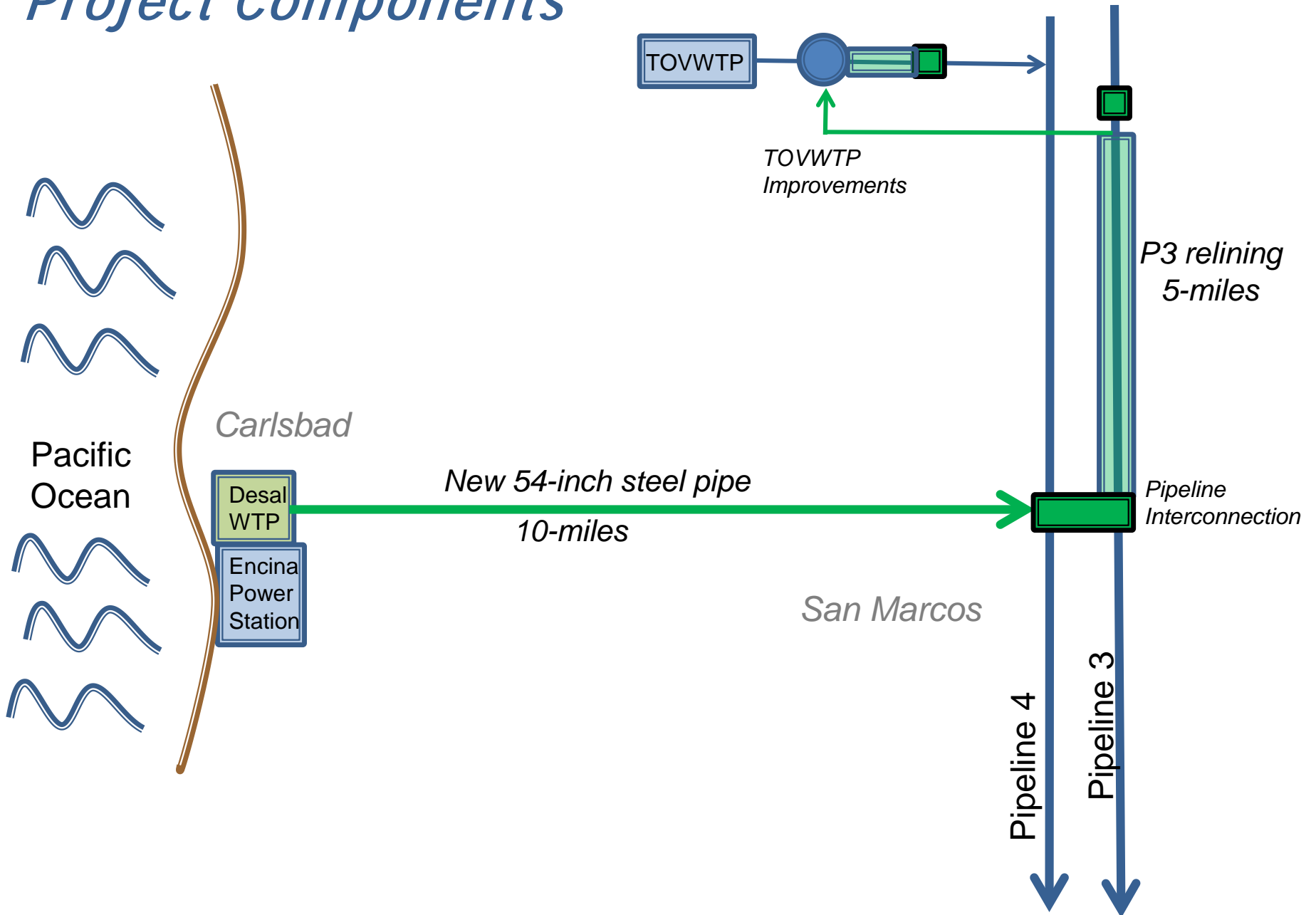
# Consistently Strong Public Support (Water Authority Public Opinion Polls)



**Importance of Ocean Desalination to  
San Diego County's Water Supply Reliability**



# Project Components





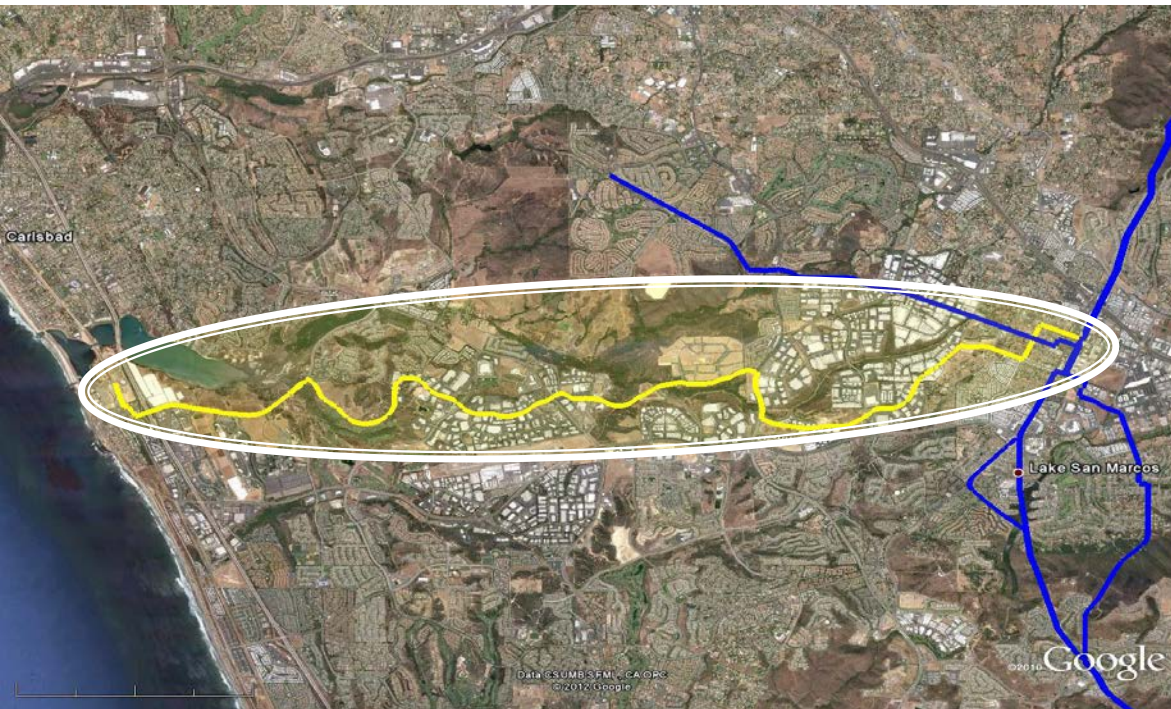
# Project Structure – Desalination Plant

- ▶ Water Purchaser
  - Water Authority is sole off-taker
  - Water Purchase Agreement
- ▶ Developer/Owner
  - Poseidon Water
- ▶ Construction/Operation of the Plant
  - WPA between Water Authority and Poseidon
  - Contractor – Kiewit/Shea Desalination
  - IDE Technologies provided process technology
  - Plant Operations and Maintenance also provided by IDE



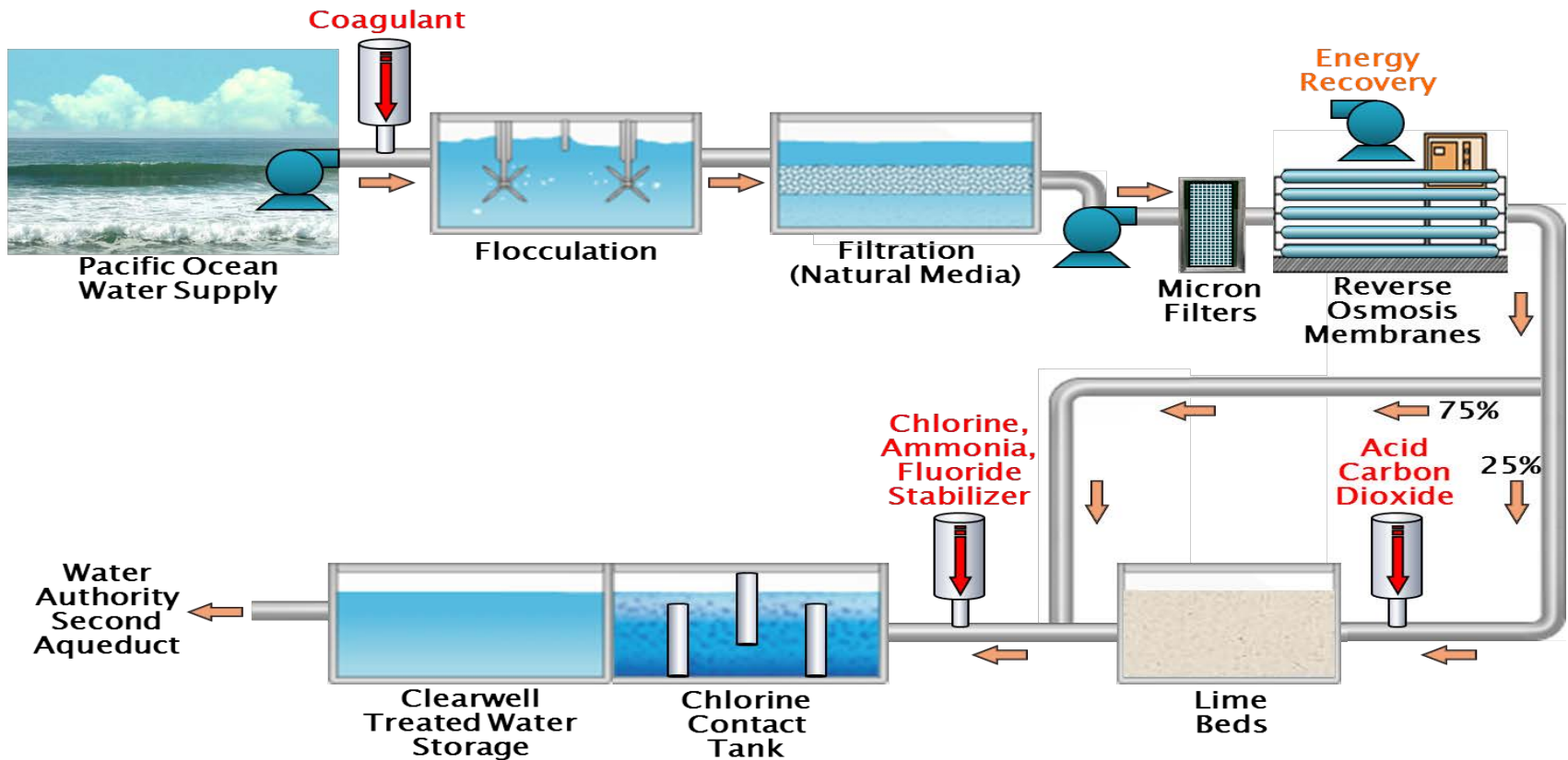
# Project Structure – Conveyance Pipeline

- ▶ Owner/Operator
  - Water Authority
- ▶ Construction/Operation of Pipeline
  - Design-Build Agreement between Water Authority and Poseidon
  - Contractor – Kiewit Shea Desalination
  - Water Authority operates/maintains the pipeline





# Lewis Carlsbad Desalination Plant – “How it Works”



# Project Timeline

- ▶ WPA approved: November 2012
- ▶ Construction begins: December 2012
- ▶ On-line: December 2015



# ***Total Project Costs***

## **Total Capital Cost**

Total desalination plant	\$537 million
Total conveyance pipeline	\$159 million
Financing costs	\$227 million
Water Authority improvements and oversight	\$80 million
<b>Total Capital Costs</b>	<b>\$1.003 billion</b>

## **2017/18 water purchase price\* (includes pipeline)**

\*Current estimate based on highest electricity rate applicable

56,000 acre-feet per year	48,000 acre-feet per year
<b>\$2,202/AF</b>	<b>\$2,439/AF</b>

# Project Financing Structure

- ▶ 82% funded through Bonds issued via the California Pollution Control Financing Authority
  - Plant Bonds issued as Tax-Exempt Private Activity Bonds with Poseidon as sponsor
  - Pipeline Bonds issued as Tax-Exempt Governmental Purpose Bonds with the Water Authority as sponsor
  - Bonds sold on December 24, 2012
  - Interest rate 4.78%
- ▶ 18% Cash Equity from Stonepeak Infrastructure





# The Carlsbad Project: A Successful Public Private Partnership (P3)

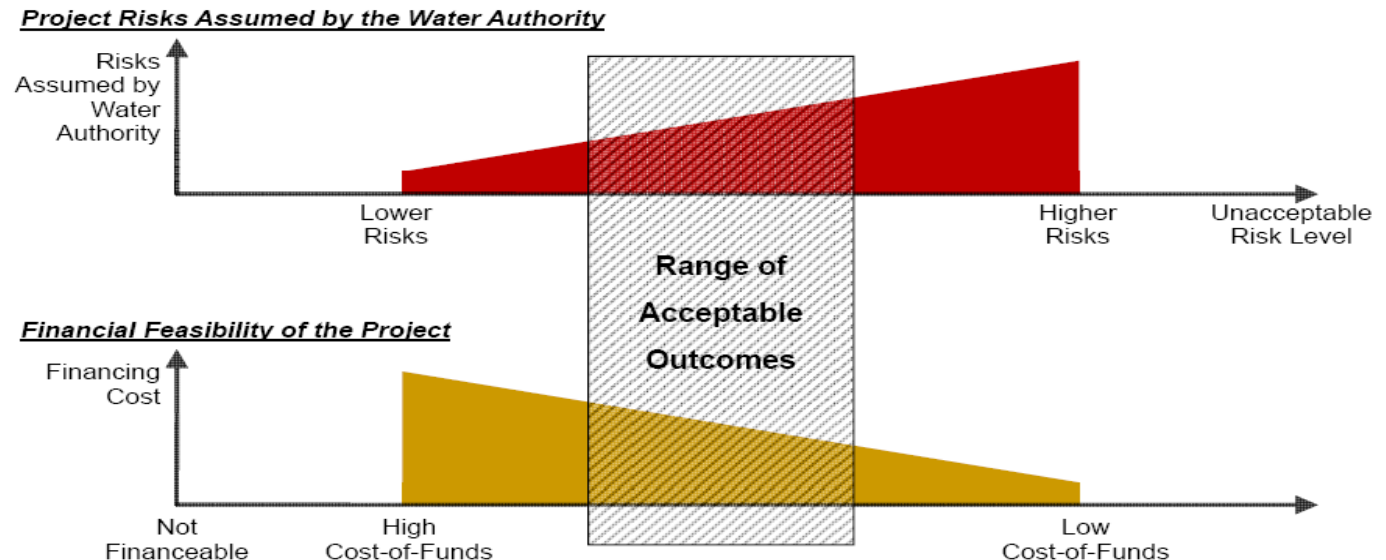
- ▶ ***Risk Transfer*** to Poseidon/Contractor team
- ▶ ***Price certainty*** throughout Water Purchase Agreement term
- ▶ ***Buy-out provisions*** after 10 years of operation
- ▶ ***Transfer to public ownership*** at the end of the 30 year agreement



# Key Objective of WPA

## Balancing Price and Risk

- ▶ SDCWA had never constructed or operated a seawater desalination facility
- ▶ Assign appropriate risks to private developer at minimum cost to ratepayers



# Water Purchase Payments

- ▶ Monthly, based on actual deliveries in acre–feet
- ▶ First 48,000 acre–feet per year paid at Fixed and Variable Price – “Take or Pay”
- ▶ Next 8,000 acre–feet paid at Variable Unit Price
- ▶ If Poseidon does not deliver, Water Authority does not pay



# Price Increases Under WPA

- ▶ Unit costs set and can only increase consistent with WPA provisions
- ▶ Annual operating cost increases generally tied to rate of inflation
- ▶ Price may also increase due to unanticipated changes in law or regulations
  - Changes generally apply industry-wide
  - Cannot exceed 10% in single-year or maximum 30% increase over 30-year term



# Performance Guarantees

- ▶ **Product Water Quality Guarantee**
  - Compliance with all federal and state drinking water regulations
  - Additional standards for certain water quality parameters
- ▶ **Minimum Product Water Delivery Guarantee**
  - Annual supply to meet SDCWA demands (between 48,000 and 56,000 AF)
- ▶ **Water Ordering Rights**
  - Water Authority has rights to adjust delivery orders to reflect seasonal and daily demand changes



# Project Risk Allocation

Risk Description	Poseidon & Investors	Water Authority
<b>Construction Risk</b> – that facility is not completed on time, on cost and according to design standards	X	
<b>Permitting Risk</b> – that current permit and environmental mitigation requirements increase	X	
<b>Change in Law Risk</b> – that future unanticipated laws or regulations increase operating costs	X	X
<b>Technology Risk</b> – that the plant technology does not perform as expected	X	
<b>Output Risk</b> – that the plant produces less than the projected volume of water	X	
<b>Operating Margin Risk</b> – that the price of water is not adequate to generate enough revenue to pay expenditures or may increase more than projected	X (Budget Cap)	X (Subject to CPI)
<b>Pipeline Operating Risk</b> – the Pipeline connecting the Plant to the regional aqueduct system and appurtenant facilities transport acceptable water to Water Authority wholesale customers	X	X
<b>Electricity</b> – the cost of electricity is accounted for in the water price	X (Electricity Consumption)	X (Electricity Price)





# Risks Transferred

- Construction and Operating Cost Overruns
- Timely Project Completion
- Regulatory and Law Compliance
- Regulated or Differing Site Conditions
- Capital Maintenance, Repair and Replacement
- Labor Supply and Relations



# Risks Retained by Water Authority

- Changes in Law that affect all desalination plant operators or wastewater dischargers
- Cost of Intake Modifications due to expected power station closure (*also a change in law*)
  - Closure-related capital costs capped at \$21.3million (indexed)
  - Closure-related operating costs capped at \$2.7 million
- Uninsurable Force Majeure Events
- Unusual Raw Seawater Water Parameters (no additional compensation)
- Retained risks are “uncontrollable circumstances”



# 2016/2017 Contract Year Operations

- ▶ 40,400 Acre-feet delivered in first full contract year (9% of the region's supply)
- ▶ Delivery shortfalls occurred due primarily to source water challenges
  - Algal bloom, rapid temperature changes
  - Example of risk transfer



Normal intake conditions



April 2017 – intake conditions during extreme algae bloom



# 2016/2017 Contract Year Operations

- ▶ Poseidon implementing measures to address:
  - Membrane cleaning/replacement
  - Real-time algae monitoring
  - Treatment system improvements to enhance algae removal
  - Working with regulators to address minor salinity fluctuations due to temperature changes



# Status of Plant Operations

- ▶ Began commercial operations on December 23, 2015
- ▶ Over 23 billion gallons of desalinated ocean water produced to date
- ▶ Permitting and procurement under way for planned intake and discharge modifications



# P3 Delivery Pros and Cons

## ▶ Pros:

- Risk transfer to the private sector
- Speed (design and construction can proceed concurrently)
- A commodity purchase with defined terms and conditions
- Performance guarantees
- Approval rights over acceptance/performance testing
- Debt is kept off the public agency balance sheet

## ▶ Cons:

- Take or Pay contract
- Higher cost of capital
- Greater overall transactional complexity
- Limited public agency input regarding design, construction and operations
- Public agency does not have a direct relationship with contractors







# Design – Build – Operate Twin Oaks Valley Water Treatment Plant

# Twin Oaks Valley WTP

- ▶ 100 mgd submerged membrane WTP, ozone and biologically active carbon contactors
- ▶ Solids handling facilities, water control facilities, emergency power generators
- ▶ Environmentally-friendly project
- ▶ 15 years of O&M, with 5-year optional extension
- ▶ Fixed Design-Build Price = \$157M
- ▶ Annual Service Fee = \$7 million (2017)







Pipeline 5  
Pipeline 4  
Pipeline 3

Submerged Membrane Facility

Untreated Water Flow Control Facility

ESP Pump Station

Ozonation Facilities

Biological Activated Carbon Contactors

Solids Processing

Chemical Facilities

Switchgear Facility & Generators

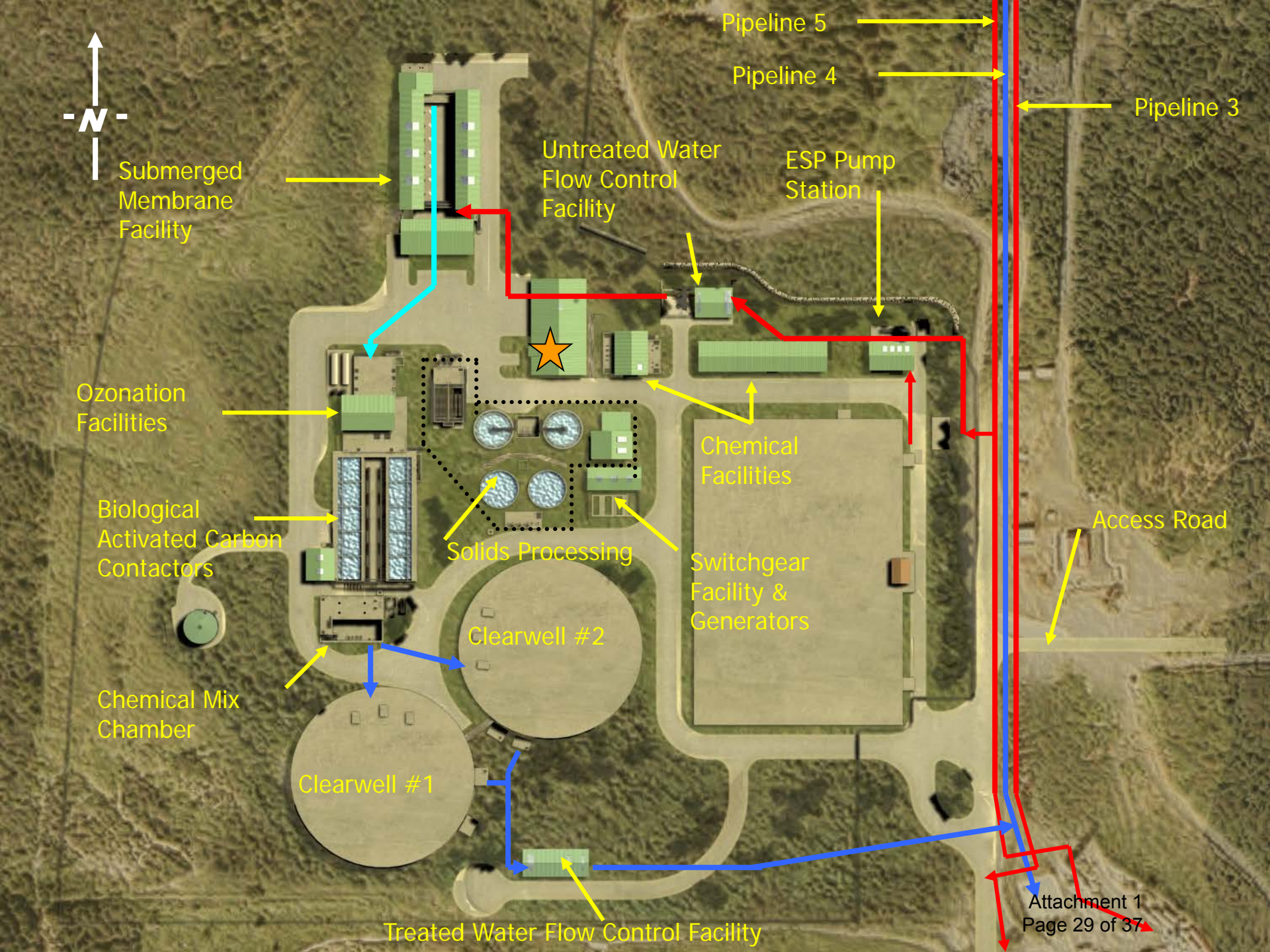
Access Road

Clearwell #2

Chemical Mix Chamber

Clearwell #1

Treated Water Flow Control Facility





# Why Design-Build-Operate?

- ▶ Primary reason
  - Schedule
- ▶ Secondary reason
  - Water Authority Engineering and O&M Experience is in Conveyance Facilities not Treatment



# Key Strategy: Use of Knowledgeable Advisors

- ▶ Owners Representative
  - DBO Solicitation and Award
  - Conceptual Designs and support
  - Management of DBO Contract
- ▶ Board of Senior Consultants
  - Experienced public sector owners
  - Industry experts
  - DBO procurement experts
- ▶ DBO attorney



# Project Timeline

- ▶ RFQ to contract award: June 2004–Sept. 2005
- ▶ Execute contract: October 2005
- ▶ Begin Construction: February 2006
- ▶ On-line: June 2008





# Risks Transferred

- Construction and Operating Cost Overruns
- Timely Project Completion
- Capital Maintenance, Repair and Replacement
- Labor Supply, Costs and Relations
- Water quality
- Cost of chemicals



# Risks Retained

- EIR and Securing land
- Differing Site Conditions
- Raw water characteristics
- Changes in Law or Regulatory changes
- Power Consumption (Shared)



# Status of Plant Operations

- ▶ Began commercial operations on June 13, 2008
- ▶ Over 545,000 acre-feet of treated water produced to date
- ▶ Currently evaluating upgrades to “zero discharge” treatment systems



# DBO Delivery Pros and Cons

## ▶ Pros:

- Integration of designer/contractor/operator
- Facilitates Use of Industry Expertise
- Cost and schedule savings over DBB

## ▶ Cons:

- Owner responsibility for capital costs – no risk transfer
- Any debt goes on owner balance sheet
- Contractor performance of asset mgmt. on publicly-owned asset
- Operating cost risk transfer may be less clear than P3







# Questions?





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**File No.:** 17-0606

**Agenda Date:** 10/10/2017

**Item No.:** 3.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Resolution Recognizing the 27th Anniversary of the Americans with Disabilities Act and National Disability Employment Awareness Month.

### **RECOMMENDATION:**

Adopt the Resolution RECOGNIZING THE 27<sup>th</sup> ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT AND NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH.

### **SUMMARY:**

Twenty-seven years ago, in July of 1990, President George H.W. Bush signed into law the Americans with Disabilities Act (ADA). It is the most comprehensive piece of civil rights legislation in America that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else in all areas of public life, including jobs, schools, and public and private places that are open to the general public. It is modeled after, and affords similar protections to, the Civil Rights Act of 1964. Distinct from the Civil Rights Act, however, the ADA also requires covered employers to provide reasonable accommodations to employees with disabilities, and imposes accessibility requirements on public accommodations.

The District's Reasonable Accommodation program is available for staff with qualified disabilities and complies with the ADA law.

### National Disability Employment Awareness Month

October is National Disability Employment Awareness Month (NDEAM). The purpose of National Disability Employment Awareness Month is to educate people about disability employment issues. It is also a way to celebrate the many and varied contributions of America's workers with disabilities. The theme for 2017 is "Inclusion Drives Innovation."

The history of National Disability Employment Awareness Month dates back to 1945, when Congress enacted a law declaring the first week in October each year "National Employ the Physically Handicapped Week." In 1962, the word "physically" was removed to acknowledge the employment needs and contributions of individuals with all types of disabilities. In 1988, Congress expanded the week to a month and changed the name to National Disability Employment Awareness Month.

Americans with disabilities have gifted our country with innovation, music, books, and political activism. Some famous Americans with disabilities include President Franklin D. Roosevelt, Helen Keller, Academy Award winning actress Marlee Matlin, and the “Father of the Mobility Movement,” Ralph Braun.

The District’s Ability Awareness Employee Resource Group, is planning an event to celebrate the 27th anniversary of the ADA and to recognize NDEA month. The event will take place on Tuesday, October 12th at 12pm in the District’s boardroom and will focus on vision abilities in the workplace. Not only will the District be able to use the Board resolution attached as a way to convey its commitment to an inclusive workplace, it will also be an opportunity to raise awareness amongst the District employees about people with disabilities.

**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:**

Attachment 1: Resolution

**UNCLASSIFIED MANAGER:**

Garth Hall, 408-630-2750

**BOARD OF DIRECTORS  
SANTA CLARA VALLEY WATER DISTRICT**

**RESOLUTION NO. 17–**

**RECOGNIZING THE 27TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT  
AND NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH**

WHEREAS, more than 27 years ago, President George W. Bush signed into law the Americans with Disabilities Act (ADA) in July 1990; and

WHEREAS, the ADA is the most comprehensive piece of civil rights legislation in America that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else in all areas of public life, including jobs, schools, and public and private places that are open to the general public; and

WHEREAS, October is National Disability Employment Awareness Month, a month dedicated to educate about disability employment issues; and

WHEREAS, the District has a lawful obligation under the ADA to make reasonable accommodations for qualified individuals with disabilities; and

WHEREAS, the District is committed to a diverse and inclusive work environment where all people are welcomed and included, valued as unique and important, and treated with fairness and dignity; and

WHEREAS, the District will continue to evaluate and improve employment policies and practices for recruiting, hiring, retaining, and advancing qualified individuals with disabilities; and

THEREFORE, BE IT RESOLVED that the Board of Directors of the Santa Clara Valley Water District hereby celebrates the 27<sup>th</sup> Anniversary of the ADA and recognizes National Disability Employment Awareness Month through an educational and informational event on October 12<sup>th</sup>.

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the following vote on October 10, 2017:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

By: \_\_\_\_\_  
JOHN L. VARELA  
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC

\_\_\_\_\_  
Clerk/Board of Directors



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**File No.:** 17-0619

**Agenda Date:** 10/10/2017

**Item No.:** 3.2.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Notice of Completion of Contract and Acceptance of Work for the John D. Morgan Park Monitoring Wells Project, Cascade Drilling, L.P., Contractor, Project No. 91304001, Contract No. C0622 (Campbell) (District 4).

### **RECOMMENDATION:**

- A. Accept the work as complete; and
- B. Direct the Clerk of the Board to sign the Notice of Completion of Contract and Acceptance of Work and submit for recording to the Santa Clara County Clerk-Recorder.

### **SUMMARY:**

The construction contractor, Cascade Drilling, L.P., has completed the John D. Morgan Park Monitoring Wells Project (Project). The construction contract was awarded in the amount of \$593,640 and the final contract amount is \$596,331. Subject to any withholds required by law or the contract, acceptance of the work by the Board will allow for the release of \$29,816.55 in retention to the contractor.

The objective of the Project is to construct monitoring wells to support the Expedited Purified Water Program, which includes potential indirect potable reuse (IPR) using purified water in the Los Gatos recharge ponds. The Project will facilitate groundwater monitoring needed to satisfy state permitting requirements for IPR projects.

The Project is located in the parking lot of the City of Campbell's (City) John D. Morgan Park. Work included drilling two borings to a maximum depth of approximately 400 feet, retrieving soil cores for analysis, and constructing monitoring wells in the two borings. To comply with the City's noise ordinance, a temporary sound wall was constructed. The Project also included parking lot restriping and resurfacing following completion of drilling.

### ***Previous Board Actions***

On August 23, 2016, the Board approved the plans and specifications and authorized advertisement for bids for the construction of the Project.

On October 25, 2016, the Board received a report of bids, rejected all bids, and authorized advertisement for bids for the construction of the Project.

On December 13, 2016, the Board awarded the subject contract to Cascade Drilling, L.P., in the amount of \$593,640 and approved a contingency fund of \$59,364. The Board authorized the Chief Executive Officer (CEO) or designee to approve individual change orders up to the total amount of the contingency, with the Engineering Unit Manager to approve individual changes up to \$59,364.

### ***Contract Change Orders***

One contract change order totaling \$2,691 was executed for this contract to address adjustments based on final quantity measurements.

Table 1 presents a summary of the construction contract and contingency amounts.

**TABLE 1. SUMMARY OF CONSTRUCTION CONTRACT  
AND CONTINGENCY AMOUNTS**

	<b>Contract Amount</b>	<b>Contingency Amount</b>
<b>Original Contract</b>	<b>\$593,640.00</b>	<b>\$59,364.00</b>
Change Order No. 1 (FINAL) (staff approved)	\$2,691.00	<\$2,691.00>
<b>Final Contract Amount and Remaining Contingency</b>	<b>\$596,331.00</b>	<b>\$56,673.00</b>

### ***Acceptance of the Work and Recording Notice of Completion of Contract***

The California Civil Code allows an owner or agent to execute a Notice of Completion of Contract after acceptance of the work by the Board. The Notice of Completion of Contract and Acceptance of Work is included in Attachment 1. The Designated Engineer has determined that the work has been completed, to the best of her knowledge, in accordance with the plans and specifications, and recommends acceptance. The Designated Engineer's recommendation of construction acceptance is included in Attachment 2. The Project Completion Letter is included as Attachment 3. Photos of the completed Project are included in Attachment 4.

### ***Construction Contract Retention***

California law requires the District to release contract retention in accordance with certain time frames, which will commence once the Notice of Completion is recorded. Interest payment on retention due to the contractor may be avoided by meeting the requisite deadlines.

The District is currently withholding retention funds totaling five percent (5%) of the contract amount (\$29,816.55) in accordance with the Public Contract Code. Per the construction contract documents, the District is required to release retention funds associated with the contract 35 days after recording



the Notice of Completion of Contract and Acceptance of Work, subject to any withholds required by law or the contract.

***Total Project Expenditures***

As indicated in the Summary of Construction Contract and Contingency Amounts (Table 1), the original contract amount of \$593,640 has been increased by \$2,691 to \$596,331 an increase of approximately 0.5 percent. There were sufficient funds in the Board-approved contingency amount to pay these additional costs.

**FINANCIAL IMPACT:**

Total financial costs were detailed in previous sections of the agenda memorandum. The Project has been completed and no additional funding is recommended.

**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:**

- Attachment 1: Notice Completion of Contract/Acceptance of Work
- Attachment 2: Recommendation of Construction Acceptance
- Attachment 3: Project Completion Letter
- Attachment 4: PowerPoint
- Attachment 5: Project Delivery Process Chart

**UNCLASSIFIED MANAGER:**

Katherine Oven, 408-630-3126





5750 Almaden Expressway  
San Jose, CA 95118-3686  
Phone: (408) 265-2600

## NOTICE OF COMPLETION OF CONTRACT AND ACCEPTANCE OF WORK

NOTICE IS HEREBY GIVEN by order of the Board of Directors of Santa Clara Valley Water District, State of California, pursuant to law, that work to be performed under the contract heretofore made and executed by and between Santa Clara Valley Water District, as Owner therein, and **Cascade Drilling L.P., 120 South 23<sup>rd</sup> Street, Richmond, CA 94804** as Contractor therein, bearing the date **December 13, 2016** for the construction of **John D. Morgan Park Monitoring Wells Project, Contract No. C0622, and Project No. 91304001** and appurtenant facilities upon lands of said District known as **John D. Morgan Park, 540 West Rincon Avenue, Campbell, CA 95008** situated in the County of Santa Clara, State of California, was completed as called for and in the manner designated by the plans and specifications, by the said Contractor, and the said work was accepted by the said District Board of Directors on behalf of said District on **October 10, 2017**.

That upon said contract, **Atlantic Specialty Insurance Company, 605 Highway 169 North, Suite 800, Plymouth, MN 55441 (Bond No. 800019493)** was surety on the bond given by said **Cascade Drilling L.P.** the said Contractor, as required by law;

That the title of said District to the real property upon which said work and contract was performed is that of **Encroachment Permit with City of Campbell** and;

That the address of said District is 5750 Almaden Expressway, San Jose, California 95118.

IN WITNESS WHEREOF, pursuant to the order of the Board of Directors made and given on **October 10, 2017** authorizing and directing the execution of this instrument, the said District has caused these presents to be executed in its name, authenticated by the signature of the Clerk of the said Board of Directors on **October 10, 2017**.

\_\_\_\_\_  
Clerk/Board of Directors  
Santa Clara Valley Water District

I, the undersigned, say that I am Clerk of the Board of Directors of the Santa Clara Valley Water District; that I make this declaration on its behalf; that said District is the owner of the real property interest described in the foregoing Notice; that declarant has read the foregoing Notice and knows the contents thereof, and the same is true of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on **October 10, 2017**, at San Jose, California.

\_\_\_\_\_  
Clerk/Board of Directors  
Santa Clara Valley Water District

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**SANTA CLARA VALLEY WATER DISTRICT**

**RECOMMENDATION OF CONSTRUCTION CONTRACT ACCEPTANCE**

In accordance with **Article 9.10, Final Inspection and Acceptance of Work**, of the contract specifications, a final inspection was conducted on June 9, 2017 for the John D. Morgan Park Monitoring Wells Project, Contract No. C0622, Project No. 91304001. The Project Completion Letter dated September 5, 2017 indicates that the work was completed in accordance with the requirements of the contract.

It is recommended that the work under this contract be accepted by the District.

Recommended By:

***ORIGINAL SIGNED BY***

\_\_\_\_\_  
Timothy Bramer, P.E.  
Construction Manager  
Designated Engineer's Representative

\_\_\_\_\_  
Date

Concurrence:

***ORIGINAL SIGNED BY***

\_\_\_\_\_  
Katherine Oven, P.E.  
Deputy Operating Officer  
Water Utility Technical Support Division

\_\_\_\_\_  
Date

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September 18, 2017

Mr. Ralph McGahey  
Cascade Drilling L.P.  
120 South 23<sup>rd</sup> Street  
Richmond, CA 94804

Subject: John D. Morgan Park Monitoring Wells Project, Contract No. C0622,  
Project No. 91304001  
**Project Completion Letter**

Dear Mr. McGahey:

In accordance with **Article 21.01.05 Project Completion**, this serves as the Project Completion Letter for the subject contract and established the completion of the project.

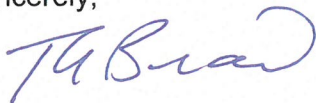
A Final Inspection for the subject project was performed on June 9, 2017. Completion of all Deficiency List items has been attested to by District staff.

The District is in receipt of the Project Completion Certification, dated September 6, 2017, from Cascade Drilling L.P.

Therefore, in accordance with **Article 21.01.06 Acceptance of Work**, I will recommend that the District Board of Directors formally accept the work of this contract.

If you have any questions, contact me at the District's Headquarters Building (408) 630-3794 or by e-mail at [tbramer@valleywater.org](mailto:tbramer@valleywater.org).

Sincerely,



Timothy Bramer, P.E.  
Construction Manager  
Construction Services Unit

cc: K. Uyeda, V. De La Piedra, J. Ortiz, B. Campbell, S. Alao, T. Bramer, Contract File  
tb:tb  
622

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# John D. Morgan Park Monitoring Wells Project

Notice of Completion of Construction Contract

October 10, 2017



# Presentation Topics

- ▶ Project Objective and Location
- ▶ Project Construction Costs
- ▶ Construction Photos



# Project Objective

- The objective of the Project is to construct monitoring wells to support the Expedited Purified Water Program, which includes potential indirect potable reuse (IPR) using purified water in the Los Gatos recharge ponds. The Project will facilitate groundwater monitoring needed to satisfy state permitting requirements for IPR projects.







# Presentation Topics

- ▶ Project Description, Objective, and Location
- ▶ Project Construction Costs
- ▶ Construction Photos



# Project Costs

## ► Construction:

- \$593,640.00 – Contract Award Amount
- \$ 2,691.00 – Contract Change Orders
- \$596,331.00 – Final Contract Amount  
(0.5% increase)

## ► Funding Source:

- Water Enterprise Fund – Zone W-2 (North County)



# Presentation Topics

- ▶ Project Description, Objective, and Location
- ▶ Project Construction Costs
- ▶ Construction Photos



# Construction Photos



Sound Enclosure



# Construction Photos



Well Drilling Operation





# Construction Photos



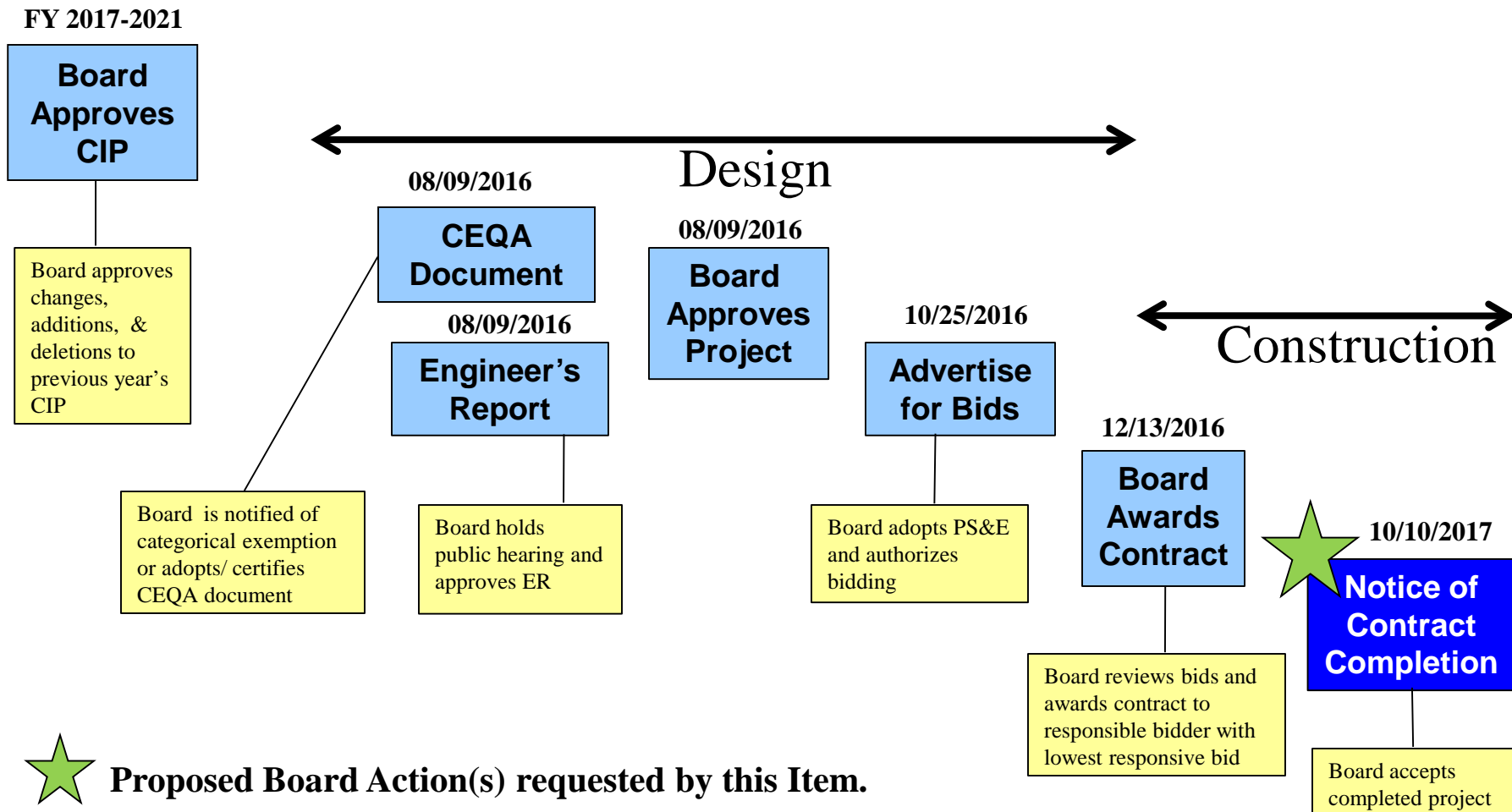
Well Vault and Final Condition





# Project Delivery Process

John D. Morgan Park Monitoring Wells Project – Project No. 91304001



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**File No.:** 17-0638

**Agenda Date:** 10/10/2017

**Item No.:** 3.3.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Update of the Condition of the Coyote Percolation Dam (San Jose) (District 1) and Determination that the Condition of the Coyote Percolation Dam Continues to Constitute an Emergency.

### **RECOMMENDATION:**

Determine by a four-fifths vote that there is a need to continue the emergency action declared by the Board on August 22, 2017, pursuant to California Public Contract Code §22050, to repair the Coyote Percolation Dam.

### **SUMMARY:**

On August 22, 2017, the Board declared that the condition of the Coyote Percolation Dam constituted an emergency condition pursuant to California Public Contract Code §22050, and that District staff may repair such dam, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts. The emergency condition continues to exist as the repairs to the Coyote Percolation Dam have not been completed.

The Coyote Percolation Dam (dam) is an in-channel dam located on Coyote Creek. Under normal operation, steel panels are secured to the concrete foundation; a concrete apron protects the downstream side of the dam. A concrete fish ladder allows fish migration when the dam is in place. A set of radial gates allows flow releases to manage the impoundment behind the dam. The dam is regulated by Division of the Safety of Dams (DSOD) and is inspected regularly for condition and operational safety.

The storm flows on February 21-22, 2017, damaged the dam facility severely, in particular the dam apron suffered a scour hole that may have extended below the foundation. The exact extent of the damage was unknown because visibility was restricted by the concrete apron and the material beneath the apron.

Under an emergency permit issued by the Army Corps of Engineers, (File No. 2017-00166S/NWP 5, issued March 17, 2017), actions were taken to temporarily buttress the facility along the downstream side of the apron. Stabilization work was not completed as flows did not recede, and the emergency permit expired on April 1, 2017. The dam site remained inundated until the end of May 2017. DSOD conducted a visual inspection on May 8, 2017, but was unable to

see the damage due to high flows, and requested an additional inspection of the apron and dam foundation prior to reinstallation of the steel panels.

In June 2017, flows receded enough to allow staff to evaluate the condition of the dam. It was determined that the dam apron structure could not weather another winter of high flows in its current condition. In the event of high flows passing through the Coyote Percolation Dam site, there is high possibility that the concrete structure would fail, allowing concrete, boulders, large volumes of sediment and debris to be transported downstream. This could induce flooding, risk public health and property in the flood prone areas of Coyote Creek, such as the areas that flooded on February 21, 2017. Boulders and concrete chunks could also join with flood-carried tree trunks to form debris jams that would be very difficult to manage and could create significant channel blockage, bank erosion, and flood risk. Seismic restrictions imposed on Anderson Dam increase the likelihood and duration of reservoir releases in the coming months. The facility must be repaired before the seasonal rains to ensure the facility's integrity and protect the public from increased risk of flooding.

Work began at the site on August 26, 2017, with removal of the damaged concrete apron to expose the dam foundation. On August 28, 2017, District staff inspected the dam foundation and conveyed information to the Division of Safety of Dams (DSOD) for their consideration. Since the dam foundation was not impacted, DSOD allowed the repairs at the apron to proceed. The District issued a contract to continue repairs, and the contractor resumed work on September 5, 2017. Placement of base-rock for the new apron was completed on Friday, September 8, 2017. The new apron was completed on September 16, 2017. Restoration work downstream of the dam started on September 18, 2017 and will be underway through September 22, 2017. The target completion date for the project is October 15, 2017.

#### **FINANCIAL IMPACT:**

Staff estimates replacing the failed section of the Coyote Percolation Dam would cost between \$400,000 and \$600,000. Staff proposes funding the emergency repair from the Water Utility Small Capital Projects budget.

#### **CEQA:**

Repair and maintenance activities, including repair of the Coyote Percolation Dam, are covered by the Dam Maintenance Program and the Programmatic Environmental Impact Report (PEIR) that was certified and approved by the Board on March 13, 2012. Applicable regulatory agencies, including the US Army Corps of Engineers, California Department of Fish and Wildlife and the Regional Water Quality Control Board, have been notified of the emergency repairs; applications have been submitted to pursue an after-completion project permitting process. All work is being performed deploying the Valley Habitat Plan conditions and avoidance and minimization measures to prevent impacts to sensitive habitat in the project vicinity.

#### **ATTACHMENTS:**

None

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**File No.:** 17-0638

**Agenda Date:** 10/10/2017  
**Item No.:** 3.3.

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**UNCLASSIFIED MANAGER:**  
Kurt Arends 408-630-2284





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**File No.:** 17-0639

**Agenda Date:** 10/10/2017

**Item No.:** 3.4.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Update on the Condition of the Stevens Creek Bank Erosion Repair Emergency Project, Project No. 62062003 (El Nino Flood Emergency Response) (Mountain View) (District 7), and Determination that the Condition of the Stevens Creek Bank Erosion Continues to Constitute an Emergency.

### **RECOMMENDATION:**

- A. Receive an update on the condition of the Stevens Creek bank erosion emergency project; and
- B. Determine by a four-fifths vote of the Board, that there is a need to continue the emergency action declared by the Chief Executive Officer (CEO) on August 18, 2017, pursuant to California Public Contract Code §22050, to repair Stevens Creek bank erosion, downstream of El Camino Real, (SR-82) (Project) Project No. 62062003 (El Nino Flood Emergency Response), Task Code No. 1062, Facility ID No. 1029, (Mountain View) (District 7).

### **SUMMARY:**

According to Public Contract Code §22050, in order for the emergency action to remain in place, the Board must determine, by four-fifths vote at every regularly scheduled Board meeting until the emergency action is terminated, that there is a need to continue the emergency action; this agenda item recommends the Board make such a finding.

Staff has received competitive bids from three construction contractors to undertake the emergency repair work, and continues to update representatives from FEMA, City of Mountain View and Extended Stay America Hotel on the status of the project at Stevens Creek, Mountain View. Having not reached an agreement on critical terms necessary to protect the District with Hayward Baker, Inc. (HBI), the first contractor selected for negotiation, staff solicited estimates from three other contractors, using two construction techniques, such as soil nail wall system and soldier pile wall system. Osmun Construction and Global Stabilization International (GSI) contractors proposed soil nail wall systems per the plans prepared by our consultant with construction cost estimates of \$731,069 and \$1,333,882 respectively. Blue Iron Foundations and Shoring, L.L.C. proposed a soldier pile wall system per the plans prepared by our consultant with a construction cost estimate of \$494,700. After evaluating the practical alternatives, complexity of the Project, work not encroaching onto the adjacent Hotel property, tight timeline and estimate cost, staff selected the soldier pile wall

method proposed by Blue Iron Foundations and Shoring, L.L.C. This selection process also meets FEMA and CA Office of Emergency Service (OES) expectations based on the low bid contractor meeting the requirements. FEMA and OES have tentatively agreed to reimburse the cost up to 93% of the emergency work.

The contract with Blue Iron Foundations and Shoring, L.L.C. (contractor), was approved by our CEO and a purchase order was issued to the contractor on 9/27/17. The Notice to Proceed was issued to the contractor on 9/28/17.

Staff obtained a permit for staging/access from the City of Mountain View on 9/22/17. In addition, staff has informed the City of Mountain View to close the temporary trail during the construction period of 50 calendar days from El Camino Real to Yuba Drive. Staff is also in the process of notifying nearby residents of the upcoming project using Nextdoor app and neighborhood mailers.

Below is a summary of staff and Board actions taken to date:

- A. 8/18/2017: CEO declared emergency pursuant to Public Contract Code §22050.
- B. 8/22/2017, Item 2.6-A: By a unanimous vote, the Board added agenda item to the regular Board meeting to consider the emergency declaration made by the CEO and determined the emergency action should continue. View additional information here: <http://bit.ly/2h83grl>
- C. 9/12/2017, Item 3.4: Staff requested that the Board determine, by a four-fifths vote, that there is a need to continue the emergency declared by the CEO on August 18, 2017, etc. View additional information here: <http://bit.ly/2x8zFrz>
- D. 9/26/2017, Item 3.10: Staff recommended that consistent with the determination made by the Board on September 12, 2017, the Board determine by a four-fifths vote, that there is a need to continue the emergency action declared by the CEO on August 18, 2017. View additional information here: <http://bit.ly/2wXYZSF>

## **FINANCIAL IMPACT:**

A purchase order was issued on 9/27/17 to the executed contract amount, however, accurate final costs will not be known until the work is completed. The district will pursue reimbursement of Project costs from FEMA since they have tentatively agreed to reimburse the District for up to 93% of the Project costs.

Funding for this Project is not specifically budgeted in FY18 budget. A special project/activity code has been generated to track contract costs, labor, and overhead (62062003-1062) under Stream Stewardship fund 12. There are ample reserves in fund 12 to cover this expense and staff will bring a budget adjustment for Board approval at a future meeting if reserves end up being needed.

**CEQA:**

The repair is exempt under the California Environmental Quality Act Section 21080(b)(2) which exempts emergency repairs to public service facilities necessary to maintain service.

**ATTACHMENTS:**

None.

**UNCLASSIFIED MANAGER:**

Ngoc Nguyen, 408-630-2632



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**File No.:** 17-0677

**Agenda Date:** 10/10/2017

**Item No.:** \*3.5.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

CEO Bulletins for the Weeks of September 22 - 28, 2017 and September 29 - October 5, 2017.

### **RECOMMENDATION:**

Accept the CEO Bulletins.

### **SUMMARY:**

The CEO Bulletin is a weekly communication for the CEO, to the Board of Directors, assuring compliance with Executive Limitations Policy EL-7: The BAOs inform and support the Board in its work. Further, a BAO shall: Inform the Board of relevant trends, anticipated adverse media coverage, or material external and internal changes, particularly changes in the assumptions upon which any Board policy has previously been established. Report in a timely manner an actual or anticipated noncompliance with any policy of the Board.

CEO Bulletins are produced and distributed to the Board weekly as informational items, and then placed on the bimonthly, regular Board meeting agendas to allow opportunity for Board discussion on any of the matters contained therein.

### **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:**

Attachment 1: 092217 CEO Bulletin

Attachment 2: 100517 CEO Bulletin

### **UNCLASSIFIED MANAGER:**

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**File No.:** 17-0677

**Agenda Date:** 10/10/2017  
**Item No.:** \*3.5.

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Norma Camacho, 408-630-2084



To: Board of Directors  
From: Norma J. Camacho, Interim CEO

## Chief Executive Officer Bulletin Week of September 22 - 28, 2017

### Board Executive Limitation Policy EL-7:

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

Page	IN THIS ISSUE
<a href="#">1</a>	<b><u>LeZotte</u></b> <b>Staff is to investigate whether there is a need for additional staffing to handle the construction management-watersheds asset rehabilitation program priorities R-17-0025</b>

### LeZotte

**Staff is to investigate whether there is a need for additional staffing to handle the construction management-watersheds asset rehabilitation program priorities R-17-0025**

Based on current projected work, there is a need to provide construction management staff for small capital improvement projects that occur during a specific period of each year.

Staff is planning to construct two Watersheds Asset Rehabilitation projects in the summer months of each year and is also projecting the need to provide construction management staff for Water Utility small capital improvement projects that occur during the winter months of each year.

Instead of using outside construction management services, the water district may consider adding in-house staff for these seasonal construction projects and to represent the water district in providing good on-site customer service. To handle this additional work, staff is estimating a need for one construction manager and two field inspectors.

Upon receiving further direction from the Board, staff can request these three new positions in the Fiscal Year 2019 Budget.

For further information, please contact Ngoc Nguyen at (408) 630-2632.

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To: Board of Directors  
From: Norma J. Camacho, Interim CEO

## Chief Executive Officer Bulletin Week of September 29 – October 5, 2017

### Board Executive Limitation Policy EL-7:

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

Page	IN THIS ISSUE
<a href="#">1</a>	<b>Water Utility Operational Constraints From Pipeline Rehabilitation Projects</b>
<a href="#">2</a>	<b>District to issue Request for Proposal to solicit potential buyer of energy generated by Anderson Hydroelectric Facility</b>
<a href="#">2</a>	<b>Safe, Clean Water Grant Project Completion: California Product Stewardship Council completes the Secure Pharmaceutical Collection Bin Expansion Project</b>

### Water Utility Operational Constraints From Pipeline Rehabilitation Projects

From October 6, 2017, through March 16, 2018, the water district will be carrying out extensive pipeline inspection and rehabilitation work for the Pacheco Conduit and Almaden Valley Pipeline.

The work will include performing a condition assessment for the two critical raw water delivery pipelines, repairing pipe segments, replacing appurtenances, and installing an acoustic fiber optic cable along the pipeline to collect on-going performance data and help mitigate potential catastrophic pre-stressed concrete cylinder pipe failures in the future.

Raw water deliveries to the Penitencia and Rinconada Water Treatment Plants will be limited to the South Bay Aqueduct from October 27, 2017, to March 16, 2018. If an outage were to occur on the South Bay Aqueduct during this period, the Penitencia and Rinconada plants will go offline until the aqueduct is back in service.

Phase 1 of the Almaden Valley Pipeline Rehabilitation Project will result in no raw water deliveries to the Santa Teresa Water Treatment Plant and therefore a complete plant shutdown from October 27, 2017, to February 2, 2018. Raw water deliveries to the Santa Teresa Water Treatment Plant will resume during Phase 2 of the Almaden Valley Pipeline Rehabilitation Project (February 2, 2018 to March 16, 2018), and will be from either San Luis or Anderson Reservoir.

To meet peak retailer demands while the Santa Teresa plant is offline, the joint San Francisco Public Utilities Commission – Santa Clara Valley Water District Intertie (Intertie) will be in operation

supplementing Penitencia production during Phase 1 of the Almaden Valley Pipeline Rehabilitation Project. The Intertie will also be on standby status ready for operation should an emergency arise during the five-and-a-half-month period.

The Campbell Well Field, which can supply up to four million gallons a day of groundwater into the Campbell Distributary, will be on standby status as well should an emergency arise.

The water district is working closely with water retailers to coordinate water deliveries. Some customers in northern Santa Clara County may experience changes in water characteristics from alternate water supplies.

For further information, please contact Angela Cheung at (408) 630-2735 or Kurt Arends at (408) 630-2284.

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### **District to issue Request for Proposal to solicit potential buyer of energy generated by Anderson Hydroelectric Facility**

This is to update the board on the transition plan for the water district's Anderson Hydroelectric Facility (Facility) to prepare for the expiration of the existing power purchase agreement (PPA) with PG&E, a 30-year agreement expiring in November 2018.

Following the Climate Change Mitigation Update during the the board's meeting on June 13, 2017, the board recommended that the water district evaluate the option to sell power generated by the Facility to a local community choice aggregation (CCA), such as Silicon Valley Clean Energy (SVCE), instead of PG&E.

After receiving preliminary interest from SVCE, the water district is working with the Power and Water Resources Pooling Authority (PWRPA), a Joint Powers Authority that includes experts from the power purchase industry, to prepare a Request for Proposal (RFP) to solicit interested parties that may benefit from purchasing the carbon-free electricity generated by the Facility, including SVCE and the newly developed San Jose Clean Energy (SJCE).

The RFP will help establish fair market value for the sale of power generated by the Facility in compliance with the California Constitution, Article XVI, Section 6. The RFP is scheduled to be issued in October 2017.

For further information, please contact Kurt Arends at (408) 630-2284.

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### **Safe, Clean Water Grant Project Completion: California Product Stewardship Council completes the Secure Pharmaceutical Collection Bin Expansion Project**

California Product Stewardship Council (CPSC) received a \$206,417.07 Safe, Clean Water and Natural Flood Protection grant for a project to increase the availability of secure medication collection bins for Santa Clara County residents.

CPSC, in partnership with the County of Santa Clara and City of San José, installed prescription medication collection bins throughout Santa Clara County to help prevent pharmaceuticals from being flushed down the toilet and making their way into our streams, harming water quality and wildlife.

This project is part of CPSC's award-winning "Don't Rush to Flush" campaign.

The project began on August 1, 2014, and was completed on June 30, 2017.

Key numbers:

- 29 new medication collection bins placed in Santa Clara County, hosted by pharmacies, law enforcement, fire stations, and medical centers
- 8,929 pounds of unwanted medications collected through the new grant project bins and safely disposed

The public now has more information about how to properly dispose of medications and more locations in which to do so.

The grantee's final report on the completed project is included in the board's October 6, 2017, Non-Agenda package.

For further information, please contact Rick Callender at (408) 630-2017.

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**File No.:** 17-0645

**Agenda Date:** 10/10/2017

**Item No.:** \*3.6.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Approval of Minutes.

### **RECOMMENDATION:**

Approve the minutes.

### **SUMMARY:**

In accordance with the Ralph M. Brown Act, a summary of Board discussions, and details of all actions taken by the Board, during all open and public Board of Directors meetings, is transcribed and submitted to the Board for review and approval.

Upon Board approval, minutes transcripts are finalized and entered into the District's historical records archives and serve as historical records of the Board's meetings.

### **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:**

Attachment 1: 082217 Regular Meeting Minutes

Attachment 2: 082517 Special Meeting Minutes

### **UNCLASSIFIED MANAGER:**

Michele King, 408-630-2711





BOARD OF DIRECTORS MEETING

# MINUTES

**CLOSED SESSION AND REGULAR MEETING  
TUESDAY, AUGUST 22, 2017  
3:30 PM**

(Paragraph numbers coincide with agenda item numbers)

**1. CALL TO ORDER:**

A Closed Session and Regular Meeting of the Santa Clara Valley Water District Board of Directors was called to order on August 22, 2017, in the District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California, at 3:30 p.m.

**1.1. Roll Call.**

Board members in attendance were Tony Estremera, Gary Kremen, Linda J. LeZotte, Barbara Keegan, Richard Santos, John L. Varela, and Nai Hsueh, constituting a quorum of the Board.

Staff members in attendance were N. Camacho, Interim Chief Executive Officer (Interim CEO), S. Yamamoto, District Counsel, M. King, Clerk/Board of Directors, J. Aranda, K. Arends, R. Callender, A. Cheung, R. Gibson, V. Gin, A. Fulcher, J. De La Piedra, C. Hakes, G. Hall, B. Hopper, L. Orta, K. Oven, M. Richardson, E. Soderlund, and S. Stanton. Treasury and Debt Manager C. Sun represented Chief Financial Officer D. Taylor.

Chairperson Varela announced that the Board would adjourn to Closed Session for consideration of Items 2.1, 2.2 and 2.3.

Mr. Stanley Young, International Federation of Professional and Technical Engineers, expressed support for continued fair and respectful negotiations between the bargaining units and the District, in regards to Item 2.3.

**2. TIME CERTAIN:**

**3:30 PM**

- 2.1. CLOSED SESSION**  
**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**  
Significant Exposure to Litigation  
Pursuant to Government Code Section 54956.9(b)  
Unknown cases at this time.

- 2.2. CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION  
Pursuant to Government Code Section 54956.9(d)(1)  
J. Johnson v. Santa Clara Valley Water District
- 2.3. CLOSED SESSION  
CONFERENCE WITH LABOR NEGOTIATORS  
Pursuant to Government Code Section 54957.6(a)  
Agency Designated Representatives: Norma Camacho, Susan Stanton,  
Michael Baratz, Anil Comelo, Laura Harbert  
Employee Organizations: Employees Association, Engineers Society,  
Professional Managers Association

Upon return to open session, the same Board members and staff were present.

**6:00 PM**

- 2.3 District Counsel Report.

Mr. Brian Hopper, Senior Assistant District Counsel, reported that the Board met in Closed Session with all members present and in regards to Items 2.1, 2.2, and 2.3, gave direction to staff.

- 2.4. Pledge of Allegiance/National Anthem.

Director Kremen led all present in reciting the Pledge of Allegiance

- 2.5. Orders of the Day.

The Board considered under one motion, whether the Interim Chief Executive Officer's Declaration of an Emergency to Repair Stevens Creek, and whether the Coyote Percolation Dam posed emergencies pursuant to California Public Contract Code §22050, which came to the attention of the District after today's agenda was posted pursuant to California Government Code §54954.2(a), and should be added to the agenda as Items 2.6-A and 2.6-B respectively.

Motion: That the Board find by at least a two-thirds, roll call vote that the Interim Chief Executive Officer's Declaration of an Emergency to Repair Steven Creek and the Coyote Percolation Dam posed emergencies pursuant to California Public Contract Code §22050, and came to the attention of the District after today's agenda was posted pursuant to California Government Code §54954.2(a).

Move:	Gary Kremen
Second:	Nai Hsueh
Yeas:	Tony Estremera, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Nai Hsueh, Richard Santos, John L. Varela
Nays:	None
Abstains:	None
Absents:	None
Summary:	7 Yeas; 0 Nays; 0 Abstains; 0 Absents.

Chairperson Varela confirmed that by unanimous vote, Items 2.6-A and 2.6-B would be added to the agenda, following Item 2.6.

## 2.6. Time Open for Public Comment on any Item not on the Agenda.

Chairperson Varela declared time open for public comment on any item not on the agenda.

Ms. Liz Bettencourt and Mr. George Cook, District Employees Association and Engineers Society Presidents respectively, expressed support for appointment of Ms. Norma Camacho as District Chief Executive Officer.

Ms. Patricia Showalter, retired District Senior Engineer, expressed appreciation for the support she received while employed by the District, and serving as a Mountain View City Council Member.

Mr. William Sherman, San Jose resident, advised the Board that he represented a group called Water Rate Advocates, and expressed concern with the projected water rate increases associated with the California WaterFix Twin Tunnel Solution.

Mr. Gary Westly, Mountain View resident, encouraged the Board to advise attendees of their opportunity to speak during time open for public comment, and requested that more information be provided on the two declaration of emergency items added to the agenda as Items 2.6-A and 2.6-B, so that attendees can determine their interest in them.

Ms. MacKenzie Mossing, Santa Clara Valley Audubon Society, requested weed abatement on Calero Arroyo Creek between Royalwood and Dalewood Courts.

Chairperson Varela requested that staff investigate the matter described by Ms. Mossing.

Ms. Shani Kleinhaus, Santa Clara Valley Audubon Society, requested assistance abating a private construction-related project's obstruction of the Salt Pond Restoration Project at Pond A-8.

Chairperson Varela discussed recent local, national, and global events demonstrating racial intolerance, and confirmed the District's commitment to diversity, inclusion, and acceptance.

Chairperson Varela moved the agenda to newly added items 2.6-A and 2.6-B, and Ms. Michele King, Clerk/Board of Directors, distributed the attached memorandum regarding Emergency Declaration for Repairs to Stevens Creek Bank, and the attached memorandum regarding Emergency Declaration for Coyote Percolation Dam Repairs, pursuant to Public Contract Code SS22050, and identified respectively as Handouts 2.6-A and 2.6-B herein.

Copies of the Handouts were distributed to the Board and made available to the public.

2.6-A. Emergency Declaration to Repair Stevens Creek Bank, Pursuant to Public Contract Code §22050.

Ms. Melanie Richardson, Interim Chief Operating Officer, reviewed the information on this item, per the attached Handout 2.6-A.

Chairperson Varela acknowledged receipt of the attached 17 emails and letters expressing support for declaration of an emergency to repair Stevens Creek Bank, collectively identified as Handout 2.6-A-i herein.

Copies of the Handout were distributed to the Board and made available to the public.

Motion: Find by at least a four-fifths vote that based on substantial evidence set forth in Handout 2.6-A, that the condition of Stevens Creek Bank Erosion is an emergency condition pursuant to California Public Contract Code §22050, and that District staff may repair such erosion, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

Move: Gary Kremen  
Second: Tony Estremera  
Yeas: Gary Kremen, Tony Estremera, Barbara Keegan, Linda J. LeZotte, Nai Hsueh, Richard Santos, John L. Varela  
Nays: None  
Abstains: None  
Absents: None  
Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absents.

2.6-B. Emergency Declaration for Dam Repairs Pursuant to Public Contract Code §22050: Coyote Percolation Dam.

Mr. Kurt Arends, Deputy Operating Officer, reviewed the information on this item, per the attached Handout 2.6-B.

Mr. Jerry Heinrichs, Santa Clara County Water Ski Club, expressed support for maintenance repairs at the Coyote Percolation Dam.



Mr. Roger Castillo, San Jose resident, submitted the attached materials identified as Handout 2.6-B herein, and advised the Board that the materials provided a link to a video of conditions at the Coyote Percolation Dam.

Copies of the Handout were distributed to the Board and made available to the public.

Director Kremen requested that staff provide him with a copy of the video discussed by Mr. Castillo (Board Member Request No. R-17-0028).

Motion: Find by at least a four-fifths vote that based on substantial evidence set forth in Handout 2.6-B, that the condition of the Coyote Percolation Dam is an emergency condition pursuant to California Public Contract Code §22050, and that District staff may repair such a dam, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

Move: Tony Estremera

Second: Linda J. LeZotte

Yeas: Tony Estremera, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Nai Hsueh, Richard Santos, John L. Varela

Nays: None

Abstains: None

Recuses: None

Absent: None

Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

Chairperson Varela returned the agenda to Item 2.7.

## 2.7. Issues Facing the District's Imported Water Supply and the Delta Ecosystem.

Recommendation: Receive and discuss information on the issues facing the District's imported water supply and the Delta ecosystem.

Mr. Garth Hall, Interim Chief Operating Officer, Water Utilities, reviewed the information on this item, per the attached Board Agenda Memo and materials contained in Attachment 2.

Eleven statements expressing opposition to the California WaterFix were reviewed from: Mr. John Birk, Ms. Mary Helen Doherty, Ms. Christina Donnelly, Rev. Lindi Ramsden, and Mr. Doug Sugimoto, San Jose residents; Ms. Barbara Barrigan-Parrilla, Stockton resident; Mr. Michael Frost, San Carlos resident; Mr. David Freitag, Palo Alto resident; Ms. Katja Irvin, Sierra Club Loma Prieta Chapter; Ms. Megan Giberson, League of Women Voters; and Mr. William Sherman, Water Rate Advocates.

Ms. Irvin submitted the attached materials identified as Handout 2.7-A herein. Copies of the Handout were distributed to the Board and made available to the public.

The Board noted the information, without formal action.

2.8. California Waterfix Update Including Design and Construction Management and Governance, Operations, and Adaptive Management.

Recommendation: Receive and discuss information on the California WaterFix including a proposed framework for design and construction management and governance, operations and adaptive management.

Ms. Cindy Kao, Imported Water Unit Manager, reviewed the information on this item, per the attached Board Agenda Memo materials contained in Attachment 10.

Chairperson Varela acknowledged receipt of the attached email from Mr. Brian Henrikson, Los Gatos resident, identified as Handout 2.8-A herein. Copies of the Handout were distributed to the Board and made available to the public.

Eighteen statements expressing opposition to the California WaterFix were received from: Mr. Castillo, Mr. John Delgado, Ms. Joanie Francis, Ms. Cheri Jensen, Mr. Daryl Johnston, Ms. Nora Kovalesski, Mr. Jim O'Neill, and Mr. Doug Sugimoto, San Jose residents; Mr. Hunter Reid and Mr. Steve Virga, Campbell residents; Mr. Bryan Carr, Los Gatos resident; Mr. Jim Woo, Santa Clara resident; Ms. Colleen Cabot, First Unitarian Church; Mr. Rod Kirk, EcoGreen Group; Ms. Kathryn Mathewson, VIVA Foundation; and Ms. Barrigan-Parrilla, Mr. Frost, Ms. Irvin, and Ms. Mossing.

Mr. Kirk, Ms. Mathewson, Ms. Barrigan-Parrilla, and Ms. Irvin submitted the attached materials identified respectively as Handouts 2.8-B through 2.8-F herein. Copies of the Handouts were distributed to the Board and made available to the public.

Ms. Lauren Boyd, Silicon Valley Leadership Group, expressed support for the California WaterFix.

The Board noted the information, without formal action.

**3. CONSENT CALENDAR:**

The Board noted that Item 3.4 had been removed from the agenda, and considered Consent Calendar Items 3.1 through 3.3, and 3.5, under one motion.

3.1. Resolution Proclaiming September 2017 as National Preparedness Month.

Recommendation: Adopt the Resolution, NATIONAL PREPAREDNESS MONTH, SEPTEMBER 2017.

- 3.2. Amendment No. 1 to Agreement No. A3867A with Siegfried Engineering, Inc. Increasing the Design Services Agreement and Previously Approved Not-to-Exceed Fee from \$458,000 to \$792,600 and Extending the Term of the Agreement for the Coyote Warehouse Project, Project No. 91234011 (Morgan Hill) (District 1).

Recommendation: Approve Amendment No. 1 to Agreement No. A3867A with Siegfried Engineering, Inc. with an additional fee of \$334,600 for engineering support services during construction for a revised not-to-exceed (NTE) fee of \$792,600 and extend the term of the Agreement.

- 3.3. Semi-Annual Lobbyist Report of Individuals Engaged in Compensated Lobbying Activities Aimed at Influencing District Decisions, in Accordance with District Ordinance 10-01.

Recommendation: Receive the Semi-Annual Lobbyist Report of Individuals Engaged in Compensated Lobbying Activities for the period January 1, 2017 through June 30, 2017.

- 3.4. ITEM REMOVED FROM THE AGENDA.

- 3.5. CEO Bulletins for the Weeks of August 4-10, and 11-17, 2017.

Recommendation: Accept the CEO Bulletins.

Motion: Approve Consent Calendar Items 3.1 through 3.3, and 3.5, under one motion, as follows: adopt Resolution No. 17-59, NATIONAL PREPAREDNESS MONTH, SEPTEMBER 2017, by roll call vote, as contained in Item 3.1; approve Amendment No. 1 to Agreement No. A3867A with Siegfried Engineering, Inc. with an additional fee of \$334,600 and a revised not-to-exceed fee of \$792,600, extending the term of the Agreement, as contained in Item 3.2; receive the Semi-Annual Lobbyist Report, as contained in Item 3.3; and accept the CEO Bulletins, as contained in Item 3.5.

Move to Approve: Richard Santos

Second: Nai Hsueh

Yeas: Tony Estremera, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Nai Hsueh, Richard Santos, John L. Varela

Nays: None

Abstains: None

Recuses: None

Absent: None

Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

## **REGULAR AGENDA:**

### **4. BOARD OF DIRECTORS:**

- 4.1. Recommendation from the Pacheco Reservoir Exploratory Ad Hoc Committee and Budget Adjustment of \$2 Million to Initiate the Project's Planning Phase for the Pacheco Reservoir Expansion Project, Project No. 60954001 (Santa Clara County) (District 1).

Recommendation: Approve a budget adjustment of \$2 million from the PeopleSoft Systems Upgrade and Expansion Project (Project No. 73274002) to the Pacheco Reservoir Expansion Project (Project No. 60954001) to initiate planning phase work in Fiscal Year 2017-18.

Ms. Katherine Oven, Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Ms. Irvin suggested the Board defer their decision on the item until such time as staff can bring back more information and funding can be included as part of a regular budget process.

Motion: Refer to staff to amend the proposed budget adjustment to include an additional \$250,000 to allow for outreach efforts, and approve the budget adjustment as amended, transferring \$2,250,000 from the PeopleSoft Systems Upgrade and Expansion Project (Project No. 73274002) to the Pacheco Reservoir Expansion Project (Project No. 60954001).

Move to Approve: Barbara Keegan  
Second: Tony Estremera  
Yeas: Tony Estremera, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Nai Hsueh, Richard Santos, John L. Varela  
Nays: None  
Abstains: None  
Recuses: None  
Absent: None  
Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

- 4.2. Chief Executive Officer Appointment and Employment Agreement.

Recommendation: Adopt the Resolution APPOINTING NORMA J. CAMACHO AS THE CHIEF EXECUTIVE OFFICER, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT, AND APPROVING EMPLOYMENT AGREEMENT.

Motion: Adopt Resolution No. 17-60, APPOINTING NORMA J. CAMACHO AS THE CHIEF EXECUTIVE OFFICER, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT, AND APPROVING EMPLOYMENT AGREEMENT, by roll call vote.

Move to Adopt: Richard Santos  
 Second: Gary Kremen  
 Yeas: Tony Estremera, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Nai Hsueh, Richard Santos, John L. Varela  
 Nays: None  
 Abstains: None  
 Recuses: None  
 Absent: None  
 Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

Mr. Stan Yamamoto, District Counsel, left the meeting and returned as noted below.

#### 4.3. Compensation Adjustments for the District Counsel.

Recommendation: A. Consider and determine compensation adjustments, if any, for the District Counsel; and  
 B. Adopt the Resolution PROVIDING FOR THE COMPENSATION OF THE DISTRICT COUNSEL, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT, and approve the Amendment to Employment Agreement.

Motion: Approve the compensation adjustment for the District Counsel; adopt Resolution No. 17-61, PROVIDING FOR THE COMPENSATION OF THE DISTRICT COUNSEL, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT, as amended, by roll call vote; and approve the Amendment to Employment Agreement.

Move to Adopt: Richard Santos  
 Second: Gary Kremen  
 Yeas: Tony Estremera, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Nai Hsueh, Richard Santos, John L. Varela  
 Nays: None  
 Abstains: None  
 Recuses: None  
 Absent: None  
 Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

Mr. Yamamoto returned.

Director Kremen and Ms. King left the meeting and returned as noted below. During Ms. King's absence Ms. Lin Moore, Board Administrative Assistant II, served as Clerk of the Board.

#### 4.4. Compensation Adjustments for the Clerk of the Board.

Recommendation: A. Consider and determine compensation adjustments, if any, for the Clerk of the Board; and

- B. Adopt Resolution PROVIDING FOR THE COMPENSATION OF THE CLERK OF THE BOARD, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT, and Approve Employment Agreement.

Motion: Approve the compensation adjustment for the Clerk of the Board; adopt Resolution No. 17-62, PROVIDING FOR THE COMPENSATION OF THE CLERK OF THE BOARD, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT, as amended, by roll call vote; and Approve Employment Agreement.

Move to Adopt: Richard Santos  
Second: Tony Estremera  
Yeas: Tony Estremera, Barbara Keegan, Linda J. LeZotte, Nai Hsueh, Richard Santos, John L. Varela  
Nays: None  
Abstains: None  
Recuses: None  
Absent: Gary Kremen  
Summary: 6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

Ms. King returned.

4.5. Fiscal Year 2018 Board Policy Planning and Performance Monitoring Calendars.

Recommendation: Review and provide input on the Fiscal Year 2018 Board Policy Planning and Performance Monitoring Calendars.

Ms. King reviewed the information on this item, per the attached Board Agenda Memo.

Director Estremera requested that staff revise the calendars to include a Board Policy Discussion.

The Board noted the information, without formal action.

4.6. Board Committee Reports.

Directors Hsueh and Estremera reviewed the information in Handouts 4.6-A and 4.6-B, respectively. Copies of the Handouts were distributed to the Board and made available to the public.

The Board noted the information without formal action.

**5. WATER UTILITY ENTERPRISE:**

- 5.1. Amendment No. 4 to Agreement No. A3626A with CDM Smith for Design and Engineering Support Services During Construction for a Not-to-Exceed Fee of \$5,190,156, Resulting in a Total Not-to-Exceed Fee of \$29,285,877 for the



Rinconada Water Treatment Plant Reliability Improvement Project, Project No. 93294057, Contract No. C0601 (Los Gatos) (District 7).

Recommendation: Approve Amendment No. 4 to Agreement No. A3626A with CDM Smith (Consultant) for a not-to-exceed fee of \$5,190,156 for engineering support services during construction, resulting in a total not-to-exceed (NTE) fee of \$29,285,877, and extend the Agreement term.

Move to Approve: Barbara Keegan  
Second: Nai Hsueh  
Yeas: Tony Estremera, Barbara Keegan, Linda J. LeZotte, Nai Hsueh, Richard Santos, John L. Varela  
Nays: None  
Abstains: None  
Recuses: None  
Absent: Gary Kremen  
Summary: 6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

- 5.2. Amendment No. 2 to Agreement A3678A with HDR Engineering Inc. for Construction Management Services for a Not-to-Exceed Fee of \$24,246,608, Resulting in a Total Not-to-Exceed Fee of \$33,376,676 for the Rinconada Water Treatment Plant Reliability Improvement Project, No. 93294057, Contract No. C0601 (Los Gatos) (District 7).

Recommendation: Approve Amendment No. 2 to Agreement No. A3678A with HDR Engineering, Inc. (Consultant) for a not-to-exceed fee of \$24,246,608 for construction management services, resulting in a total not-to-exceed fee of \$33,376,676, and extend the Agreement term.

Move to Approve: Nai Hsueh  
Second: Barbara Keegan  
Yeas: Tony Estremera, Barbara Keegan, Linda J. LeZotte, Nai Hsueh, Richard Santos, John L. Varela  
Nays: None  
Abstains: None  
Recuses: None  
Absent: Gary Kremen  
Summary: 6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

Director Kremen returned.

## **6. WATERSHEDS:**

- 6.1. Update on the Joint Emergency Action Plan in Development with the City of San Jose and the Santa Clara Valley Water District.

Recommendation: Receive informational update on the development of a joint Emergency Action Plan (EAP) between Santa Clara Valley Water District and the City of San Jose for Coyote Creek.

Mr. Marc Klemencic, Senior Advisor, reviewed the information on this item, per the attached Board Agenda Memo and distributed the attached revision to presentation materials, identified as Handout 6.1-A herein. Copies of the Handout were distributed to the Board and made available to the public.

The information contained in Attachment 1 was reviewed as follows: Mr. Klemencic reviewed Slides 1 through 4; Mr. Liang Xu, Hydrology, Hydraulics, and Geomorphology Manager, reviewed Slides 5 through 7; Ms. Rachael Gibson, Interim Deputy Administrative Officer, reviewed Slide 8; and Mr. Juan Ledesma, Senior Management Analyst, reviewed Slides 9 through 14.

During the presentation, the Board requested that staff increase winter preparedness outreach to residents in flood-prone areas; and suggested that elected officials' roles during flood events be clearly defined in the Emergency Acton Plan.

The Board noted the information, without formal action.

6.2. Coyote Creek Flood Protection Project - Short-Term Flood Risk Reduction Options Update and Flood Barrier Recommendation for Rock Springs.

- Recommendation:
- A. Receive information on short-term project for flood risk reduction to the Coyote Creek community; and
  - B. Provide comments and direction to Staff to advance the recommended short-term project, complete public outreach, and finalize design for the Rock Springs area of Coyote Creek. The recommended short-term projects are:
    - 1. An up to 5-foot-tall earthen berm extending 400 feet across the San Jose Water Company property to the end of Bevin Brook Drive; and
    - 2. An up to 3-foot-tall vinyl sheet pile wall extending 500 feet across an access driveway and City of San Jose Park areas.

Mr. Afshin Rouhani, Water Policy and Planning Manager, reviewed the information on this item, per the attached Board Agenda Memo and submitted the attached revision to presentation materials, identified as Handout 6.2-B herein. Copies of the Handout were distributed to the Board and made available to the public.

The presentation materials contained in Attachment 3 were reviewed as follows: Mr. Rouhani reviewed Slides 1 through 3; and Mr. Kevin Sibley, Associate Civil Engineer, reviewed Slides 4-18.

Mr. Michael O'Connell, City of San Jose Deputy Director Public Works, expressed support for the Rock Springs Park Project.

Chairperson Varela acknowledged receipt of the attached Agenda Comment from Mr. O'Connell and Rajani Nair, identified as Handout 6.2-A, herein. Copies

of the Handout were distributed to the Board and made available to the public.

Motion: Approve the recommended short-term projects A. and B., complete public outreach, and finalize design for the Rock Springs area of Coyote Creek.

Move to Approve: Nai Hsueh  
Second: Tony Estremera  
Yeas: Tony Estremera, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Nai Hsueh, Richard Santos, John L. Varela  
Nays: None  
Abstains: None  
Recuses: None  
Absent: None  
Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

6.3. Joint Use Trails on District Property: Status and Updates.

Recommendation: Receive information and provide direction to staff to proceed with the recommended outreach and next steps.

Ms. Usha Chatwani, Community Projects Review Unit Manager, reviewed the information on this item, per the attached Board Agenda Memo and materials contained in Attachment 1.

Ms. Chatwani advised the Board that the attached Board Agenda should be revised on Page 2, under *Recent Board of Directors Involvements*, Paragraph 2, the statement that Director Keegan presented information to *Silicon Valley Bicycle Coalition* should be revised to read that she presented information to *Save Our Trails*.

The Board noted the information without formal action and requested the presentation be made available to cities, committees, and commissions.

**7. EXTERNAL AFFAIRS:**

None.

**8. CHIEF EXECUTIVE OFFICER:**

8.1. Board Confirmation of the Chief Operating Officer of Water Utility Enterprise.

Recommendation: Confirm the appointment of the Chief Operating Officer of Water Utility for the Santa Clara Valley Water District.

The Board continued this item to a future meeting.

8.2. Chief Executive Officer Report.

Ms. Richardson distributed and reviewed the information in the attached Stream Maintenance Report, identified as Handout 8.2-A, herein. Copies of the Handout were distributed to the Board and made available to the public.

**9. ADMINISTRATION:**

None.

**10. DISTRICT COUNSEL:**

None.

**11. ADJOURN:**

11.1. Board Member Reports/Announcements.

None.

11.2. Clerk Review and Clarification of Board Requests.

The new Board Member Requests were not read into the record.

11.3. Adjourn to Special Meeting at 1:30 p.m., on August 25, 2017, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

Chairperson Varela adjourned the meeting at 11:15 p.m. to the Special Meeting at 1:30 p.m., on August 25, 2017, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

Michele L. King, CMC  
Clerk/Board of Directors

Approved:

Date:



BOARD OF DIRECTORS MEETING

# MINUTES

**SPECIAL MEETING  
FRIDAY, AUGUST 25, 2017  
1:30 PM**

(Paragraph numbers coincide with agenda item numbers)

**1. CALL TO ORDER:**

A Special Meeting of the Santa Clara Valley Water District Board of Directors was called to order on August 25, 2017, in the District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California, at 1:30 p.m.

**1.1. Roll Call.**

Board members in attendance were Tony Estremera, Linda J. LeZotte, Barbara Keegan, Richard Santos, John L. Varela, and Nai Hsueh, constituting a quorum of the Board.

Director Kremen was excused from attending.

Staff members in attendance were N. Camacho, Chief Executive Officer (CEO), S. Yamamoto, District Counsel, M. King, Clerk/Board of Directors, R. Callender, J. De La Piedra, A. Fulcher, M. Richardson, and S. Stanton.

**1.2. Pledge of Allegiance/National Anthem.**

Recommendation: Chairperson Varela led all present.

Chairperson Varela led all present in reciting the Pledge of Allegiance.

**1.3. Time Open for Public Comment on any Item not on the Agenda.**

Chairperson Varela declared time open for public comment on any item not on the agenda. There was no one present who wished to speak.

**2. TIME CERTAIN:**

1:30 PM

**2.1. Presentation by the Delta Counties Coalition on Alternatives to the California WaterFix.**

Recommendation: Receive information presented by the Delta Counties Coalition.

Mr. Don Nottoli, Sacramento County Supervisor, and Mr. Chuck Winn, San Joaquin County Supervisor, expressed appreciation for the opportunity to appear before the Board and commenced presentation of the materials contained in Attachment 1, as follows: Mr. Winn reviewed Attachment 1, Slides 1 through 3; Ms. Katherine Miller, San Joaquin County Supervisor, Ms. Diane Burgis, Contra Costa County Supervisor, and Mr. Winn reviewed Slide 4; and Dr. Jeffrey Michael, University of the Pacific, reviewed Slides 5 through 17.

During the presentation, the panelists outlined the benefits and challenges associated with the California WaterFix alternatives listed on Page 4 of Attachment 1, and expressed support for increased utilization of San Joaquin County's groundwater storage capacity, establishing new reservoirs, and reservoir expansion projects.

Mr. Samuel Munuz, Santa Clara and San Benito Counties Building and Construction Trades Council, expressed support for the California WaterFix.

Ms. Nora Kovalski, San Jose resident, expressed opposition to the California WaterFix.

Director Keegan encouraged that panelists to provide information on the proposed alternatives' costs per acre foot in future Delta Counties Coalition publications and presentations.

The Board thanked the panelists for their presentation and noted the information, without formal action.

### **3. ADJOURN:**

#### **3.1. Clerk Review and Clarification of Board Requests.**

Ms. Michele King, Clerk/Board of Directors, confirmed that there were no new Board Member Requests.

#### **3.2. Adjourn to 6:00 p.m. Regular Meeting on September 12, 2017, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.**

Chairperson Varela noted that the next regular meeting time had been erroneously reported on the agenda, and adjourned the meeting at 3:30 p.m., to the 1:00 p.m. Regular Meeting on September 12, 2017, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

Michele L. King, CMC  
Clerk/Board of Directors

Approved:

Date:



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**File No.:** 17-0658

**Agenda Date:** 10/10/2017

**Item No.:** \*4.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Coyote Creek Flood Risk Reduction Ad Hoc Committee's Recommendations and Associated Staff Analysis from the Committee's October 5, 2017, Meeting.

### **RECOMMENDATION:**

- A. Receive a report from the Coyote Creek Flood Risk Reduction Ad Hoc Committee and staff analysis.
- B. Provide direction to staff to operate the Anderson Reservoir system through the winter of 2017/2018 following the 40% exceedance rule curve that was recommended by the Coyote Creek Flood Risk Reduction Ad Hoc Committee at the October 5, 2017 meeting to reduce the risk of flooding along Coyote Creek and provide adequate water supply while balancing other beneficial uses.

### **SUMMARY:**

On October 5, 2017, the Coyote Creek Flood Risk Reduction Ad Hoc Committee received information and discussed alternatives for providing short-term flood risk reduction on Coyote Creek.

### **Staff Analysis:**

Information on Anderson Dam reservoir operation options for short-term flood risk reduction on Coyote Creek was provided to the Committee on August 31 and October 5, 2017 for discussion. The meeting agendas and supporting materials are attached. Two alternatives were considered; pump over and reduced reservoir storage.

The pump-over option would install a large-scale pumping system using the existing spillway to increase the release of incoming flows into Anderson Reservoir and thereby maintain storage goals. The pump-over option has significant risks, costs, and would require a lengthy environmental review and permitting effort, and is unlikely to be implementable for at least the next four to five winters.

Similar results can be achieved by operating the reservoir at a reduced elevation, meaning at a lower storage level. The reduced reservoir storage would increase the available flood storage volume behind the dam during the winter season.

Both options would reduce the risk of flooding for the downstream communities. If there is a below average rainfall year, the reduced reservoir storage could result in reduction of water supply, water supply reliability, and cold water releases to Coyote Creek for fisheries, but it is immediately implementable. Given the current water supply conditions, it is recommended that staff be directed to operate the Anderson Reservoir system through the winter of 2017/2018 following the 40% exceedance rule curve to reduce the risk of flooding along Coyote Creek and provide adequate water supply while balancing other beneficial uses.

**FINANCIAL IMPACT:**

The Office of the Clerk of the Board has budgeted funds to support the business meetings of the Board's Advisory Committees for Fiscal Year 2017-2018. Under the specific water supply conditions that apply to the winter of 2017/2018, the proposed operation of the Anderson Reservoir system is not anticipated to increase the annual operating costs in fiscal year 2018.

**CEQA:**

The annual operation of the reservoirs 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. Implementation of the pump over alternative would require CEQA before installation of the pumps.

**ATTACHMENTS:**

Attachment 1: 083117 CCFRR Ad Hoc Committee Agenda and Materials

Attachment 2: 100517 CCFRR Ad Hoc Committee Agenda and Materials

**UNCLASSIFIED MANAGER:**

Kurt Arends, (408) 630-2284

## AGENDA

### COYOTE CREEK FLOOD RISK REDUCTION AD HOC COMMITTEE MEETING

THURSDAY, AUGUST 31, 2017  
4:00 p.m.

Santa Clara Valley Water District  
Headquarters Building Boardroom  
5700 Almaden Expressway  
San Jose, CA 95118

Time Certain 4:00 p.m.	1.	<b><u>Call to Order/Roll Call</u></b>
	2.	<b><u>Election of Committee Chair and Vice Chair</u></b> Elect Committee Chair and Vice Chair
	3.	<b><u>Time Open for Public Comment on Any Item Not on the Agenda</u></b> <i>Comments should be limited to two minutes. If the Committee wishes to discuss a subject raised by the speaker, it can request placement on a future agenda.</i>
	4.	<b><u>Approval of Minutes</u></b> 4.1 Approval of Minutes – August 24, 2017, Meeting and Tour
	5.	<b><u>Action/Discussion Items</u></b> 5.1 Short-Term Flood Risk Reduction for Coyote Creek (Afshin Rouhani) <b>Recommendation: Receive information and provide direction to staff.</b>  5.2 Identify Potential Future Short-Term Flood Risk Reduction Topics and Identify Committee Meeting Schedule to Review Identified Topics (Afshin Rouhani) <b>Recommendation:</b> <b>A. Discuss and identify potential future short-term flood risk reduction topics for Committee input and review; and</b> <b>B. Develop a Committee meeting schedule to review identified topics.</b>
	6.	<b><u>Clerk Review and Clarification of Committee Requests and Recommendations</u></b> <i>This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during discussion of item 5.</i>
	7.	<b><u>Adjourn</u></b>

REASONABLE EFFORTS TO ACCOMMODATE PERSONS WITH DISABILITIES WISHING TO ATTEND COMMITTEE MEETINGS WILL BE MADE. PLEASE ADVISE THE CLERK OF THE BOARD OFFICE OF ANY SPECIAL NEEDS BY CALLING (408) 630-2277.

Meetings of this committee will be conducted in compliance with all Brown Act requirements. 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 same time that the public records are distributed or made available to the legislative body, at the following location:

Santa Clara Valley Water District, Office of the Clerk of the Board  
5700 Almaden Expressway, San Jose, CA 95118

COYOTE CREEK FLOOD RISK REDUCTION AD HOC COMMITTEE Purpose: Develop short-term/immediate solutions associated with the Coyote Creek flood event and project.

**THURSDAY, AUGUST 24, 2017**  
**8:55 AM**

(Paragraph numbers coincide with agenda item numbers)

A meeting and tour of the Coyote Creek Flood Risk Reduction Ad Hoc Committee (Committee) was held on August 24, 2017, at the Coyote Creek Rock Springs Park, Rock Springs Drive and Needles Drive, San Jose, CA 95112.

**1. CALL TO ORDER/ROLL CALL**

A meeting and tour of the Coyote Creek Flood Risk Reduction Ad Hoc Committee was called to order at 8:58 a.m. by Director Richard P. Santos.

Board Members in attendance were: Director Tony Estremera - District 6, Director Barbara F. Keegan - District 2; and Director Richard P. Santos - District 3.

Staff members in attendance were: Gina Adriano, Rechelle Blank, Glenna Brambill, Rick Callender, Norma Camacho, Michelle Critchlow, Rachael Gibson, Vincent Gin, Melanie Richardson, Afshin Rouhani, and Cheryl Togami.

U.S. Army Corps of Engineers in attendance were: Mr. Tab Brown, USACE Chief, Planning and Policy Division – HQ; Ms. Josephine Axt, Chief of Planning, South Pacific Division; Mr. Tom Kendall, USACE Chief of Planning, San Francisco District; and Mr. Jay Kinberger, USACE Project Management Branch B Chief, San Francisco District.

**2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON AGENDA**

There was no one present who wished to speak.

Director Santos called a brief recess at 9:06 a. m.

Director Santos called the meeting back to order at 9:16 a. m.

Opening remarks were made by Directors Estremera, Keegan and Chief Executive Officer, Ms. Norma Camacho.

3. **ACTION/DISCUSSION ITEMS**

**3.1 BRIEFING ON THE COYOTE CREEK FLOOD PROTECTION PROJECT**

Mr. Afshin Rouhani gave an overview of the project and conducted a tour of the flood area.

4. **ADJOURNMENT**

Director Santos adjourned the meeting at 9:45 a.m. to the next scheduled meeting on Thursday, August 31, 2017, at 4:00 p.m., in the Santa Clara Valley Water District Headquarters Building Boardroom.

Michelle Critchlow  
Office of the Clerk of the Board

Approved:



Committee:	Coyote Creek Flood Risk Reduction
Meeting Date:	08/31/17
Agenda Item No.:	5.1
Unclassified Manager:	Afshin Rouhani
Email:	<a href="mailto:arouhani@valleywater.org">arouhani@valleywater.org</a>
Est. Staff Time:	20 minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Short-term Flood Risk Reduction for Coyote Creek

### RECOMMENDED ACTION:

Receive information and provide direction to staff.

### SUMMARY:

This item provides background information on short-term flood risk reduction options for Coyote Creek for Committee discussion and direction to staff. Some of the options discussed herein have previously been presented to the Santa Clara Valley Water District (District) Board. Coyote Creek debris and vegetation management activities progress was presented to the Board at the August 8, 2017 meeting, while an Emergency Action Plan update and a recommended Flood Barrier project were presented to the Board at the August 22, 2017 meeting. Reservoir operation options for enhanced flood protection have not been formally discussed with the full Board and are, therefore, described in detail in this memo.

The two reservoirs in the Coyote Creek watershed (Anderson Reservoir and Coyote Reservoir), which were originally constructed for water supply purposes, already provide significant incidental flood protection benefits under their current operating conditions. These flood protection benefits could be enhanced by increasing the ability to release water from Anderson Dam (through pumping) and/or by increasing the available flood storage volume behind the dam during the winter season. However, these options have significant risks, costs, water supply impacts, and other implications; if pursued, they will likely trigger a significant and lengthy environmental review and permitting effort.

### BACKGROUND:

The Coyote Creek flood of February 21, 2017 was a tragic event for our community resulting in damages to residents and businesses and the temporary evacuation of many community members from their homes. On June 13, 2017, the Board conducted a public hearing on proposed modifications to the Coyote Creek Flood Protection Project (Project) of the Safe, Clean Water and Natural Flood Protection Program (SCW). The Board directed staff to extend the upstream Project limit by 2.9 miles (from Interstate 280 to Tully Road). The revised proposed Project, extending from Montague Expressway to Tully Road, includes the Rock Springs neighborhood, which was impacted by the February 21, 2017 flood event.

In addition to extending the Project limits upstream to Tully Road, the Board also:

- Approved changing the proposed flood protection level from the 1%, or 100-year event, to a 20- to 25-year event (equivalent to the February 21, 2017 flood event), which would allow for implementation of a more moderate project with fewer environmental impacts;



- Directed staff to immediately develop short-term project flood risk reduction solutions to be implemented prior to the 2017-2018 winter season; and
- Directed that Project funding\* be made available for the Rock Springs neighborhood area.

Focusing on the provision of short-term flood risk reduction solutions to the areas at highest risk along Coyote Creek, available actions may include the following:

- a. Emergency Action Planning (EAP): One of the main lessons learned from this past winter was that the development of a detailed and fully operational joint District/City of San Jose EAP is essential for future emergency events on Coyote Creek. A detailed update on the development of this EAP was presented to the Board at its August 22, 2017 meeting.
- b. Reservoir operation options: Whether by use of pumps or through other reservoir management techniques, reservoir operation options could reduce the risk of downstream flooding. These options are described in detail below.
- c. Creek management: Invasive vegetation, litter, and debris barrier removal could also reduce the risk of flooding along waterways. The District is currently conducting this type of work in parts of the Coyote Creek watershed via the District's Stream Maintenance Program, SCW projects, and by other District habitat enhancement efforts. A summary of this work was presented to the Board at the August 8, 2017 meeting.
- d. Flood barriers: Flood barriers increase channel capacity by elevating a channel's banks or providing a means to wall-off vulnerable areas from flood flows. Options to reduce flood risk using this method were presented to the Board at its August 22, 2017 meeting.

The remainder of this memo provides background information on potential reservoir operation options to reduce flood risk for Coyote Creek. Note that this analysis is only for the remaining years until Anderson Dam's seismic retrofit project construction is underway. After the dam has been rebuilt, options for reservoir operations will be very different from those presented today, and will require additional analysis.

#### A. System Description

Coyote Creek watershed hydrology is strongly influenced by the two water supply reservoirs built by the District in the mid-20<sup>th</sup> century. Anderson Reservoir, built in 1950, and Coyote Reservoir, built in 1935 (Attachment 1 - Figure 1: Watershed Map) capture and store rainfall runoff from the upper watershed to be used for water supply and groundwater recharge operations. As Anderson Reservoir is much larger in volume and located downstream of Coyote Reservoir, it is the focus of the dam operation options discussed below.

Anderson Reservoir is the largest of the 10 District reservoirs, with a total storage capacity of 90,373 acre-feet (AF), and is a critical element of Santa Clara County's local water supply. When full, this reservoir provides about 25 percent of the county's annual water supply. Water is also released year-round from Anderson Reservoir to Coyote Creek, where it recharges the groundwater basins through the creek bed and downstream percolation ponds, and provides for aquatic habitat. Currently, Anderson Dam can release up to a maximum of 425 cubic feet per second (cfs).

Anderson Reservoir is one of only two District reservoirs that are connected to the District's raw water pipeline distribution system and its treatment plants. Imported water from the federal Central Valley Project, stored at

\* Current Project funding is not sufficient to complete the planning, design, and construction phases for the entire Project reach; however, additional funding may become available through collaboration with Federal, State, and local entities.

San Luis Reservoir, is conveyed directly to the District's treatment plants but can also be diverted to Anderson Reservoir for storage and later use. Water stored in Anderson Reservoir can be used when other supplies may not be available due to drought, planned facility shut downs, or during emergency outages. If there are planned projects or operations that will make imported water unavailable or unsuitable for treatment, the District can store more water in Anderson Reservoir in advance of such outages.

Due to seismic stability issues discovered at Anderson Dam about ten years ago, a reservoir storage restriction has been in place since 2009. Until earlier this year, a 45-foot restriction below the Anderson dam crest was in place, with concurrence from the California Division of Safety of Dams (DSOD) and the Federal Energy Regulatory Commission (FERC). The Anderson Dam Seismic Retrofit Project was initiated in 2012 and is currently in the design phase. Due to findings from extensive geotechnical and geologic investigations (2013–2016), the District recently increased the restriction to 55 feet below the Anderson dam crest, limiting the total storage capacity to 52,553 AF. The District and the dam regulatory agencies believe that this restriction will prevent the uncontrolled release of water if the dam is structurally damaged by a major earthquake before the retrofit work is completed.

## **B. Flood Hydrology**

Flooding has occurred along portions of Coyote Creek in 1911, 1917, 1931, 1958, 1969, 1982, 1983, 1997, 1998, and 2017. The largest flow recorded on Coyote Creek was estimated at 25,000 cfs in 1911, prior to construction of the two reservoirs. Since the construction of Anderson and Coyote Dams, the largest spillway discharge at Anderson Dam was approximately 7,000 cfs on February 21, 2017. Coyote Creek overtopped its banks at numerous locations downstream.

Anderson and Coyote Dams were built and are operated mainly for water supply purposes. However, both provide incidental but significant flood risk reduction benefits for downstream areas. When the reservoirs have storage volume available, they capture rainstorm runoff from the upper watershed areas. But even when full, they significantly reduce the storm surge runoff, delaying and buffering the flood peak downstream. For example, even though Anderson Reservoir was full by the time of peak watershed runoff during the record flood event of February 21, 2017, it reduced the peak flows downstream from about 10,000 cfs flowing into the reservoir to about 7,000 cfs peak discharge via the dam's spillway (Attachment 1 - Figure 2).

## **C. Reservoir Operations to reduce Downstream Flood Peaks**

As described above, reservoirs can be operated to reduce flood peaks downstream. Two options investigated to date are:

1. Installing pumps in the reservoir to increase releases of stored water and provide more storage volume for future runoff; or
2. Lowering the reservoir storage level significantly below the current restriction before the winter season, and maintaining that lower level to provide more storage volume (with no pumps) through the winter season.

To determine the effectiveness of these two options, the flood peak reduction effect of each option is compared with the current operation plan for three scenarios: a dry year (1977 water year), an average year (1981 water year), and the 2017 water year. Preliminary costs and operational/water supply impacts are described for each concept.

### ***1. Current Anderson Reservoir Operations***

As described above, until Anderson Dam is retrofitted, the reservoir will be operated based on the 55-foot restricted level. As shown in Attachment 1 - Figure 3, by October 1 of each year, the District will lower

reservoir storage volume to approximately 40,000 AF, and use a “rule curve” to discharge stored water via the existing outflow pipe. The timing of opening the outlet pipe will be based on upper watershed conditions and the pattern of rainfall and runoff throughout the winter season, with a target of ending the winter season at or below the restricted water surface level.

Based on this current operational rule curve, Attachment 1 – Figures 4, 5, and 6 trace the anticipated reservoir storage levels for the three (dry, average, and 2017) scenarios.

Current Operations-Flood Impacts:

Dry Year: Reservoir would not spill.

Average Year: Reservoir would not spill.

2017 Season: Reservoir peak spillway discharge would be 5,700 cfs [compared to last year’s operation (based on a 45-foot restriction), which resulted in a peak spillway discharge of about 7,000 cfs].

Current Operations-Water Supply Yield Impacts:

Dry Year: No significant change in water yield compared to past operations.

Average Year: Approximately 2,400 acre-ft less water yield than past operations.

2017 Season: No significant change in water yield compared to past operations.

The current reservoir operation may result in some impacts to water supply reliability.

## **2. Current Operations Plus Pump-Over Capability**

As stated earlier, the maximum outflow from the existing Anderson Dam outlet is 425 cfs. Per the above-described outcomes for a dry, average, and 2017 season using the current operational rule curve, a spillway discharge is likely during very wet years. To increase the volume of water that can be released from Anderson Reservoir, the concept of a pump-over system that would discharge via the existing spillway has been considered as a means to reduce the probability and/or volume of spillway discharges in very wet years.

Staff has contacted multiple pump vendors to obtain conceptual configuration and costs to operate a pump-over system that would increase reservoir operational discharges by 400 cfs to a total of 825 cfs. The conceptual configuration and operation of a pump-over system would include:

- An array of portable pumps (12-14) would be installed before the rainy season on a floating platform near the spillway to pump a maximum of 400 cfs.
- Multiple pipes would be installed on the upstream face of the dam to convey the pumped water to the spillway sidewall.
- Multiple generators and pump controls would be located on the dam crest. When operating, personnel would have to monitor the pumping 24/7 to shut the system down in case of pump malfunctions, pipe leaks, or other hazard triggers.
- When not in service, the pumps, generators, and associated equipment would require regular maintenance for operational readiness.

The following are the preliminary cost estimates for seasonal leasing of a 400-cfs capacity pump-over system:

- System Delivery and Installation: \$160,000
- Standby Cost (periodic maintenance and readiness testing): \$750,000/month.
- Pumping Cost: \$33,000/day; or about \$1,000,000/month
- System Removal and Demobilization: \$100,000
- Other Costs: barge rental, incidentals

As an example, if such a pump-over system would be used for flood risk reduction, it would likely be installed by November 1<sup>st</sup> and would be kept in place until April 1<sup>st</sup> of the following year (5 months). If, during that period, the system was on stand-by for 3 months and operated daily for 2 months, the total cost for that winter season would be about \$4.5 million plus barge rental and other incidental costs. If, after the pumps were installed, the winter season exhibited a normal or dry rainfall pattern, it's very likely that the pumps would not be used because the existing dam outlet operation would be adequate to maintain desired reservoir levels through the winter. However, the cost for installing and maintaining the pump-over system on stand-by mode would be about \$4 million—only slightly less than a winter when the pumps were activated.

Current Operations Plus Pump-Over-Flood Impacts (see Attachment 1 – Figures 4, 5, and 6):

Dry Year: Reservoir would not spill.

Average Year: Reservoir would not spill.

2017 Season: Reservoir would not spill.

Current Operations Plus Pump-Over-Water Supply Impacts:

Adding a pump-over capability to the current reservoir operations would not significantly impact the reservoir's water supply yields.

In addition to the equipment rental and operations costs for a pump-over system, other considerations and concerns include:

- Risk to integrity of dam embankment and spillway: per staff discussions with DSOD staff, pumping from the reservoir in the proposed manner would include the potential for erosion of the dam embankment (from pipe breaks or leaks) and damage to the spillway (through inadequate pump discharge velocity dissipation as well as pump equipment accidentally washing over the spillway).
- DSOD staff has previously indicated that a temporary exceedance of the dam storage restriction is acceptable when compared to the potential risks to dam/spillway integrity with a pump-over system.
- DSOD staff would analyze and evaluate a formal request for pump-over system installation for the purpose of downstream flood risk reduction. The District would have to prepare detailed design plans for DSOD review and address all concerns to obtain DSOD approval. Since Anderson Dam is also regulated by FERC, that agency would also have to review and approve any such changes in planned operation.
- The pump-over activity would require an environmental impact assessment of the pumps' installation and operation, including the potential for less available water to support aquatic habitats during the dry season. The appropriate level of California Environmental Quality Act (CEQA) documentation would have to be prepared.
- Resource agencies' permits would have to be acquired prior to installation and operation of a pump-over system.
- Installation of a pump-over system at Anderson Reservoir may result in other communities downstream of other District dams requesting similar flood risk reduction measures.

### **3. Reduced Storage Operations**

This option would increase the storage volume available in the reservoir during the winter season by 1) reducing the storage volume below the current rule curve at the beginning of the rainy season; and 2) maintaining a lowered operation curve throughout winter by releasing flows via the existing outlet pipe more aggressively. Figures 4, 5, and 6 in Attachment 1 present the flood impact and water supply outcome for a dry, normal, and 2017 year scenario. The advantage of this option is the lower operational risks (no pumps), and, as shown in Figure 4, a reliable reduction of downstream flood risk. The key detriments of this option would be a significant loss in water supply yields and loss of operational flexibility that the current operation (Option 1) provides.

#### Reduced Storage Operations-Flood Impacts:

Dry Year: Reservoir would not spill.

Normal Year: Reservoir would not spill.

2017 Season: Reservoir would not spill.

#### Reduced Storage Operations-Water Supply Impacts:

Dry Year: Approximately 3,900 AF less water supply yield than past operations.

Average Year: Approximately 9,500 AF less water supply yield than past operations.

2017 Season: No significant change in water supply yield compared to past operations.

The reduced storage reservoir operations may impact water supply reliability in average and dry years.

In addition to the anticipated water supply losses for this option, other considerations and concerns include:

- Environmental impacts could include loss of water for beneficial uses (municipal, industrial, recreational, environmental, etc.)
- Operating the dam for flood protection purposes would require permits from resource agencies and dam regulatory agencies (DSOD, FERC). This process may take several years to complete.
- Operational flexibility would be diminished. As described earlier, Anderson Reservoir is a very important element of the District's local water portfolio--not only for its annual water supply, but also because it provides additional storage for emergencies and shutdowns of other segments of the District's water supply system.
- Anderson Reservoir serves as a recreational boating and fishing resource. A minimum 40,000 AF storage level is necessary to allow these recreational activities. This option would preclude such activities under most water year scenarios.
- Operating Anderson Reservoir in a reduced storage manner may set a precedence, and communities downstream of other District dams may request similar operations to reduce the risk of flooding.

#### **Conclusions**

The analyses conducted to date on various reservoir operation options are summarized as follow:

- Operating Anderson Reservoir at a higher restriction (55 feet vs. 45 feet below the dam crest) will result in potential loss of about 2,500 AF in an average rainfall year. In very wet years, the dam spillway may still be activated and could discharge substantial flow volumes to Coyote Creek.
- Based on modeling performed to date, a pump-over system could significantly reduce the occurrence or magnitude of spillway discharges in very wet years. If approved, a pump-over system would cost between \$4 million and \$5 million every year. It may take one to two years to obtain the necessary permits to install and operate such a system.
- Reducing the storage level of Anderson Reservoir to its emergency pool level (20,000AF) at the beginning of the rainy season and proactively releasing stored runoff via the existing outlet pipe would significantly reduce the probability of spillway discharges in very wet years. However, water supply reliability may be compromised in years of average or low rainfall.

#### **ATTACHMENT(S):**

Attachment 1 – PowerPoint Presentation

# Short-term Flood Risk Reduction for Coyote Creek

## Reservoir Operations

Coyote Creek Flood Risk Reduction  
Ad Hoc Committee  
August 31, 2017





# Short-term Flood Risk Reduction Options

Means to reduce the risk and impact of floods in short term:

- Emergency Action Plan
- Reservoir Operation Options
- Creek Management
- Structural Repairs
- Flood Barriers



# Figure 1 – Watershed Map



# Anderson Reservoir

Dam built in 1950

90,353 Acre-Feet storage

Key water supply element

Ties into raw water system

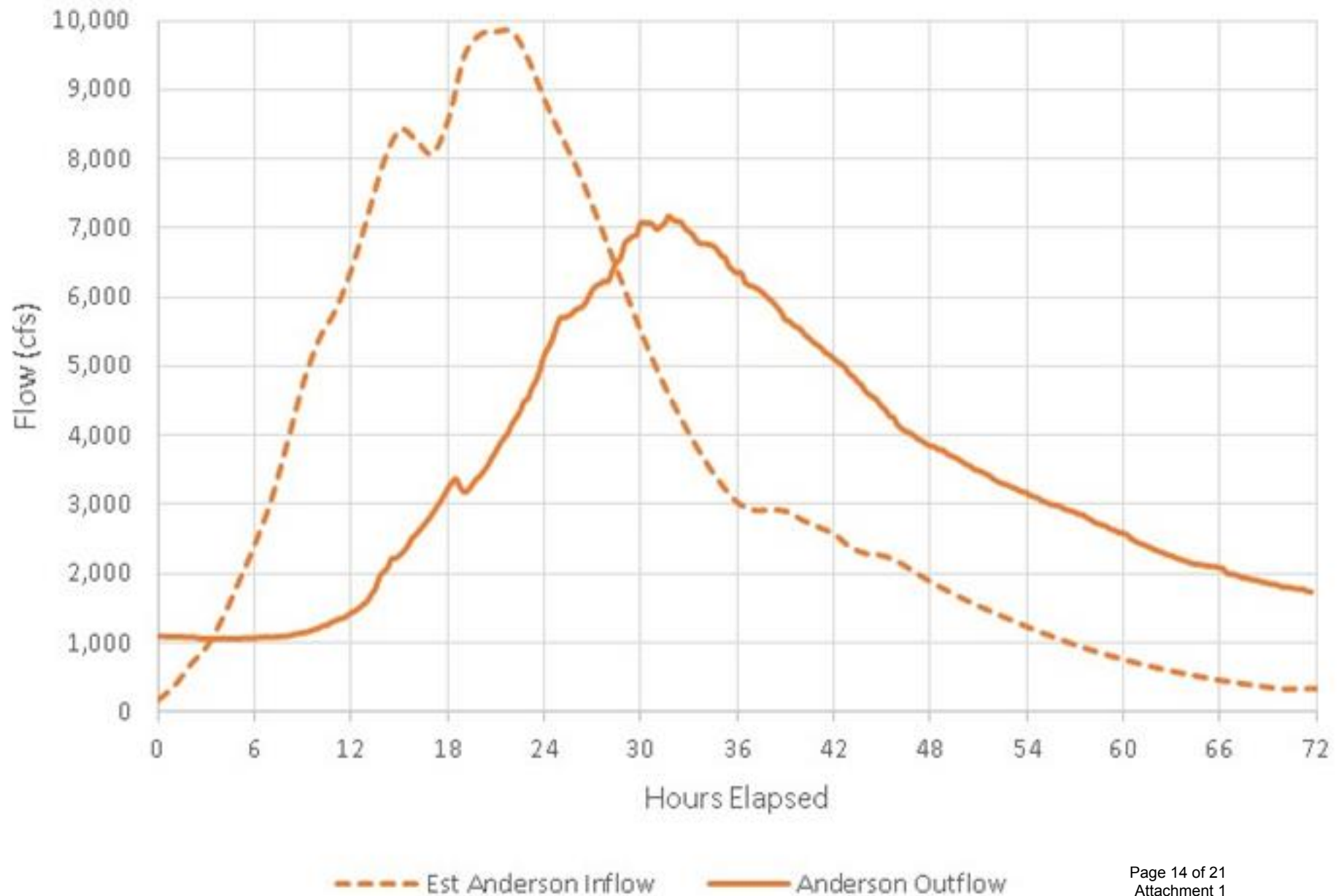
Emergency water source

Fisheries and recreation

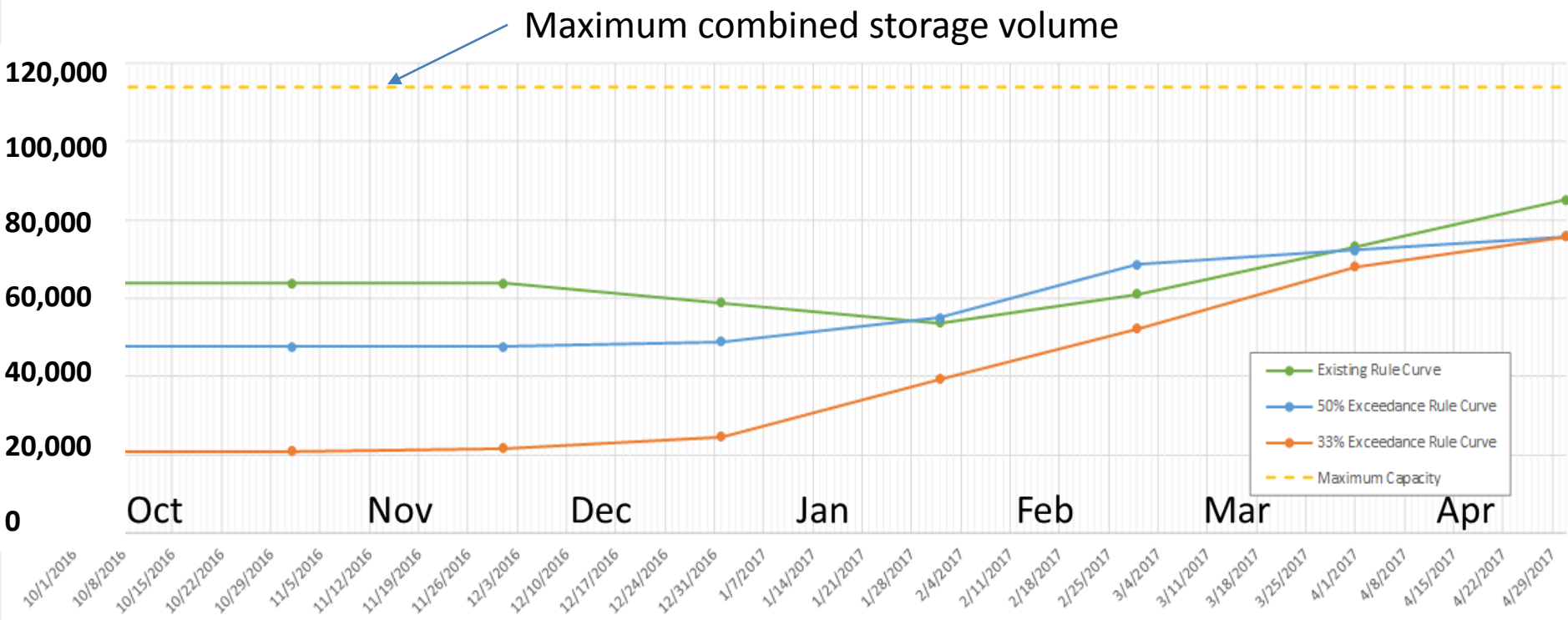
Incidental flood protection benefits






Figure 2 - February 21, 2017 Anderson Dam Flood Peak Reduction



# Figure 3 –Operational Rule Curves

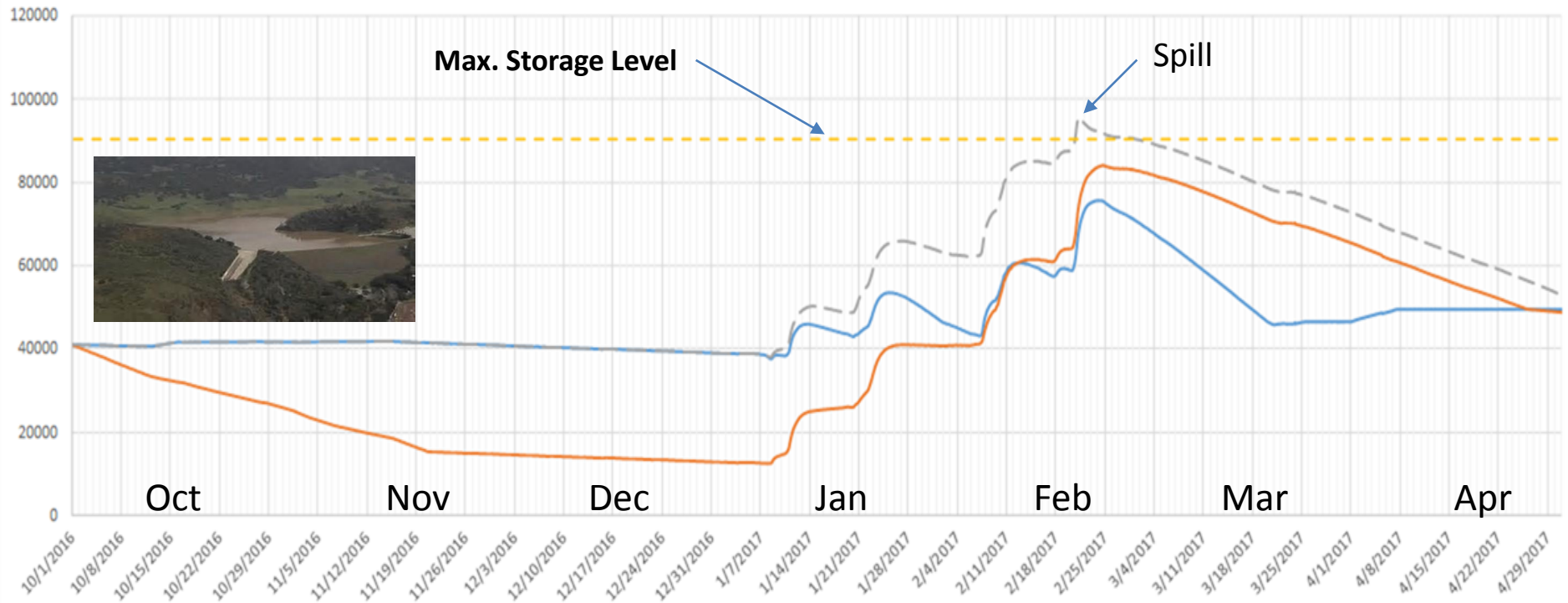


Note: this is a combined rule-curve for Anderson and Coyote

-  2016 – 2017 Operation Curve
-  Current Operation Curve with or without pumping
-  Reduced Storage Operation Curve



# Figure 4 – Wet Year (2017) Operation Alternatives



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**Anderson Storage Level Under Current Operation Curve no pump-over**

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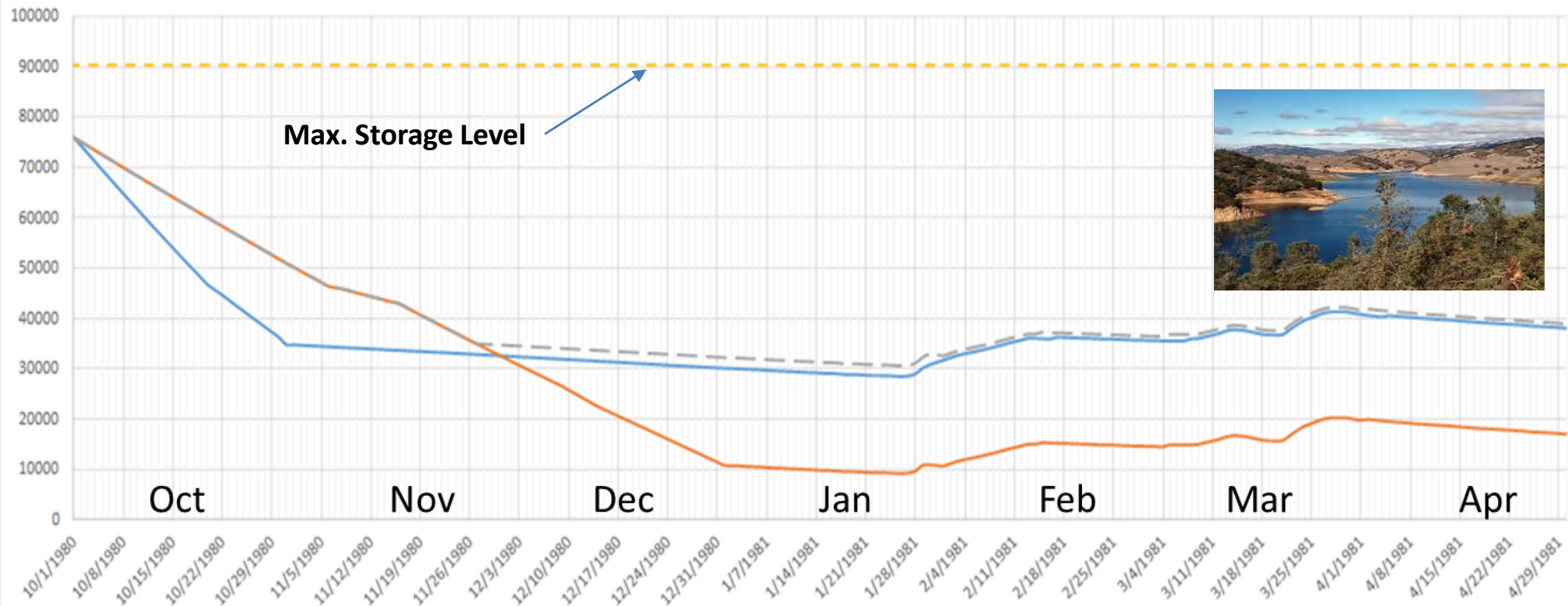
**Anderson Storage Level Under Current Operation Curve plus pump-over**

=====

**Anderson Storage Level Under Reduced Storage Operation Curve**



# Figure 5 – Average Rainfall Year (1981) Operation Alternatives



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**Anderson Storage Level Under Current Operation Curve no pump-over**

—————

**Anderson Storage Level Under Current Operation Curve plus pump-over**

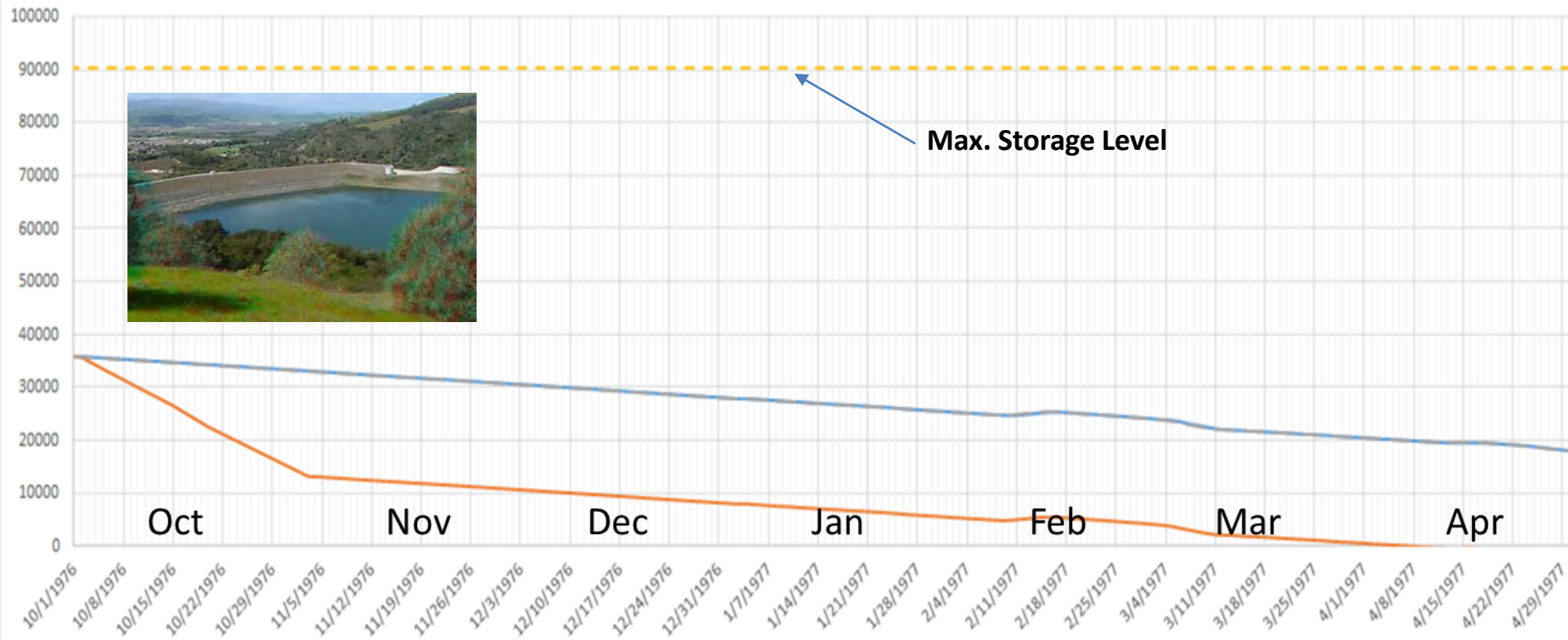
—————

**Anderson Storage Level Under Reduced Storage Operation Curve**

Santa Clara Valley  
Water District



# Figure 6 – Dry Year (1977) Operation Alternatives



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**Anderson Storage Level Under Current Operation Curve no pump-over**

—————

**Anderson Storage Level Under Current Operation Curve plus pump-over**

—————

**Anderson Storage Level Under Reduced Storage Operation Curve**

**Santa Clara Valley  
Water District**



# Flood Risk Reduction Summary

For a “wet” year such as 2016-17:

- Previous operation resulted in peak spill of approximately 7,000 cfs.
- Current operation plan would result in spill of approximately 5,700 cfs.
- Adding pump-over as proposed would eliminate spill.
- Operating at reduced storage would also eliminate spill.

For average winters and dry years, there would be no spill under any of the scenarios studied.



# Water Supply Impacts Summary

For a “wet” year such as 2016-17, there would be no water supply impact under any scenario studied.

For an “average” year, the scenarios studied indicate minor to significant water supply reliability impacts.

For a “dry” year, the reduced storage scenario would have water supply reliability impacts.



Committee:	Coyote Creek Flood Risk Reduction
Meeting Date:	08/31/17
Agenda Item No.:	5.2
Unclassified Manager:	Afshin Rouhani
Email:	<a href="mailto:arouhani@valleywater.org">arouhani@valleywater.org</a>
Est. Staff Time:	20 minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Identify Potential Future Short-Term Flood Risk Reduction Topics and Identify Committee Meeting Schedule to Review Identified Topics

**RECOMMENDED ACTION:**

- A. Discuss and identify potential future short-term flood risk reduction topics for Committee input and review; and
- B. Develop a Committee Meeting Schedule to review identified topics.

**SUMMARY:**

This items allows the Committee to identify additional short-term flood risk reduction topics for future Committee input and review, and allows the Committee to plan a meeting schedule for review of topics.

Once topics are identified, and a meeting schedule is developed, a Committee work plan can be created that allows for timely presentation of information.

**ATTACHMENT(S):**

None.





## AGENDA

### COYOTE CREEK FLOOD RISK REDUCTION AD HOC COMMITTEE MEETING

THURSDAY, OCTOBER 5, 2017

6:00 P.M.

ROOSEVELT COMMUNITY CENTER  
MULTI-PURPOSE ROOM  
901 E. SANTA CLARA STREET  
SAN JOSE, CA 95116

Time Certain 6:00 p.m.	1.	<b><u>Call to Order/Roll Call</u></b>
	2.	<b><u>Time Open for Public Comment on Any Item Not on the Agenda</u></b> <i>Comments should be limited to two minutes. If the Committee wishes to discuss a subject raised by the speaker, it can request placement on a future agenda.</i>
	3.	<b><u>Approval of Minutes</u></b> Approval of Minutes – August 31, 2017, meeting
	4.	<b><u>Action/Discussion Items</u></b> 4.1 Short-term Flood Risk Reduction for Coyote Creek – Reservoir Operations (Afshin Rouhani) <b>Recommendation: Receive information and provide direction to staff.</b>  4.2 Update on Joint City of San Jose and Santa Clara Valley Water District Emergency Action Plan for Severe Storms and Flood Response (Afshin Rouhani) <b>Recommendation: Receive information on the Emergency Action Plan (EAP) being jointly developed by the City of San Jose (City) and Santa Clara Valley Water District (District) and preparations for related Coyote Creek Community Resource Fairs, and provide feedback as needed.</b>  4.3 Review of Coyote Creek Flood Risk Reduction Ad Hoc Committee Work Plan, any Outcomes of Board Action or Committee Requests and the Committee's next meeting agenda (Committee Chair) <b>Recommendation: Review the Committee work plan to guide the Committee's discussions regarding policy alternatives and implications for Board deliberation.</b>
	5.	<b><u>Clerk Review and Clarification of Committee Requests and Recommendations</u></b> <i>This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during discussion of item 4</i>
	6.	<b><u>Adjourn</u></b>

REASONABLE EFFORTS TO ACCOMMODATE PERSONS WITH DISABILITIES WISHING TO ATTEND COMMITTEE MEETINGS WILL BE MADE. PLEASE ADVISE THE CLERK OF THE BOARD OFFICE OF ANY SPECIAL NEEDS BY CALLING (408) 630-2277.

Meetings of this committee will be conducted in compliance with all Brown Act requirements. 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 same time that the public records are distributed or made available to the legislative body, at the following location:

Santa Clara Valley Water District, Office of the Clerk of the Board  
5700 Almaden Expressway, San Jose, CA 95118

*COYOTE CREEK FLOOD RISK REDUCTION AD HOC COMMITTEE Purpose: Develop short-term/immediate solutions associated with the Coyote Creek flood event and project.*



Committee:	Coyote Creek Flood Risk Reduction
Meeting Date:	10/05/17
Agenda Item No.:	4.1
Unclassified Manager:	Afshin Rouhani
Email:	<a href="mailto:arouhani@valleywater.org">arouhani@valleywater.org</a>
Est. Staff Time:	15 minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Short-term Flood Risk Reduction for Coyote Creek – Reservoir Operations

### RECOMMENDED ACTION:

Receive information and provide direction to staff.

### SUMMARY:

This item is a continuation of the discussion at the August 31 Coyote Creek Ad Hoc Committee meeting. It provides additional information on Anderson Dam operation as a short-term flood risk reduction option for Coyote Creek, and for Committee discussion and direction to staff. These options are being considered for the remaining years until the Anderson Dam retrofit project is in construction phase.

The pump-over option would use a pumping system to increase the District's ability to release incoming flows to Anderson Reservoir over the spillway, and thereby retain more storage volume for potential extreme events. The alternative to pump-over would be to operate the reservoir at a reduced storage level. The reduced reservoir storage option would generally lower the operation rule curve and increase the available flood storage volume behind the dam during the winter season. Both options would reduce the risk of flooding for the downstream communities. However, the pump-over option has significant risks, costs, and will trigger a lengthy environmental review and permitting effort, and is unlikely to be implementable for at least the next four to five winters. The reduced reservoir storage option also has significant risks and costs, including a potential significant loss in water supply reliability. However, it is implementable for this coming winter and the next few years. Given current water supply conditions, it is recommended that staff be directed to operate the Anderson Reservoir system to reduce the risk of flooding along Coyote Creek while providing adequate water supply and balancing other beneficial uses.

### BACKGROUND:

The August 31, 2017, Ad Hoc Committee agenda memo (Attachment 1), describes the Coyote Creek system, including Anderson and Coyote Reservoirs. The current operation methodology, including the restrictions due to dam seismic concerns and the water supply, operational, habitat, and recreational benefits provided by the District's largest reservoir system were described. In addition, information was provided on the Coyote Creek flood hydrology, including the existing beneficial impacts of the reservoirs on downstream flood risk reduction. The following are the basic reservoir operation options available to reduce the risk of flooding downstream:

1. Installing pumps in the reservoir to increase releases of stored water and provide more storage volume for future runoff; or
2. Lowering the reservoir storage level significantly below the current seismic restriction before the winter season, and maintaining the lower level to provide more storage volume (with no pumps) through the winter season.

To determine the effectiveness of these two options, the flood peak reduction effect of each option was compared with the current operation plan for three scenarios: a dry year (1977 water year), an average year (1981 water year), and the 2017 water year. Preliminary costs and operational/water supply impacts were described for each concept (see Attachment 1 for details).

### ***New Analysis***

Based on input received at the August 31 meeting, staff conducted further research and analysis of the reservoir operation flood risk reduction options. Two areas of analysis were (1) more detailed analysis of the pump-over option's CEQA and permitting issues to determine whether it could be implemented in a timely manner and (2) further research and analysis of operation rule curve options to optimize flood risk reduction versus water supply reliability impact.

#### **1) CEQA/Permitting Analysis of Pump-Over Option**

Based on discussion with experienced District environmental staff, environmental review and permitting for the pump-over option would reasonably take four to five years. The system would first have to be designed with adequate detail to permit environmental review, which would require a consultant contract as that expertise does not reside at the District. Environmental review and preparation of the appropriate CEQA document would likely take one to two years to complete. Again, a consultant would likely prepare the document due to staff constraints. Individual project permits would be required; and, based on recent similar project experience, permitting with the regulatory agencies can be reasonably expected to take at two to three years to complete.

#### **2) Additional Analysis of Reduced Storage Alternatives**

These options increase the storage volume available in the reservoir during the winter season by adhering to a lower reservoir operation rule curve. The reservoir would be lowered to a reduced storage at the start of the season, and would be managed at a lower curve until later in the season in order to leave additional room for potential extreme rain events. Typically, these rule curves are implemented and identified based on the probability of the storage level exceeding the target at the end of the season. For example, the 40% probability rule curve is an operation curve where there would be a 40% chance that the storage would exceed the target; and a 60% chance that the storage in the reservoir would be below the target at the end of the season.

A series of operation rule curves were considered ranging from 33% up to 50%. The lower the curve, the lower the storage in the reservoir and the smaller the probability that the reservoir would go over the seismic restriction level or fill. To evaluate the effect of each of these operational scenarios, considerations should also include its potential impact to water supply, water reliability, and, other beneficial uses such as environmental releases, recreation, and any other items within the operational constraints of the system.

Staff analyzed each rule curve for its efficacy in reducing reservoir spill events and for potential water supply impacts. Attachment 2 shows how the various rule curves would have reduced the spill events at Anderson Dam for the three highest spill event years since the dam was built (1982-83; 1997-98; and 2016-17). A summary of the results is shown below:

Year End Target Exceedance Probability	Max Spillway Flow in cfs (Appx)		
	2016 - 2017	1982-1983	1996-1997
33%	0	2,500	0
38%	900	2,700	0
40%	1,300	3,000	0
45%	4,300	4,400	0
50%	5,700	4,600	0

Note that the effectiveness of the reduced storage option depends in part on the type of rainfall year experienced. Intense but infrequent rain years like 1997-98 are controlled much better than continuous rainfall years like 1982-83.

In terms of the water supply impact, the average annual water supply impact of operating at the revised rule curves was preliminarily estimated as follows:

Exceedance Probability	Est. Average Annual Water Supply Impact (AF)
33%	10,900
38%	8,000
40%	6,700
45%	4,200
50%	3,600

The water supply impact represents the amount of water that would be released from the reservoir and not captured in order to stay at the specified rule curve. In addition to looking at the water supply impact, it is also critical to look at water supply reliability. Reliability can be viewed as having the water available when it is needed. In the event that the District's Central Valley Project (CVP) water cannot be brought in from San Luis Reservoir, either due to facility outages or water quality issues that make the water untreatable (San Luis Low Point). Anderson Reservoir is the primary backup supply to provide water to the treatment plants, recharge facilities, surface water users, and streams. When reservoir levels are low, that reliability is reduced. Low reservoir levels can also reduce the cold water pool available for fisheries releases in the summer and impact recreational use of the reservoir.

Following several years of drought, the 2017 winter season helped restore groundwater levels to near pre-drought conditions. In addition, imported water allocations provided ample supplies to allow water to be banked in Semitropic, and still allow some supplies to be carried over into 2018. Given our current water supply projections, staff believes that storage levels in Anderson can be lowered to reduce the likelihood of exceeding the reservoir seismic storage restriction levels, which also reduces the flood risk potential.

However, in a dry year, the low storage levels in the reservoir could continue to drop due to a lack of winter inflow. In this case, environmental releases and recreation would likely be impacted. Once the threat of major storms has passed, typically in March, it may be possible to pump imported water into Anderson Dam to increase the cold water pool depending on water supplies and water temperatures.

## **Conclusions**

The analyses conducted to date on various reservoir operation options are summarized as follow:

- Based on modeling performed to date, a pump-over system could significantly reduce the occurrence and magnitude of spillway discharges in very wet years. If approved, a pump-over system would cost between \$4 million and \$5 million every year. It is very likely to take four to five years to conduct the design and environmental clearance and obtain the necessary permits to install and operate such a system.
- Operating Anderson Reservoir at reduced storage levels via the existing outlet pipe would significantly reduce the probability and magnitude of spillway discharges in very wet years. However, water supply reliability may be compromised in years of average or low rainfall.
- Therefore, it is recommended that staff be directed to operate the Anderson Reservoir system to reduce the risk of flooding along Coyote Creek while providing adequate water supply and balancing other beneficial uses.

## **ATTACHMENT(S):**

Attachment 1 – August 31, 2017, Coyote Creek Ad Hoc Committee Meeting Agenda Materials  
Attachment 2 – PowerPoint Presentation



# Short-term Flood Risk Reduction for Coyote Creek

## Reservoir Operations

Coyote Creek Flood Risk Reduction  
Ad Hoc Committee  
October 5, 2017



# Watershed Map



# Anderson Reservoir

Dam built in 1950

90,353 Acre-Feet storage

Key water supply element

Ties into raw water system

Emergency water source

Fisheries and recreation

Incidental flood protection benefits



# Aug 31 Flood Risk Reduction Summary

For a “wet” year such as 2016-17:

- Previous operation resulted in peak spill of approximately 7,000 cfs.
- Adding pump-over as proposed could eliminate spill under same conditions.
- Operating at reduced storage could also eliminate spill under same conditions.

For average winters and dry years, there would be no spill under any of the scenarios studied.

# Aug 31 Water Supply Impacts Summary

For a “wet” year such as 2016-17, there would be no water supply impact under any scenario studied.

For an “average” year, the scenarios studied indicate minor to significant water supply reliability impacts.

For a “dry” year, the reduced storage scenario would have water supply reliability impacts.

# New Analysis

- Pump-over scenario: environmental clearance and permitting investigation.
- Reduced storage scenario: more detailed investigation of options.



# Pump-over CEQA and Permitting

Project would need to be fully designed first.

1 to 2-Year CEQA timeline *after* project is fully designed.

- Based on similar impact District projects

2 to 3-Year permitting timeline.

- Based on similar project timelines
- Assumes DSOD and FERC permits at same time as environmental permits

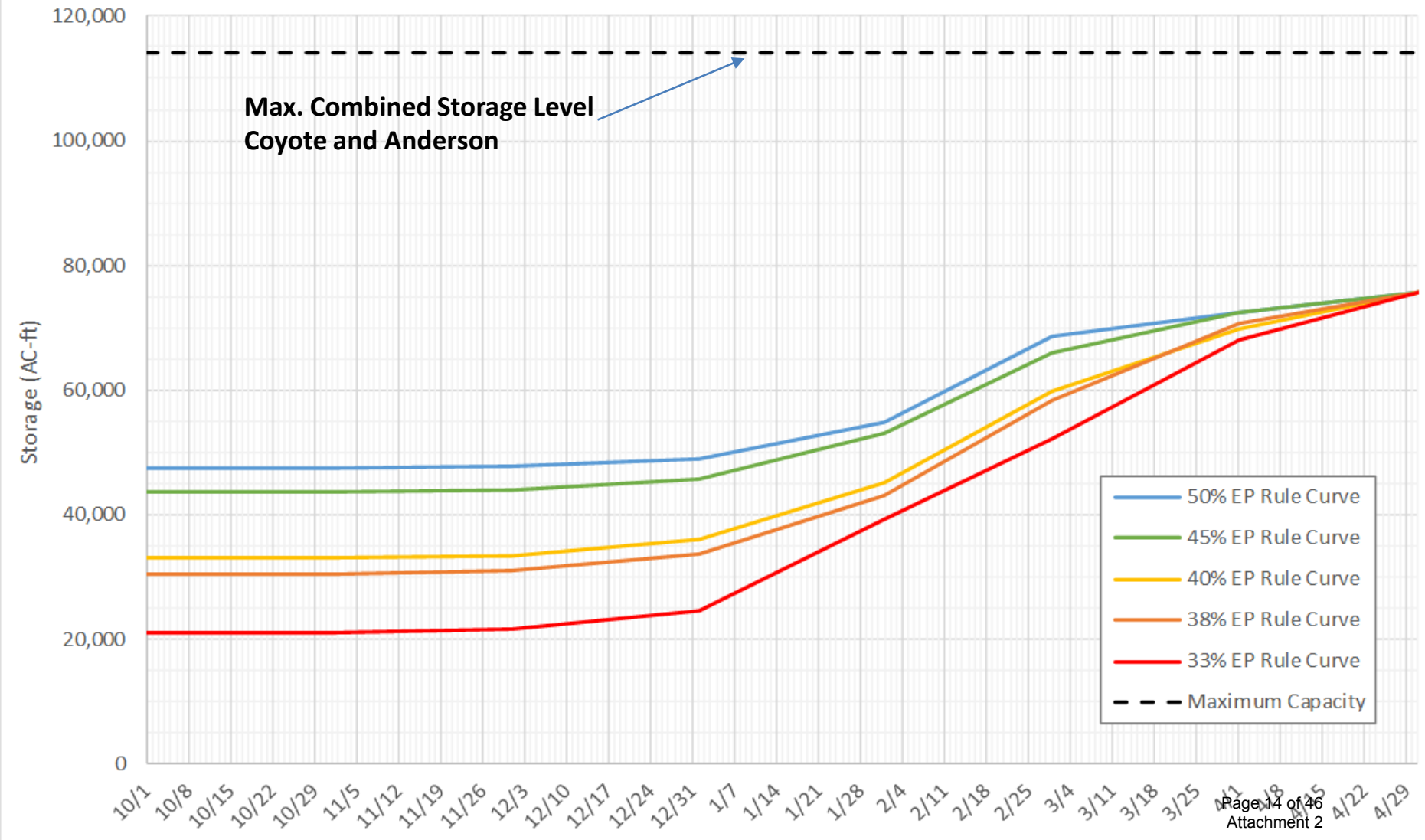
Would need to negotiate and lease pump system for implementation.

Emergency permitting would not apply.

No pumping until 2021-22.

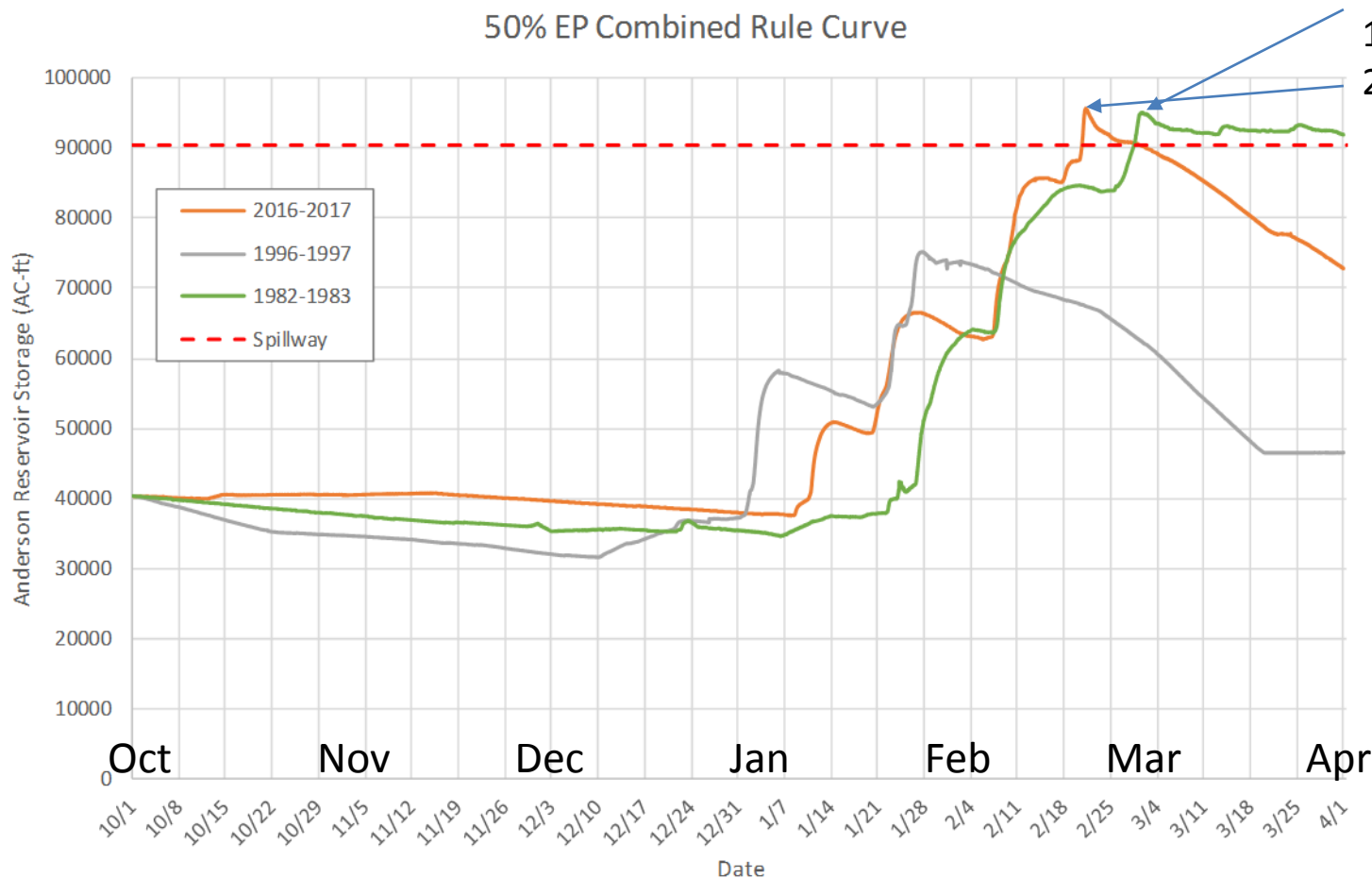
# Reduced Storage Scenarios

Anderson & Coyote Combined Storage Rule Curves



# Reduced Storage Alternatives – 50%

Max. Spill:  
1982: 4,800 cfs  
1997: 0  
2017: 5,900 cfs



# Reduced Storage Alternatives – 45%

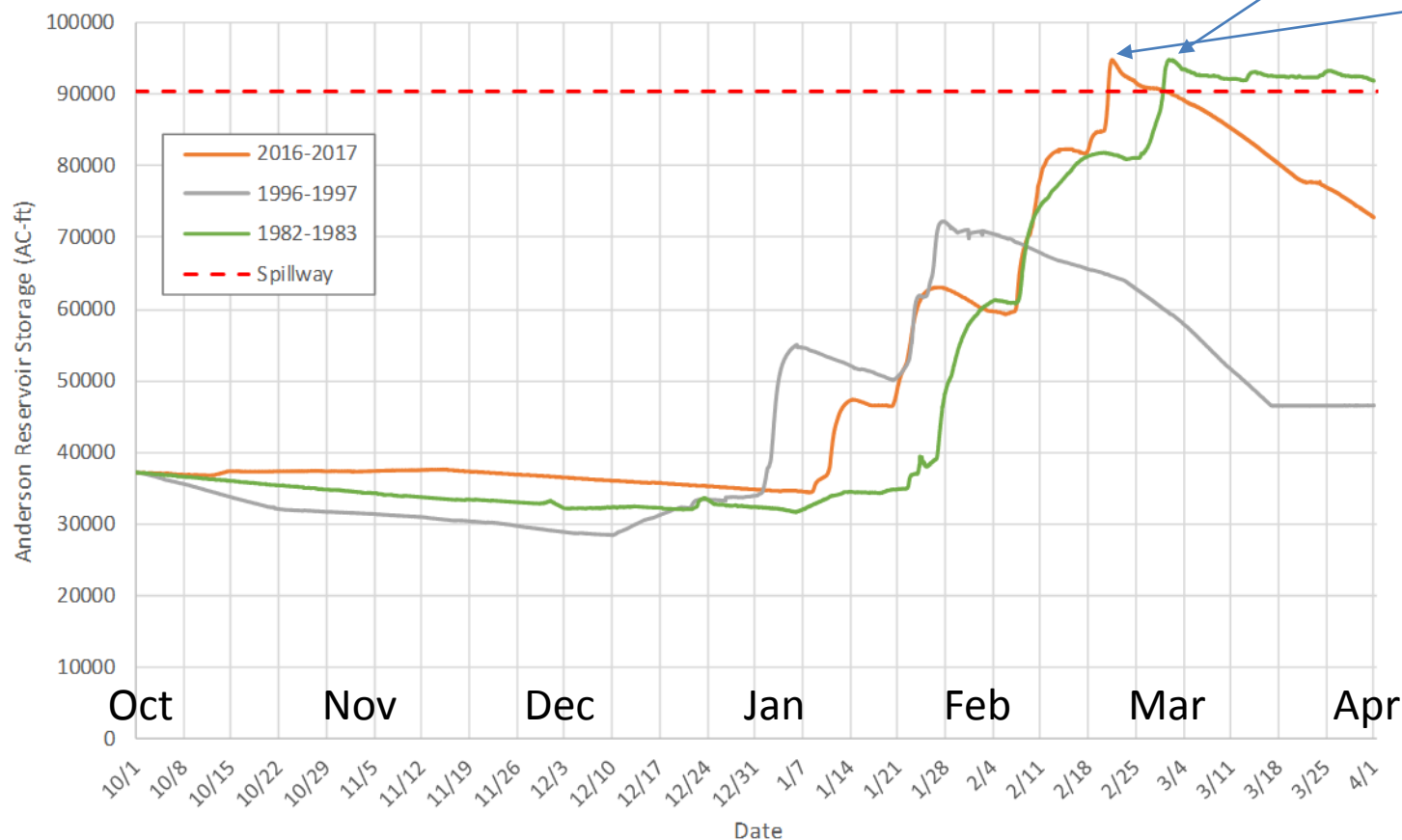
Max. Spill:

1982: 4,700 cfs

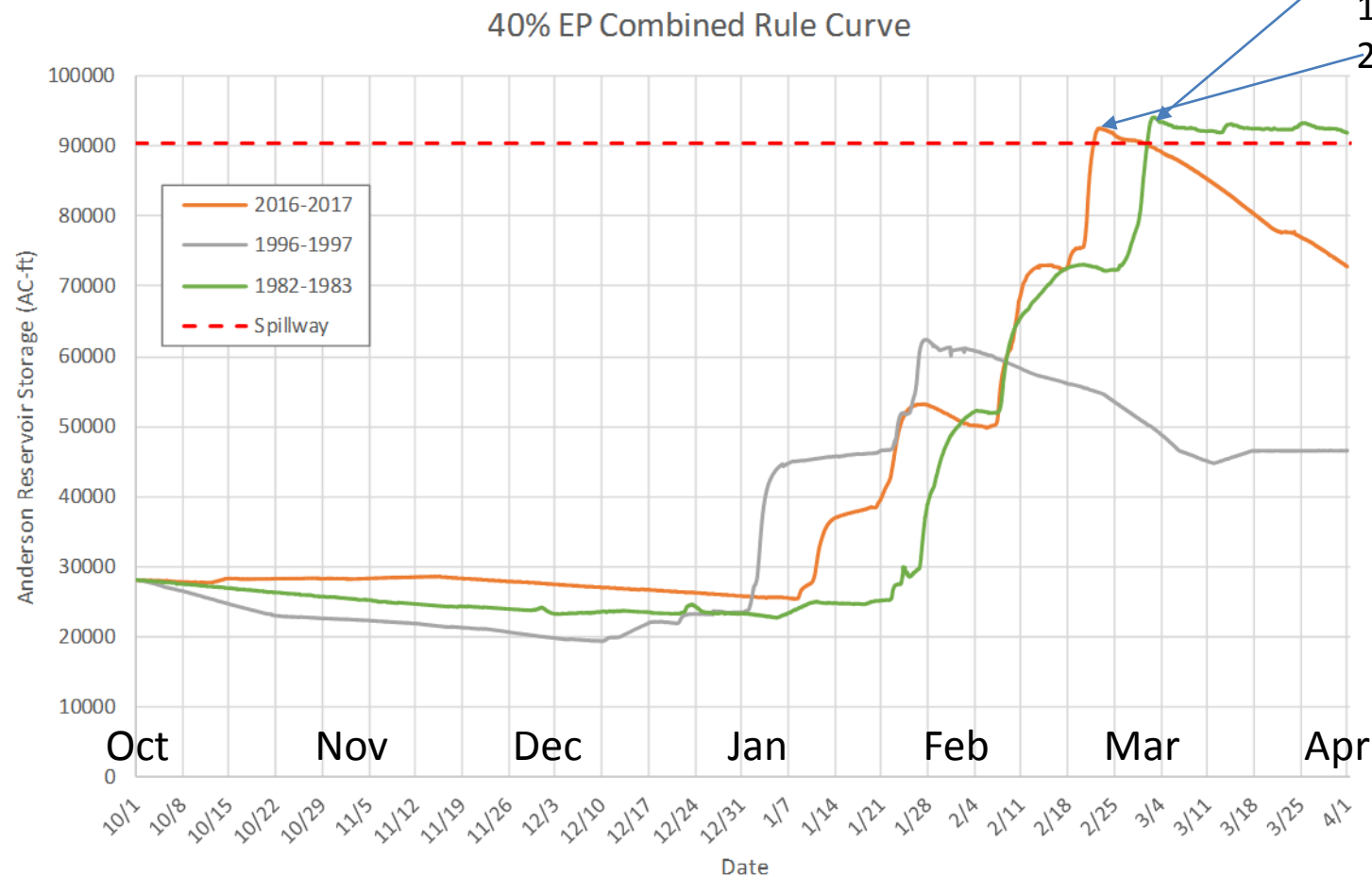
1997: 0

2017: 4,500 cfs

45% EP Combined Rule Curve



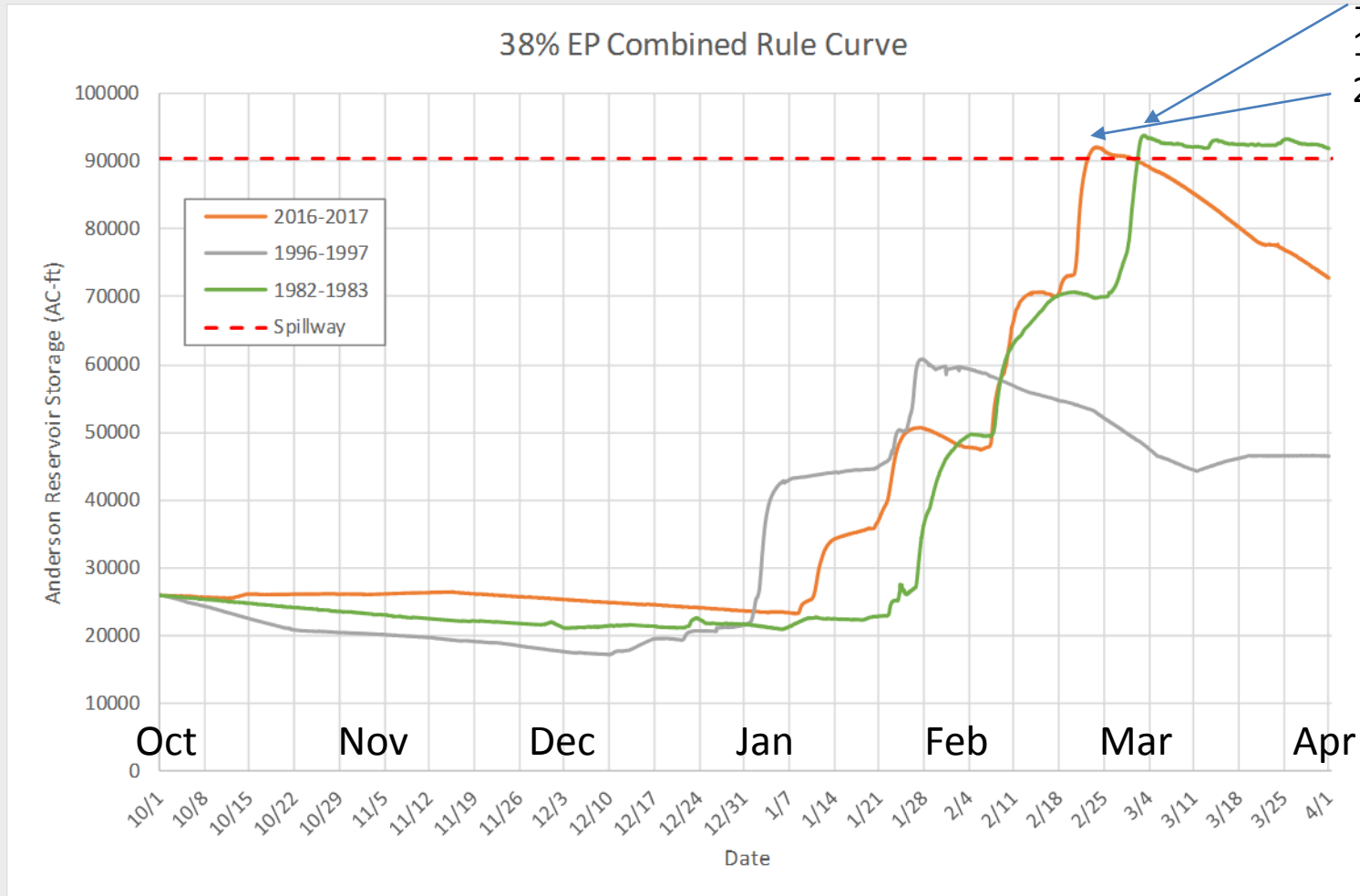
# Reduced Storage Alternatives – 40%



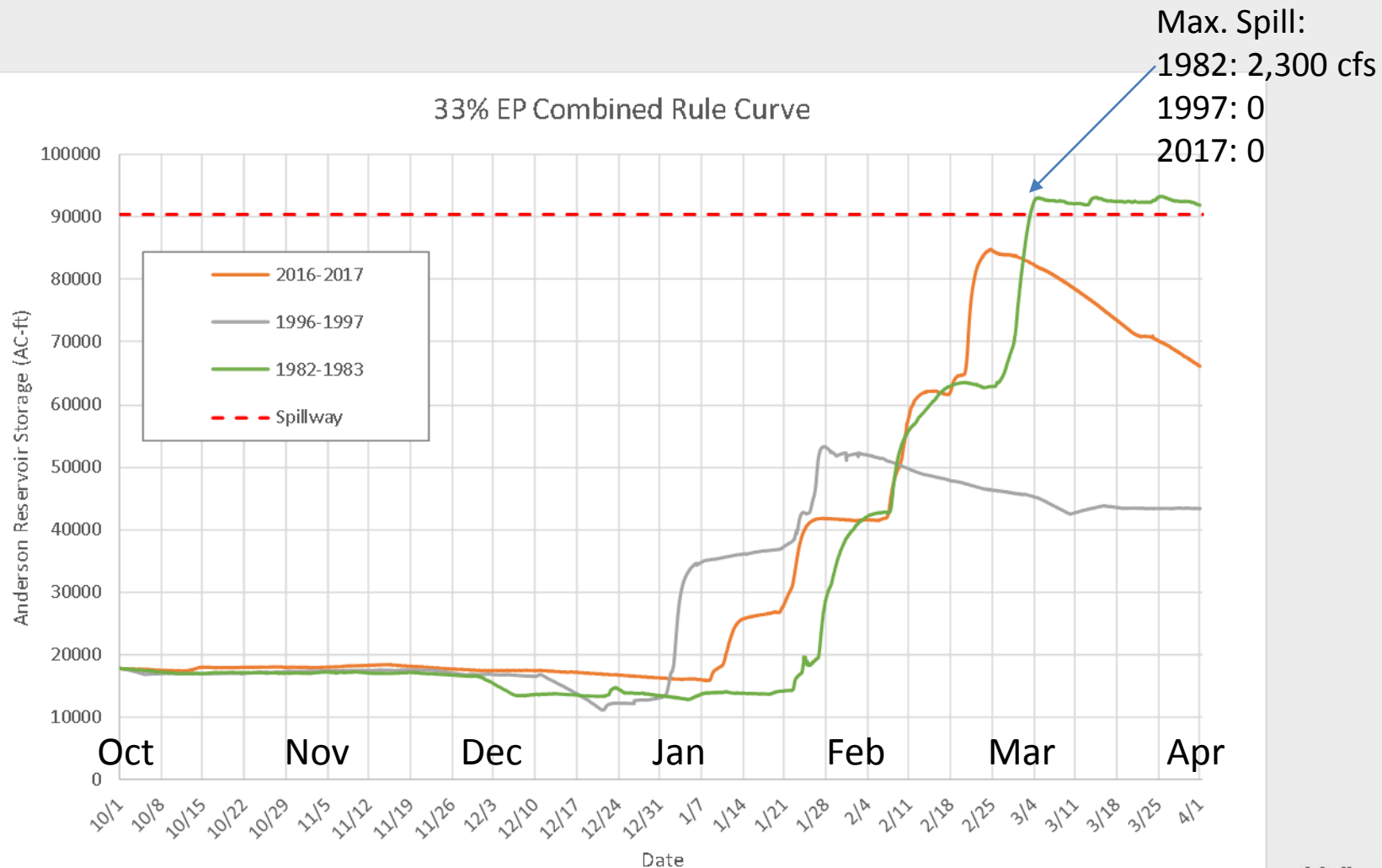
Max. Spill:  
1982: 3,300 cfs  
1997: 0  
2017: 1,400 cfs

# Reduced Storage Alternatives – 38%

Max. Spill:  
1982: 3,000 cfs  
1997: 0  
2017: 1,000 cfs



# Reduced Storage Alternatives – 33%





# Summary Operation Options Spill Impacts

Proposed Rule Curves  Year End Target Exceedance Probability	Max Spillway Flow in cfs (Appx)		
	2016 - 2017	1982-1983	1996-1997
33%	0	2,300	0
38%	1,000	3,000	0
40%	1,400	3,300	0
45%	4,500	4,700	0
50%	5,900	4,800	0

- Minor flooding starts at flows as low as 1000-2000 cfs.
- Widespread flooding of residential areas starts at 5000 - 6000 cfs, depending on creek conditions.

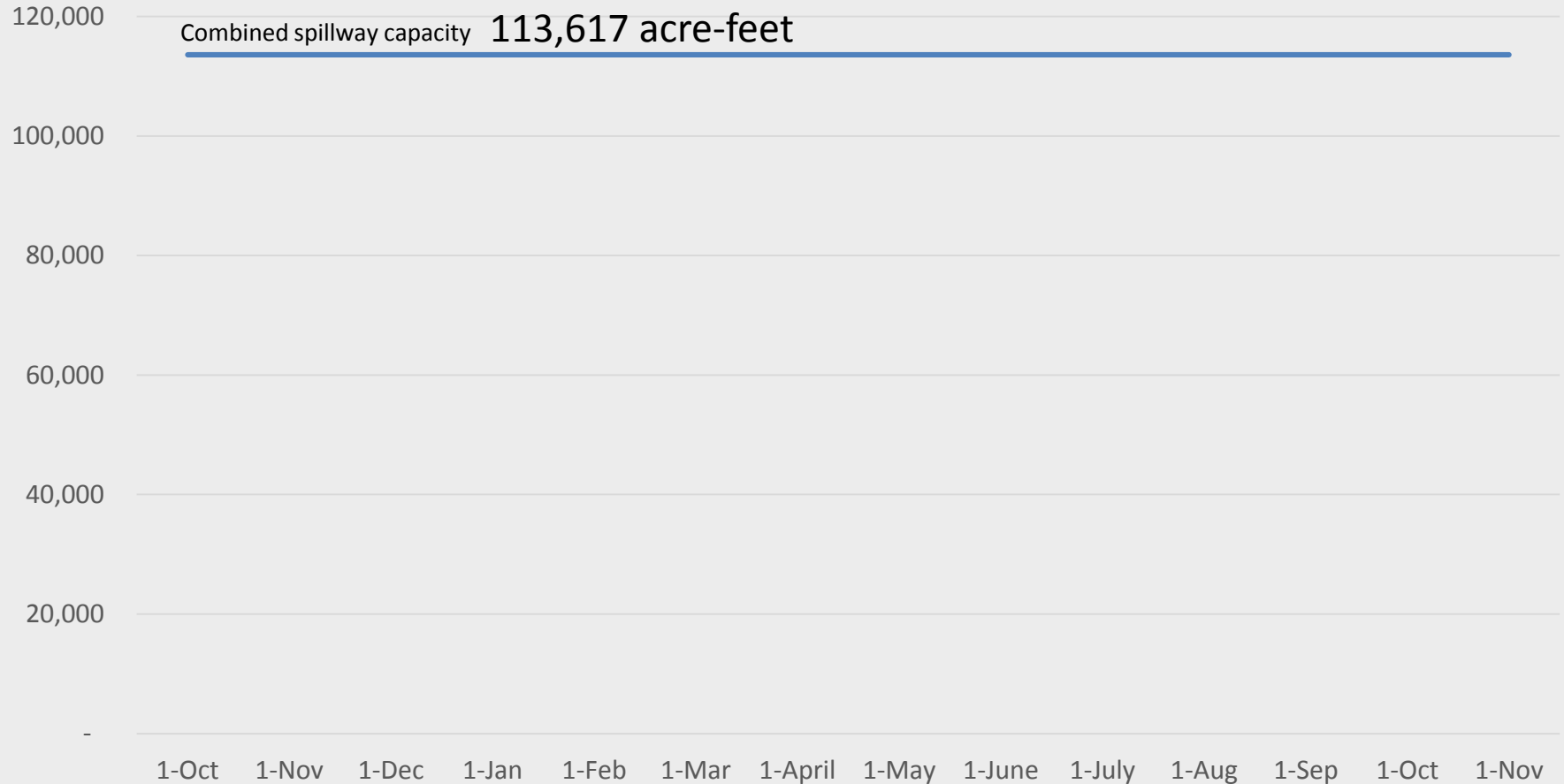
# Other Operational Factors

The operation of the Anderson system is a balance of many factors:

- Flood risk reduction
- Water supply
- Supply reliability
- Environmental releases
- Recreation
- Operational constraints

# Proposed Reservoir Operations

## Combined Anderson & Coyote Storage

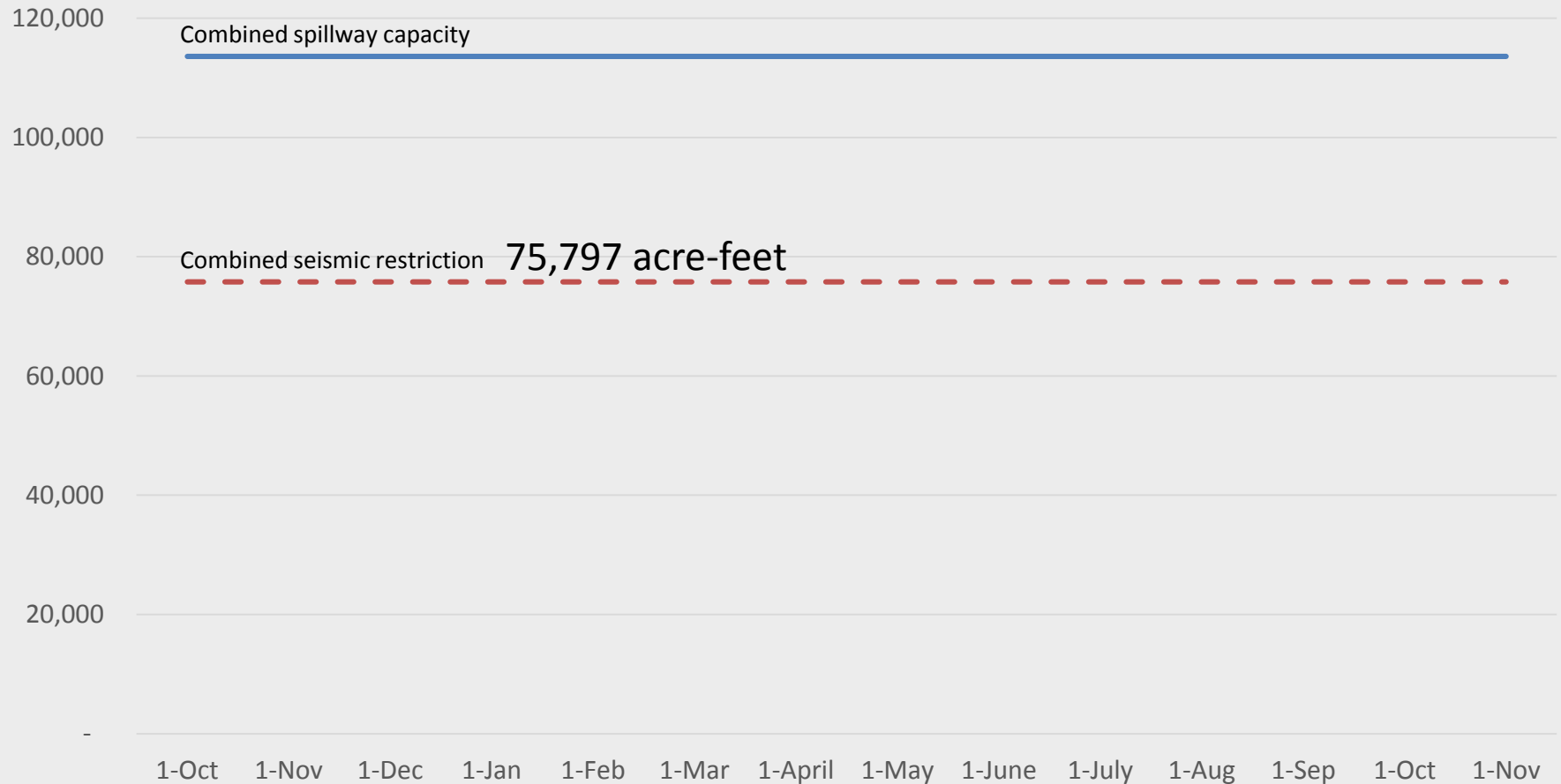


— Spillway



# Proposed Reservoir Operations

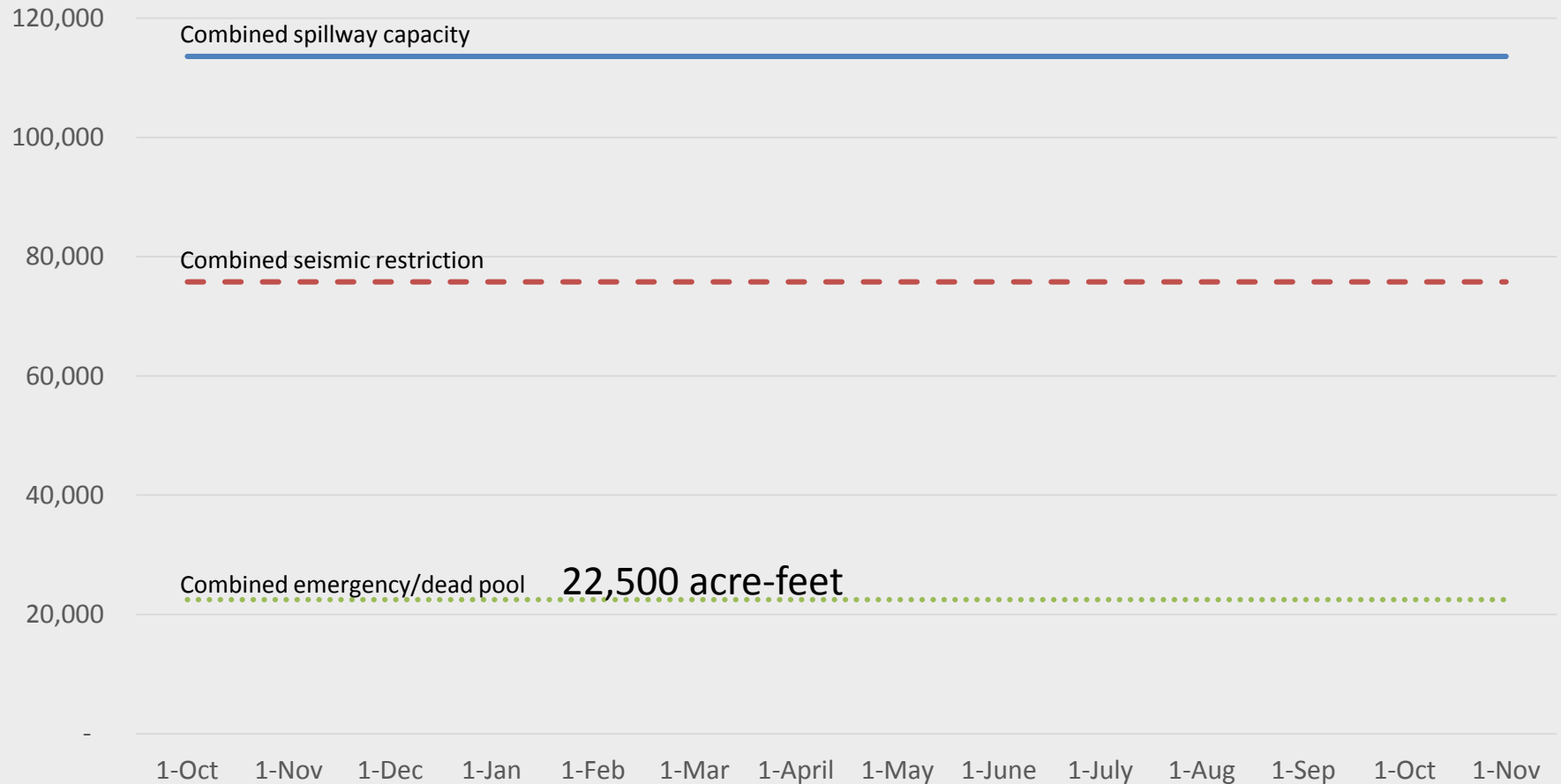
## Combined Anderson & Coyote Storage



— Spillway    - - Seismic Restriction

# Proposed Reservoir Operations

## Combined Anderson & Coyote Storage

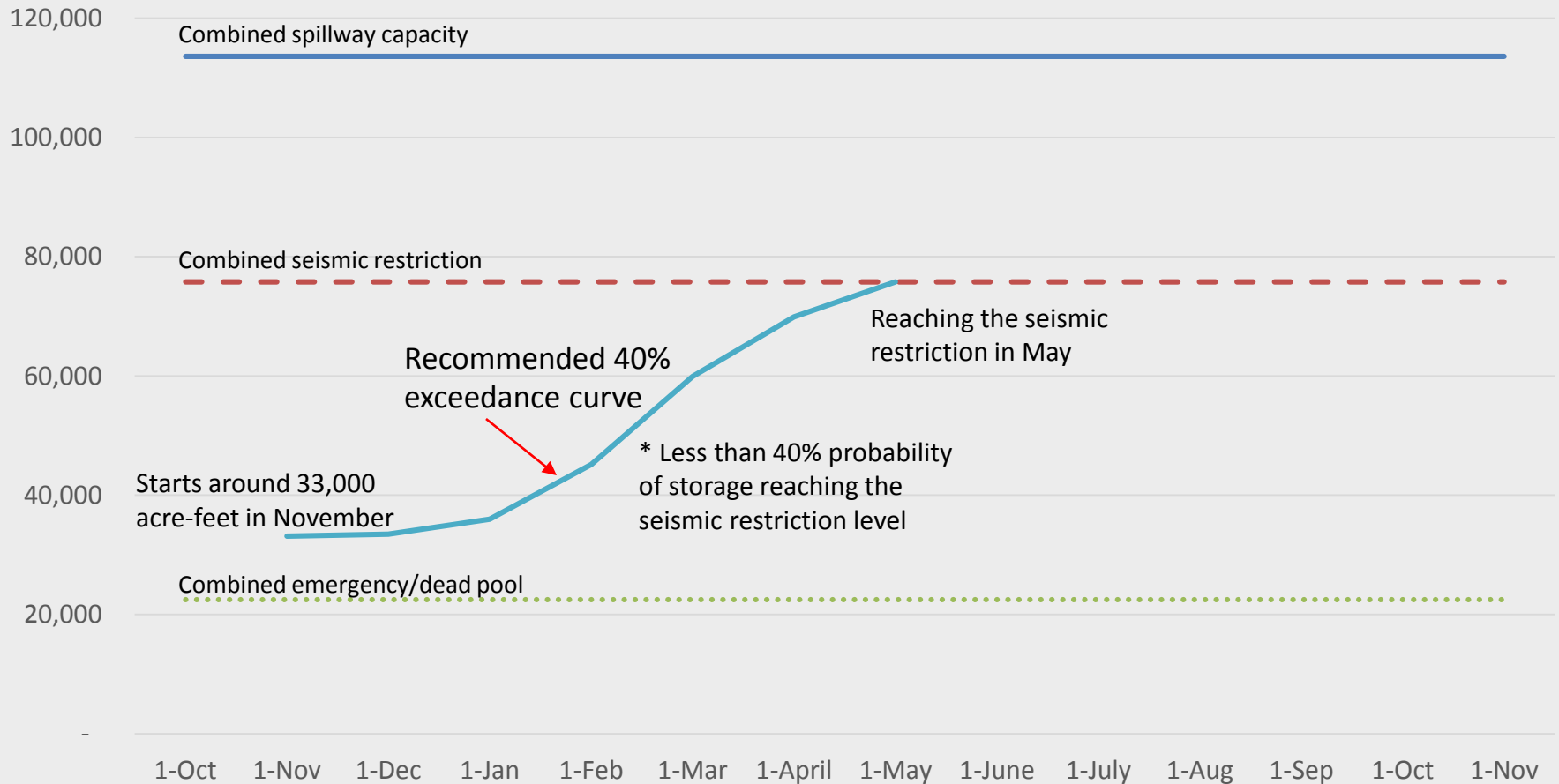


— Spillway    - - Seismic Restriction    ..... Emergency



# Proposed Reservoir Operations

## Combined Anderson & Coyote Storage

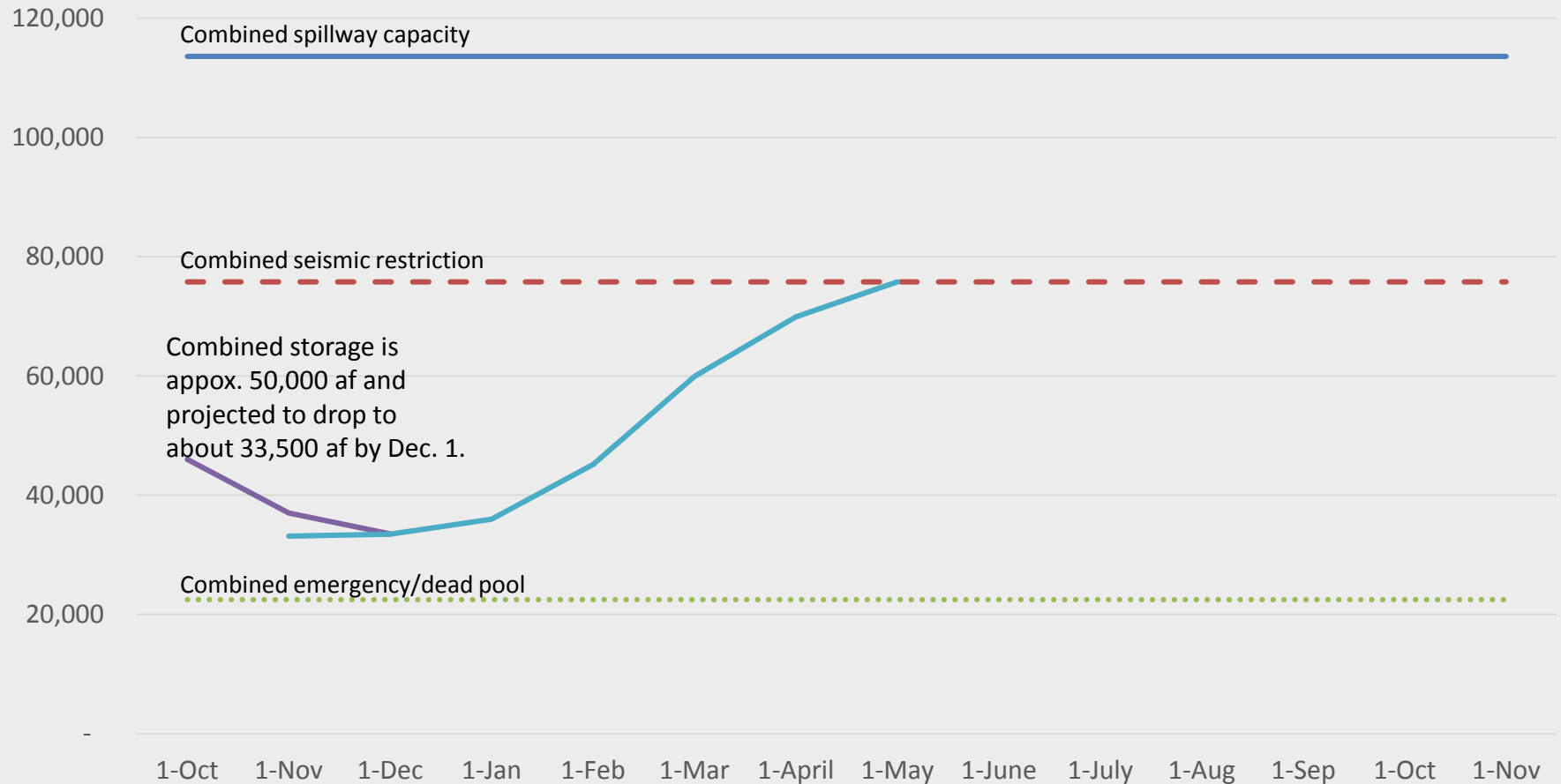


— Spillway    - - Seismic Restriction    ..... Emergency    — 40% Rule Curve



# Proposed Reservoir Operations

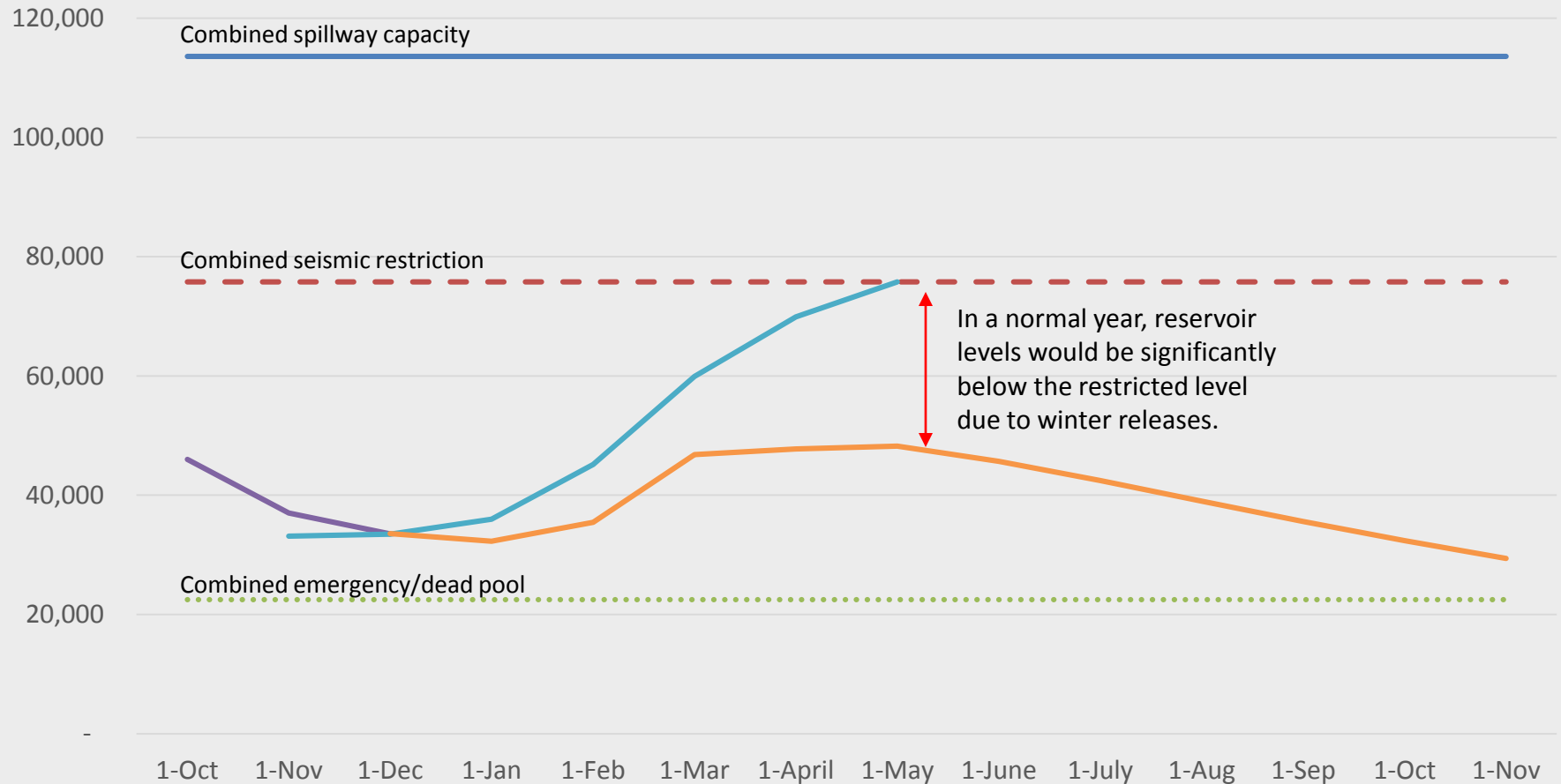
## Combined Anderson & Coyote Storage





# Proposed Reservoir Operations

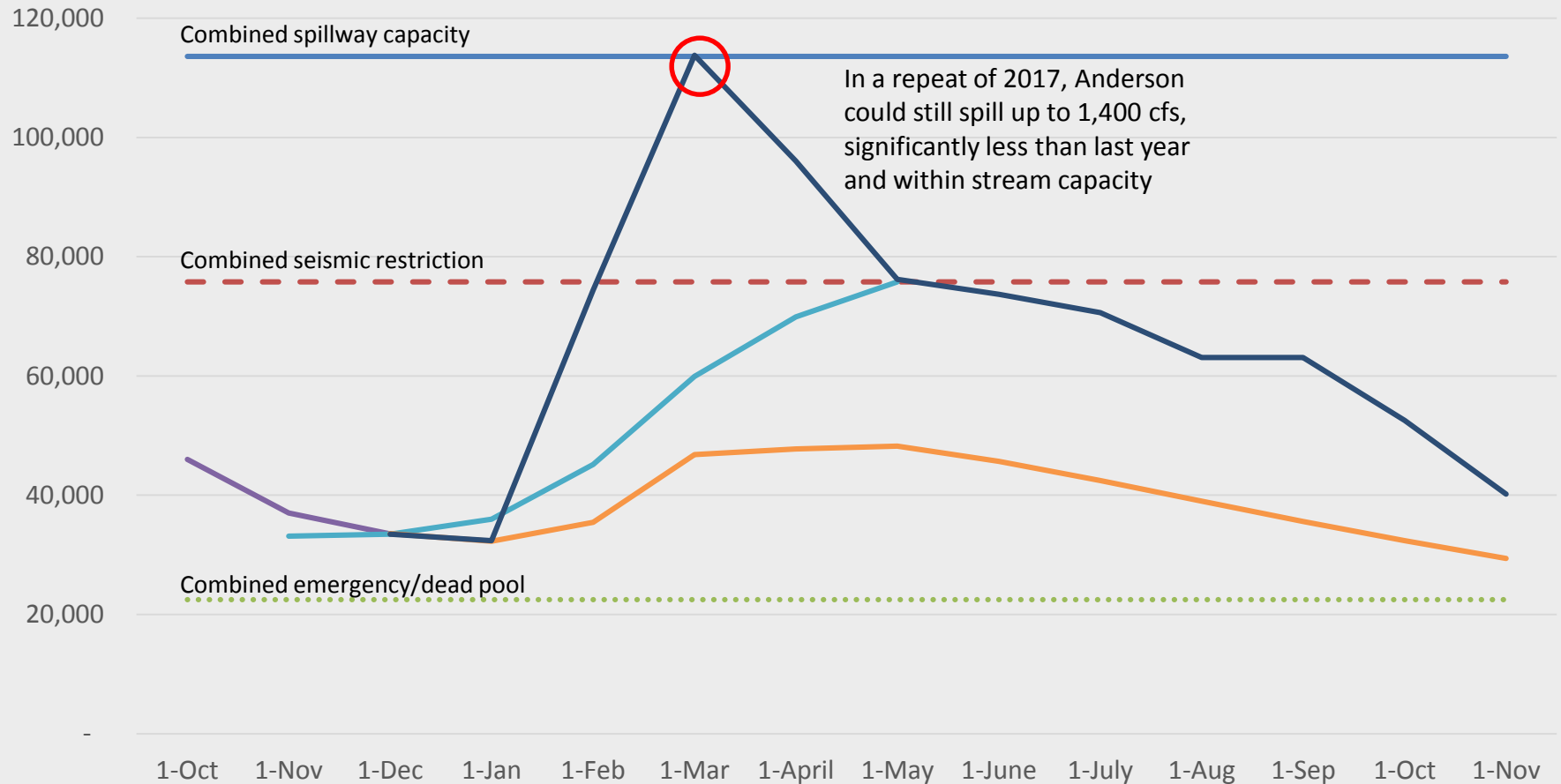
## Combined Anderson & Coyote Storage



In a normal year, reservoir levels would be significantly below the restricted level due to winter releases.

# Proposed Reservoir Operations

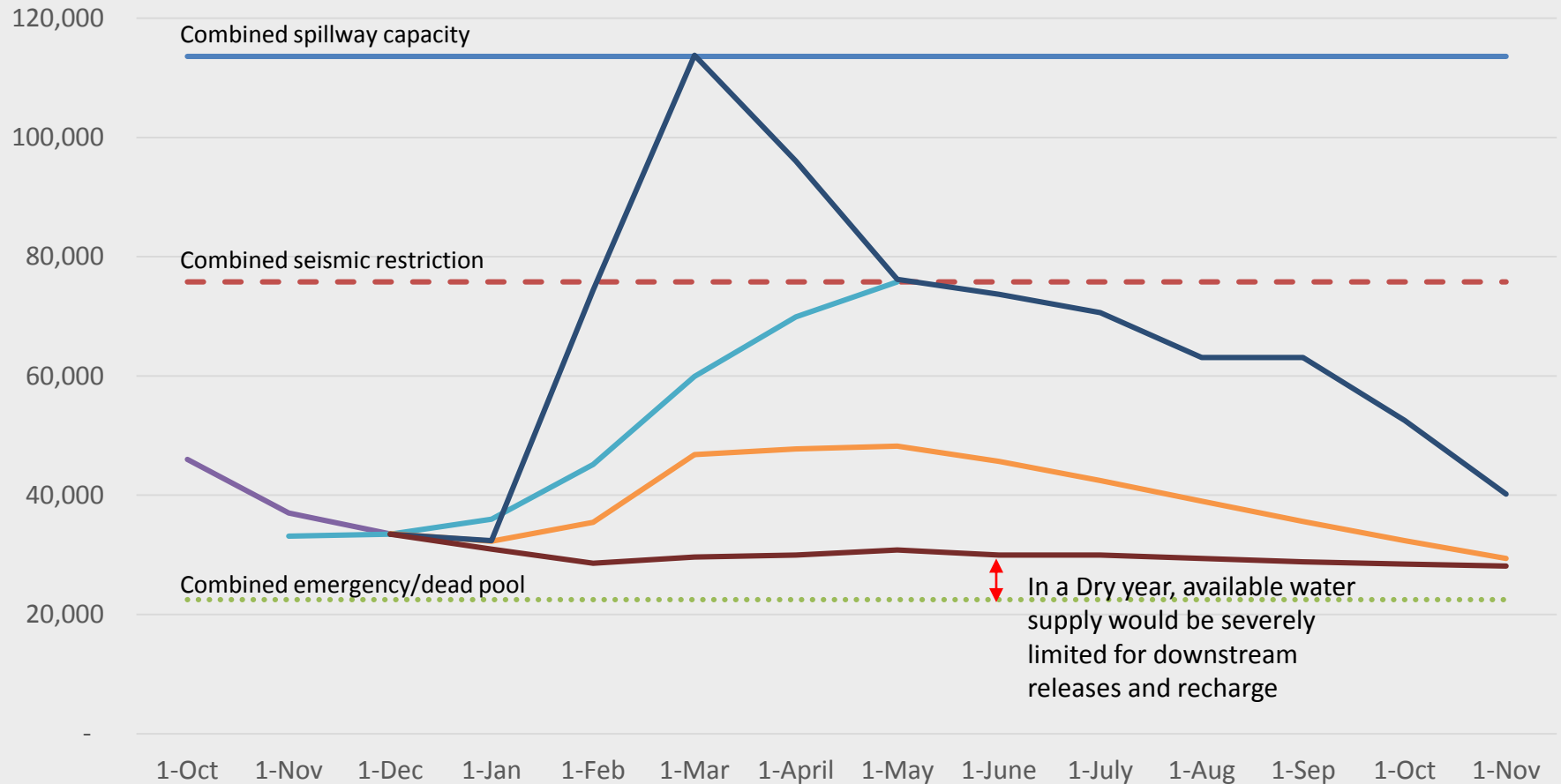
## Combined Anderson & Coyote Storage



— Spillway — Seismic Restriction ..... Emergency — Planned Ops  
— 40% Rule Curve — Average — 2017

# Proposed Reservoir Operations

## Combined Anderson & Coyote Storage

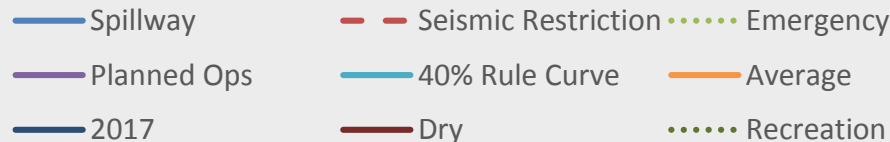
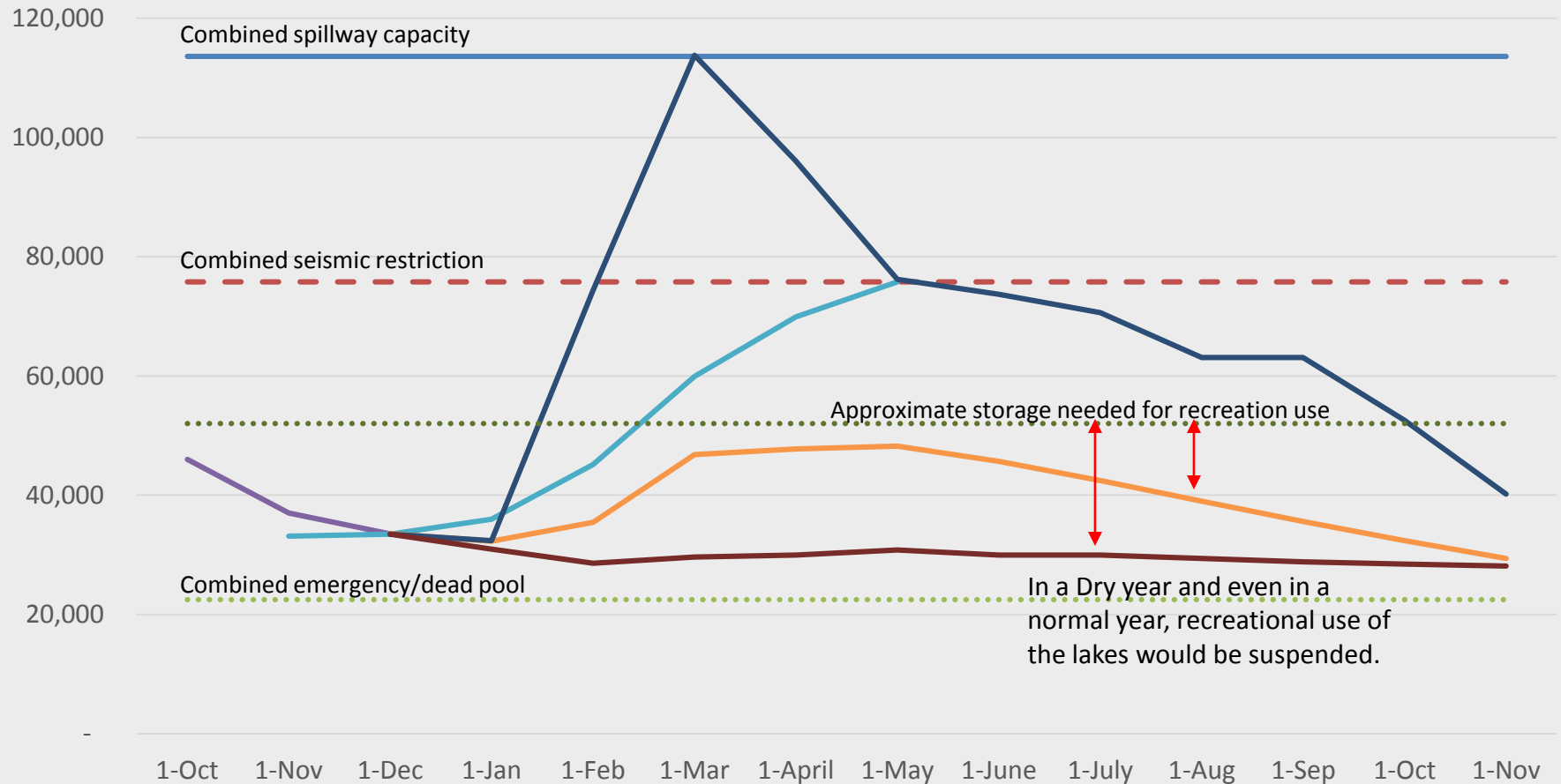


In a Dry year, available water supply would be severely limited for downstream releases and recharge

- Spillway
- Seismic Restriction
- Emergency
- Planned Ops
- 40% Rule Curve
- Average
- 2017
- Dry

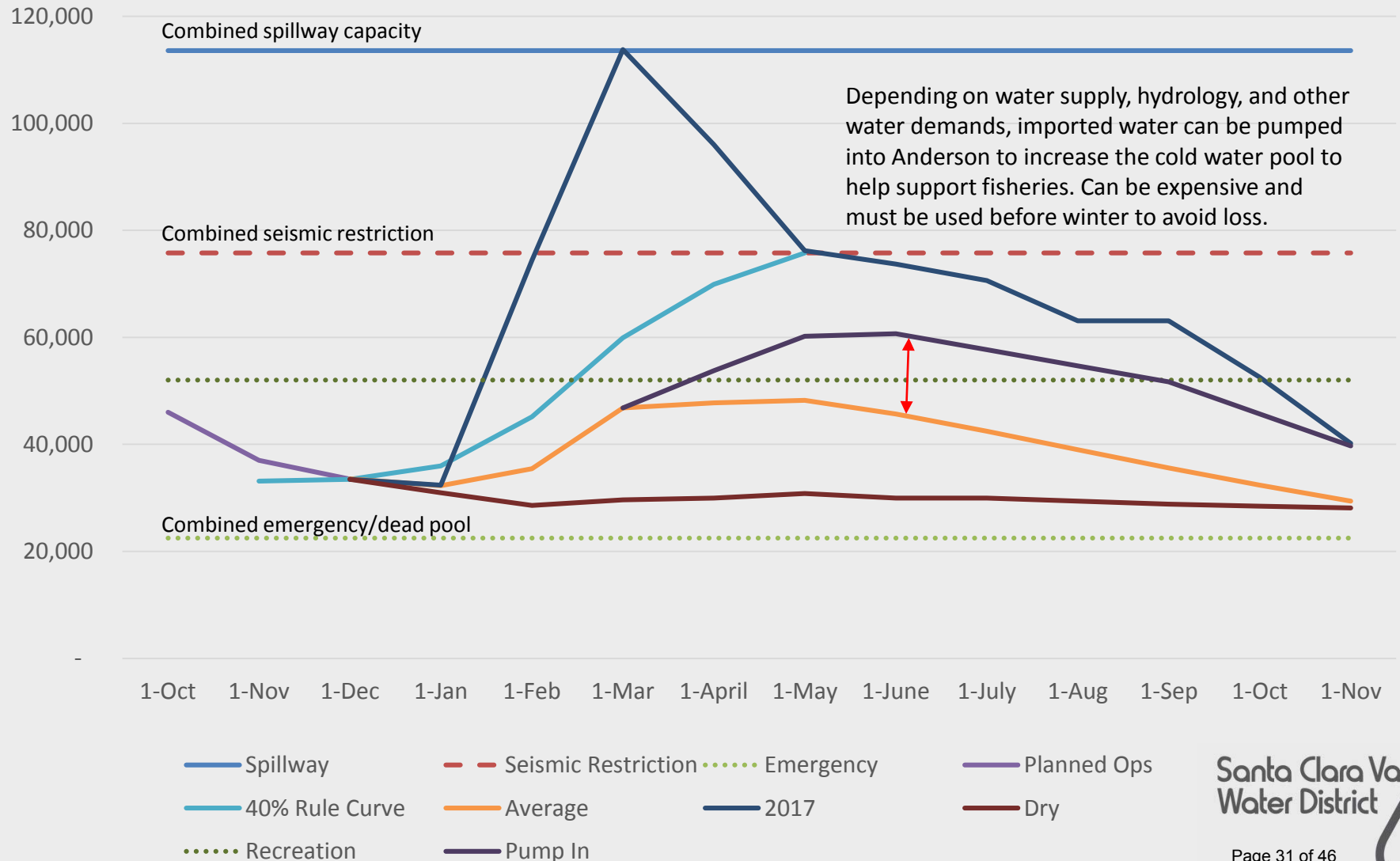
# Proposed Reservoir Operations

## Combined Anderson & Coyote Storage



# Proposed Reservoir Operations

## Combined Anderson & Coyote Storage



## Potential Operational Impacts of a 40% Exceedance Curve

- Less than 40% probability of exceeding seismic restriction.
- Reservoir spilling of up to 1,400 cfs in a repeat of 2017 storms.
- Suspended recreation with normal or below normal rainfall.
- Limited cold water pool for fisheries releases.

# Recommendation

Based on the District's current water supply projection, direct staff to operate the Anderson Reservoir system in 2017/18 to:

- Reduce the risk of flood events along Coyote Creek.
- Provide adequate water supplies.
- Balance other beneficial uses.
- Return next summer with a report and recommendation.





Committee:	Coyote Creek Flood Risk Reduction
Meeting Date:	10/05/17
Agenda Item No.:	4.2
Unclassified Manager:	Afshin Rouhani
Email:	<a href="mailto:arouhani@valleywater.org">arouhani@valleywater.org</a>
Est. Staff Time:	15 Minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Update on Joint City of San Jose and Santa Clara Valley Water District Emergency Action Plan for Severe Storms and Flood Response

### RECOMMENDED ACTION:

Receive information on the Emergency Action Plan (EAP) being jointly developed by the City of San Jose (City) and Santa Clara Valley Water District (District) and preparations for related Coyote Creek Community Resource Fairs, and provide feedback as needed.

### SUMMARY:

On February 21, 2017, record flooding occurred along Coyote Creek upstream of Montague Expressway. As a result, the District's Chief Executive Officer (CEO) and the San Jose City Manager met and agreed to proceed with development of a joint EAP. This commitment was later included in resolutions adopted by the City Council and District Board on April 28, 2017.

An update on the development of the EAP was provided to the District Board of Directors at the Board Meeting of August 22, 2017. The update included general information about the EAP and its development and outlined four key milestones to complete the EAP as set out in the resolutions. The four milestones discussed in order of completion were:

- 1) Conduct a Joint City and District Table Top Exercise of the Draft EAP.
- 2) Provide an update to the Board's Coyote Creek Flood Risk Reduction Ad-Hoc Committee.
- 3) Conduct Resource Fairs to improve flood preparedness in the communities that flooded in 2017.
- 4) District Board of Directors and City Council approve EAP.

The key milestones are all on schedule. A joint table top exercise was completed on September 21, 2017. Coyote Creek Community Resource Fairs are being planned for the month of October. The EAP will be presented to the City Council and District Board for discussion and approval at a joint meeting scheduled for Friday, November 3, 2017.

## BACKGROUND:

Following the direction from the District CEO and San Jose City Manager, a joint working group of the two agencies was formed to develop a joint Emergency Action Plan (EAP) designed to ensure better communications, planning and implementation between the agencies for severe storms and flood events with a specific focus on Coyote Creek flood threats.

The resulting plan is based on the concept of a Multi-Agency Coordination (MAC) Group and provides guidance for the agencies to coordinate in a joint response to storm and flood emergencies that happen in the City. This is similar to a MAC that was implemented for San Fransquutio Creek where agencies make decisions or communicate with each other based on a shared set of metrics and planned responses, and that resulting communications to the affected public are coordinated and consistent.

Knowledge gained from the 2017 Coyote Creek flood is embodied in the EAP so that decision-making, action planning and public communications are based on a single, shared set of graduated operational levels, which is referred to as a condition level. Depending on available detailed flood stage modeling or measurements, the condition is further described for severity of flooding at specific locations

To expand the last point, the condition matrix presents four levels of operational readiness and response:

- **Flood Preparedness**: This is the default status in the absence of storm warnings or threatened reservoir spillages. This status is ongoing and requires actions to ensure that both agencies and the MAC have undertaken preventive and preparatory activities so as to smoothly escalate to the next threat level if necessary. Public preparedness activities are conducted, including plans for watershed preparation and public information events.
- **Flood Monitoring**: This stage is activated when flooding is estimated to occur more than 72 hours in the future or stream depths are 50% to 70% of flood stage. This state initiates heightened level of alertness, measurement and modeling. Each agency's Emergency Operations Center (EOC) may be activated, with possible virtual MAC and EAP activation. Public information is disseminated.
- **Flood Watch**: This stage will be declared by the MAC leadership when stream depths are estimated to reach flood stage within 24-72 hours or stream depths are measured at 70% to 100% of flood stage. Both agencies activate or increase staffing in their EOCs, and a MAC EOC will be established, with a formal EOC Action Plan created. The public will be warned and provided with information regarding evacuation procedures, shelter info, etc.
- **Flood Warning**: This is the urgent level, with imminent flooding within 24 hours or when stream depth is measured at 100% or greater of flood stage. Both EOCs are fully staffed 24/7 for the duration, alerting the public to the need for and managing evacuations. The MAC EOC will coordinate both agencies' operational and communications responses. Public information is jointly provided via all available channels, 24/7 for the duration.

The flood severity used in the EAP is defined by the National Weather Service as:

- **Action**: an established gage height which when reached by a rising stream, lake, or reservoir represents the level where action is taken in preparation for possible significant hydrologic activity.
- **Minor Flooding**: minimal or no property damage, but possibly some public threat (e.g., inundation of roads).
- **Moderate Flooding**: some inundation of structures and roads near stream, evacuations of people and/or transfer of property to higher elevations.
- **Major flooding**: extensive inundation of structures and roads, significant evacuations of people and/or transfer of property to higher elevations.

A flood inundation map for the 2017 Coyote Creek flood event showing on-site monitoring locations is included as Attachment 1 and Attachment 2 is the associated Coyote Creek On-Site Monitoring Thresholds for flooding (The flood inundation map is based upon the 2017 conditions and are for illustration and general analysis purposes only. In a future event, they must be supplemented by and are secondary to actual field observations.) In addition, a Madrone Gauge Flood Severity Threshold table is included as Attachment 3, which is based on the 2017 event. The flood stage on Coyote Creek can either be estimated by using weather forecasts to model stream depths at that location or may be based on actual field observations. This information would be used to establish threat levels and the estimated flood severity on Coyote Creek for specific areas subject to flooding. Below are examples of how the tables will be used.

**EXAMPLE 1** - Stream depth at the Madrone gauge is at 5 feet, but is estimated to reach 10 feet in 24 hours, the threat condition would be **Flood Watch**, since it is 24 to 72 hours in the future, and the severity would be described as **Moderate Flooding**. The specific areas subject to flooding are described in the Madrone Gauge Flood Severity Threshold table for 10-foot stage.

**EXAMPLE 2** – Stream depth at the Madrone gauge is currently measured at 13 feet, the threat condition is **Flood Warning**, since travel times to all flooding locations is less than 24 hours, and the severity is categorized as **Major Flooding** with areas subject to flooding described in the Madrone Gauge Flood Severity Threshold table.

**EXAMPLE 3** – The stream gauge at William Street Bridge is observed to be at 23 feet. Using information from Coyote Creek On-Site Monitoring Thresholds table, the threat level would be **Flood Warning** for **Minor Flooding** that affects three low-lying structures on 17<sup>th</sup> Street along the creek bank.

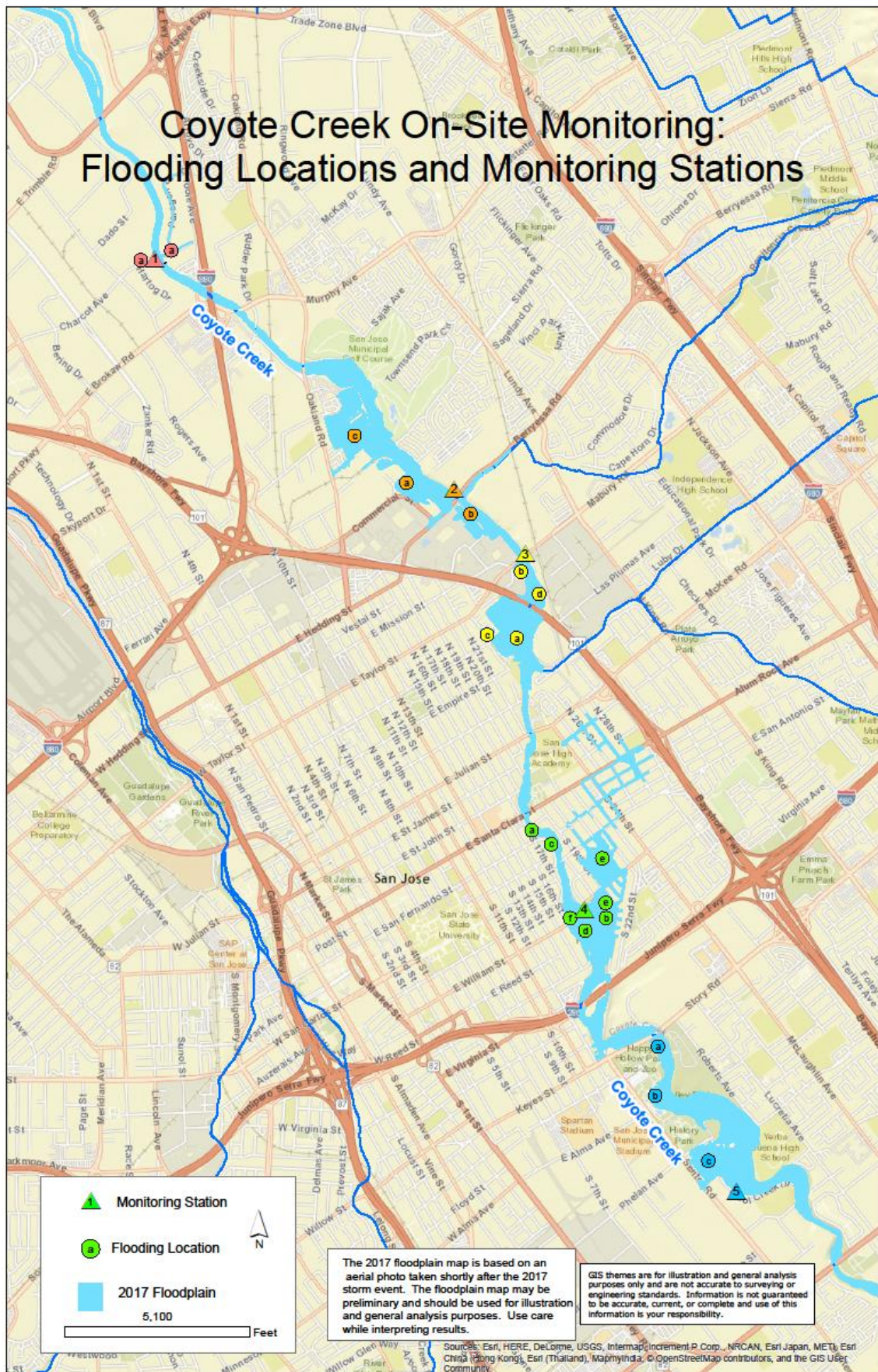
Some of the condition levels and flood severity information along with public communications methods, website improvements and other flood preparedness actions will be part of the Coyote Creek Community Resource Fairs. Specific content for these Resource Fairs is still in development and will be discussed with the Ad-Hoc Committee for input.

#### **ATTACHMENT(S):**

None.



# Coyote Creek On-Site Monitoring: Flooding Locations and Monitoring Stations



COYOTE CREEK FLOOD ON-SITE MONITORING THRESHOLDS							
Index Location	Flooding Description	ID #	FLOOD THREAT STAGE AT				MONITORING LOCATIONS
			50% Capacity	70% Capacity	100% Capacity	2017 Flood High Water Mark	
Charcot	Charcot Bridge overtops, flooding in streets and eventually threatening nearby businesses.	1a	14 to 15	16 to 17	18 to 19	18.9	Charcot Road Bridge
Downstream Berryessa Rd - Industrial	Businesses west of Coyote Creek floods. Automotive junkyard and concrete plant at risk.	2a	5 to 6	6 to 7	8 to 9	16.1	Berryessa Road Bridge
Upstream Berryessa Rd - Industrial	Industrial area west of Coyote Creek floods threatening businesses.	2b	10 to 11	12 to13	13 to 14		
Mobile Home Parks	Levee to the west of Coyote Creek overtops, flooding streets and homes. Businesses near the the railroad tracks at risk.	2c	12 to 13	14 to 15	15 to 16		
Watson Park	Dog park begins to flood first, followed by the Watson Park.	3a	12 to 13	13 to 14	15 to 16	22.0	Maybury Road Bridge
RV Storage Lot	RV Lot west of Coyote Creek flooded.	3b	13 to 14	16 to 17	18 to 19		
Watson Park Neighborhood	Streets immediately to the west of Watson park begin to flood.	3c	15 to 16	18 to 19	20 to 21		
CSJ Mabury Yard	Coyote Creek overtops the east bank, flooding the city of San Jose Yard.	3d	17 to 18	19 to 20	22 to 23		
<b>Disclaimer:</b> The flooding thresholds in this table are based on hydraulic modeling results calibrated with data collected during the February 2017 flood event. Hydraulic modeling results may be preliminary and should be used for general analysis purposes. Information is accurate within the model limitations and assumptions/data used for model development. Use care while interpreting results.							

COYOTE CREEK FLOOD ON-SITE MONITORING THRESHOLDS							
Index Location	Flooding Description	ID #	FLOOD THREAT STAGE AT				MONITORING LOCATIONS
			50% Capacity	70% Capacity	100% Capacity	2017 Flood High Water Mark	
17th Street - Lowest Homes	Three low-lying structures begin to flood.	4a	15 to 16	18 to 19	20 to 21	33.3	William Street Bridge
Selma Park	Park east of Coyote Creek begins to flood.	4b	18 to 19	21 to 22	24 to 25		
17th St & Arroyo Way	Several low-lying homes located very near the Creek on the west side begin to flood.	4c	19 to 20	22 to 23	25 to 26		
William Street Park	Coyote Creek Trail & Park, including Olinder School baseball field, begin to flood.	4d	22 to 23	25 to 26	28 to 29		
NE of 12th & Keyes Streets	Car ports-located on the first floor of two-story apartment buildings- begin to flood	4e	14 to 15	16 to 17	17 to 18		
Olinder Neighborhood and School	Selma park fills and overflows to the northeast, flooding streets, the school, and homes. Water does not return to creek and flows northeasterly through streets.	4f	26 to 27	29 to 30	31 to 32		
Area northwest of E. William St.	E. William St. overtops on the west side of Coyote Creek, flooding homes, backyards, and streets.	4g	27 to 28	30 to 31	32 to 33	20.6	Rocksprings Stable Drive
Happy Hollow Zoo	Low lying areas, including animal enclosures begin to flood.	5a	13 to 14	15 to 16	17 to 18		
Kelley Park	Park begins to flood.	5b	14 to 15	16 to 17	17 to 18		
Rocksprings Neighborhood	Homes and streets begin to flood.	5c	15 to 16	17 to 18	18 to 19		
<b>Disclaimer:</b> The flooding thresholds in this table are based on hydraulic modeling results calibrated with data collected during the February 2017 flood event. Hydraulic modeling results may be preliminary and should be used for general analysis purposes. Information is accurate within the model limitations and assumptions/data used for model development. Use care while interpreting results.							



COYOTE CREEK - ANDERSON SPILLWAY / MADRONE GAUGE FLOOD IMPACTS (E-19) (1 of 2)		
Severity	Stage (ft)	Description
Action	6	Low flow crossings across Coyote Creek will be inundated.
Minor Flooding	7	Flooding to low lying businesses northwest of Berryessa Road and Coyote Creek.
Minor Flooding	8	Horse Ranch opposite the Rock Springs Neighborhood at risk of flooding. Watson Park and Coyote Creek Trail at Selma Park begins to flood. Homes in the creek along Arroyo Way and 17th Street northwest of East William Street begin to flood. Flooding to businesses northwest of Berryessa Road and Coyote Creek.
Moderate Flooding	9	Apartments that back onto Coyote Creek at the intersection of Keyes Street and South 12th Street begin to flood lower level garages. Watson and Selma Parks flooding. Homes along Arroyo Way and 17th Streets, and homes northwest of William Street and the creek flood. Flooding beings at Willams Street Park, Happy Hollow Zoo and Kelley Park. Berryessa Road is at risk of localized street flooding, with business northwest of Berryessa Road and Coyote Creek flooding.
Moderate Flooding	10	Sycamore Avenue accessing the Boys Ranch Detention Facility at risk of inundation. Low areas in Happy Hollow Zoo affecting structures and animals flood. Rock Springs Neighborhood at risk of flooding. Apartments that back onto Coyote Creek at the intersection of Keyes Street and South 12th Street at risk. Homes located near the creek along Arroyo Way and 17th Street, Brookwood Avenue, S 16th Street and East William Street, 19th Street between San Antonio and Calhoun are at risk. Olinder school begins to flood. Watson, Selma, Kelley, and William Street Parks are flooding. Low areas of Roosevelt Park are flooded. Woodborough Drive starts to become innundated. A few homes located in the RV storage lot south of Maybury Drive may flood. Business northwest and southwest of Berryessa Road and Coyote Creek flood.
Major Flooding	11	Sycamore Avenue accessing the Boys Ranch Detention Facility flooded. Rock Springs Neighborhood, Kelly Park, and Happy Hollow Zoo flooding. Apartment buildings at Keyes Street and South 12th Street possibly flooded. Homes along Arroyo Way and 17th Street, homes north of William Street on South 16th Street and East William, homes along Brookwood Avenue, and 19th Streets are at flood risk. Selma Park inundated and overflows into Olinder Neighborhood. Minor flooding at Olinder School. William Street Park is inundated. Watson Park inundated and begins to flood Monfernio Drive. RV Storage lot north of US-101 flooded. Flooding in the offices and industrial areas north and south of Berryessa Road west of the creek. The floodwall on the south side of Golden Wheel and South Bay Mobile Home Parks begin to overtop.
<b>Disclaimer:</b> The flooding thresholds in this table are based on hydraulic modeling results calibrated with data collected during the February 2017 flood event. Hydraulic modeling results may be preliminary and should be used for general analysis purposes. Information is accurate within the model limitations and assumptions/data used for model development. Use care while interpreting results.		



COYOTE CREEK - ANDERSON SPILLWAY / MADRONE GAUGE FLOOD IMPACTS (E-19) (2 of 2)		
Severity	Stage (ft)	Description
Major Flooding	12	<p>Sycamore Avenue accessing the Boys Ranch Detention Facility flooded, and adjacent Malaguerra Avenue intersections inundated.</p> <p>Flooding to the Rock Springs Neighborhood, Kelley Park, and Happy Hollow Zoo.</p> <p>Apartments that back onto Coyote Creek at the intersection of Keyes Street and South 12th Street flooded at lower levels.</p> <p>Flooding in the Olinder Neighborhood, to houses located along Arroyo Way and 17th Street.</p> <p>Selma Park and William Street Park flooded.</p> <p>Moderate flooding to homes north of East William Street west of the Creek and to Olinder School.</p> <p>Minor flooding occurs at the neighborhood on Monferio Drive located west of Watson Park, with the park being flooded.</p> <p>Mobile homes located in the RV storage lot north of US-101 flood.</p> <p>Flooding to commercial businesses north and south of Berryessa Road on the west side of the Creek.</p> <p>Flooding in the Golden Wheel and South Bay Mobile Home Parks.</p> <p>Minor street flooding occurs at Charcot Ave due to bridge overtop.</p>
Historical High Water	12.06'	February 2017
Major Flooding	13	<p>Hellyer park has significant flooding.</p> <p>Major flooding in the Rock Springs Neighborhood and adjacent horse ranch.</p> <p>Happy Hollow Zoo and Kelley Park flooded.</p> <p>Lower levels of apartment buildings at Keyes and 12th Street are flooded.</p> <p>East William/Olinder Neighborhood (South 22nd Street, South 21st Street, Brookwood Avenue and 19th, 20th, and 21st Street) flood with flows moving northeast towards US-101 and Lower Silver Creek</p> <p>Ponding of concern on the Southside of Lower Silver Creek at West Court and Anne Darling Elementary School, South 16th Street and East William near the Creek, Brookwood Avenue, Arroyo Way and South 17th Street, and Gilthero Court.</p> <p>Flooding for Olinder Elementary School, and San Jose Community Middle and High Schools.</p> <p>East Taylor Street and Kellogg Plant on Eggo Way flooding.</p> <p>RV storage park north of US-101 flooding.</p> <p>US-101 flooding near Mabury Road.</p> <p>Commercial and industrial area near Berryessa Road are significantly flooded.</p> <p>Major flooding in the Mobile Home Parks.</p> <p>Spill at Charcot Avenue Bridge escapes to the east of Charcot Avenue Bridge toward I-880 and CA-237, and escapes to the west toward Montague Expressway and North 1st Street.</p>
Major Flooding	14	<p>Disastrous flooding occurs along Coyote Creek downstream of Tully to the San Francisco Bay.</p> <p>Rock Springs Neighborhood and adjacent horse ranch inundated.</p> <p>Apartment buildings at the intersection of Keyes Street and S 12th Street flooded.</p> <p>Happy Hollow Zoo and Kelley Park flooded.</p> <p>Spills from Selma Park flow northerly to flood a large area east of the creek, continuing northward to Upper Penitencia Creek, overflowing Hwy 101.</p> <p>West bank outbreaks at Watson Park, N 20th Street, Roosevelt Street, N 19th Street at its southern end, N 18th Street, East St. John Street, East Santa Clara Street and S 17th Street</p> <p>The neighborhood located northwest of Watson park may be flooded.</p> <p>Floodwaters converge to the Commercial Street Neighborhood around N 4th Street and N 10th Street to cause flooding north of I-880 in San Jose, California.</p> <p>Businesses north and south of Berryessa Road and west of the creek are inundated.</p> <p>The South Bay and Golden Wheel Mobile home parks are inundated; there is risk that floodwaters could overtop and flood homes to the west.</p> <p>Charcot Bridge overtopping on both right and left banks flowing away from the Creek flooding an area roughly between Coyote Creek and Guadalupe River, and between Montague Expressway to CA-237.</p> <p>Japantown, Hyde Park, and Northside San Jose are possible flooded.</p>
<p><b>Disclaimer:</b> The flooding thresholds in this table are based on hydraulic modeling results calibrated with data collected during the February 2017 flood event. Hydraulic modeling results may be preliminary and should be used for general analysis purposes. Information is accurate within the model limitations and assumptions/data used for model development. Use care while interpreting results.</p>		



Committee:	Coyote Creek Flood Risk Reduction
Meeting Date:	10/05/17
Agenda Item No.:	4.3
Unclassified Manager:	Michele King
Email:	<a href="mailto:mking@valleywater.org">mking@valleywater.org</a>
Est. Staff Time:	5 Minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Review of Coyote Creek Flood Risk Reduction Ad Hoc Committee Work Plan, any Outcomes of Board Action or Committee Requests and the Committee's Next Meeting Agenda

### RECOMMENDED ACTION:

Review the Committee work plan and Planning Calendar to guide the Committee's discussions regarding policy alternatives and implications for Board deliberation.

### SUMMARY:

The attached Work Plan and Planning Calendar outlines the topics for discussion to be able to prepare policy alternatives and implications for Board deliberation. The work plan and planning calendar are agendaized at each meeting as accomplishments are updated and to review additional work plan assignments by the Board.

### BACKGROUND:

#### Governance Process Policy-8:

The District Act provides for the creation of advisory boards, committees, or commissions by resolution to serve at the pleasure of the Board.

The Board Ad Hoc Committee is comprised of less than a quorum of the Board and/or external members having a limited term, to accomplish a specific task, is established in accordance with the Board Ad Hoc Committee procedure (Procedure No. W723S01), and will be used sparingly. Annually, the purpose of an established Ad Hoc Committee will be reviewed to determine its relevance.

In keeping with the Board's broader focus, Board Committees will not direct the implementation of District programs and projects, other than to receive information and provide advice and comment.

### ATTACHMENT(S):

Attachment 1: Coyote Creek Flood Risk Reduction Ad Hoc Committee 2017 Work Plan

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The annual work plan establishes a framework for committee discussion and action during the annual meeting schedule. The committee work plan is a dynamic document, subject to change as external and internal issues impacting the District occur and are recommended for committee discussion. Subsequently, an annual committee accomplishments report is developed based on the work plan and presented to the District Board of Directors.

ITEM	WORK PLAN ITEM	MEETING	INTENDED OUTCOME(S) (Action or Information Only)	ACCOMPLISHMENT DATE AND OUTCOME
1	Meeting and Tour of Coyote Creek	August 24	<ul style="list-style-type: none"> <li>Tour the Coyote Creek Flood Project</li> </ul>	<b>Accomplished August 24, 2017:</b>
2	Election of Chair and Vice Chair for 2017	August 31	<ul style="list-style-type: none"> <li>Committee Elects Chair and Vice Chair for 2017. <b>(Action)</b></li> </ul>	<b>Accomplished August 31, 2017:</b> The Committee elected the 2017 Committee Chair and Vice Chair, Director Tony Estremera and Director Barbara Keegan respectively.
3	Short-term Flood Risk Reduction for Coyote Creek	August 31	<ul style="list-style-type: none"> <li>Review of Short-term Flood Risk Reduction for Coyote Creek. (Action)</li> <li>Provide comments to the Board, as necessary.</li> </ul>	<b>Accomplished August 31, 2017:</b> The Committee reviewed the short-term flood risk reduction for Coyote Creek.
4	Identify Potential Future Short-Term Flood Risk Reduction Topics and Identify Committee Meeting Schedule to Review Identified Topics	August 31	<ul style="list-style-type: none"> <li>Identify Potential Future Short-Term Flood Risk Reduction Topics and Identify Committee Meeting Schedule to Review Identified Topics. <b>(Action)</b></li> <li>Provide comments to the Board, as necessary.</li> </ul>	<b>Accomplished August 31, 2017:</b> The Committee identified potential future short-term flood risk reduction topics and identified committee meeting schedule to review identified topics.

ITEM	WORK PLAN ITEM	MEETING	INTENDED OUTCOME(S) (Action or Information Only)	ACCOMPLISHMENT DATE AND OUTCOME
5	Short-term Flood Risk Reduction for Coyote Creek – Reservoir Operations	October 5	<ul style="list-style-type: none"> <li>• Discussion of Short-term Flood Risk Reduction for Coyote Creek – Reservoir Operations (Action)</li> <li>• Provide comments to the Board, as necessary.</li> </ul>	
6	District and City of San Jose Joint Emergency Action Plan	October 5	<ul style="list-style-type: none"> <li>• Discussion on the District and City of San Jose Joint Emergency Action Plan. <b>(Action)</b></li> <li>• Provide comments to the Board, as necessary.</li> </ul>	
7	CEQA Research and Prepare Documents	TBD	<ul style="list-style-type: none"> <li>• Discuss CEQA Research and Prepare Documents. <b>(Action)</b></li> <li>• Provide comments to the Board, as necessary.</li> </ul>	
8	Permitting Processes (Expediting)	TBD	<ul style="list-style-type: none"> <li>• Discussion on Permitting Processes (Expediting) <b>(Action)</b></li> <li>• Provide comments to the Board, as necessary.</li> </ul>	

ITEM	WORK PLAN ITEM	MEETING	INTENDED OUTCOME(S) (Action or Information Only)	ACCOMPLISHMENT DATE AND OUTCOME
9	Research Pump-Over Capability	TBD	<ul style="list-style-type: none"> <li>Receive research pump-over capability information. <b>(Action)</b></li> <li>Provide comments to the Board, as necessary.</li> </ul>	
10	Research Reduced Storage Operations	TBD	<ul style="list-style-type: none"> <li>Receive research reduced storage operations information. <b>(Action)</b></li> <li>Provide comments to the Board, as necessary.</li> </ul>	

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**File No.:** 17-0673

**Agenda Date:** 10/10/2017

**Item No.:** \*4.2.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Fiscal Year 2018-2019 Board Strategic Priorities Planning Session Development.

### **RECOMMENDATION:**

Review and provide input on the Board Policy and Planning Committee's recommended planning process to engage the Board in the Fiscal Year 2018-2019 Strategic Priorities planning session.

### **SUMMARY:**

In October, 2016 the Board conducted a Strategic Priorities discussion for Fiscal Year 2017-2018 (FY18) and identify goals, issues/challenges, strategies/opportunities, and outcomes that helped the Board set the Budget Priorities for the year; identify priority policy issue to assign to Committees for detailed review and feedback; and was a tool used to identify subjects for the Board Policy Planning and Performance Monitoring Calendars.

The Board Policy and Planning Committee (BPPC) reviewed last year's process and is proposing a similar process for Fiscal Year 2018-19 (FY19), currently scheduled for the October 24, 2017 regular Board meeting.

The proposed review/planning process will be conducted in two parts.

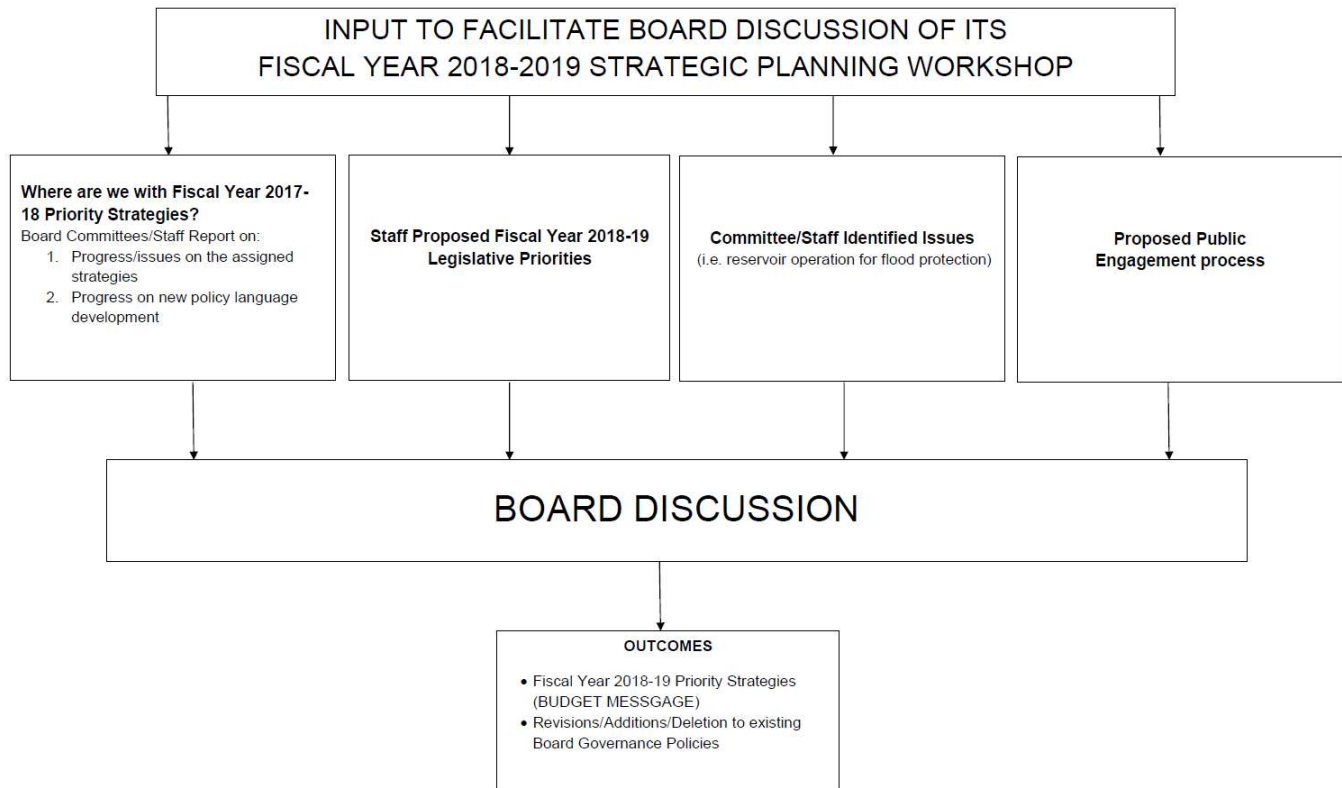
Part one of the process will consist of reviewing the FY18 Board Strategic Planning Workshop, including:

1. Existing Board Policies Reviewed in FY18
2. Identified Strategies for existing policy areas
3. Identified needs for new Board Governance Policies
  - a. Identified at the October 2016 Workshop - Assigned to BPPC
  - b. Identified since the October 2016 Workshop - Assigned to BPPC
4. Eleven (11) Identified Priority Strategies (FY18 Budget Message)
5. Monitored and continued discussion of the 11 Priority Strategies
  - a. Nine (9) of the 11 Priorities assigned to Committees
  - b. Two (2) of the 11 Priorities regularly and frequently scheduled for full Board discussion

Part two of the process will consist of the Board engaging in discussion of the above information in



an organized manner (see below for proposed format) that will result in outcomes for FY19.



**FINANCIAL IMPACT:**

There is no financial impact associated with this item.

**CEQA:**

The recommended action is a ministerial action and thus is not subject to the requirements of CEQA.

**ATTACHMENTS:**

None.

**UNCLASSIFIED MANAGER:**

Michele King, 408-630-2711