

EXHIBIT 10

RESOLUTION NO. R-19-20

**ADOPTING MAY 16, 2019 MEMORANDUM FROM GENERAL COUNSEL
CONCERNING COLLECTING DELINQUENT ASSESSMENTS**

WHEREAS, the Antelope Valley Watermaster, formed by the Antelope Valley Groundwater Cases Final Judgment (“Judgment”), Santa Clara Case No. 1-05-CV-049053 signed December 23, 2015, is to administer the Judgment; and

WHEREAS, issues have arisen on how the Judgment should be implemented in relation to the issue of collecting delinquent assessments as set forth in the Judgment; and

WHEREAS, at the Watermaster’s direction, General Counsel for the Watermaster prepared a memorandum dated May 16, 2019 concerning the issues related to collecting delinquent assessments and that May 16, 2019 memorandum has been reviewed and commented upon by the Advisory Committee at its June 19, 2019 meeting and public comment on that May 16, 2019 memorandum has been taken and considered at the June 26, 2019 meeting of the Watermaster Board; and

WHEREAS, the Watermaster wishes to adopt the May 16, 2019 memorandum of its General Counsel and to direct that it be incorporated into the final set of Rules and Regulations that are being prepared for adoption by the Watermaster Board and approval by the Court.

NOW, THEREFORE, BE IT RESOLVED, that the Watermaster Board unanimously adopts the May 16, 2019 memorandum of its General Counsel concerning the issues related to collecting delinquent assessments and directs that the memorandum be incorporated into the final set of Rules and Regulations being prepared for Board adoption and approval by the Court.

I certify that this is a true copy of Resolution No. R-19-20 as passed by the Board of Directors of the Antelope Valley Watermaster at its meeting held June 26, 2019, in Palmdale, California.

Date June 26, 2019

ATTEST: Patricia Rose
Patricia Rose – Secretary

Robert Parris
Robert Parris, Chairman
PA



MEMORANDUM

TO: Antelope Valley Watermaster Board DATE: May 16, 2019
FROM: Craig A. Parton
General Counsel to the Watermaster FILE NO.: 23641-1

Cc: Watermaster Engineer

SUBJECT: Collecting Delinquent Assessments, Interest Thereon, and Collection Fees/Costs

I. Question Presented

What methods are available for the Watermaster to impose liens on the real property interests of Parties who are delinquent in paying assessments due under the Judgment, and how can the Watermaster enforce such liens?

II. Brief Answer

The Watermaster must: (1) file a motion with the Court to enforce the terms of the Judgment, (2) record an abstract of the Court’s order with the county recorder’s office, and (3) enforce a writ of execution for a sale of the delinquent Party’s property.

III. Discussion

Paragraph 18.4.12 of the Judgment allows the Watermaster to establish procedures and schedules for the levy and collection of assessments. Any delinquent assessment shall bear interest at the then current real property tax delinquency rate for the county in which the property of the delinquent Party is located from the due date thereof until paid. “The delinquent assessment, together with interest thereon, costs of suit, attorneys fees and reasonable costs of collection, may be collected pursuant to (1) motion by the Watermaster giving notice to the delinquent Party only; (2) Order to Show Cause proceeding, or (3) such other lawful proceeding as may be instituted by the Watermaster or the Court.”

Although the Judgment also states that a “delinquent assessment shall constitute a lien on the property of the Party as of the same time and in the same manner as does the tax lien securing county property taxes,” and further requires the Watermaster to annually certify a list of the names of all delinquent Parties to the “County Assessor’s Office,” the procedure for imposing and collecting such direct assessments is not available to the Watermaster, and in any event is likely cost prohibitive and time consuming. As such the most efficient procedure for imposing and enforcing liens against delinquent Parties’ real property interests is by way of a noticed motion to the Court, as discussed in further detail below.

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First the Watermaster must file a motion with the Court pursuant Code of Civil Procedure section 664.6, requesting the full amount of the delinquent assessment plus interest thereon and reasonable attorneys' fees and costs of collection. The motion will cite the Watermaster's authority to collect delinquent assessments pursuant to a motion under Paragraph 18.4.12 of the Judgment. The Watermaster must provide notice of the motion to the delinquent Party at least 16 court days prior to the scheduled hearing. The motion must be supported by a declaration from the Watermaster Engineer explaining the basis for the delinquent assessment calculation, as well as a declaration from the Watermaster General Counsel justifying the requested attorneys' fees and costs incurred in collecting the delinquent assessment.

Next the Court will hold a hearing on the motion, possibly telephonically if the supporting papers provide sufficient evidence to grant the amounts requested. If the Court rules in the Watermaster's favor, the Court will enter an "Order After Hearing" setting forth the money judgment awarded to the Watermaster. The Court may refuse to grant the Watermaster's request for attorneys' fees in the motion, in which case the Watermaster will need to bring a separate motion for fees and costs incurred. Most likely the Court will prefer to award all amounts at a single hearing in order to avoid unnecessary duplicative hearings.

Once the Order After Hearing is entered by the Court, the Watermaster can record an Abstract of Judgment with any county recorder's office in the State in which the delinquent Party may hold title to real property. The Abstract of Judgment sets forth the amount due under the Order After Hearing, and operates to create a lien on all real property interests held by the delinquent Party in that county. Unless the judgment is satisfied or the lien is released, the lien continues until 10 years from the date of entry of the judgment, and may be renewed for successive 10 year periods.

The Watermaster may also enforce the lien on any of the delinquent Party's properties by directing the Sheriff to levy and sell the real property interest under writ of execution. The levying officer executes the writ by taking the property into custody, and thereafter the Party's interest in the property may be sold at a public sale and the proceeds applied to satisfy the judgment. A separate writ of execution must be issued for each county in which a levy is to be made because writs of execution are directed to the levying officer of a particular county.

If the delinquent Party satisfies the debt by paying the amount due (or less than the full amount if the Watermaster agrees to accept partial payment), the Watermaster must record an Acknowledgement of Satisfaction of Judgment in all counties in which an Abstract of Judgment was recorded for that particular Party, which operates to release the lien on the Party's real property interests.

IV. Conclusion

General Counsel recommends first bringing a single motion to enforce the Judgment against just one Party who currently owes substantial delinquent assessments. If the Court is amenable to the Watermaster's use of this procedure to enforce the terms of the Judgment, the

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General Counsel will ask the Court whether future motions against the remainder of the delinquent Parties may be consolidated into one motion in order to more efficiently administer the Judgment and avoid wasting judicial resources. Once money judgments are enforced against all delinquent Parties and recorded against their respective real property interests, hopefully the threat of enforcement of the liens will encourage all Parties to satisfy their debts before enforcement proceedings begin.