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7 Antelope Valley Watermaster

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

10  
11 Coordination Proceeding,  
Special Title (Rule 1550(b))

Judicial Council Coordination  
Proceeding No. 4408

12  
13 **ANTELOPE VALLEY**  
14 **GROUNDWATER CASES**

LASC Case No.: BC 325201

Santa Clara Court Case No. 1-05-CV-049053  
Assigned to the Hon. Jack Komar, Judge of  
the Santa Clara Superior Court

15  
16  
17  
18 **AND ALL RELATED ACTIONS**

**WATERMASTER'S NOTICE OF  
MOTION AND FIRST AMENDED  
MOTION FOR MONETARY,  
DECLARATORY AND INJUNCTIVE  
RELIEF AGAINST TAPIA PARTIES;  
DECLARATIONS OF CRAIG A.  
PARTON AND MATTHEW KNUDSON,  
EXHIBITS A - G**

Date: December 10, 2021  
Time: 9:00 a.m.  
Dept: By Courtcall

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22 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

23 **PLEASE TAKE NOTICE** that on December 10, 2021, at 9:00 a.m., or as soon thereafter  
24 as this matter may be heard by telephonic appearance via Courtcall, the Antelope Valley  
25 Watermaster ("**Watermaster**") will, and hereby does, move this Court for an order pursuant to  
26 Paragraph 18.4.12 of the December 23, 2015 Judgment and Physical Solution in the Antelope  
27 Valley Groundwater Adjudication (the "**Judgment**"), awarding monetary relief in favor of the  
28 Watermaster and against Primo Tapia, as Successor Trustee of the Charles and Nellie Tapia

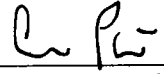
1 Family Trust established u/t/a dated January 12, 1990 (“**C&N Trust**”), Thomas Tapia and Steven  
2 Falchini, as Co-Trustees of the Felix and Eulalia Tapia Family Trust established u/t/a dated  
3 February 18, 1997 (“**F&E Trust**”), and Primo Tapia, Charles Tapia, George Tapia, Steven Tapia,  
4 Thomas Tapia and Felix Tapia (collectively with C&N Trust and F&E Trust, the “**Tapia**  
5 **Parties**”), jointly and severally, in an amount equal to all delinquent Replacement Water  
6 Assessments (“**RWAs**”) owed by the Tapia Parties for the years 2018 and 2019 in the total  
7 amount of \$183,022.68, plus all delinquent Administrative Assessments (“**AAs**”) for the year  
8 2019 in the amount of \$492.38, plus accrued interest of \$61,964.42, plus attorneys’ fees of  
9 \$3,433, in the total amount of **\$248,912.48**, and for declaratory and injunctive relief as is  
10 necessary to prohibit the Tapia Parties from producing any further groundwater from the Antelope  
11 Valley Adjudicated Basin (“**Basin**”) until: (a) all such delinquent RWAs and AAs with interest  
12 and fees are paid in full, and (b) the Tapia Parties either cease all further groundwater production  
13 or submit an application for New Production and install meters on all wells.

14 This Motion is based on this Notice, the attached Memorandum of Points and Authorities,  
15 the Declarations of Craig A. Parton and Matthew Knudson, Exhibits A - G, and on any other  
16 evidence and argument that may be presented on or before the hearing on this matter.

17 Respectfully submitted,

18 Dated: November 15, 2021

PRICE, POSTEL & PARMA LLP

19  
20 By:   
21 CRAIG A. PARTON  
22 TIMOTHY E. METZINGER  
23 CAMERON GOODMAN  
24 Attorneys for  
25 Antelope Valley Watermaster  
26  
27  
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 The Watermaster is charged with administering the December 23, 2015 Judgment and  
4 Physical Solution (“**Judgment**”). The Watermaster’s duties under the Judgment include, among  
5 other responsibilities, the levying and collection of Replacement Water Assessments (“**RWA(s)**”).

6 Charles Tapia and C&N Trust are named in Paragraph 3(e) of the Judgment as having “no  
7 right to pump groundwater from the Antelope Valley Adjudication Area except under the terms of  
8 the Physical Solution.” George Tapia is a Defaulted Party identified in Exhibit 1 of the Judgment.  
9 Primo Tapia, Charles Tapia, Felix Tapia and George Tapia are identified as Small Pumper Class  
10 Members under the Judgment. The Court’s Statement of Decision dated December 23, 2015, makes  
11 clear that Charles Tapia and C&N Trust—as owners of the real property identified with Kern  
12 County Assessor’s Parcel Number 374-020-53-00-6 (the “Property”) who claim some title, right or  
13 interest in and to the groundwater rights associated therewith—have “failed to establish rights to  
14 groundwater pumping based on the evidence and there is no statutory or equitable basis to give  
15 [them] an allocation of water under the physical solution” with respect to the Property (Statement of  
16 Decision, 14:2-4.) Because the Tapia Parties named herein claim some right, title or interest in and  
17 to the groundwater associated with the Property, this determination by the Court applies to all of the  
18 Tapia Parties, none of whom are entitled to any rights to groundwater in the Basin, whether as a  
19 Defaulted Party, a Small Pumper Class Member, or otherwise.

20 RWA payments enable the Watermaster to purchase water from other sources to replace the  
21 groundwater produced by Parties such as the Tapia Parties who have no right to pump groundwater  
22 from the Basin, thereby mitigating the harm to the Basin caused by such production. (*Id.*, ¶ 9.2.)  
23 The Judgment provides that the Court “retains and reserves full jurisdiction, power and authority for  
24 the purpose of enabling the Court, upon a motion of a Party or Parties . . . to make such further or  
25 supplemental order or directions as may be necessary or appropriate to interpret, enforce, administer  
26 or carry out this Judgment . . . .” (*Id.*, ¶ 6.5.)

27 On January 22, 2019, the Watermaster invoiced the Tapia Parties for 2018 RWAs in the  
28 amount of \$137,365, based on the Tapia Parties’ self-reported 2018 production of 334 acre-feet at

1 a cost of \$415 per acre-foot, but inadvertently included a credit for 3 acre-feet per year for a Small  
2 Pumper Class Member, to which the Tapia Parties are not legally entitled. On February 11, 2021,  
3 the Watermaster invoiced the Tapia Parties for 2019 RWAs in the amount of \$43,059, based on  
4 the Tapia Parties' self-reported 2019 production of 98.476 acre-feet at a cost of \$451 per acre-  
5 foot, but again inadvertently included a credit for 3 acre-feet per year for a Small Pumper Class  
6 Member, to which the Tapia Parties are not legally entitled. The Tapia Parties reported zero  
7 groundwater production in 2020.

8 To date, the Tapia Parties have failed to pay *any* RWAs, notwithstanding the  
9 Watermaster's repeated demands therefor. The Tapia Parties have used groundwater from the  
10 Basin without any right to do so, and yet have failed to pay *any* RWAs. The Tapia Parties'  
11 payment of these delinquent RWAs is essential to the fundamental purpose of the Judgment and  
12 Physical Solution: preserving the health of the Basin.

13 For the reasons set forth below, the Watermaster respectfully requests monetary relief  
14 against the Tapia Parties, jointly and severally, for delinquent RWAs for the years 2018 and 2019  
15 in the amount of \$183,022.68, plus all delinquent AAs for the year 2019 in the amount of  
16 \$492.38, plus accrued interest of \$61,964.42, plus attorneys' fees of \$3,433, for a total of  
17 **\$248,912.48**. The Watermaster further requests declaratory and injunctive relief as is necessary to  
18 prohibit the Tapia Parties from producing any further groundwater from the Basin until: (a) all  
19 such delinquent RWAs and AAs, interest and fees are paid in full; and (b) the Tapia Parties either  
20 cease all further groundwater production and de-commissions all existing wells, or submit an  
21 application for New Production and install meters on their wells. Any further delay in the Tapia  
22 Parties' payment of RWAs will only exacerbate the harm to the Basin which has already been  
23 caused by the Tapia Parties' refusal to comply with the Judgment.

24 **II. STATEMENT OF FACTS**

25 The Watermaster is charged with levying and collecting RWAs for the purpose of paying  
26 all costs related to Replacement Water necessary to replace all water produced in excess of any  
27 Party's Production Rights. (Judgment ¶¶ 3.5.41, 7.3, 9.2.) "The amount of the [RWA] shall be the  
28 amount of such excess Production multiplied by the cost to the Watermaster of Replacement

1 Water, including any Watermaster spreading costs.” (*Id.* ¶ 9.2.) The RWA rate is expressed in  
2 dollars per acre-foot, and is multiplied by the Replacement Obligation (in acre-feet) to determine  
3 a Party’s total RWA. As set forth below, Tapia is obligated to pay—and the Watermaster is  
4 charged with collecting—RWAs for all water Tapia takes from the Basin.

5 C&N Trust and F&E Trust own the Property, which according to the Tapia Parties  
6 consists of 137.36 total acres, 110 acres of which are irrigated by two wells located on the  
7 property. Collectively, each of the Tapia Parties claim some title, right or interest in and to the  
8 Property and/or the groundwater rights associated therewith.

9 The Tapia Parties have reported total groundwater production in the amount of 334 acre-  
10 feet for 2018, and 98.476 acre-feet for 2019. (Parton Decl. ¶ 3, Exh. A; Knudson Decl. ¶ 5, Exh.  
11 E.) The Tapia Parties reported zero acre-feet of groundwater production in 2020.

12 Because the Tapia Parties have no groundwater rights under the Judgment, they must pay  
13 RWAs for all groundwater they use. On January 22, 2019, the Watermaster invoiced the Tapia  
14 Parties for 2018 RWAs in the amount of \$137,365, based on the Tapia Parties’ reported 2018  
15 production of 334 acre-feet at a cost of \$415 per acre-foot, but erroneously included a credit for 3  
16 acre-feet per year for a Small Pumper Class Member to which the Tapia Parties are not legally  
17 entitled. The 2018 RWAs were due by February 1, 2019. On February 11, 2021, the Watermaster  
18 invoiced the Tapia Parties for 2019 RWAs in the amount of \$43,059, based on the Tapia Parties’  
19 reported 2019 production of 98.476 acre-feet at a cost of \$451 per acre-foot, but again  
20 erroneously included a credit for 3 acre-feet per year for a Small Pumper Class Member. The  
21 2019 RWAs were due by March 13, 2021. To date, the Tapia Parties have not paid any RWAs to  
22 the Watermaster. (Knudson Decl. ¶¶ 6-9, Exh. F - G.)

23 The Watermaster General Counsel repeatedly requested that the Tapia Parties: (1) pay  
24 RWAs and AAs based on the amounts they have reported; and (2) either cease all groundwater  
25 production and de-commission all wells, or submit an application for New Production and install  
26 meters on all wells. To date, the Tapia Parties have refused to make any payments or submit an  
27 application for New Production. (Parton Decl. ¶¶ 3- 4.)

28 ///

1 **III. ARGUMENT**

2 The Judgment and the R&Rs explicitly authorize the Watermaster to bring the instant  
3 motion to collect delinquent RWAs, together with interest thereon, attorneys' fees and costs.  
4 "Any assessment which becomes delinquent, as defined by rules and regulations promulgated by  
5 the Watermaster shall bear interest at the then current real property tax delinquency rate for the  
6 county in which the property of the delinquent Party is located." (Judgment ¶ 18.4.12.) "The  
7 delinquent assessment, together with interest thereon, costs of suit, attorneys' fees and reasonable  
8 costs of collection, may be collected pursuant to . . . motion by the Watermaster giving notice to  
9 the delinquent Party only . . . [or] such other lawful proceeding as may be instituted by the  
10 Watermaster or the Court." (*Ibid.*; see also R&Rs § 19.g ("Watermaster may recover delinquent  
11 assessments [including RWAs], together with interest thereon plus costs of suit, attorneys' fees  
12 and reasonable costs of collection, by filing a motion with the Court to enforce the terms of the  
13 Judgment pursuant to Code of Civil Procedure section 664.6.")) "The Watermaster shall also  
14 have the ability to seek to enjoin Production of those Parties . . . who do not pay assessments  
15 pursuant to this Judgment." (*Ibid.*; see also R&Rs § 19.i ("Any other remedy available to the  
16 Watermaster in law or equity may be employed at the discretion of Watermaster to address any  
17 circumstance related to management of the Basin in accordance with the Judgment and these  
18 R&Rs."))

19 **A. Collection of Delinquent RWAs**

20 The Judgment makes clear that the Watermaster has the authority to levy and collect  
21 RWAs from the Tapia Parties pursuant to Paragraph 9.2, and is explicitly authorized—and  
22 obligated—to impose RWAs on the Tapia Parties for all groundwater they take from the Basin.  
23 The December 23, 2015 Statement of Decision found that Charles Tapia and C&N Trust "failed  
24 to prove" their groundwater use, that the evidence and testimony presented at trial as to their  
25 groundwater use "was not credible in any way," and that their evidence was "inherently  
26 contradictory." (Statement of Decision, 13:25-28). The Court further found that Charles Tapia  
27 and C&N Trust have "failed to establish rights to groundwater pumping based on the evidence  
28 and there is no statutory or equitable basis to give [them] an allocation of water under the physical

1 solution. The Tapia Parties (Charles Tapia is included) will be subject to the provisions of the  
2 Physical Solution.” (Statement of Decision, 14:2-5.) The Judgment accordingly determined that  
3 Charles Tapia “has no right to pump groundwater from the Antelope Valley Adjudication Area  
4 except under the terms of the Physical Solution.” (Judgment at 2:22-25.) Because the Tapia  
5 Parties named herein claim some right, title or interest in and to the groundwater associated with  
6 the Property, this determination by the Court applies to all of the Tapia Parties.

7 Charles Tapia and C&N Trust may allege that they must be treated as a Small Pumper  
8 Class Member (and therefore entitled to a reduction in the Assessments requested herein by 3  
9 acre-feet per year) because this Court vacated the default entered against them by order dated  
10 October 10, 2014. This is immaterial. Regardless of the effect of the 2014 Order, the Court’s  
11 Statement of Decision—which was rendered *after* the Order vacating Tapia’s default—makes  
12 clear that Charles Tapia and C&N Trust have no rights to Produce Groundwater in the Basin,  
13 whether as a Defaulted Party, a Small Pumper Class Member, or otherwise.

14 Protection and preservation of the health of the Basin is paramount under the Judgment.  
15 One of the central components of the Watermaster’s role in the underlying adjudication is to  
16 collect sufficient funds from the Parties to purchase Replacement Water to replenish all Basin  
17 groundwater pumped in excess of any Party’s water rights. In the case of the Tapia Parties, in  
18 order to avoid Material Injury to the Basin, the Judgment explicitly requires that all water pumped  
19 by the Tapia Parties be replaced using RWA proceeds.

20 Based on the Tapia Parties’ own calculations, they are currently delinquent in payment of  
21 a total of \$138,610 in RWAs for 2018, which represents the Tapia Parties’ self-reported use of  
22 334 acre-feet for 2018, and \$44,412.68 in RWAs for 2019, which represents the Tapia Parties’  
23 self-reported use of 98.476 acre-feet for 2019. Because the Tapia Parties have not paid these  
24 RWAs, the groundwater extracted by the Tapia Parties in 2018-20-19 has yet to be replenished.  
25 The Tapia Parties also have not paid AAs for 2019 in the amount of \$492.38, which represents  
26 their self-reported use of 98.476 acre-feet at the rate of \$5.00 per acre-foot. Moreover, the Tapia  
27 Parties have failed to submit a New Production application if they intend to continue producing  
28 groundwater from the Basin.

1           The health of the Basin relies on importation of State Water Project water to replenish all  
2 groundwater produced by the Tapia Parties, and any further delay in bringing the aquifer back to  
3 sustainable levels could have deleterious results. Such a result is inconsistent with the explicit  
4 purpose of the Physical Solution, which is to bring the Basin into balance by allowing  
5 groundwater usage only within the Native Safe Yield of the Basin. (Judgment ¶ 7.4.) For these  
6 reasons, the Court (by stipulation of the Parties) conferred enforcement authority on the  
7 Watermaster to levy and collect RWAs.

8           Although the Tapia Parties have not denied that they owe these RWAs, they have failed to  
9 make any reasonable or good faith efforts to pay even some of what they owe. The Watermaster's  
10 sole remedy to collect these much-needed RWAs is through enforcement of a Court order for  
11 monetary relief. The Judgment expressly requires the Tapia Parties to pay the RWAs in  
12 accordance with Watermaster schedules and procedures, and allows the Watermaster to seek an  
13 injunction prohibiting the Tapia Parties from producing water from the Basin until all delinquent  
14 RWAs and AAs are paid in full. Despite this clear directive, the Tapia Parties continue to produce  
15 groundwater from the Basin without paying RWAs. In accordance with its retention of  
16 jurisdiction to fully enforce the Judgment, the Court should order the payment of the delinquent  
17 RWAs and enjoin the Tapia Parties from producing any additional groundwater from the Basin  
18 until such delinquent RWAs and AAs, interest, fees and costs are fully paid, and until the Tapia  
19 Parties submit an application for New Production and meters all wells.

20           **B.       Interest, Attorneys' Fees and Costs of Collection**

21           The Judgment and the R&Rs explicitly authorize the Watermaster to collect the Tapia  
22 Parties' delinquent RWAs together with interest thereon (accruing from the due date at the current  
23 real property tax delinquency rate for the county in which the property of the delinquent Party is  
24 located), costs of suit, attorneys' fees and reasonable costs of collection. (Judgment ¶ 18.4.12;  
25 R&Rs § 19.g.)

26           **i.       Interest**

27           The Property is located in Kern County, where the following penalties are imposed upon  
28 delinquent property tax payments: (1) if the first installment of the property tax is not paid by the



1 deadline, a penalty of 10% of the tax owed will be imposed; (2) if the second installment of the  
2 property tax is not paid by the deadline, a penalty of 10% of the tax amount owed, plus \$10, will  
3 be imposed; and (3) beginning 12 months following the first property tax installment due date,  
4 additional penalties are imposed at the rate of 1.5% of the tax amount owed per month, plus a \$15  
5 redemption fee. (Parton Decl. ¶ 11; Rev. & Tax. Code §§ 2617, 2618.)

6 The Watermaster sends invoices for RWAs to the Parties at different times each year,  
7 depending upon when the RWA rates for that year are approved by the Watermaster Board, and  
8 depending upon when Watermaster staff finalizes RWA calculations. In each instance, RWAs are  
9 due 30 days after the invoice date in a lump sum (rather than in installments), and are assessed a  
10 single 10% delinquency penalty thereafter. (Knudson Decl. ¶ 5.)

11 At its August 28, 2019 meeting, the Watermaster Board considered and adopted  
12 Resolution No. R-19-27, setting the RWA rates applicable to the Tapia Parties for 2018. At its  
13 April 24, 2019 meeting, the Watermaster Board considered and adopted Resolution No. R-19-11,  
14 setting the RWA rates applicable to the Tapia Parties for 2019. The Tapia Parties' 2018 RWAs  
15 were due on February 21, 2019, and their 2019 RWAs were due on March 13, 2021. To date, the  
16 Tapia Parties have failed to pay any of the RWAs demanded in the aforementioned invoices.  
17 (Knudson Decl. ¶ 9.) As such, the Watermaster hereby seeks interest on the delinquent 2019  
18 RWAs at the rate of 10% in the amount of \$4,441.27. The Watermaster further seeks interest on  
19 the delinquent 2018 RWAs at the rate of 10% in the amount of \$13,861, plus 1.5% per month  
20 (\$2,079.15 per month) beginning March, 2020 through November, 2021, the date of entry of  
21 Judgment, in the amount of \$43,662.15. The Watermaster will not seek collection of the \$15  
22 redemption imposed by the Kern County Tax Collector, and therefore seeks interest on the  
23 delinquent RWAs in the total amount of **\$61,964.42**.

24 **ii. Attorneys' Fees and Costs of Collection**

25 Attached to the Declaration of Craig A. Parton as Exhibit "B" is a compilation of the  
26 Watermaster's billing records from June 2018 through August 2021, reflecting all legal expenses  
27 the Watermaster has incurred in seeking to collect Tapia's delinquent RWAs, including but not  
28 limited to handling Tapia's failure to reasonably or in good faith respond to any Watermaster efforts

1 to resolve this matter without litigation. The Declaration of Mr. Parton establishes the  
2 reasonableness of the fees sought. The procedure for determining the reasonable attorneys' fees  
3 normally begins with the "lodestar" (*i.e.*, the reasonable hourly rate) multiplied by the number of  
4 hours reasonably expended. (*Press v. Lucky Stores, Inc.* (1983) 34 Cal. 3d 311, 322.)

5 **a. Price, Postel & Parma's Rates Are Reasonable**

6 The reasonable market value of the attorney's services is the measure of a reasonable  
7 hourly rate. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal. 4th 1084, 1095.) To determine  
8 reasonable market value, the court must determine whether the requested rates are "within the  
9 range of reasonable rates charged by and judicially awarded comparable attorneys for comparable  
10 work." (*Children's Hosp. & Med. Ctr. v. Bonta* (2002) 97 Cal. App. 4th 740, 783.) Evidence that  
11 the prevailing party's counsel charges the same rates in other matters is probative that the rates  
12 charged are reasonable. (*Margolin v. Reg'l Planning Com.* (1982) 134 Cal. App. 3d 999, 1005.)  
13 The Watermaster's general counsel, Price, Postel & Parma LLP ("PPP"), provided the  
14 Watermaster with monthly billing statements during the course of the RWA dispute with the  
15 Tapia Parties, reflecting the billing entries attached as Exhibit "B" to Mr. Parton's Declaration.  
16 (Parton Decl. ¶ 6.)

17 The rates that were charged by PPP for attorney time in this matter ranged from \$270 to  
18 \$395 per hour. Cameron Goodman, an associate of the firm, billed an average rate of \$292.50 per  
19 hour; and Craig A. Parton, a partner of the firm, billed an average rate of \$395 per hour. These  
20 rates reflect the firm's public agency rates, which are between 25% and 34% lower than PPP's  
21 customary hourly rates. (Parton Decl. ¶ 7.) The rates charged by PPP in this matter were fair and  
22 reasonable. (Parton Decl. ¶ 8.)

23 **b. The Time Expended by PPP on This Matter Was Reasonable**

24 The time expended on this case by PPP was reasonable under the circumstances. The  
25 Tapia Parties have shown continuous obstinance in the face of its clear obligation under the  
26 Judgment to pay RWAs for the water they take from the Basin as a Party without any rights to  
27 Produce Groundwater in the Basin. The Watermaster General Counsel has provided the Tapia  
28 Parties every opportunity to pay what they owe and avoid litigation. However, the Tapia Parties

1 refuse to come to the table despite having acknowledged and admitted to their obligations under  
2 the Judgment. (Parton Decl. ¶ 4.)

3 The billing entries set forth in Exhibit B attached to Mr. Parton's Declaration reflect in  
4 detail the legal services provided to the Watermaster in this matter.

5 For these reasons, the Watermaster respectfully requests the Court award attorneys' fees to  
6 the Watermaster in the amount of \$3,433.

7 **C. DECLARATORY AND INJUNCTIVE RELIEF**

8 At this point in time, the Tapia Parties' ongoing violation of the Judgment is clear. The  
9 Tapia Parties continue to pump groundwater from the Basin and refuse to pay all past-due RWAs.  
10 If the Tapia Parties wish to continue pumping groundwater, they must pay all delinquent RWAs  
11 and submit a New Production application. As such, in accordance with Paragraph 18.4.10 of the  
12 Judgment, the Watermaster requests a declaration from this Court that the Tapia Parties are  
13 currently, and shall be, prohibited from Producing groundwater in the Basin until they: (a) pay in  
14 full all such delinquent RWAs and AAs, interest and fees, and (b) submit an application for New  
15 Production and meter all wells, or cease all Production and de-commissions all wells.

16 **IV. CONCLUSION**

17 For the reasons discussed above, the Watermaster respectfully requests that this Court  
18 enter a money judgment against the Tapia Parties, jointly and severally, for all RWAs in the  
19 amount set forth herein, and also declare that the Tapia Parties are prohibited from producing any  
20 further groundwater from the Basin unless and until they pay all past-due RWAs and AAs, and  
21 submit an application for New Production and meter all wells.

22 Respectfully submitted,

23 Dated: November 15, 2021

PRICE, POSTEL & PARMA LLP

24  
25 By: Craig A. Parton  
26 CRAIG A. PARTON  
27 TIMOTHY E. METZINGER  
28 CAMERON GOODMAN  
Attorneys for  
Antelope Valley Watermaster



1           6.       Attached hereto as Exhibit "B" is a true and correct copy of our firm's billing ledger  
2 detailing all time entries for fees billed for this matter for the period of time from October 31, 2018  
3 through August 17, 2021, which totals \$108. Additional attorneys' fees in the amount of \$3,325 (5  
4 hours of partner time at \$395 per hour, and 5 hours of associate time at \$270 per hour) are estimated  
5 for the period of September 21, 2021 through the time of the hearing on the instant motion.  
6 Therefore, the Watermaster seeks a total of **\$3,433** in attorneys' fees related to efforts to collect the  
7 Tapia Parties' RWAs, AAs and costs and fees.

8           7.       Throughout PPP's representation of the Watermaster on this matter, the hourly rate  
9 billed to the Watermaster reflected PPP's public agency rates. The public agency rates reflect an  
10 approximate 25% to 34% reduction in our customary rates.

11           8.       The Tapia Parties could and should have paid the RWAs owed pursuant to the clear  
12 terms of the Judgment, rather delaying the inevitable. The attorneys' fees incurred by the  
13 Watermaster in seeking to recover the RWAs owed by the Tapia Parties were necessary in order to  
14 protect against the substantial harm that would be caused to the Basin if the Tapia Parties were  
15 allowed to merely ignore the obligation to pay these vitally important RWAs so that the  
16 Watermaster can purchase water to replenish the Basin.

17           9.       Additional PPP time has been necessary to evaluate legal options for consideration  
18 by the Watermaster Board in collecting the Tapia Parties' delinquent RWAs, and also to bring the  
19 instant motion. Further PPP time will be necessary to reply to the Tapia Parties' opposition to this  
20 motion, attend the hearing thereon, and subsequently to enforce the money judgment sought herein.


21           10.      As set forth in Paragraph 18.4.12 of the Judgment, the Watermaster is authorized to  
22 collect interest on delinquent RWAs "at the then current real property tax delinquency rate for the  
23 county in which the property of the delinquent Party is located." The real property tax delinquency  
24 rates for the Kern County Tax Collector are posted online at  
25 <https://www.kcttc.co.kern.ca.us/index.cfm?fuseaction=kcttcinternet.showAvoidPenalties>.

26           11.      In accordance with California Revenue & Taxation Code Sections 2617 and 2618,  
27 the Kern County Tax Collector imposes penalties on delinquent real property taxes as follows: (1) if  
28 the first installment of the property tax is not paid by the deadline, a penalty of 10% of the tax owed

1 will be imposed; (2) if the second installment of the property tax is not paid by the deadline, a  
2 penalty of 10% of the tax amount owed, plus \$10, will be imposed; and (3) beginning 12 months  
3 following the first property tax installment due date, additional penalties are imposed at the rate of  
4 1.5% of the tax amount owed per month, plus \$15 redemption fee.

5 I declare under penalty of perjury under the laws of the State of California that the  
6 foregoing is true and correct.

7  
8 Dated: November 15, 2021

  
\_\_\_\_\_  
CRAIG A. PARTON

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1 **DECLARATION OF MATTHEW KNUDSON**

2 I, Matthew Knudson, declare as follows:

3 1. I have personal knowledge of the facts set forth herein, and if called upon to  
4 testify thereto, I could and would competently do so under oath.

5 2. I serve as the Assistant General Manager of the Antelope Valley Watermaster (the  
6 "Watermaster"). I work with Watermaster staff on a daily basis, and I am familiar with the  
7 process whereby Watermaster staff prepares, finalizes, and sends invoices for Replacement  
8 Water Assessments ("RWAs").

9 3. At its August 28, 2019 meeting, the Watermaster Board considered and adopted  
10 Resolution No. R-19-27, setting the RWA rates applicable to the Tapia Parties for 2018. A true  
11 and correct copy of Watermaster Resolution No. R-19-27 is attached hereto as Exhibit "C."

12 4. At its April 24, 2019 meeting, the Watermaster Board considered and adopted  
13 Resolution No. R-19-11, setting the RWA rates applicable to the Tapia Parties for 2019. A true  
14 and correct copy of Watermaster Resolution No. R-19-11 is attached hereto as Exhibit "D."

15 5. A true and correct copy of the Annual Water Production Report submitted by the  
16 Tapia Parties for 2019 is attached hereto as Exhibit "E".

17 6. On January 22, 2019, the Watermaster invoiced the Tapia Parties for 2018 RWAs  
18 in the amount of \$137,365, based on their reported 2018 production of 334 acre-feet at a cost of  
19 \$415 per acre-foot, but inadvertently including a credit for 3 acre-feet per year for a Small  
20 Pumper Class Member to which they are not legally entitled. A true and correct copy of the  
21 January 22, 2019 invoice is attached hereto as Exhibit "F".

22 7. On February 11, 2021, the Watermaster invoiced the Tapia Parties for 2019  
23 RWAs in the amount of \$43,059, based on their reported 2019 production of 98.476 acre-feet at  
24 a cost of \$451 per acre-foot, but again inadvertently including a credit for 3 acre-feet per year for  
25 a Small Pumper Class Member to which they are not legally entitled. The invoice also included  
26 Administrative Assessments ("AAs") in the amount of \$492.38. A true and correct copy of the  
27 February 11, 2021 invoice is attached hereto as Exhibit "G".

28 ///





## **Exhibit A**

## **Tapia – Response to Requested Information from Watermaster**

Date: 10/30/18  
Property owner: Charles Tapia, Trustee of the Nellie Tapia Trust  
Property address: 8301 Avenue A, Rosamond, California  
Contact phone number and email: c/o Robert Brumfield  
Contact relation to property owner: Attorney  
All APN numbers for Tapia Property: 374-020-53-00-6

### **For each APN:**

- Year purchased or first leased (and indicate if own or lease) – OWN; ACQUIRED IN 1981.
- Name of Seller of parcel (and indicate if they were Parties to the Judgment, if you know) – I AND I FARMS, INC.; UNKNOWN.
- Total acreage of parcel – 137.36.
- Acres of this parcel leased to others – NONE.
- Dates leased out to others – N/A.
- Do the lessees have any Production Rights in the Judgment and, if so, are they using these rights on this parcel? N/A.
- Number of residences/houses on the parcel – 2 TRAILERS.
- Number of occupants living in these residences in 2016, 2017, 2018 – 3.
- Number of wells on the parcel – 2 (SMALL ONE AND LARGER ONE USED FOR AGRULULTURAL PRODUCTION).
- Well information for each well such as date drilled, depth, diameter, screened interval, meter information, depth to water, pumping capacity – DRILLED 2009-2010 AFTER AVEK ADVISED THAT IT WOULD HAVE NO DITCH WATER AVAILABLE IN 2010; 750' DEPTH; WATER DEPTH AROUND 210'; DRILLING INFORMATION ATTACHED TO TAPIA'S RESPONSE TO REQUESAT FOR PRODUCTION IN THE LITIGATION WHICH IS SUBMITTED HEREWITH; SMALL WELL HAS A METER THAT ISN'T READ; LARGE WELL CAN PRODUCE 2400 GALLONS/MINUTE; SMALL WELL WAS DRILLED IN ABOUT 1990 – 4 TO 5 HP MOTOR, 5 GALONS/MINUTE, 10 GALLON TANK, USED FOR WASHING TRUCKS AND RESIDENTIAL.
- Irrigated acreage in 2016, 2017, and 2018 - 110
- Crops grown in 2016, 2017, 2018 and associated acreages of each – ABOUT 70 TO 80 ACRES FOR PUMPKINS AND 35-40 ACRES FOR CORN.
- Annual production in 2016, 2017, and 2018 – 560.95 ACRE FEET; 725.49 ACRE FEET; 334 ACRE FEET.
- Method used to estimate production – kWh/581 kWh PER ACRE FOOT PER LAST SCE TEST WHICH IS SUBMITTED WITH TAPIA'S DECLARATION.
- Water uses of each well (irrigation, livestock, domestic, etc.) – IRRIGATION.
- Dates and annual amounts of use of other water sources such as imported water from AVEK – NONE SINCE 2009.
- Future use of parcel – FARMING.
- Estimated annual water use in the future – 334 ACRE FEET TO 560 ACRE FEET/YEAR.

## **Exhibit B**

Status	Date	Timekeeper	Matter	Task Code	Hours	Rate	Amount	Bill	Billed Amount	Narrative
Billed	08/17/2021	CG	00001		0.2	270	\$54.00	186884	54.00	Correspondence with Robert Brumfield regarding Tapia litigation/settlement options.
Paid	04/14/2021	CG	00001		0.1	270	\$27.00	183043	0.00	Intraoffice conference with Mr. Patton regarding next steps in enforcement/collection against Tapia for delinquent Assessments, review client documents regarding same.
Paid	03/26/2021	CG	00001		0.1	270	\$27.00	182129	0.00	Finalize final warning letter to Tapia per comments from staff and engineer; intraoffice conference with Mr. Patton regarding same.
Paid	10/31/2018	CG	00001		0.2	270	\$54.00	156814	54.00	Complete information from Tapia documents regarding water usage.
<b>Grand Totals:</b>					<b>0.6</b>		<b>\$162.00</b>		<b>108.00</b>	

## **Exhibit C**

**RESOLUTION NO. R-19-27**

**ADOPTING REPLACEMENT WATER ASSESSMENTS FOR YEARS 2016, 2017 and 2018 FOR ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION**

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, the Judgment provides that the Watermaster shall calculate, assess and collect Replacement Water Assessments pursuant to Section 9.2 of the Judgment; and

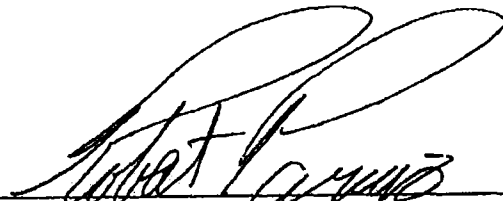
WHEREAS, the Watermaster has taken and considered public comment on the issue and has calculated that a Replacement Water Assessment of \$415 an acre foot for Producers within the Antelope Valley State Water Contractors Association ("AVSWCA") boundaries in Years 2016 and 2017, and a Replacement Water Assessment of \$888 an acre foot for Producers outside the AVSWCA boundaries for Year 2016, \$896 an acre foot for Year 2017, and \$914 an acre foot for Year 2018, which are reflective of the proportional share of State Water Project fixed costs applicable to those Producers outside the AVSWCA boundaries, are consistent with the terms of the Judgment and are based on the actual cost of Replacement Water, including Watermaster spreading costs; and

WHEREAS, these Producers will also be responsible for applicable Administrative Assessments in addition to a Replacement Water Assessment.

NOW, THEREFORE, BE IT RESOLVED, that the Watermaster Board unanimously adopts a Replacement Water Assessment for Years 2016 and 2017 in the amount of \$415 an acre foot for Producers within the AVSWCA boundaries, and a Replacement Water Assessment in the amount of \$888 an acre foot in 2016, \$896 an acre foot for Year 2017, and \$914 an acre foot for Year 2018, for Producers outside the AVSWCA boundaries.

I certify that this is a true copy of Resolution No. R-19-27 as passed by the Board of Directors of the Antelope Valley Watermaster at its meeting held August 28, 2019, in Palmdale, California.

Date: 8/28/19

  
Robert Parris, Chairman

ATTEST:   
Patricia Rose – Secretary

**AV State Water Contractors Boundaries**

	<b>Inside</b>	<b>Outside</b>
<b>2019</b>	<b>\$451.00</b>	<b>\$948.00</b>
<b>2018</b>	<b>\$415.00</b>	<b>\$914.00</b>
<b>2017</b>	<b>\$415.00</b>	<b>\$896.00</b>
<b>2016</b>	<b>\$415.00</b>	<b>\$888.00</b>

**A N T E L O P E V A L L E Y  
W A T E R M A S T E R B O A R D  
M E M O R A N D U M**

**DATE:** August 21, 2019  
**TO:** ANTELOPE VALLEY WATERMASTER BOARD  
**FROM:** Mr. Matthew Knudson, Administrator  
 Mr. Peter Thompson, Jr., Assistant Administrator  
**RE:** *SETTING REPLACEMENT WATER ASSESSMENT RATES FOR 2016 AND 2017 PRODUCTION WITHIN AND OUTSIDE OF THE ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION BOUNDARIES; AND 2018 PRODUCTION OUTSIDE THE ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION BOUNDARIES*

**Recommendation:**

Antelope Valley Watermaster Administrative staff recommends the Board Approve Resolution No. R-19-x, which sets the following Replacement Water Assessment Rates for producers inside and outside of the Antelope Valley State Water Contractors Association (AVSWCA) boundaries:

<u>Calendar Year</u>	<u>Inside AVSWCA Boundaries</u>	<u>Outside AVSWCA Boundaries</u>
2016	\$415/Ac-Ft	\$888/Ac-Ft.
2017	\$415/Ac-Ft.	\$896/Ac-Ft.
2018	Previously Approved	\$914/Ac-Ft.

The Antelope Valley Watermaster Board previously approved Resolution No.'s R-18-08, R-19-10, and R-19-11 which set the following Replacement Water Assessment Rates:

<u>Calendar Year</u>	<u>Inside AVSWCA Boundaries</u>	<u>Outside AVSWCA Boundaries</u>
2018	\$415/Ac-Ft.	See above
2019	\$451/Ac-Ft.	\$948/Ac-Ft.

**Background:**

The Antelope Valley Watermaster is compelled by the court to require groundwater pumpers to replace water in the Antelope Valley Groundwater Basin when they have pumped over their adjudicated right. The AVSWCA member agencies will be a primary source for providing this replacement water due to their collective ability to import water and recharge the basin. To this end, AVSWCA contracted with Raftelis to determine a rate structure that included replacement costs for pumpers both inside and outside of the AVSWCA collective service area. This is important as those pumpers within our service area have helped pay the fixed costs of the State Water Project (SWP) through their property taxes while those outside have not. The cost for



replacement water to be charged to pumpers is based on cost to deliver raw water plus an additional 10% to capture the loss of water expected when recharging the replacement water. Pumpers outside of our service areas will pay this rate plus a charge to cover their proportional share of SWP fixed costs.

Raftelis has provided the AVSWCA with the financial model that allows staff to update it on an annual basis to account for changes in the average consumer price index and the annual fixed costs and deliveries as updated in the Department of Water Resources' annual Bulletin 132.

## **Exhibit D**

**RESOLUTION NO. R-19-11**

**ADOPTING REPLACEMENT WATER ASSESSMENTS FOR YEAR 2019**

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, the Judgment provides that the Watermaster shall calculate, assess and collect Replacement Water Assessments pursuant to Section 9.2 of the Judgment; and

WHEREAS, the Watermaster has taken and considered public comment on the issue and has calculated that a Replacement Water Assessment of \$451 an acre foot for Producers within the Antelope Valley State Water Contractors Association ("AVSWCA") boundaries, and a Replacement Water Assessment of \$948 an acre foot for Producers outside the AVSWCA boundaries which is reflective of the proportional share of State Water Project fixed costs applicable to those Producers outside the AVSWCA boundaries, are consistent with the terms of the Judgment and are based on the actual cost of Replacement Water, including Watermaster spreading costs; and


WHEREAS, these Producers will also be responsible for applicable Administrative Assessments in addition to a Replacement Water Assessment.

NOW, THEREFORE, BE IT RESOLVED, that the Watermaster Board unanimously adopts a Replacement Water Assessment for Year 2019 in the amount of \$451 an acre foot for Producers within the AVSWCA boundaries, and a Replacement Water Assessment in the amount of \$948 an acre foot for Producers outside the AVSWCA boundaries.

**I certify that this is a true copy of Resolution No. R-19-11 as passed by the Board of Directors of the Antelope Valley Watermaster at its meeting held April 24, 2019, in Palmdale, California.**

Date:

APR. 24, 2019

  
Robert Parris, Chairman

ATTEST:

Patricia Rose

Patricia Rose – Secretary

## **Exhibit E**

**ANNUAL WATER PRODUCTION REPORT\***  
**2019 CALENDAR YEAR**  
**ANTELOPE VALLEY WATERMASTER**

Submit by March 1, 2020

Please mail to: Antelope Valley Watermaster, P.O. Box 3025, Quartz Hill, California 93586 OR email to: [info@avwatermaster.net](mailto:info@avwatermaster.net). Call Watermaster Administrative staff at 661-234-8233 with questions.

\* This form is used by the Watermaster for water accounting. Please report all water produced by the production right named below. All producers must report their own production.

NAME OF PRODUCTION RIGHT Tapia Brother Farms  
(As listed in the Judgment or New Production Application)

Contact Name Tom Tapia  
Address 5251 Haystack Ave Encino CA 91436  
Phone 818 705 6155 email tapiafarm@gmail.com

TOTAL GROUNDWATER PRODUCED 98.476 acre-feet in 2019

The amount of water available for use in 2019 has been summarized in tables on the Antelope Valley Watermaster website: <https://avwatermaster.net/>. See Table 1 for Public Water Suppliers (Exhibit 3 Parties); Table 2 for Overlying Producers (Exhibit 4 Parties); and Table 3 for Other Parties (other than those listed on Exhibits 3 and 4).

Amount of this production that is recovery of stored water (excluding Carry Over water) \_\_\_\_\_ acre-feet in 2019

Total number of production wells one

Did these wells produce water for another party? If so, which Parties? NO

Number of these wells that have had meter documentation approval by the Watermaster Engineer \_\_\_\_\_

Anticipated date that the remaining wells will have approved meter documentation \_\_\_\_\_

Please sign below and complete the information on the next page.

I certify to the best of my knowledge and belief that the information provided on this Production Report Form is true and correct.

Signature of Producer  Date 2-3-21

Section 18.5.12 (Production Reports) of the Judgment states: "The Watermaster Engineer shall require each Producer, other than unmetered Small Pumper Class Members, to file an annual Production report with the Watermaster. Producers shall prepare the Production reports in a form prescribed by the rules and regulations. The Production reports shall state the total Production for the reporting Party, including Production per well, rounded off to the nearest tenth of an acre foot for each reporting period. The Production reports shall include such additional information and supporting documentation as the rules and regulations may reasonably require."



## **Exhibit F**

Antelope Valley Watermaster  
5022 West Avenue N, Suite 102  
#158  
Palmdale, CA 93551  
(661) 234-8233  
www.avwatermaster.net

**BILL TO**  
Charlie Tapia  
Tapia Brother Farms  
c/o Robert Brumfield, III  
2031 F Street  
Bakersfield, CA 93301

**INVOICE 1300CY18-2**

**DATE 01/22/2019**

**DUE DATE 02/21/2019**

TYPE	DESCRIPTION	ACRE FT.	RATE	AMOUNT
FIXED	Administrative Assessments CY 2016 per Reported Production	560.95	1.00	560.95
FIXED	Administrative Assessments CY 2017 per Reported Production	725.49	5.00	3,627.45
FIXED	Administrative Assessments CY 2018 per Reported Production	334	5.00	1,670.00
RWA	2018 Replacement Water Assessment (including credit of 3 acre feet for 1 well)	331	415.00	137,365.00

Please include invoice number on check payment.

**PLEASE NOTE:**  
Delinquent balances are assessed a 10% late fee.

**TOTAL DUE \$137,365.00**

Per Resolution No. R-18-02 as passed by the Board of Directors of the Antelope Valley Watermaster at its meeting held  
January 24, 2018, in Palmdale, California

and

Judicial Council Coordination Proceeding No. 4408 Santa Clara Case No.: 1-05-CV-049053

**PLEASE REMIT PAYMENT TO:**  
Antelope Valley Watermaster  
P.O. Box 3025  
Quartz Hill, CA 93586



## **Exhibit G**

Antelope Valley Watermaster  
5022 West Avenue N, Suite 102 #158  
Palmdale, CA 93551  
(661) 234-8233  
www.avwatermaster.net

**BILL TO**  
Charlie Tapia  
Tapia Brother Farms  
c/o Robert Brumfield, III  
2031 F Street  
Bakersfield, CA 93301

**INVOICE 1300CY19-2**

**DATE 02/11/2021**

**DUE DATE 03/13/2021**

TYPE	DESCRIPTION	ACRE FT.	RATE	AMOUNT
FIXED	Administrative Assessments CY 2019 per Reported Production	98.476	5.00	492.38
RWA	2019 Replacement Water Assessment (including credit of 3 acre feet for 1 well)	95.476	451.00	43,059.68

Please include invoice number on check payment.

PLEASE NOTE:  
Delinquent balances are assessed a 10% late fee.

**TOTAL DUE \$43,552.06**

Per Resolution No. R-18-30 as passed by the Board of Directors of the Antelope Valley Watermaster at its meeting held December 5, 2018, in Palmdale, California

and

Judicial Council Coordination Proceeding No. 4408 Santa Clara Case No.: 1-05-CV-049053

PLEASE REMIT PAYMENT TO:  
Antelope Valley Watermaster  
P.O. Box 3025  
Quartz Hill, CA 93586

1 **PROOF OF SERVICE**

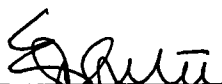
2 STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

3 I am employed in the County of Santa Barbara, State of California. I am over the age of  
4 eighteen (18) and not a party to the within action. My business address is 200 East Carrillo Street,  
Fourth Floor, Santa Barbara, California 93101.

5 On November 16, 2021, I served the foregoing document described **WATERMASTER'S**  
6 **NOTICE OF MOTION AND FIRST AMENDED MOTION FOR MONETARY,**  
7 **DECLARATORY AND INJUNCTIVE RELIEF AGAINST TAPIA PARTIES;**  
8 **DECLARATIONS OF CRAIG A. PARTON AND MATTHEW KNUDSON; EXHIBITS A -**  
9 **G,** on all interested parties in this action by placing the original and/or true copy.

- 10  **BY ELECTRONIC SERVICE:** I posted the document(s) listed above to the Santa Clara  
11 County Superior Court Website @ [www.scefilng.org](http://www.scefilng.org) and Glotrans website in the action of  
12 the Antelope Valley Groundwater Cases.
- 13  (*STATE*) I declare under penalty of perjury under the laws of the State of California that  
14 the foregoing is true and correct.
- 15  (*FEDERAL*) I hereby certify that I am employed in the office of a member of the Bar of  
16 this Court at whose direction the service was made.

17 Executed on November 16, 2021, at Santa Barbara, California.

18   
19 \_\_\_\_\_  
20 Signature  
21 Elizabeth Wright