

EXHIBIT 6

From: Craig A. Parton
To: [Powell, Stanley](#)
Subject: Lemieux letter
Date: Thursday, December 7, 2017 7:37:08 AM
Attachments: [Rampdown Ltr - K Lemieux.pdf](#)

Stan: In case you never saw this.....I confirmed with Keith yesterday that it was incorrect to indicate on this letter that it was some type of protected or privileged communication. The letter should, and will be, part of the public record.....Craig



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November 22, 2017

Via Email and U.S. Mail

The Antelope Valley Watermaster
P.O Box 3025
Quartz Hills, CA 93586

Re: ***Rampdown Rights of Public Water Suppliers***
CONFIDENTIAL: Attorney/Client Privilege

Executive Summary

At a recent workshop, the Antelope Valley Watermaster considered the issue of the Rampdown water rights of Public Water Suppliers. This issue will be considered by the Board as an action item on December 6, 2017. The following correspondence provides information the Board may find useful in evaluating this issue. This letter expresses the views of Los Angeles County Waterworks District No. 40, Palmdale Water District, Littlerock Creek Irrigation District, Rosamond Community Services District, Quartz Hill Water District, Palm Ranch Irrigation District, Desert Lake Community Services District and North Edwards Water District ("Public Water Suppliers").

The issue of the applicability of the Rampdown to the Public Water Suppliers is not a complex one. The concept of Rampdown was introduced into the Judgment from day one to mitigate against the financial hardship to each Party as the result of incurring replacement water fees. As a result, the Rampdown contained in the Judgment, by its unambiguous and express terms, was extended to all Producers in the Basin including the Public Water Suppliers.

The Plain Language of the Agreement Makes It Clear the Rampdown Was Intended to Apply to "All Parties."

Section 8.3 of the Judgment and Physical Solution provides that:

"During Years three through seven of the Rampdown Period, the amount that *each Party* may Produce from the Native Safe Yield will be progressively reduced, as necessary, in equal annual increments, from its Pre-Rampdown Production to its Production Right." (Emphasis added.)

"Party" is defined in Section 3.5.27 as "any Person(s) that has (have) been named and served or otherwise properly joined, or has (have) become subject to the Judgment..." "Producer" is defined in Section 3.5.30 as "A Party who Produces Groundwater." Since each Non-Overlying Producer is a Party that Produces groundwater, and thus both a "Party" and a "Producer" within the meaning of section 8.3, the Rampdown unequivocally applies to them. Therefore, the Judgment

and Physical Solution must be reviewed to determine whether the Non-Overlying Producers have a Pre-Rampdown number to be ramped down to their Production Right. The answer to this is found in section 3.5.28 which provides that Pre-Rampdown Production is:

"The reasonable and beneficial use of Groundwater, excluding Imported Water Return Flows, at a time prior to this Judgment, or the Production Right, whichever is greater."

Exhibit 8 lists parties with a Right to Produce Imported Water Return Flows and includes all of the Non-Overlying Producers.

Perhaps the most basic rule of statutory construction is that a document is first to be interpreted by the language of the document (*Machado v. Southern Pacific Transportation Co.* (1991) 233 Cal.App.3d 347, 352-53). Sections 8.3 and 3.5.30 use the terms Party and Producer, both of which unambiguously include Non-Overlying Producers. Further, section 3.5.28 refers to excluding imported water return flows from Pre-Rampdown numbers and since Exhibit 8 lists the Non-Overlying Producers, it clearly includes them. If the Judgment and Physical Solution had intended to exclude Non-Overlying Producers from Rampdown, sections 3.5.28 or 3.5.30 should have provided explicit language excluding them. However, the language of these provisions as well as section 8.3 and Exhibit 8 unambiguously includes all the Non-Overlying Producers.

The question now is simply an engineering one. What is the section 3.5.28 Pre-Rampdown Production number of each Non-Overlying Producer? If it is greater than the Production Right, that Non-Overlying Producer is subject to Rampdown from that number. If it is not, that Non-Overlying Producer may pump its Production Right during the Rampdown period. The Non-Overlying Producers will work with the Watermaster Engineer to establish these numbers as quickly as possible.

Some parties have objected to the plain language of the Agreement by suggesting an additional unwritten restriction applies to Rampdown rights. These parties claim that to have a Rampdown Right, a party must have a Pre-Rampdown number specified in the exhibit chart that contains that party's allocation. This condition is contained nowhere in the Agreement. The definition of "Pre-Rampdown Production" in Section 3.5.28 makes no reference to any exhibit. It does not indicate that the Pre-Rampdown right is specified in the Agreement. Instead, it describes the Pre-Rampdown right generally and leaves it to the Watermaster to decide the amount of such right.

The Public Water Suppliers reasonably relied on this plain language when they agreed to the Stipulation. It is unreasonable for any party to now come forward with additional requirements or constraints on the Pre-Rampdown rights. If the parties had intended to limit "Pre-Rampdown Production" to the numbers contained in Exhibit 4, the definition found in Section 3.5.28 would have specified this.

Many of the Public Water Suppliers Are Small Rural Organizations That Cannot Afford to Provide Water Service Without the Rampdown.

At the Watermaster workshop, some parties suggested that the Pre-Rampdown Right was a

trivial matter to the Public Water Suppliers. This seems to be founded in the misperception that Public Water Suppliers are always large institutional entities with equally large budgets that can absorb such costs. This is not the case in the Antelope Valley.

For example, there are only approximately 1,670 connections that receive water service from Palm Ranch Irrigation District. Of these, approximately 1,640 are households with the remainder being commercial or irrigation use. The District has an annual operating budget of \$771,729. Palm Ranch has only 3 employees.

Palm Ranch currently uses approximately 1,500 acre feet of water per year. Its Exhibit 3 allocation of water rights is only 465.69 acre feet per year. Assuming that replacement water costs approximately \$500 an acre foot, if Palm Ranch was required to purchase replacement water for all of its excess pumping, it would be forced to spend approximately \$550,000 which is more than half of its current annual budget. This would amount to approximately \$328 per connection.

Another example is Desert Lakes. There are currently 249 connections that receive water service from Desert Lake Community Services District. Of these, approximately 240 are households with the remainder being commercial or irrigation use. Using the same assumptions as above, Desert Lakes would be forced to expend \$385,000 in replacement water costs next year in the absence of a Rampdown. This would amount to roughly \$154 dollars per connection.

The Rampdown was put into place so that districts such as Palm Ranch and Desert Lakes had an adequate time to adjust their water rates in order to absorb the replacement water costs. Eliminating the Rampdown now would severely impact these districts and could cripple their ability to provide potable water to their residential customers.

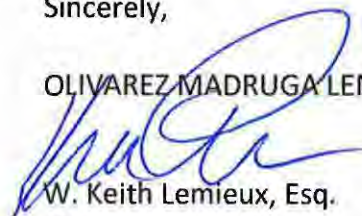
Though not a small rural Producer, Rosamond Community Services District will be significantly impacted without a Rampdown. Rosamond's Phase 4 Pre-Rampdown Production was quantified at 2,990 acre-feet a year and its Groundwater Production has closely paralleled this amount the last few years. Rosamond's Production Right, however, is 404.42 acre-feet. An immediate ramp-down of over 2500 acre-feet will have significant consequences to Rosamond – impacts that are contrary to the plain language of the Judgment.

Conclusion

For the reasons stated above, we respectfully request that the Watermaster honor the Rampdown provisions for the Public Water Suppliers.

Sincerely,

OLIVAREZ MADRUGA LEMIEUX O'NEILL



W. Keith Lemieux, Esq.

KL:sb

cc. Craig Parton, Esq.

Phyllis Stanin, Todd Engineering

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