

EXHIBIT 10

Special Meeting
December 6, 2017

Distribution of Unused Federal Reserved Production Right

**Memorandum – Phyllis Stanin
Engineer**



December 4, 2017

DRAFT ISSUE PAPER

To: Dennis LaMoreaux, Chair
Antelope Valley Watermaster Advisory Committee

From: Phyllis Stanin, Vice President/Principal Geologist
Kate White, Senior Engineer
Todd Groundwater, Watermaster Engineer

Re: **Distribution of Unused Federal Reserved Production Right**

This memorandum provides information regarding the distribution of unused Federal Reserved Production Rights to Non-Overlying Production Rights holders (except for Boron Community Services District and West Valley County Water District) for use in the following year, as per the Judgment (¶15.1.4.1). The purpose of this memorandum is to provide information regarding this Production Right and to inform these Non-Overlying Production Rights holders as to their 2017 allocation of unused 2016 Federal Reserved Production Rights.

In addition, there have been specific inquiries regarding this right:

- 1.) Should unused 2015 Federal Reserved Production Rights be applied to production in 2016?
- 2.) Are Non-Overlying Producers allowed to carry over their portion of the unused Federal Reserved Production Rights to future years?

The intent of this Issue Paper is to provide a basis for discussion of this issue at upcoming meetings of the Advisory Committee and, subsequently, for discussion and decision-making by the Antelope Valley Watermaster. When approved, information on the procedures for allocating unused Federal Reserved Production Right will be incorporated into the Antelope Valley Watermaster Rules and Regulations document.

ALLOCATION OF UNUSED 2016 FEDERAL RESERVED WATER RIGHTS

The Judgment states: “In the event the United States does not Produce its entire 7,600 acre-feet in any given Year, the unused amount in any Year will be allocated to the Non-Overlying Production Rights holders, except for Boron Community Services District and West Valley County Water District, in the following Year, in proportion to Production Rights set forth in Exhibit 3. This Production of unused Federal Reserved Water Right Production does not increase any Non-Overlying Production Right holder’s decreed Non-Overlying Production Right amount or percentage, and does not affect the United States’ ability to fully Produce its Federal Reserved Water Right as provided in Paragraph 5.1.4 in any subsequent Year.” (§ 5.1.4.1).

In 2016, the Federal Government produced a total of 1,094.01 acre feet (AF), leaving 6,505.99 AF of the 7,600 AF Production Right unused. **Table 1** allocates the unused amount among the respective Non-Overlying Production Right holders.

Table 1. Allocation of 2016 Federal Reserved Production Rights for Use in 2017

Exhibit 3 Non-Overlying Producer	Production Rights (AFY)	% of Production Rights	Unused 2016 Federal Reserved Water Right Allocation (AF)
Boron CSD	NA	NA	NA
California Water Services Co.	343.14	0.028	182.17
Desert Lake CSD	73.53	0.006	39.04
Littlerock Creek ID	796.58	0.065	422.89
LA Co. WW District No. 40	6,789.26	0.554	3,604.31
North Edwards WD	49.02	0.004	26.02
Palm Ranch ID	465.69	0.038	247.23
Palmdale WD	2,769.63	0.226	1,470.35
Quartz Hill WD	563.73	0.046	299.28
Rosamond CSD	404.42	0.033	214.70
West Valley County WD	NA	NA	NA
Total	12,255.00	1.00	6,505.99

POTENTIAL ALLOCATION OF UNUSED 2015 FEDERAL RESERVED WATER RIGHTS

Because the Judgment was finalized December 23, 2015, production for 2015 was not required to be reported; the Judgment required that annual reporting begin in 2016 (after the first full Year following entry of the Judgment, ¶ 18.5.17). In addition, the Exhibit 3 parties that are eligible to use the unused Federal Reserved water right were not subject to a replacement water assessment in 2016 and could essentially pump the full amount of groundwater needed for beneficial use; therefore, there was no need to have an additional right to produce groundwater in that year. Even though all but one of the Non-Overlying Producers pumped more than their Production Right in 2016, the unused Federal Reserved Water Right for 2015 was not necessary in 2016 to reduce Replacement Water Assessment fees. Nonetheless, in response to questions on allocation of this unused right, the Watermaster Engineer requested 2015 production totals from the Federal Government to provide these amounts to be allocated to 2016 production, if needed.

The Federal Government produced a total of 1,066.22 AF in 2015, resulting in 6,593.78 AF of unused 2015 Federal Reserved Water Right (7,600-1,006.22). Using the percentages in **Table 1** (third column), allocation of unused 2015 Federal Reserved Water Right is shown in **Table 2**.

Table 2. Potential Allocation of 2015 Federal Reserved Production Rights for Use in 2016

Exhibit 3 Non-Overlying Producer	Unused 2015 Federal Reserved Water Right Allocation (AF)
Boron CSD	NA
California Water Services Co.	184.63
Desert Lake CSD	39.56
Littlerock Creek ID	428.60
LA Co. WW District No. 40	3,652.95
North Edwards WD	26.38
Palm Ranch ID	250.56
Palmdale WD	1,490.19
Quartz Hill WD	303.31
Rosamond CSD	217.60
West Valley County WD	NA
Total	6,593.78

UNUSED FEDERAL RESERVED WATER RIGHT AND CARRY OVER WATER

Parties to the Judgment have questioned whether the allocation of unused Federal Reserved Water Right might be eligible for Carry Over Water. As discussed in the Issue Paper on Application of Carry Over Water (Todd Groundwater, 10-18-2017), only the Production Right and Imported Water Return Flows are subject to Carry Over Water (§15.1, §15.2, and §15.3). As stated in the Judgment, the “unused Federal Reserved Water Right Production *does not increase any Non-Overlying Production Right holder’s decreed non-Overlying Production Right amount*” (emphasis added). Accordingly, the used Federal Reserved Water Right is not considered a Non-Overlying Production Right (or imported water return flow) and therefore, is not eligible for Carry Over Water.

Further, the Judgment indicates that only three Producer classes are eligible for Carry Over Water: Overlying Producers (§15.1.1, Exhibit 4), State of California Water Right (§15.1.5) and Non-Overlying Producers (§15.1.6, Exhibit 3 of the Judgment). The omission of the Federal Reserved Water Right from the Producers eligible for Carry Over Water indicates that it is not eligible for Carry Over Water; it follows that the *unused* portion of the Federal Reserved Water Right would also *not* be eligible for Carry Over Water.

PROCEDURES FOR ALLOCATING UNUSED FEDERAL RESERVED PRODUCTION RIGHT

In the future, the Watermaster Engineer will receive quarterly production reports in compliance with the metering requirements. In addition, Producers of the Federal Reserved Production Right will be requested to provide their fourth quarter production in an expedited manner. The Watermaster Engineer will then quickly develop and publish the allocation table so that the rights holders will have more time to use the unused portion of the Federal Reserved Production Right allocated to them. This is especially important because the unused portion is not subject to Carry Over.