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August 12, 2016

ELLISON, SCHNEIDER & HARRIS L.L.P.
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Attorneys for Cross-Defendants,
County Sanitation Districts of Los Angeles County Nos. 14 and 20

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY of LOS ANGELES – CENTRAL DISTRICT**

COORDINATION PROCEEDING SPECIAL
TITLE (RULE 1550(b))

ANTELOPE VALLY GROUNDWATER CASES

INCLUDED ACTIONS:

Los Angeles County Waterworks District No. 40 vs.
Diamond Farming Company, a corporation, Superior
Court of California, County of Los Angeles Case No.
BC 325201;

Los Angeles County Waterworks District No. 40 vs.
Diamond Farming Company, a corporation, Superior
Court of California, County of Kern, Case No. S-
1500-CV-254-348;

Wm. Bolthouse Farms, Inc. vs. City of Lancaster,
Diamond Farming Company, a corporation vs. City
of Lancaster, Diamond Farming Company, a
corporation vs. Palmdale Water District, Superior
Court of California, County of Riverside, Case Nos.
RIC 353840, RIC 344436, RIC 344668.

Judicial Council Coordination
Proceeding
No. JCCP 4408

SANTA CLARA CASE NO.: 1-05-CV-
049053
The Honorable Jack Komar, Judge
Presiding

**NOTICE OF MOTION AND
MOTION BY PRIVATE AND
PUBLIC LANDOWNERS FOR
ORDER APPROVING RULES AND
REGULATIONS FOR
APPOINTMENT AND ELECTION
OF WATERMASTER BOARD
MEMBERS / MEMORANDUM OF
POINTS AND AUTHORITIES /
SUPPORTING DECLARATION**

Date: September 8, 2016
Time: 9:00 a.m.
Dept.: Room 222, Los Angeles
Judge: Jack Komar, Presiding

TO THE PARTIES TO THESE COORDINATED AND CONSOLIDATED ACTIONS AND
TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on September 8, 2016, at 9:00 a.m. in Room 222 of the
Los Angeles County Superior Court, located at 111 North Hill Street, Los Angeles, California,

1 Cross Defendants the Antelope Valley-East Kern Water Agency, the City of Los Angeles, by and
2 through its Department of Airports, Los Angeles World Airports (LAWA), the County Sanitation
3 Districts of Los Angeles County Nos. 14 and 20 (LA County Sanitation), Bolthouse Properties,
4 LLC, and WM. Bolthouse Farms, Inc., Diamond Farming Company, Grimmway Enterprises,
5 Inc., Crystal Organic Farms, LLC, Lapis Land Company, LLC, Craig Van Dam, Delmar D. Van
6 Dam, Gary Van Dam, Gertrude J. Van Dam (collectively "Overliers") will move, and hereby
7 move, for an Order Approving the Proposed Rules and Procedures For Appointment and
8 Election of Watermaster Board Members, a copy of which is attached as Exhibit 1 hereto. This
9 motion is made on the following grounds:

10 1. At the hearing on June 30, 2016, the Court approved the appointment of an interim
11 Watermaster Board and, *inter alia*, directed that the parties: (a) meet and confer regarding rules
12 and procedures for the appointment and election of Watermaster Board representatives; and (b)
13 submit for the Court's approval on September 6, 2016 (later changed to September 8, 2016) rules
14 and procedures governing the appointment and election of Watermaster Board representatives.

15 2. Proposed rules and procedures relating to the appointment of the Antelope Valley East
16 Kern Water Agency (AVEK) respective representative to the Watermaster Board and the
17 election of the Public Water Suppliers' representative to the Watermaster Board, are
18 incorporated in Exhibit 1 attached hereto.

19 3. Following the June 30, 2016, hearing, the moving parties' legal counsel met and
20 conferred on three separate occasions with legal counsel representing the Mutuels group, in an
21 attempt to reach agreement regarding the rules and procedures governing the election of the two
22 landowner representatives to the Watermaster Board. As a result of those efforts, agreement has
23 been reached between the moving parties and the Mutuels group as to the provisions which
24 should govern election of the two landowner representatives and alternates to the Watermaster
25 Board.

26 4. The rules and procedures for the election of the two landowner representatives to the
27 Watermaster Board proposed in Exhibit 1 attached hereto are consistent with, and fully
28

1 implement, the relevant provisions of the Judgment and Physical Solution; are consistent with
2 the direction provided by the Court at the June 30, 2016 and July 28, 2016, hearings; will
3 promote continuity in the Watermaster Board; and will enable the Watermaster Board to
4 implement efficiently the provisions of the Judgment and Physical Solution.

5 This motion is made upon this notice, the attached Memorandum of Points and
6 Authorities, the attached supporting declaration, the contents of the Court's files in these
7 coordinated proceedings, and upon such further evidence as may be presented at the hearing on
8 the motion.

9
10 Dated: August 12, 2016

ELLISON, SCHNEIDER & HARRIS

11 By: Christopher M. Sanders
12 Christopher M. Sanders
13 Attorneys for COUNTY SANITATION
14 DISTRICTS OF LOS ANGELES COUNTY
15 NOS. 14 AND 20

16 Dated:

BRUNICK, McELHANEY & KENNEDY PLC

17 By: _____
18 William J. Brunick
19 Leland P. McElhaney
20 Attorneys for ANTELOPE VALLEY-EAST
21 KERN WATER AGENCY

22 Dated:

CLIFFORD & BROWN

23 By: _____
24 Richard G. Zimmer
25 Attorneys for BOLTHOUSE PROPERTIES,
26 LLC and WM. BOLTHOUSE FARMS,
27 INC.

28 //
//

1 4. The rules and procedures for the election of the two landowner representatives to the
2 Watermaster Board proposed in Exhibit 1 attached hereto are consistent with, and fully
3 implement, the relevant provisions of the Judgment and Physical Solution; are consistent with
4 the direction provided by the Court at the June 30, 2016 and July 28, 2016, hearings; will
5 promote continuity in the Watermaster Board; and will enable the Watermaster Board to
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14 Christopher M. Sanders
15 Attorneys for COUNTY SANITATION
16 DISTRICTS OF LOS ANGELES COUNTY
17 NOS. 14 AND 20

18 Dated:

August 12, 2016

BRUNICK, McELHANEY & KENNEDY PLC

19 By: _____

20 *William J. Brunick*
21 Leland P. McElhane
22 Attorneys for ANTELOPE VALLEY-EAST
23 KERN WATER AGENCY

24 Dated:

CLIFFORD & BROWN

25 By: _____

26 Richard G. Zimmer
27 Attorneys for BOLTHOUSE PROPERTIES,
28 LLC and WM. BOLTHOUSE FARMS,
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3 implement, the relevant provisions of the Judgment and Physical Solution; are consistent with
4 the direction provided by the Court at the June 30, 2016 and July 28, 2016, hearings; will
5 promote continuity in the Watermaster Board; and will enable the Watermaster Board to
6 implement efficiently the provisions of the Judgment and Physical Solution.

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20 Dated: BRUNICK, McELHANEY & KENNEDY PLC

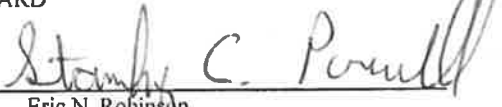
21 By: _____
22 William J. Brunick
23 Leland P. McElhaney
24 Attorneys for ANTELOPE VALLEY-EAST
25 KERN WATER AGENCY

26 Dated: 8-12-2016 CLIFFORD & BROWN

27 By:  _____
28 Richard G. Zimmer
Attorneys for BOLTHOUSE PROPERTIES,
LLC and WM. BOLTHOUSE FARMS,
INC.

1 Dated: 8/12/2016

KRONICK, MOSKOVITZ, TIEDEMANN &
GIRARD

2
3 By: 
4 Eric N. Robinson
5 Stanley C. Powell
6 Attorneys for CITY OF LOS ANGELES

7 Dated:

LeBEAU-THELEN

8
9 By: _____
10 Bob Joyce
11 Attorneys for DIAMOND FARMING,
12 GRIMMWAY ENTERPRISES, INC.,
13 CRYSTAL ORGANIC FARMS and LAPIS
14 LAND CO.

15 Dated:

KUHS & PARKER

16
17 By: _____
18 Robert Kuhs
19 Attorneys for TEJON RANCHCORP,
20 TEJON RANCH COMPANY and
21 GRANITE CONSTRUCTION COMPANY

22 Dated:

YOUNG - WOOLRIDGE

23
24 By: _____
25 Scott Kuney
26 Attorneys for CRAIG VAN DAM,
27 DELMAR D. VAN DAM, GARY VAN
28 DAM, GERTRUDE J. VAN DAM

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Dated:

KRONICK, MOSKOVITZ, TIEDEMANN &
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Eric N. Robinson
Stanley C. Powell
Attorneys for CITY OF LOS ANGELES

Dated: 8/12/16

LeBEAU-THELEN

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Dated:

YOUNG - WOOLRIDGE

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DELMAR D. VAN DAM, GARY VAN
DAM, GERTRUDE J. VAN DAM

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LeBEAU-THELEN

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19 GRANITE CONSTRUCTION COMPANY

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24 DELMAR D. VAN DAM, GARY VAN
25 DAM, GERTRUDE J. VAN DAM

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Moving parties submit this memorandum in support of their motion for an Order
3 approving proposed Rules and Procedures for appointment and election of Watermaster Board
4 representatives, a copy of which is attached as Exhibit 1 hereto.

5 **I.**

6 **INTRODUCTION**

7 At the hearing on June 30, 2016, the Court approved the appointment of an interim
8 Watermaster Board and, *inter alia*, directed that the parties: (a) meet and confer regarding rules
9 and procedures for the appointment and election of Watermaster Board representatives; and (b)
10 submit for the Court's approval on September 6, 2016 (changed later to September 8, 2016) rules
11 and procedures governing the appointment and election of Watermaster Board representatives.

12 The proposed rules and procedures relating to the appointment of the representative to the
13 Watermaster Board of the Antelope Valley-East Kern Water Agency (AVEK) and the election of
14 the Public Water Suppliers' representative to the Watermaster Board, are incorporated in Exhibit
15 1 attached hereto. (McElhaney Declaration, ¶ 2.)

16 Following the June 30, 2016, hearing, moving parties' legal counsel met and conferred on
17 three separate occasions with legal counsel representing the Mutuels group, in an attempt to
18 reach agreement regarding the rules and procedures governing the election of the two landowner
19 representatives to the Watermaster Board. As a result of those efforts, agreement has been
20 reached between these landowner parties as to the rules and procedures which should govern
21 election of the two landowner representatives and alternates to the Watermaster Board.
22 (McElhaney Declaration, ¶ 3.)

23 In summary, the landowner voting procedure will establish 4-year staggered terms for the
24 two landowner Watermaster representatives, with one of the two initial landowner
25 representatives to serve a 2-year term to effectuate staggering. The voting procedure will also
26 elect two landowner alternates, each serving 2-year terms unless they fill a remaining term of one
27 of the representatives. Alternates will be selected by an election process as provided in Exhibit 1
28

1 attached hereto. One of the landowner alternates shall serve as the “Primary Alternate” and the
2 other shall serve as the “Secondary Alternate.” In the event one of the landowner Watermaster
3 representatives is unable to attend a Watermaster Board meeting, the Primary Alternate shall
4 attend and serve as a landowner Watermaster representative for that meeting. In the event both of
5 the landowner representatives are unable to attend a Watermaster Board meeting or one of the
6 Watermaster Representatives and the Primary Alternate are unable to attend a Watermaster
7 Board meeting, the Secondary Alternate will attend and serve as a landowner Watermaster
8 representative for that meeting.

9 If a landowner Watermaster representative is unable to complete his or her term, the
10 Primary Alternate shall serve as the landowner Watermaster representative for the remainder of
11 the term, and the Secondary Alternate shall become the Primary Alternate. A special election
12 shall then be held using the election procedures set forth in Exhibit 1 hereto to select a new
13 Secondary Alternate to serve the remainder of the landowner Alternate term.

14 Moving parties respectfully submit that the proposed rules and procedures which are set
15 forth in Exhibit 1 attached hereto are consistent with, and fully implement, the relevant
16 provisions of the Judgment and Physical Solution; are consistent with the Court’s direction
17 provided at the June 30, 2016 and July 28, 2016, hearings; will promote continuity in the
18 Watermaster Board; and will enable the Watermaster Board to implement efficiently the
19 provisions of the Judgment and Physical Solution.

20 II.

21 THE NEED FOR “ALTERNATE” BOARD MEMBERS

22 At least initially, Watermaster action will require a “**unanimous**” vote, and **the absence**
23 **of even one Board member** will prevent the Board from taking action on matters which requires
24 a unanimous vote, to wit: section 18.1.2.1 of the Judgment and Physical Solution provides that,
25 “The Watermaster shall make decisions *by unanimous vote* for the purpose of selection or
26 dismissing the Watermaster Engineer; section 18.1.2.2 provides that, The “Watermaster shall
27
28

1 determine *by unanimous vote*, after consultation with the Watermaster Engineer, the types of
2 decisions that shall require unanimous vote and those that shall require only a simple majority
3 vote;” section 18.1.2.3 provides that, “All decisions of the Watermaster, other than those
4 specifically designated as being subject to a simple majority vote, *shall be by unanimous vote*;”
5 and, section 18.1.2.4 provides further that, “*All board members must be present* to make any
6 decision requiring a unanimous vote.
7

8 Based on these stringent requirements, the absence of a single Watermaster Board
9 member can render the Watermaster unable to act. While the Judgment does not explicitly
10 provide for alternate Watermaster representatives, the foregoing governance provisions for the
11 Watermaster virtually “cries out” the need for alternate members who will be able to serve in the
12 event a Board member is unable to attend a Board meeting. For this reason, it is notable that
13 AVEK, the PWS, and the private and public landowners all agree that “alternate” members are
14 required. Accordingly, AVEK and the PWS have each appointed or elected an “alternate”
15 member to serve in the event the appointed or elected member is unable to attend a scheduled
16 Watermaster Board meeting. The provision for alternates will ensure that the Watermaster will
17 be able to act in a timely fashion and promptly implement the Physical Solution to protect the
18 Basin.
19
20

21 **III.**

22 **ANOTHER ELECTION SHOULD BE HELD TO SELECT THE LANDOWNERS’** 23 **“ALTERNATE” BOARD MEMBERS**

24 The Court recently commented that, if such positions are going to be created, an
25 “alternate” Board member should be someone who receives a majority of votes cast for that
26 position. Moving parties agree. Therefore, additional elections should be conducted as soon as
27 reasonably practical pursuant to the Rules and Procedures set forth in Exhibit 1 hereto, with the
28 nominees who receive a majority of votes cast being selected as the “alternate” Board members.

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IV.

**STAGGERED TERMS WILL PROMOTE CONTINUITY AND PRESERVE
INSTITUTIONAL KNOWLEDGE**

Moving parties recommend that each landowner Board member serve a four-year term (to allow sufficient time to develop expertise in the workings of the Watermaster) and, also, that the landowner representatives' terms be staggered so as to provide for continuity and preservation of institutional knowledge. This means that the initial landowner representative who received the highest number of votes would serve a four-year term, and the other initial representative would initially serve a two-year term until the next election, at which time that elected representative would also serve a four-year term.

Staggering the landowner Board members' terms would provide stability to the Watermaster as a whole, and to the represented landowners in particular, by avoiding the possibility of losing both of the experienced landowner Board members at the same time. Instead, at all times there would be one landowner Watermaster representative with at least two years of experience.

V.

CONCLUSION

For the foregoing reasons, moving parties respectfully submit that the Court should approve the proposed Rules and Procedures for the appointment and election of Watermaster Board members and alternate members set forth in Exhibit 1 attached hereto.

Dated: August 12, 2016


ELLISON, SCHNEIDER & HARRIS

By: 

Christopher M. Sanders
Attorneys for COUNTY SANITATION
DISTRICTS OF LOS ANGELES COUNTY
NOS. 14 AND 20

1 Dated: August 12, 2016

BRUNICK, McELHANEY & KENNEDY PLC

2
3 By: 
4 William J. Brunick
5 Leland P. McElhaney
Attorneys for ANTELOPE VALLEY-EAST
KERN WATER AGENCY

6 Dated:

CLIFFORD & BROWN

7
8 By: _____
9 Richard G. Zimmer
10 Attorneys for BOLTHOUSE PROPERTIES,
11 LLC and WM. BOLTHOUSE FARMS,
INC.

12 Dated:

KRONICK, MOSKOVITZ, TIEDEMANN &
GIRARD

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15 Eric N. Robinson
16 Stanley C. Powell
17 Attorneys for CITY OF LOS ANGELES

18 Dated:

LeBEAU-THELEN

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20 By: _____
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24 CRYSTAL ORGANIC FARMS and LAPIS
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1 Dated:

BRUNICK, McELHANEY & KENNEDY PLC

2 By:

3 William J. Brunick
4 Leland P. McElhaney
5 Attorneys for ANTELOPE VALLEY-EAST
6 KERN WATER AGENCY

7 Dated: 8-12-2016

CLIFFORD & BROWN

8 By:

9 Richard G. Zimmer
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8 Dated:

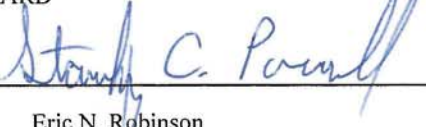
CLIFFORD & BROWN

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15 Dated: 8/12/2016

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LeBEAU-THELEN

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1 Dated:

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7 GRANITE CONSTRUCTION COMPANY

8 Dated:

0/12
2016

YOUNG - WOOLRIDGE

9 By: _____

10 Scott Kuney
11 Attorneys for CRAIG VAN DAM,
12 DELMAR D. VAN DAM, GARY VAN
13 DAM, GERTRUDE J. VAN DAM

SUPPORTING DECLARATION

Leland P. McElhaney declares and states:

1. I am an attorney at law duly licensed to practice before all courts of the State of California and a principal in the law firm of Brunick, McElhaney & Kennedy PLC, counsel of record for cross-complainant, the Antelope Valley - East Kern Water Agency in these coordinated proceedings. I have personal knowledge of all of the matters set forth herein and, if called as a witness, I could and would testify competently thereto.

2. The proposed rules and procedures relating to the appointment of the respective representatives to the Watermaster Board of the Antelope Valley-East Kern Water Agency (AVEK), as well as the election of the second Public Water Suppliers' representative to the Watermaster Board, are incorporated in Exhibit 1 attached hereto.

3. Following the June 30, 2016, hearing, moving parties' legal counsel met and conferred on three separate occasions with legal counsel representing the United Mutuals group, in an attempt to reach agreement regarding the rules and procedures governing the election of the two landowner representatives to the Watermaster Board. As a result of those efforts, agreement has been reached between these landowner parties as to the rules and procedures which should govern election of the two landowner representatives and alternates to the Watermaster Board, as is also set forth in Exhibit 1 attached hereto.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 11, 2016, in San Bernardino, California.


Leland P. McElhaney

**DRAFT ELECTION RULES AND PROCEDURES FOR ANTELOPE VALLEY
GROUNDWATER ADJUDICATION WATERMASTER REPRESENTATIVES**

The judgment for the Antelope Valley Groundwater Cases calls for a Watermaster to implement the judgment. The appointment and composition of the Watermaster is addressed in Section 18.1.1 of the Judgment:

18.1.1 Appointment and Composition: The Court hereby appoints a Watermaster. The Watermaster shall be a five (5) member board composed of one representative each from AVEK and District No. 40, a second Public Water Supplier representative selected by District No. 40, Palmdale Water District, Quartz Hill Water District, Littlerock Creek Irrigation District, California Water Service Company, Desert Lake Community Services District, North Edwards Water District, City of Palmdale, City of Lancaster, Palm Ranch Irrigation District, and Rosamond Community Services District, and two (2) landowner Parties, exclusive of public agencies and members of the Non-Pumper and Small Pumper Classes, selected by majority vote of the landowners identified on Exhibit 4 (or their successors in interest) based on their proportionate share of the total Production Rights identified in Exhibit 4. The United States may also appoint a non-voting Department of Defense (DoD) Liaison to the Watermaster committee to represent DoD interests. Participation by the DoD Liaison shall be governed by Joint Ethics Regulation 3-201. The opinions or actions of the DoD liaison in participating in or contributing to Watermaster proceedings cannot bind DoD or any of its components.

This provision places the selection of the five Watermaster representatives into the hands of four distinct constituencies: (1) AVEK; (2) District No. 40; (3) Public Water Suppliers; and (4) landowner Parties exclusive of the Non-Pumper and Small Pumper Classes. Each constituency selects one of the Watermaster representatives, except for the landowner Parties which select two of the Watermaster representatives.

Each of the constituencies has selected their initial Watermaster representatives, and the Court has seated them as an interim Watermaster Board. The Court has also directed the parties to prepare a document to describe the rules and procedures to be followed going forward to select subsequent Watermaster representatives, where the Court will lift the interim status of the Watermaster Board upon its approval of the rules and procedures.

This document provides the written rules and procedures for the Court's review. It begins with a section with provisions of general applicability for all of the Watermaster representatives (Section 1). That is followed by rules and procedures which apply to the Watermaster representatives to be selected by each constituency as follows:

EXHIBIT 1 - DRAFT ELECTION RULES AND PROCEDURES

- Section 2 – Rules and Procedures for AVEK Watermaster Representative;
- Section 3 – Rules and Procedures for District No. 40 Watermaster Representative;
- Section 4 – Rules and Procedures for Election of Public Water Supplier Representative to Watermaster; and
- Section 5 – Rules and Procedures for Landowner Watermaster Representatives.

The rules and procedures presented in each section were prepared by the constituency to be represented.

SECTION 1 – GENERAL PROVISIONS

A detailed statement of qualifications shall be prepared for each selected Watermaster representative, and will be provided to the Court for its review and approval.

SECTION 2 – RULES AND PROCEDURES FOR AVEK WATERMASTER REPRESENTATIVE

AVEK's Board of Directors will appoint its representative to serve as a member of the Watermaster Board. AVEK's Board of Directors has appointed Director Robert A. Parris to serve as its representative on the Watermaster Board. In the event Mr. Parris is unable to attend a Watermaster Board meeting, AVEK's Board of Directors also has appointed AVEK's General Manager (currently Dwayne Chisam) as its alternate representative to the Watermaster Board. The initial term for each shall expire on January 1, 2019. Thereafter, the AVEK's representative and alternate representative shall each serve two year terms, unless otherwise determined by AVEK's Board of Directors.

SECTION 3 – RULES AND PROCEDURES FOR DISTRICT NO. 40 WATERMASTER REPRESENTATIVE

[RULES NOT YET RECEIVED FROM DISTRICT NO. 40]

SECTION 4 – RULES AND PROCEDURES FOR ELECTION OF PUBLIC WATER SUPPLIER REPRESENTATIVE TO WATERMASTER

4.A. Composition of Steering Committee

Los Angeles County Waterworks No. 40, Palmdale Water District, Littlerock Creek Irrigation District, Quartz Hill Water District, Rosamond Community Services District, Palm Ranch Irrigation District, Desert Lakes Community Services District, California Water Service Company, North Edwards Water District, the City of Palmdale, and the City of Lancaster shall form the Antelope Valley Watermaster Public Water Suppliers Steering Committee ("Steering Committee").

The Steering Committee shall establish its own rules and procedures for the conduct of meetings.

4.B. Public Water Supplier Representative

EXHIBIT 1 - DRAFT ELECTION RULES AND PROCEDURES

The term of the Public Water Supplier Representative shall be two years. The term of the first Watermaster representative shall commence on August 18, 2016, the date of the first Watermaster meeting, and shall continue until August 17, 2018.

The Public Water Suppliers will also select one alternate Public Water Supplier Representative for the Watermaster Board. The term of the alternate representative will be coterminous with the primary representative.

The Public Water Supplier Representative may be removed at any time by a majority vote of the Public Water Supplier Steering Committee. In the event that a representative is removed, the replacement representative shall serve the balance of the former representative's term.

4.C. Appoint of Representative

The Public Water Supplier Representative and alternate representative shall be elected by a majority vote of the parties identified in Section 8.1.1 of the Judgment. This vote shall be conducted at a meeting of the Steering Committee pursuant to the rules and procedures adopted by the Steering Committee.

Upon any change in representation, the Steering Committee shall supply the Watermaster and the court with notice of the change in representation along with a certification signed by the chair of the Steering Committee that the action was undertaken pursuant to the rules of the Steering Committee.

SECTION 5 – RULES AND PROCEDURES FOR LANDOWNER WATERMASTER REPRESENTATIVE

5.A. Introduction

All capitalized terms have the same meaning as defined in the Judgment and Physical Solution ("Judgment") for the Antelope Valley Groundwater Cases. "Exhibit 4" refers to Exhibit 4 to the Judgment. Section 18.1.1 of the Judgment provides for the composition of the Watermaster Board, which is to include:

[T]wo (2) landowner Parties, exclusive of public agencies and members of the Non-Pumper and Small Pumper Classes, selected by majority vote of the landowners identified on Exhibit 4 (or their successors in interest) based on their proportionate share of the total Production Rights identified in Exhibit 4.

This document sets forth the rules and procedures for electing the two landowner Party Watermaster representatives. Successors in interest to Exhibit 4 Parties do not include Non-Overlying Production Right holders as discussed in Section 16.2 of the Judgment, because they would not hold rights subject to the same limitations as Overlying Production Rights holders listed on original Exhibit 4. Accordingly, any Non-Overlying Production Right holder that

EXHIBIT 1 - DRAFT ELECTION RULES AND PROCEDURES

acquires Exhibit 4 Overlying Production Rights may not use the acquired Overlying Production Rights to nominate, vote for, or otherwise participate in the election of the two landowner Watermaster representatives or their alternates.

The two (2) initial landowner Watermaster representatives have been elected pursuant to election rules and procedures which were distributed previously to Exhibit 4 Parties. The election rules and procedures herein shall apply to all subsequent elections of landowner Watermaster representatives.

These rules also include provisions for the selection of two (2) alternates for the two landowner Watermaster representatives, which helps to ensure the Watermaster can act on decisions requiring unanimous votes. The election rules and procedures herein shall apply to the initial and all subsequent elections of two (2) landowner alternates.

5.B. Notices

All election-related notices (such as notice of opening of nominations, transmittal of ballots, and announcement of results) shall be transmitted by email to the email addresses of the landowner Parties' designated representatives and their attorneys of record, and by posting on the Watermaster's website. The Watermaster shall maintain a service list of all Exhibit 4 Parties or their successors in interest, and it shall be the responsibility of those parties to maintain a current email address for the purposes of notice under these procedures. Notice shall not be transmitted to non-Parties or Parties not entitled to participate in the election of landowner Parties' Watermaster representatives under Section 18.1.1 of the Judgment, or the election of their alternates. All notices shall be transmitted and posted at the earliest practical time, and at least three (3) business days in advance of any event or deadline for action.

5.C. Inspector of Elections

The Watermaster shall select a neutral third party to serve as the Inspector of Elections prior to each election. The subject line of emails directed to the Inspector of Elections should begin with the words "Inspector of Elections."

5.D. Landowner Watermaster Representative and Alternate Terms

The term for each of the landowner Watermaster representatives shall be four (4) years, which will be staggered so that one of the landowner Watermaster representatives is elected every two (2) years. The terms shall commence on the date following the election when the Watermaster Board holds its first meeting and shall terminate at 5:00 p.m. PST on the fourth anniversary of the commencement date for each Watermaster representative, except that one of the initial landowner Watermaster representatives shall serve a two-year term, in order to establish the staggered terms. Consistent with the rules and procedures in effect for the election of the initial landowner Watermaster representatives, Mr. Atkinson shall serve the initial four-year term, and Mr. Calandri shall serve the initial two-year term.

The Exhibit 4 Parties or their successors in interest shall also select two (2) alternate landowner Watermaster representatives ("landowner Alternates") by election, who shall serve as the

EXHIBIT 1 - DRAFT ELECTION RULES AND PROCEDURES

Watermaster representative if one or both of the elected landowner Watermaster representatives is unable to attend a Watermaster Board meeting. The term for both of the landowner Alternates shall be two (2) years. The terms of the two (2) initial landowner Alternates shall commence retroactively to the date that the initial landowner Watermaster representative terms commenced, so that the terms for the landowner Alternates will coincide with the terms of the Watermaster representatives.

One of the landowner Alternates shall serve as the “Primary Alternate” and the other shall serve as the “Secondary Alternate.” In the event that one of the landowner Watermaster representatives is unable to attend a Watermaster Board meeting, the Primary Alternate shall attend and serve as a landowner Watermaster representative for that meeting. In the event that either both of the landowner Watermaster representatives are unable to attend a Watermaster Board meeting or one of the Watermaster representatives and the Primary Alternate are unable to attend a Watermaster Board meeting, the Secondary Alternate will attend and serve as a landowner Watermaster representative for that meeting.

If a landowner Watermaster representative is unable to complete his or her term, the Primary Alternate shall serve as the landowner Watermaster representative for the remainder of the term, and the Secondary Alternate shall become the Primary Alternate. A special election shall be held using the election procedures herein to select a new Secondary Alternate to serve the remainder of the landowner Alternate term.

5.E. Nominations

Any Exhibit 4 Party or its successor in interest shall be entitled to nominate one (1) individual to serve as the Watermaster representative, one (1) individual to serve as the Primary Alternate, and one (1) individual to serve as the Secondary Alternate. Each nominee must be a natural person and either be a Party listed on Exhibit 4, or be an officer, director, shareholder, managing member, general partner, limited partner, general manager, operations officer or managing agent of a Party listed on Exhibit 4 or its successor in interest. Nominations shall be made by delivering such nomination to the Inspector of Elections who shall provide notice to all Exhibit 4 parties or their successors in interest. The nomination shall include the following information for each position (i.e., Watermaster representative, Primary Alternate, and Secondary Alternate):

1. Name of Nominating Party as listed on Exhibit 4;
2. Name of natural person representing the Nominating Party as listed on Exhibit 4;
3. Name of person being nominated;
4. Address of person being nominated;
5. Name of Party on Exhibit 4 that the nominee represents;
6. Detailed statement of qualifications (“Statement of Qualifications”), and a disclosure of the nominee’s official capacity with an Exhibit 4 Party;
7. Representation that the Nominating Party has personally confirmed that the nominee is willing to serve; and
8. Verification by the nominating Party under penalty of perjury.

EXHIBIT 1 - DRAFT ELECTION RULES AND PROCEDURES

The Inspector of Elections shall provide Notice to all Exhibit 4 parties or their successor in interest of the opening of the nomination period, a copy of these rules which govern the election process, and the date on which the nomination period will close. A sample nomination form is provided as Appendix A.

5.F. Ballots

Within three (3) business days after the close of nominations, the Inspector of Elections shall transmit the Ballot by email to the Parties identified on Exhibit 4 or their successor in interest and/or their attorneys. The Ballot shall state the deadline for receipt of the cast Ballot by the Inspector of Elections that will provide at least a ten (10) day voting period, and shall be accompanied by a Statement of Qualifications (from the nomination form) for each nominee. Ballots shall be cast confidentially, and transmitted by email to the Inspector of Elections.

Information to be provided on the Ballot includes:

1. Name of Party as listed in Exhibit 4, or the successor in interest;
2. Name of person representing the Party listed on Exhibit 4;
3. Name of the nominee for which the Party casts its votes for each position (i.e., Watermaster representative, Primary Alternate, and Secondary Alternate);
4. Date and signature of person representing the Party casting the Ballot.

5.G. Voting Rights

Each Party on Exhibit 4 to the Judgment, or its successor in interest, shall have one (1) vote for each acre foot of water set forth in the Overlying Production Rights column, and each such Party may cast all of its votes for each of the three positions (i.e., Watermaster representative, Primary Alternate, and Secondary Alternate). Commonly held Exhibit 4 rights such as that held by “Diamond Farming Co. LLC/Crystal Organic LLC/Grimmway/Lapis” shall be deemed a single Overlying Production Right exercisable by the common ownership. The voting right shall be exactly as reflected on Exhibit 4, rounded up or down to the nearest acre foot. Only those Overlying Parties on Exhibit 4, or their successors in interest, shall be entitled to cast votes.

5.H. Vote Count and Results

The Inspector of Elections shall count the votes for each position based on each voting Party’s proportionate share of the total Production Rights identified in Exhibit 4, as discussed in the “Voting Rights” section above. The Inspector of Elections shall provide the results to the Court upon completion, with a report of any irregularities.

APPENDIX A TO EXHIBIT 1 - DRAFT NOMINATION FORM

ANTELOPE VALLEY WATERMASTER NOMINATIONS FOR LANDOWNER REPRESENTATIVE AND ALTERNATES

Any Party identified on Exhibit 4 or their successor in interest shall be entitled to nominate: (1) one individual to serve as a landowner Watermaster representative on the Watermaster Board; (2) one individual to serve as the Primary Alternate; and (3) one individual to serve as the Secondary Alternate. Each nominee must be a natural person and either be a Party listed on Exhibit 4 or its successor in interest, or be an officer, director, shareholder, managing member, general partner, limited partner, general manager, operations officer or managing agent of a Party listed on Exhibit 4 or its successor in interest.

PLEASE PRINT CLEARLY

Nominating Party _____
(as listed on Exhibit 4)

Name of natural person representing the Nominating Party

Position	Watermaster Representative	Primary Alternate	Secondary Alternate
Name of Nominee			
Address of Nominee			
Nominee Represents (as listed on Exhibit 4)			

Please attach a detailed statement of qualifications that discloses each nominee's official capacity with an Exhibit 4 Party or their successor in interest, and confirmation that the nominee is willing to serve.

Signature _____ **Date** _____
(Signature of Nominating Party)

Please return your nomination form no later than _____ by email to the Inspector of Elections (email _____) with “Inspector of Elections – Nominations” in the subject line.

1 **PROOF OF SERVICE**

2 I declare that:

3 I am employed in the County of Sacramento, State of California. I am over the age of eighteen
4 and am not a party to the within action. My business address is ELLISON, SCHNEIDER &
5 HARRIS, L.L.P.: 2600 Capitol Avenue, Suite 400; Sacramento, California, 95816. On August
6 12, 2016, I electronically served a copy of the foregoing document described as:

7 **NOTICE OF MOTION AND MOTION BY PRIVATE AND PUBLIC LANDOWNERS**
8 **FOR ORDER APPROVING RULES AND REGULATIONS FOR APPOINTMENT AND**
9 **ELECTION OF WATERMASTER BOARD MEMBERS / MEMORANDUM OF POINTS**
10 **AND AUTHORITIES / SUPPORTING DECLARATION**

11 via OneLegal to be electronically served on interested parties in this action and electronically
12 filed with the Santa Clara Superior Court.

13 I declare under penalty of perjury that the foregoing is true and correct and that this declaration
14 was executed on August 12, 2016, at Sacramento, California.

15 
16 Patty Slomski