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Antelope Valley Watermaster

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

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

**ANTELOPE VALLEY
GROUNDWATER CASES**

AND ALL RELATED ACTIONS

Judicial Council Coordination
Proceeding No. 4408

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

**WATERMASTER'S BRIEF RE
EVIDENTIARY HEARING**

Date: October 18, 2023
Time: 9:00 a.m.
Dept: 3

I. Scope of the evidentiary hearing.

This evidentiary hearing was requested by Barrel Springs Properties, LLC ("Barrel Springs") for this Court to hear the live testimony of Kathy MacLaren, Vice-Chair of the Board of the Antelope Valley Watermaster ("Watermaster"), as to the reasons she voted against approval of Barrel Springs' New Production application ("Application"). The Application was first submitted to the Watermaster Board for consideration at its January 25, 2023 meeting, but was not voted upon for another 90 days, after multiple continuances requested by Barrel Springs, when the matter was heard at the Watermaster's April 26, 2023 Board meeting.

Director MacLaren will explain how and why she reached her decision based on: (1) many hours of reflection and investigation; (2) her decades of experience as a member of the

1 Palmdale Planning Commission, the Palmdale Water District¹, and the Antelope Valley
2 Watermaster Board; and (3) her review of the Findings of the Antelope Valley Groundwater
3 Basin Engineer, Todd Groundwater, dated January 11, 2023 (the “Findings”) to which Director
4 MacLaren had access for three months before she voted not to approve the Application.

5 Both sides have agreed that Director MacLaren’s testimony is central and may be all that
6 is necessary for this Court to consider at the hearing on this matter, though both sides have
7 reserved the right to call an additional witness should their testimony be determined by the Court
8 to be potentially helpful (Board Chair Rob Parris for the Watermaster, and John Maceri as CEO
9 of the entity acting as agent for Barrel Springs in this matter) in possible roles as rebuttal
10 witnesses.

11 **II. The Declarations of Rob Parris and Russel Bryden are admissible.**

12 The declarations of Rob Parris and Russel Bryden are admissible and relevant to the basis
13 for Director MacLaren’s decision not to approve the Application. The Parris declaration also
14 supports Director MacLaren’s testimony relating to what occurred at the settlement conference on
15 May 25, 2023 and thereafter.

16 Barrel Springs objects to the admissibility of the declarations of Rob Parris, Chair of the
17 Watermaster Board, and of Russell Bryden, Los Angeles County Water Works District 40
18 representative on the Watermaster Board. Barrel Springs claims that the Parris and Bryden
19 testimony is speculative and irrelevant to the extent it relates to how Parris and Bryden might now
20 vote on the Application if given the opportunity. Barrel Springs also argues that events after
21 April 26, 2023 are irrelevant to the issue of whether Director MacLaren’s “no” vote was justified.

22 However, the Parris-Bryden declarations are relevant and probative because: (1) they are
23 consistent with Director MacLaren’s view of the continuing concerns about the Application
24 which are shared by three members of the Watermaster Board up to this very moment; and (2)
25 Barrel Springs’ refusal to provide follow up information to the Watermaster Board as requested
26 after April 26, 2023 refutes the testimony of Mr. Maceri, Ms. Collins and Mr. Waxman, all of
27

28 ¹ The Application required a serviceability letter from Palmdale Water District since the Barrel Springs project is within the jurisdiction of the District.

1 whom submitted declarations relating to events after April 26th. If the Court wishes to strike the
2 Parris declaration based on its recitation of events after April 26th as being “irrelevant,” it should
3 in fairness strike in their entirety the declarations of Claire Collins and John Mr. Maceri that are
4 devoted **entirely** to recalling events *after* April 26th. In short, Barrel Springs’ motion to strike, if
5 granted, would result in only admitting one side of the story to testify about events after April
6 26th.

7 As part of their Reply papers, Barrel Springs requests that this court take judicial notice of
8 two resolutions relating to the New Production applications of Long Valley Road and Mr. Ron
9 Banuk. Barrel Springs suggests that these two New Production Applications involved a higher
10 water demand than that contained in Barrel Spring’s Application and yet were approved.

11 The Watermaster believes that this Court will reject any such comparisons after reviewing
12 the full applications of Long Valley Road and Ron Banuk. In order to provide a complete record
13 on this issue, the Watermaster requests that this Court take judicial notice of Exhibits A through D
14 attached to the Request for Judicial Notice and declaration of Craig Parton filed concurrently
15 herewith, which support statements contained in Chair Parris’s declaration. The Parris declaration
16 states that the Long Valley and Banuk New Production applications involved very different facts
17 from those of Barrel Springs’ Application and are inapposite. In fact, the Barrel Springs
18 Application is utterly unique in the scope of its water demand.

19 The Court will also be directed to consider evidence that Barrel Springs seriously
20 considered reducing the size of the water demand for the project to 50 acre-feet per year (“AFY”)
21 in order to vest a water right while also allowing Barrel Springs to drill a test well to determine if
22 a 120 AFY water demand is even capable of being met in this remote area.

23 **III. The Court Need Not Give Any Deference to the Watermaster Engineer’s Findings,**
24 **and is Free to Consider Any Evidence Supporting the Watermaster’s Action.**

25 Barrel Springs erroneously characterizes the Court’s jurisdiction when reviewing a
26 Watermaster Board decision or action as appellate in nature. (Motion at 9:20-10:23; Reply at 4:1-
27 12.)

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1 To the contrary, the Court exercises original jurisdiction when reviewing and ruling upon
2 a Watermaster Board decision or action under the terms of the Judgment. (Judgment at ¶ 6.5
3 (“The Court retains and reserves full jurisdiction, power and authority for the purpose of enabling
4 the Court, upon a motion of a Party or Parties noticed in accordance with the notice procedures of
5 Paragraph 20.6 hereof, to make such further or supplemental order or directions as may be
6 necessary or appropriate to interpret, enforce, administer or carry out this Judgment and to
7 provide for such other matters as are not contemplated by this Judgment and which might occur in
8 the future, and which if not provided for would defeat the purpose of this Judgment.”); *see also*
9 Judgment at ¶ 18.3 (“Court retains and reserves full jurisdiction, power, and authority to remove
10 any Watermaster”); *see also* Judgment at ¶ 18.4 (the Watermaster’s powers and duties remain
11 “[s]ubject to the continuing supervision and control of the Court”).)

12 As set forth in Paragraph 20.3.4 of the Judgment, “[t]he Court’s review [of an action or
13 decision of the Watermaster] shall be *de novo* and the Watermaster’s decision or action shall have
14 no evidentiary weight in such proceeding.” Therefore whether and to what extent Director
15 MacLaren articulated her specific bases for denying the Application is inapposite. The case law
16 cited in the Motion and the Reply are likewise inapposite, as they relate to the standard of
17 appellate review of the decisions of a trial court or local agency under C.C.P. Section 1094.5.
18 (*See, e.g., Accord Stewart Enterprises, Inc. v City of Oakland* (2016) 248 Cal.App.4th 410, 420-
19 421.)

20 Unlike these tribunals and agencies, the Watermaster Board was created by the Court. It
21 accordingly functions as a court-appointed referee, and its decisions are purely advisory. (Code
22 Civ. Proc. §644(b).) In ruling on Barrel Springs’ challenge, the Court is free to consider any
23 evidence bearing on the correctness of the Watermaster Board’s decision; the Court is not
24 restricted to evidence considered by the Watermaster Board. The Court accordingly should
25 uphold the Watermaster Board’s decision regardless of what evidence was in the record at the
26 time of the decision, so long as the evidence presented to the Court supports the outcome.

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1 Barrel Springs also incorrectly asserts that the Court, in reviewing the Watermaster's
2 decision to deny the Application, must give "a strong presumption of ... correctness" to the
3 findings of the Watermaster Engineer. (Motion at 9:20-23 (citing *Drummey v. State Bd. of*
4 *Funeral Directors* (1939) 13 Cal.2d 75, 85).) The Watermaster Engineer is not the governing
5 body whose decision is subject to review by this Court. Rather the Watermaster Engineer acts in
6 an advisory capacity to the Watermaster Board, and must make certain findings—namely
7 Material Injury findings—as a precondition to the Watermaster Board taking certain actions to
8 approve a proposed use of Groundwater in the Basin. The Watermaster Engineer is not vested
9 with any authority under the Judgment to make decisions or take actions on its own. That
10 authority is vested entirely with the Watermaster. The decision under review in this and all
11 instances is the decision of the Watermaster, which decision is informed by—but not mandated
12 by—the review and analysis of the Watermaster Engineer. To hold otherwise would be similar to
13 finding that a court reviewing a final decision by a city council or county board of supervisors
14 must give deference to the recommendations of planning staff or the agency's engineer. (*See*
15 Judgment at ¶ 3.5.52 (The Watermaster was "appointed by the Court to administer the provisions
16 of [the] Judgment."); *see also* Judgment at ¶ 3.5.53 (The Watermaster Engineer, on the other
17 hand, is the "engineering or hydrology expert or firm retained by the Watermaster to perform
18 engineering and technical analysis and water administration functions as provided for in [the]
19 Judgment.").)

20 The Court is not bound by either the Engineer's Findings—which were conditional and
21 contained numerous caveats—nor the evidence in the record at the time Director MacLaren voted
22 not to approve the Application. So long as there is evidence presented at the hearing to justify
23 disapproval of the Application, the Court can and must uphold the Watermaster's action.

24 **IV. Conclusion.**

25 The Watermaster respectfully requests that the Court consider the full scope of Director
26 MacLaren's testimony at the hearing on this matter, and any other testimony properly admitted
27 after considering any objections, and deny the Motion in light of the overwhelming evidence
28 supporting the ultimate decision to deny the Application in light of the various uncertainties and

1 potential threats to the health of the Basin and the rights of other Parties to the Judgment.

2
3 Respectfully submitted,

4 Dated: October 13, 2023

PRICE, POSTEL & PARMA LLP

5
6 By: 

7 CRAIG A. PARTON
8 TIMOTHY E. METZINGER
9 CAMERON GOODMAN
10 Attorneys for
11 Antelope Valley Watermaster

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 October 13, 2023, I served the foregoing document described **WATERMASTER'S**
6 **BRIEF RE: EVIDENTIARY HEARING** on all interested parties in this action by placing the
original and/or true copy.

7 ☒ **BY ELECTRONIC SERVICE:** I posted the document(s) listed above to the Santa Clara
8 County Superior Court Website @ www.scefilings.org and Glotrans website in the action of
9 the Antelope Valley Groundwater Cases.

10 ☒ (*STATE*) I declare under penalty of perjury under the laws of the State of California that
the foregoing is true and correct.

11 ☐ (*FEDERAL*) I hereby certify that I am employed in the office of a member of the Bar of
12 this Court at whose direction the service was made.

13 Executed on October 13, 2023, at Santa Barbara, California.

14 
15 _____
16 Signature
Elizabeth Wright