

1 CRAIG A. PARTON, State Bar No. 132759
2 PRICE, POSTEL & PARMA LLP
3 200 East Carrillo Street, Fourth Floor
4 Santa Barbara, California 93101
5 Telephone: (805) 962-0011
6 Facsimile: (805) 965-3978

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8 Attorneys for
9 Antelope Valley Watermaster
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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**
13

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

Judicial Council Coordination
Proceeding No. 4408

LASC Case No.: BC 325201

16 **ANTELOPE VALLEY GROUNDWATER**
17 **CASES**

Assigned to the Hon. Jack Komar, Judge of the
Santa Clara Superior Court

Santa Clara Court Case No. 1-05-CV-049053

18 **REPLY OF ANTELOPE VALLEY**
19 **WATERMASTER TO: (1) OPPOSITION**
20 **OF WATER SUPPLIERS; AND TO (2)**
21 **RESPONSE OF CLAN KEITH**

Date: January 31, 2018
Time: 9:00 a.m.
Dept: 222

22 The Antelope Valley Watermaster hereby provides this Reply to the "Opposition" of the
23 Water Suppliers and to the "Response" of Clan Keith Real Estate Investments LLC ("Clan
24 Keith").

25 **I. THE WATERMASTER IS A "PERSON" SPECIFICALLY DEFINED IN THE**
26 **JUDGMENT AND SUBJECT TO THE TERMS OF THE JUDGMENT**

27 The Water Suppliers' opposition contends that the Watermaster is neither a "Party" nor a
28 "Person" identified in the Judgment and therefore lacks standing to bring this motion. (See

1 Opposition, 2: 9-21.)

2 The Judgment, however, specifically defines the Watermaster as “[T]he **Person(s)**
3 appointed by the Court to administer the provisions of this Judgment.” (Section 3.5.52—
4 *emphasis added*.) Those identified as “Person(s)” in the Judgment are then considered a “Party”
5 or “Parties” for purposes of standing under the Judgment as is reflected in Section 3.5.27, which
6 reads as follows: “**Party (Parties). Any Person(s) that** has (have) been named and served or
7 otherwise properly joined, or **has (have) become subject to this Judgment** and any prior
8 judgments of this Court in this Action and all their respective heirs, successors-in-interest, and
9 assigns. For purposes of this Judgment, a ‘Person’ includes any natural person, firm, association,
10 organization, joint venture, partnership, business, trust, corporation or public entity.”(*Emphasis*
11 *Added*.) As noted in its Opposition, the individual members of the Watermaster Board are either
12 Parties to the Action or representatives of Parties to the Action (Opposition, at 2:14-21). The
13 Judgment itself treats the Watermaster as an organizational entity, akin to a quasi-public entity
14 subject to the meetings and records requirements found in the Brown Act (Section 18.4.11).

15 By specifically identifying the Watermaster as a “Person” under the Judgment in Section
16 3.5.52 the Parties clearly intended to include the Watermaster as a Person subject to the Judgment
17 and entitled to bring a motion under Section 6.5 to seek this Court’s interpretation of the
18 Judgment.

19 **II. THE WATER SUPPLIERS WERE AWARE THAT THE WATERMASTER**
20 **WOULD BE FILING ITS MOTION ON JANUARY 2, 2018**

21 The Opposition states that the “Watermaster did not need to bring another motion [to]
22 settle Party disagreement.” (Opposition, 2:22-23.)

23 At the special meeting of the Watermaster Board on December 6, 2017, the Board
24 unanimously approved directing its General Counsel to file a wholly “neutral” motion as to the
25 issues of Pre-Rampdown Production and Carry Over water (Parton decl., filed with motion, at
26 20:22-25). At that meeting on December 6th, General Counsel stated its intention not to file a
27 motion on these two issues until immediately **after** the holidays so as to provide ample
28 opportunity for responsive papers to be prepared and filed.

1 On December 20, 2017 the Water Suppliers contacted General Counsel and provided the
2 information contained in Exhibit C to the Watermaster's motion. (See letter from Doug Evertz to
3 Craig A. Parton dated December 20, 2017 and accompanying data, all attached as Exhibit C to the
4 Watermaster's motion.) That letter from Mr. Evertz indicates that the intention of Mr. Evertz's
5 December 20th letter and accompanying materials was to make the filing of a motion by the
6 Watermaster unnecessary ("[F]or these reasons, the Public Water Suppliers respectfully request
7 that you present this information to the Watermaster Board at its next regular meeting instead of
8 presenting this matter to the Court." Evertz letter, at p.2, last sentence).

9 When it became clear that the Watermaster was moving forward with its motion to be
10 filed after the New Year's weekend, the Water Suppliers filed their own motion on the Friday
11 (December 29th) before the New Year's weekend holiday and one court day before the
12 Watermaster's motion was filed as promised at the public hearing on December 6, 2017. That
13 motion addressed the two issues of Rampdown and Carry Over. On January 18, 2018 the Water
14 Suppliers gave notice of their intention to withdraw all of their argument as to Carry Over
15 provisions and their applicability to unused Federal Reserve Water Rights.

16 The contention that there was no need for the Watermaster to file its motion in order to
17 settle a dispute is not consistent with the chronology of events.

18 **III. PRE-RAMPDOWN PRODUCTION**

19 The opposition suggests that the Watermaster has created an unrecognized water right
20 under California law, namely a "Pre-Rampdown Production Right." The Opposition suggests that
21 the defined term "Pre-Rampdown Production Right" is repeatedly used in the Watermaster's
22 motion—it is not used repeatedly and in fact is not used at all in the motion. The term "Pre-
23 Rampdown Production" is a defined term in the Judgment (see Section 3.5.28). The term "Pre-
24 Rampdown Production right" (lower case "r") is used repeatedly in the Watermaster's motion to
25 make clear that it is **not** referring to a Production Right as defined in the Judgment (see Section
26 3.5.32).

27 The Watermaster agrees that a "Pre-Rampdown Production Right" is not a California
28 water right. That is not the point being made in the motion. The term "Pre-Rampdown

1 Production right” is used to clarify that it is **not** the same as a Production Right in the Stipulation.

2 **IV. CLAN KEITH HAS A RIGHT TO PRODUCE GROUNDWATER UNDER THE**
3 **JUDGMENT**

4 Clan Keith contends that it has a “Production Right” and is entitled to all the rights and
5 benefits under the Judgment.


6 As a non-stipulating Party, Clan Keith “is not entitled to benefits provided by Stipulation,”
7 must reduce its Production so as to implement the Physical Solution, must pay all assessments,
8 and does not have the right to Transfers or to Carry Over (5.1.10).

9 Clan Keith has a right to Produce Groundwater as explained in the Statement of Decision
10 (12:19-13:11) and in the Judgment (para. 3 c). Whether Clan Keith also has a Pre-Rampdown
11 Production right other than any Production Right it may have is a question that this Court is being
12 asked to resolve. If this Court concludes that only Parties identified on Exhibit 4 of the Judgment
13 have a Pre-Rampdown Production right then Clan Keith will have no Pre-Rampdown Production
14 right.

15 Respectfully submitted,

16 Dated: January 24, 2018

PRICE, POSTEL & PARMA LLP

18 By: 
19 CRAIG A. PARTON
20 Attorneys for
21 Antelope Valley Watermaster
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I am employed in the County of Santa Barbara, State of California. I am over the age of eighteen (18) and not a party to the within action. My business address is 200 East Carrillo Street, Fourth Floor, Santa Barbara, California 93101.

On January 24, 2018, I served the foregoing document described as **REPLY OF ANTELOPE VALLEY WATERMASTER TO (1) OPPOSITION OF WATER SUPPLIERS; AND TO (2) RESPONSE OF CLAN KEITH** on all interested parties in this action by placing the original and/or true copy.

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

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

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

Executed on January 24, 2018, at Santa Barbara, California.

Signature
Elizabeth Wright