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Antelope Valley Watermaster

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7  
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

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

Judicial Council Coordination  
Proceeding No. 4408

13 **ANTELOPE VALLEY GROUNDWATER  
14 CASES**

LASC Case No.: BC 325201

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

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

16 **NOTICE OF MOTION AND MOTION  
17 FOR APPROVAL OF ANTELOPE  
18 VALLEY WATERMASTER RULES AND  
REGULATIONS; DECLARATION OF  
PATRICIA ROSE; EXHIBITS A-E**

19 Date: September 29, 2020  
20 Time: 9:00 a.m.  
21 Dept: By Courtcall

22 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE that on September 29, 2020 at 9:00 a.m., or as soon thereafter  
24 as the matter may be heard, by Courtcall, the Antelope Valley Watermaster (or "Moving Party")  
25 will and hereby does move for an order of the Court approving final comprehensive rules and  
26 regulations unanimously adopted by the Antelope Valley Watermaster.

27 The Antelope Valley Watermaster has both the power and the duty to adopt rules and  
28 regulations after noticed public hearings and unanimous consent of the Watermaster Board.


1 Having now held such public hearings and having obtained the unanimous consent of the Board,  
2 the Antelope Valley Watermaster moves this Court to approve the final comprehensive rules and  
3 regulations contained in Exhibit E to this motion.

4 This motion is based on the notice, the memorandum of points and authorities in support  
5 thereof, the declaration of Patricia Rose, Exhibits A-E, and all pleadings, documents and evidence  
6 on file in this action, and on such oral and documentary evidence as may be presented at the  
7 hearing on this motion, and on other matters as are properly before the Court.

8 Respectfully submitted,

9 Dated: September 2, 2020

PRICE, POSTEL & PARMA LLP

10  
11 By:  \_\_\_\_\_  
12 CRAIG A. PARTON  
13 Attorneys for  
14 Antelope Valley Watermaster  
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 The Antelope Valley Watermaster (“Watermaster”) has both the power and the duty to  
4 adopt rules and regulations and to obtain their approval by this Court consistent with the terms of  
5 the Antelope Valley Judgment and Physical Solution (“Judgment”). The Watermaster Board  
6 properly noticed several consecutive public hearings with respect to the proposed comprehensive  
7 rules and regulations, conducted such public hearings, and then voted unanimously to adopt the  
8 attached final comprehensive rules and regulations (see Exhibit E). By this motion the  
9 Watermaster seeks the Court’s approval of the final comprehensive rules and regulations pursuant  
10 to the Judgment.

11 **II. COMPREHENSIVE RULES AND REGULATIONS PREPARED BY THE**  
12 **WATERMASTER ENGINEER HAVE BEEN PROPOSED AND DISCUSSED AT**  
13 **PUBLIC HEARINGS AND UNANIMOUSLY ADOPTED BY THE BOARD AND**  
14 **ARE NOW SUBJECT TO APPROVAL BY THIS COURT**

15 Pursuant to the Judgment, the Watermaster has the express power and duty to adopt rules  
16 and regulations. (See Paragraphs 18.4 and 18.4.2 of the Judgment). The Judgment explicitly  
17 provides that the Court may approve rules and regulations prepared by the Watermaster Engineer  
18 and adopted by the Watermaster (Judgment Paragraph 18.4.2).

19 In accordance with these requirements, the Watermaster Engineer proposed draft  
20 comprehensive rules and regulations, which were considered at several consecutive properly  
21 noticed public hearings after revisions to certain sections. (see Judgment Paragraph 18.4.2;  
22 Declaration of Patricia Rose, Exhibits A-D). After the appropriate noticed public hearings, and  
23 after discussions, the Watermaster unanimously adopted the final comprehensive rules and  
24 regulations (see attached Exhibit E).

25 Since comprehensive rules and regulations are critical to the functioning and sustainability  
26 of the Judgment and Physical Solution, and since the Watermaster Engineer has proposed draft  
27 comprehensive rules and regulations that have been properly considered in the public forum and  
28 unanimously adopted by the Watermaster Board at public hearings on June 24, 2020 and July 22,

1 2020, this Court should approve the final comprehensive rules and regulations contained in  
2 Exhibit E.

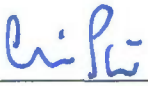
3 **III. CONCLUSION**

4 For all the foregoing reasons, the Watermaster's motion requesting this Court to approve  
5 the final comprehensive rules and regulations should be granted.

6  
7 Respectfully submitted,

8 Dated: September 2, 2020

PRICE, POSTEL & PARMA LLP

9  
10 By:   
11 \_\_\_\_\_  
12 CRAIG A. PARTON  
13 Attorneys for  
14 Antelope Valley Watermaster  
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1 DECLARATION OF PATRICIA ROSE

2 I, PATRICIA ROSE, have personal knowledge of the matters stated in this declaration and  
3 if called to testify could and would competently do so.

4 1. I am employed by the Antelope Valley East Kern Water Agency and serve as the  
5 Interim Secretary to the Board of the Antelope Valley Watermaster.

6 2. On April 24, 2020, I posted on the Watermaster's website a notice of a public  
7 hearing on the draft comprehensive rules and regulations prepared by the Watermaster Engineer  
8 to occur on May 27, 2020. A true and correct copy of the notice of public hearing is attached  
9 hereto as Exhibit A.

10 3. On April 27, 2020, I posted on the Watermaster's website a draft of the  
11 comprehensive rules and regulations for public review and comment.

12 4. On or about May 22, 2020, I was informed that the public hearing on the draft  
13 comprehensive rules and regulations would be continued to the June Watermaster Board Meeting.

14 5. On May 22, 2020, I posted on the Watermaster's website a notice of a public  
15 hearing on the draft comprehensive rules and regulations to occur on June 24, 2020. A true and  
16 correct copy of the notice of public hearing is attached hereto as Exhibit B.

17 6. On May 27, 2020, I posted on the Watermaster's website redline and clean  
18 versions of updates to the draft comprehensive rules and regulations for public review and  
19 comment.

20 7. At the May 27 public hearing, after public comment, a motion was made to  
21 continue the public hearing on the draft comprehensive rules and regulations until the June 24,  
22 2020 Watermaster Board meeting.

23 8. At the June 24, 2020 public hearing, after a presentation by the Watermaster  
24 Engineer and Watermaster General Counsel, and comments by the Advisory Committee and the  
25 public, the Watermaster Board voted unanimously to approve the draft comprehensive rules and  
26 regulations, except for Section 9 governing Groundwater Storage Agreements, which was to be  
27 revised and re-considered at the July 22, 2020 Watermaster Board meeting.

28 ///



# **Exhibit A**

# ANTELOPE VALLEY WATERMASTER

## Notice of Continuation

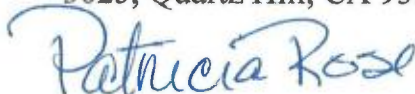
### PUBLIC HEARING

#### *Antelope Valley Watermaster Rules and Regulations*

TO: ANTELOPE VALLEY GROUNDWATER PRODUCERS

The ANTELOPE VALLEY WATERMASTER set 10:00 a.m. on Wednesday, May 27, 2020, at Antelope Valley-East Kern Water Agency, 6450 W Avenue N, Palmdale, CA 93551, as the time and place for a Public Hearing on the proposed Antelope Valley Watermaster Rules and Regulations. A copy of the proposed Rules and Regulations will be available at [www.avwatermaster.net](http://www.avwatermaster.net).

At that hearing, the Watermaster will consider public comments on the Antelope Valley Watermaster Rules and Regulations. Written comments on the proposed Antelope Valley Watermaster Rules and Regulations may be made in advance of the public hearing to the Watermaster Administrator; Peter Thompson at [pthompsonii@palmdalewater.org](mailto:pthompsonii@palmdalewater.org) or to the Watermaster Secretary, Patti Rose at [prose@avwatermaster.net](mailto:prose@avwatermaster.net) or by mail at Antelope Valley Watermaster, PO Box 3025, Quartz Hill, CA 93586.



Patricia Rose  
Secretary  
April 24, 2020



## **Exhibit B**

# ANTELOPE VALLEY WATERMASTER

## Notice of Continuation


### PUBLIC HEARING

#### *Antelope Valley Watermaster Rules and Regulations*

TO: ANTELOPE VALLEY GROUNDWATER PRODUCERS

The ANTELOPE VALLEY WATERMASTER set 10:00 a.m. on Wednesday, June 24, 2020, at Antelope Valley-East Kern Water Agency, 6450 W Avenue N, Palmdale, CA 93551, as the time and place for a Public Hearing on the proposed Antelope Valley Watermaster Rules and Regulations. A copy of the proposed Rules and Regulations will be available at [www.avwatermaster.net](http://www.avwatermaster.net).

At that hearing, the Watermaster will consider public comments on the Antelope Valley Watermaster Rules and Regulations. Written comments on the proposed Antelope Valley Watermaster Rules and Regulations may be made in advance of the public hearing to the Watermaster Administrator; Peter Thompson at [pthompsonii@palmdalewater.org](mailto:pthompsonii@palmdalewater.org) or to the Watermaster Secretary, Patti Rose at [prose@avwatermaster.net](mailto:prose@avwatermaster.net) or by mail at Antelope Valley Watermaster, PO Box 3025, Quartz Hill, CA 93586.

  
Patricia Rose  
Secretary  
May 22, 2020

## **Exhibit C**

**RESOLUTION NO. R-20-12**

**ADOPTING RULES AND REGULATIONS**

WHEREAS, the Antelope Valley Watermaster, formed by the Antelope Valley Groundwater Cases Final Judgment (“Judgment”), Santa Clara Case No. 1-05-CV-049053 signed December 23, 2015, is to administer the Judgment; and

WHEREAS, the Judgment provides that the Watermaster Engineer shall prepare rules and regulations on various subjects in order to further the objectives of the Judgment, and that the Watermaster Board directed at its Board Meeting on April 22, 2020 that all Parties be notified that draft rules and regulations from the Watermaster Engineer to the Watermaster Board would be available for public review, and to circulate those draft rules and regulations for public comment before they are adopted by the Watermaster Board; and

WHEREAS, those draft rules and regulations relating to various subjects were provided by the Watermaster and posted on the Watermaster website on April 27, 2020 for review during a 30 day public comment period and for consideration and approval at the Watermaster Board’s regular meeting on May 27, 2020, and a redlined update of the original April 27th draft was posted on the Watermaster website prior to the Board’s regular meeting on May 27, 2020, and an updated draft dated June 24, 2020 draft was posted on the Watermaster website prior to the Board’s regular meeting on June 24, 2020; and

WHEREAS, the Watermaster held a public hearing at its meetings both on May 27, 2020 and on June 24, 2020 where it received and considered public comment on the draft rules and regulations and wishes now to adopt these draft rules and regulations and to seek approval by the Court of these rules and regulations pursuant to the terms of the Judgment.

NOW, THEREFORE, BE IT RESOLVED, the Watermaster Board unanimously adopts the rules and regulations reflected in the June 24, 2020 draft rules and regulations as posted on the Watermaster website with modifications, if any, as directed by the Board after the public hearing and directs General Counsel to bring a motion before the Court, seeking the Court’s approval of these rules and regulations pursuant to the terms of the Judgment.

**I certify that this is a true copy of Resolution No. R-20-12 as passed by the Board of Directors of the Antelope Valley Watermaster at its meeting held on June 24, 2020, in Palmdale, California.**

Date: 7-10-2020

  
Dennis Atkinson, Vice-Chairman

ATTEST:   
Patricia Rose – Secretary



## **Exhibit D**

**RESOLUTION NO. R-20-25**

**ADOPTING RULES AND REGULATIONS SECTION 9  
RELATING TO STORAGE AGREEMENTS**

WHEREAS, the Antelope Valley Watermaster, formed by the Antelope Valley Groundwater Cases Final Judgment (“Judgment”), Santa Clara Case No. 1-05-CV-049053 signed December 23, 2015, is to administer the Judgment; and

WHEREAS, the Judgment provides that the Watermaster Engineer shall prepare rules and regulations on various subjects in order to further the objectives of the Judgment; and

WHEREAS, at its regular meeting on June 24, 2020, the Watermaster Board unanimously adopted the rules and regulations reflected in the April 27, 2020 draft posted on the Watermaster website with modifications, with the exception of Section 9 relating to Storage Agreements due to a disagreement among some Parties with respect to the applicability of the Storage Agreement requirements to pre-existing banking projects; and

WHEREAS, the Watermaster Board directed that the Watermaster General Counsel and Watermaster Engineer work with the interested Parties to develop an acceptable revised version of Section 9 to be considered at the next regular Watermaster Board meeting for adoption; and


WHEREAS, the interested Parties have come to an agreement on a revised version of Section 9, and clean and redline drafts were provided by the Watermaster General Counsel and posted on the Watermaster website on July 13, 2020 for review and public comment, and for consideration and approval at the Watermaster Board’s regular meeting on July 22, 2020; and

WHEREAS, the Watermaster Board held a public hearing at its regular meeting on July 22, 2020 where it received and considered public comment on the updates to Section 9, and wishes now to adopt said Section 9 of the rules and regulations into the previously adopted rules and regulations, and to seek approval by the Court of the entirety of the rules and regulations pursuant to the terms of the Judgment.

NOW, THEREFORE, BE IT RESOLVED, the Watermaster Board unanimously adopts the updated Section 9 of the rules and regulations reflected in the draft posted on the Watermaster website on July 13, 2020 with modifications, if any, as directed by the Board after the public hearing, and directs the General Counsel to bring a motion before the Court, seeking the Court’s approval of the entirety of the rules and regulations pursuant to the terms of the Judgment.

**I certify that this is a true copy of Resolution No. R-20-25 as passed by the Board of Directors of the Antelope Valley Watermaster at its meeting held on July 22, 2020, in Palmdale, California.**

Date: 7/23/20

  
Robert Parris, Chairman

ATTEST: Patricia Rose  
Patricia Rose – Secretary

## **Exhibit E**



# ANTELOPE VALLEY WATERMASTER

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## Rules and Regulations

July 22, 2020



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## **Appendices**

A. List of Forms

B. Rules and Regulations Amendments



## 1. INTRODUCTION

This document provides the Antelope Valley Watermaster Rules and Regulations (“R&Rs”) developed to implement the Final Judgment and Physical Solution (“Judgment”) as adopted by the Court on December 23, 2015<sup>1</sup>. The Judgment can be found on the Watermaster website ([www.avwatermaster.net](http://www.avwatermaster.net)).

To administer the Judgment, the Court directed appointment of a five-member Watermaster Board (“Board”), Watermaster Engineer, and Watermaster General Counsel (“General Counsel”). These R&Rs have been prepared by the Watermaster Engineer with substantial contributions from the Parties to the Judgment, the Advisory Committee and General Counsel and then unanimously approved by the Board. These R&Rs implement, but do not supersede the Judgment. If there is any conceived or actual conflict between any provision of the Judgment and of these R&Rs, the provision of the Judgment shall control.

The Antelope Valley Area of Adjudication covers approximately 1,390 square miles of the Antelope Valley Groundwater Basin as shown in **Figure 1**. The Adjudication Area does not include the entire groundwater basin as defined by the California Department of Water Resources (“DWR”) in Bulletin 118. The Judgment refers to the Adjudication Area as “Basin” and uses the terms interchangeably. Accordingly, *Basin* in this document refers to the Adjudication Area and not the alluvial basin as defined by DWR.

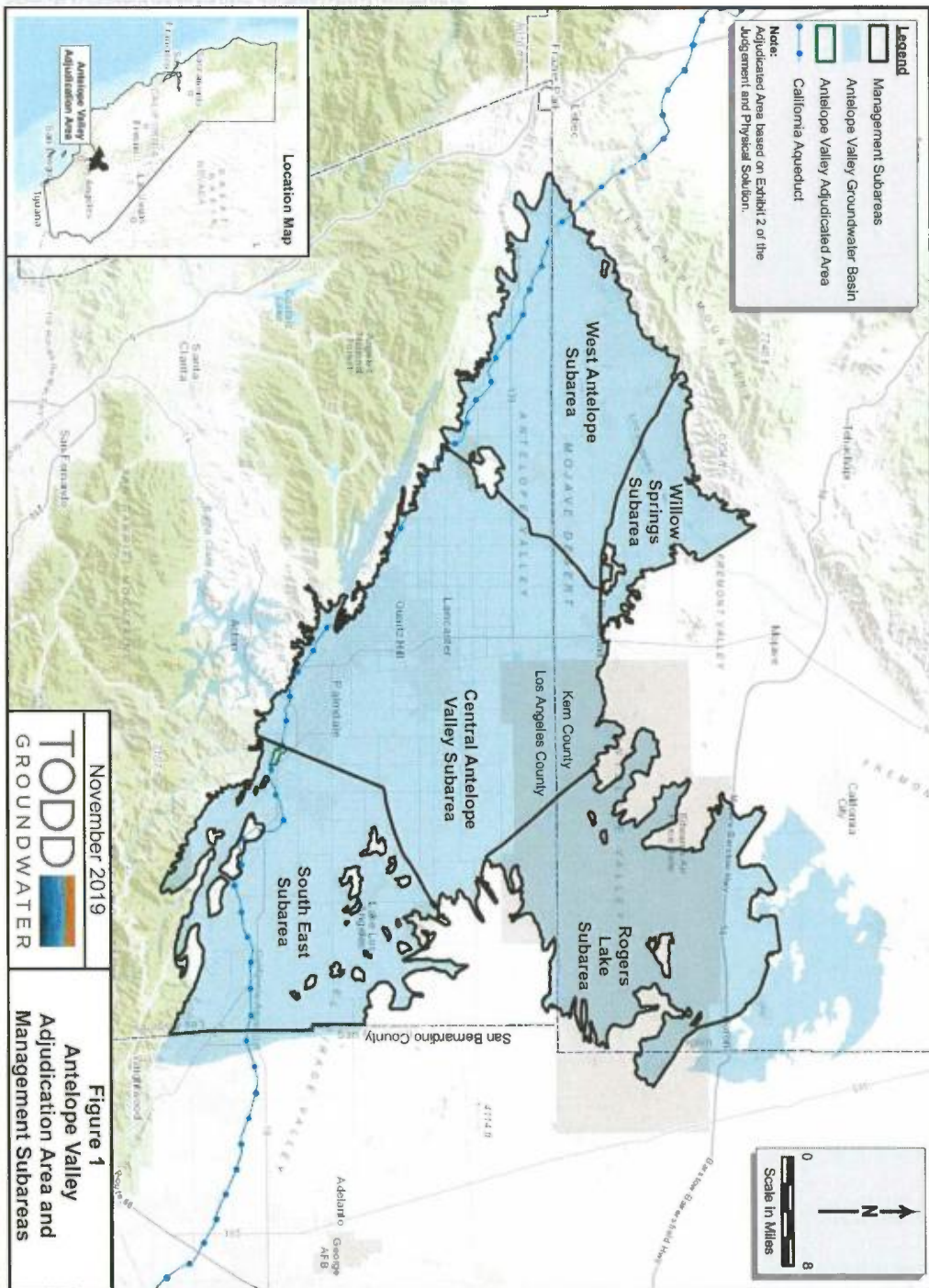
The Adjudication Area was divided into five subareas for management purposes as shown in **Figure 1**. They are:

- Central Antelope Valley Subarea
- West Antelope Valley Subarea
- South East Subarea
- Willow Springs Subarea
- Rogers Lake Subarea.

---

<sup>1</sup> Antelope Valley Groundwater Cases, Judicial Council Coordination Proceeding No. 4408, Santa Clara Case No.: 1-05-CV-049053, Superior Court of the State of California, County of Los Angeles - Central District. In these R&Rs, the word “Paragraph” is used to refer to locations in the Judgment and Physical Solution. Specific Judgment and Physical Solution Paragraphs are referenced in these R&Rs with a ¶ symbol preceding the Judgment paragraph number, all generally within brackets.

**Figure 1. Antelope Valley Adjudication Area and Management Subareas**



a. Important Dates

The table below presents important dates related to these R&Rs.

**Table 1. Antelope Valley Watermaster Timetable**

<b>Item</b>	<b>Available</b>	<b>Approval or Due Date</b>	<b>Delinquent Date<sup>2</sup></b>
Fixed Administrative Assessment	January 15	March 1	April 1
Annual Water Production Report	January 15	March 1	April 1
Transfer Request for a Replacement Water Obligation	NA	March 1	
Storage Agreement Annual Report	NA	March 1	April 1
State Water Contractor Use of Imported Water in the Basin	NA	March 1	
Letter to DWR Regarding SGMA Reporting	NA	April 1	
Water Quality and Water Level Reporting	NA	April 1	
Variable Administrative Assessment	May 1	July 1	August 1
Annual Report	June 15	Public Hearing at July Board Meeting	
Submittal of Annual Report to Court	(see above)	August 1	
Submittal of SGMA Reporting to DWR	July Board Meeting	August 1	
Unpaid Delinquent Assessment List	September Board Meeting	No later than October 1	
Administrative Budget for Following Year	October Board meeting; no later than November 15	December Board Meeting and no later than December 15	
Administrative Assessment Rate for Following Year	October Board meeting; no later than November 15	December Board Meeting and no later than December 15	
Replacement Water Assessment Rates for Inside and for Outside State Water Contractor Areas	October Board meeting; no later	December Board Meeting and no	

<sup>2</sup> Interest on delinquent Assessments shall begin to accrue on the delinquent date. Notices of delinquency for Assessments or Reports will be sent to delinquent Parties subsequent to the delinquent date.

	than November 15	later than December 15	
<b>Meter Reporting</b>	<b>Comments</b>	<b>Due Date</b>	
Monthly Flowmeter Production Reporting Form A: one meter on well Monthly Flowmeter Production Reporting Form B: 2 meters on 1 well	Use a separate form for each metered well. Use Form B if 2 meters for 1 well.	Quarterly (by January 31, April 30, July 31, and October 31) for previous quarter production	
Regular Meter Testing and/or Calibration	Watermaster approved meter tester will have these reporting forms	If produce over 10 AFY: once per year or calibrated every 3 years. If produce $\leq 10$ AFY: once every 2 years or calibrated every 5 years.	

b. Forms

Appendix A lists forms available for the reporting listed above and for other requests and documentations.

2. GENERAL PROVISIONS

a. Title

This document will be known as the Antelope Valley Watermaster Rules and Regulations or Rules and Regulations (R&Rs). This document was adopted pursuant to Paragraph 18.4.2 of the Judgment.

b. Amendment

These R&Rs, once approved by the Court, shall be deemed to supersede and replace all prior adopted and Court-approved Watermaster rules and regulations. These R&Rs may be amended by the Watermaster only upon Unanimous Vote. All future amendments shall be consistent with the Judgment and are subject to approval by the Court after consideration of the objections of any Party. All future amendments approved by the Court shall be incorporated in these R&Rs, and all such future amendments to these R&Rs shall be attached hereto as part of Appendix B to this document. At least annually, the General Counsel, Watermaster Engineer, and Watermaster Staff shall revise this document to incorporate any Court-approved amendments to these R&Rs.



c. Definitions

Except as otherwise specifically set forth in these R&Rs, capitalized term(s) and phrase(s) shall have the same meanings as in the Judgment. Additional definitions are in the Judgment Paragraph 3.5.

**Advisory Committee** shall mean the Advisory Committee specified in Paragraph 19 of the Judgment. [¶ 19]

**Annual Report** shall mean the report the Watermaster is to prepare pursuant to Paragraph 18.5.18 of the Judgment.

**AWWA** shall mean the American Water Works Association.

**Board** shall mean the Watermaster Board or the Watermaster.

**Board Chairperson** shall mean the presiding officer of the Board.

**Board Secretary** shall mean an administrative assistant appointed by the Watermaster Board.

**Brown Act** shall mean the Ralph M. Brown Act, Government Code Sections 54950, et seq. as may be amended from time to time.

**DOD** shall mean the United States Department of Defense.

**DWR** shall mean the California Department of Water Resources.

**Judgment** shall mean the Judgment entered by the Court on December 28, 2015 in the “Antelope Valley Groundwater Cases” (Judicial Council Coordination Proceeding No. 4408, Santa Clara County Superior Court Case No. 1-05-CV-049053) as amended.

**Member** shall mean each of the five (5) member Board representatives or alternates serving on behalf of an absent Board Member.

**Physical Solution** shall mean the court-adopted physical solution that is attached to the Judgment as Exhibit A. A copy of the Judgment and Physical Solution is available on the Watermaster website ([www.avwatermaster.net](http://www.avwatermaster.net)).

**Rules and Regulations (“R&Rs”)** or “Antelope Valley Watermaster Rules and Regulations” shall mean this document as amended and supplemented.

**Small Pumper Class Member(s)** shall have the meaning specified in paragraph 3.5.45 of the Judgment. [¶ 3.5.45]

**State of California** shall mean the State of California acting by and through the following State agencies, departments and associations: (1) The California Department of Water Resources; (2) The California Department of Parks and Recreation; (3) The California Department of Transportation; (4) The California State Lands Commission; (5) The California Department of Corrections and Rehabilitation; (6) The 50th District Agricultural Association; (7) The California Department of Veteran Affairs; (8) The California Highway Patrol; and, (9) The California Department of Military.

**Storage Agreement** shall mean the Storage Agreement(s) specified in the Judgment.

**Subarea Management Advisory Committee** or Subarea Management Advisory Committees shall mean the committee(s) specified in Paragraph 19.5 of the Judgment.

**Unanimous Vote** shall mean the vote of five out of five Members of the Watermaster Board.

**Watermaster Staff** shall mean the administrative personnel appointed by the Board to assist in implementing the Judgment.



d. Construction

Unless the context clearly requires otherwise:

The plural and singular forms include the other; “shall,” “will,” and “must” are each mandatory; “may” is permissive; “or” is not exclusive; and “includes” and “including” are not limiting.

The masculine gender shall include the feminine and neutral genders and vice versa.

Reference to any agreement, document, instrument, or report means such agreement, document, instrument or report as amended or modified and in effect from time to time in accordance with the terms thereof.

Except as specifically provided herein, reference to any law, statute, ordinance, regulation, or the like means such law as amended, modified, codified, or reenacted, in whole or part and in effect from time to time, including any rules or regulations promulgated thereunder.

These R&Rs shall be construed consistent with the Judgment. In the event of a conflict between these R&Rs and the Judgment, the Judgment shall prevail.

3. ADJUDICATION AREA

a. Location

The Adjudication Area boundaries are defined in Paragraph 3.5.8 of the Judgment and generally are depicted on Figure 1 hereof.

b. Parcels Straddling the Boundary

Generally, the Watermaster does not have jurisdiction over a well located outside the Basin boundary, regardless of whether the well is located on a parcel that straddles the Basin boundary. In the event information indicates that a well located outside the Basin boundary may cause or be causing Material Injury, the Watermaster shall conduct a detailed local study to determine whether jurisdiction can and should be asserted over any such well.<sup>3</sup>

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<sup>3</sup> Conclusion of Memorandum to Antelope Valley Watermaster Board from Craig Parton, General Counsel, February 6, 2019.

4. WATERMASTER ORGANIZATION AND ADMINISTRATION

a. Composition

The Court has appointed a Watermaster to administer the Judgment. [¶ 3.5.52]

i. Board

The Watermaster shall be a five (5) Member board composed of:

- (1) One (1) representative from Antelope Valley-East Kern Water Agency (AVEK);
- (2) One (1) representative from Los Angeles County Waterworks District No. 40 (District No. 40);
- (3) One (1) 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
- (4) 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 of the Judgment (or their successors in interest) based on their proportionate share of the total Production Rights identified in Exhibit 4. [¶18.1.1]

ii. Alternates

Each of the five Board Members shall have an alternate.

iii. United States

The United States may also appoint a non-voting DOD liaison to the Watermaster Board 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. [¶ 18.1.1]

iv. AVEK Representative

AVEK's Board of Directors will appoint its representative to serve as a Member of the Watermaster Board. AVEK's representative and alternate representative shall each serve two-year terms, unless otherwise determined by AVEK's Board of Directors.

v. District No. 40 Representative

The Board of Supervisors of Los Angeles County, acting as the governing board of Los Angeles County Waterworks District No. 40 Antelope Valley, shall appoint or delegate authority to appoint the representative from District No. 40 and an alternate representative for District No. 40.

vi. Public Water Supplier Representative.

(1) Composition of Public Water Suppliers 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 have formed the Antelope Valley Watermaster Public Water Suppliers Steering Committee (Public Water Suppliers Steering Committee). The Public Water Suppliers Steering Committee has established its own rules and procedures for the conduct of meetings.

(2) Public Water Supplier Representative. 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 Suppliers Steering Committee. In the event that a representative is removed, the replacement representative shall serve the balance of the former representative's term.

(3) Appointment of Representative. The Public Water Supplier representative and alternate representative shall be elected by a majority vote of the parties identified in Paragraph 8.1.1 of the Judgment. This vote shall be conducted at a meeting of the Public Water Suppliers Steering Committee pursuant to the rules and procedures adopted by the Public Water Suppliers Steering Committee. Upon any change in representation, the Public Water Suppliers 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 Public Water Suppliers Steering Committee that the action was undertaken pursuant to the rules of the Public Water Suppliers Steering Committee.

vii. Landowner Watermaster Representatives

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

(2) 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

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<sup>4</sup> The initial landowner Watermaster representatives were elected on August 17, 2016.



representatives shall serve a two-year term, in order to establish the staggered terms. 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 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. The secondary alternate will attend and serve as a landowner Watermaster representative at a meeting in the event that either: (1) both of the landowner Watermaster representatives are unable to attend a Watermaster Board meeting; or (2) one of the Watermaster representatives and the primary alternate are unable to attend a Watermaster Board 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.

(3) 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 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 Paragraph 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.

(4) 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) 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): (a) Name of nominating party as listed on Exhibit 4; (b) Name of natural person representing the nominating party as listed on Exhibit 4; (c) Name of person being

nominated; (d) Address of person being nominated; (e) Name of Party on Exhibit 4 that the nominee represents; (f) Detailed statement of qualifications (Statement of Qualifications), and a disclosure of the nominee's official capacity with an Exhibit 4 Party; (g) Representation that the nominating party has personally confirmed that the nominee is willing to serve; and (h) Verification by the nominating party under penalty of perjury. 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.

(6) 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: (a) Name of Party as listed in Exhibit 4, or the successor in interest; (b) Name of person representing the Party listed on Exhibit 4; (c) Name of the nominee for which the Party casts its votes for each position (i.e., Watermaster representative, primary alternate, and secondary alternate); (d) Date and signature of person representing the Party casting the Ballot.

(7) 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. In order to maintain voting balance on the Watermaster Board in accordance with the Judgment, Public Water Suppliers who acquire water rights and become successors-in-interest to Exhibit 4 Parties shall not nominate or vote for landowner representatives to the Watermaster Board without further order of the Court upon proof in equity of good cause.

(8) 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.

b. Terms

Subject to Sections 4.a.iv, 4.a.vii(4) and 4.i, AVEK and District No. 40 are permanent Members, the other Public Water Supplier Watermaster Board Member shall serve until replaced by the Parties that made the original appointment, and subject to Section 4.a.vii(2), the landowner Board Members shall have four-year terms.

c. Organization of Watermaster

At its first meeting each year, the Watermaster will elect a Board Chairperson and a vice chairperson from its membership. The Watermaster Board may also appoint a non-member Board Secretary to and a non-member treasurer as additional staff members.

d. General Counsel

The Watermaster shall, by Unanimous Vote, retain general legal counsel to provide such legal services as the Watermaster may direct.

e. Compensation

The appointing entities and/or Parties described in Paragraph 4.a.i shall be responsible for payment of compensation, if any, and reimbursement of expenses of their respective Watermaster Board representative. The landowner Board Members shall not be compensated or subject to expense reimbursements.

f. Administration

i. Offices

The principal office of the Watermaster shall be at the AVEK offices or at such other location or locations as may be designated from time to time by the Watermaster.

ii. Records

- (a) The Watermaster records shall be maintained at its principal office.
- (b) Records that are subject to review pursuant to Paragraph 18.4.11 of the Judgment, can be reviewed during regular business hours. If copies are requested, they may be obtained by paying for the direct cost of duplication.
- (c) If records are requested in electronic format, and if a consultant is required to prepare or compile the requested records, then the person requesting the records will be responsible for the cost of such a consultant plus the cost of any storage device necessary to provide electronic records.
- (d) The Watermaster shall maintain a website.
- (e) The Watermaster shall publish on its website those records and other matters that it deems to be of interest to the Parties, the general public, or the Court.

g. Watermaster Administrative Staff

The Watermaster may appoint Watermaster Staff to assist the Watermaster with implementing the Judgment. The Watermaster Staff are the first point of contact for the public. Watermaster Staff duties shall be discharged pursuant to and in conformance with the policies and direction of the Board. Such duties may include:



- Provide general oversight of all Watermaster activities and provide direction to consultants
- Work with the Watermaster Board to establish priorities and policy
- Provide accounting services (accounts receivables and bill payables)<sup>5</sup>
- Administer assessment billings and collection process
- Serve as primary point of contact for producers and the public (Appendix A contains various forms for information requests and other requests)
- Prepare and manage Watermaster budgets
- Administer Watermaster contracts (Engineer, Legal, Audit, etc.)
- Prepare Watermaster Staff reports
- Prepare, distribute, and post Watermaster meeting agendas and public notices
- Maintain contact lists and notice list
- Maintain Watermaster website
- Prepare and update Watermaster forms and make available on the Watermaster Website
- Coordinate attorney input
- Coordinate Advisory Committee input
- Coordinate Subarea Advisory Management Committees input
- Assist Watermaster Landowner Board Member elections
- Staff Watermaster meetings
- Prepare meeting minutes
- Administer meeting services and equipment (Audio/Visual, Teleconference, and Video-Conference)
- Maintain liability insurance
- Manage work tasks as directed by Board
- Recommend timelines for tasks
- Process applications for Replacement Wells, Monitoring Wells, and unknown Small Pumper qualification<sup>6</sup>

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<sup>5</sup> In the event a Watermaster Board meeting does not occur in any given month, Watermaster Staff, in consultation with any one or more Watermaster Board member(s), may pay all Watermaster bills for such month on behalf of the Watermaster, which bill payments shall be considered and ratified by the Board at the next Watermaster Board meeting.

<sup>6</sup> As a condition precedent to accepting any applications for Replacement Wells, Monitoring Wells, or unknown Small Pumper qualification, Watermaster Staff shall require the applicant to pay all delinquent Assessments, and comply with all unsatisfied monitoring and reporting requirements.

h. Watermaster Meetings and Notice

i. Application

These rules apply to all meetings of the Antelope Valley Watermaster Board.

ii. Time and Place of Meetings

(1) Regular Board Meetings. Regular Board meetings shall be held at the AVEK offices at 6450 West Avenue N, Palmdale, CA 93551 on the fourth Wednesday of every month, at 10 a.m., or any other date, time or location approved by the Board. Due to holidays, the November and December meetings may be combined into a December meeting tentatively scheduled to occur on the first Wednesday in December. The Watermaster shall provide electronic notice of any changes in the time or place of scheduled or regular meetings to any person or entity requesting such notice.

(2) Special Meetings. Special meetings may be called at any time by the Board Chairperson in compliance with the Brown Act (Government Code Sections 54950, et seq.). No business other than that officially noticed in the Agenda may be discussed.

(3) Notice. The Watermaster will provide notice of and conduct all meetings and hearings in accordance with Paragraph 18.4.11 of the Judgment. Notice of all regular, special and adjourned meetings must be provided and posted in accordance with the Brown Act. Seventy-two hours' notice is required for regular meetings; 24-hour notice for special meetings. Notices of the meeting shall be posted at the following locations: (1) [www.avwatermaster.net](http://www.avwatermaster.net); and (2) 6450 West Avenue N, Palmdale, CA 93551, or any other location approved by the Board.

iii. Agenda

(1) Agenda Requirement. No action may be taken at a meeting unless that item is listed on a printed and posted Agenda containing sufficient information to apprise a reasonable person of the proposed action (or unless that item is added to the Agenda as set forth below).

(2) Placing Matters on Agenda. Watermaster Staff shall prepare the Agenda. By request of any Member during a regular meeting, items may be added to the Agenda of a subsequent meeting, provided that the Board concurs with the direction pursuant to a vote under Section 4.h.vi of these R&Rs.

(3) Draft Agenda. A draft Agenda for all regular meetings shall be prepared and circulated to the Public Water Suppliers Steering Committee, the Advisory Committee members, and any other person or party who has filed a written request for notice of the draft Agenda with the Watermaster. The distribution shall occur at the time the draft Agenda is provided to Board Members.

(4) Emergency Items. Emergency and non-agendized items may be added to an Agenda only in accordance with the Brown Act. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies. Adding an emergency item requires a vote pursuant to Section 4.h.vi of these R&Rs.

(5) Need-Arose Items. Non-agendized items may be added to the Agenda only if the Board makes findings that (1) the need to consider the item arose after the posting of the Agenda, and; (2) there is a need to take immediate action at this meeting.

iv. Quorum

(1) Watermaster Board Quorum. The Board is a five-Member board. Three (3) Members shall constitute a quorum of the Board.

(2) Absence of Quorum. When there is no quorum, any Member may adjourn such meeting or, if no Member is present, the Board Secretary shall adjourn the meeting.

v. Order of Business

(1) Watermaster Board Agenda Order. At every meeting of the Board, the order of business shall be discussed and acted upon in substantially the following manner, provided that the Board Chairperson may alter the order of business pursuant to a vote as provided in Section 4.h.vi of these R&Rs.

- (a) Call to Order - Public Session
- (b) Pledge of Allegiance
- (c) Roll Call
- (d) Adoption of Agenda
- (e) Public Comments for Non-Agenda Items
- (f) Special Presentations [if any]
- (g) Consent Agenda
- (h) Advisory Committee Report
- (i) Action Items
- (j) Administrator Report
- (k) Engineer Report
- (l) Attorney Report
- (m) Board Members Request for Future Agenda Items
- (n) Adjournment

(2) Roll Call. Before proceeding with business, the Board Secretary shall enter in the minutes the names of all Members present. If any Member arrives after the roll call or needs to leave prior to the adjournment of a meeting, the Board Secretary shall enter in the minutes the time at which such Member arrived or left and, if applicable, enter the name of the alternate that replaces the departing Member.

(3) Adoption of Agenda. After Roll Call, the Board shall review and approve the order of the items on the Agenda. At this time, any Member may move to reorder the items on the Agenda and the Board Chairperson shall re-order the items on the Agenda if approved by a vote pursuant to Section 4.h.vi of these R&Rs.

(4) Consent Agenda. The Consent Agenda shall consist of routine items for which Watermaster Staff anticipates no significant discussion by the Board. A Consent Agenda item may be

removed for discussion at the request of any Member. A removed Consent Agenda item will be considered after the Board acts upon the remainder of the Consent Agenda.

(5) Special Presentations. Special presentations may be conducted at any meeting at the Board's discretion.

(6) Public Comments for Non-Agenda Items. During Public Comment for non-Agenda items, the public is invited to comment on items within the jurisdiction of the Watermaster but not on the Agenda. See Section 4.h.xi below.

(7) Advisory Committee Report. The Advisory Committee shall have an opportunity to submit a written report and/or address the Board to make advisory recommendations on items reviewed and discussed by the Advisory Committee.

(8) Watermaster Board Reports. Reports by Members shall be limited to five minutes per Member, unless additional time is granted by the Board Chairperson which shall not be unreasonably denied.

#### vi. Voting

(1) Voting Procedures.

(a) Each Member of the Watermaster Board shall have one (1) vote.

(b) All Watermaster decisions shall be by Unanimous Vote, except as otherwise determined by Unanimous Vote of the Watermaster.

(c) All recommendations of the Watermaster Engineer must be approved by Unanimous Vote of the Watermaster. If there is not Unanimous Vote among Watermaster Members, Watermaster Engineer recommendations must be presented to the Court for action and implementation. [¶ 18.6]

(2) Duty to Vote. When present, all Members have a duty to vote unless prohibited by law.

(3) Roll Call Vote. A roll call vote may be taken and recorded as necessary for any action taken, and such roll call vote shall be entered in the minutes of the meeting showing those Members voting aye, those voting no and those not voting or absent.

(4) Vote Required for Watermaster Decision. All decisions of the Board shall be by Unanimous Vote of all five Members, unless the Watermaster has by Unanimous Vote determined that such decision requires only a simple majority vote. The Watermaster has decided by Unanimous Vote to require a simple majority vote for approval of the minutes (Resolution No. 17-04). Additionally, the Watermaster has determined that when there is no quorum, any Member may adjourn a Board meeting or, if no Member is present, the Board Secretary shall adjourn the meeting.

#### vii. The Minutes

(1) Content. The minutes will be a clear and concise statement of the actions taken at the Board meeting, including the motions made and the votes thereon. The minutes shall include the date,



hour and place of the meeting; whether it is a regular, adjourned regular or special meeting; the names of the Members and staff present and absent; and any action taken by the Board. If any Member arrives late or departs before the adjournment, the minutes shall reflect his or her arrival or departure time.

(2) Preparation. Minutes shall be prepared by the Board Secretary and presented to the Board for approval. The Board may then, by motion, make such corrections as conform to fact and formally adopt the minutes. Members are not required to have attended the meeting that is the subject of the minutes as a condition to vote on approval.

(3) Recording of Watermaster Meetings. Audio from the Watermaster meetings may be recorded. Any such recordings are not the official record.

#### viii. Actions

(1) Process for Action Items. Consideration of Action Items shall be as follows:

(a) Announcement by the Board Chairperson. The Board Chairperson shall announce the item under consideration by reference to its listing on the Agenda.

(b) Staff Report. Responsible staff members shall present a report of staff regarding the action item.

(c) Questions of Staff. Members may ask questions of staff to clarify the report.

(d) Advisory Committee Report or Public Comment. The Advisory Committee shall have the opportunity to address the Board with their advisory recommendation on any Action item. The public shall be invited to speak on the item using the process described in Section 4.h.xi.

(e) Debate. Before or after any initial motion on any item by any Member, the Members may debate the item, make comments relevant to the item, respond to any questions related to the item and ask questions of staff related to the item. Comment from the public during debate may be allowed provided the speaker is recognized by the Board Chairperson.

(f) Motions. Any Member may initiate an item for formal consideration by the Board by making a motion. A Member may make an independent motion, may make a motion to implement staff recommendation, or may request assistance from the administrator, Engineer, or General Counsel as to the form of a proposed motion. Upon making of the motion, a second Member may second the motion. A duly offered and seconded motion shall be restated by the Board Chairperson, administrator, or General Counsel.

(g) Vote. Unless withdrawn, the Board shall vote upon the motion, as provided in Section 4.h.vi.

(2) Resolutions. A resolution is a formal document that records an action of the Board. Resolutions are considered by the Board upon motion and proper second. Resolutions are sometimes required by law or may be recommended by the administrator, Engineer, or General Counsel to record an action of the Board which is considered of particular importance. Resolutions shall be presented using the Watermaster standard format. They shall be reviewed

and approved by the General Counsel prior to any presentation to the Board according to rules and procedures approved by the Board.

(3) Correct Legal Document. On occasion, resolutions are submitted in longhand or in draft form with on-the-spot amendments. These preliminary papers may be re-typed in final form; such re-draft, when signed and attested, becomes the original and proper document to be retained in the Watermaster's files.

ix. Debate and Precedence of Motions

(1) Processing of Motions. A motion shall be considered pending before the Board following a motion and second by the Members as described in Section 4.h.viii(1)(f).

(2) Division of Question. If the item contains two or more divisible propositions, the Board Chairperson may divide the question and require a vote on each portion of the question.

(3) Precedence of Motions. Once a motion is pending before the Board, no other motion on the matter shall be entertained except those listed below. These motions have precedence in the order listed:

(a) Amendments. A motion to amend the motion may be entertained only with the consent of the Member who originally made the motion and, if the motion has been seconded, by the Member who seconded the motion. An amendment modifying the intention of a motion may be considered, but an amendment relating to a different matter or an amendment that would alter the original motion so that it relates to a substantially different matter shall not be considered. Motions to amend a motion shall be voted upon first, then the main motion, whether or not amended, shall be voted upon. In lieu of voting upon a motion to amend, the Member who made the original motion may withdraw the original motion and restate a motion on the same subject with the consent of the Member who seconded the motion. Any motion that has been validly amended or validly withdrawn and restated as provided in this section shall then be voted upon.

(b) Motion to call the question. A motion to call the question is to close debate on the main motion. If the motion to call the question fails, debate is reopened; if the motion to call the question passes, then a vote on the main motion is in order.

(c) Withdrawing a motion. A motion may be withdrawn only by the Member who made the motion with the consent of the Member who seconded the motion. A withdrawn motion does not appear in the minutes.

x. Public Hearings and Appeals

(1) Hearings. Hearings shall follow the following process:

(a) Announcement by the Board Chairperson. The Board Chairperson shall announce the item under consideration by reference to its listing on the Agenda.

(b) Statement by General Counsel. The Board Chairperson shall formally open the public hearing and may request a statement by the General Counsel regarding the nature of the hearing and the rules to be followed during the hearing.



- (c) Staff Report. At the hearing, Watermaster representatives shall present evidence in support of the findings or reasons upon which the recommendation, order, citation, decision, or determination, was based.
- (d) Questions of Staff. Members may ask questions of staff or representatives to clarify the report.
- (e) Hearing. The process for the hearing will be as follows. The Watermaster Staff, Watermaster Engineer, and/or General Counsel will be given the opportunity to present their recommendation first. At the conclusion of the Watermaster presentation, the parties shall have a right to appear, testify, present evidence, and present written or oral arguments related to the recommendation. The parties and anyone who participates in a hearing may be represented by an attorney or other person of the parties' choice. Additionally, the parties may request, and the Board Chairperson may allow, the parties to submit written briefs, either before, during or after the hearing. In consultation with the General Counsel, the Board Chairperson shall specify, prior to the start of the hearing, if a time limit will be imposed and what that time limit is for the initial presentations and how much time will be allowed for rebuttal.
- (f) Public Comment. The public shall be invited to speak on the item using the process described in Section 4.h.xi. As discussed more fully in Section 4.h.xi, use of speaker cards is encouraged but not required for public comment.
- (g) Close of Hearing. After the staff report, all presentations, rebuttal and redress and public comment, the Board Chairperson will call the public hearing to be closed.
- (h) Debate and Discussion. After the close of the hearing, the Board may debate the matter as described in Section 4.h.viii(1)(e) and may ask questions of the public, parties, witnesses or staff.
- (i) Motions. After debate and discussion, the Board Chairperson may ask for a motion disposing of the matter or any Member of the Board may initiate a motion using the procedure described in Section 4.h.viii(1)(f).
- (j) Vote. Unless withdrawn in accordance with Section 4.h.ix(3)(c), the Board shall vote upon the motion, as provided in Section 4.h.vi.

(2) Evidence. In order to save time, anyone may refer to previous testimony or to documents previously filed, as all of the records, exhibits, and minutes of other meetings are before each Member, all of which is part of the record. Such hearing need not be conducted according to the technical rules of law relating to evidence and witnesses. Any relevant evidence may be admitted if it is the type of evidence on which responsible persons are accustomed to relying on in the conduct of serious affairs, regardless of the existence of any common law rule or statute which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Copies of the reports and records of any governmental agency, division, or bureau will be accepted as evidence in lieu of the original thereof. Each speaker is required to abstain from irrelevant testimony, repetition, excessive hearsay, using profanity or obscenities or making statements that are inaudible, unintelligible or otherwise not able to be recorded by the secretary.

(3) Witnesses. Each person who desires to speak must first be recognized by the Board Chairperson. Upon receiving recognition, the speaker should give his or her name and address for the record. If a person refuses to give their name and address for the record, then their statement will not be considered as evidence in the proceeding but will be lodged as a comment from an anonymous member of the public in accordance with the Brown Act.

(4) Scope. The scope of the hearing shall be limited to the order, citation, decision, determination or recommendation identified in the hearing notice.

(5) Failure of Interested Party to Appear. If an interested party fails to appear for the hearing at the time and place noticed, the Board Chairperson in his or her discretion may conduct the hearing to a conclusion, cancel the hearing or upon a showing of good cause may reschedule the hearing.

#### xi. Public Comment

(1) Public Comment. A person wishing to address the Board shall first be recognized by the Board Chairperson. Comments should focus on a specific matter within the jurisdiction of the Board. Each person shall address all remarks to the Board as a body, not to any Member thereof and not to staff. No person, other than a Member of the Board and the person having the floor, shall be permitted to enter into any discussion without recognition by the Board Chairperson. If during public comment, a person expresses a concern regarding the Watermaster Staff or service, the Board may refer the nature of the concern to staff for investigation, resolution or a report.

(2) Speaker Cards. Use of speaker cards is encouraged to help in the efficient conduct of Watermaster meetings but is not required. Speaker cards should be filled out and given to the Board Secretary prior to public comment. The Board Chairperson may request that speakers provide their name and address for the record, although persons who wish to speak are not required to provide their names or addresses. The Board Secretary shall indicate the order in which each card is received. The Board Chairperson will then call those speaker cards in the order received. The speaker card shall indicate whether the member of the public wishes to speak during public comment or during a particular business item.

(3) Timing of Public Comments. Public comments on items not on the Agenda shall take place during one of two public comment periods described in Section 4.h.v. Members of the public may only provide comment on items not on the Agenda in one of the two public comment periods. Public comments on items that are on the Agenda shall take place during consideration of that item as described in Section 4.h.viii.

(4) Written Comments and Presentations. Videos, PowerPoint or similar presentations during public comment through the use of Watermaster equipment ordinarily is not permitted. Members of the public are encouraged to present written comments, preferably in advance of the meeting, as a way to fully communicate their thoughts on agendized or non-agendized items. When written materials are presented, they should be submitted to the Board Secretary for distribution and record keeping ahead of time.

(5) Time Limits. While the Watermaster embraces the right of public participation, it acknowledges that public comments must, at times, be limited. Unless additional time is granted

by the Board Chairperson, each person shall limit public comments to three minutes. The Board Chairperson may grant a representative of a large speaker group additional time to speak for the group on any Agenda item. If one or more groups or sides on an issue wish to speak, the Board Chairperson shall endeavor to grant equal time to each group or side.

xii. Closed Sessions

The Watermaster Board may hold closed sessions when authorized by and in compliance with the Brown Act.

i. Removal of the Watermaster

Notwithstanding any other provisions of these R&Rs, the Court retains and reserves full jurisdiction, power, and authority to remove any Watermaster, Member of the Board, or Alternate Member of the Board, for good cause. If a position on the Watermaster Board becomes vacant as a result of the Court's removal of a Member or Alternate, such position shall be filled by the persons who selected such position, and in the manner of selection designated for such position. The Court shall find good cause for the removal of a Watermaster or Member of the Watermaster upon a showing that the Watermaster or the Member(s) at issue has:

- (1) Failed to exercise its powers or perform its duties;
- (2) Performed its powers in a biased manner; or
- (3) Otherwise failed to act in the manner consistent with the provisions set forth in the Judgment or subsequent order(s) of the Court. [¶18.3]

5. WATERMASTER ADVISORY COMMITTEE

a. Authorization and Composition

Pursuant to Paragraph 19.1 of the Judgment, the Producers are authorized and directed to cause a committee of Producer representatives to be organized and to act as an Advisory Committee. Edwards Air Force Base and the State of California shall be ex officio members of the Advisory Committee. [¶19.4] The United States may also appoint a DOD liaison pursuant to Joint Ethics Regulation 3-201. [¶ 19.4]

The Producers attending the September 28, 2016, meeting decided all Producers were on the Advisory Committee and to elect an Executive Committee representing a broad range of interests. This Executive Committee would be the entity that actually interfaced with the Watermaster. The sixteen (16) members are shown below:

- 4 – Agricultural interests
- 1 – Industrial landowner
- 1 – Public landowner
- 2 – Los Angeles County Public Water Purveyors
- 1 – Kern County Public Agency
- 2 – Mutual Water Companies (Ideally one each Los Angeles and Kern Counties)



- 2 – Small Pumpers
- 2 – Ex-Officio members per Judgement (Federal and State)
- 1 – Ex-Officio Technical Advisor member

In order to provide for continuity over time and ensure representation of all interest groups at all meetings, each Primary member of the Advisory Committee is strongly encouraged to recruit an Alternate Advisory Committee member. The Primary member should keep the Alternate member informed of all matters discussed by the Advisory Committee. The Alternate member should attend Advisory Committee and Watermaster meetings whenever possible. This will assist the Alternate member to become familiar with other Advisory committee members and remain cognizant of the issues, discussions, and decisions of the Advisory Committee and Watermaster.

b. Compensation and Expenses

The Advisory Committee members shall serve without compensation or reimbursement of expenses. [¶ 19.2]

c. Powers and Functions

The Advisory Committee shall act in an advisory capacity only and shall have the duty to study, review, and receive and make recommendations on all discretionary determinations by the Watermaster. Parties shall only provide input to the Watermaster through the Advisory Committee. [¶19.3] The Advisory Committee's current Operating Procedures will be posted on the Watermaster website.

d. Meetings

The Advisory Committee shall endeavor to conduct regular meetings at a location designated by the Advisory Committee chair in advance of scheduled Watermaster Board meetings. All meetings shall be open to the public [¶19.4]. Notice of each Advisory Committee meeting shall be posted at least seventy-two hours prior to the meeting on the Watermaster website, located at [www.avwatermaster.net](http://www.avwatermaster.net). Review Watermaster activities pursuant to the Judgment on at least a semi-annual basis. [¶19.4]

6. SUBAREA MANAGEMENT ADVISORY COMMITTEES

a. Authorization

Paragraph 19.5 of the Judgment requires the creation of Subarea Management Advisory Committees upon entry of Judgment. Since the Advisory Committee is working well and allows Parties a platform for direct participation in Watermaster decision making, formation of the Subarea Management Advisory Committees is deferred until an interest in formation arises. All subarea concerns and requests may still be raised before the Watermaster Advisory Committee or to the Watermaster Board in accordance with these Rules and Regulations. Any Party may

request formation of the Subarea Management Advisory Committees at any time in the future and without Watermaster approval.

7. WATERMASTER ENGINEER

a. Selection

The Watermaster shall by Unanimous Vote select the Watermaster Engineer, with the advice of the Advisory Committee, to perform engineering and technical analysis and water administration functions provided for in the Judgment. [¶3.5.53; 18.4.1.]

b. Duties

i. Performance of Duties

In exercising its powers and fulfilling its duties, the Watermaster Engineer shall rely on and use the best available science, records, and data to support the implementation of the Judgment and these R&Rs. [¶18.5.16]

ii. Monitoring Safe Yield

The Watermaster Engineer shall monitor all the Safe Yield components and include them in the Annual Report for Court approval. [¶18.5.1] Monitoring may include:

- Annual Production
- Groundwater levels and quality
- Climate factors such as precipitation, reference evapotranspiration (ET<sub>o</sub>) and temperature
- Streamflow
- Subsidence
- Land Use

iii. Reduction in Groundwater Production

The Watermaster Engineer shall ensure that reductions of Groundwater Production to the Native Safe Yield (Rampdown) take place pursuant to the Judgment and any orders by the Court. [¶18.5.2.]

iv. Determination of Replacement Obligations

The Watermaster Engineer shall determine Replacement Obligations for each Producer, pursuant to the Judgment. [¶ 18.5.3]

v. Balance Assessment Obligations

The Watermaster Engineer shall determine Balance Assessment obligations for each Producer pursuant to the Judgment. In addition, the Watermaster Engineer shall determine the amount of water derived from the Balance Assessment that shall be allocated to any Producer to enable that Producer to fully exercise its Production Right. [¶18.5.4]



vi. Measuring Devices and Production Amounts

The Watermaster Engineer shall propose, and the Watermaster shall adopt and maintain, rules and regulations regarding determination of Production amounts and installation of individual water meters. Producers who meter Production as of December 23, 2015, shall continue to meter Production. [¶18.5.5]

vii. Hydrologic Data Collection

(1) The Watermaster Engineer shall operate and maintain such wells, measuring devices, and/or meters necessary to monitor stream flow, precipitation, groundwater levels, and Basin Subareas, and obtain such other data, as may be necessary to carry out the Judgment. [¶18.5.6] This requirement may be satisfied through delegation to others or reliance on available data from others to the extent resources are available and approved by the Watermaster Board.

(2) The United States Geological Survey (USGS) currently monitors water levels in over 100 wells within and adjacent to the Antelope Valley Adjudication Area. The program was developed, in part, to comply with the California Statewide Groundwater Elevation Monitoring (CASGEM) program for the groundwater basin. This program is funded by the Watermaster and the Antelope Valley State Water Contractors Association (AVEK, LCID, and PWD), with additional funding from USGS. These data will be incorporated into the Watermaster Engineer's hydrologic data collection program as available.

viii. Purchases of and Recharge with Replacement Water

To the extent Imported Water is available and upon approval of the Board, the Watermaster Engineer shall use Replacement Water Assessment proceeds to purchase Replacement Water and deliver such water to the area deemed most appropriate as soon as practicable. With the Board's approval the Watermaster Engineer may pre-purchase Replacement Water and apply subsequent assessments towards the costs of such pre-purchases. At the Board's direction, the Watermaster Engineer shall reasonably and equitably actively manage the Basin to protect and enhance the health of the Basin. [¶18.5.7]

ix. Water Quality

The Watermaster Engineer shall take all reasonable steps to assist and encourage appropriate regulatory agencies to enforce reasonable water quality regulations affecting the Basin, including regulation of solid and liquid waste disposal, and establishing memoranda of understanding with Kern and Los Angeles Counties regarding well drilling ordinances and reporting. [¶18.5.8]

x. Production Reports

The Watermaster Engineer shall require each Producer, other than unmetered Small Pumper Class Members, to file an annual Production Report with the Watermaster. Annual Production Reporting forms will be available on the Watermaster website the beginning of the next year and shall be submitted by March 1. The Production Reports shall state the total Production for the reporting Party, including Production per well, rounded off to the nearest tenth of an acre foot.

The Production Reports shall include additional information and supporting documentation as reasonably determined by the Watermaster. [¶18.5.12]

xi. New Production Application Procedure

(1) The Watermaster Engineer shall determine whether a Party or person seeking to commence New Production has established the reasonableness of the New Production in the context of all other uses of groundwater in the Basin at the time of the application, including whether all of the Native Safe Yield is then currently being used reasonably and beneficially. The Watermaster Engineer has authority to recommend that the application for New Production be denied or approved on condition of payment of a Replacement Water Assessment and Administrative Assessments. The Watermaster Engineer shall consider, investigate and recommend to the Watermaster whether an application for New Production be approved based on the following information. [¶18.5.13]

(2) All Parties or person(s) seeking approval from the Watermaster to commence New Production of Groundwater shall submit a written application to the Watermaster Engineer which shall include the following:

- (a) Payment of an application fee sufficient to recover all costs of application review, field investigation, reporting, and hearing, and other associated costs, incurred by the Watermaster and Watermaster Engineer in processing the application for New Production;
- (b) Written summary describing the proposed quantity, sources of supply, season of use, purpose of use, place of use, manner of delivery, and other pertinent information regarding the New Production;
- (c) Maps identifying the location of the proposed New Production, including Basin Subarea;
- (d) Copy of any water well permits, specifications and well-log reports, pump specifications and testing results, and water meter specifications associated with the New Production;
- (e) Written confirmation that the applicant has obtained all applicable Federal, State, County, and local land use entitlements and other permits necessary to commence the New Production;
- (f) Written confirmation that the applicant has complied with all applicable Federal, State, County, and local laws, R&Rs, including but not limited to, the California Environmental Quality Act (Public Resources Code §§ 21000, et. seq.);
- (g) Preparation of a water conservation plan, approved and stamped by a California licensed and registered professional civil engineer, demonstrating that the New Production will be designed, constructed and implemented consistent with California best water management practices.
- (h) Preparation of an analysis of the economic impact of the New Production on the Basin and other Producers in the Subarea of the Basin;
- (i) Preparation of an analysis of the physical impact of the New Production on the Basin and other Producers in the Subarea of the Basin;
- (j) A written statement, signed by a California licensed and registered professional civil engineer, determining that the New Production will not cause Material Injury;

- (k) Written confirmation that the applicant agrees to pay the applicable Replacement Water Assessment for any New Production; and
- (l) Other pertinent information which the Watermaster Engineer may reasonably require.

(3) Finding of No Material Injury. The Watermaster Engineer shall not make recommendation for approval of an application to commence New Production of Groundwater unless the Watermaster Engineer finds, after considering all the facts and circumstances including any requirement that the applicant pay a Replacement Water Assessment required by this Judgment or determined by the Watermaster Engineer to be required under the circumstances, that such New Production will not cause Material Injury. If the New Production is limited to domestic use for one single-family household, the Watermaster Engineer has the authority to determine the New Production to be *de minimis* and waive payment of a Replacement Water Assessment; provided, the right to Produce such *de minimis* Groundwater is not transferable and shall not alter the Production Rights decreed in this Judgment. [¶ 18.5.13.2]

(4) Watermaster Engineer Involvement. The Watermaster Engineer may not stamp the water conservation plan and/or sign the Material Injury determination for a New Production Application, both of which must be approved by a third-party engineer. However, the water conservation plan and the Material Injury determination may be approved by the same third-party engineer (these tasks need not be divided between two separate third-party engineers). Finally, the Watermaster Engineer may not waive the water conservation plan and/or Material Injury determination requirements for New Production Applications, even if such applications are submitted by single-family households with *de minimis* Production.<sup>7</sup>

(5) New Production. No Party or Person shall commence New Production of Groundwater from the Basin absent recommendation by the Watermaster Engineer and approval by the Watermaster.

(6) Court Review. Court review of a Watermaster decision on a New Production application shall be pursuant to Judgment Paragraph 20.3.

#### xii. Storage Agreements

The Watermaster has adopted uniformly applicable rules for Storage Agreements set forth in Section 9 of these R&Rs. The Watermaster Engineer shall calculate additions, extractions and losses of water stored under Storage Agreements and maintain an Annual account of all such water. Accounting done by the Watermaster Engineer under this Paragraph shall be considered ministerial. [¶18.5.14]

#### xiii. Diversion of Storm Flow

(1) No Person may undertake or cause the construction of any project within the Watershed of the Basin that will reduce the amount of storm flows that would otherwise enter the Basin and contribute to the Native Safe Yield, without prior notification to the Watermaster Engineer.

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<sup>7</sup> Conclusion of Memorandum to Antelope Valley Watermaster Board from Craig Parton, General Counsel, February 12, 2019



(2) The Watermaster or the Watermaster Engineer may seek an injunction or to otherwise impose restrictions or limitations on such project in order to prevent reduction to Native Safe Yield.

(3) The Person sought to be enjoined or otherwise restricted or limited is entitled to notice and an opportunity for the Person to respond prior to the imposition of any restriction or limitation.

(4) Any Person may take emergency action as may be necessary to protect the physical safety of its residents and personnel and its structures from flooding. Any such action shall be done in a manner that will minimize any reduction in the quantity of storm flows. [¶18.5.15]

xiv. Data, Estimates and Procedures

The Watermaster Engineer shall rely on and use the best available science, records, and data to support the implementation of the Judgment. Where actual records of data are not available, the Watermaster Engineer shall rely on and use sound scientific and engineering estimates. The Watermaster Engineer may use preliminary records of measurements, and, if revisions are subsequently made, may reflect such revisions in subsequent accounting. [¶18.5.16]

xv. Annual Report Procedure

The Watermaster Engineer shall prepare an Annual Report for filing with the Court by August 1 of the following year. The initial submittal deadline was April 1 in the Judgment but an extension to August 1 was granted for the first annual report (2016 Annual Report) and this extension was made permanent in 2018<sup>8</sup>. Prior to filing the Annual Report with the Court, the Watermaster shall notify all Parties that a draft of the Annual Report is available for review by the Parties. The Watermaster shall provide notice to all Parties of a public hearing to receive comments and recommendations for changes in the Annual Report. At the hearing, the Watermaster will receive comments and recommendations for changes in the report. The notice of public hearing may include such summary of the draft Annual Report as the Watermaster may deem appropriate. The Watermaster shall adopt the annual report by Unanimous Vote. The Watermaster shall distribute the Annual Report to any Parties requesting copies. [¶18.5.17]

xvi. Annual Report Contents

(1) The Annual Report shall include an annual fiscal report of the preceding Year's operation; details regarding the operation of each of the Subareas; an audit of all assessments and expenditures; and a review of Watermaster activities. The Annual Report shall include a compilation of at least the following:

- (a) Replacement Obligations;
- (b) Hydrologic data collection;
- (c) Purchase and recharge of Imported Water;
- (d) Notice list;

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<sup>8</sup> By Unanimous Board approval (Resolution R-18-06) and Court approval, the Annual Report due date was permanently extended from April 1 to August 1.

- (e) New Production applications;
- (f) Rules and Regulations;
- (g) Measuring devices, etc.;
- (h) Storage Agreements;
- (i) Annual administrative budget;
- (j) Transfers;
- (k) Production reports;
- (l) Prior Year report;
- (m) Amount of Stored Water owned by each Party;
- (n) Amount of Imported Water owned by each;
- (o) Amount of unused Imported Water Return Flows owned by each Party;
- (p) Amount of Carry Over Water owned by each Party; and
- (q) All changes in use, including notices of new wells made pursuant to Paragraph 17.1 of the Judgment. [¶18.5.18]

(2) Once an Annual Report is approved by the Watermaster, any changes to the water accounting must be approved by the Watermaster. An exception to this is if the Watermaster Engineer or Watermaster Staff made an error.

#### xvii. Material Injury Determinations

(1) Where required to do so by the Judgment, the Watermaster Engineer shall determine if Material Injury to the Basin is occurring, including but not limited to conditions specified in the Judgment. Material Injury is defined in the Judgment as impacts to the Basin caused by pumping or storage of Groundwater that causes material physical harm to the Basin, any Subarea, or any Producer, Party or Production Right, including, but not limited to overdraft, degradation of water quality by introduction of contaminants to the aquifer by a Party and/or transmission of those introduced contaminants through the aquifer, liquefaction, land subsidence and other material physical injury caused by elevated or lowered groundwater levels. Material physical harm does not include “economic injury” that results from other than direct physical causes, including any adverse effect on water rates, lease rates, or demand for water. If fully mitigated, Material Injury shall no longer be considered to be occurring. [¶3.5.18]

Criteria that may be applied in the analysis for Material Injury determination include, but are not limited to the following:

- (a) Groundwater Levels
- (b) Groundwater in Storage
- (c) Groundwater Quality
- (d) Land Subsidence
- (e) Natural Recharge

(2) A Material Injury determination specifically is triggered by the following:

- (a) Total production by Non-Stipulating Parties is greater than seven percent of the Native Safe Yield; [¶5.1.10]
- (b) Storage Agreement request; [¶14]
- (c) Transfer request; [¶16]



- (d) Change in Point of Extraction request; [¶17]
- (e) New Production request. [¶17 and ¶18.5.13.2]

(3) If a potential Material Injury to the Basin is suspected, a Material Injury determination could also occur for the following circumstances:

- (a) Exportation of up to 1,200 AFY by Phelan Piñon Hills Community Services District. [¶6.4.1.2]
- (b) Operation of the Drought Program. [¶8.4.4]
- (c) At the Board's direction the Watermaster Engineer may curtail the exercise of a Party's Production Right under this Judgment, except the United States' Production, if it is determined necessary to avoid or mitigate a Material Injury to the Basin and provided that the Watermaster provides an equivalent quantity of water to such Party as a substitute water supply, with such water paid for from the Balance Assessment proceeds. [¶9.3.4]

## 8. CARRY OVER WATER

### a. Purpose

Carry Over Water is defined as “the right to Produce an unproduced portion of an annual Production Right or a Right to Imported Water Return Flows in a Year subsequent to the Year in which the Production Right or Right to Imported Water Return Flows was originally available.” [¶3.5.9] The types of rights that can be retained as Carry Over Water, as well as the Parties eligible for Carry Over Water, are described in the following sections.

### b. Sources of Carry Over Water

i. The Judgment identifies two types of rights that can be converted to Carry Over Water – unused portions of a Party's Production Right or the unused Right to Imported Water Return Flows.

ii. The Judgment defines Production Right as follows: “The amount of the Native Safe Yield that may be Produced each Year free of any Replacement Water Assessment and Replacement Obligation. The total of the Production Rights decreed in this Judgment equals the Native Safe Yield. A Production Right does not include any right to Imported Water Return Flows pursuant to Paragraph 5.2.” [¶3.5.32] Note that Production Right is explicitly tied to the allocation of Native Safe Yield, which is determined to be 82,300 AFY. [¶4.1] The rights to produce groundwater that add up to this Native Safe Yield<sup>9</sup> are the only rights that are a Production Right, by definition. Collectively, these definitions indicate that Parties without a Production Right as determined by the Judgment, would not be eligible for Carry Over Water.

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<sup>9</sup> Production Rights under the Judgment are: Overlying Production Rights (58,322 AFY), Non-Overlying Production Rights (12,345 AFY), Federal Reserved Water Right (7,600 AFY), Small Pumper Class Rights (3,806 AFY), and the California Production Right (207 AFY), the sum of which was rounded to 82,300 AFY.

iii. The Judgment defines Imported Water Return Flows as follows: “Imported Water that net augments the Basin Groundwater supply after use.” [¶3.5.16] The Judgment further notes that the Imported Water Return Flows are not part of the Native Safe Yield. [¶5.2.1] Currently, Imported Water Return Flows from Agricultural Imported Water use are 34 percent and Imported Water Return Flows from Municipal and Industrial Imported Water use are 39 percent of the amount of Imported Water used. [¶5.2.1]

c. Producers Eligible for Carry Over Water

The Judgment specifies that only three Producer classes are eligible for Carry Over Water: Overlying Producers [¶5.1.1 – Exhibit 4 of the Judgment], State of California Water Right [¶5.1.5], and Non-Overlying Producers [¶5.1.6 – Exhibit 3 of the Judgment].

d. Rights and Conditions Eligible for Carry Over Water

Paragraph 15 of the Judgment provides three conditions eligible for Carry Over Water, including In Lieu Production Right Carry Over [¶15.1], Imported Water Return Flow Carry Over [¶15.2], and Production Right Carry Over [¶15.3]. Relevant text from Paragraph 15 of the Judgment is summarized below<sup>10</sup>.

i. In Lieu Production Right Carry Over [¶15.1]

(1) “Any Producer identified in Paragraph 5.1.1<sup>11</sup>, 5.1.5<sup>12</sup>, and 5.1.6<sup>13</sup> can utilize In Lieu Production by purchasing imported Water and foregoing Production of a corresponding amount of the annual Production of Native Safe Yield provided for in paragraph 5 herein. In Lieu Production must result in a net reduction of annual Production from the Native Safe Yield in order to be entitled to the corresponding Carry Over benefits under this paragraph. In Lieu Production does not make additional water from the Native Safe Yield available to any other Producer.”

(2) Additional conditions applicable to this section and other Carry Over Water are provided in Section 8.d.iv.

ii. Imported Water Return Flow Carry Over [¶15.2]

(1) “If a Producer identified in paragraph 5.1.1, 5.1.5, and 5.1.6 fails to produce its full amount of Imported Water Return Flows in the Year following the Year in which the Imported Water was brought into the Basin, the Producer may Carry Over its right to the unproduced portion of its Imported Water Return Flows for up to ten (10) years.”

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<sup>10</sup> Please refer to Paragraph 15 of the Judgment for full text on Carry Over.

<sup>11</sup> Parties listed in Exhibit 4 of the Judgment.

<sup>12</sup> State of California.

<sup>13</sup> Parties listed in Exhibit 3 of the Judgment.

(2) Additional conditions applicable to this section and other Carry Over Water are provided in Section 8.d.iv.

iii. Production Right Carry Over [¶15.3]

(1) “If a Producer identified in paragraph 5.1.1, 5.1.5, and 5.1.6 fails to Produce its full Production Right in any Year, the Producer may Carry Over its right to the unproduced portion of its Production Right for up to ten (10) Years.”

(2) Additional conditions applicable to this section and other Carry Over Water are provided in Section 8.d.iv.

iv. Conditions Applying to All Carry Over Water [¶15.1, ¶15.2, and ¶15.3]

(1) For each of the three types of Carry Over Water summarized above, the following conditions apply:

- (a) A Producer may Carry Over its right to the unproduced portion of its Production Right or Imported Water Return Flows for up to ten (10) Years.
- (b) A Producer must Produce its full current Year’s Production Right before any Carry Over Water, or any other water, is Produced. Carry Over Water will be produced on a first-in, first-out basis.
- (c) At the end of the Carry Over period, the Producer may enter into a Storage Agreement with the Watermaster to store unproduced portions, subject to terms and conditions in the Watermaster discretion.
- (d) Any such Storage Agreements shall expressly preclude operations, including the rate and amount of extraction, which will cause a Material Injury to another Producer or party, any subarea or the Basin.
- (e) If not converted to a Storage Agreement, Carry Over Water not Produced by the end of the tenth Year reverts to the benefit of the Basin and the Producer no longer has a right to the Carry Over Water.
- (f) The Producer may transfer any Carry Over Water or Carry Over Water stored pursuant to a Storage Agreement.

(2) Please see Section 13 on Transfers and Section 9 on Storage Agreements in the R&Rs for more information.

v. Other Rights and Producer Classes Not Eligible for Carry Over Water

(1) As described in Sections 8.c and 8.d above, the Judgment [¶15] specifies the three Producers classes and conditions eligible for those Producers to convert unused Production Rights or unused Rights to Imported Water Return Flows to Carry Over Water. The detailed Producers and conditions described in the Judgment under which Carry Over water applies indicate that other Producer classes of Production Rights, including the Small Pumper Class and the Federal Water Right, are not eligible for Carry Over. If the Federal Water right is not eligible for Carry Over,

then it follows that any unused portion of that right assigned to other Parties is also not eligible for Carry Over.

(2) The Pre-Rampdown Production amounts over the Production Right are not eligible for Carry Over water. That amount does not qualify for Carry Over Water because the portion of the Pre-Rampdown Production above the Production Right is not part of the Native Safe Yield or the Supplemental Safe Yield of the Basin.

(3) In addition, the Non-Stipulating Parties are specifically excluded from Carry Over Water, even though the Judgment indicates that these producers have a Production Right. [¶5.1.10] Collectively, the information in the Judgment – including the definition of Production Right and the exclusion of other Parties in Paragraph 15 – also indicates that Producers without a Production Right or a Right to Imported Water Return Flows are not eligible for Carry Over Water, unless obtained through a permanent transfer of Production Rights from a Producer eligible for Carry Over Water.

(4) Using the information above as criteria, a partial, non-exclusive list of those Parties not eligible for Carry Over Water include:

- (a) City of Lancaster
- (b) Antelope Valley Joint Union High School District (regarding the right to produce up to 29 AFY over its Exhibit 4 Production Right)
- (c) Phelan Pinon Hills CSD
- (d) Non-Stipulating Parties
- (e) Federal Reserved Right (including unused rights assigned to others)
- (f) Small Pumpers Class
- (g) Members of the Non-Pumper Class.

## 9. GROUNDWATER STORAGE AGREEMENTS

### a. Storage Agreements

The Watermaster shall adopt uniformly applicable forms for Storage Agreements consistent with Paragraph 14 of the Judgment. The Watermaster Engineer shall calculate additions, extractions, and losses of water stored under Storage Agreements and maintain an annual account of all such water. Accounting done by the Watermaster Engineer under this section shall be considered ministerial. [¶18.5.14]

### b. Purpose

All Parties to the Judgment have the right to store water in the Basin pursuant to a Storage Agreement with the Watermaster. Stored Water is defined as “water held in storage in the Basin, as a result of direct spreading or other methods, for subsequent withdrawal and use pursuant to agreement with the Watermaster and as provided for in this Judgment.” [¶3.5.49] All Stored



Water shall be covered by a Storage Agreement except as provided in subsection 9.f below. Storage Agreements provide a method for accounting how the Stored Water will be recharged, recovered and used. The provided information will be used by the Watermaster Engineer to track water use, to support a basin-wide water balance, and to ensure that the Stored Water is managed according to the Judgment.

c. Water Sources and Methods

Storage Agreements can be used for direct recharge of various water sources including imported water, recycled water, or other water not part of the Native Safe Yield, typically referred to as water banking. Storage Agreements are also required to convert Carry Over Water generated by non-use of Native Safe Yield to Stored Water at the end of the ten-year Carry Over period. Carry Over Water includes Native Safe Yield not Produced due to in-lieu purchases of imported water [¶15.1], Native Safe Yield not Produced for other reasons [¶15.3], and Imported Water Return Flow rights that are not Produced [¶15.2]. Carry Over Water<sup>14</sup> is not Stored Water, although Carry Over Water can be converted to Stored Water at the end of the Carry Over period by entering into a Storage Agreement.

d. Basis

Storage Agreement rules shall be uniformly applicable. The Watermaster shall promptly enter into Storage Agreements with the Parties at their request, provided that all past due assessments, interest, and penalties have been settled prior to the date of the agreement. The Watermaster shall not enter into Storage Agreements with non-Parties unless such non-Parties become expressly subject to the provisions of this Judgment and the jurisdiction of the Court. Storage Agreements shall expressly preclude operations which will cause a Material Injury on any Producer. [¶14]

e. Accounting

Parties that store water shall provide the Watermaster sufficient information so that the Watermaster Engineer can calculate additions, extractions and losses of water stored under Storage Agreements and maintain an annual account of all such water. A portion of the Stored Water may be unrecoverable. Accounting done by the Watermaster Engineer under this Paragraph shall be considered ministerial. [¶18.5.14 and ¶14]

f. General Conditions Governing Storage Agreements

i. Purpose.

Information from Storage Agreements will assist in analysis of Basin conditions and the monitoring of the Safe Yield components.

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<sup>14</sup> A Producer may carry over rights to its unproduced portion of its Production Rights and its unproduced portion of its Imported Water Return Flows for up to ten years. Carry Over Production Rights and Imported Water Return Flows not produced by the end of the tenth year revert to the benefit of the Basin and the Producer no longer has a right to this Carry Over Water unless it is stored pursuant to a Storage Agreement.



ii. Preexisting Banking.

Nothing in the Judgment limits or modifies the existing operation of the preexisting banking projects as listed in the Paragraph 14 of the Judgment, which includes preexisting banking projects of “AVEK, District No. 40, Antelope Valley Water Storage LLC, Tejon Ranchcorp and Tejon Ranch Company, Sheep Creek Water Co., Rosamond Community Services District and Palmdale Water District”. [¶14] Further, the Judgment states that it does not limit or modify the “performance of preexisting exchange agreements of the Parties”. [¶14] To identify the projects to which these conditions apply, preexisting banking projects will be required to provide information to the Watermaster Engineer that demonstrates existing operations as of the date of the Final Judgment. Upon receipt of a Watermaster request made by the Watermaster Engineer concerning any banking project which was in operation prior to the entry of the Judgment (not including banking projects still in the design and/or construction phase as of the entry of the Judgment), the party who owns that project shall provide to Watermaster the documents, records and information specified in subsection 9.f.iii of these Rules and Regulations which are in the custody of the owner. The information to be provided shall include all of the materials dealing with the subject matter specified in subsections 9.g.i through 9.g.vii of these Rules and Regulations which apply to any water bank established or to be established subsequent to the entry of the Judgment. In addition, on or before March 1 of each year, commencing with 2021, the owner of the subject water bank shall provide to the Watermaster Engineer an annual accounting as specified in subsections 9.g.viii and 9.g.ix of these Rules and Regulations. The documents and records specified in this subsection 9.f.ii shall be available for review by other Parties to the Judgment at the Watermaster’s offices.

iii. Submittal of CEQA Documents and Storage/Use Documents.

For pre-existing banking facilities and projects, the owner shall submit copies of any CEQA and storage/use documents to the Watermaster Engineer. These will be available for review by other Parties to the Judgment.

iv. Export of Stored Water.

If Littlerock Creek Irrigation District or Palmdale Water District stores water in the Basin, it shall not export that Stored Water from its service area. [¶14] AVEK, Littlerock Creek Irrigation District or Palmdale Water District may enter into exchanges of their State Water Project “Table A” amounts. Any Stored Water that originated as State Water Project water imported by AVEK, Palmdale Water District or Littlerock Creek Irrigation District may be exported from the Basin for use in a portion of the service area of any city or public agency, including State Water Project Contractors, that are Parties to this action at the time of this Judgment and whose service area includes land outside the Basin. AVEK may export any of its stored State Project Water to any area outside its jurisdictional boundaries and the Basin provided that all water demands within AVEK’s jurisdictional boundaries are met. Any Stored Water that originated as other imported water may be exported from the Basin, subject to a requirement that the Watermaster Engineer

make a technical determination of the percentage of the Stored Water that is unrecoverable and that such unrecoverable Stored Water is dedicated to the Basin.

v. Use of Stored Water for Replacement Water Obligations.

If, pursuant to a Storage Agreement, a Party has provided for pre-delivery or post-delivery of Replacement Water for the Party's use, the Watermaster shall credit such water to the Party's Replacement Water Obligation at the Party's request. [¶14] Pre-delivery could occur when a Party transfers existing water in storage to the Watermaster prior to pumping water that otherwise would incur a Replacement Water Assessment. Post-delivery could occur when a Party provides written confirmation that a firm supply of that Party's water for storage within the year following the production that resulted in a Replacement Water Obligation will be transferred to the Watermaster when available (see Replacement Water Assessment Section 11 of these R&Rs for more detail).

vi. Material Injury Determination.

Approval of Storage Agreements will be based on the determination that there will be no Material Injury. Material Injury could include overdraft, water quality degradation, liquefaction, land subsidence, and other injury caused by lowering or elevating groundwater levels or changes in groundwater in storage. The analysis may also consider project benefits, as well as the State Water Resources Control Board Recycled Water Policy and other policies that are in place to encourage and enhance groundwater recharge.

vii. Storage and Use of Stored Water.

A Party subject to a Storage Agreement must report annually to the Watermaster the sources and amounts of water stored pursuant to a Storage Agreement and the amount of Stored Water recovered in the prior year.

g. Storage Agreements for Water Storage Facilities (Water Banking)

Groundwater Storage Agreements for water banking facilities shall be an agreement between the owner/operator and the Watermaster and may include conditions to assure that no Material Injury will occur. Groundwater Storage Agreements may include the following:

- i. Source(s) and quality of the water to be stored.
- ii. Identification of lands to be used for recharge, if applicable.
- iii. General description of the delivery and recharge methods, projected annual delivery rates, methods of measurement (i.e., metering), and projected infiltration rates.

iv. Conceptual design of applicable recharge facilities including locations, depths, and construction details of spreading basins, trenches or infiltration galleries, vadose zone wells, injection wells, or other methods.

v. Environmental documentation and associated hydrology and geologic studies for the proposed project.

vi. General description of the extraction methods and facilities, including identification of the well(s) used for recovery (including well construction and capacity).

vii. Provide the Watermaster, prior to recovery, with the anticipated recovery quantity, rate of recovery, and location and construction of wells used for recovery (if not provided in the bulleted item above).

viii. Provide the Watermaster, by March 1 of each year, with an annual accounting of source(s), volumes, and locations of water recharged and/or stored and the amount of water that has been stored specifically for export out of the adjudicated area, when known. Water quality reporting can be extended to April 1 if data are not available by March 1.

ix. Provide the Watermaster, by March 1 of each year, with an annual accounting of volumes and locations of recovery and the amount of the recovery, if any, that is delivered outside of the adjudicated area.

x. A pre-determined loss of the total amount of Stored Water by a technical determination by the Watermaster of the percentage of the Stored Water that is unrecoverable.<sup>15</sup>

xi. Details sufficient to establish that the operations will not cause a Material Injury.

xii. The Watermaster Engineer may recommend that the Board include conditions of approval for the proposed water banking facilities and operations that requires future documentation that the project remains in compliance with the original non-Material Injury determination.

h. Storage Agreements for Carry Over Water

Carry Over Water converted to Stored Water is already part of the Native Safe Yield in the groundwater basin and is not subject to the documentation requirements for source water and

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<sup>15</sup> It is the Watermaster Engineer's understanding that some of the preexisting water banking projects in the Adjudication Area use a 10 percent loss factor based on previous analyses. This 10 percent loss factor may be used by the Watermaster Engineer as a minimum loss for a new storage agreement pending a technical determination of the project specific loss factor.



recharge facilities as listed for the water banking projects in Section 9.g above. In addition, Carry Over water converted to Stored Water would not be subject to the losses that may be associated with surface recharge (e.g., evaporation). Documentation of the recovery of Stored Water applies as follows:

i. General description of the extraction methods and facilities, including identification of the well(s) used for recovery (including well construction and capacity).

ii. Provide the Watermaster, prior to recovery, with the anticipated recovery quantity, rate of recovery, and location and construction of wells used for recovery (if not provided in the bulleted item above).

iii. Provide the Watermaster, by March 1 of each year, with an annual accounting of volumes and locations of recovery.

iv. The Judgment specifically limits transfers of water by Antelope Valley United Mutuals Group (AVUMG) (as listed in ¶3.5.5 of the Judgment), including any transfer of Carry Over water converted to a Storage Agreement. [¶16.3] Such a transfer by a member of the AVUMG may only be to or amongst other members of the AVUMG [¶16.3], unless a Public Water Supplier assumes service of an AVUMG member's shareholders. [¶16.3.1]

i. Watermaster Investigation

The Watermaster may request additional information and investigate any existing or proposed Groundwater Storage Project, including physical inspection of the storage and/or recovery facilities. Storage Agreement parties may be requested to confer and cooperate with the Watermaster Engineer or Watermaster Staff, and to provide such additional information, data, and/or physical access, as may be reasonably required to complete the investigation.

## 10. ADMINISTRATIVE ASSESSMENTS

a. Purpose

Administrative Assessments are charged by the Watermaster to cover costs to be incurred by the Watermaster in administering the Judgment in the coming year. [¶3.5.3] Administrative Assessments fund the Administrative Budget, which is adopted by the Watermaster. [¶9.1] Annual Administrative costs for the coming year are estimated in the Administrative Budget.

b. Basis

i. Administrative Assessments are levied uniformly on an annual basis against each acre-foot of: (1) a Party's Production Right, (2) a Party's right to produce Imported Water Return Flows, (3) a Party's production subject to a Replacement Water Assessment and (4) a Party's production in excess of the sum of amounts in (1) through (3) above during the



Rampdown period.<sup>16</sup> Administrative assessments are not levied against production of Stored Water or production of Carry Over water. [¶9.1]

ii. Production Right is defined in the Judgment as “the amount of Native Safe Yield that may be Produced each Year free of any Replacement Water Assessment and Replacement Obligation. The total of the Production Rights decreed in this Judgment equals the Native Safe Yield. A Production Right does not include any right to Imported Water Return Flows pursuant to Paragraph 5.2”. [¶3.5.32] Production Rights include Overlying Production Rights (Exhibit 4 of the Judgment), Small Pumper Class Production Rights (Exhibit C), Federal Reserved Water Right [¶5.1.4], State of California [¶5.1.5], and Non-Overlying Production Rights (Exhibit 3). In addition, the Judgment determined that eight Non-Stipulating Parties (referred to as the Supporting Landowner Parties in the Statement of Decision) also have a Production Right. [¶5.1.10]

iii. The Judgment also provides for rights to produce groundwater that are not Production Rights. Unless otherwise provided in the Judgment, Administrative Assessments are levied against: (1) the actual Production based on those rights that are subject to the Replacement Water Assessment and (2) during the Rampdown period, the actual Production that is not subject to the Replacement Water Assessment.

c. Types of Production Subject to Administrative Assessments.

i. Administrative Assessments are referred to herein as either Fixed or Variable Administrative Assessments.

(1) Fixed Administrative Assessments are based on each acre foot of a Party’s Production Right as described in Section 10.d.i below [¶5.1] and are levied at the beginning of the year in which the Production Right occurs.

(2) Variable Administrative Assessments are based on either (1) production by a Party in excess of the Production Right or (2) the right to produce Imported Water Return Flows. Administrative Assessments on production under (1) above are levied each Spring after total Production is reported for the preceding year; Administrative Assessments on the right to produce Imported Water Return Flows under (2) above are determined for the current year based on an average of the amounts of imported water used in the five preceding years. [¶5.2.2] Variable Administrative Assessments are collected on:

(a) each acre foot of a Party's right to produce Imported Water Return Flows (see R&R Section 8 on Imported Water Return Flows) [¶5.2]

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<sup>16</sup> Rampdown is defined as “the period of time for Pre-Rampdown Production to be reduced to the native Safe Yield in the manner described in this Judgment”. [¶3.5.37] The Rampdown Period is determined to begin on “January 1 following entry of this Judgment and continuing for the following seven (7) Years”. (¶8.2). For this Judgment, entered on December 23, 2015, the Rampdown Period is from January 1, 2016 through December 31, 2022.

- (b) each acre foot of a Party's production for which a Replacement Water Assessment has been imposed (see R&R Section 11 on Replacement Water Assessment) [¶9.2]
- (c) each acre foot used of a Non-Overlying Production Right holders' allocation of the unused Federal Reserved Water Right (see Judgment Paragraph 5.1.4 on Federal Reserved Water Right) [¶9.1]
- (d) each acre foot during Rampdown of a Party's production in excess of the sum of its Production Right, Imported Water Return Flows, and Production subject to a Replacement Water Assessment.

ii. Production from Stored Water and/or Carry Over water is excluded from the Administrative Assessment. [¶9.1]

d. Administrative Assessments are Levied Against:

i. Production Rights.

Each acre foot of a Party's Production Right. [¶5.1 Allocation of Rights to Native Safe Yield]  
These include:

(1) Non-Overlying Production Rights. (Exhibit 3 of the Judgment)

(2) Overlying Production Rights. (Exhibit 4 of the Judgment)

(3) Small Pumper Class. This assessment is based on the allocation of 1.2 acre-feet per year per household or parcel, whichever is the case; metered Production shall be assessed in accord with the actual Production. [¶5.1.3]. Unmetered Small Pumper Class Members may be invoiced every five years.

(4) Federal Reserved Water Rights. Rights shall be subject to the Administrative Assessment only on the actual Production by the United States. [¶5.1.4]

(5) State of California Production Rights. All production is subject to Administrative Assessment except in emergency situations. [¶5.1.5]

(6) Non-Stipulating Parties. The eight Supporting Landowner Parties (VII., a through h) in the Statement of Decision were determined to have a Production Right as Non-Stipulating Parties. [¶3.c] As provided in Paragraph 5.1.10 of the Judgment, Non-Stipulating Parties with a Production Right "shall be subject to all provisions of this Judgment, including reduction in Production necessary to implement the Physical Solution and the requirements to pay assessments...". [¶5.1.10] Accordingly, Administrative Assessments apply to the Non-Stipulating Parties Production Right.

ii. Additional Rights to Produce Groundwater.

Administrative Assessments for Parties with rights to produce groundwater as specified in the Judgment include:

(1) City of Lancaster. The City can produce up to 500 acre feet of groundwater for reasonable and beneficial uses at its National Soccer Complex. Such production shall only be subject to Administrative Assessment and no other assessments. The City of Lancaster will stop producing groundwater and will use recycled water supplied from District No. 40, when it becomes available, to meet the reasonable and beneficial water uses of the National Soccer Complex. [¶5.1.7]

(2) Antelope Valley Joint Union High School District. In addition to its Exhibit 4 Production Right, Antelope Valley Joint Union High School District (AVJUHSD) can additionally produce up to 29 AF of groundwater for reasonable and beneficial uses on its athletic fields and other public spaces. When recycled water becomes available to Quartz Hill High School at a price equal to or less than the lowest cost of any of the following: Replacement Obligation, Replacement Water, or other water that is delivered to AVJUHSD at Quartz Hill High School, AVJUHSD will stop producing the 29 acre feet of groundwater allocated to it and use recycled water as a replacement. AVJUHSD retains its production rights and allocation pursuant to Exhibit 4. [¶5.1.8] The application of an Administrative Assessment is not specified in the Judgment for this additional right, but it is assumed that the Administrative Assessment would apply to each acre foot of actual production.

(3) Construction of Solar Power Facilities. Any Party may produce groundwater in excess of its Production Right allocated to it in Exhibit 4 for the purpose of constructing a facility located on land overlying the Basin that will generate, distribute or store solar power through and including December 31, 2016 and shall not be charged a Replacement Water Assessment or incur a Replacement Obligation for such Production in excess of its Production Rights. Any amount of such production in excess of the Production Right through and including December 31, 2016 shall be reasonable to accomplish such construction but shall not exceed 500 acre-feet per Year for all Parties using such water. [¶5.1.9] Although the Judgment specifies that the production is not subject to a Replacement Water Assessment, no specification is included for an Administrative Assessment. However, given that it involves production by Exhibit 4 parties in excess of the Production Right, an Administrative Assessment appears applicable.

(4) Non-Pumper Class. “The Non-Pumper Class members claim the right to Produce Groundwater from the Native Safe Yield for reasonable and beneficial uses on their overlying land as provided for in this Judgment...”. [¶5.1.2] However, paragraph 9.2.2 notes that the entire Native Safe Yield is being applied to reasonable and beneficial uses in the Basin. Members of the Non-Pumper Class do not and have never Produced Groundwater for reasonable beneficial use as of the date of this Judgment [¶9.2.2], which modifies their rights to produce groundwater except as provided in this Judgment. Although the information on Non-Pumper Class Rights does not specify an Administrative Assessment, Paragraph 9.2.1 “specifically provides for imposition of a Replacement Water Assessment on Non-Pumper Class members.” [¶9.2.1] Given that an Administrative Assessment is imposed on water subject to Replacement Water, it is



assumed that an Administrative Assessment applies to actual production by Non-Pumper Class Members, if any.

(5) Additional Production by the State of California. As provided in Paragraph 5.1.5 of the Judgment, the State of California is allowed to produce groundwater in excess of its Production Right under certain conditions. “All production by the State of California shall also be subject to the Administrative Assessment ... except in emergency situations as provided in Paragraph 5.1.5.4.3 below.” [¶5.1.5] The emergency situation allows for the Department of Military to produce groundwater “in an amount necessary to protect and promote public health and safety during an event deemed to be an emergency by the Department of Military...”. [¶5.1.5.4.3] Except in this case, an Administrative Assessment would be applicable to all production in excess of its Production Right (as well as on its Production Right as provided in Section 10.d.i above).

(6) Phelan Pinon Community Services District (Phelan). Phelan can export groundwater from the Adjudication Area for delivery to its service area outside of the adjudication boundary, subject to the following conditions: [¶6.4.1.2]

- (a) pumping does not exceed 1,200 AFY,
- (b) pumping does not cause Material Injury,
- (c) Phelan pays a Replacement Water Assessment pursuant to Paragraph 9.2,
- (d) Phelan pays any other costs deemed necessary to protect Production Rights decreed in the Judgment.

iii. Imported Water Return Flows.

Each acre foot of a Party's right to produce Imported Water Return Flows. [¶5.2, Rights to Imported Water Return Flows]

iv. Replacement Water Assessment

Each acre foot of a Party's Production for which a Replacement Water Assessment has been imposed. [¶9.2, Replacement Water Assessment]

v. Excess Production

During the Rampdown Period, each acre foot of a Party's Production in excess of the sum of the rights in subsections 10.d.i or 10.d.ii, the right to Produce Imported Water Return Flows and the water subject to the Replacement Water Assessment (subsections 10.d.i through 10.d.iv above), excluding Production from Stored Water and/or Carry Over water. [¶9.1]



e. Administrative Assessments are Not Levied Against:

i. Carry Over Water

Administrative Assessments on Carry Over Water have already been paid through levy against Production Rights and rights to Imported Water Return Flows.

ii. Emergency Military Use

The Department of Military may Produce additional groundwater in an amount necessary to protect and promote public health and safety during an event deemed to be an emergency by the Department of Military pursuant to California Government Code Sections 8567 and 8571, and California Military and Veterans Code Sections 143 and 146. Such Production shall be free from any assessment, including any Administrative, Balance, or Replacement Water Assessment. [¶5.1.5.4.3]

iii. Stored Water

For Stored Water that originated as Carry Over Water, Administrative Assessments have already been paid through levy against Production Rights. Administrative Assessments are also not levied against other types of Stored Water (e.g., imported, recycled, or other Stored Water not part of the Native Safe Yield).

f. Assessment Procedure

Administrative Assessments shall be levied and collected in accordance with the following procedures and schedules. During Rampdown, the Administrative Assessment shall be no more than five dollars per acre foot, or as ordered by the Court upon petition of the Watermaster. [¶9.1]

**Table 2. Assessment and Budget Timetable**

Item	Available	Approval or Due	Delinquent
Administrative Budget, Administrative Assessment rate, and Replacement Water Assessment rate for following year	October Board meeting and no later than November 15	December Board meeting and no later than December 15	
Fixed Administrative Assessment	January 15	March 1	April 1
Variable Administrative Assessment	May 1	July 1	August 1

g. Administrative Budget

The Watermaster shall make available to all Parties its proposed Administrative Budget, Administrative Assessment rate, and Replacement Water Assessment rate for the following calendar year at the time of its October meeting and no later than November 15. The Watermaster will hold a public hearing to receive comments on the proposed Administrative Budget and Assessment rate and adopt its final Budget and Assessment rate at its December meeting and no later than December 15.

i. Fixed Administrative Assessment

By January 15 of each year the Watermaster shall invoice all Producers with Production Rights identified in Section 10.d.i above for the Administrative Assessments on these Production Rights. Fixed Administrative Assessments are due on March 1 and will become delinquent on April 1 of each year.

ii. Variable Administrative Assessment.

(1) By May 1 of each year the Watermaster shall invoice all Producers for use or rights in the previous year as follows:

- (a) Rights to produce groundwater identified in Section 10.d.ii above
- (b) Right to Imported Water Return Flows
- (c) Replacement Water Obligations
- (d) During Rampdown, a Party's Production in excess of the sum of its Production Right, Imported Water Return Flows, and Replacement Water Assessment, excluding Production from Stored Water and/or Carry Over water
- (e) Unused Federal Reserved Water Right allocation used by the Non-Overlying Production Rights holders.

(2) These Variable Administrative Assessments are due on July 1 and will become delinquent on August 1 of each year.

iii. Delinquency

Assessments become delinquent one month after the date it is due (April 1 for delinquent Fixed Administrative Assessments and August 1 for delinquent Variable Administrative Assessments). Delinquent Assessments shall bear interest at the then current real property tax delinquency rate for the county in which the property of the delinquent Party is located. This interest rate shall apply to any said delinquent assessment from the due date thereof until paid. The delinquent assessment, together with interest thereon, costs of suit, attorney's fees and reasonable costs of collection, may be collected pursuant to (1) motion by the Watermaster giving notice to the delinquent Party only, (2) Order to Show Cause proceeding, or (3) such other lawful proceeding as may be instituted by the Watermaster or the Court. [¶18.4.12]

iv. United States

The United States shall not be subject to payment of interest absent congressional waiver of immunity for the imposition of such interest. The United States shall not be subject to costs and fees absent congressional waiver of immunity for such costs and fees. The property of the United States shall not be subject to any lien. [¶18.4.12]

v. Delinquency List

The Watermaster shall annually certify a list of all such unpaid delinquent assessments. [¶18.4.12] This list will be presented at the September Watermaster Board meeting and no later than October 1.

vi. Accounting

The Watermaster shall account for receipt of all collections of assessments and shall pay such amounts collected to the Watermaster. The Watermaster shall also have the ability to seek to enjoin Production of those Parties, other than the United States, who do not pay assessments pursuant to the Judgment. [¶18.4.12]

vii. Waiver

The Watermaster's authority and obligation to impose Assessments (including Administrative Assessments, Replacement Water Assessments, and Balance Assessments) is the main mechanism for ensuring that Parties comply with the Judgment. The Watermaster does not have any authority to waive a Party's Assessment obligations, regardless of whether the imposition of Assessments will constitute a financial hardship for a Party. If a Party wishes to avoid or reduce its Assessment obligations, it must seek relief directly from the Court.<sup>17</sup>

h. Special Billing and Payment Procedures for Assessments on Small Pumper Class Members

Procedures and billing options for the large number of Small Pumper Class Members are being considered to lower administrative billing and accounting costs. These procedures and billing processes will be incorporated when finalized.

11. REPLACEMENT WATER ASSESSMENT

a. Replacement Water Assessments are charged by the Watermaster to pay for costs incurred to buy and recharge Replacement Water. The purpose of Replacement Water is to ensure that each Party holding a Production Right may fully exercise its Production Right. The Watermaster shall impose a Replacement Water Assessment on any Producer whose production of groundwater is more than the sum of such Producer's rights to pump groundwater including Production Rights, Carry Over water, Imported Water Return Flows, in-lieu production, and

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<sup>17</sup> Conclusion of Memorandum to Antelope Valley Watermaster Board from Craig Parton, General Counsel, April 12, 2019

Stored water. During the first two years of the Rampdown Period (2016 and 2017), Producers are not subject to Replacement Water Assessment fees.

b. No Replacement Water Assessment shall be imposed on the United States except upon the United States' written consent to such imposition based on the appropriation by Congress and the apportionment of funds by the Office of Management and Budget.

c. The amount of the Replacement Water Assessment shall be the amount of such excess Production multiplied by the cost to the Watermaster of Replacement Water, including any Watermaster spreading costs. All Replacement Water Assessments collected by the Watermaster shall be used to acquire Imported Water from AVEK, Littlerock Creek Irrigation District, Palmdale Water District, or other entities. AVEK shall use its best efforts to acquire as much Imported Water as possible in a timely manner. If the Watermaster encounters delays in acquiring Imported Water which, due to cost increases, results in collected assessment proceeds being insufficient to purchase all Imported Water for which the Assessments were made, the Watermaster shall purchase as much water as the proceeds will allow when the water becomes available. If available Imported Water is insufficient to fully meet the Replacement Water obligations under contracts, the Watermaster shall allocate the Imported Water for delivery to areas on an equitable and practicable basis pursuant to the Watermaster R&Rs.

d. The Watermaster shall make available to all Parties its Replacement Water Assessment rates for the following calendar year at the time of its October meeting and no later than November 15. The Watermaster will hold a public hearing to receive comments on the proposed rates and adopt the final Replacement Water Assessment rates for the following year at its December meeting and no later than December 15. Replacement Water Assessment rates may vary depending upon which State Contractor service area the groundwater withdrawal occurred or if the production occurred outside a State Contractor service area.

e. Parties wishing to use a Transfer in lieu of a Replacement Water Assessment must submit a Transfer Request Form by March 1 to be considered and approved prior to the invoicing date of May 1.

f. A Party wishing to relinquish all or part of its Production Right or other right to Produce Groundwater during the current Year in order to meet all or part of its Replacement Water Obligation resulting from Production in excess of its Production Right or other right to Produce Groundwater in a preceding Year, must first submit written confirmation to the Watermaster of the relinquishment of that Production Right or other right to Produce Groundwater with said written confirmation to be received by the Watermaster no later than March 1.



## 12. BALANCE ASSESSMENT

a. A Balance Assessment is an assessment on all Production Rights, excluding the United States' actual Production but including that portion of the Federal Reserved Right Produced by other Parties, to pay for the costs, not including infrastructure, to purchase, deliver, produce in lieu, or arrange for alternative pumping sources in the Basin.

b. A Balance Assessment may be levied to ensure that after Rampdown each Party may fully exercise its Production Right. It may not be imposed until after the end of Rampdown. In determining whether to adopt a Balance Assessment, and in what amount, the Board will consider current Basin and pumping conditions and shall only assess a Balance Assessment or curtail a Party's Production to avoid or mitigate Material Injury that is caused by Production after the completion of the Rampdown.

c. All Balance Assessment proceeds will be used to purchase, deliver, produce in lieu, or arrange for alternative pumping sources of water in the Basin, but shall not include infrastructure costs. At the Board's direction the Watermaster Engineer shall determine and collect from any Party receiving direct benefit of the Balance Assessment proceeds an amount equal to that Party's avoided Production costs. The Balance Assessment shall not be used to benefit the United States unless the United States participates in paying the Balance Assessment.

d. At the Board's direction, the Watermaster Engineer may curtail the exercise of a Party's Production, except the United States' Production, if it is determined necessary to avoid or mitigate a Material Injury to the Basin and provided that the Watermaster provides an equivalent quantity of water to such Party as a substitute water supply, with such water paid for from the Balance Assessment proceeds.

## 13. TRANSFERS

### a. Purpose

The Judgment allows Production Rights and certain other rights to be transferred among Parties as provided in this section. Transfers can provide flexibility to the Parties with respect to timing and location of groundwater production while maintaining consistency with the purposes of the Judgment and compliance with the Physical Solution.

### b. Basis

i. Transfers of Production Rights are allowed in the Judgment as follows: "Pursuant to terms and conditions to be set forth in the Watermaster rules and regulations, and except as otherwise provided in this Judgment, Parties may transfer all or any portion of their Production Right to another Party so long as such transfer does not cause Material Injury. All transfers are subject to hydrologic review by the Watermaster Engineer." [¶16.1] One-time temporary transfers, multi-year transfers, and permanent transfers of a Production Right are allowed between Parties.

ii. A transfer of a Production Right can also occur as a result of a property sale. In this case, the Production Rights would transfer to the new owner of the property associated with that sale as indicated by the definition of Party in the Judgment. “Party (Parties). Any Person(s) that has (have) been named and served or otherwise properly joined, or has (have) become subject to this Judgment and any prior judgments of this Court in this Action and all their respective heirs, successors-in-interest and assigns. For purposes of this Judgment, a “Person” includes any natural person, firm, association, organization, joint venture, partnership, business, trust, corporation, or public entity.” [¶3.5.27]

iii. In addition to Production Rights, certain other rights to produce groundwater can be transferred as provided in Section 13.c below.

iv. The Watermaster Engineer will record all transfers as dictated in the Judgment: “**Transfers.** On an annual basis, the Watermaster shall prepare and maintain a report or record of any transfer of Production Rights among Parties. Upon reasonable request, the Watermaster shall make such report or record available for inspection by any Party. A report or records of transfer of Production Rights under this Paragraph shall be considered a ministerial act.” [¶18.4.8]

c. Types of Transfers Allowed

Transfers are allowed for the following Parties under the described conditions:

i. Overlying Production Right Parties (Exhibit 4): “Overlying Production Rights may be transferred pursuant to the provisions of Paragraph 16 of this Judgment.” [¶5.1.1.3]

ii. Overlying Production Right Parties (Exhibit 4) Transfers to Non-Overlying Production Right Holders (Exhibit 3): “Overlying Production Rights that are transferred to Non-Overlying Production Right holders shall remain on Exhibit 4 and be subject to adjustment as provided in Paragraph 18.5.10, but may be used anywhere in the transferee’s service area.” [¶16.2]

iii. State of California Internal Transfers: “The State of California’s Production Right in the amount of 207 acre-feet per Year is allocated separately to each of the State agencies, departments, and associations as listed below in Paragraph 5.1.5.2. Notwithstanding the separate allocations, any Production Right, or portion thereof, of one of the State agencies, departments, and associations may be transferred or used by the other State agencies, departments, and associations on parcels within the Basin. This transfer shall be done by agreement between the State agencies, departments, or associations without a Replacement Water Assessment and *without the need for Watermaster approval*. Prior to the transfer of another State agency, department, or association’s Production Right, the State agency, department, or association receiving the ability to use the Production Right shall obtain written consent from the transferor. Further, the State agency, department, or association receiving the Production Right shall notify the Watermaster of the transfer.” [¶5.1.5.1, *emphasis added*]

iv. Carry Over Water or Stored Carry Over Water: “The Producer may transfer any Carry Over water or Carry Over water stored pursuant to a Storage Agreement.” [last sentence of ¶15.1, ¶15.2, and ¶15.3] This applies to all or part of Carry Over water or Stored Carry Over water from: In Lieu Production Right [¶15.1], Imported Water Return Flows [¶15.2], or a Production Right. [¶15.3] Other water stored pursuant to a Storage Agreement may be transferred through changes in the existing Storage Agreement.

v. Antelope Valley United Mutuals Group Transfer Limitations: “Limitation on Transfers of Water by Antelope Valley United Mutuals Group. After the date of this Judgment, any Overlying Production Rights pursuant to Paragraph 5.1.1, rights to Imported Water Return Flows pursuant to Paragraph 5.2, rights to Recycled Water pursuant to Paragraph 5.3 and Carry Over water pursuant to Paragraph 15 (including any water banked pursuant to a Storage Agreement with the Watermaster) that are at any time held by any member of the Antelope Valley United Mutuals Group may only be transferred to or amongst other members of the Antelope Valley United Mutuals Group, except as provided in Paragraph 16.3.1. Transfers amongst members of the Antelope Valley United Mutuals Group shall be separately reported in the Annual Report of the Watermaster pursuant to Paragraphs 18.4.8 and 18.5.17. Transfers amongst members of the Antelope Valley United Mutuals Group shall not be deemed to constitute an abandonment of any member’s non-transferred rights.” [¶16.3] “Nothing in Paragraph 16.3 shall prevent Antelope Valley United Mutuals Group members from transferring Overlying Production Rights to Public Water Suppliers who assume service of an Antelope Valley United Mutuals Group member’s shareholders.” [¶16.3.1]

vi. Transferred Water Retains its Original Source Type: For example, a transfer of a Production Right will remain a Production Right; a transfer of Carry Over water will remain Carry Over water and will also retain the same number of years for which it has already been carried over; a transfer of stored Carry Over water pursuant to a Storage Agreement will remain stored water. All other requirements for each type of water in the Judgment will also apply to the transferred water type.

vii. Other Parties. Additional Parties can obtain water through a Transfer to make an in kind payment of a Replacement Water Assessment, on a special, limited basis, provided no Material Injury is associated with the Transfer and further provided that the Transfer has been approved by the Watermaster Engineer and the Watermaster General Counsel and is determined to be consistent with all other applicable provisions of the Judgment. Such Parties include the Non-Stipulating/Supporting Landowner Parties, Small Pumpers, and Parties with approved New Production rights. Such Transfers will only be approved on a limited basis, can only be used for a Replacement Water Assessment, and cannot be carried over because such Parties have no rights to do so under the Judgment. [See ¶¶ 5.1.10, 5.1.2.1, 5.1.3.3, and 15.3.] Parties wishing to use a Transfer in lieu of a Replacement Water Assessment or to offset Production in a previous year must submit a Transfer Request Form by March 1 to be considered and approved prior to the invoicing date of May 1.



d. Conditions and Assumptions for Transfers

i. Transfers to Parties and Non-Parties: Any Party to the Judgment can transfer to any other Party except for limitations in the Judgment contained in these R&Rs (see Section 13.e below). Any Transferee must be, or become a Party to the Judgment.

ii. Severability of Rights and Land: Overlying landowners may transfer all or part of their Production Right or Carry Over Water to another Party while retaining ownership of all or part of their land. Similarly, landowners may sell the land without transferring the Production Right or Carry Over water, but only if such retention of Production Right or Carry Over water is clearly stated in the deed and property transfer documents, otherwise it will be conclusively presumed that the Production Rights or Carry Over water, as the case may be, are included in the sale of the land.

iii. Voting Rights: Except for certain permanent transfers of all rights as may be permitted under the Judgment or a court order, the Transferor will retain any voting rights associated with the Antelope Valley Watermaster.

iv. Type of Water Transferred: If the type of water is not stated in the transfer form (i.e., Production Right or Carry Over Water), the Watermaster Engineer will assume that the transfer is first part or all of the Transferor's Production Right.

v. Unused Portion of Transfer Water: Any transferred water not Produced or used to satisfy a Replacement Water Obligation in the year of the transfer will be assumed to be Carry Over water for the Transferee, unless the Watermaster Engineer is notified otherwise.

e. Types of Transfers Not Allowed

Transfers are not allowed by the Judgment for:

i. Non-Pumper Class: "The Non-Pumper Class members shall have no right to transfer water pursuant to this Judgment." [¶5.1.2.1]

ii. Small Pumper Class: "The pumping rights of Small Pumper Class Members are not transferable separately from the parcel of property on which the water is pumped, provided however a Small Pumper Class Member may move their water right to another parcel owned by that Small Pumper Class Member with approval of the Court. If a Small Pumper Class Member parcel is sold, absent a written contract stating otherwise and subject to the provisions of this Judgment, the water right for that Small Pumper Class Member parcel shall transfer to the new owners of that Small Pumper Class Member parcel. The pumping rights of Small Pumper Class Members may not be aggregated for use by a purchaser of more than one Small Pumper Class Member's property." [¶5.1.3.3] "In recognition of his service as class representative, Richard Wood has a Production Right of up to five 5 acre-feet per Year for reasonable and beneficial use on his parcel free of Replacement Water Assessment. This



Production Right shall not be transferable and is otherwise subject to the provisions of this Judgment. [¶5.1.3.8]

iii. Non-Stipulating Parties: “Production Rights Claimed by Non-Stipulating Parties. Any claim to a right to Produce Groundwater from the Basin by a Non-Stipulating Party shall be subject to procedural or legal objection by any Stipulating Party. Should the Court, after taking evidence, rule that a Non-Stipulating Party has a Production Right, the Non-Stipulating Party shall be subject to all provisions of this Judgment, including reduction in Production necessary to implement the Judgment and the requirements to pay assessments, but *shall not be entitled* to benefits provided by Stipulation, including but not limited to Carry Over pursuant to Paragraph 15 and *Transfers pursuant to Paragraph 16.*” [¶5.1.10, *emphasis added*]

iv. Boron Community Services District: “Notwithstanding [Paragraph] 16.1, the Production Right of Boron Community Services District shall not be transferable. If and when Boron Community Services District permanently ceases all Production of Groundwater from the Basin, its Production Right shall be allocated to the other holders of Non-Overlying Production Rights, except for West Valley County Water District, in proportion to those rights.” [¶16.4]

v. Other Rights to Produce Groundwater: Transfers of rights to produce groundwater by the City of Lancaster or Phelan Pinon Hills Community Services District are not allowed.

vi. Rampdown Production Above Production Right: Except for a transfer of all rights associated with a property sale, transfers are not allowed for the Pre-Rampdown Production amount in excess of the Production Right or for the incremental Rampdown in excess of the Production Right that is allowed to be pumped during the Rampdown Period.

vii. Rights to Pump Imported Water Return Flows: Because the definition of Production Right “does not include any right to Imported Water Return Flows pursuant to Paragraph 5.2,” the transfer of the rights to Imported Water Return Flows is not allowed. However, if Imported Water Return Flows are not produced in the year in which they are available, Imported Water Return Flows can be converted to Carry Over water [¶15.2] and that Carry Over water can be transferred. [¶15.2] (see Section 13.c.iv above)

viii. Unused Federal Reserved Water Right: “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.” [¶5.1.4.1] Because “(t)his *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...” [¶5.1.4.1, *emphasis added*], transfers of the unused Federal Reserved Water Right are not allowed.

f. Transfer Requests

i. Prior to a transfer, Parties are required to submit a Transfer Request Form to the Watermaster for review. The form will include specific information required for the Watermaster Engineer to record and track each transfer and to conduct a hydrologic review, including a Material Injury analysis. Although all transfers will be subject to hydrologic review by the Watermaster Engineer, no Material Injury analysis will be required on a transfer that results from a property sale.

ii. The request will identify both the rights holder and the transferee. Unless clearly stated otherwise in the Transfer Request Form, the rights holder will retain responsibility for the Administrative Assessments on the transferred rights, if any. Watermaster Staff will confirm that all overdue assessments associated with the Parties involved in the transfer are settled before the transfer request will be considered by the Watermaster Engineer. The Transfer Request Form must bear the notarized signatures of both the rights holder and the transferee. Watermaster Staff will not consider a Transfer Request Form without the notarized signatures of all Parties thereto. The Watermaster may, but is not required to, investigate a Party's legal authority to enter into a transfer, or a person's authority to execute a Transfer Request Form on behalf of a Party thereto. Any costs or legal fees incurred by the Watermaster for such investigation, in the Watermaster's sole discretion, shall be borne by the Party submitting the request, payable to the Watermaster prior to submittal of the Transfer Request to the Watermaster Engineer for hydrologic review and Material Injury analysis. Watermaster may require a person, Party or Parties requesting a transfer to indemnify the Watermaster, as a condition for approving the transfer, for any costs and legal fees incurred by the Watermaster resulting from a challenge to that person, Party or Parties' legal authority to entered into such transfer, or to a person's authority to execute a Transfer Request Form on behalf of a Party thereto.

iii. Parties wishing to use a Transfer in lieu of a Replacement Water Assessment must submit a Transfer Request Form by March 1 to be considered and approved prior to the invoicing date of May 1.

g. Hydrologic Review and Material Injury Analysis

i. Although transfers will be managed within the Native Safe Yield as defined by the Judgment, transfers may change the distribution of pumping in the Basin spatially and/or over time. The Watermaster Engineer will conduct a hydrologic review and Material Injury analysis on all transfers<sup>18</sup> that considers whether the transfer will have the potential to: *cause material physical harm to the Basin, any Subarea, or any Producer, Party, or Production Right including, but not limited to, Overdraft, degradation of water quality by introduction of contaminants to the aquifer by a Party and/or transmission of those introduced contaminants through the aquifer, liquefaction, land subsidence and other material physical injury caused by elevated or lowered groundwater levels. Material physical harm does not include "economic*

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<sup>18</sup> Except those that result from a property sale and those among State agencies for the State of California Production Right as provided in ¶5.1.5.1.

*injury” that results from other than direct physical causes, including any adverse effect on water rates, lease rates, or demand for water. [¶3.5.81.1]*

ii. The Watermaster Engineer must make the finding that the transfer will not cause, or will fully mitigate [¶3.5.81.2] the potential for, Material Injury in order for the transfer to be approved by the Board.

h. Approval of Transfers

Based on the information, recommendation, and Material Injury analysis provided by the Watermaster Engineer, the Watermaster Board must make the following findings in order to approve the transfer: the transfer complies with the Judgment, and the transfer does not cause Material Injury.

i. Documentation of Transfers

The Watermaster Engineer shall maintain a record of all transfers and assign the transferred water to the transferee’s proper water account. In general, the original type of the transferred right will be maintained after the transfer. For example, a transfer of all or part of a Production Right will be a transferred Production Right for the transferee. Similarly, a transfer of Carry Over water will be maintained as Carry Over water for the transferee and will also retain the number of years associated with the original transferor’s Carry Over water account. Upon reasonable request, the Watermaster shall make transfer records available for inspection by any Party. Transfer records also will be summarized in the Annual Report. A report or records of transfers under this Section shall be considered a ministerial act.

#### 14. NEW OR REPLACEMENT WELL APPLICATIONS AND NEW PRODUCTION REQUESTS

a. Purpose

i. New and replacement wells drilled in the Adjudication Area of the Antelope Valley are subject to approval by the Antelope Valley Watermaster. A new well is any well that does not presently exist but is proposed to be constructed. A replacement well is a specific kind of new well that is located within 300 feet of an existing well and owned by the same Party that intends to construct the new well. The following sections describe the procedures to be followed by the Watermaster Staff or Watermaster Engineer for evaluating requests for new and replacement wells and to make findings to the Watermaster for approval or denial. These procedures incorporate requirements in the Judgment and support the Watermaster Engineer’s duties to provide proper water accounting and tracking of groundwater production.

ii. Procedures for applications for new and replacement wells would involve an initial determination as to whether or not a party has a known right to produce groundwater under the Judgment. For applicants without a known right, the well application may relate to whether the well will be used by an “unknown” member of the Small Pumper Class or for New Production. For completeness, these procedures also include how to address applicants that may be unknown members of the Small Pumper Class or applicants for New Production.



iii. Although these procedures focus primarily on production wells, an approval process for non-production wells is also included. Non-production wells include piezometers, monitoring wells, and cathodic protection wells that will pump only minimal amounts of groundwater associated with well construction and/or groundwater sampling.

iv. Procedures herein are not meant to duplicate or replace well permitting and well abandonment procedures implemented by Kern, Los Angeles, and San Bernardino counties. All such counties are cooperating with the Watermaster, and will provide final well completion reports and abandonment records to the Watermaster for wells inside the adjudication area, as available.

b. Basis

i. The Judgment allows Parties to change a point of extraction for any Production Right so long as such change of a point of extraction does not cause Material Injury. [¶17] A replacement well located within 300 feet of a Party's existing well is not considered a change in point of extraction. [¶17] Any Party seeking to construct a new well in order to change a point of extraction for any Production Right shall notify the Watermaster of the location of a new point of extraction and the intended place of use of the water produced at least 90 days in advance of drilling any new well. [¶17.1]

ii. The United States can change its point(s) of extraction for the Federal Reserved Water Right at the sole discretion of the United States to any point or points within the boundaries of Edwards Air Force Base or Plant 42. The point(s) of extraction for the Federal Reserved Water Right may be changed to points outside the boundaries of Edwards Air Force Base or Plant 42, provided such change in a point of extraction does not cause Material Injury. The United States shall consider information in its possession regarding the effect of Production from the intended new point of extraction on the Basin and on other Producers. [¶17.2] The Watermaster Engineer has a duty to track locations and amounts of groundwater production and therefore, is requiring the U.S. to submit Change in Point of Extraction forms for record-keeping purposes.

iii. With regard to applications for New Production, the Watermaster shall consider and determine whether to approve applications for New Production after consideration of the findings of the Watermaster Engineer. [¶18.4.9] The process and requirements for New Production applications are described in Paragraph 18.5.13 of the Judgment. [¶18.5.13.1 through 18.5.13.4] In addition, the Watermaster decision on a New Production application may be subject to Court review (pursuant to ¶20.3). [¶18.5.13.4]

c. Process for Review of Well Applications

i. Prior to approval of a well application, the Watermaster Board must make the following findings:



(1) Applicant has a known right to Produce Groundwater under the Judgment, or qualifies as an Unknown Small Pumper Class Member, or is a non-pumper with no pumping rights but agrees to purchase replacement water.

(2) Applicant with a right to Produce Groundwater requests a replacement well (within 300 feet of an existing well) or a new well from a new point of extraction; or applicant is a non-pumper with no pumping rights and requests a well for New Production; or applicant requests a non-production well.

(3) Applicant's well will not cause Material Injury as defined by the Judgment and these R&Rs.

ii. The Watermaster Board shall adopt the findings upon recommendation of the Watermaster Staff or Watermaster Engineer at a regular or special meeting of the Watermaster Board. The Watermaster shall deny any well application where these findings cannot be made.

iii. In order to allow the Board to make these findings, the Watermaster Staff or Watermaster Engineer will follow a process described in the following sections for review of well applications. This process is shown schematically by the flow chart on **Figure 2**.

iv. There are four questions associated with the review process:

(1) Does the Applicant have a known right to Produce Groundwater under the Judgment?

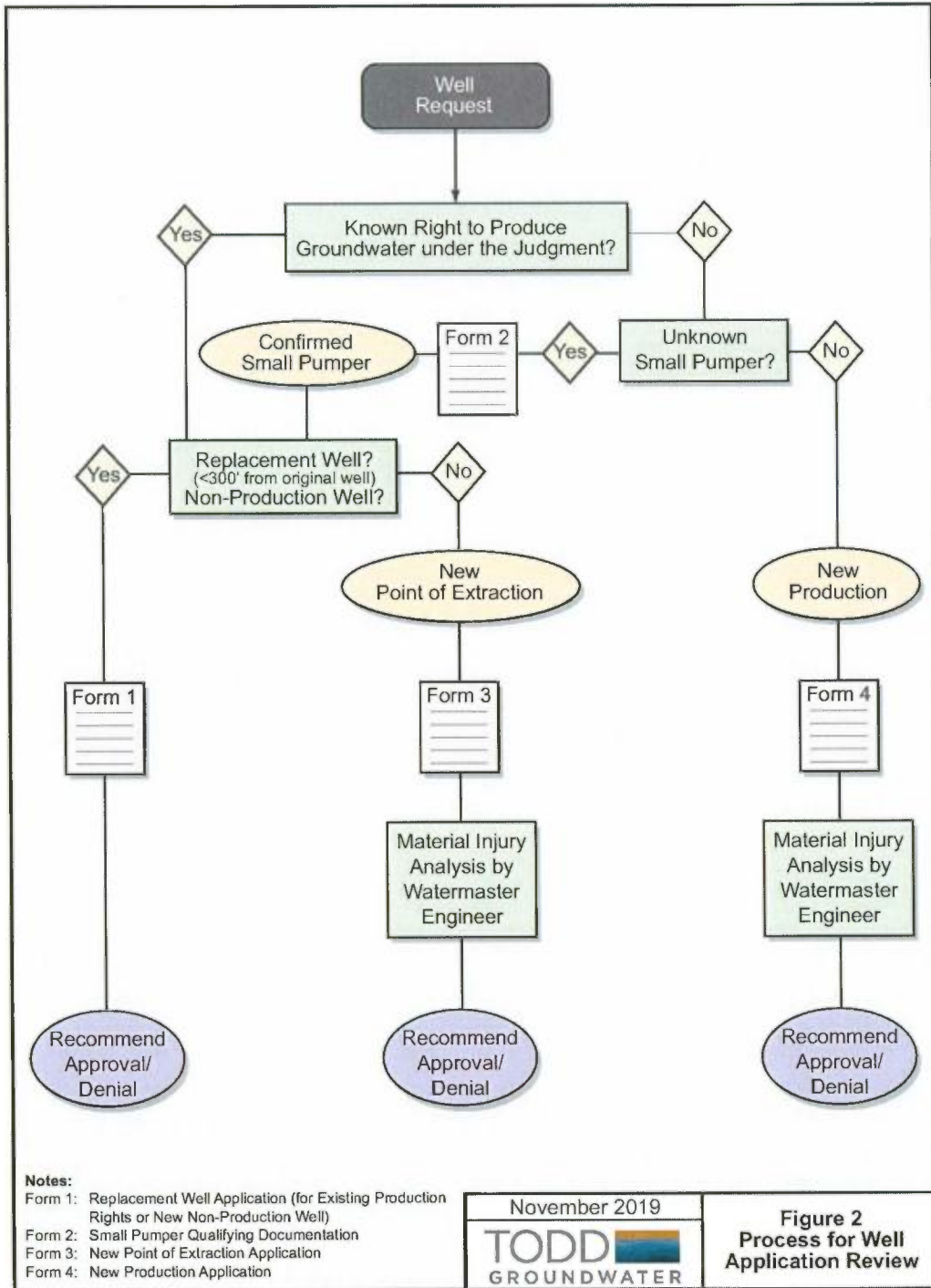
(2) Does the Applicant qualify as an Unknown Small Pumper Class Member?

(3) Is there a change in a point of extraction (i.e., request for a new well more than 300 feet from the original well)?

(4) Is there a Material Injury associated with any change in point of extraction or New Production?

v. The answers to these questions ultimately lead to a Watermaster Staff or Watermaster Engineer recommendation for approval or denial of the well application based on the findings from this process. The following sections outline the procedures that the well applicants must follow and forms that must be completed for the Watermaster Staff or Watermaster Engineer to recommend that the Watermaster Board make the necessary findings. The process is summarized below and discussed in more detail in the sections that follow.

Figure 2. Process for Well Approval Application Review



d. Procedures for Review of Well Applications

i. Known Right to Produce Groundwater

If the Applicant has a known right to Produce Groundwater under the Judgment and is requesting a replacement well. Applicant will need to provide the applicable information in Section 14.e and on Form 1, as described below. This process is illustrated on the left side of **Figure 2**, ending with the subsequent recommendation for approval or denial.

ii. New Point of Extraction

(1) For new wells other than replacement wells, the Applicant will need to provide the applicable information in Section 14.g and on Form 3a, as described below. This is considered a change in point of extraction and is illustrated in the central portion of the flow chart on **Figure 2** (New Point of Extraction flow path), ending in subsequent recommendation of approval or denial.

(2) If the Applicant wishes to use its Production Right at a new location using an existing well, they will need to complete the Use of Production Right at a New Location form (Form 3b).

iii. Unknown Small Pumper

(1) The Watermaster Staff or Watermaster Engineer will assist a pumper with the determination if they could potentially be an Unknown Small Pumper Class Member. If so, an Unknown Small Pumper Class Member can demonstrate their eligibility as a Small Pumper Class Member under the Judgment by providing the information in Section 14.h, including information for Form 2, as described below (see **Figure 2**). A confirmed Small Pumper Class Member can then request a replacement well by providing the applicable information in Section 14.e, including Form 1, as described below (represented as the flow path ending in approval/denial of Form 1 on **Figure 2**). For new wells that are not replacement wells, the Applicant will need to provide change in point of extraction information in Section 14.h below (New Point of Extraction represented as the Form 3a flow path on **Figure 2**).

(2) The Small Pumper Class is allocated a total Production Right of 3,806.4 acre-feet per year, to be shared among all Small Pumper Class Members. Each Small Pumper Class Member may pump up to 3 acre-feet per year before a Replacement Water Assessment is imposed. An unlimited number of unknown Small Pumper Class Members may be admitted to the Judgment, and if the number of Small Pumper Class Members increases to the extent the Watermaster believes Production by unknown Small Pumper Class Members may harm the health of the Basin, the 3 acre-feet per year threshold may be adjusted based on a statistically credible study and analysis of the Small Pumper Class' actual Native Safe Yield Production over at least a three Year period. Any such reduction in the 3 acre-feet per year threshold must be mandated by the Court after notice and a hearing, as well as a determination that Water Code section 106 may apply so as to prevent such a reduction. (§ 5.1.3.1.) This comports with the requirements that

Small Pumper Class water rights are protected by Water Code section 106, which declares “that the use of water for domestic purposes is the highest use of water.” (§§ 5.1; 5.1.3.1.)<sup>19</sup>

iv. New Production

If the applicant has no Production Rights, including being ineligible for the Small Pumper Class, they will also need to submit a New Production Application. The Applicant will also need to provide the information in Section 14.k, including completion of Form 4, as described below. This is illustrated on the right side of **Figure 2** by the New Production/Form 4 flow path.

v. Material Injury

A Material Injury review is required if there is a new point of extraction or New Production (Forms 3a and 4 on **Figure 2**). If there is no evidence of Material Injury, the Watermaster Engineer will recommend approval by the Watermaster; if there is evidence for a potential Material Injury that cannot be mitigated, the Watermaster Engineer will recommend denial by the Watermaster.

vi. Non-Production Wells

To apply for a new non-production well, including piezometers, monitoring wells, and cathodic protection wells, the applicant can also use Form 1. Installation of non-production wells will not be subject to a Material Injury analysis as long as there is a reasonable demonstration that only minimal amounts of groundwater will be used, and the use is associated with well construction or groundwater sampling.

e. Requests for New or Replacement Wells from Applicants with Known Rights to Produce Groundwater

i. Parties with a right to Produce Groundwater under the Judgment include the State of California; the U.S. Federal Government; Parties listed on Exhibit 3 (Non-Overlying Producers), Exhibit 4 (Overlying Producers), and Exhibit C (Small Pumper Class); the Non-Stipulating Parties; and other parties identified in the Judgment as having a right to produce groundwater (e.g., Phelan Pinon Hills CSD, City of Lancaster). This section of the R&Rs describes a process whereby those with known rights to Produce Groundwater can request new or replacement wells.

ii. The Judgment allows Parties to change a point of extraction for any Production Right so long as such change of a point of extraction does not cause Material Injury. [¶17] In addition, a replacement well located within 300 feet of a Party’s existing well is not considered a change in point of extraction. [¶17] Any Party seeking to construct a new well in order to add a new point of extraction for any Production Right shall notify the Watermaster of the location of a new point of extraction and the intended place of use of the water produced at least 90 days in advance of drilling any new well. [¶17.1]

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<sup>19</sup> Conclusion of Memorandum to Antelope Valley Watermaster Board from Craig Parton, General Counsel, May 13, 2019



iii. The United States can change its point(s) of extraction for the Federal Reserved Water Right at the sole discretion of the United States to any point or points within the boundaries of Edwards Air Force Base or Plant 42 and not be subject to Material Injury review. The point(s) of extraction for the Federal Reserved Water Right may be changed to points outside the boundaries of Edwards Air Force Base or Plant 42, provided such change in a point of extraction does not cause Material Injury. The United States shall consider information in its possession regarding the effect of Production from an intended new point of extraction on the Basin and on other Producers. [¶17.2]

iv. Because the change in point of extraction could potentially result in a Material Injury analysis, the U.S. Federal Government will also be subject to notification requirements in ¶17.1 and submittal of a well application for all new or replacement wells associated with these procedures. The Watermaster Engineer acknowledges that the U.S. can change a point of extraction within its boundaries at its sole discretion without a Material Injury analysis; nonetheless, the Watermaster Engineer has a duty to track locations and amounts of groundwater production and therefore, is requiring the U.S. to submit Change in Point of Extraction forms for record-keeping purposes.

v. With regard to Small Pumper Class Members, the Judgment further states that their pumping rights are not transferable separately from the parcel of property on which the water is pumped unless the Small Pumper Class Member received Court approval to move their water right to another parcel they own. If a Small Pumper Class Member parcel is sold, absent a written contract stating otherwise and subject to the provisions of the Judgment, the water right for that Small Pumper Class Member parcel shall transfer to the new owners of that parcel. The pumping rights of Small Pumper Class Members may not be aggregated for use by a purchaser of more than one Small Pumper Class Member's property. [¶5.1.3.3]

f. Replacement Well Application for Existing Production Rights or New Non-Production Well (Form 1)

Applicants with known Production Rights requesting to install a replacement well within 300 feet of an existing well or a new non-production well must provide the following information.

i. Property owner's name, mailing address, parcel APN number and property address (if different than mailing address), email and phone number.

ii. Location and description of existing and new/replacement wells: use (domestic, agricultural, etc.), construction date, diameter, casing materials, depth, surface seal material and depth, screened interval, pumping capacity (gallons per minute), annual production (acre-feet/year), latitude and longitude (or X,Y coordinates), ground surface elevation, depth to water, status (active, inactive), site plan showing existing and new/replacement well locations, and a copy of the DWR Well Completion Report, if available.

iii. Abandonment plans for existing well, if applicable.

- iv. Proposed new/replacement well construction, driller, contact information.
- v. Estimate of production capacity (gpm) and future annual production from the replacement well.
- vi. Well locations and distance between replacement well and existing well.
- vii. If a new well is proposed in order to stop sharing an existing well (also see requirements described in Section 14.k below):
  - (1) Estimate of annual production from the shared well for the 1946 to 2015-time period by year (if not provided above).
  - (2) Estimate of future annual production from replacement well(s) and from the previously shared well (not to exceed 3 AFY each unless a Replacement Water Assessment is paid).
  - (3) Well locations and distance between replacement well(s) and shared well.
- viii. Agreement that the well will be metered (unless Small Pumper Class<sup>20</sup>) in accordance with the metering requirements in Section 15 of these R&Rs.
- ix. Any other information requested by the Watermaster Staff or Watermaster Engineer that is needed to evaluate the well application.
- x. Payment of a well application fee as set by the Watermaster to recover costs of review.

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<sup>20</sup> The Watermaster is tasked with monitoring all the Safe Yield components.” [¶18.5.1]. As per Paragraph 5.1.3.2 of the Judgment “The primary means for monitoring the Small Pumper Class Members’ Groundwater use under the Judgment will be based on physical inspection by the Watermaster, including the use of aerial photographs and satellite imagery. All Small Pumper Class Members agree to permit the Watermaster to subpoena the electrical meter records associated with their Groundwater wells on an annual basis. Should the Watermaster develop a reasonable belief that a Small Pumper Class Member household is using in excess of 3 acre-feet per Year, the Watermaster may cause to be installed a meter on such Small Pumper Class Member’s well at the Small Pumper Class Member’s expense.”

g. New Point of Extraction Application (Forms 3a or 3b)

Applicants with known production rights requesting to install a new well at a new point of extraction must provide the following information.

i. Property owner's name, mailing address, parcel APN number where the new point of extraction will be located and property address (if different than mailing address), email and phone number.

ii. Location and description of each existing well on the well owner's property: use (domestic, agricultural, etc.), construction date, diameter, casing material, depth, screened interval, pumping capacity (gallons per minute), annual production (acre-feet/year), latitude and longitude, ground surface elevation, depth to water, status (active, inactive), site plan showing old and new well locations, and a copy of the DWR Well Completion Report, if available.

iii. Proposed new well construction, driller, driller address, email and phone number.

iv. Estimate of production capacity and future annual production from the new well.

v. Well locations and distance between the new and existing wells.

vi. If a new well is proposed in order to stop sharing an existing well (also see requirements described in Section 14.k below):

(1) Estimate of annual production from the shared well for the 1946 to 2015-time period by year (if not provided above).

(2) Estimate of future annual production from new well(s) and from the previously shared well (not to exceed 3 AFY each unless a Replacement Water Assessment is paid).

(3) Well locations and distance between new well(s) and shared well.

vii. A written statement describing why the new point of extraction will not cause Material Injury.

viii. Agreement that the well will be metered (unless Small Pumper Class) in accordance with the metering requirements in Section 15 of these R&Rs.

ix. Any other information requested by the Watermaster Staff or Watermaster Engineer that is needed to evaluate the well application.

x. Payment of a well application fee as set by the Watermaster to recover costs of review.

h. Determination of Small Class Members' Water Rights<sup>21</sup> and Requests for New or Replacement Wells from Unknown Small Pumpers

It is necessary to establish rules to determine any Small Pumper Class Member's water rights in order to consider a new or replacement well application made by that member. Accordingly, the following rules are pertinent:

i. Small Pumper Class Member's right to produce groundwater only attaches to a parcel improved with a well and/or a house. A Small Pumper Class Member's completely unimproved parcel, even if contiguous to the Small Pumper Class Member's parcel improved with a well or a house, does not also have Small Pumper Class water rights. Based on this conclusion, the following rules shall apply when determining Small Pumper Class Members' water rights:

(1) The owner of a Small Pumper Class parcel, consisting of a single household, which is improved with both a house and a well, shall only have the right to pump up to 3 acre-feet per year total.

(2) The owners of two or more separate Small Pumper Class households located on a single parcel, each of which existed as of the date of the Judgment, may each pump up to 3 acre-feet per year without incurring Replacement Water Assessment.

(3) The owner of a Small Pumper Class parcel improved with a house but no well may pump up to 3 acre-feet per year without incurring Replacement Water Assessment, even if the water comes from a well on a separate parcel (§ 5.1.3).

(4) The owner of a Small Pumper Class parcel improved with two wells may only pump up to 3 acre-feet per year, total for both wells combined, without incurring Replacement Water Assessment.

(5) The owner of two contiguous Small Pumper Class parcels, one improved with a well and one improved with a house, may pump up to 3 acre-feet per year total without incurring Replacement Water Assessment.

(6) The owner of two or more contiguous Small Pumper Class parcels, only one of which is improved with a house or a well, may only pump up to 3 acre-feet per year total without incurring Replacement Water Assessment, regardless of whether the water pumped from the improved parcel is used for the benefit of one or more of the unimproved parcels.

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<sup>21</sup> Conclusion of Memorandum to Antelope Valley Watermaster Board from Craig Parton, General Counsel, March 15, 2019.



ii. Some well owners may not be identified individually in the Judgment as having rights to produce groundwater but may qualify as an Unknown Small Pumper Class Member as defined by the Judgment. Such well owners must first provide Small Pumper Class qualifying documentation and be confirmed as a member of the Small Pumper Class. The procedures in this section of the R&Rs describe a process whereby production rights, if any, for these applicants can be defined. This process must be completed first before an applicant can request a new or replacement well.

iii. The Small Pumper Class is defined in the Judgment as: “All private (i.e., non-governmental) Persons and entities that own real property within the Basin, as adjudicated, and that have been pumping less than 25 acre-feet per Year on their property during any Year from 1946 to the present. The Small Pumper Class excludes the defendants in Wood v. Los Angeles Co. Waterworks Dist. 40, et al., any Person, firm, trust, corporation, or other entity in which any such defendant has a controlling interest or which is related to or affiliated with any such defendant, and the representatives, heirs, affiliates, successors-in-interest or assigns of any such excluded party. The Small Pumper Class also excludes all Persons and entities that are shareholders in a mutual water company. The Small Pumper Class does not include those who opted out of the Small Pumper Class.” [¶3.5.44]

iv. The Judgment also states: “The Small Pumper Class shall be permanently closed to new membership upon issuance by the Court of its order granting final approval of the Small Pumper Class Settlement (the “Class Closure Date”), after the provision of notice to the Class of the Class Closure Date. Any Person or entity that does not meet the Small Pumper Class definition prior to the Class Closure Date is not a member of the Small Pumper Class. Similarly, any additional household constructed on a Small Pumper Class Member parcel after the Class Closure Date is not entitled to a Production Right as set forth in Paragraphs 5.1.3 and 5.1.3.1.” [¶5.1.3.5]

v. The Judgment acknowledges that there are unknown members of the Small Pumper Class: “Unknown Small Pumper Class Members are defined as: (1) those Persons or entities that are not identified on the list of known Small Pumper Class Members maintained by class counsel and supervised and controlled by the Court as of the Class Closure Date; and (2) any unidentified households existing on a Small Pumper Class Member parcel prior to the Class Closure Date. Within ten (10) Court days of the Class Closure Date, class counsel for the Small Pumper Class shall publish to the Court website and file with the Court a list of the known Small Pumper Class Members.” [¶5.1.3.6] “Given the limited number of additions to the Small Pumper Class during the more than five Years since the initial notice was provided to the Class, the Court finds that the number of potentially unknown Small Pumper Class Members and their associated water use is likely very low, and any Production by unknown Small Pumper Class Members is hereby deemed to be de minimis in the context of this Physical Solution and shall not alter the Production Rights decreed in this Judgment. However, whenever the identity of any unknown Small Pumper Class Member becomes known, that Small Pumper Class Member shall be bound by all provisions of this Judgment, including without limitation, the assessment obligations applicable to Small Pumper Class Members.” [¶5.1.3.7]

vi. Collectively, these Judgment provisions indicate that pumpers meeting the definition of a Small Pumper as of December 23, 2015 are included in the Judgment and bound by the Judgment. Once identified, unknown Small Pumpers will need to agree to be bound by all the terms of the Judgment and be listed as a member of the Small Pumper Class under the Judgment.

vii. Unknown Small Pumper's request for a replacement well must contain information to demonstrate eligibility as a Small Pumper Class Member under the Judgment (Form 2 on **Figure 2**) and must contain the information requested in Section 14.e above (Form 1 on **Figure 2**). For new wells other than replacement wells, change in point of extraction information is needed (Form 3a on **Figure 2**).

i. Small Pumper Qualifying Documentation (Form 2)

Well Applicants who seek eligibility for the Small Pumper Class shall supply the following:

i. Property owner's name, mailing address, parcel APN number and property address (if different than mailing address), email and phone number.

ii. Location and description of existing well: use (domestic, agricultural, etc.), construction date, diameter, casing material, depth, screened interval, pumping capacity (gallons per minute), annual production (acre-feet/year), latitude and longitude, ground surface elevation, depth to water, and a copy of the DWR Well Completion Report, if available.

iii. Proof that the well on the owner's property has been pumped between 1946 and 2015 and the production amount has always been less than 25 acre-feet per year (AFY) during any year between 1946 and 2015. [¶3.5.44] Supporting documentation should include all pertinent information available as listed below:

(1) Documentation that the well was drilled on the property prior to December 23, 2015 (e.g., County well permit, DWR Well Completion Report, etc.).

(2) If sufficient documentation is not provided in bullet above, property owner agrees to allow Watermaster Staff or designated agent access to the property at a mutually-agreed upon time to physically inspect the well and property.

(3) Uses of the existing well including domestic, irrigation, livestock, etc. Also provide an estimate of annual household occupancy (number of residents), history of land irrigation and acreage, and history of livestock/animals that resided on the property and that relied on the well during the 1946 to 2015-time period.

(4) Land deed/parcel information indicating use of land and/or historical aerial photographs of land showing land use.

(5) Other pertinent information that demonstrates the use and production amounts of the well during the 1946 to 2015-time period.

iv. Statement affirming that the applicant and parcel associated with this request are not part of the Non-Pumper Class, nor a shareholder in a mutual water company, nor opted out of the Small Pumper Class. [¶3.5.44]

v. Statement affirming that the applicant and associated parcel is for private (i.e., non-governmental) use and that the applicant owns the property. [¶3.5.44]

vi. Statement that the applicant agrees to be bound by all provisions of the Judgment, including without limitation, the assessment obligations applicable to Small Pumper Class Members. [¶5.1.3.7]

vii. Payment of a well application fee as set by the Watermaster to recover costs of material review.

j. Requests for a New Well from Small Pumper Class Members that Currently Share a Well but want to Segregate those Rights and use Individual Wells

i. The Judgment permits Small Pumpers to share a well: “A Small Pumper Class Member who is lawfully, by permit, operating a shared well with an adjoining Small Pumper Class Member, shall have all of the same rights and obligations under this Judgment without regard to the location of the shared well, and such shared use is not considered a prohibited transfer of a pumping right under Paragraph 5.1.3.3.” [¶5.1.3]

ii. An applicant who wants to drill a new well in lieu of using a shared well will retain their status as a member of the Small Pumper Class with a right to produce no more than 3 AFY from the applicant’s parcel without paying a Replacement Water Assessment. Even though this new well would appear to be considered New Production as defined by the Judgment, there would be no Material Injury because pumping is not increased. Therefore, the requirements for New Production (Form 4) are waived for the Small Pumper Class Member.

iii. If the new well is within 300 feet of the shared well, the Applicant would need to submit Form 1. If the new well is greater than 300 feet from the shared well, it is considered a new point of extraction and the Applicant would need submit Form 3.

iv. If either of the Parties that share a well are not listed as a member of the Small Pumper Class (i.e., are unknown Small Pumpers), they will have to first demonstrate eligibility as a Small Pumper Class Member under the Judgment as provided in Section 14.i of the R&Rs (Form 2 on **Figure 2**). The Applicant requesting the new well will need to provide the information listed in Section 14.e of the R&Rs (Form 1 on **Figure 2** if the new well is within 300 feet of the shared well or Form 3a on **Figure 2** if the new well is greater than 300 feet from shared well).



k. Request for New Production from New Wells

i. New Production is defined as: “Any Production of Groundwater from the Basin not of right under this Judgment, as of the date of this Judgment.” [¶3.5.20]

ii. The Non-Pumper Class is defined as: “All private (i.e., non-governmental) Persons and entities that own real property within the Basin, as adjudicated, that are not presently pumping water on their property and did not do so at any time during the five Years preceding January 18, 2006. The Non-Pumper Class includes the successors-in-interest by way of purchase, gift, inheritance, or otherwise of such Non-Pumper Class members’ land within the Basin. The Non-Pumper Class excludes (1) all Persons to the extent their properties are connected to a municipal water system, public utility, or mutual water company from which they receive water service, (2) all properties that are listed as “improved” by the Los Angeles County or Kern County Assessor's offices, unless the owners of such properties declare under penalty of perjury that they do not pump and have never pumped water on those properties, and (3) those who opted out of the Non-Pumper Class. The Non-Pumper Class does not include landowners who have been individually named under the Public Water Suppliers' cross-complaint, unless such a landowner has opted into such class.” [¶3.5.22]

iii. The Non-Pumper Class Rights are stated as: “The Non-Pumper Class members claim the right to Produce Groundwater from the Native Safe Yield for reasonable and beneficial uses on their overlying land as provided for in this Judgment. On September 22, 2011, the Court approved the Non-Pumper Class Stipulation of Settlement through an amended final judgment that settled the Non-Pumper Class’ claims against the Public Water Suppliers (“Non-Pumper Class Judgment”). ... This Judgment is consistent with the Non-Pumper Class Stipulation of Settlement and Judgment. Future Production by a member of the Non-Pumper Class is addressed in the Physical Solution.” [¶5.1.2] “The Non-Pumper Class members shall have no right to transfer water pursuant to this Judgment.” [¶5.1.2.1]

iv. The Judgment provides a summary of the Non-Pumper Class Stipulation of Settlement and also indicates that New Production for the Non-Pumper Class members may be subject to a replacement assessment: “The Non-Pumper Class Stipulation of Settlement, executed by its signatories and approved by the Court in the Non-Pumper Class Judgment, specifically provides for imposition of a Replacement Water Assessment on Non-Pumper Class members. This Judgment is consistent with the Non-Pumper Class Stipulation of Settlement and Judgment. The Non-Pumper Class members specifically agreed to pay a replacement assessment if that member produced “more than its annual share” of the Native Safe Yield less the amount of the Federal Reserved Right. (See Appendix B at paragraph V, section D. Replacement Water.) In approving the Non-Pumper Class Stipulation of Settlement this Court specifically held in its Order after the Hearing dated November 18, 2010, that “the court determination of physical solution cannot be limited by the Class Settlement.” The Court also held that the Non-Pumper Class Stipulation of Settlement “may not affect parties who are not parties to the settlement.”” [¶9.2.1, emphasis added]



v. Non-Pumper Class Stipulation of Settlement (Appendix B, paragraph V, section D) “Replacement Water. The Settling Parties recognize the right of any Settling Party to produce groundwater from the Basin above their share of the Native Safe Yield, subject to the Physical Solution and to any Replacement Assessment. The Settling Parties agree to provide or purchase Imported Water for all groundwater pumping that exceeds a Settling Party’s share of the Federally Adjusted Native Safe Yield. The Settling Parties agree that any Settling Party who produces more than its annual share of the Federally Adjusted Native Safe Yield in any year will be responsible to provide Replacement Water or pay a Replacement Assessment to the Watermaster so that the Watermaster can purchase Imported Water to recharge the Basin.”

vi. Finally, the Judgment requires “...any New Production, including that by a member of the Non-Pumper Class, must comply with the New Production Application Procedure specified in paragraph 18.5.13...” [¶9.2.2] Additional requirements on the Non-Pumper Class, as well as requirements of “the Watermaster’s determination as to the approval, scope, nature and priority of any New Production” is provided in the remaining portions of Paragraph 9.2.2. Sections under Paragraph 18.5.13 provide the framework of the New Production Application Procedure, including provision of a written application [¶18.5.13.1) and “payment for review, field investigation, reporting, and hearing, and other associated costs, incurred by the Watermaster and Watermaster Engineer in processing the application for New Production.” [¶18.5.13.1.1]

1. New Production Application (Form 4)

In accordance with the Judgment, “All Parties or Person(s) seeking approval from the Watermaster to commence New Production of Groundwater shall submit a written application to the Watermaster Engineer which shall include the following:” [¶18.5.13.1]

i. Payment of an application fee sufficient to recover all costs of application review, field investigation, reporting, and hearing, and other associated costs, incurred by the Watermaster and Watermaster Engineer in processing the application for New Production. [¶18.5.13.1.1]

ii. Written summary describing the proposed quantity, sources of supply, reason of use, purpose of use, place of use, manner of delivery, and other pertinent information regarding the New Production. [¶18.5.13.1.2]

iii. Maps identifying the location of the proposed New Production, including Basin Subarea. [¶18.5.13.1.3]

iv. Well information including proposed well design, estimated annual pumping, and agreement to install a meter in accordance with the R&Rs. Plus, a statement that once the well is installed, the applicant will provide water well permits, specifications and well-log reports, pump specifications and testing results, and water meter specifications associated with the New Production. [¶18.5.13.1.4]

v. Written confirmation that applicant has obtained or will obtain all necessary entitlements and permits including all applicable Federal, State, County, and local land use entitlements and other permits necessary to commence the New Production. [¶18.5.13.1.5]

vi. Written confirmation that applicant has complied with applicable laws and regulations including all applicable Federal, State, County, and local laws, R&Rs, including but not limited to, the California Environmental Quality Act (Public Resources Code §§ 21000, et. seq.). [¶18.5.13.1.6]

vii. Preparation of a water conservation plan, approved and stamped by a California licensed and registered professional civil engineer with expertise in groundwater hydrology, demonstrating that the New Production will be designed, constructed and implemented consistent with California best water management practices. [¶18.5.13.1.7]

viii. Preparation of an analysis of the economic impact of the New Production on the Basin and other Producers in the Subarea of the Basin. [¶18.5.13.1.8]

ix. Preparation of an analysis of the physical impact of the New Production on the Basin and other Producers in the Subarea of the Basin. [¶18.5.13.1.9]

x. A written statement, signed by a California licensed and registered professional civil engineer with expertise in groundwater hydrology, determining that the New Production will not cause Material Injury. [¶18.5.13.1.10, expertise in groundwater hydrology added]

xi. Written confirmation that the applicant agrees to pay the applicable Replacement Water Assessment for any New Production. [¶18.5.13.1.11]

xii. Other pertinent information which the Watermaster Staff or Watermaster Engineer may require. [¶18.5.13.1.12]

m. Material Injury Determination

i. Upon receipt of the appropriate completed and accurate form (Forms 3a, 3b or 4), the Watermaster Engineer will determine if the change in point of extraction or New Production will cause a Material Injury. The Judgment states “3.5.18 Material Injury. Material Injury means impacts to the Basin caused by pumping or storage of Groundwater that: 3.5.18.1 Causes material physical harm to the Basin, any Subarea, or any Producer, Party or Production Right, including, but not limited to, Overdraft, degradation of water quality by introduction of contaminants to the aquifer by a Party and/or transmission of those introduced contaminants through the aquifer, liquefaction, land subsidence and other material physical injury caused by elevated or lowered Groundwater levels. Material physical harm does not include "economic injury" that results from other than direct physical causes, including any adverse effect on water

rates, lease rates, or demand for water. 3.5.18.2 If fully mitigated, Material Injury shall no longer be considered to be occurring.”

ii. “18.5.13.2 Finding of No Material Injury. The Watermaster Engineer shall not make recommendation for approval of an application to commence New Production of Groundwater unless the Watermaster Engineer finds, after considering all the facts and circumstances including any requirement that the applicant pay a Replacement Water Assessment required by this Judgment or determined by the Watermaster Engineer to be required under the circumstances, that such New Production will not cause Material Injury. If the New Production is limited to domestic use for one single-family household, the Watermaster Engineer has the authority to determine the New Production to be *de minimis* and waive payment of a Replacement Water Assessment; provided, the right to Produce such *de minimis* Groundwater is not transferable and shall not alter the Production Rights decreed in this Judgment.”

iii. The Material Injury analysis may consider applicable sustainability indicators included in the Sustainable Groundwater Management Act.

- (1) Chronic lowering of groundwater levels, including adverse impacts to neighboring wells
- (2) Reduction of groundwater in storage
- (3) Degraded water quality
- (4) Land subsidence that substantially interferes with land use
- (5) Depletions of interconnected surface water such that beneficial uses of the surface water are impacted, and
- (6) Any other considerations identified by the Watermaster Engineer relevant to evaluating whether material physical harm is caused to the Basin, and Subarea, or any Producer, Party, or Production Right.

iv. If the change in point of extraction or New Production cause these conditions to occur in a significant and unreasonable manner, the Watermaster Engineer may determine that the production will result in Material Injury.

v. The Watermaster Engineer may not stamp the water conservation plan and/or sign the Material Injury determination for a New Production Application, both of which must be approved by a third-party engineer. However, the water conservation plan and the Material Injury determination may be approved by the same third-party engineer (these tasks need not be divided between two separate third-party engineers). Finally, the Watermaster Engineer may not waive the water conservation plan and/or Material Injury determination requirements for New Production Applications, even if such applications are submitted by single-family households with *de minimis* Production.<sup>22</sup>

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<sup>22</sup> Conclusion of Memorandum to Antelope Valley Watermaster Board from Craig Parton, General Counsel, February 12, 2019



15. PRODUCTION PROCEDURES AND MONITORING

a. Production Monitoring

i. By March 1, 2018, all Parties other than the Small Pumper Class shall install meters on their wells for monitoring production and submit proof thereof to the Watermaster. [¶8.1] Each Party shall bear the cost of installing its meter(s). [¶8.1] The Watermaster Engineer shall propose, and the Watermaster shall adopt and maintain, rules and regulations regarding determination of Production amounts and installation of individual water meters. [¶18.5.5] The rules and regulations shall set forth approved devices or methods to measure or estimate Production. [¶18.5.5] Producers who meter Production on the date of entry of this Judgment shall continue to meter Production. [¶18.5.5]

ii. Meter installations are also required for any member of the Non-Pumper Class who has complied with the New Production Application Procedure specified in ¶18.5.13 of the Judgment. Producing Non-Pumper Class members shall report production to the Watermaster, and prior to the commencement of production, shall install a meter consistent with the requirement of these R&Rs. [¶9.2.2]

iii. All references to annual or quarterly reports herein are based on a calendar year (January 1 through December 31).

b. Approved Meter Installer and Tester

i. Meters shall be installed, tested, or repaired by pre-qualified persons, firms, or corporations shown to be qualified for installing, repairing and/or testing water measuring devices. Such persons, firms, or corporations must submit their qualifications to the Watermaster Engineer for approval and inclusion on the Pre-Qualified Meter Installer list maintained by the Watermaster. The list will include the name, address, and telephone number of all Watermaster-approved meter installers and testers. Persons, firms, or corporations will only be approved for installing and or testing the type(s) of meters for which they can demonstrate experience to the Watermaster Engineer. Persons, firms, or corporations may also be approved for field calibration of meters after demonstrating sufficient experience and expertise.

ii. All approved persons, firms, or corporations will be instructed in the expectations for meter selection, installation, and documentation and testing. For meter testing, the Watermaster Engineer shall either instruct approved testers on appropriate testing tools and techniques or coordinate with approved testers to confirm that their standard approach is satisfactory to the Watermaster Engineer. The Watermaster shall provide forms to submit documentation of meter installation and testing.

iii. The Watermaster shall make the list of approved persons, firms, and corporations available at the office of Watermaster and on the Watermaster's website.



c. Acceptable Meter Types

i. Each water production well of all Parties other than the Small Pumper Class shall be equipped with a meter. Acceptable meters shall be of the singlejet, multijet, turbine, propeller, venturi, electromagnetic, or transit-time ultrasonic type as described in American Water Works Association (AWWA) standards M6 and M33. Other types of meter or variations on the types listed above may be considered if specifically requested in writing to the Watermaster Engineer prior to installation. Requests for meter type variances shall include documentation of meter specifications from the manufacturer, including installation requirements.

ii. All meters shall be equipped with totalizers sufficient to capture at least five months of anticipated production volume. All meters shall be new or factory refurbished and calibrated within a year prior to installation. All meter installations must be documented to the satisfaction of the Watermaster Engineer, as described below in Section 15.f.

d. Meter Selection

i. All meters shall be appropriate for the individual application. Meter selection should consider size, range, accuracy, error, maintenance, and longevity and other factors described in AWWA M6 and M33 and all other applicable AWWA standards<sup>23</sup>. At a minimum:

- (1) Each meter must be appropriately sized for the production rate and discharge piping of the well.
- (2) Each meter must have a measurement range that matches the expected range of production rates from the well on which it is to be installed.
- (3) The error in the reading of each meter shall be no greater than two (2) percent of rate or full scale, whichever is less.

ii. It shall be the responsibility of each Party to work with their selected approved meter installer to ensure selection of appropriate meters. Selected meters shall be of

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<sup>23</sup> Different AWWA standards are developed for specific meter types; please refer to all standards regarding the specific meter being used. A list of potentially applicable AWWA standards is provided below.

**APPLICABLE AWWA STANDARDS:**

AWWA C700-15 Cold-Water Meters—Displacement Type, Metal Alloy Main Case

AWWA C701-15 Cold-Water Meters—Turbine Type, for Customer Service

AWWA C702-15 Cold Water Meters—Compound Type

AWWA C704-15 Propeller-Type Meters for Waterworks Applications

AWWA C708-15 Cold-Water Meters—Multijet Type

AWWA C712-15 Cold-Water Meters, Singlejet Type

AWWA C750-16 Transit-Time Flowmeters in Full Closed Conduits M6 Water Meters—Selection, Installation, Testing and Maintenance, Fifth Edition

M33 Flowmeters in Water Supply, Second Edition

one of the types described in Section 15.c. If a Party wishes to employ an alternative meter type, they must submit a request for a variance to the Watermaster Engineer as described in Section 15.c.

iii. Some Parties may choose to employ more than one meter for a single well as backup or secondary meters for use during regular meter maintenance or recalibration. This is acceptable so long as the meters are of the same type, manufacture, and model.

e. Meter Installation

i. Meters must be installed in strict adherence to all applicable manufacturer recommendations, AWWA standards, and industry norms regarding the proper installation of flowmeters in closed piping systems.

ii. Meters have limitations related to piping configurations; upstream and downstream pipe diameter and length are important considerations. Meters are calibrated with a uniform velocity profile distribution such as the one produced by a long length of undisturbed upstream and downstream conditions.

iii. Each meter type measures a specific parameter (e.g., number of revolutions of a propeller or pressure differential) – referred to in AWWA standards as the “influenced parameter” – that is converted into a flow rate. A mathematical relationship between the influenced parameter and flow is fixed based on a certain factor or function derived from calibration test data. This mathematical relationship dictates the accuracy of the flowmeter. A skewed or distorted velocity profile will cause the influenced parameter to become less stable and the calibration factor or function to become either partially or fully inapplicable; this increases the flowmeter’s error, often in a considerable and unpredictable manner. Therefore, meters should not be placed in close proximity to a bend, valve, or other fitting that is likely to disturb the velocity profile at the meter. Such disturbances are magnified if the bends or fittings are out of plane in such a manner as to cause a swirl or crossflow.

iv. The industry standard minimum is straight pipe upstream of the meter that is 10 pipe diameters in length and straight pipe downstream of the meter that is 5 pipe diameters in length; the straight pipe shall have no valves, angled or reducing/enlarging fittings, or other obstructions. Meters shall be installed to meet both manufacturers recommendations and this industry standard. If the manufacturers recommendations for installation are less stringent than this industry standard, the Party and the approved installer shall request a variance from the Watermaster Engineer prior to installation of any such meter. Requests for variances are discussed below.

v. The Watermaster Engineer may consider a variance to these specifications if it can be demonstrated that accurate readings will be achieved. If it is unfeasible to achieve the standard or manufacturer recommended straight pipe intervals before and after a meter, flow straighteners or flow conditioners may be used with prior approval from the Watermaster Engineer. To apply for a variance to use a flow straightener, flow conditioner, or manufacturers recommendations that are less stringent than the industry standard, the Party or the approved

installer must submit a request to the Watermaster Engineer. Requests for variances to allow flow conditioners, flow straighteners, or less stringent installation standards shall be made in writing and shall include details regarding the reason the variance is required, the manufacturer of the proposed meter and/or flow conditioner/straightener, and the proposed installation specifics. The Watermaster Engineer will review and evaluate such requests for variances and no flow conditioners, flow straighteners, or less stringent installation standards shall be employed without written approval from the Watermaster Engineer.

vi. All new or existing meters shall be calibrated prior to first use. Calibration may be performed by the manufacturer (factory calibration) or in the field, as appropriate for the type of meter. A record of calibration shall be submitted to the Watermaster Engineer in accordance with the documentation requirements in Section 15.f.

v. All existing, new, or replacement meter installations shall be documented in accordance with Section 15.f. In addition, any changes to the pump or equipment of a metered well must be reported to the Watermaster Engineer within 30 days in accordance with requirements in Section 15.f. Meter details and configurations do not need to be re-documented if the meter is not being replaced.

vi. Some Parties may choose to employ more than one meter for a single well as backup or secondary meters for use during regular meter maintenance or recalibration. This is acceptable so long as each meter is documented individually.

f. Documentation and Records

i. Each existing, new, or replacement meter must be documented and recorded with the Watermaster Engineer. Documentation shall consist of all pertinent details regarding each meter, records of calibration, specifics regarding installation, and initial meter readings. The following specific documentation will be provided to the Watermaster Engineer:

- (1) Production rate or range of production rates for well as currently equipped.
- (2) Identification (name or number) of well and map showing location of well with sufficient detail to allow the Watermaster Engineer to locate the well.
- (3) Manufacturers specifications exactly matching the make and model of the installed meter. These specifications shall include:

- (a) Manufacturer name
- (b) Meter type
- (c) Manufacturer model number
- (d) Meter number
- (e) Meter accuracy
- (f) Meter flow range

- (4) Date of manufacture or date of original purchase of the meter.



(5) Proof of most-recent meter calibration from the manufacturer or an approved meter installer with qualifying expertise.

(6) Manufacturer's requirements or recommendations for installation of meters. At a minimum, this shall include the specifications for flow conditions leading to and from the meter.

(7) As built drawings (computer generated or hand drawn) showing relative locations of wellhead, meter, and all flow restrictions (e.g., valves, elbows, reducers, etc.) and dimensions (lengths and diameters) of all pipes, fittings, valves, and meters.

(8) Volumetric units of the totalizer.

(9) At least one photograph showing the installed meter and associated piping from the wellhead.

(10) At least one readable photograph showing the installed meter totalizer face.

ii. Documentation of all existing or newly installed meters shall be completed by a pre-approved installer using forms provided by the Watermaster or Watermaster Engineer. The Watermaster Engineer shall review and assess the completeness of each documentation submittal. Upon establishing that meter documentation is complete, the Watermaster Engineer will assign each installed meter a unique identifying number for internal tracking. The unique meter number from the manufacturer will also be recorded in the database for communications with the meter owner. The unique number on the meter will be used to refer to the meter for reporting production, recalibration, or maintenance. The Watermaster Engineer shall maintain the documentation records for each installed meter and shall use these records for cross-checking production reports and tracking compliance with the Judgement.

iii. Any time the pumping equipment or plumbing within 10 pipe diameters upstream and 5 pipe diameters downstream of the meter at the well associated with a documented meter is changed, the responsible party will resubmit documentation identifying all changes to the Watermaster Engineer within 30 days.

g. Regular Meter Testing and/or Calibration

i. All meters shall be maintained to meet or exceed the accuracy requirements indicated in Section 15.d. Each meter shall either be tested or calibrated regularly to ensure that it meets measurement error and accuracy requirements of these R&Rs. All meters associated with Parties that Produce over 10 acre-feet per year (AFY) on aggregate shall be tested at least once per calendar year or calibrated at least every three (3) calendar years. All meters associated with Parties that Produce up to and including 10 AFY shall be tested at least once every two (2) calendar years or calibrated at least every five (5) calendar years. It shall be the responsibility of each Party to ensure that each of their meters are either tested or calibrated in accordance with this schedule. Meters need not be calibrated so long as testing demonstrates that they are within the accuracy requirements in Section 15.d.

ii. Meter testing shall be conducted by an approved meter tester (as described in Section 15.b) employing tools and techniques pre-approved by the Watermaster Engineer. Responsibility for coordination and costs of meter testing shall be borne by each Party that owns the well meter. Meter testing shall be reported to the Watermaster Engineer using Watermaster-



supplied forms within 10 days of each test. If the results of any testing event indicate that any meter is operating with an error greater than five (5) percent of production rate or volume, the Party shall have the meter repaired or calibrated within 30 days of the date of the test report. If the meter is repaired or replaced, see additional requirements in Section 15.h. For each calibration resulting from a failed meter test, the Party shall submit documentation of calibration to the Watermaster Engineer. This documentation shall include identification of the individual or organization that performed the meter calibration. Calibration and documentation of calibration shall conform to the requirements identified in Section 15.f.

iii. If a Party chooses to forgo meter testing for any or all of their meters, then the Party shall calibrate each meter every three (3) calendar years for Parties that Produce more than 10 AFY on aggregate or every five (5) calendar years for Parties that Produce up to and including 10 AFY on aggregate. More frequent meter calibration shall be required if recommended by the manufacturer for the meter type and application. Calibration will be performed according to the meter manufacturer recommendations by either the manufacturer or pre-qualified meter installer. Following each calibration, the Party shall submit documentation of calibration, including the individual or entity performing the calibration, to the Watermaster Engineer. Calibration and documentation of calibration shall conform to the requirements identified in Section 15.f.

iv. If a backup or secondary meter is installed during regular meter calibration, the date on which the meters were switched, the ending totalizer reading for the outgoing meter, and the beginning totalizer reading for the incoming meter must be recorded and submitted to the Watermaster along with the next scheduled production report. If the backup meter is a meter loaned from the manufacturer, it must be an in-kind meter as the one being replaced; the loaned meter must also be documented with the Watermaster Engineer, including the dates used to record Production. Use of an over- or under-sized meter shall be avoided.

(e) It is the responsibility of each Party to ensure that all their meters have been appropriately tested or calibrated in accordance with this section.

#### h. Repair or Replacement of Inaccurate Meters

i. Should a Party discover that the meter which measures the water Production from the Party's well is measuring inaccurately, the Party must notify the Watermaster Engineer within 10 days of the problem, and have the meter repaired or replaced. Defective or inaccurate meters shall be repaired or replaced within thirty (30) calendar days after discovery of the problem. The tolerance standard for repairing each meter shall be to return the meter to an error of not more than two (2) percent of the instantaneous rate reading. Upon completion of such repair, said repaired meter shall be tested by any meter tester authorized by the Watermaster Engineer. Results of such meter tests shall be furnished to the Watermaster Engineer within ten (10) business days after testing.

ii. If a backup or secondary meter is installed during meter repair or off-site calibration, the date on which the meters were switched and the ending and beginning totalizer readings for each meter must be recorded and submitted to the Watermaster Engineer along with

the next scheduled production report. If the backup meter is a meter loaned from the manufacturer, it must be an in-kind meter as the one being replaced; the loaned meter must be documented with the Watermaster Engineer including the dates used to record production. Use of an over- or under-sized meter shall be avoided.

iii. If defective or inaccurate meters are not repaired within the prescribed time limit, the violator will be provided notification to appear before the Watermaster to discuss remedy. In the event the violator and the Watermaster cannot reach a mutually agreeable solution within forty-five (45) days thereafter, the Watermaster shall obtain the Court's permission to allow the Watermaster Engineer or its representative to enter onto the violator's property to repair or replace the defective or inaccurate meter. All costs incurred by the Watermaster to repair or replace the defective or inaccurate meter, including the legal fees and costs to obtain the Court's permission to enter the violator's property, shall be billed and collected from the violator within fifteen (15) days after receipt of the Watermaster's bill for such costs.

i. Estimation of Production Due to Lack of Accurate Meter Measurements

When Production must be estimated due to lack of accurate meter measurements for any reason including a defective or inaccurate meter or a meter removed for off-site calibration, and a back-up or secondary meter has not been used, the Watermaster Engineer must approve the method of estimation. A copy of the estimate calculations shall be supplied to the Watermaster Engineer.

j. Small Pumper Class Monitoring

The primary means for monitoring the Small Pumper Class Member groundwater use will be based on physical inspection and other means by the Watermaster Engineer, including the use of aerial photographs, land use maps, and/or satellite imagery. Should the Watermaster Engineer develop a reasonable professional opinion that a Small Pumper Class Member household is using more than 3 acre-feet per year, a meter may be required on the Small Pumper Class Member wells at the Small Pumper Class Member's expense. [¶5.1.3.2]

k. Production Reports

i. Each Party to the Judgment shall monitor and record Production volumes from each of their wells and report production volumes from each well to the Watermaster Engineer. Parties that Produce more than 10 AFY on aggregate shall monitor and record Production volumes monthly and report groundwater production volumes from each well to the Watermaster Engineer quarterly. Parties that Produce up to and including 10 AFY on aggregate shall monitor and record Production volumes at least quarterly and shall report these values to the Watermaster Engineer quarterly; monthly monitoring and recording is preferred for all Parties. Production from each well can be listed on one Production Report form, provided by the Watermaster. Watermaster Staff will provide the report to the Watermaster Engineer for review and recordation. Each report shall include:

- (1) Identification of the Party
- (2) County in which the property is located

- (3) Well coordinates
- (4) Assessor's Parcel Number (APN) of the parcel on which each well is located
- (5) APN(s) for the parcel(s) on which the water is used for Overlying Production parties (Exhibit 4), if not previously provided<sup>24</sup>
- (6) Unique meter number (see Section 15.f)
- (7) Date and time for each meter reading
- (8) Totalizer value and units for each meter reading
- (9) A readable photograph of the totalizer readout corresponding to the last monthly measurement collected each quarter.

ii. Reports of monthly Groundwater Production for the previous quarter will be submitted to the Watermaster Engineer electronically via email by the end of the first month of each quarter. Reports shall therefore be due to the Watermaster Engineer no later than January 31, April 30, July 31, and October 31 for production in the previous quarter.

l. Annual Production Reporting

Each Party, except for Small Pumpers who produce less than 3 AFY and are unmetered, will submit a completed Annual Water Production Report form to the Watermaster by March 1 of the following year. An Annual Water Production Report form for each year will be available on the Watermaster website ([www.avwatermaster.net](http://www.avwatermaster.net)) at the beginning of the following year. These Production totals will be allocated to each Party's various accounts in compliance with the Judgment and these R&Rs.

m. Annual Over-Pumping as Reported on Production Reports

If a Party has pumped more in the previous year than the total water available in all accounts, the Party may be subject to a Replacement Water Assessment. In lieu of a Replacement Water Assessment, a Party may cover the over-pumping with a transfer; however, the transfer must be submitted by March 1 to be considered and approved prior to the invoicing date of May 1.

n. Meter Removal or De-Activation

Meters may not be removed or de-activated (without replacement pursuant to Section 15.h, above) unless the Producer obtains the prior written consent of the Watermaster, and only upon submittal of photographic evidence and other documentation as the Watermaster may require, in

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<sup>24</sup> The Watermaster Engineer is compiling APNs applicable for each of the Overlying parties listed in Exhibit 4 of the Judgment. If a Party has not already supplied APNs to the Watermaster for parcels on which Produced Groundwater will be used, those APNs are requested on this Production Report. For Non-Overlying Parties on Exhibit 3, and for members of the Antelope Valley United Mutuals Group, Produced Groundwater is assumed to be used within the respective service area. If Produced Groundwater is used outside of the service areas of Exhibit 3 Parties, or outside of parcels owned by the reporting Exhibit 4 Party, APNs of those areas are required.



its sole discretion, demonstrating that the well has been de-commissioned and the pumps de-equipped. The de-commissioning of any well shall be documented in the Watermaster records, and the Producer may not re-activate a de-commissioned well without first complying with the metering requirements of this Section 15. This includes complying with all county and local requirements for well destruction, if applicable, and Watermaster Engineer-specific requirements for de-equipping specific wells for alternative uses such as for monitoring purposes.

#### 16. INTERVENTION INTO JUDGMENT

a. Any Person who is not a Party or successor to a Party and who proposes to Produce Groundwater from the Basin, to store water in the Basin, to acquire a Production Right or to otherwise take actions that may affect the Basin's groundwater is required to seek to become a Party subject to the Judgment through a noticed motion to intervene prior to commencing Production. Prior to filing such a motion, a proposed intervenor shall consult with the Watermaster Engineer and seek the Watermaster's stipulation to the proposed intervention. A proposed intervenor's failure to consult with the Watermaster Engineer may be grounds for denying the intervention motion. If approved by the Court, such intervenor shall be a Party bound by the Judgment.

b. Willis Class Members (a class of non-pumping overlying property owners also called the Non-Pumper Class Members) are Parties to the Judgment and do not need to intervene.

#### 17. SUSTAINABLE GROUNDWATER MANAGEMENT ACT COMPLIANCE

Although not specified in the Judgment, the Watermaster has reporting requirements under the Sustainable Groundwater Management Act (SGMA) for adjudicated basins. Required data on water use, groundwater monitoring and other information is due to the California Department of Water Resources (DWR) by April 1 of each year (California Water Code Section 10720.8). Adjudicated basins that have Court filing dates for their Annual Reports after April 1 (such as the Antelope Valley Adjudication) are allowed to complete reporting later than April 1. DWR requires an initial filing on the SGMA website by April 1 of each year to notify DWR that requested data are not yet available; SGMA reporting can be completed when data become available. For the Antelope Valley Watermaster, this would coincide with the Court filing of the Annual Report on August 1. The Watermaster Engineer prepares these filings for Board review and approval and, upon approval, uploads the information to the DWR SGMA website.

##### a. Reporting Requirements

Pursuant to Water Code Section 10720.8, the Watermaster shall:

i. Submit to the DWR a copy of the final Judgment and any amendments thereto within thirty (30) days of the approval of these R&Rs by the Court and the establishment of the Watermaster;

ii. Submit to DWR any subsequent amendment made to the Judgment within ninety (90) days of entry;



iii. Submit to DWR by April 1 of each year a letter explaining that the annual report will be submitted to DWR by August 1 to coincide with the Court filing of the Annual Report; and

iv. Submit to DWR by August 1 of each year the following:

- (1) Groundwater elevation data unless otherwise submitted pursuant to Water Code Section 10932;
- (2) Annual aggregated data identifying groundwater extraction for the preceding year;
- (3) Surface water supply used for or available for use for groundwater recharge or in-lieu use;
- (4) Total water use;
- (5) Change in groundwater storage;
- (6) The Annual Report submitted to the Court; and
- (7) Other information as may be required from time to time by the Sustainable Groundwater Management Act as amended.

b. Other Compliance Requirement

To the extent reasonably practical and consistent with the terms of the Judgment, the Watermaster shall be responsible for complying with applicable obligations under the Sustainable Groundwater Management Act as amended to avoid having the Basin become designated a “probationary basin” or having the State or its agency(ies) adopt a “interim plan” for the Basin under the Sustainable Groundwater Management Act.

## 18. COURT REVIEW OF WATERMASTER ACTION

a. Court Review of Watermaster Action

Pursuant to the Judgment and these R&Rs, any action, decision, rule, or procedure of the Watermaster or the Watermaster Engineers shall be subject to review by the Court on its own motion or on timely motion by any Party. [¶20.3]

b. Effective Date of Watermaster Action

Any order, decision, or action of the Watermaster shall be deemed to have occurred on the date of the order, decision, or action. [¶20.3.1]

c. Notice of Motion for Judicial Review

Any Party may, by a regularly noticed motion, petition the Court for review within ninety (90) days of the action or decision by the Watermaster, except motions for review of assessments under the Judgment shall be filed within thirty (30) days of mailing of the notice of the assessment. The motion shall be deemed to be served to the Parties when: (a) it is served pursuant to Paragraph 20.7 of the Judgment by e-filing on the Watermaster website at [www.avwatermaster.org](http://www.avwatermaster.org) ; or (b) a copy, conformed as filed with the Court, has been delivered to

Watermaster Staff, along with the required payment to the Watermaster for the service costs. Unless ordered by the Court, any petition or motion shall not operate to stay the effect of any Watermaster action or decision which is challenged. [¶20.3.2; 20.3.3]

d. De Novo Nature of Proceeding

Upon filing of a motion or petition to review a Watermaster decision or action, the Watermaster shall notify the Parties of a date when the Court will take evidence and hear argument. The Court's review shall be de novo and the Watermaster decision or action shall have no evidentiary weight in such proceeding. [¶20.3.4]

e. Payment of Assessments Pending Review

Payment of assessments levied by the Watermaster hereunder shall be made pursuant to the time schedule developed by the Watermaster, notwithstanding any motion for review of Watermaster actions, decisions, R&Rs, including review of assessments implemented by the Watermaster. [¶20.5]

19. NON-COMPLIANCE, UNAUTHORIZED ACTIONS AND ENFORCEMENT

a. Unauthorized Production

i. If the Watermaster has cause to believe that an entity is engaged in unauthorized Production<sup>25</sup>, the Watermaster shall request additional information from that entity to explain the potential unauthorized Production.

ii. The Watermaster can send the entity a letter setting forth: (1) the nature and extent of the unauthorized Production; (2) the steps that the entity must take in order to come into compliance; (3) a specific deadline for the entity to complete the necessary steps; and (4) a warning that the Watermaster will initiate legal proceedings to compel the entity to complete the requirements if the necessary steps are not completed by the specified deadline. Deadlines will be set based upon a reasonable estimate of the time necessary to complete the process.

iii. Once the letter has been sent and the deadlines are set, the Watermaster can re-evaluate whether and when to seek judicial relief depending upon the circumstances of the specific unauthorized production.

b. Non-Compliance with Production Reporting or Meter Installation and Testing

i. A Party's failure to comply with any of the Production metering or reporting requirements is a violation of the Judgment, including but not limited to failure to install meters and/or submit post-installation documentation, and failure to report Groundwater Production. The Watermaster may seek injunctive and other relief from the Court, including recovery costs and attorneys' fees, in order to compel a Party's compliance with its Production

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<sup>25</sup> Unauthorized production can include production by entities not included in the Judgment, hauling and use of water from residential well(s) for use on parcels not associated with the Small Pumper, and any other production not specified in the Judgment or these R&Rs.

monitoring obligations. (§§ 6.5, 18.4.10, 18.4.12, 18.5.12.)<sup>26</sup> If the Watermaster has cause to believe that a Party is not in compliance with Production reporting or meter installation and testing, the Watermaster can send the non-complying Party a warning letter setting forth: (1) the nature and extent of the Party's non-compliance; (2) the steps that the Party must take in order to come into compliance; (3) a specific deadline for the Party to complete the necessary steps; and (4) a warning that the Watermaster will initiate legal proceedings to compel the Party to complete the requirements if the necessary steps are not completed by the specified deadline. Deadlines will be set based upon a reasonable estimate of the time necessary to complete the process.

ii. Once the letter has been sent and the deadlines are set, the Watermaster can re-evaluate whether and when to seek judicial relief depending upon the circumstances of the specific non-compliance.

c. Under Reporting

i. If the Watermaster has cause to believe that a Party's Production is in excess of that reported, the Watermaster can request additional information from the Party to substantiate its Production amount.

ii. The Watermaster can send the Party a letter setting forth: (1) the nature and extent of the under reporting; (2) the steps that the entity must take in order to come into compliance; (3) a specific deadline for the entity to complete the necessary steps; and (4) a warning that the Watermaster will initiate legal proceedings to compel the entity to complete the requirements if the necessary steps are not completed by the specified deadline. Deadlines will be set based upon a reasonable estimate of the time necessary to complete the process.

iii. Once the letter has been sent and the deadlines are set, the Watermaster can re-evaluate whether and when to seek judicial relief depending upon the circumstances of the specific under reporting.

d. Change in Purpose of Use Without Notice

i. If the Watermaster has cause to believe that a Party has had a change in purpose or use of groundwater without notice, the Watermaster can request additional information from the Party to explain its change in purpose or use of groundwater.

ii. The Watermaster can send the Party a letter setting forth: (1) the nature and extent of the change in purpose or use of groundwater; (2) the steps that the Party must take in order to come into compliance; (3) a specific deadline for the entity to complete the necessary steps; and (4) a warning that the Watermaster will initiate legal proceedings to compel the entity to complete the requirements if the necessary steps are not completed by the specified deadline. Deadlines will be set based upon a reasonable estimate of the time necessary to complete the process.

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<sup>26</sup> Conclusion of Memorandum to Antelope Valley Watermaster Board from Craig Parton, General Counsel, January 14, 2019



iii. Once the letter has been sent and the deadlines are set, the Watermaster can re-evaluate whether and when to seek judicial relief depending upon the circumstances of the specific change in purpose or use of groundwater.

e. Unauthorized Capture of Stored Water or Diversion of Storm Flow or Surface Water

i. If the Watermaster has cause to believe that an entity has engaged in unauthorized capture of stored water or diversion of surface water, the Watermaster can request additional information from the entity to explain its unauthorized capture of stored water or diversion of surface water.

ii. The Watermaster can send the Party a letter setting forth: (1) the nature and extent of the unauthorized capture of stored water; (2) the steps that the Party must take in order to come into compliance; (3) a specific deadline for the entity to complete the necessary steps; and (4) a warning that the Watermaster will initiate legal proceedings to compel the entity to complete the requirements if the necessary steps are not completed by the specified deadline. Deadlines will be set based upon a reasonable estimate of the time necessary to complete the process.

iii. Once the letter has been sent and the deadlines are set, the Watermaster can re-evaluate whether and when to seek judicial relief depending upon the circumstances of the specific unauthorized capture of stored water or diversion of surface water.

f. Transportation From Basin

i. Paragraph 6.4 of the Judgment generally prohibits exporting Groundwater from the Basin. If the Watermaster has cause to believe that an entity has transported water from the Basin in violation of Paragraph 6.4, the Watermaster can request additional information from the entity to explain its transportation of water from the Basin.

ii. The Watermaster can send the Party a letter setting forth: (1) the nature and extent of the transportation of water from the Basin; (2) the steps that the Party must take in order to come into compliance; (3) a specific deadline for the entity to complete the necessary steps; and (4) a warning that the Watermaster will initiate legal proceedings to compel the entity to complete the requirements if the necessary steps are not completed by the specified deadline. Deadlines will be set based upon a reasonable estimate of the time necessary to complete the process.

iii. Once the letter has been sent and the deadlines are set, the Watermaster can re-evaluate whether and when to seek judicial relief depending upon the circumstances of the specific transportation of water from the Basin.

g. Failure to Pay Assessments

Watermaster may recover delinquent assessments (including Administrative Assessments, Replacement Water Assessments, and Balance Assessments), together with interest thereon plus costs of suit, attorneys' fees and reasonable costs of collection, by filing a motion with the Court



to enforce the terms of the Judgment pursuant to Code of Civil Procedure section 664.6. Upon obtaining a money judgment against the delinquent Party, the Watermaster may record an Abstract of Judgment with any county recorder's office in which the delinquent Party may hold title to real property, thereby creating a lien on all real property interests held by the delinquent Party in that county, which will last for 10 years and may be renewed thereafter. The Watermaster may enforce the lien on any of the delinquent Party's properties by directing the Sheriff to levy and sell the real property under writ of execution at a public sale, with the sale proceeds applied to satisfy the judgment. Once the judgment is satisfied, the Watermaster shall record an Acknowledgement of Satisfaction of Judgment in all counties in which an Abstract of Judgment was recorded for the Party, thereby releasing the lien on the Party's real property.<sup>27</sup>

h. Compliance Prerequisites

The Watermaster may, in its reasonable discretion, require that any Party comply with all of its outstanding obligations under the Judgment, including without limitation payment of Assessments and compliance with metering and Production reporting obligations, prior to adopting any resolution approving an action requested by such Party.

i. Other Remedies

The remedies identified in these R&Rs are not intended to be exclusive. Any other remedy available to the Watermaster in law or equity may be employed at the discretion of Watermaster to address any circumstance related to management of the Basin in accordance with the Judgment and these R&Rs.

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<sup>27</sup> Conclusion of Memorandum to Antelope Valley Watermaster Board from Craig Parton, General Counsel, May 16, 2019

# Appendices

# Appendix A

## List of Forms

# Appendix A, List of Forms

The forms below are available on the Watermaster website ([www.avwatermaster.net](http://www.avwatermaster.net)) unless indicated otherwise.

## **Annual Production Reporting**

- Annual Water Production Report

## **Monthly Meter Reading Reporting**

- Monthly Flowmeter Production Reporting Form – 1 Meter
- Monthly Flowmeter Production Reporting Form – 2 Meters

## **Well Applications/Move Production Location**

- Small Pumper Qualifying Documentation
- Replacement Well Application (for Existing Production Rights or New Non-Production Well)
- New Point of Extraction Application
- Use of Production Right at a New Location

## **New Production Application**

- New Production Application
- Water Conservation Practices

## **Information and Transfer Requests**

- Request for Information
- Parcel Location Request
- Transfer Request Form

## **Storage**

- Storage and Recovery Agreement
- Annual Water Storage and Recovery Report

## **Meter Installation** *(to be completed and submitted by a Pre-Approved Meter Installer and Tester – not available on AVWM website)*

- Flowmeter Installation Documentation
- Pumping System Change Documentation

## **Meter Testing and Calibration** *(to be completed and submitted by a Pre-Approved Meter Installer and Tester – not available on AVWM website)*

- Field Test of Flowmeter Accuracy
- Flowmeter Calibration Documentation



# Appendix B

## Rules and Regulations Amendments

*(none as of March 2020)*

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**PROOF OF SERVICE**

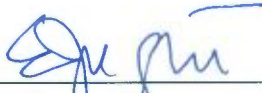
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

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 September 2, 2020, I served the foregoing document described as **NOTICE OF MOTION AND MOTION FOR APPROVAL OF ANTELOPE VALLEY WATERMASTER RULES AND REGULATIONS; DECLARATION OF PATRICIA ROSE; EXHIBITS A-F** 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.scefilings.org](http://www.scefilings.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 September 2, 2020, at Santa Barbara, California.

  
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 Signature  
 Elizabeth Wright