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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11 Coordination Proceeding
12 Special Title (Rule 3.550 (fka Rule 1550(b))

Judicial Council Coordination Proceeding No.
4408

13 **ANTELOPE VALLEY GROUNDWATER**
14 **CASES**

Santa Clara Case No. 2005-1-CV-049053
Los Angeles Superior Court
Case Nos. BC364553 and BC391869

15 Including Consolidated Actions:

Assigned to the Hon. Jack Komar
Santa Clara Superior Court

16 REBECCA LEE WILLIS, on behalf of herself
and all others similarly situated,

17 Plaintiff,

18 v.

19 LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40, et al.

20 Defendants

CLOSING STATEMENT IN SUPPORT OF
MOTION FOR ACTION AND
IMPLEMENTATION BY THE PEOPLE
CONCERN, INC. AS AGENT FOR BARREL
SPRINGS PROPERTIES, LLC.

*[Filed Concurrently with Notice of Lodging
Transcript of Proceedings of October 18, 2023]*

21 RICHARD A. WOOD, an individual, on behalf
22 of himself and all others similarly situated,

23 Plaintiff,

24 v.

25 LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40, et al.

26 Defendants.

Date: October 18, 2023
Time: 9:00 a.m.
Location: Dept. 3
Santa Clara Superior Court
191 North First Street
San Jose, CA 95113

27 AND RELATED ACTIONS
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1 **I. The People Concern, Inc., as agent for Barrel Springs Properties, LLC, (“The People**
2 **Concern”) hereby submits its Closing Statement.**

3 Kathy MacLaren, the sole “no” vote on Barrel Springs Properties’ New Production
4 Application testified twice: by declaration and in Court, where she was subject to examination
5 under Evidence Code section 776. MacLaren’s August 29, 2023 Declaration contradicts the record
6 before this Court, lacks foundation, proffers incompetent lay and expert opinion, and speaks to
7 matters outside the record that arose *after* MacLaren voted “no” on April 26, 2023. The People
8 Concern’s Objections to Evidence address MacLaren’s incompetent Declaration. The focus here is
9 on MacLaren’s elliptical testimony at hearing in which she testified that:

- 10 • She had grave concerns about the Watermaster Engineer’s January 11, 2023 Findings, but had no need to talk with the Engineer before voting “no”
- 11 • the issues were “not black-and-white”
- 12 • there were many uncertainties in the Findings but she did nothing to interrogate those uncertainties with either the Watermaster Engineer or The People Concern;
- 13 • while complaining that she would prefer the Watermaster Engineer to make Findings with more “wiggle room.”

14
15 Instead, she went to her comfort zone: real estate agents and officials in the community. With
16 them, she discussed issues having nothing to do with her mandate as a Watermaster to protect the
17 *Groundwater* Basin from material injury. She donned her “community activist” and former
18 Planning Commissioner hat to worry over potential impacts from The People Concern’s proposed
19 farm—not the new well—on transportation and wrap-around services in the *Antelope Valley*
20 Basin. Indeed, MacLaren’s word salad responses laid bare the illogic of her justification and
21 lackadaisical evaluation of the Application: she talked of the Basin, but she meant the community,
22 not the *Groundwater* Basin, which is her charge as Watermaster.

23 Fortunately, this Court’s review of her “no” vote is *de novo*. The evidence properly part of
24 the record—not Watermaster Board members MacLaren, Robert Parris, and Russ Bryden’s *post-*
25 *hoc* rationalizations concocted to shore up MacLaren’s arbitrary and capricious “no” vote—
26 confirms that while there are data gaps about the location for The People Concern’s new well,
27 those data gaps do not preclude affirming the Engineer’s determination of no Material Injury.
28

1 **II. THE APPLICATION PASSED THE REQUIRED RIGOROUS VETTING.**

2 **A. The Watermaster Engineer Is Responsible to Determine No Material Injury.**

3 To administer the Judgment and Physical Solution (“Judgment”), the Court directed
4 appointment of a Watermaster Engineer by the Watermaster Board with advice of the Advisory
5 Committee. (Judgment § 18.4.1; Antelope Valley Watermaster Rules and Regulations [“Rules”]
6 §§ 1, 7(a).) The Watermaster Engineer is charged with “perform[ing] engineering and technical
7 analysis and water administration functions provided for in the [Judgment].” (Rules §7(a).) In
8 fulfilling its duties, the Watermaster Engineer “**shall rely on and use the best available science,**
9 **records, and data to support the implementation**” of the Judgment and Rules. (Rules §7(b)(i),
10 emphasis added.) The Watermaster Engineer determined whether The People Concern has

11 established the reasonableness of the New Production **in the context**
12 **of all other uses** of Groundwater in the Basin **at the time of the**
13 **application[.]** ... Considering common law water rights and
14 priorities ... and all other relevant factors, the Watermaster Engineer
has the authority to recommend that the application for New
Production be denied, or approved on condition of payment of a
Replacement Water Assessment.

15 (Judgment § 18.5.13, emphasis added.) The Watermaster Engineer is to “consider, investigate and
16 recommend” action to the Watermaster Board [*id.*] “considering all the facts and circumstances
17 [that] such New Production will not cause Material Injury.” (Judgment § 18.5.13.2.) Material
18 Injury determinations include criteria such as groundwater levels, groundwater in storage,
19 groundwater quality, land subsidence, and natural recharge. (Judgment § 18.5.13.2.) Where
20 Material Injury is found and cannot be mitigated, the Watermaster Engineer must recommend
21 denial. (*Id.*) The importance of the Watermaster Engineer’s investigation and expertise is made
22 visible by the requirement that the Watermaster can *only* approve an application following
23 recommendation from the Watermaster Engineer. (Judgment § 18.6.)

24 **B. The Board’s Decision Must Be Tethered to the Facts: It Cannot Be Arbitrary**
25 **and Capricious.**

26 Following recommendation by the Watermaster Engineer for approval, the Watermaster
27 must approve by unanimous vote. (Judgment § 18.6.) Absent an unanimous vote, the Application
28 is denied and Watermaster Engineer recommendations must be appointed to the Court for de novo

1 review. (*Id.*; Judgment § 20.3.4.) No weight shall be given to the Board’s decision. (Judgment §
2 20.3.4.)

3 Long-standing case law supports independent review by this Court because the
4 Watermaster's decision to deny the New Production Application was quasi-adjudicative. (*Dominey*
5 *v. Dept. of Personnel Admin.* (1988) 205 Cal.App.3d 729, 736-37 ["an adjudicatory act involves
6 the actual application of such a rule to a specific set of existing facts." (citations)].) As such, The
7 People Concern is entitled to procedural due process. (*Beck Dev. Co. v. Southern Pacific Transp.*
8 *Co.* (1996) 44 Cal.App.4th 1160, 1188.) The trouble with MacLaren's "no" vote is that she did not
9 follow the rules—in the Judgment or the Rules—in adjudicating the Application.

10 Indeed, MacLaren admitted, again and again, that she had not followed the rules.
11 (MacLaren Tr. at 40:22 – 41:2 [fictitious "shadow of a doubt" standard]; 41:10-14 [no question on
12 the Application itself]; 41:20 – 42:10 [didn't disagree with Engineer's finding]; 65:15-19 [not
13 necessary for Engineer to review all the wells nearby];¹ 74:8-17 [did not question Engineer's
14 findings]; 75:25 – 76:8 [demand for recharge to same location as well not required by Judgment];
15 117:6 – 118:20 [Exh. 78 list of questions arose *after* April 26 vote].) In fact, MacLaren testified
16 that the entire purpose of the post-April 26 list of questions was so that the Watermaster Engineer
17 could “make a different recommendation.” (MacLaren Tr. 119:22-24.) Review by administrative
18 mandamus lies from quasi-adjudicative proceedings. (*Stanford Vina Ranch Irrigation Co. v. State*
19 (2020) 50 Cal.App.4th 976, 995 [citing Code Civ. Proc. §1094.5].) Here, the "arbitrary, capricious,
20 or without reasonable or rational basis" standard applies to MacLaren's adjudication, as do the
21 procedural due process protections afforded The People Concern by the standard of review
22 applicable to quasi-adjudicative proceedings. (*Save Civita Because Sudbury Won't v. City of San*
23 *Diego* (2021) 72 Cal.App.5th 957, 984 [citing *County of Los Angeles v. City of Los Angeles* (2013)
24 214 Cal.App.4th 643, 648-55] and 983 [citing *Beck, supra*, 44 Cal.App.4th at p. 1188].)

25 Now, facing a challenge to MacLaren's haphazard review of the Application and her
26 unupportable "no" vote, the Watermaster pulls out a *new* list of things that it needs from The

27
28

¹ But see MacLaren Tr 55:23-56:4 [well for which Watermaster did not have information].

1 People Concern to approve is Application. (MacLaren Tr. 127:18 – 128:22.) The Watermaster's
2 new list of requirements violates The People Concern's due process rights by moving the goal
3 posts. (MacLaren Tr. 137:15 – 138:14.) And MacLaren admits the purpose of the list was to give
4 the Watermaster Engineer cover to change its recommendation. (MacLaren Tr. 119:22-24.) The
5 Watermaster filed three declarations from Watermaster Board members, including one who was
6 not at the April 26, 2023 meeting,² to talk about these extra things, rather than application of the
7 Judgment and Rules to the Application. Indeed, Bryden testifies by declaration that had he known
8 about all the alleged difficulties the Watermaster Engineer had in securing the cooperation of and
9 information from The People Concern, he *might* vote differently. But Bryden did not respond—
10 just like MacLaren—to Maceri's emails³ [Exh. 22] offering to meet and answer any and all
11 questions about the Application before he voted "yes". Bryden's inadmissible testimony³ by
12 declaration is rank speculation based on counterfactuals.

13 In any event, even if the Watermaster's new list of information, generated long after the
14 April 26, 2023 vote comported with the Judgment and Rules, that list *cannot be considered* in
15 determining whether the Application should have been granted. (*County of Mono v. City of Los*
16 *Angeles* (2022) 81 Cal.App.5th 657, 667 ["extra-record evidence is largely inadmissible in
17 administrative mandamus cases"].) The Court's inquiry is whether the Watermaster Engineer used
18 "the best available data" when she "established the reasonableness of the New Production **in the**
19 **context of all other uses** of Groundwater in the Basin **at the time of the application**[.] ."
20 (Judgment § 18.5.13, Rules §7(b)(i).)

21 **C. The Watermaster Engineer Recommended the Application for Approval.**

22 The Watermaster Engineer made her recommendation for approval on January 11, 2023,
23 where she published a comprehensive report supporting her findings. (Mot. at Exh. 5, at pp. 14-

24 _____
25 ² The People Concern moved to strike the August 29, 2023 Declaration of Robert Parris and the
26 August 31, 2023 Declaration of Russ Bryden.

27 ³ The People Concern obtained records from the Watermaster on October 10, 2023 in response to
28 its August 25, 2023 Public Records Act request. The Watermaster produced no records of email
communications by, with, or among Board members and no records of Board member calendars,
even though these were requested. Exhibit 22 comes from The People Concern's records.

1 18.) Importantly, the Watermaster Engineer concluded that:

- 2 • The closest wells to the Barrel Springs Property are domestic wells, but it is likely
3 that “they are partially or fully hydrologically disconnected from the area of the
4 proposed Barrel Springs well. Other homes to the north and northwest are served
5 by Palmdale Water District and are not likely vulnerable to domestic well impacts.”
6 (*Id.* at pp. 16-17.)
- 7 • “[G]iven the conservative assumptions for aquifer parameters and the likely barrier
8 effects of local faulting, the applicant’s analysis may be over-estimating impacts”
9 of potential drawdown. (*Id.* at p. 17.)
- 10 • “Because Barrel Springs Properties⁴ will be required to pay a Replacement Water
11 Assessment for production, there is no Material Injury associated with groundwater
12 storage and sustainable yield.” (*Id.*)
- 13 • “Todd Groundwater has determined that Barrel Springs Properties’ application for
14 New Production is complete and is determined to have negligible material injury
15 **based on the available data.**” (*Id.*, emphasis added.)

16 The Watermaster Engineer’s report calls out one specific concern—that hydrogeological
17 uncertainty in the area made it difficult to definitively rule out future impacts on existing wells.
18 (*Id.*) Nevertheless, she proposed to control for the uncertainty by recommending that “the
19 Watermaster require the applicant to conduct an aquifer test on the new well for an improved
20 understanding of aquifer conditions[.]” (*Id.*) The Applicant agreed to conduct the aquifer test.
21 (Wells Tr. 174:22-25.) Documentation produced by the Watermaster Engineer in response to a
22 Public Records Act request confirmed that the well confirmed to be nearby are serviced by
23 Palmdale Water District, rendering the concerns about potential drawdown moot. (Exh. 31.)

24 **D. The Watermaster Engineer Has Not Changed Her Recommendation.**

25 The Watermaster Engineer did not change the Findings between January 11, 2023 and the
26 time the Board voted in April. (Wells Tr. 188:25-189:6 [“No, ma’am. We did not change our
27 letter. And on the April meeting, I gave the exact same presentation with the same slides that
28 Phyllis gave”].) Even with all that has transpired since April 26, 2023, and all the back-and-forth
regarding MacLaren’s vote, the Watermaster Engineer’s Findings stand: “we still stand by what
we said, taking into account the high level of uncertainty.” (Wells Tr. 189:7-11.) The Watermaster

⁴ The prosecution of this New Production Application does not affect Barrel Springs Properties, LLC's status as a member of the Wood Class.

1 Engineer used the “best available science, records, and data” to make the findings by which it
2 stands. (Rules §7(b)(i).)

3 Indeed, the uncertainties with which the Watermaster Engineer was occupied cut in favor
4 of approval because the hydrogeologic data gaps in the area proposed for the new well, when
5 coupled with known data on faulting in that area, indicate that the San Andreas Fault zone may
6 function as a partial hydrogeologic barrier between The People Concern’s proposed well and the
7 rest of the Groundwater Basin. (Wells Tr. 158:6-14.)

8 **III. THERE IS NO RATIONAL BASIS TO DENY THE APPLICATION.**

9 **A. De Novo Review Does Not Permit Consideration of Extra-Record Evidence.**

10 The Judgment dictates *de novo* review of the Watermaster’s decision *and* that the
11 **Watermaster’s decision or action shall have no evidentiary weight”** in the court proceeding.
12 (Judgment 20.3.4, emphasis added.) In other words, MacLaren’s “no” vote is entitled to no
13 weight. *De novo* review does not permit consideration of inadmissible evidence. (See *County of*
14 *Mono, supra*, 81 Cal.App.5th at p. 667; see also Evid. Code § 305 [irrelevant evidence is
15 inadmissible].) Review is therefore confined to the record through April 26, 2023 only, and,
16 specifically, whether the Watermaster Engineer properly assessed the risk of Material Injury when
17 recommending approval.

18 **B. MacLaren’s Testimony Confirms She Ignored Her Watermaster Duties in**
19 **Favor of Planning Concerns.**

20 1. MacLaren looked in all the wrong places before she voted “no.”

21 MacLaren is the only reason the Application was denied. (See Judgment § 18.6 [requiring
22 (1) recommendation of a project for approval by the Watermaster Engineer; and (2) a subsequent
23 unanimous approval by the Board].) After the The People’s Concern made its Motion, the Court
24 rightly determined that testimony from MacLaren was required to understand whether there was a
25 basis for her “no” vote. Testimony confirms there was not. MacLaren’s testimony on October 18,
26 2023 hopped around in time, conflating concerns she has expressed *since* the relevant time period
27 (i.e., post-April 26, 2023) with the bases for her “no” vote on April 26, 2023.

28 At hearing, MacLaren’s longwinded responses recounted her “due diligence” and all she

1 did to resolve the “concerns” that allegedly supported her “no” vote. Yet, after hours of
2 examination, MacLaren failed to articulate even one concern that she *had* and *had raised* between
3 January 11, 2023, when the Watermaster Engineer recommended approval and April 26, 2023,
4 despite counsel’s best effort to rehabilitate her by eliciting her claim to have read the January 11,
5 2023 Findings *ad nauseum* between the January 25, 2023 and April 26, 2023 Board meetings.
6 (MacLaren Tr. 107:11 – 108:1.)

7 Tellingly, MacLaren testified that she did not even attempt to allay her alleged concerns by
8 seeking input from the only two bodies that could have allayed them: the Watermaster Engineer
9 and Applicant, The People Concern. Indeed, she admitted that she failed to respond to two emails
10 from John Maceri, the CEO of The People Concern [Exh. 22] offering to answer any questions she
11 might have (MacLaren Tr. 7-12.) As for talking to the Engineer, she didn’t do that because she
12 “understood” the Findings and there was no need. (MacLaren Tr. 41:21 – 42:10.)

13 MacLaren’s testimony as to why she failed to discuss alleged concerns with the
14 Watermaster Engineer appears grounded in her excuse that she was concerned about “things that
15 we don’t have” such as “data from surrounding wells” but then clarifies that, “we [do] have *some*
16 data.” (MacLaren Tr. at 74:24-75:3, emphasis.) She then backtracks again and says,

17 So it’s not a matter of having the question. All the information that I
18 need is here. And there are many things that are left kind of open-
19 ended or that we are assuming that it will not cause this or what the
other effects are.

20 (MacLaren Tr. at 75:13-17.) The Watermaster Engineer testified that she did not speak with
21 MacLaren regarding the Application *at all* before MacLaren voted. (Wells Tr. 90:2-5.)

22 MacLaren claims she had concerns regarding “so many complexities to everything” in the
23 Basin including, recharge (MacLaren Tr. at 75:23), subsidence (at 76:9), and contamination (at
24 101:10-17.) Each of these “concerns” falls squarely within the Material Injury analysis already
25 performed by the Watermaster Engineer. (See Rules § 7(b)(xvii.)) The April 26 hearing was not
26 recorded [MacLaren Tr. 36:21-24] and the Watermaster’s only contemporaneous written record of
27 MacLaren’s “concerns” on April 26 belies this testimony. (Exh. 36.) MacLaren alleges concerns
28 *now* about injury to the Basin, but neglected to speak with the Watermaster Engineer about the

1 exact items the Engineer had already carefully evaluated. (Wells Tr. 90:2-5.)

2 MacLaren also denied the Applicant’s requests to meets with her in person or over Zoom if
3 that would be more “comfortable” for her, citing a generalized discomfort with meeting one-on-
4 one, stating,

5 [s]ometimes I get an uncomfortable feeling, and I usually go with
6 that uncomfortable feeling. * * * If you’re having a one-on-one
conversation with somebody, it becomes a he said/she said.

7 (MacLaren Tr. 71:6-10.) But MacLaren invented the one-on-one constraint, which is belied by the
8 content of Mr. Maceri’s emails and the fact that they were addressed to her and fellow board
9 member Bryden. (Exh. 22.) When pressed with the question: “[I]f you had questions and concerns
10 about the project, why didn’t you reach out to Barrel Springs between . . . January 11 and April 26
11 about the Project?” MacLaren responded that she “[didn’t] believe that they necessarily could
12 answer those in-depth questions, that even not I – I don’t answer. Those are more expert things
13 that we’re making decisions on.” (MacLaren Tr. 73:13-22.) When given the opportunity to specify
14 what questions she had that remained unanswered, she stated: “So it’s not so much questions” but
15 rather “concerns and different things” in the Watermaster Engineer’s January 11, 2023 Findings.

16 In sum, MacLaren had *in-depth questions*, or *concerns*, or *expert things*, or *different things*
17 that she herself didn’t address, she assumed the Applicant could not and, with no answers on offer,
18 was compelled to vote “no.” MacLaren’s testimony is preposterous. She tells the Court that she
19 acted in good faith, did her due diligence and tons of work, research, and analysis, but just
20 happened to fail to ask the *very people who would know* the answers to her burning questions even
21 as she cannot make up her mind whether they were in fact *questions*. Now she is rueful and admits
22 she might have handled things better, but nonetheless stands by her fact- and standard-free “no”
23 vote. MacLaren’s conduct is a textbook arbitrary—no reason for her “no”—and capricious—made
24 following a search high and low for information in the places she knew it did not exist—decision
25 making.

26 2. MacLaren’s caprice betrays that her “no” vote is based on something so
27 indefensible that she cannot articulate aloud.

28 MacLaren’s testimony contains U-turn after U-turn as she tries to come up with a basis,

1 *any basis*, for her “no” vote. She leans on her authority as a Board member to disregard the
2 Watermaster Engineer’s Findings, but forgets that she has to have a *reason* to vote “no.” She
3 testifies that she heavily researched the “project” by talking to City Managers and Vice-Mayors
4 and Mayors and realtors, to get at all the other unspecified stuff that worried her about the
5 Application. The concerns expressed by these lay people about why The People Concern should
6 have chosen the Barrel Springs property for its farm when other farmland is available is irrelevant
7 to the task set before her to evaluate the Application and risk to the Groundwater Basin.
8 (MacLaren Tr. 67:10-15.) She climbs into the life raft she constructs out of the Watermaster
9 Engineer’s use of the word *uncertainty*, but ignores that the uncertainty that matters is uncertainty
10 about material injury to the Groundwater Basin, not transportation impacts to the Antelope Valley
11 community. The Watermaster Engineer is not required to have perfect information to make a
12 recommendation. (Rules §7(b)(i).) And, MacLaren has no answer for the fact that The People
13 Concern addressed the only uncertainty the Watermaster Engineer testified to as remaining by
14 agreeing to make an aquifer test. (MacLaren Tr. 86:4-6; Wells Tr. 174:22-25.) Instead, MacLaren
15 quibbles. Yes, the aquifer test—sometimes denominated a test well—was agreed to, no it wasn’t,
16 no she can’t be sure, she doesn’t remember, she doesn’t know. But she’s certain that her “no” vote
17 is and remains absolutely justified on the *fata morgana* of nebulous *questions, concerns, or things*.

18 MacLaren looked in all the wrong places for reasons to ensure her “uncertainties”
19 remained unresolved. Looking for information where you know it cannot be found and then using
20 absence of information is *bad faith*, not due diligence. The Judgment specifically prohibits
21 MacLaren’s conduct and the Court cannot countenance it. MacLaren testified,

22 I have many friends . . . commercial realtors, planning
23 commissioners, lots of different people. So, I would have
24 conversations with them about this project, what they see. And so a
25 lot of people were, like, asking me, I don’t – like why are they
picking this project to do, you know, this area, when we have so
many vast areas of farming that might be a lot easier than where this
project is.

26 (MacLaren Tr. 67:10-15.) She admitted she “had discussions [about the Project] with – in our
27 producers meetings, with attorneys, people that had been involved with this adjudication for 20-
28 plus years.” (MacLaren Tr. 74:10-12.) In other words, her inquiry between January 11 and April

1 26, 2023 included discussions with area realtors, lawyers, Palmdale city managers, the Vice-
2 Mayor (or Mayor) of Lancaster, public water suppliers, pumpers – none of whom had completed
3 any technical investigation of the Project. (MacLaren Tr. 95:20-96:3.)

4 On redirect, MacLaren admitted that her concerns about recharge to the well site area are
5 not required by the Judgment and were not required at any relevant time. (MacLaren Tr. 122:4-
6 14.) Taking it upon herself to invent additional criteria for consideration of a New Production
7 Application, further evidences that MacLaren’s “no” vote was capricious.

8 3. Now that she is being challenged, MacLaren attempts to shore up her “no”
9 vote with facts not before her at the time she voted and concerns irrelevant
to her decision-making as a Watermaster.

10 In opposition to The People Concern’s Motion, MacLaren submitted a declaration she did
11 not write that used defined terms she did not check before executing it under penalty of perjury.
12 [MacLaren Tr. 48:18 – 49:16.] At hearing she admitted that “what is memorialized in [her]
13 declaration is *more of what happened after we met again*” following her vote to deny the
14 Application. (MacLaren Tr. at 38:13-15, emphasis added.) That later meeting took place on May
15 25, 2023. (Exh. 78.) Her declaration also states that “what has transpired since April 26, 2023 . . .
16 confirms to me that my no vote was amply supported by the facts and substantial evidence in the
17 record.” (MacLaren Decl. at ¶ 3.) But, anything that MacLaren purports to have learned following
18 her “no” vote is irrelevant because her vote had already been cast. No *post-hoc* justification for her
19 vote can show a lack of caprice. And, as shown above, there is no rational basis for MacLaren’s
20 “no” vote.

21 **IV. The Court Must Conclude That the Engineer’s Finding of No Material Injury Is**
22 **Well-Supported and Should Approve the New Production.**

23 MacLaren’s vote is entitled to no evidentiary weight. (Judgment 20.3.4.) Indeed, even if
24 this were not the standard, MacLaren’s testimony was so contradictory and convoluted that is
25 impossible to discern the actual reason she voted “no.” Based on her testimony, it’s difficult to
26 know if MacLaren knows why she voted “no.” Certainly, none of her testimony tethered that “no”
27 vote to her duties as Watermaster. The Court’s *de novo* review of the Application and the
28 Watermaster Engineer’s Findings, when coupled with the agreement of The People Concern to

1 undertake an aquifer test to address concerns about data gaps, should confirm that the New
2 Production Application does not threaten Material Injury to the Groundwater Basin. The
3 obligation to purchase replacement water protects the Antelope Valley Groundwater Basin.
4 MacLaren’s testimony highlighted not only that the Watermaster Engineer came to the correct
5 decision, but that there is in fact no rational basis to deny the Application.

6 MacLaren’s ever-evolving story cannot be credited because it was riddled with
7 contradictions. Some of these are summarized above. To facilitate the Court’s review of
8 MacLaren’s changing story, The People Concern appends an Appendix A to this Closing
9 Statement which juxtaposes three temporal milestones in MacLaren’s story and sets forth
10 corroborating testimony which demonstrates that her “no” vote has no rational basis.

11 Meanwhile, the Watermaster Engineer has remained steadfast. Even in light of the fuss
12 kicked up by MacLaren, the expert charged with scientific and data-driven analysis continues to
13 endorse its January 11, 2023 Findings of no Material Injury. (Wells Tr. 189:7-11.) When all the
14 evidence is considered, the evidence leads to only one conclusion: the People Concern’s New
15 Production Application risks no Material Injury to the Antelope Valley Groundwater Basin and
16 must be approved.

17 **V. HOUSEKEEPING**

18 The People Concern respectfully requests that the Court rule on its pending Motions to
19 Strike and Objections to Evidence.

20 DATED: October 30, 2023

HANSON BRIDGETT LLP

21
22 By: 

23 CLARE H. COLLINS
24 ROSSLYN HUMMER
25 MADISON D. DIZINNO
26 Attorneys for BARREL SPRINGS PROPERTIES,
27 LLC
28

APPENDIX A

Appendix A – Relevant Testimony

TOPIC: Test Well/Aquifer Test		
April 26, 2023	August 29, 2023	October 18, 2023
<p>• "Private- kathy felt that a test well would be required"</p> <p><i>Exh. 36; Testimony of Arden Wells at 172:18-22; 173:18 – 174:21¹</i></p>	<p>• "My concerns included the potential consequences and fallout if the well proposed to be constructed to serve the Project should fail, leaving 144 people using 145 proposed bathrooms without a certified domestic water supply to cover their proposed 47,000 square feet of buildings"</p> <p><i>August 29, 2023 Declaration of Kathy MacLaren ("MacLaren Decl.") at ¶5: 2:27-3:2</i></p> <p><i>Barrel Springs' Objections to Evidence ("Objection") No. 2</i></p> <p style="text-align: center;">- # -</p> <p>• "(g) whether Barrel Springs would consider conditioning the approval of the Project on a successful aquifer test that demonstrated sufficient capacity to meet Project demands."</p> <p><i>MacLaren Decl. at ¶6: 3:12-14</i></p> <p>Objection No. 10</p>	<p>Q. It's your testimony that you have discretion to overrule the Watermaster Engineer's determination on whether or not a test well can be required. Is that your testimony?</p> <p>A. If I think I understand the reason for the board, is that we are to look at that, but that is not to make the final decision. That is why we have board members to make that decision. So yes.</p> <p><i>MacLaren Tr. at 39:24 – 40:7</i></p> <p style="text-align: center;">- # -</p> <p>Q. And you have that discretion to require a test well even though the Watermaster Engineer, in concert with counsel to the Watermaster, made the determination that a test well could not be required for Barrel Springs Properties. Is that your testimony?</p> <p>A. So part of what you said in your question, you mentioned about the test well. I'm saying my discretion is to be able to vote no if I do not believe upon a shadow of a doubt that I'm causing harm to the basin.</p> <p>This is something that is a very, long, hard fought thing that we have all gone through,</p>

¹ There is a typo in the transcript. Ms. Hummer's question was transcribed as, "So Ms. MacLaren is saying that she felt her testimony would be required?" but should read, "...saying she felt a test well would be required."

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TOPIC: Test Well/Aquifer Test

April 26, 2023 August 29, 2023 October 18, 2023

		and these decisions cannot be taken lightly. Q. Where in the judgment and physical solution does it say you have to have evidence beyond a shadow of a doubt before you can approve a new production application? A. I don't believe that says that in the judgment. That was my wording. <i>MacLaren Tr. at 40:8-41:2</i> - # - Q. Ms. MacLaren, isn't it true that even though the Watermaster Engineer in concert with counsel determined that a test well would not be required, that Barrel Springs Properties agreed at the hearing on April 26, 2023, to do an aquifer test? A. I think they did agree on that, on doing an aquifer test. <i>MacLaren Tr. at 85:12-18</i>
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TOPIC: Water Calculations		
April 26, 2023	August 29, 2023	October 18, 2023
	<ul style="list-style-type: none">• "(b) whether the estimated ten (10) acre-feet for domestic water supply for the Project was realistic" <p><i>MacLaren Decl. at ¶6: 3:5-6</i></p> <p>Objection No. 5</p>	<p>Q. Do you know which amount Barrel Springs Properties used to calculate the domestic water use of the project?</p> <p>A. I know that they were asking for ten acre feet.</p> <p>Q. So you believe there was uncertainty in whether or not the calculation was sufficient to supply the domestic water needs of the project even though the Watermaster Engineer had determined that the project could be approved -- that the new production application could be approved?</p> <p>A. So I think that's what I stated in -- yes.</p> <p><i>MacLaren Tr. at 88:20 – 89:1</i></p> <p>- # -</p> <p>Q. You didn't ask these questions before April 26th, 2023.</p> <p>A. Those questions were outlined in the report that I read and I still felt that there was uncertainty.</p> <p><i>MacLaren Tr. at 135:17-21</i></p>

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TOPIC: San Andreas Fault Zone		
April 26, 2023	August 29, 2023	October 18, 2023
<p>• "Todd Groundwater presented their findings and answered questions about the San Andreas Fault and the aqueduct's unknown effects on the aquifer. Before the Watermaster Board voted, the Board's Attorney told the Board that these issues are not relevant and that there was no reason to deny the application."</p> <p><i>Declaration of David W. Larson, PE at ¶25: 6:20-23</i></p> <p>- # -</p> <p>• "Kathy MacLaren reiterated the issue of the unknown effects on the aquifer, and then the Board voted."</p> <p><i>Declaration of David W. Larson, PE at ¶25: 6:23-24</i></p>	<p>• "I did not believe the Findings thoroughly addressed such issues as: (a) the fact the Project was planned to be constructed directly on the San Andreas fault zone"</p> <p><i>MacLaren Decl. at ¶6: 3:4-5)</i></p> <p>Objection No. 4</p>	<p>Q. And some of that hydrogeologic uncertainty is driven by the fact that the project, the well, is located in the fault zone for the San Andreas Fault, correct?</p> <p>A. Yes. Correct.</p> <p><i>Wells Tr. at 154:21-25</i></p> <p>- # -</p> <p>Q. Did you attend the January board meeting?</p> <p>A. Yes.</p> <p>Q. Okay. So you were at the board meeting, and the new production application was not ruled upon. There was no vote taken, correct, on January?</p> <p>A. Correct. Phyllis gave a presentation to provide more information to the board. And we discussed it, but there was no vote.</p> <p>Q. And that presentation was based in part on your January 11 findings, correct?</p> <p>A. Correct. What I recall from the presentation is that it gave a summary of the project and it included some information about what the aquifer conditions tend to look like in the San Andreas Fault zone in Antelope Valley and why there was such a high level of uncertainty on this application that surpassed what we typically have in most of the applications that we consider.</p> <p><i>Wells Tr. at 188:9-18</i></p>

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TOPIC: San Andreas Fault Zone		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>Q. Part of why there was a higher level of uncertainty was the location of the proposed well, correct?</p> <p>A. Yes, the geologic study.</p> <p>Q. Because in that area, there aren't a lot of other wells, are there?</p> <p>A. There are not. We have very little data about the local subsurface condition. And because it is in the fault zone, there are sort of -- there's a high potential for somewhat isolated alluvial pockets among the bedrock.</p> <p>And we don't know if the fault in that area is acting as a partial or full hydrogeologic barrier.</p> <p><i>Wells Tr. at 158:214</i></p>

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TOPIC: Subsidence		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>Q. Didn't the Watermaster Engineer determine that subsidence was not a concern for this well?</p> <p>A. It's not a straight yes or no question. I feel there was -- to the best of their knowledge, there was -- there was some things saying no. But I still was concerned about that.</p> <p>I wasn't taking it, and I felt that doing a test well or doing other things in that area could have gave us more information so we could be ensured that the decision we are making is the correct decision.</p> <p><i>MacLaren Tr. at 58:17 – 59:2</i></p>

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TOPIC: Recharge		
April 26, 2023	August 29, 2023	October 18, 2023
	<ul style="list-style-type: none">• "(e) whether Replacement water purchased by Barrel Springs would be capable of recharging the Basin in the area near the point of extraction" <p><i>MacLaren Decl. at ¶6: 3:9-10</i></p> <p>Objection No. 8</p>	<p>Q. Ms. MacLaren, where in the judgment and physical solution does it say that recharge has to go back at the location of the well?</p> <p>A. I'm not saying that's what the judgment says. I'm saying as a person who is in charge of the health of the basin, you should be concerned where wells are put if there cannot be sufficient recharge, because subsidence is something that is a very serious, serious issue.</p> <p><i>MacLaren Tr. at 75:25 – 76:8</i></p> <p>- # -</p> <p>Q. Okay. Let's go through these requests. [Exh. 78]</p> <p>Item number two, whether replacement water is capable of recharging the pertinent project area.</p> <p>We discussed this this morning. Where in the judgment and physical solution is a requirement set forth that recharged water be recharged in the basin and the location of the well?</p> <p>A. I believe that there are things that we should be taking into consideration for us knowing, and I don't know that they could put every fine detail asking for every single thing, but I definitely know that it is very pertinent whether or not you can recharge where you're doing a project in a well that is removing water from our ground table.</p> <p>Q. The new production application form that the</p>

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TOPIC: Recharge		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>Watermaster board has approved, which is tailored to comply with the judgment of physical solution, doesn't require an analysis of replacement water to be replaced at the location it is extracted from, does it?</p> <p>A. So maybe this is something we should ask to be considered and put in, because it definitely is something that is very pertinent to our aquifer.</p> <p>Q. But as of right now, it's not a requirement, correct?</p> <p>A. I guess not.</p> <p>Q. And it wasn't a requirement in April 2023 either, correct?</p> <p>A. I guess not.</p> <p>Q. Or January 2023?</p> <p>A. Probably not.</p> <p>Q. Or September 2022 when the application was submitted?</p> <p>A. I would guess not.</p> <p><i>MacLaren Tr. at 121:6 – 122:18</i></p>

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TOPIC: Vicinity		
April 26, 2023	August 29, 2023	October 18, 2023
	<ul style="list-style-type: none">• "(c) the potential impact on other wells in the vicinity" <p><i>MacLaren Decl. at ¶6: 3:7</i></p> <p>Objection No. 6</p>	<p>Q. So Ms. MacLaren, isn't it true that the Watermaster Engineer determined that there were no wells in the vicinity that were likely to be affected by Barrel Springs Properties' proposed well?</p> <p>A. I think in having discussions with Phyllis, that that -- that may not necessarily be true, that there is a well that we don't have the information on.</p> <p><i>MacLaren Tr. at 55:23-56:4</i></p> <p>- # -</p> <p>Q. Do you know the standard the Watermaster Engineer uses for evaluating whether it needs to look at a well in the vicinity of a new production application?</p> <p>A. No.</p> <p><i>MacLaren Tr. at 64:13-17</i></p> <p>- # -</p> <p>Q. So you don't know as you look at Exhibit 5, page 30 -- which is part of the Geosyntec analysis -whether the Watermaster looked at these wells shown on Figure 1 in the Geosyntec report?</p> <p>A. To make a better answer, I would have liked to then have this note here, as well their analysis to make that determination. Because right now I'm looking at this, and you're asking me the question, and if I was anywhere else and I needed to do that, I would need to be able to then look at the analysis to really give you</p>

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TOPIC: Vicinity		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>a fair answer.</p> <p><i>MacLaren Tr. at 64:13 -65:7</i></p> <p>- # -</p> <p>Q. And the Watermaster Engineer does not address all the wells shown on Figure 1 in the Geosyntec report and those findings, does she?</p> <p>A. I don't think that that's necessary to review all the wells.</p> <p><i>MacLaren Tr. at 65:15-19</i></p> <p>- # -</p> <p>Q. Part of why there was a higher level of uncertainty was the location of the proposed well, correct?</p> <p>A. Yes, the geologic study.</p> <p>Q. Because in that area, there aren't a lot of other wells, are there?</p> <p>A. There are not. We have very little data about the local subsurface condition. And because it is in the fault zone, there are sort of -- there's a high potential for somewhat isolated alluvial pockets among the bedrock.</p> <p>And we don't know if the fault in that area is acting as a partial or full hydrogeologic barrier.</p> <p>Q. So the data are not available to you, correct?</p> <p>A. Correct.</p>

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TOPIC: Vicinity		
April 26, 2023	August 29, 2023	October 18, 2023
		<p><i>Wells Tr. at 158:2-17</i></p> <p>- # -</p> <p>Q. But no additional data was provided after the Watermaster Engineer requested it, correct? That's your testimony?</p> <p>A. Correct. We were not given information from Barrel Springs in regards to these wells.</p> <p>Q. And you yourself were not able to locate information about those wells, correct?</p> <p>A. Correct.</p> <p>Q. So my question is, it's possible the reason you didn't get additional information about the wells from Barrel Springs is that Barrel Springs itself was not able to locate that information, correct?</p> <p>A. Yes, that is possible.</p> <p><i>Wells Tr. at 166:19 – 167:6</i></p>

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TOPIC: Material Injury		
April 26, 2023	August 29, 2023	October 18, 2023
	<ul style="list-style-type: none">• "I believe as of April 26, 2023, and I continue to believe today, that the Project has the potential to cause harm to the Basin" <p><i>MacLaren Decl. at ¶15: 5:7-8</i></p> <p>Objection No. 13</p> <p>- # -</p> <ul style="list-style-type: none">• "I voted not to approve the Application because I considered the aforementioned concerns to pose a significant enough risk to the health of the Basin." <p><i>MacLaren Decl. at ¶7: 3:15-16</i></p> <p>Objection No. 11</p>	<p>Q. Your testimony was that you had questions about the Barrel Springs Properties' application ahead of the April 26 meeting, correct?</p> <p>A. I don't necessarily say that the application itself I had questions about.</p> <p><i>MacLaren Tr. at 41:10-14</i></p> <p>- # -</p> <p>Q. And isn't it Ms. Stanin who prepared the findings for the board report, determining that no material injury would arise from the new production application submitted by Barrel Springs Properties?</p> <p>A. Yes.</p> <p>Q. And you disagree with that determination, that's your testimony?</p> <p>A. I wouldn't necessarily, I disagree with it.</p> <p>I felt that the way it was worded, it's not necessarily a simple I agree to and you disagree.</p> <p>It's not -- it's not a black-and-white issue.</p> <p>Q. But you didn't talk to her ahead of the meeting to understand it, did you?</p> <p>A. I totally understood it. If I didn't understand it, I would have asked a question.</p> <p><i>MacLaren Tr. at 41:21 – 42:10</i></p>

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TOPIC: Material Injury		
April 26, 2023	August 29, 2023	October 18, 2023
		-#-
		Q. Where in the judgment and physical solution does it say you have to have evidence beyond a shadow of a doubt before you can approve a new production application?
		A. I don't believe that says that in the judgment. That was my wording.
		<i>MacLaren Tr. at 40:22 – 41:2</i>
		- # -
		THE COURT: It's Exhibit 5, Groundwater Report. In particular, I'd like you to look at page 4, the last paragraph on that page.
		* * *
		THE COURT: Well, maybe we can ask her a question.
		Did you think this was an unconditional recommendation to grant the permit from the Watermaster Engineer?
		THE WITNESS: So meaning, I took this to mean that -- I still can vote no even though it is saying they thought it was negligible material injury, that it is my job to take this information.
		And as a board, we're supposed to look at it and still make a determination.
		<i>MacLaren Tr. at 83:7 – 85:9</i>
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TOPIC: Material Injury		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>Q. What input did the City of -- the vice mayor of the City of Lancaster give you about the new production application?</p> <p>A. He was -- he was concerned as well as other community members are concerned.</p> <p>Q. What was he concerned about?</p> <p>A. Well, we're concerned about our region and we just want to make sure that we're able to take care of everybody in our region. We want to make sure we have good -- the best transportation. We want to make sure we have wraparound services.</p> <p>Q. So the vice mayor of Lancaster was concerned that the new production for the Barrel Springs property would impact regional issues related to transportation?</p> <p>A. I didn't say that. I said I spoke with the mayor of Lancaster, like, talking to him.</p> <p>Q. What were his concerns about the new production application?</p> <p>A. I don't necessarily think that he looked at the application. It was more -- it wasn't a technical conversation that I had with him.</p> <p><i>MacLaren Tr. at 96:17 – 13</i></p> <p>- # -</p> <p>Q. Now, isn't it true, Ms. Wells, that every new production application that</p>

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TOPIC: Material Injury		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>you process is different from the last?</p> <p>A. Yes.</p> <p>Q. And part of that is just the physical reality of where the wells are being drilled, correct?</p> <p>A. Yes.</p> <p>Q. And the amount of water that is expected to be extracted from the aquifer, correct?</p> <p>A. That is correct.</p> <p>Q. And so you have to do an independent analysis of each individual application for new production, correct?</p> <p>A. Yes. For each application we conduct a material injury analysis -- and it's big M, big I, in the judgment, I believe.</p> <p>* * *</p> <p>Q. Now, one of the issues that we've heard about today is that there's a concern that there's insufficient data, right?</p> <p>A. Yes.</p> <p>Q. You don't have a complete dataset for you to do a thorough detailed analysis of this particular new production application, correct?</p> <p>A. That is correct.</p> <p><i>Wells Tr. at 155:19 – 156:9 &</i></p>

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TOPIC: Material Injury		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>157:10-17</p> <p>- # -</p> <p>Q. And between January when there was all this uncertainty and April, you didn't have additional information, correct?</p> <p>A. No, ma'am. We did not change our letter.</p> <p>And on the April meeting, I gave the exact same presentation with the same slides that Phyllis gave.</p> <p>Q. And the Watermaster Engineer to today has not revoked the January 11th findings, correct?</p> <p>A. We have not. With the information that we have, we still stand by what we said, taking into account the high level of uncertainty.</p> <p><i>Wells Tr. at 188:25 - 189:11</i></p> <p>- # -</p> <p>Q. Have you as a board, has the AV Watermaster as a board given Todd Groundwater feedback critical of their performance of their services as a Watermaster Engineer?</p> <p>A. I don't think that we have addressed it and said that we were critical. I know that we -- and this is with all of our board members -- have had a discussion where we discuss in how they give us the information, because I think many of my board members thought that what they gave us,</p>

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TOPIC: Material Injury		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>we had to vote on what they gave us.</p> <p>And they would like to have a little more wiggle room. So it seems a little more consistent than how it kind of looks right now.</p> <p>She's saying there's no problem, but we're saying there's still concerns and uncertainties.</p> <p>So we have had that dialogue, and I wouldn't say we're critical of them. It's kind of like talking like a hydrologist speaking to a layperson is, you know -- you're going to use different terminology. You're going to use different things.</p> <p>So I don't think we're critical. I think that we've had different discussions on how we could work better, and so that we could understand each other a little bit better.</p> <p>And then when we have things like this, I think we learned a lot from what has transpired with this -- with this whole process here on ways we could do better, the way the -- the way Todd Groundwater could give us information. How us and directors can look at things differently.</p> <p><i>MacLaren Tr. at 92:1 – 93:6</i></p> <p>- # -</p> <p>Q. Okay. So if the Watermaster Engineer and you all got together and the items 1 through 7 on Exhibit 78 reflect the Watermaster Engineer's concerns, why</p>

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TOPIC: Material Injury		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>didn't the Watermaster withdraw the January 11, 2023, findings and issue new findings addressing these points ahead of the June 23rd, 2023, meeting?</p> <p>A. Because some of these questions on here are things that they would look at, and we were hoping that we could get, like, whether replacement water is capable of recharging the pertinent project area.</p> <p>All these things that we are asking, most of it is gathering more information so they could make a different recommendation -- or I could measure this and say, even if I had some uncertainty, it might have made my uncertainties less uncertain where I would feel comfortable.</p> <p>Q. It's true, to today, that the Watermaster Engineer has not withdrawn the January 11, 2023, findings, correct?</p> <p>A. I don't think they have, but I don't -- I don't necessarily know that just because they haven't put out something different, doesn't mean that any of these questions aren't any relevancy to getting answered.</p> <p><i>MacLaren Tr. at 119:11 – 120:10</i></p>

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TOPIC: Post-April 26, 2023 "Concerns"		
April 26, 2023	August 29, 2023	October 18, 2023
<p>• "I asked Board member MacLaren if there was a basis in the Judgment and Physical Solution or the Watermaster Rules and Regulations for denying the Application. Board member MacLaren did not respond.</p> <p><i>Declaration of Nathan A. Metcalf at ¶6: 3:2-5</i></p>	<p>• "...what has transpired since April 26, 2023 that confirms to me that my "no" vote was amply supported by the facts and substantial evidence in the record."</p> <p><i>MacLaren Decl. at ¶3: 2:20-21</i></p> <p>Objection No. 1</p>	<p>Q. So this bullet point list, when you were wrapping up the meeting, included bullet points relating to the Barrel Springs Properties' new production application?</p> <p>A. They were my reasons for why I was unable to give a "Yes" vote.</p> <p>Q. Are those bullet points now memorialized in your declaration?</p> <p>A. What is memorialized in my declaration is more of what happened after we met again, thinking that we were able to have a conversation and maybe work together on finding how some of those questions could be answered.</p> <p><i>MacLaren Tr. at 38:5-17</i></p> <p>- # -</p> <p>Q. Ms. MacLaren, please turn back to Exhibit 78, which is the e-mail from Craig Parton to Ms. Collins dated May 25, 2023, at 6:46 p.m.</p> <p>Do you have it?</p> <p>A. Yes.</p> <p>Q. And it lists questions for which you wanted answers, 1 through 7.</p> <p>Do you see that?</p> <p>A. Yes.</p> <p>Q. Wasn't the time to get those questions before you went to the board in April</p>

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TOPIC: Post-April 26, 2023 "Concerns"		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>26, 2023?</p> <p>A. Say that again.</p> <p>Q. Wasn't the time to get answers to these questions before you went to hear this matter at the April 26, 2023, board meeting?</p> <p>A. Those were not necessarily -- those -- these questions are what came out of having discussion of the uncertainties and in discussing with our Watermaster Engineer actually finding out more information, like finding out how they felt.</p> <p>And at that time, they even let us know their uncertainty or how -- by having these things answered, how it would be a wealth of information for our Watermaster to have, because we rely on reports from the USGS service.</p> <p>We're trying to make our own model, because we don't even have that, which can model all the areas of where the water is going and what they are doing.</p> <p>And so these are -- I don't feel I didn't do my due diligence, in other words, by not knowing these questions.</p> <p>These questions came about by having other discussions and opening up communications with our engineer, as well as other things, so that we could come up with ways that if they were to answer these questions, it could make a big difference on -- if we could determine that we could pass this.</p>

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TOPIC: Post-April 26, 2023 "Concerns"		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>But it brought up the fact -- and they admitted that there were things that we could do, you know, small community water systems.</p> <p><i>MacLaren Tr. at 117:6 – 118:20</i></p> <p>- # -</p> <p>Q. So you cannot testify that wells in the vicinity using the standard the Watermaster Engineer established for “vicinity” as applied to the Barrel Springs Properties -- as applied to the location proposed for the Barrel Springs Properties’ well, you cannot testify that that was not considered, correct?</p> <p>A. I can -- I can state that in discussing this after the meeting with all those people that I named and talking to Phyllis, that this was a relevant question to ask.</p> <p>Q. Your discussions after the meeting with Phyllis on May 25, 2023, were not part of the record on which you made your decision on April 26, 2023, were they?</p> <p>A. No. So if that is something that the Judge doesn’t feel that I should have put in there, we were just trying to give an opportunity, open up questions, open up dialogue to do our due diligence and giving every opportunity to this applicant.</p> <p><i>MacLaren Tr. at 123:6-24</i></p> <p>- # -</p>

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TOPIC: Post-April 26, 2023 "Concerns"		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>Q. Ms. MacLaren, these questions that are on Exhibit 78 were not asked in September of 2022, in October of 2022, in November of 2022, in December of 2022, in January of 2023, or any time before the Watermaster board voted on April 26th, correct?</p> <p>A. Those questions -- those items were not brought forward to me before that January meeting.</p> <p>Q. The Watermaster Engineer was able to make its findings without having these questions answered, correct?</p> <p>A. They -- yes. They made a recommendation and findings, but if there's -- it's not black and white like that.</p> <p>Q. And so my statement to you -- my question about moving the goalpost, you can understand how Barrel Springs receiving a list like this, say, well, the whole application process has changed. Now we have this whole set of new things that we're supposed to address, some of which we've already addressed.</p> <p>So if these issues were so critical and so important and you did all this research and thinking and analysis and talking to a blizzard of people before April 26th, why didn't these questions apart from the test well come up?</p>

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TOPIC: Post-April 26, 2023 "Concerns"		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>A. That wasn't up to me to do.</p> <p><i>MacLaren Tr. at 137:15 – 138:14</i></p> <p>- # -</p> <p>Q. So the search for errors in Mr. Larson's analysis occurred after there was some back and forth, shall we say, in the advisory committee meeting?</p> <p>MR. PARTON: Argumentative, Your Honor. Objection.</p> <p>THE COURT: Overruled. You can answer the question, if you can.</p> <p>THE WITNESS: Could you repeat the question?</p> <p>BY MS. HUMMER:</p> <p>Q. You didn't go to look at Mr. Larson's calculations until after there was some discussion about gallons per day calculations at the advisory committee meeting, correct?</p> <p>A. Yes. Yes. That would be --</p> <p>Q. That was the April advisory committee meeting, right?</p> <p>A. Yes. I did not review his calculations until after that meeting.</p> <p>Q. And you didn't review them between that meeting and the board meeting on April 26, did you?</p> <p>A. I did do my own</p>

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TOPIC: Post-April 26, 2023 "Concerns"		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>calculations between those meetings.</p> <p>Q. But you didn't present evidence or -- you didn't present these calculation errors at the April 26th board meeting, did you?</p> <p>A. I did not think it was necessary to point out his errors, but I'm pretty sure I did mention that we believed the well would pump at about 150 gallons per minute in order to produce 120 acre feet per year.</p> <p>Q. So in fact, the errors in Mr. Larson's calculation had no impact on the Watermaster Engineer's findings in the January 11th, 2023, letter?</p> <p>A. No, it did not. Well, I would say that Phyllis stated the correct pumping rate, if you assume constant pumping in the letter.</p> <p>So we did not feel it necessary to call out another person's errors.</p> <p><i>Wells Tr. at 201:14 – 202:16</i></p>

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TOPIC: AVWM Board Member Duties		
April 26, 2023	August 29, 2023	October 18, 2023
	<ul style="list-style-type: none">"Prior to the April 26, 2023 Watermaster Board meeting, I carefully reviewed the Watermaster Engineer's Findings, which recommended approval of the Application. The Findings contained a number of what I considered to be very concerning facts that were not adequately addressed by Barrel Springs prior to the Watermaster Board's consideration thereof." <p><i>MacLaren Decl. at ¶4: 2:23-26</i></p> <p>- # -</p> <ul style="list-style-type: none">"On April 26, 2023, I believed, based on these facts, and I still believe today based on these and additional facts, that the Application should be denied." <p><i>MacLaren Decl. at ¶7: 3:18-19</i></p> <p>Objection No. 12</p> <p>- # -</p> <ul style="list-style-type: none">"(f) whether the Board had considered and approved similar or even larger New Production application in the past with a similar domestic water demand" <p><i>MacLaren Decl. at ¶6: 3:10-12</i></p> <p>Objection No. 9</p>	<p>Q. * * * My question to you is, if you had questions and concerns about the project, why didn't you reach out to Barrel Springs between April 11 and -- sorry, between January 11 and April 26 about the project?</p> <p>A. I don't believe those are -- those are more of like hydrological questions. I don't believe that they necessarily could answer those in-depth questions, that even not I -- I don't answer.</p> <p>Those are more expert things that we're making decisions on.</p> <p><i>MacLaren Tr. at 73:11-22</i></p> <p>- # -</p> <p>Q. But what did you do about those concerns after you saw this letter dated January 11, 2023?</p> <p>A. I had discussions with -- in our producers meetings, with attorneys, people that had been involved with this adjudication for 20-plus years. I had --</p> <p>Q. But you had no discussions with the Watermaster Engineer about the findings?</p> <p>A. I didn't -- I did not question what I saw on -- on here.</p> <p><i>MacLaren Tr. at 74:8-17</i></p> <p>- # -</p> <p>THE COURT: Well, maybe we can ask her a question.</p>

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TOPIC: AVWM Board Member Duties		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>Did you think this was an unconditional recommendation to grant the permit from the Watermaster Engineer?</p> <p>THE WITNESS: So meaning, I took this to mean that -- I still can vote no even though it is saying they thought it was negligible material injury, that it is my job to take this information.</p> <p>And as a board, we're supposed to look at it and still make a determination.</p> <p><i>MacLaren Tr. at 84:24 – 85:9</i></p> <p>- # -</p> <p>Q. Where in the judgment and physical solution does it say you have to have evidence beyond a shadow of a doubt before you can approve a new production application?</p> <p>A. I don't believe that says that in the judgment. That was my wording.</p> <p><i>MacLaren Tr. at 40:22 – 41:2</i></p> <p>- # -</p> <p>Q. What did you do to resolve these complexities between January 11, 2023, and April 26, 2023?</p> <p>A. I had lots of different conversations. I used to be a planning commissioner, so I reviewed some of the projects that were around this area.</p> <p>There was a very big project that was further north to this, right off to the side. It was</p>

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TOPIC: AVWM Board Member Duties		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>supposed to be a big college -- Antelope Valley College. I forgot what they called it. And it had houses and everything. And so I know there was a lot of discussion there.</p> <p>And other times there were other people looking to do things in this general vicinity. So I was very aware of the fact of the fault line and different complexities. And so I have many friends. I do many things in our community, so know commercial Realtors, planning commissioners, lots of different people.</p> <p>So I would have to have conversations with them about this project, what they see. And so a lot of people were, like, asking me, I don't -- like why are they picking this project to do, you know, this area, when we have so many vast areas of farming that might be a lot easier than where this project is.</p> <p>Q. Ms. MacLaren, that concern is a concern for someone who's on the planning commission, right? You're raising planning concerns?</p> <p>A. I was giving you a background of how I made my decision.</p> <p>Q. By thinking about planning issues?</p> <p>A. No. By utilizing my background. And you asked who did I discuss with. That's where that came into, who did I talk to.</p>

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TOPIC: AVWM Board Member Duties		
April 26, 2023	August 29, 2023	October 18, 2023
		<p><i>MacLaren Tr. at 66:17 - 67:24</i></p> <p style="text-align: center;">- # -</p> <p>Q. Have you as a board, has the AV Watermaster as a board given Todd Groundwater feedback critical of their performance of their services as a Watermaster Engineer?</p> <p>A. I don't think that we have addressed it and said that we were critical. I know that we -- and this is with all of our board members -- have had a discussion where we discuss in how they give us the information, because I think many of my board members thought that what they gave us, we had to vote on what they gave us.</p> <p>And they would like to have a little more wiggle room. So it seems a little more consistent than how it kind of looks right now.</p> <p>She's saying there's no problem, but we're saying there's still concerns and uncertainties.</p> <p>So we have had that dialogue, and I wouldn't say we're critical of them. It's kind of like talking like a hydrologist speaking to a layperson is, you know -- you're going to use different terminology. You're going to use different things.</p> <p>So I don't think we're critical. I think that we've had different discussions on how we could work better, and so that we could understand each other a</p>

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TOPIC: AVWM Board Member Duties		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>little bit better.</p> <p>And then when we have things like this, I think we learned a lot from what has transpired with this -- with this whole process here on ways we could do better, the way the -- the way Todd Groundwater could give us information. How us and directors can look at things differently.</p> <p><i>MacLaren Tr. at 92:1 – 93:6</i></p> <p>- # -</p> <p>Q. So you also testified that you were worried about the findings because you thought there were “buts” and “ands” and “ifs” relating to the technical issues before you as a Watermaster board member.</p> <p>Why were you talking to all these other people about nontechnical issues if your concerns about the Watermaster Engineer’s analysis was technical?</p> <p>A. Okay. So you asked me what did I do from January to then, and just like I didn’t ask him questions, I was just telling you -- and let me rephrase it so that they’ll take some of this -however you’re putting it.</p> <p>I sit on many different boards and a community activist. So you asked me what did I do from here to then. I would say I did nothing of a technical in those conversations with those people that swayed my decision.</p>

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TOPIC: AVWM Board Member Duties		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>That's probably a better way to answer that, because otherwise it sounds like a long list. But when you asked me the question what did I do, I was thinking more along what I do.</p> <p>Because I'm on quite a different array of boards in the community and I'm very active in -- and you know, in conversations I might have had brought this up. But definitely nothing technical.</p> <p>So I'll leave those out of it.</p> <p><i>MacLaren Tr. at 97:19 – 98:20</i></p> <p>- # -</p> <p>Q. So the January 25, 2023, board meeting of the Antelope Valley Watermaster, was the report from Todd Groundwater, the findings as to Barrel Springs, contained in that agenda?</p> <p>A. Yes.</p> <p>Q. And you -- to the best of your recollection, that's the first time you reviewed it, correct?</p> <p>A. Yes.</p> <p>Q. And then you had approximately three months, right, until you voted on it?</p> <p>A. Yes.</p> <p>Q. And during that three months, did you read the report again?</p> <p>A. I'm going to say ad nauseam. No.</p>

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TOPIC: AVWM Board Member Duties		
April 26, 2023	August 29, 2023	October 18, 2023
		<p>Yes, I read it and researched and contemplated on different things after reading it.</p> <p><i>MacLaren Tr. at 107:11 – 108:1</i></p> <p style="text-align: center;">- # -</p> <p>Q. So, Ms. MacLaren, I still don't understand if you had all of these concerns about the proposed well and all of these worries that were outside the scope and beyond the scope of the analysis done by the engineer, that you didn't raise these issues with the engineer between January and April, that's four months, why is it you didn't address these concerns before the April meeting?</p> <p>A. Because all of these concerns are just not black and white, like a simple question.</p> <p>Q. Ms. MacLaren, do these requirements that you've listed here, that Mr. Parton listed in Exhibit 78, come out of the judgment and physical solution?</p> <p>A. I don't think on here we characterized this as these are things that need to be answered per the judgment.</p> <p>These are simply our compilation of questions that we wanted to ask and things that we were hoping that Barrel Springs could do some of the things that would help us assure that this well is going to be able to take care of those people that are put there and be able to do and function like The People Concern would</p>

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TOPIC: AVWM Board Member Duties		
April 26, 2023	August 29, 2023	October 18, 2023
		like. <i>MacLaren Tr. at 127:18 – 128:22</i>

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PROOF OF SERVICE

**Judicial Counsel Coordination Proceeding No. 4408
Antelope Valley Groundwater Cases
Santa Clara County Case No. 2005-1-CV-049053**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 777 S. Figueroa Street, Suite 4200, Los Angeles, CA 90017.

On October 30, 2023, I served true copies of the following document(s) described as **CLOSING STATEMENT IN SUPPORT OF MOTION FOR ACTION AND IMPLEMENTATION BY THE PEOPLE CONCERN, INC. AS AGENT FOR BARREL SPRINGS PROPERTIES, LLC** on the interested parties in this action as follows:

BY E-MAIL OR ELECTRONIC TRANSMISSION: By submitting an electronic version of the document listed above to the Antelope Valley Groundwater Cases through the user interface at the Antelope Valley Watermaster's website to all parties on the service list maintained by the website at: www.avwatermaster.org.

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

Executed on October 30, 2023, at Los Angeles, California.



Linda M. DeRosa