

CLAIRE H. COLLINS
PARTNER
DIRECT DIAL (213) 395-7650
E-MAIL ccollins@hansonbridgett.com

NATHAN A. METCALF
PARTNER
DIRECT DIAL (415) 995-5838
E-MAIL nmetcalf@hansonbridgett.com



May 8, 2023

VIA ELECTRONIC MAIL cap@ppplaw.com

Craig A. Parton, General Counsel
Antelope Valley Watermaster
500 Capitol Mall Suite 2350
Sacramento, CA 95814

Re: Barrel Springs Properties, LLC Application for 120 AFY New Production
Our File No. 40231.1

Dear Mr. Parton:

As you are aware, we represent The People Concern (“**TPC**”), the proposed developer of the Barrel Springs Properties project in the above-referenced matter. We write to request that the Watermaster reconsider the Barrel Springs application, on the grounds that there is no basis for a denial of the application.

The application in this matter came before the Antelope Valley Watermaster Board at a regularly scheduled meeting on April 26, 2023 (agenda item 13).¹ During the meeting, the Watermaster Board denied the new production application for the project. All the Board Members, except Vice Chairperson Kathy MacLaren, voted in favor of the new production application. Because the Watermaster Rules and Regulations requires the unanimous vote of all five Board Members to approve a new production application, Vice Chairperson MacLaren’s single “no” vote resulted in the denial of the Barrel Springs Properties application.

Prior to the vote on this item, the Watermaster Engineer provided its assessment of the application, recommending approval, and finding (1) that the applicant agrees to purchase replacement water, (2) that all conditions for new production are met under the Antelope Valley Groundwater Cases Judgment and Physical Solution (“Judgment”) and the Watermaster Rules and Regulations, and (3) that no Material Injury will result from the proposed production. Likewise, the Advisory Committee considered this matter on April 19, 2023, and rendered a vote of 3-1 (5 abstaining) recommending approval. Draft Resolution No R-23-04 approving the application, and the detailed report from the Watermaster Engineer finding that all conditions for approval were met, are included in the agenda package for the April 26th meeting.

¹ This application first came before the Board in September 2022 and has been subject to multiple delays. These delays appear to be arbitrary and have proven to be very costly to the applicant.

Vice Chairperson MacLaren refused to state why she voted to deny the application. The requirements for a new production application are found in the Judgment at section 18.5.13. As found by the Watermaster Engineer and confirmed at the April 26th meeting, all the required conditions for a new production at the Barrel Springs Properties have been met. The Advisory Committee, which, under section 5.c. of the Rules and Regulations has the duty to study, review, and receive and make recommendations on all discretionary determinations by the Watermaster, recommended approval. Based on our review of the record in this matter and the requirements under the Judgment, the new production application should have been granted. In fact, to our knowledge, every new production application that has come before the Watermaster Board when all conditions for approval have been met, and both the Engineer and Advisory Committee recommend approval, have been unanimously approved by the Board.

Here, there is no basis in the record to deny the application. This is textbook arbitrary and capricious decision-making unrelated to any evidence in the record, and therefore subject to reversal by the Court. When asked why she denied the application, Vice Chairperson MacLaren refused to answer, leaving a clear record that there was no basis for the denial.

In order to avoid litigation, we request that the Watermaster Board reconsider its vote on this matter or allow the applicant to "re-apply" for the permit immediately, at no additional cost, for reconsideration at or before the June Watermaster Board meeting.

We are happy to provide any additional information requested by the Board or to meet with individual Board Members, including Vice Chairperson MacLaren, to clarify any questions she may have about the new production application or the project in general. It is our hope that the Board will reconsider its decision based on the record in this matter prior to the ninety (90) day period to request the Judgment Court's review of the Watermaster's decision to deny the application.

Please contact either of the undersigned if you would like to discuss this matter further or to arrange for any meetings with interested Board members or staff.

Sincerely,



Claire Hervey Collins
Partner



Nathan A. Metcalf
Partner

CHC:NAM

cc: Cameron Goodman, Esq.
client