

## SPALETTA LAW PC

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Antelope Valley Watermaster  
Interim Administrative Staff  
Via Email: [mknudsen@avek.org](mailto:mknudsen@avek.org)

Re: Response to Questions for Watermaster Counsel

Thank you for the opportunity to interview for the position of Counsel to the Antelope Valley Watermaster. I look forward to meeting all of you on September 27, 2017. Please find my responses to your preliminary questions below:

1) *Questions on “Conflicts”*

- a) *Question for those who participated in negotiating the stipulation that led to the Judgment (as appropriate):*
- i) *You were associated with a party in the adjudication that has rights on Exhibit 4 of the Judgment – has that shaped the way you may interpret the Judgment?*
  - ii) *You were associated with a party in the adjudication that has rights on Exhibit 3 of the Judgment – has that shaped the way you may interpret the Judgment?*

ANSWER: I was not involved in negotiating the stipulation that led to the Judgment.

b) *Question for those who have not been involved in the Adjudication Litigation:*

- i) *The Judgment was developed based on a negotiated stipulation among most of the parties to the Judgment – how will you evaluate the Judgment absent knowledge about those negotiations?*

ANSWER: To interpret the judgment, I would use the following method:

- a) First, I would look to the plain language meaning of the judgment and confirm with the Watermaster group that they concur with a plain meaning interpretation.
- b) Second, if the Watermaster group or a stakeholder does not agree with my plain meaning interpretation of the Judgment, I would ask that the parties provide any information they have regarding the negotiations (emails, letters, notes, memories of conversations) related to the issue. I would review the information provided and then adjust my interpretation accordingly.
- c) Third, if the additional information provided does not resolve the interpretation issue between the Watermaster group and the parties, I would work with the interested parties to recommend clarifying language to resolve the issue and then present the proposed language to the Watermaster group for consideration. Over time I anticipate the Watermaster group will need to develop rules and regulations that address issues that are not fully developed in

the language of the Judgment or may be unclear. These rules and regulations will help the parties administer the Judgment and provide clarity.

2) *Questions on “Logistics”*

a) *What backup capability do you have on your staff for key roles of the Watermaster counsel?*

ANSWER: Spaletta Law PC employs one full time associate who specializes in work with water law, real estate and public agency issues and one part time paralegal/administrative assistant. If the work load of the Watermaster counsel were to increase substantially, a second associate could be added. This does not appear to be necessary based on the current description of duties.

b) *How will you address travel requirements?*

ANSWER: I am located in Lodi, CA, which is approximately forty minutes from the Sacramento airport. For monthly meetings, I would fly from Sacramento to Burbank and drive from the Burbank airport to the meeting. The cost of airfare and car rental is approximately \$400 and I would request that this cost be reimbursed. As a general rule, I only charge for travel time that is not usable to work on other matters. I anticipate charging approximately 4-5 hours in travel time each month to travel to and from the monthly meetings.

I have other clients in Kern County and Tulare County and family in Tulare County. When it is possible to schedule meetings with these clients within a day of the Antelope Valley meetings, these costs could be reduced and I would drive to Lancaster.

c) *How will you address succession planning for this position?*

ANSWER: I anticipate working at least another twenty years. My goal is to gradually transition my client matters to another attorney in my office beginning in ten to fifteen years, provided the clients approve of that transition. I also work closely with a network of other skilled attorneys throughout the state and would be able to identify a pool of qualified candidates to take over my position as Watermaster counsel.

3) *Questions on “Approach”*

a) *How do you think that information about the negotiations that led to the final Judgment should be used in interpreting the Judgment?*

ANSWER: Information about the negotiations that led to the final Judgment could be used to interpret ambiguous provisions in the Judgment, or to resolve latent ambiguities that arise in application of the Judgment despite language that appears clear on its face. This information should include only written communications between parties or oral communications that were actually expressed to the parties - it should not include what parties “thought” was meant in their own minds but was not actually expressed orally or in writing. In implementing complicated contracts, such as the stipulated Judgment, it is common that issues arise that require looking back at the negotiations. It is equally common that the information from the negotiations will not clearly resolve the matter. As I note below, one of the most attractive parts of this position for me is the opportunity to help the Watermaster and parties move forward and reach consensus on how to operate under the Judgment when a path forward is not immediately clear.

b) *Do you see trying to build consensus between parties that have disputes on the interpretation of the Judgment as part of the Watermaster counsel role?*

ANSWER: Yes. It is in the best interest of the Watermaster to build consensus and avoid protracted disputes that drain resources and prevent implementation of the Judgment. The role of the Watermaster counsel will be to objectively assess the merits of the positions taken by all of the parties and present a summary and recommendation to the Watermaster on how to proceed. Often, parties will appear to have disputes that are really nothing more than a lack of understanding about each party's position, or the result of the parties not having access to the same information. I see a critical part of the Watermaster Counsel's role as ensuring that all parties do have the same information and taking the time necessary to work through disputes with the parties to resolve or at least narrow the issues that need to be resolved by the Watermaster or, if necessary, the Court.

c) *What role do you think that the Watermaster counsel should play in hearings before the court:*

i) *To defend a challenged Watermaster decision?*

ii) *To argue on a disputed interpretation of the Judgment that is not related to a Watermaster decision?*

iii) *On which issues (if any) do you think the Watermaster and Watermaster counsel should make arguments to the Court, and which issues should the Watermaster and Watermaster counsel leave to the Parties to argue?*

ANSWER:

The Watermaster counsel could represent the Watermaster in court to defend a challenged decision, or the Watermaster counsel could recommend that the Watermaster retain outside counsel for this purpose. I would be comfortable doing either and would expect to make a reasoned recommendation to the Watermaster on which option to use if the need arose. In either case, the Watermaster should be prepared to defend the decisions it makes.

I do not see a need for the Watermaster counsel to argue, in court, a disputed interpretation of the Judgment that is not directly related to a Watermaster decision. However, if the parties to the Judgment were to undertake this argument in court, the Watermaster counsel should follow the case and comment, as needed, on behalf of the Watermaster regarding the resolution of the matter to ensure that the resolution is logistically workable for the Watermaster to implement. For example, if a suggested modification or interpretation of the Judgment would significantly increase the cost of implementing the Judgment for the Watermaster, the Watermaster's counsel should identify this issue and be prepared to work with the Watermaster and the Watermaster Engineer to objectively present information to the Court to consider on the matter.

As a general rule, I would not anticipate that the Watermaster and Watermaster counsel would take a primary role in arguing disputed issues to the Court, unless the issues stemmed directly from a Watermaster decision or were directly related to an aspect of implementation controlled by the Watermaster. That said, I do not think these decisions can be made in the abstract. The Watermaster will need to evaluate the level of involvement it should have in each matter that involves the Court, with the advice and assistance of the Watermaster Counsel. At a minimum, the Watermaster, through its Counsel, will need to participate in any Court matter that involves the Judgment as an interested party. Matters that are cost neutral, for example, will require less input

from the Watermaster. On the other hand, issues that will alter the cost or method of implementing the Judgment for the Watermaster will require input from the Watermaster.

*d) Can you describe your approach and experience regarding enforcement activities on behalf of the Watermaster (e.g., collection of unpaid assessments, enforcement of injunctions under the Judgment, failure to comply with reporting requirements)?*

ANSWER: Over the course of the last 19 years I have represented public entities and private landowners and have had to assist these clients with collection of unpaid assessments and charges, obtaining and enforcing injunctions and reporting requirements. These same issues will arise with implementation of the Judgment, but in a slightly different format. My approach would be to try and address these matters informally early to avoid the need for escalated and more expensive efforts. This would involve establishing clear protocols with staff for collection of assessments and reports, and timely reports of delinquencies, with clear steps to be taken for follow-up.

*e) How will you approach coordination with the Watermaster Engineer and the Watermaster staff?*

ANSWER: The Watermaster Counsel, Engineer and staff will need to work closely. I anticipate regular meetings and conference calls and clearly defined task lists for each part of the team. The opportunity to work with the Engineer and staff is another part of this position that is particularly attractive to me.

Please do not hesitate to contact us if you have any questions. Office: 209-224-5568; Cell: 209-481-9795 or email: [Jennifer@spalettalaw.com](mailto:Jennifer@spalettalaw.com).

Very truly yours,



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