



January 19, 2018

## DRAFT ISSUE PAPER

**To:** Robert Parris, Chair  
Antelope Valley Watermaster Board of Directors  
  
Craig Parton,  
Price Postel & Parma LLP, Watermaster Legal Counsel

**From:** Phyllis Stanin, Vice President/Principal Geologist  
Kate White, Senior Engineer  
Todd Groundwater, Watermaster Engineer

**Re:** Procedures for Review of Well Approval Applications from Applicants with Unknown Rights to Produce Groundwater

The primary purpose of this Issue Paper is to describe procedures for review and subsequent approval or denial of Well Approval Applications for replacement wells and/or for new production wells for applicants not individually identified in the Judgment as having a right to produce groundwater<sup>1</sup>. Once finalized, these procedures will be included in the Antelope Valley Watermaster Rules and Regulations.

The Issue Paper provides the background, current procedures, and status of Well Approval Applications received to date. This information is followed by a description of the issues to be resolved, relevant sections of the Judgment regarding these issues, and proposed procedures for resolution of the Well Approval Applications.

For completeness, this memorandum repeats some information provided in a previous memorandum entitled *Well Approval Applications for New or Replacement Wells* (Todd, December 4, 2017). However, this Issue Paper does not include procedures for a Well Approval Application by a party identified in the Judgment as having a right to produce groundwater; for those parties, an application form, application

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<sup>1</sup> 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), Exhibit C (Small Pumper Class), the Non-Stipulating Parties or otherwise identified in the Judgment as having a right to produce groundwater (e.g., Phelan Pinon Hills CSD, City of Lancaster). For simplicity, applicants that are not identified in the Judgment as having rights to produce groundwater are referred to herein as applicants with “*unknown production rights*.” Procedures in this Issue Paper describe a process whereby production rights, if any, for these applicants can be defined. Note that *production rights* for this usage is not capitalized to avoid confusion with the term *Production Rights* defined in the Judgment that are specifically linked to the Native Safe Yield.

fee, and general well application review procedures have already been reviewed and approved by the Watermaster.

Well Approval Applications from applicants with unknown production rights received by the Antelope Valley Watermaster to date generally fall into three categories:

1. Applicants requesting replacement wells that appear to qualify for the Small Pumper Class<sup>2</sup>, but do not appear on the Small Pumper Class Member List (Exhibit C of the Final Judgment).
2. Applicants requesting a new well who are either included on the Small Pumper Class Member List or appear to qualify for the Small Pumper Class **and** currently share a well with another Small Pumper Class Member.
3. Applicants requesting a new well on land that apparently has not been used to produce groundwater previously. These Applicants are not identified on Exhibit 3 (Non-Overlying Producers), Exhibit 4 (Overlying Producers), Exhibit C (Small Pumpers Class), Appendix A (opting out of the Willis Class), the list of Defaults (Exhibit 1), or Non-Appearing Parties (Exhibits B & D). In addition, the applicant is not mentioned elsewhere in the Judgment as having a right to produce groundwater. These applicants are essentially requesting New Production under the Judgment.

This Draft Issue Paper is being presented to the Advisory Committee and the Watermaster Board to facilitate discussion on these procedures for the review of Well Approval Applications. After considering comments from the Advisory Committee and the Watermaster Board, procedures will be revised for inclusion in the Rules and Regulations. In the interim, the Advisory Committee and Watermaster Board may provide interim guidance on how to resolve the pending applications.

## **BACKGROUND**

New and replacement wells drilled in the Adjudication Area of the Antelope Valley are subject to approval by the Antelope Valley Watermaster. As Watermaster Engineer, Todd Groundwater is developing procedures for evaluating requests for new and replacement wells to make recommendations to the Watermaster. These procedures support the Watermaster Engineer's duties under the Judgment to provide proper water accounting and tracking of groundwater production.

On August 23, 2017, the Watermaster Board approved a Well Approval Application form developed by Todd Groundwater for applicants requesting new or replacement wells associated with existing rights to produce groundwater under the Judgment. Specifically, the Judgment allows Parties to change the point of extraction for any Production Right so long as such change of the point of extraction does not cause

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<sup>2</sup> As explained in subsequent sections, an applicant may qualify as a Small Pumper Class Member if they can demonstrate that they have produced groundwater on a parcel between 1945 and 2015, but that production has not exceeded 25 AFY.

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 change the point of extraction for any Production Right shall notify the Watermaster of the location of the 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).

With regard to applications for New Production, the Watermaster shall consider and determine whether to approve applications for New Production after consideration of the recommendation of the Watermaster Engineer (¶18.4.9). The process and requirements for New Production applications are discussed 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).

The Judgment requires the Watermaster Engineer to establish Memoranda of Understanding (MOUs) with Kern and Los Angeles Counties regarding well drilling ordinances and reporting (¶18.5.8). The purpose of this part in the Judgment is to ensure compliance with water quality regulations, but such agreements also ensure the Watermaster Engineer's ability to track new wells in the Adjudication Area. Currently, both counties have agreed to cooperate with requests from the Watermaster Engineer to hold new well permits pending Watermaster Engineer approval.

## **CURRENT PROCEDURES**

The Watermaster Engineer developed a one-page well application form intended for requests for new or replacement production wells by Parties with existing Production Rights or other rights to produce groundwater under the Judgment. That form, *New or Replacement Well Approval Application for Existing Production Rights*, was approved by the Watermaster on August 23, 2017. A \$50 application fee is required with each submittal to cover costs for review by the Watermaster Engineer. In cooperation with requests from the Watermaster Engineer, both Kern and Los Angeles counties now require a signed copy of this form prior to issuing a well permit for a new well in the Adjudication Area.

Even though the form was intended for production wells from applicants with existing rights to produce groundwater under the Judgment, it has been used for all new well requests because procedures and subsequent forms for those with unknown production rights have not yet been developed. The form has also been used for both test wells and monitoring wells. It is anticipated that discussion of this memorandum and subsequent direction from the Watermaster Board will allow procedures to be finalized and forms for other types of well requests to be developed.

We recognize that a legal determination would be helpful for resolution of some details provided herein. This Issue Paper provides a starting point for comment and further analysis by others to achieve a collective understanding of how specific portions of the Judgment will be implemented.

**Approved Well Approval Applications.** As of January 17, 2018, the Watermaster has received 41 new/replacement well requests. Of the 41 applications, 22 have been approved and 19 are pending. The 22 approved applications are categorized as follows:

- 15 monitoring wells
- 1 test well for mobile home park with unknown production rights
- 1 replacement well for a Small Pumper Class Member (on Exhibit C)
- 3 replacement wells for Overlying Producers (Exhibit 4)
- 1 approval for a well yield test (required by LA County) for a Small Pumper Class member (on Exhibit C) on an existing well that was drilled in 2004, and
- 1 approval for a well with an existing well permit (prior to development of current Watermaster procedures), but failed to produce; the owner requested moving the drill rig to an alternative location on the same parcel.

Several applications and verbal requests have also been received for wells that were subsequently determined to be outside of the Adjudication Area. The owner and/or driller was informed that Watermaster approval is not needed for these wells.

**Pending Well Approval Applications.** The 19 pending applications are categorized as follows:

- 2 replacement wells for applicants that may qualify as Small Pumpers, but who are not listed on Exhibit C.
- 2 new wells for residences that share wells with neighbors. Wells are on neighbor's property and neighbor may qualify as a Small Pumper, but neither the neighbor nor the applicant is currently listed on Exhibit C. Two applicants are each requesting a new well in order to stop sharing a well.
- 1 request for a well yield test required by LA County for a well completed in October 2015 but not yet used. The property is listed as vacant in the LA County parcel search and the owner does not appear to be listed in the Judgment as having a right to produce groundwater,
- 14 new well requests for properties that are currently or were previously vacant, where groundwater has not been produced historically. These applications appear to be requesting New Production as defined by the Judgment.

## **LEGAL DETERMINATIONS**

Legal determinations, Advisory Committee recommendations, and Board approval are needed for the following issues:

1. Determine rights of applicants submitting Well Approval Applications who appear to qualify as a Small Pumper (but not currently listed on Exhibit C), steps needed to bind them to the terms of

the Judgment (if needed), and procedures to approve or deny the requested replacement well(s).

2. Determine production rights of parties that currently share a well with a Small Pumper and want to disaggregate those rights by drilling a new individual well. Assuming that the applicant and well-sharing partner qualify as members of the Small Pumper Class, the proposed procedures for these parties to be bound by the terms of the Judgment would be the same as those proposed for issue number 1 above.
3. Determination and approval of the procedures for requests for New Production (i.e., on parcels that previously had no production) proposed in this memorandum.

## CONTEXT FROM THE JUDGMENT

Relevant sections from the Judgment are reproduced below to provide context for the determinations listed above. Key paragraphs are reproduced in full to maximize the interpretive context and to facilitate an understanding of how the text relates to the determinations.

### **Determination #1: Production rights of entities that may qualify as a Small Pumper but are not currently listed as Small Pumper Class Members in Exhibit C of the Final Judgment (Unknown Small Pumper Class Members).**

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 defendants has a controlling interest or which is related to or affiliated with any such defendants, 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).

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).

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.” (§15.1.3.6). “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.” (§15.1.3.7).

Collectively, these Judgment sections 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.

The Judgment also discusses "Intervention After Judgment. 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 this Judgment through a noticed motion to intervene in this Judgment 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. Thereafter, if approved by the Court, such intervenor shall be a Party bound by this Judgment.” (§20.9).

**Determination #2: Production rights of Small Pumpers that currently share a well but want to decouple those rights and use individual wells.**

Small Pumpers can 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.” (§15.1.3).

The Judgment indicates that Small Pumpers can share wells but does not specifically indicate how the Production Rights can be re-assigned as individual rights.

**Determination #3: Production rights for requests for New Production (i.e., by applicants without an existing right to produce groundwater on parcels that previously had no production) and the procedures to review these requests.**

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.” (§13.5.20).

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, *emphasis added*).

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”). A copy of the Non-Pumper Class Judgment and the Non-Pumper Class Stipulation of Settlement are attached for reference only as Appendices A and B. 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).

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*).

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

Draft Issue Paper /  
Procedures for Review of Well  
Approval Applications

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.”

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).

## **PROPOSED PROCEDURES**

### **1. Proposed Procedures for Review of a Well Approval Application for Unknown Small Pumpers including a Demonstration of Eligibility as a Small Pumper Class Member under 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 Judgement. We propose that Well Approval Applicants who are eligible for the Small Pumper Class be required to supply the following:

- Property owner’s name, mailing address, parcel APN number and property address (if different than mailing address), email and phone number.
- 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.
- 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<sup>3</sup>:

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<sup>3</sup> The Watermaster is tasked with monitoring all the Safe Yield components (18.5.1). As per Section 5.1.3.2 of the Judgment “The primary means for monitoring the Small Pumper Class Members’ Groundwater use under the Physical Solution 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.”

- Documentation that the well was drilled on the property prior to December 23, 2015 (e.g., County well permit, DWR Well Completion Report, etc.)
- Uses of the existing well including domestic, irrigation, livestock, etc. Also provide an estimate of annual household occupancy (number of residents), history of crop 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
- land deed/parcel information indicating use of land and/or historical aerial photographs of land showing land use
- other pertinent information that demonstrates the use and production amounts of the well during the 1946 to 2015-time period.
- 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).
- 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).
- 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).
- Notarized affidavit confirming:
  - the well was active and that total water use on property was below 25 AFY between the 1946 to 2015-time period
  - the Small Pumper Class Member will not pump over 3 AFY from the well, recognizes that the rights are not transferable from the parcel, and agrees to be bound by all applicable terms in the Judgment, and
  - that the other information and statements provided are true.
- Payment of a well application fee (\$250) to recover costs of material review, reporting, and hearing, and other associated costs, incurred by the Watermaster, Watermaster Engineer, and Watermaster Attorney in processing the request.

## **2. Proposed Procedures to Decouple Production Rights between Eligible Small Pumpers that Share a Well**

An applicant who wants to drill a new well in lieu of using a shared well is assumed to retain their status for qualifying for the Small Pumper Class. There will be no net increase in pumping even though the new well represents New Production because there has been no previous production on the applicant's parcel. Applicants **must each supply the information listed in item #1 above** to become a member of the Small Pumper Class. In addition to providing all the items in #1 for the shared well, they must also provide the following:

- A Well Approval Application form for all new wells

- Estimate of annual production from the shared well for the 1946 to 2015-time period by year (if not provided above)
- Estimate of future annual production from new well(s) and from the previously shared well (not to exceed 3 AFY each)
- Well locations and distance between new well(s) and shared well
- Payment of an applicable fee (\$200) to recover all costs of material review, reporting, and hearing, and other associated costs, incurred by the Watermaster, Watermaster Engineer, and Watermaster Attorney in processing the request<sup>4</sup>.

### 3. Proposed Procedures for Reviewing New Production Requests

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).

1. 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. This payment is currently set at \$XXX<sup>5</sup> (§18.5.13.1).
2. 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 (§18.5.13.2).
3. Maps identifying the location of the proposed New Production, including Basin Subarea (§18.5.13.3).
4. Well information including proposed well design, estimated annual pumping, and agreement to install a meter in accordance with the Rules & Regulations. 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 (§18.5.13.4).
5. Written confirmation that applicant has obtained 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 (§18.5.13.5).
6. Written confirmation that applicant has complied with applicable laws and regulations including all applicable Federal, State, County, and local laws, rules and regulations, including but not limited to,

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<sup>4</sup> Currently, 5 of the 19 pending well applications are for (1) replacement wells for applicants that may qualify as Small Pumpers, but are not on Exhibit C (2 applications), (2) new wells for residences that share wells with neighbors (2 applications), or (3) for an LA County well yield test for a well completed in October of 2015 (1 application). It is suggested that the fees for these 5 well approval reviews be grandfathered in at \$50 (the rate for well approval application review for those with existing Production Rights) as a courtesy for their patience during this process.

<sup>5</sup> A complete review of all these items is costly but would like to determine an amount that is fair for all parties to pay. Suggest application review fee of between \$500 and \$1,000.

the California Environmental Quality Act (Public Resources Code §§ 21000, et. seq.) (¶18.5.13.6).

7. 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 (¶18.5.13.7, additional expertise added)<sup>6</sup>.
8. Preparation of an analysis of the economic impact of the New Production on the Basin and other Producers in the Subarea of the Basin (¶18.5.13.8).
9. Preparation of an analysis of the physical impact of the New Production on the Basin and other Producers in the Subarea of the Basin (¶18.5.13.9).
10. 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<sup>7</sup> (¶18.5.13.10, additional expertise added).
11. Written confirmation that the applicant agrees to pay the applicable Replacement Water Assessment for any New Production (¶18.5.13.11).
12. Other pertinent information which the Watermaster Engineer may require (¶18.5.13.12).

An example submittal form is attached to the end of this memorandum.

The Watermaster Engineer will then determine if the New Production will cause a material injury: **“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).

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<sup>6</sup> Approval by a California licensed Civil Engineer is specifically required in the Judgment; we recommend adding required expertise in groundwater hydrology to ensure a credible analysis.. The purpose of this item is to ensure beneficial use of water and to use it efficiently and avoid overuse and losses.

<sup>7</sup> Material injury could be in the form of significant and unreasonable 1. Chronic lowering of groundwater levels, 2. Reduction of groundwater storage, 3. Degraded water quality, 4. Land subsidence, 5. Depletions of interconnected surface water such that beneficial uses are impacted.

## **RECOMMENDED ACTIONS BY THE AVWM BOARD FOR WELL APPROVAL APPLICATIONS**

- Approve draft procedures to process Well Approval Applications for Unknown Small Pumpers.
- Approve draft procedures to decouple Production Rights between eligible Small Pumpers that share a well.
- Approve draft procedures for reviewing New Production requests.
- Approve a reduced rate of \$50 per well/Small Pumper for the review of the five received well application requests for Unknown Small Pumpers with replacement wells, decoupled wells, or a well yield test. The application fees of \$250 (to process well applications by Unknown Small Pumpers) and \$200 (to process well applications for a new well that disaggregates shared Production Rights) will apply to all future requests.

# PRELIMINARY DRAFT REQUEST FOR NEW PRODUCTION RIGHTS

## ANTELOPE VALLEY WATERMASTER

Attach application fee of \$500 for review and processing. Make check out to: Antelope Valley Watermaster

Submit to: Antelope Valley Watermaster, P.O. Box 3025, Quartz Hill, California 93586

Date \_\_\_\_\_ Proposed Well Site APN# \_\_\_\_\_

Property Owner/Well Owner \_\_\_\_\_

Property Owner/Well Owner Mailing Address \_\_\_\_\_

Contact Phone Number \_\_\_\_\_ Contact email \_\_\_\_\_

New Well Latitude/Longitude (or x, y) \_\_\_\_\_ Antelope Valley Subarea: \_\_\_\_\_

Use of New Well (Agricultural, Domestic, Industrial, Municipal, Monitoring, etc.) \_\_\_\_\_

Estimated annual pumping from New Well \_\_\_\_\_ acre-feet/year and well capacity \_\_\_\_\_ gallons/minute

Do other wells exist on this property? Yes/No. If Yes, indicate if active, inactive, or abandoned and show on Site Plan.

When will a meter be installed on the well? \_\_\_\_\_

### Applications for New Production requests are to include the following (Section 18.5.13 of the Judgment):

1. 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. This payment is currently set at \$500. Please attach a check to this application submittal. Check can be made out to Antelope Valley Watermaster.
2. 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.
3. Maps<sup>1</sup> identifying the location of the proposed New Production, including Basin Subarea.
4. Well information<sup>2</sup> including proposed well design, estimated annual pumping, and agreement to install a meter in accordance with the Rules & Regulations. 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.
5. Written confirmation that applicant has obtained 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.
6. Written confirmation that applicant has complied with applicable laws and regulations including all applicable Federal, State, County, and local laws, rules and regulations, including but not limited to, the California Environmental Quality Act (Public Resources Code §§ 21000, et. seq.).
7. 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.
8. Preparation of an analysis of the economic impact of the New Production on the Basin and other Producers in the Subarea of the Basin.
9. Preparation of an analysis of the physical impact of the New Production on the Basin and other Producers in the Subarea of the Basin.
10. A written statement, signed by a California licensed and registered professional civil engineer, determining that the New Production will not cause Material Injury<sup>3</sup>.
11. Written confirmation that the applicant agrees to pay the applicable Replacement Water Assessment for any New Production.
12. Other pertinent information which the Watermaster Engineer may require, including the information below.

<sup>1</sup> Maps are to include North arrow and scale, location of proposed well with dimensions in feet from well to nearest cross streets, and location of site features, including major buildings, landscaped areas, all existing wells, roads, etc.

<sup>2</sup> Please attach a diagram showing proposed well construction, including maximum well depth, casing diameter and materials, ground surface elevation, screen intervals, and estimated pumping capacity. A completed DWR Well Completion Report is required to be submitted to the Antelope Valley Watermaster upon completion of well.

<sup>3</sup> Material injury could be in the form of significant and unreasonable 1. Chronic lowering of groundwater levels, 2. Reduction of groundwater storage, 3. Degraded water quality, 4. Land subsidence, 5. Depletions of interconnected surface water such that beneficial uses are impacted.