

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

123B



FROM: TLMA Planning Department

SUBMITTAL DATE:
June 30, 2016

SUBJECT: APPEAL of PLANNING COMMISSION'S DECISION TO DENY AMENDMENT NO. 1 TO FINAL TRACT MAP NO. 36327 – Applicant: Robert Burnett– Engineer/Representative: Ron Moreno – Third Supervisorial District – Anza and Cahuilla Zoning Area – REMAP Area Plan: Open Space: Rural (OS-RUR), Community Development: Rural Residential (RR) – Location: Northerly of Upper Valley Road, southerly of Ramona Reservation, easterly of Bautista, and westerly of Barham – 265.02 Acres – Zoning: Open Area Combining Zone Residential Developments (R-5), Rural Residential – 4 acre minimum (R-R-4), Rural Residential – 2 acre minimum (R-R-2), REQUEST: This appeal concerns the Planning Commission's denial of Amendment No. 1 to Final Tract Map No. 36327 which proposed to allow a community water system for the project site instead of water wells for the individual parcels. APN: 573040054, 573040015, 573040049, 573040050, 573040020, 573040019, 573040028, 573040029 573040034, 573040039, 573040053, 573040052, 573040047, 573040016, 573040051, 573040012 573040032, 573040021, 573040036, 573040009, 573040045, 573040038, 573040026, 573040027, 573040022, 573040046, 573040044, 573040023, 573040043, 573040024, 573040031, 573040014, 573040010, 573040017, 573040048, 573040033, 573040041, 573040040, 573040013, 573040011, 573040018, 573040018, 573040037, 573040025, 573040042, 573040030, 573040035, and 573040055.

Departmental Concurrence

CONTINUED FROM JANUARY 12, 2016



Steve Weiss, AICP
Planning Director

(Continued on next page)



Juan C Perez
TLMA Agency Director

| FINANCIAL DATA | Current Fiscal Year: | Next Fiscal Year: | Total Cost: | Ongoing Cost: | POLICY/CONSENT (per Exec. Office) |
|----------------------|----------------------|-------------------|-------------|------------------------|---|
| COST | \$ N/A | \$ N/A | \$ N/A | \$ N/A | Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/> |
| NET COUNTY COST | \$ N/A | \$ N/A | \$ N/A | \$ N/A | |
| SOURCE OF FUNDS: N/A | | | | Budget Adjustment: N/A | |
| | | | | For Fiscal Year: N/A | |

C.E.O. RECOMMENDATION:

APPROVE

BY:

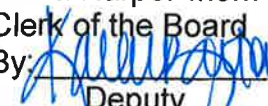

Steven C. Horn

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Washington, seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the above matter is approved to deny the appeal of the Planning Commission's denial of Amendment 1 to Final Tract Map No. 36327.

Ayes: Jeffries, Washington, Benoit and Ashley
Nays: None
Absent: Tavaglione
Date: July 12, 2016
xc: Planning, Applicant, Co.Co.

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

Prev. Agn. Ref.: 1/12/16 Item 16-2 | District: 3 | Agenda Number:

16-2

- A-30
- Positions Added
- 4/5 Vote
- Change Order

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: APPEAL of PLANNING COMMISSION'S DECISION TO DENY AMENDMENT NO. 1 TO FINAL
TRACT MAP NO. 36327**

DATE: June 30, 2016

PAGE: Page 2 of 3

RECOMMENDED MOTION: That the Board of Supervisors:

DENY the appeal of the Planning Commission's denial of Amendment No.1 to Final Tract Map No. 36327 on November 4, 2015; and

UPHOLD the Planning Commission's denial of Amendment No. 1 to Final Tract Map No. 36327 based on the findings and conclusions set forth in this staff report.

BACKGROUND:

At the January 12, 2016, Board of Supervisors continued the item to July 12th to provide the appellant additional time to submit the required information to the Department of Environmental Health. On January 14th the appellant submitted an application for a Domestic Water Supply Permit along with a Technical, Managerial, and Financial (TMF) assessment to the Department of Environmental Health. The State Water Resources Control Board Division of Drinking Water requires all new water systems applying for a permit to complete a TMF Assessment and the Department of Environmental Health has delegated authority from the State.

On February 16th the Department of Environmental Health, with concurrent review from the State Division of Drinking Water, submitted its review and corrections for the TMF to the appellant. On May 9th the Department of Environmental Health received a comment letter from the Watermaster for the Santa Margarita Watershed. On May 23rd the appellant submitted response to the TMF review and corrections. On June 13th the Department of Environmental Health received an additional letter from the Watermaster. On June 22nd, the Department of Environmental Health, with concurrence from County Counsel, determined the TMF was incomplete. All the above reference documents are attached hereto as Attachment A.

Based on the information from the Department of Environmental Health and the Watermaster, the water rights have not been adequately addressed to approve the TMF and other outstanding corrections exist on the TMF that need to be addressed prior to approval.

Summary

This appeal concerns the Planning Commission's denial of Amendment No. 1 to Final Tract Map No. 36327 which is a proposal by the applicant to modify a notation and condition to the final recorded Tract Map No. 36327 to allow a community water system for the project site.

The Project is located in the Anza/Cahuilla area of the Third Supervisorial District, northerly of Upper Valley Road, easterly of Bautista Road and westerly of Pollwog Road. The original tentative tract map was approved as a Schedule "C" subdivision of 265.2 gross acres into 46 single-family residential lots arranged in a clustered development with a lot size ranging from two to four gross acres, and one approximately 180 gross acre common lot for open space with an overall density of 0.173 dwelling units per acre (or an average of 1 dwelling unit per 5.89 acres.) The tentative tract map was approved by the Board of Supervisors on January 31st 2012 (refer to attachment). The approved map reflects individual wells on each site. The applicant recorded the final map on December 26, 2013.

The appeal application, staff reports, and memorandum documents provided to the Planning Commission are attached hereto and incorporated herein by reference.

The project was denied by the Planning Commission (4-1) on November 4, 2015. The Commission based their decision on the findings contained in the attached staff report and additional testimony presented at the public hearing.

The attached appeal staff report goes into more detail on the appellant's/applicant's comments. The primary concern of the appellant/applicant was a claim that Planning staff and the Planning Commission did not

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PAGE: Page 3 of 3

consider the applicant's true intended request which was to revise a condition of approval (80.E Health.003) which required individual potable wells for each parcel. The appellant/applicant is requesting to revise the text of this condition of approval so he would have flexibility to proceed with either applying for a community water system or install individual potable wells for each parcel should the community water system not be allowed.

Staff analyzed and the Planning Commission considered the actual text of the application that was submitted and included in the staff report (the applicant/appellant is arguing that this was not the full application). However, the applicant has failed to provide information that is required by Ordinance No. 460 to support approval of the requested amendment.

Specifically, Ordinance No. 460 requires that there be changes in circumstances which make any or all of the conditions no longer appropriate or necessary. At the time the original tentative map was approved, the project was conditioned for potable wells. The applicant has still not provided any evidence demonstrating a change in circumstance that makes this condition no longer appropriate or necessary.

Additionally, during the processing of the original tentative tract map Staff received several letters from the Ramona Band of Cahuilla Indians Tribe expressing concerns related to water rights. Their letters indicate that the Tribe has federally reserved rights to groundwater and the tentative tract map is premature given that the water rights for the proposed project and the individual parcels have yet to be determined.

The original final tract map was processed with a written statement (Land Division form SAN-53) from the health officer pursuant to the requirements of Ordinance No. 460 section 5.1 which indicated that individual wells would be used for the site. The applicant's proposed amendment would allow for a community water system which is inconsistent with the approved map's form SAN-53. Thus, the proposed change is inconsistent with the identified water system unless a revised SAN-53 is submitted indicating the community water system is acceptable. To date, the applicant/appellant has failed to identify that a community water system is a viable alternative since he has not 1) applied for the water system, 2) shown proof of financial assurances and other technical requirements to assure that a system can be operated that protects public health and welfare, and 3) does not appear to have clear water rights based on the Anza litigation and determination from the State Water Master. The Department of Environmental Health is the permitting agency for small water systems and could not approve any such a system without approval from the watermaster.

Impact on Citizens and Businesses

The application was recommended for denial by staff and denied by the Planning Commission. No environmental review (CEQA) is required for a denial. In the event that the Board elects to consider approving the appeal and/or the application, staff will need to prepare an environmental document to address the request.

ATTACHMENTS:

- A. **Recent Documents and Correspondence**
- B. **Appeal Staff Report**
- C. **Appeal Application**
- D. **Planning Commission Minutes**
- E. **Planning Commission Memo**
- F. **Planning Commission Staff Report**

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



16-2

10:30 a.m. being the time set for public hearing on the recommendation from Transportation And Land Management Agency/Planning regarding Public Hearing on the Appeal of the Planning Commission's decision to deny amendment No. 1 to the Final Tract Map No. 36327. Recommendation to deny the appellant's request to overturn the Planning Commission's denial of Amendment No. 1 to Final Tract Map No. 36327 to modify the final recorded-map to allow a community water system for the project site instead of wells for the individual parcels and Uphold the denial based on the findings and conclusions. The project is located northerly of Upper Valley Road, southerly of Ramona Reservation, easterly of Bautista and westerly of Barham, in the Anza and Cahuilla Area, 3rd District, the Chairman called the matter for hearing.

Matt Straite, Contract Planner Supervisor, presented the matter.

The following people spoke on the matter:

Mike Machado Rob Burnett
Tricia Napolitano

The chairman closed the public hearing.

On motion of Supervisor Washington, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is continued to Tuesday, July 12, 2016.

Roll Call:

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
Nays: None
Absent: None

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on January 12, 2016 of Supervisors Minutes.

(seal)

WITNESS my hand and the seal of the Board of Supervisors
Dated: January 12, 2016
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

By:  Deputy

AGENDA NO.

16-2

xc: Planning, COB

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

322



FROM: TLMA Planning Department

SUBMITTAL DATE:
December 16, 2015

SUBJECT: APPEAL of PLANNING COMMISSION'S DECISION TO DENY AMENDMENT NO. 1 TO FINAL TRACT MAP NO. 36327 – Applicant: Robert Burnett– Engineer/Representative: Ron Moreno – Third Supervisorial District – Anza and Cahuilla Zoning Area – REMAP Area Plan: Open Space: Rural (OS-RUR), Community Development: Rural Residential (RR) – Location: Northerly of Upper Valley Road, southerly of Ramona Reservation, easterly of Bautista, and westerly of Barham – 265.02 Acres – Zoning: Open Area Combining Zone Residential Developments (R-5), Rural Residential – 4 acre minimum (R-R-4), Rural Residential – 2 acre minimum (R-R-2), REQUEST: This appeal concerns the Planning Commission's denial of Amendment No. 1 to Final Tract Map No. 36327 which proposed to allow a community water system for the project site instead of water wells for the individual parcels. APN: 573040054, 573040015, 573040049, 573040050, 573040020, 573040019, 573040028, 573040029 573040034, 573040039, 573040053, 573040052, 573040047, 573040016, 573040051, 573040012 573040032, 573040021, 573040036, 573040009, 573040045, 573040038, 573040026, 573040027, 573040022, 573040046, 573040044, 573040023, 573040043, 573040024, 573040031, 573040014, 573040010, 573040017, 573040048, 573040033, 573040041, 573040040, 573040013, 573040011, 573040018, 573040018, 573040037, 573040025, 573040042, 573040030, 573040035, and 573040055.

Departmental Concurrence

RECOMMENDED MOTION: That the Board of Supervisors:


Steve Weiss, AICP
Planning Director


(Continued on next page)


Juan C Perez
TLMA Agency Director

| FINANCIAL DATA | Current Fiscal Year: | Next Fiscal Year: | Total Cost: | Ongoing Cost: | POLICY/CONSENT (per Exec. Office) |
|-----------------------------|----------------------|-------------------|-------------|-------------------------------|---|
| COST | \$ N/A | \$ N/A | \$ N/A | \$ N/A | Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/> |
| NET COUNTY COST | \$ N/A | \$ N/A | \$ N/A | \$ N/A | |
| SOURCE OF FUNDS: N/A | | | | Budget Adjustment: N/A | |
| | | | | For Fiscal Year: N/A | |

C.E.O. RECOMMENDATION:

APPROVE

BY: 
Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- Positions Added
- Change Order
- A-30
- 4/5 Vote

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FORM 11: APPEAL of PLANNING COMMISSION'S DECISION TO DENY AMENDMENT NO. 1 TO FINAL
TRACT MAP NO. 36327**

DATE: December 17, 2015

PAGE: Page 2 of 3

RECOMMENDATION (continued from first page)

DENY the appellant's request for the Board of Supervisors to overturn the Planning Commission's denial of Amendment No.1 to Final Tract Map No. 36327 on November 4, 2015; and

UPHOLD the Planning Commission's denial of Amendment No. 1 to Final Tract Map No. 36327 based on the findings and conclusions set forth in this staff report.

BACKGROUND:

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PAGE: Page 3 of 3

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Impact on Citizens and Businesses

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ATTACHMENTS:

- A. **Appeal Staff Report**
- B. **Appeal Application**
- C. **Planning Commission Minutes**
- D. **Planning Commission Memo**
- E. **Planning Commission Staff Report**



RIVERSIDE COUNTY
PLANNING DEPARTMENT

ORIGINAL

Steve Weiss, AICP
Planning Director

1230
(Red circled stamp)

DATE: July 12, 2016

TO: Clerk of the Board of Supervisors

FROM: Planning Department – Riverside

SUBJECT: APPEAL OF PLANNING COMMISSION'S DECISION TO DENY AMENDMENT NO. 1 TO FINAL TRACT MAP NO 36327

(Charge your time to these case numbers)

The attached item(s) require the following action(s) by the Board of Supervisors:

- Place on Administrative Action
 - Receive & File
 - EOT
- Set for Hearing *(Legislative Action Required; CZ, GPA, SP, SPA)*
- Publish in Newspaper:
 - **SELECT Advertisement****
 - **SELECT CEQA Determination****
 - 10 Day
 - 20 Day
 - 30 day
- Place on Consent Calendar
- Place on Policy Calendar *(Resolutions; Ordinances; PNC)*
- Place on Section Initiation Proceeding *(GPIP)*
- Notify Property Owners *(app/agencies/property owner labels provided)*

Designate Newspaper used by Planning Department for Notice of Hearing:

Riverside Office · 4080 Lemon Street, 12th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 · Fax (951) 955-1811

Desert Office · 77-588 Duna Court, Suite H
Palm Desert, California 92211
(760) 863-8277 · Fax (760) 863-7040

"Planning Our Future... Preserving Our Past"



County of Riverside
DEPARTMENT OF ENVIRONMENTAL HEALTH

ORIGINAL

P.O. BOX 7909 • RIVERSIDE, CA 92513-7909

STEVE VAN STOCKUM, DIRECTOR

TMF REVIEW AND CORRECTIONS

Date: February 16, 2016

To: Thomas Mountain Ranch, LLC
C/O Robert G. Burnett
PO Box 391111
Anza, Ca 92539

Re: **Thomas Mountain Ranch, LLC TMF review**

A review of the TMF documents submitted to this Department by Egan and Egan, Inc. on January 14, 2016 has been completed. After careful review of all documentation it was determined that the TMF is incomplete and has not demonstrated capacity in the following areas:

- TMF assessment form requires signature.
- **Section 1- Consolidation Feasibility** – Applicant provided sufficient documentation showing that consolidation is not feasible.
- **Section 2- System Description**
 1. Include a water source assessment of the wells and aquifer by a registered hydrogeologist or equivalent to ascertain the long range sustainability of the ground water (see section 64554 of the CA Waterworks Standards). Additional pump testing and recovery rates may be required.
 2. Take confirmation samples for secondary Maximum Contaminant Level (MCL) exceedances. Both wells exceeded the secondary standard for iron. Well #2 also exceeded the secondary MCL for aluminum and manganese.
 3. Treatment for MCL's is required if well water exceeds primary or secondary MCL.
 4. Well site location must comply with Section 64560 of CA Waterworks Standards.
 5. Provide additional information regarding the lots where the wells and storage tanks are located. Will these lots be owned by the water company (including proper setbacks and access)?
 6. Provide documentation that proper easements are in place for the distribution system and all other water system constituents.
 7. Show any existing wells (both private and agricultural) on the plans.
 8. The size of the 2" lines from well to tank needs to be increased to a 4" line.

9. Be advised, complete civil engineered design drawings of proposed facilities (to scale) showing location, size and construction details must be provided to this Department prior to approval of water system. Water system design must comply with CA Waterworks Standards. This review is for TMR only – not approval of water system.

- **Section 3- Certified Operator** – Applicant provided sufficient information.
- **Section 4- Source Capacity**
 1. The lowest producing well needs to meet maximum demand. Indicate the production from Well 2.
 2. Be advised that both wells need to meet community well requirements (surface features).
 3. Recalculate water demand projection by using California Water works Standards section 64554 (b) (4) and adjust required production and storage based on Maximum demand.
- **Section 5- Operations Plan**
 1. Clarify the complaint process.
- **Section 6 Training-** Applicant provided sufficient information.
- **Section 7- Ownership-**
 1. Michael Miller with the California Public Utilities Commission (CPUC) stated that he contacted TMR and was satisfied that since TMR will be operating as a mutual, they would not be subject to regulation by the CPUC at this time. Please be advised that the Department will need legal papers for the incorporated mutual prior to issuance of permit for the water system.
- **Section 8- Water Rights**
 1. To date, the applicant has provided incomplete documentation regarding the requirements for an adjudicated basin – by either (a) attaching the deeds or (b) attaching documentation from the Watermaster of the ability to extract water. The land grant does not provide sufficient documentation to show the right to pump water, as it does not comply with either (a) or (b) above.
 2. The applicant has not provided information to indicate the long-term availability of the water source for a 10-year water demand.
- **Section 9- Organization-** Applicant provided sufficient information.
- **Section 10- Emergency Response Plan**
 1. Update emergency notification with current contact information and sign form. This can be provided at time of water system plan submittal.

2. Provide a signed bacteriological siting plan. This can be provided at time of water system plan submittal.

- **Section 11- Policies**

1. Expand on complaint response for template in section 5. (Expand on how this will be handled).
2. Include hours worked and over time.
3. Include documentation of repairs or new construction.

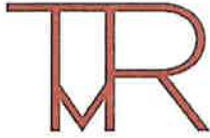
- **Section 12- Budget Projection/ Capital Improvement**

1. If determined that secondary MCL treatment is needed, indicate cost on budget projection.
2. Indicate that funds have been created for a potential emergency.

- **Section 13- Budget Control**

1. Adjust budget to include a water treatment system – if secondary MCL's are exceeded after resampling the wells.
2. Chemical monitoring may be more than the budgeted amount.

Please contact this Department with additional questions at 951-955-8980



THOMAS
MOUNTAIN
RANCH
DREAM
EXPERIENCE
LIVE

Robert G. Burnett
Director of Development

Thomas Mountain Ranch
P.O. Box 391111 or 36750 Upper Valley Road
Anza, CA 92539

M (951) 609-4726
F (951) 346-4009

robert@tmranza.com
www.TMRanza.com

May 23, 2016

Bonnie Dierking, Program Chief
Riverside County Dept. of Environmental Health
Environmental Protection & Oversight Division
3880 Lemon Street, Suite 200
Riverside, CA 92501
(951) 955-8980

Re: Thomas Mountain Ranch- Response to TMF Review and Corrections

Dear Bonnie,

The TMF REVIEW AND CORRECTIONS was received on or around February 16, 2016 from your department. Included herein is a letter from the owner, Greg Burnett, a copy of the TMF REVIEW AND CORRECTIONS sent by your department, and a TMF addendum addressing the advisement and correction requests outlined by your department.

This document will be sent electronically on or around May 23, 2016 and delivered in person, or by mail, on or around May 24, 2016 to the following address: 3880 Lemon Street, Suite 200 Riverside, CA 92501 attn: Bonnie Dierking.

Sincerely,

Robert Burnett, MBA
Director of Development

Cc Greg Burnett, Owner
 Tricia Napolitano, Director of Administration
 John Schatz, Attorney at law
 Benjamin Egan, PE, PLS

5/22/2016

SUBMITTAL: To County of Riverside Department of Environmental Health

RE: TMF Review and Corrections by RCDEH dated 2/16/2106

Dear Mr. Steve Van Stockum,

Enclosed please find responses to your Staff's last review. The applicant has waited for the requested letter of response from the Santa Margarita River Watershed Watermaster. NOW, that the Watermaster has issued an official, formal response to the County, we should be able to all move forward expeditiously.

The Watermaster's response clearly states:

1. The landowner (TMR development) has water rights to produce groundwater.
2. The Watermaster will make no reference or suggestion as to the "quantities" of the water associated to the water rights cited above.

As to number two (above), the RCDEH along with a unanimous vote of all five RC Supervisors has already approved the permitting of 46+ wells on the development site. Moving forward, a SWS only requires two wells. Therefore, the "quantity" of water to be used by TMR is already approved and not an issue. The Watermaster's lack of direction on this point has no impact on what has already been approved!

There has been serious delays and controversy over this TMF review process by RCDEH. In addition to the Watermaster's reporting to RCDEH (5/9/2016) that the applicant has water rights, TMR has provided other conclusive evidence of its water rights in Appendix 5, 6 & 7! Included in this information are statements from two, different TMR lawyers – 1) addressing the information provided by the Watermaster, and 2) addressing the chain of title regarding the ownership of these water rights (referred to as an "undiminished federal water right").

The applicant has clearly addressed the now infamous "Section 8" issue, demonstrated its water rights (i.e. why the applicant has water rights, where did these water rights originate from) along with the Watermaster's acknowledgement of these rights. Accordingly, this applicant believes the application review process should immediately move forward addressing all remaining technical, managerial and financial issues, if any, yet outstanding.



County of Riverside
DEPARTMENT OF ENVIRONMENTAL HEALTH

P.O. BOX 7909 • RIVERSIDE, CA 92513-7909

STEVE VAN STOCKUM, DIRECTOR

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 7. Show any existing wells (both private and agricultural) on the plans.
 8. The size of the 2" lines from well to tank needs to be increased to a 4" line.

9. Be advised, complete civil engineered design drawings of proposed facilities (to scale) showing location, size and construction details must be provided to this Department prior to approval of water system. Water system design must comply with CA Waterworks Standards. This review is for TMF only – not approval of water system.

- **Section 3- Certified Operator** – Applicant provided sufficient information.
- **Section 4- Source Capacity**
 1. The lowest producing well needs to meet maximum demand. Indicate the production from Well 2.
 2. Be advised that both wells need to meet community well requirements (surface features).
 3. Recalculate water demand projection by using California Water works Standards section 64554 (b) (4) and adjust required production and storage based on Maximum demand.
- **Section 5- Operations Plan**
 1. Clarify the complaint process.
- **Section 6 Training-** Applicant provided sufficient information.
- **Section 7- Ownership-**
 1. Michael Miller with the California Public Utilities Commission (CPUC) stated that he contacted TMR and was satisfied that since TMR will be operating as a mutual, they would not be subject to regulation by the CPUC at this time. Please be advised that the Department will need legal papers for the incorporated mutual prior to issuance of permit for the water system.
- **Section 8- Water Rights**
 1. To date, the applicant has provided incomplete documentation regarding the requirements for an adjudicated basin – by either (a) attaching the deeds or (b) attaching documentation from the Watermaster of the ability to extract water. The land grant does not provide sufficient documentation to show the right to pump water, as it does not comply with either (a) or (b) above.
 2. The applicant has not provided information to indicate the long-term availability of the water source for a 10-year water demand.
- **Section 9- Organization-** Applicant provided sufficient information.
- **Section 10- Emergency Response Plan**
 1. Update emergency notification with current contact information and sign form. This can be provided at time of water system plan submittal.

2. Provide a signed bacteriological siting plan. This can be provided at time of water system plan submittal.
- **Section 11- Policies**
 1. Expand on complaint response for template in section 5. (Expand on how this will be handled).
 2. Include hours worked and over time.
 3. Include documentation of repairs or new construction.
 - **Section 12- Budget Projection/ Capital Improvement**
 1. If determined that secondary MCL treatment is needed, indicate cost on budget projection.
 2. Indicate that funds have been created for a potential emergency.
 - **Section 13- Budget Control**
 1. Adjust budget to include a water treatment system – if secondary MCL's are exceeded after resampling the wells.
 2. Chemical monitoring may be more than the budgeted amount.

Please contact this Department with additional questions at 951-955-8980

**DOMESTIC WATER SUPPLY PERMIT APPLICATION &
TECHNICAL – MANAGERIAL – FINANCIAL ASSESSMENT FOR A
COMMUNITY WATER SYSTEM**

LOCATED AT

PO BOX 391111
ANZA, CA 92539

PREPARED FOR



**THOMAS
MOUNTAIN
RANCH**
DREAM
EXPERIENCE
LIVE

THOMAS MOUNTAIN RANCH, LLC
C/O ROBERT G. BURNETT
PO BOX 391111
ANZA, CA 92539

PREPARED BY

EGAN AND EGAN, INC.
44267 MONTEREY AVENUE, SUITE B
PALM DESERT, CA 92260
(760) 404-7663
BEGAN@EGANCIVIL.COM


5/19/2016
Benjamin Daniel Egan, PE, PLS
Engineer of Record



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TMF Assessment Form

CORRECTION/ADVISEMENT

TMF assessment form requires signature.

RESPONSE

Appendix 1 contains a TMF assessment form with the required signature.

Section 2- System Description
TECHNICAL

CORRECTION/ADVISEMENT

1. Include a water source assessment of the wells and aquifer by a registered hydrogeologist or equivalent to ascertain the long range sustainability of the ground water (see section 64554 of the CA Waterworks Standards). Additional pump testing and recovery rates may be required.
2. Take confirmation samples for secondary Maximum Contaminant Level (MCL) exceedances. Both wells exceeded the secondary standard for iron. Well #2 also exceeded the secondary MCL for aluminum and manganese.
3. Treatment for MCL's is required if well water exceeds primary or secondary MCL.
4. Well site location must comply with Section 64560 of CA Waterworks Standards.
5. Provide additional information regarding the lots where the wells and storage tanks are located. Will these lots be owned by the water company (including proper setbacks and access)?
6. Provide documentation that proper easements are in place for the distribution system and all other water system constituents.
7. Show any existing wells (both private and agricultural) on the plans.
8. The size of the 2" lines from well to tank needs to be increased to a 4" line.
9. Be advised, complete civil engineered design drawings of proposed facilities (to scale) showing location, size and construction details must be provided to this Department prior to approval of water system. Water system design must comply with CA Waterworks Standards. This review is for TMF only – not approval of water system.

RESPONSE

1. A water source assessment will be provided prior to issuance of TMF permit.
2. N/A, see response for Section 2- System Description #3 (below response)
3. Treatment for iron, aluminum and manganese will be provided.
4. Well site locations comply with Section 64560 of CA Waterworks Standards. The original TMF submission includes well permits and well completion reports identifying the location of both wells. Well sites were inspected by Environmental Health staff during sanitary seal establishment.
5. All components of the water system are located on lot 47, a common area of equal ownership among the 46 homeowners. The water system does not own any land. All homeowners and their property, individual and collective, have unrestricted and unlimited access to Lot 47 (APN: 573-040-055).
6. Easements for the distribution system and all other water system constituents are not required. (Refer to response #5 above for further detail)
7. Appendix 2 shows any existing wells within the service area boundary.
8. Per waterworks standards, the two-inch lines from well to tank will be increased to four-inch line.
9. Applicant acknowledges advisement from RIVCO environmental health

Section 4- Source Capacity
TECHNICAL

CORRECTION/ADVISEMENT

1. The lowest producing well needs to meet maximum demand. Indicate the production from Well 2.
2. Be advised that both wells need to meet community well requirements (surface features).
3. Recalculate water demand projection by using California Water works Standards section 64554 (b) (4) and adjust required production and storage based on Maximum demand.

RESPONSE

1. Individual production from both wells meets maximum demand. Well #1, primary, produces 30gpm. Well #2, secondary, produces 37.5gpm. Maximum daily demand is calculated to be 22,273 gallons per day. Peak hourly demand is calculated to be 1,330gph. Well #1 is capable of producing 43,200 gallons per day, or 1,800gph.
2. Applicant acknowledges advisement from RIVCO environmental health.
3. Water demand projection was originally calculated using California Waterworks Standards section 64554 (b) (4), but peaking factors were incorrectly calculated. The values below reflect the revised water demand projection for the water system.
 - Average Daily Demand (ADD) = 9,455gpd
 - Maximum Daily Demand (MDD) = 21,273gpd
 - Peak Hourly Demand (PHD) = 1,330gph

Section 5- Operations Plan
TECHNICAL

CORRECTION/ADVISEMENT

1. Clarify the complaint process

RESPONSE

1. Complaint process to be followed in conjunction with the complaint form originally provided within the TMF application can be found in appendix 3.

Section 7- Ownership
MANAGERIAL

CORRECTION/ADVISEMENT

1. Michael Miller with the California Public Utilities Commission (CPUC) stated that he contacted TMR and was satisfied that since TMR will be operating as a mutual, they would not be subject to regulation by the CPUC at this time. Please be advised that the Department will need legal papers for the incorporated mutual prior to issuance of permit for the water system.

RESPONSE

1. N/A. Clarification of ownership can be verified with a conversation held between Michael Miller with the CPUC and applicant found in appendix 4.

Section 8- Water Rights
MANAGERIAL

CORRECTION/ADVISEMENT

1. To date, the applicant has provided incomplete documentation regarding the requirements for an adjudicated basin – by either (a) attaching the deeds or (b) attaching documentation from the Watermaster of the ability to extract water. The land grant does not provide sufficient documentation to show the right to pump water, as it does not comply with either (a) or (b) above.
2. The applicant has not provided information to indicate the long-term availability of the water source for a 10-year water demand.

RESPONSE

1. Response to correction/advisement 1 and 2 was prepared by John. J. Schatz, attorney at law, and can be found in appendix 5. The aforementioned response includes comments and supplementary information to a “Review and Comments” provided by Watermaster Chuck Binder dated May 9, 2016.
2. See Response 1.

ADDITIONAL INFORMATION

- Supporting documents for the response prepared by Schatz can be found in appendix 6. In an effort to save paper and to expedite reference confirmation, select pages were printed and included in appendix 6. TMR will provide any cited document in its entirety upon request.
- A chain of title and explanation of associated water rights as they pertain to the boundaries of this application was prepared by Randy Maher, attorney at law, for Gregory Burnett and can be found as appendix 7.
- Watermaster provided commentary regarding status of negotiations between litigating parties of the *Fallbrook Case* during the quarterly Watermaster Steering Committee meeting held on April 19, 2016 stating, negotiations were stalled and this case would continue for generations.

COOPERATIVE POINTS OF INTERESE

- Section 8 response in conjunction with Watermaster “Review and Comments” provide three explanations of a right to water and a right to sufficient water to service the TMR project. Explanations were provided by Charles Binder, Watermaster, John Schatz, attorney at law, and Randy Maher, attorney at law.
- TMR is currently authorized to drill individual wells and draw an unrestricted and unlimited amount of water. The proposed community water system will dramatically *reduce* the amount of water used within the project boundaries, helping California and the County of Riverside address one of California’s greatest state of emergencies, drought.

Section 10- Emergency Response Plan
MANAGERIAL

CORRECTION/ADVISEMENT

1. Update emergency notification with current contact information and sign form. This can be provided at time of water system plan submittal.
2. Provide a signed bacteriological siting plan. This can be provided at time of water system plan submittal.

RESPONSE

1. An updated emergency notification with current contact information and signature will be provided at time of water system plan submittal.
2. A signed bacteriological siting plan will be provided at time of water system plan submittal.

Section 11- Policies
MANAGERIAL

CORRECTION/ADVISEMENT

1. Expand on complaint response for template in section 5. (Expand on how this will be handled).
2. Include hours worked and over time.
3. Include documentation of repairs or new construction.

RESPONSE

1. A complaint response procedure has been developed and shall be included as part of the policy manual governing this water system. The complaint response is located in appendix 8.
2. A procedure for hours worked and overtime has been developed and shall be included as part of the policy manual governing this water system. Procedure for hours worked and overtime is located in appendix 8.
3. A procedure for documentation of repairs or new construction has been developed and shall be included as part of the policy manual governing this water system. Procedure for documentation of repairs or new construction is located in appendix 8.

Section 12- Budget Projection/ Capital Improvement
FINANCIAL

CORRECTION/ADVISEMENT

1. If determined that secondary MCL treatment is needed, indicate cost on budget projections.
2. Indicate that funds have been created for a potential emergency.

RESPONSE

1. Budget projections have been revised to treat for Manganese, Aluminum, and Iron. Revised projections can be found in appendix 9.
2. Funds for a potential emergency are reflected on line 23 of the 5-year budget as Miscellaneous under General and Administrative Expenses. These funds represent a rate increase of 10% over the required rate to maintain the current system. Funds for a potential emergency will be collected monthly and identified as a independent line-item for billing.

Section 13- Budget Control
FINANCIAL

CORRECTION/ADVISEMENT

1. Adjust budget to include a water treatment system – if secondary MCL's are exceeded after resampling the wells.
2. Chemical monitoring may be more than the budget amount.

RESPONSE

1. The budget has been revised to include a water treatment system. A revised budget can be found in appendix 9.
2. Provision for chemical monitoring is now appropriate and has been reflected in the revised budget. A revised budget can be found in appendix 9.

Appendix 1
TMF ASSESSMENT FORM

State Water Resources Control Board TMF Assessment Form


ASSESSMENT TYPE: Financing Project New System Change of Ownership

WATER SYSTEM CLASSIFICATION: Community Water System
 Nontransient Noncommunity Water System
 Transient Noncommunity (TNC) Water System
 You may be eligible to use the TNC EZ Form

A. WATER SYSTEM INFORMATION

| | |
|--|-------------------|
| Water System Name: TMR, LLC | |
| Water System Number: CA _____ | |
| Water System Physical Address: <u>36750 Upper Valley Rd.</u> | |
| | |
| City: <u>Anza</u> | Zip: <u>92539</u> |
| County: Riverside | |
| Division of Drinking Water Office or Local Primacy Agency: Riverside County Department of Environmental health | |

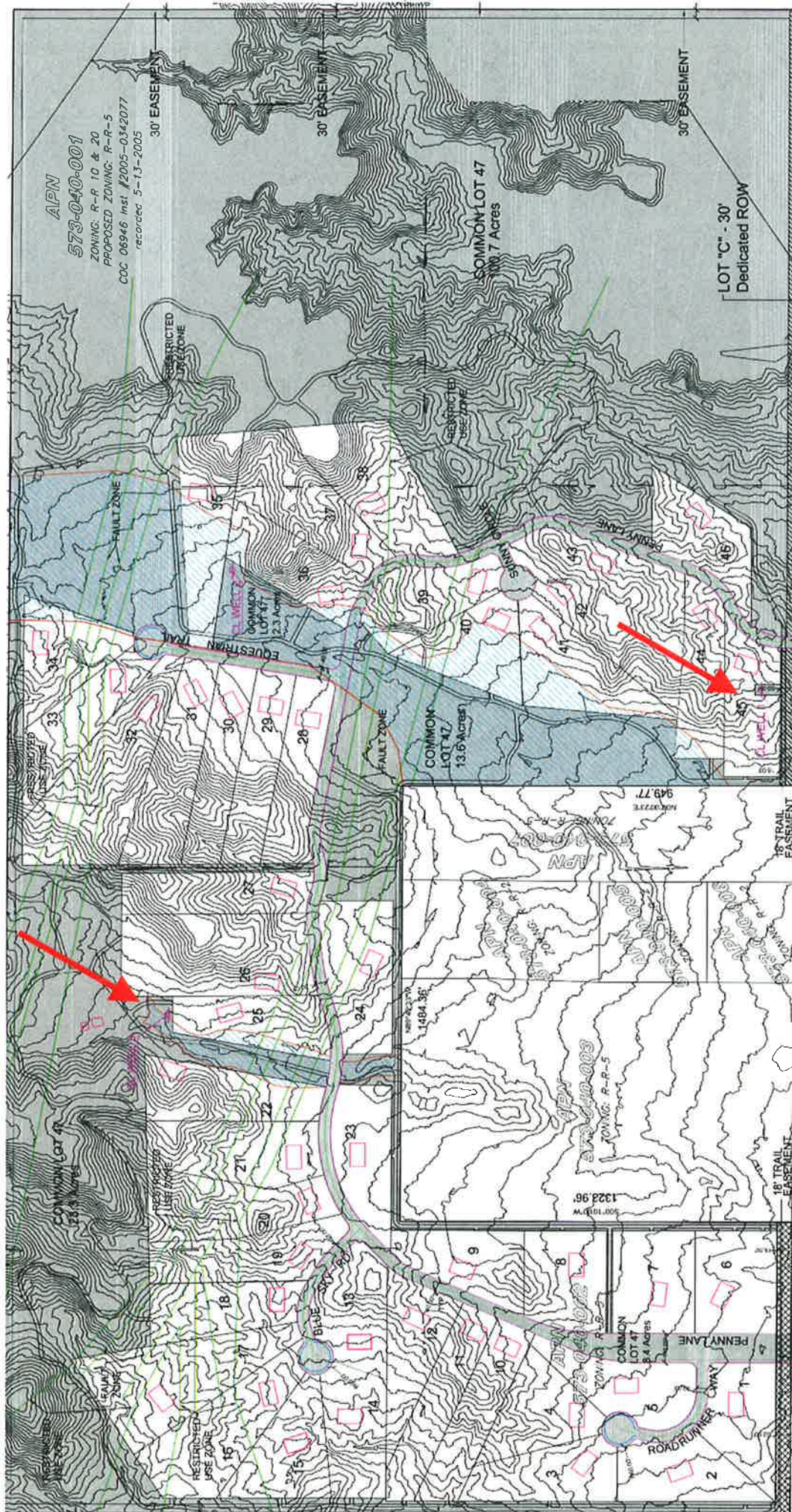
B. PERSON COMPLETING THIS TMF ASSESSMENT (*Required fields)

| | |
|--|---|
| *Name: Benjamin Egan | *Signature:  |
| *Title: Principal Engineer | *Date Assessment Completed: 01/14/2016 |
| *Phone Number: (760) 404-7663 | Email Address: began@egancivil.com |
| *Company Name and Address: <u>Egan and Egan</u> <u>44267 Monterey Avenue, Suite B</u> | |
| | |
| City: <u>Palm Desert</u> | Zip: <u>92260</u> |

C. MAIN WATER SYSTEM CONTACT PERSON INFORMATION (To be completed only if it's different from B. above)

| | |
|--|--|
| Name: Robert Burnett | Title: Director of Development |
| Phone Number: (951) 609-4726 | Email Address: Robert.tmrllc@gmail.com |
| Water System Mailing Address: <u>Po Box 391111</u> | |
| | |
| City: <u>Anza</u> | Zip: <u>92539</u> |

Appendix 2
EXISTING WELLS



APN 573-040-001
ZONING: R-R 10 & 20
PROPOSED ZONING: R-R-5
COC 06946 Inst. #2005-0342077
recorded 5-13-2005

LOT "C" - 30'
Dedicated ROW



Appendix 3
COMPLAINT PROCEDURES

Consumer complaint response procedures

1. Record complaint in the complaint log (name, address, and nature of the problem).
2. Investigate the complaint
 - a. Verify or dismiss the complaint
3. Record the steps taken to address or correct the problem
 - a. Notify complainant of action taken
 - b. Keep complaint records with corrective action for five year

Appendix 4
OWNERSHIP

From: Miller, Michael michael.miller@cpuc.ca.gov
Subject: RE: New Water system
Date: March 7, 2016 at 3:46 PM
To: Robert Burnett robert.tmrllc@gmail.com
Cc: Miller, Michael michael.miller@cpuc.ca.gov



Rob,

I believe the structure you describe falls under Public Utilities Code Sec. 2705 (relevant part included at the end of this message) and would not be subject to the jurisdiction of the CPUC. I apologize that my clumsy use of the term "mutual" has caused confusion. Please feel free to forward this message to Riverside County, or others if you feel it necessary.

As always, please feel free to contact me with any questions or concerns.

Sincerely,

Mike

Michael C. Miller, P.E.

Utilities Engineer, Water and Sewer Advisory Branch
Division of Water and Audits
California Public Utilities Commission
Phone: (415) 355-5584

2705. Any corporation or association that is organized for the purposes of delivering water to its stockholders and members at cost, including use of works for conserving, treating, and reclaiming water, and that delivers water to no one except its stockholders or members, or to the state or any agency or department thereof, to any city, county, school district, or other public district, or any federal agency that provides fire protection or operates park facilities, or to any other mutual water company, at cost, is not a public utility, and is not subject to the jurisdiction, control or regulation of the commission.

From: Robert Burnett [mailto:robert.tmrllc@gmail.com]
Sent: Monday, March 07, 2016 3:24 PM
To: Miller, Michael
Subject: Re: New Water system

Hi Michael,

Thank you for contacting me. Also, thank you for sending me this email thread so I am on the same page. I believe some clarity is still required on my end.

The water system will be owned by TMR, LLC. TMR, LLC currently owns all lots being developed and ownership is transferred equally to residents when they purchase property on the development. Specifically, there are 46 lots available and every homeowner will own 1/46th of TMR, LLC upon completion of the buildout. This water system is being built to serve these homeowners and no-one else. The management team for the water system will be comprised of homeowners. Homeowners will be served water at cost and all homeowner are naturally

stakeholder because the system is owned by TMR, LLC.

I'm seeking clarity because RIVCO has asked for incorporation documents for a mutual and I do not intend to form a mutual corporation. Would you please confirm the structure above is satisfactory. If you have any concerns, please let me know.

Best regards,

Rob Burnett
(951) 609-4726

On Mar 7, 2016, at 3:04 PM, Miller, Michael <michael.miller@cpuc.ca.gov> wrote:

Robert,

I heard your voice mail. I don't see how there could be any confusion after my February 8 email to Daisy, which was also forwarded to Jackie Jones. Here's the entire thread. If there is still some confusion let me know.

As always, please feel free to contact me with any questions or concerns.

Sincerely,

Mike

Michael C. Miller, P.E.

Utilities Engineer, Water and Sewer Advisory Branch
Division of Water and Audits
California Public Utilities Commission
Phone: (415) 355-5584

From: Miller, Michael
Sent: Tuesday, February 09, 2016 9:28 AM
To: 'jajones@rivcocha.org'
Subject: RE: New Water system

Jackie,

It was a pleasure speaking to you yesterday. Please feel free to contact me with any CPUC related questions.

Sincerely,

Mike

Michael C. Miller, P.E.

Utilities Engineer, Water and Sewer Advisory Branch
Division of Water and Audits
California Public Utilities Commission
Phone: (415) 355-5584

From: Miller, Michael
Sent: Monday, February 08, 2016 1:39 PM
To: 'jajones@rivcocha.org'
Cc: Miller, Michael
Subject: FW: New Water system

From: Miller, Michael
Sent: Monday, February 08, 2016 9:11 AM
To: 'Ciudad-Real, Daisy'
Subject: RE: New Water system

Daisy,

I have now been in contact with the utility and it will not be necessary to send the TMF information. I am satisfied that they will be operating as a mutual and that they would therefore not be subject to regulation by the CPUC.

As always, please feel free to contact me with any questions or concerns.

Sincerely,

Mike

Michael C. Miller, P.E.

Utilities Engineer, Water and Sewer Advisory Branch
Division of Water and Audits
California Public Utilities Commission
Phone: (415) 355-5584

From: Miller, Michael
Sent: Friday, February 05, 2016 2:13 PM
To: 'Ciudad-Real, Daisy'
Subject: RE: New Water system

Daisy,

I have not had a response from Egan and Egan. Is it possible for you to send their TMF app? In the past, I have received these from Drinking Water at the SWRCB and DDWEM at CDPH before. I have attached the confidentiality agreement we have with Drinking Water, but the County LPAs may not be technically included (I'm not an attorney). I am one of the authorized recipients of confidential information noted in the document. I would

one of the authorized recipients of confidential information noted in the document. I would agree to keep whatever information you send confidential and use it solely for the purpose of answering your inquiry.

Thanks,

Mike

Michael C. Miller, P.E.

Utilities Engineer, Water and Sewer Advisory Branch
Division of Water and Audits
California Public Utilities Commission
Phone: (415) 355-5584

From: Ciudad-Real, Daisy [<mailto:DCiudadR@rivcocha.org>]
Sent: Friday, February 05, 2016 11:39 AM
To: Miller, Michael
Subject: RE: New Water system

This is for a track home

Daisy E. Ciudad Real, M.P.H., R.E.H.S.
<image001.png>
Environmental Protection and Oversight Division
Environmental Resource Management Branch
LPA and Industrial Hygiene programs
3880 Lemon Street, Suite 200 Riverside, CA 92501
Phone: (951) 955-8980 Fax: (951) 955-8988

From: Miller, Michael [<mailto:michael.miller@cpuc.ca.gov>]
Sent: Friday, February 05, 2016 11:35 AM
To: Ciudad-Real, Daisy
Subject: RE: New Water system

Daisy,

One question I forgot that you might answer: Is the development for mobile homes or permanent structures?

Thanks,

Mike

PS Have a super weekend!

From: Ciudad-Real, Daisy [<mailto:DCiudadR@rivcocha.org>]
Sent: Friday, February 05, 2016 9:51 AM
To: Miller, Michael
Subject: RE: New Water system

The information I have for contact is
Egan and Egan, INC
760-404-7663
Bgagan@egancivil.com

Please let me know what your agency will require.

Thank you

Daisy E. Ciudad Real, M.P.H., R.E.H.S.
<image001.png>
Environmental Protection and Oversight Division
Environmental Resource Management Branch
LPA and Industrial Hygiene programs
3880 Lemon Street, Suite 200 Riverside, CA 92501
Phone: (951) 955-8980 Fax: (951) 955-8988

From: Miller, Michael [<mailto:michael.miller@cpuc.ca.gov>]
Sent: Friday, February 05, 2016 9:30 AM
To: Ciudad-Real, Daisy
Cc: Shia, Terence
Subject: FW: New Water system

Daisy,

Please call me to discuss this new system. My hours are 8 to 4:30, every day except Wednesday.

Thanks,

Mike

Michael C. Miller, P.E.

Utilities Engineer, Water and Sewer Advisory Branch
Division of Water and Audits
California Public Utilities Commission
Phone: (415) 355-5584

From: Shia, Terence
Sent: Friday, February 05, 2016 9:18 AM
To: Miller, Michael
Cc: DeBerry, Bruce; Boothe, James A.
Subject: RE: New Water system

Mike,

Please handle.

Thanks,

Terence

From: Boothe, James A.
Sent: Friday, February 05, 2016 8:04 AM
To: Shia, Terence
Cc: DeBerry, Bruce
Subject: FW: New Water system

Terence,

See email below Riverside County Department of Environmental Health. I am not aware that the Commission has received a CPCN inquiry for a new water system (Thomas Mountain Ranch). It may be a new mutual water system. Can you have your staff follow-up with Ms. Ciudad?

Thanks,

Jim

From: Kaur, Ravneet
Sent: Thursday, February 04, 2016 4:46 PM
To: Boothe, James A.
Subject: FW: New Water system

Hello,

Can you please help with the email below? She was given my contact information but I don't know how to help her out.

Ravneet Kaur
Regulatory Analyst | Public Advisor's Office
Consumer Service & Information Division
California Public Utilities Commission
415-703-1972

From: Ciudad-Real, Daisy [<mailto:DCiudadR@rivcocha.org>]
Sent: Thursday, February 04, 2016 4:43 PM
To: Kaur, Ravneet
Subject: New Water system

As per our conversation.

An application for a new water system (Thomas Mountain Ranch) has been submitted to our Department. The water system will consist of approximately 46 connections. It will be located in the Anza area for tract map 36327 book 438 pages 70-79. We need to verify if this system will be under your jurisdiction. Please advise.

Thank you,

Daisy E. Ciudad Real, M.P.H., R.E.H.S.
<image001.png>
Environmental Protection and Oversight Division
Environmental Resource Management Branch
LPA and Industrial Hygiene programs
3880 Lemon Street, Suite 200 Riverside, CA 92501
Phone: (951) 955-8980 Fax: (951) 955-8988

—

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Appendix 5
WATER RIGHTS- SCHATZ

JOHN J. SCHATZ
ATTORNEY AT LAW
P.O. BOX 7775
LAGUNA NIGUEL, CA. 92607-7775
(949) 683-0398
Facsimile: (949) 305-6865
Email: jschatz13@cox.net

May 18, 2016

Thomas Mountain Ranch, LLC TMF Review

**Response to Riverside County Department of Environmental Health February 16, 2016
TMF Review and Corrections for Section 8 – Water Rights**

By correspondence dated February 16, 2016, Riverside County provided the following comments regarding Section 8 – Water Rights to the January 14, 2016 Thomas Mountain Ranch TMF documents:

1. To date, the applicant has provided incomplete documentation regarding the requirements for an adjudicated basin – by either (a) attaching the deeds or (b) attaching documentation from the Watermaster of the ability to extract water. The land grant does not provide sufficient documentation to show the right to pump water, as it does not comply with either (a) or (b) above.
2. The applicant has not provided information to indicate the long-term availability of the water source for a 10-year water demand.

///

The following responds to and supplements TMR's TMF documents with respect to the County's comments concerning 1) U.S.A v. Fallbrook Public Utility District, et al., including Interlocutory Judgment No. 33 pertaining to Anza and Cahuilla Ground Water Basins and Cahuilla and Wilson Creeks (Fallbrook Case or the Judgment); 2) Hydrogeologic Evaluation and Water Resources Analysis of the Anza-Terwilliger Area, October 1990 (1990 Study); and, May 9, 2016 Watermaster review and comments to the TMF (Watermaster comments).¹

Relevant Background Information Regarding the Judgment²

Preceding entry of the Judgment, trials concerning each segment of the watershed were concluded and entered as Interlocutory Judgments (IJs). The IJs became final and operative upon entry of the Judgment. The Judgment includes Findings of Fact, Conclusions of Law, and Interlocutory Judgment No. 33 Pertaining To Anza And Cahuilla Ground Water Basins and Cahuilla And Wilson Creeks (IJ 33). TMR is the successor owner of the Southern Pacific Land Co. and Richard Kellogg property listed as 7SE-5-203 and 7SE-5-206, respectively, in Exhibits "A", "B" and "C" of IJ 33.

1 Excerpts from referenced or cited documents are attached.

2 The following sections of this memo address the relevance of this information.

TMR TMF Section 8 – Water Rights

Finding 3 of Findings of Fact Anza Ground Water Basin (page two of IJ 33) states in part: *“That said ground waters consist of two parts or units, one part or unit being those contained within the shallow aquifer which extends to a maximum but variable depth of approximately 100 feet below ground surface elevation.”* (Note the Judgment finds the shallow aquifer does not exist 100 feet below ground surface elevation).

The Interlocutory Judgment for the Anza Ground Water Basin (which includes TMR's land) states in part: *“it is further ordered, adjudged and decreed that this Court has continuing jurisdiction over the use of said ground waters contained within the shallow aquifer of the Anza Ground Water Basin”*. (Underlining added. As addressed below, the Court's continuing jurisdiction does not include Basement Complex).

As stated on page three of the Watermaster comments, the Court in IJ 33 did not quantify or apportion the water rights for those lands determined to have water rights in the Judgment. As a consequence, Watermaster is constrained from providing documentation concerning the right to extract a specified quantity of water. Watermaster, however, has responsively stated and provided documentation indicating TMR's land has an ability/right to extract water under the Judgment.

Ground Water Systems, Inc. Report: Hydrogeologic Evaluation And Water Resources Analysis Of The Anza-Terwilliger Area, 1990 (1990 Study)³

The 1990 Study was prepared for the County of Riverside Department of Environmental Health Services Division and provided groundwater analysis within the Anza-Terwilliger Area.

Section 25 (Hydrology And Water Quality) of the January 9, 2012 TMR "Environmental Assessment Form: Initial Study" (County Initial Study) expressly relied upon the 1990 Study for purposes of making certain findings relative to the ground water basin.

Section 25(c) of the County Initial Study finds "Less Than Significant Impact" as to would the project: *“substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?”*

Section 25(c) of the County Initial Study Findings of Fact states: *“The proposed forty-six (46) lots with an average lot size of 5.89 acres will not adversely deplete groundwater levels or interfere substantially with groundwater recharges such that there would be net deficit in aquifer volume or a lowering of the local groundwater table level.”*

³ Via an October 10, 1990 memorandum from the Environmental Health Services Manager at that time to the County Supervisor for the area including the Anza Valley, County staff stated it: *“has reviewed the report and find it to be realistic and practical.”*

TMR TMF Section 8 – Water Rights

Paragraphs following Section 25(c) cite and address provisions of the 1990 Study, including the directive that TMR should place wells in the Basement Complex rock of the ground water basin. In reliance on and in compliance with the County Initial Study TMR has placed two wells with perforations in Basement Complex rock for purposes of the County's approval of the TMF.

Supporting the County's Section 25 Findings of Fact recommending the placement of wells in Basement Complex is Section 4.0 (Regional Hydrogeology) of the 1990 Study, which states in part: "*Ground water occurs essentially throughout the Anza-Terwilliger study area in both Valley Fill and Basement Complex rocks*". (Underlining added). Section 4.0 also states in part: "*Basement Complex rocks are generally considered as non-water bearing in ground water investigation. However, in the case of the Anza-Terwilliger area, numerous wells are constructed into and produce from the Basement Complex (hard rock) attesting to the presence of a useful and valuable water resource existing therein.*"

Section 6.2.03 (Anza Valley UA General Geology) of the 1990 Study states in part: "... *the depths and configuration of the Valley Fill is irregular. This Valley Fill constitutes the ground water basin, the Basement Complex rocks form the lateral limits and bottom of the basin* ." (Underlining added). (Note, as addressed below concerning TMR's land, that Basement Complex underlies Valley Fill, which is expressed as Older Alluvium in the Judgment).

The two wells constructed by TMR for the TMF community water system are perforated within Basement Complex and not the shallow aquifer (as noted above, Finding Three of IJ 33 states the shallow aquifer extends to a maximum but variable depth of approximately 100 feet below ground surface elevation). Figure 6.2 – 4 (Anza Valley Unit Area 1; Hydrogeologic Cross-Section B-B'), Figure 6.2 – 2 (Anza Valley Unit Area 1; Valley Fill Basin Bottom) indicate the depth to Basement Complex where TMR's wells are placed is approximately 4,150 feet MSL. The attached Well Completion Reports for TMR's two wells show well casing perforations from 240-340 feet and 200-280 feet below ground surface. Thus the wells will be drawing water from Basement Complex and not Valley Fill/Older Alluvium within the shallow aquifer.

Water Rights

As stated in the preceding paragraph, TMR's wells that will operated in connection with TMR's exercise of overlying water rights are perforated beneath the shallow aquifer in Basement Complex under TMR's land. The use of waters in Basement Complex are not subject to the continuing jurisdiction of the Court. As noted above, the 1990 Study finds Basement Complex Rocks form not only the lateral but bottom limits of the basin where TMR's wells are perforated.

Watermaster comments note quantification and apportionment proceedings within IJ 33 are presently subject to a Stay of Litigation. There presently is no injunction or any other order which has been issued in the Fallbrook Case that precludes the production of ground water necessary for overlying use on property seeking or having development approvals in IJ 33. Also, there currently is no allocation of water rights in any amount to any party in IJ 33 which precludes any other party's overlying right to produce ground water within IJ 33 under California law. Finally, TMR's overlying right to produce water from and within Basement Complex is not subject to continuing Court jurisdiction.

TMR TMF Section 8 – Water Rights

10-Year Availability of Water Source

Section 4 of the 1990 Study states: “*numerous wells are constructed into and produce from the Basement Complex (hard rock) attesting to the presence of a useful and valuable water resource existing therein.*”

Section 6.2.13 of the 1990 Study states: “*it should be noted that future municipal and industrial development in the Anza Valley Unit Area will probably supplant irrigation activity and continue to derive water supplies from ground water resources within the valley alluvium. Water production from the UA Basement Complex rocks is not expected to increase significantly.*”

Section 6.2.15 of the 1990 Study finds: “*even without any ground water recharge, a substantial number of additional dwelling units could be supported by Basement Complex rock wells in the Anza Valley Unit for many years. With the ground water recharge that normally occurs during high rainfall periods, it appears that ground water storage coupled with such recharge could provide low demand water supplies to a greatly increased number of rural dwelling units located in the Basement Complex sector of the Anza Valley UA, in perpetuity.*”

Test pumping from TMR's wells supports the adequacy of water from Basement Complex. The test pumping indicates virtually no drawdown or reduction in production capacity (see well data included in TMR's January 14, 2016 application).

TMR's proposed project does not include irrigable landscaping that if included would result in the evapotranspiration loss of water produced from Basement Complex. Further, the use of septic systems will return water to the Basin. TMR's production of water from Basement Complex will not deplete Basin waters which, in conjunction with the cited provisions of the 1990 Study indicate at least a 10-year availability of the water source. The County Initial Study recognized the long-term availability of water from Basement Complex by recommending the placement of wells within Basement Complex.

Summary

1. TMR's wells are perforated within and will produce water from Basement Complex. Basement Complex is not subject to continuing Court jurisdiction.
2. There presently is no injunction or any other order which has been issued in the Fallbrook Case that precludes the production of ground water necessary for overlying use on property seeking or having development approvals in IJ 33.
3. There currently is no allocation of water rights in any amount to any party in IJ 33 which precludes any other party's overlying right to produce ground water within IJ 33 under California law.
4. TMR's well production data and the 1990 Study indicate there is a sufficient quantity of water for the proposed project over at least a 10-year period.

Appendix 6
WATER RIGHTS- SUPPLEMENTARY INFORMATION

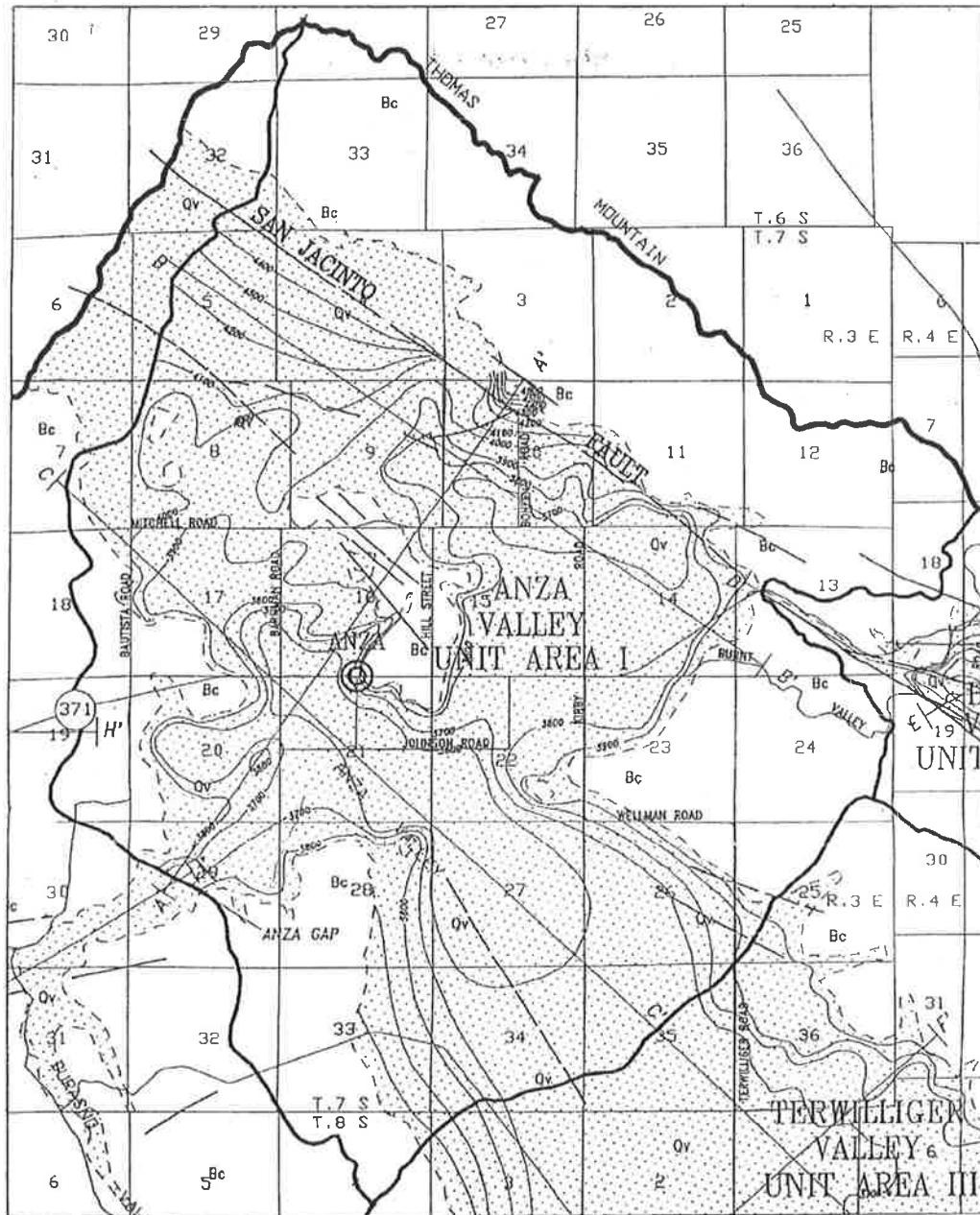
6.2.03 Anza Valley UA General Geology

The surface exposures, depths and configuration of the alluviated and Basement Complex areas of this UA are largely related to structural features of the San Jacinto Fault zone. Movement within the fault zone has uplifted and lowered sectors of the UA along a generally northwest-southeast trend that parallels that of the fault. Figure 6.2-1 depicts the trace of the San Jacinto Fault and those of other recognized faults. It is reasonable to expect that other faults transect the UA, but are buried beneath and hidden from view by overlying valley alluvium. Because of the structural conditions described above, the depths and configuration of the Valley Fill is irregular. This Valley Fill constitutes the ground water basin, the Basement Complex rocks form the lateral limits and bottom of the basin.

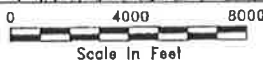
The configuration and elevations of the Basement Complex rock surface underlying the Valley Fill are shown on Figure 6.2-2. This figure indicates that two subsurface valleys, separated by a Basement Complex ridge, trend north to south and join in the southern sector. The bottom of the westerly subsurface valley appears to grade gradually southward from about elevation 4,400 to 3,600 feet Mean Sea Level (MSL). The bottom of the easterly valley is somewhat irregular in the vicinity of the San Jacinto Fault Zone, where the greatest depths of Valley Fill in the basin occur. This easterly subsurface valley flattens to the south then grades southward again to below 3,600 feet elevation at the southern tip of the central Basement Complex rock ridge where the two subsurface valleys coalesce. After the subsurface valleys join, the basin bottom again appears to grade southward toward the southern boundary of the Unit Area.

The well information used to define the base of the Valley Fill is contained within Appendix D of this report. Information used to construct the basin bottom contours included that from approximately 205 well construction information logs. The locations of and values used from the information logs are not shown on the basin bottom configuration map because, 1) information logs used are not all officially located by Federal and State agencies and 2) excessive clutter would result if the data used to construct the basin bottom contours were all entered on the map.

Depths of Valley Alluvium range from a few inches along contacts with the bordering Basement Complex rocks to depths in excess of 900 feet in the eastern section of the valley. Hydrogeologic Cross Sections A-A', B-B', and C-C' (Figures 6.2-3, 6.2-4 and 6.2-5) depict the shape of the Anza Valley UA through various sectors. Of interest is Cross Section A-A' which runs northeast from the mouth of Cahuilla Creek to the San Jacinto Fault Zone. On that cross section it can be noted that the valley alluvial fill at the mouth of Cahuilla Creek, at the UA boundary, appears to be only about 100 feet deep. This is of interest in that Cahuilla Creek is the only outflow point to the Santa Margarita River watershed from Anza Valley for both surface and subsurface waters.



LEGEND



- Valley Fill
- Basement Complex
- Anza-Terwilliger Study Area Boundary
- Unit Area Boundary
- Valley Fill / Basement Complex Contact
- Community Center
- Hydrogeologic Cross-Section
- Basin Bottom Contour
Elevation Mean Sea Level

FIGURE 6.2-2
ANZA VALLEY UNIT AREA I
VALLEY FILL BASIN BOTTOM
CONFIGURATION MAP,
SEPTEMBER 1990



Consumptive ground water use from the Valley Fill portion of the Anza Valley Unit Area has been calculated to have been about 4,900 acre feet in 1986 from USGS land use and water duty maps presented in their 1988 report.

Therefore, theoretically, if consumptive water use in the Anza alluvial basin was to be reduced by 464 acre feet per year, say to a level of 4,350 acre feet per year, the basin could be produced in perpetuity under present climate conditions without depletion.

However, should a high rainfall period occur, such as that between 1973 and 1986 when significant ground water recharge occurred, there would not be enough empty storage volume in the basin to accept the potential recharge waters available. Further, if water levels rose to the surface locally, large water losses to evapotranspiration would occur.

Storage calculations described in Section 6.2.12 indicate that in 1986 about 56,200 acre feet of producible storage remained in the Anza Valley alluvial Basin. Assuming no annual recharge whatsoever, this stored quantity of water would provide the Anza Vicinity with 12 years of water supply at a rate of 4,500 acre feet per year. This 12 years of storage is termed "bridging storage", i.e., that which would provide a continuous reliable water supply through drought (depletion) periods into following high rainfall (recharge) periods.

Considering the information developed in preceding sections and that described in this report section, the long-term annual yield (perennial yield) of Anza Valley alluvial ground water basin is calculated to be between 4,350 and 4,900 acre feet per year.

6.2.15 Anza Valley Unit Area Basement Complex Rocks Potential Long-term Annual Yield

Section 4.2 of this report indicates the method that was used in determining ground water storage in the Basement Complex rocks of the project area. Table 6.2-2 lists pertinent information concerning the basement rocks in the Anza Valley Unit Area. That Table also indicates the volume of basement rocks considered water bearing in the UA to be 1,616,000 acre feet. If the average specific yield of such rocks is one (1.0) percent, as estimated, the volume of water contained within the rocks would be 16,160 (say 16,100) acre feet.

Water wells in the UA basement rocks usually produce only a few gallons per minute and are used largely for low demand domestic purposes. Section 4.4 of this report estimates an average water use per dwelling unit in the Basement Complex rock areas to be 0.5 acre feet per year. In 1986 there were an estimated 200 dwelling units in the Basement Complex rocks of the UA having a total ground water consumptive use of about 100 acre feet per year.

It appears from the information presented above that ground water demand from the Basement Complex rocks of the unit area is very small compared to the potential amount in storage. Thus even without any ground water recharge, a substantial number of additional dwelling units could be supported by Basement Complex rock wells in the Anza Valley Unit area for many years. With the ground water recharge that normally occurs during high rainfall periods, it appears that ground water storage coupled with such recharge could provide low demand water supplies to a greatly increased number of rural dwelling units located in the Basement Complex sector of the Anza Valley UA, in perpetuity. Although the additional number of dwelling units the ground water in the Basement Complex areas of the UA could support is subject to some question, it is considered that an additional 400 to 800 could be dependably served if well spacing is properly observed. Such an increase in the sum of existing and future dwelling units would result in a demand of 300 to 500 acre feet of water annually. Such a range in water demand would appear to be well within the perennial yield of the Unit Area Basement Complex rock ground water.

6.2.16 Total Long-term Annual Yield of the Anza Valley Unit Area

From the information developed and presented in this analysis of the Anza Valley Unit Area, it is calculated that the UA annual long-term average perennial yield is as follows:

Perennial annual yield from
the Valley Fill basin of the
Unit Area = 4,350 to 4,900 acre feet

Perennial annual yield from the
Basement Complex rocks of the
Unit Area = 300 to 500 acre feet

Total long-term annual
perennial yield from the Anza
Valley Unit Area = 4,650 to 5,400 acre feet

6.2.17 Summary Listing of Anza Valley Unit Area Hydrogeologic Information

| | | |
|-------------------------------------|---|--------------|
| <u>Unit Area Areas</u> | = | 10,596 Acres |
| Area of Valley Fill (Qv) | = | 7,477 Acres |
| Area of Basement Complex rocks (Bc) | = | 18,073 Acres |
| Total Area | = | |

FIGURE 6.2-4
ANZA VALLEY UNIT AREA 1
HYDROGEOLOGIC CROSS-SECTION
B-B',
SOUTHEAST

LEGEND

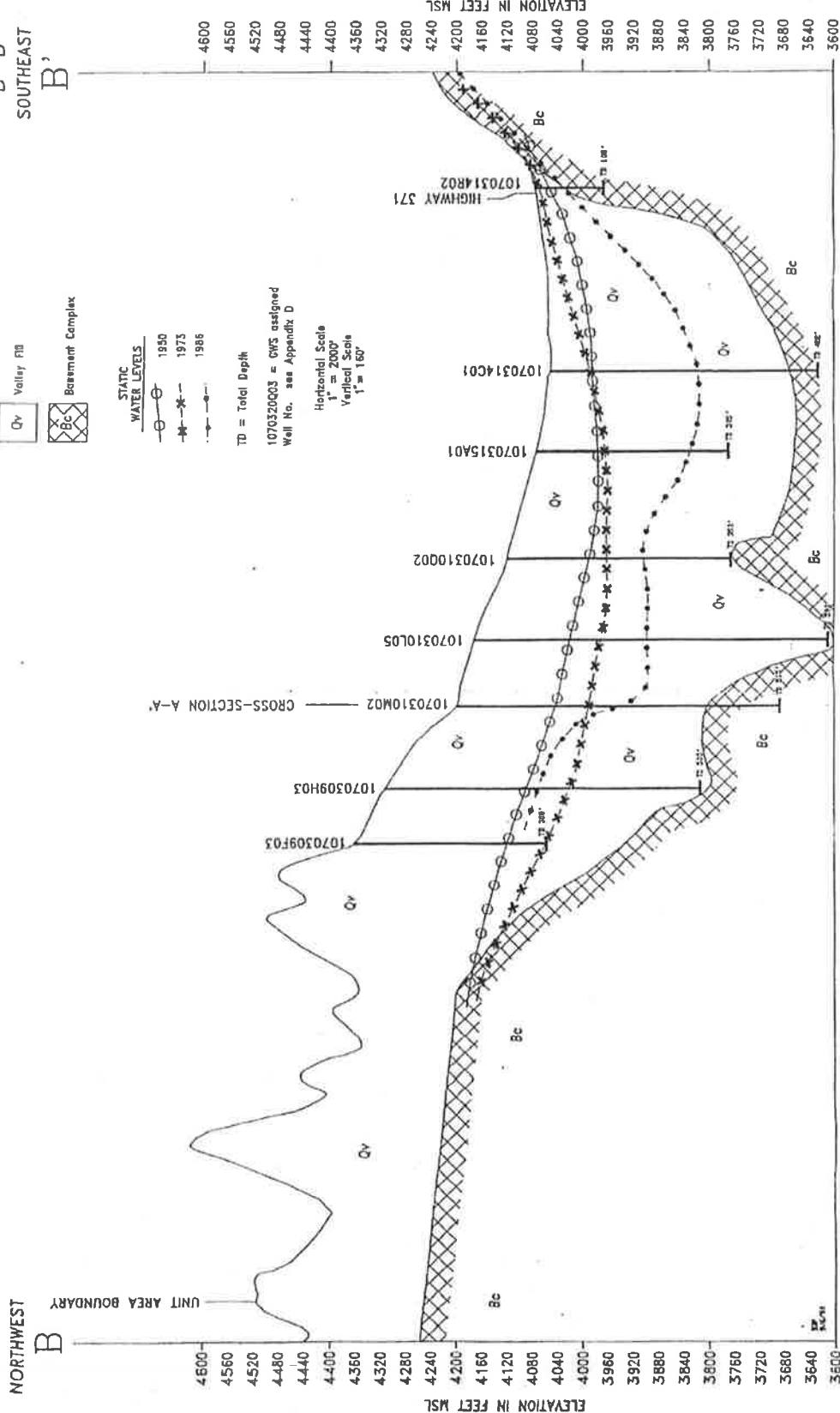
Qv Valley Fill
 Bc Basement Complex

STATIC WATER LEVELS

1950
 1973
 1986

TD = Total Depth
 1070320003 = GWS assigned
 Well No. see Appendix D

Horizontal Scale
 1" = 2000'
 Vertical Scale
 1" = 160'



See Figure 6.2-2 For
 Cross-Section Locations

4.0 Regional Hydrogeology

Ground water occurs essentially throughout the Anza-Terwilliger study area in both Valley Fill and Basement Complex rocks.

Sedimentary rock materials, the Valley Fill, range in depth from a feather edge to several hundred feet. The thickest, most prolific aquifers are associated with the Older Alluvium which lies adjacent to and beneath the Younger Alluvium. Although the Younger Alluvium occupies large areas of the regional valley surfaces, such material is usually thin and is frequently present above basin static water levels.

Five separate alluvial basins are defined in this analysis. Such basins correspond to the five unit areas of the Anza-Terwilliger study area described in Section 2.1 of this report. The five alluvial basins defined are as follow:

- Anza Valley
- Burnt Valley
- Terwilliger Valley
- Durasno-Cahuilla
- Cahuilla Valley

Basement Complex rocks in the region contain ground water in fracture, fissure, joint and crush zones. These zones have developed as a result of regional structural activity as described in Section 3.0 of this document.

Ground water contained within the Basement Complex rocks appears, from water level information, to have both dependent and independent regimes of water occurrence and movement. Dependent regimes are directly associated with alluvial basin regimes, while independent regimes are related only to the Basement Complex materials themselves.

Basement Complex rocks are generally considered as non-water bearing in ground water investigations. However, in the case of the Anza-Terwilliger area, numerous wells are constructed into and produce from the Basement Complex (hard rock) attesting to the presence of a useful and valuable water resource existing therein.

As in the case of the alluvial basins, the Basement Complex rocks are included as parts of the five previously named unit areas. The basement rocks in the unit areas represent both ground water source areas and parts of the surface water drainage system.

4.1 Determination of Water Storage Capacity in Project Area Valley Fill (Qv)

Although it is well documented that water is contained within and derived from Basement Complex rocks (Bc) in the Anza-Terwilliger area, the alluvial Valley Fill (Qv) is considered to be the primary water bearing medium of the local ground water basin(s). This Valley Fill is known to range in thickness from a feather edge to depths of more than 900 feet.

County of Riverside

DEPARTMENT OF HEALTH

TO: Kay Ceniceros, Supervisor - District III

DATE: October 10, 1990

FROM: Earl E. Tuntland, Manager - Environmental Health Services

RE: Ground Water Systems Inc. Report Entitled "Hydrogeologic Evaluation And Water Resources Analysis Of The Anza-Terwilliger Area", 1990

Environmental Health Services (E.H.S.) has reviewed the report and find it to be realistic and practical.

John Silva performed the technical review for E.H.S. A subsequent meeting with GWS and EHS staff was held on September 25, 1990 to provide clarification and a better understanding of the document. Based on GWS responses to technical questions presented, E.H.S. supports both volumes I & II of the report.

Reference your attention to page 9-7 of Volume I, Summary and Conclusions.

"A Unit Area by Unit Area Evaluation of the potential development within the study area that could be supported by the local water resources shows that most development should be low density, single family residential over much of the area"..... "All areas except the core areas in the Anza Valley Unit Area and similar areas on the Cahuilla Valley Unit Area, will depend on individual wells for water supply and septic tanks for sewage disposal. Some low density dwellings that are close to the higher density areas may also receive piped water and be able to connect to sewers."

Five Study Areas are identified in Table 9.7-1 which identify those areas or zones within the total study area showing their potential for development. The Table is provided as follows:

Table 9.7-1
Total Study Area
Summary of Potential Development

| 1 | 2 | 3 | 4 | 5 |
|--------------------|-----------------|-------------------------------|--------------------------------|---------------------------------|
| Unit Area | Area (Acres) | Existing Dwellings (DU) | Potential Dwellings (DU) | Average Density (DU/Acre) |
| Anza Valley | 18,073 | 800 | 9,160 | 0.51 |
| Burnt Valley | 2,737 | 50 | 180 | 0.07 |
| Terwilliger Valley | 11,030 | 300 | 600 | 0.05 |
| Durasno-Cahuilla | 17,430 | 90 | 3,460 | 0.20 |
| Cahuilla Valley | <u>13,107</u> | <u>150</u> | <u>6,810</u> | <u>0.52</u> |
| Total | 62,377 | 1,390 | 20,210 | 0.32 |

It is of special importance within the report that the ANZA VALLEY has the highest potential for potential dwelling units. The report refers to the possibility of enlarging or establishing a Water Company similar to the existing Anza Mutual Water Company. This area would be able to provide piped water and depend on a sanitary sewer system including reclamation to sustain the Unit Area.

The remaining unit areas must rely on private wells. A crucial aspect for the future land use of the entire area is the conversion of existing high volume \pm 900 gallons per minute agricultural well(s) to domestic service.

Technical potential(s) exist to form a County Service Area (CSA) to establish a zone(s) to obtain water and sanitary sewer service. Establishment of a CSA is at the discretion of the people within the community.

Finally, the entire study area shows five (5) year cycles of rainfall and drought averaging \pm 13.00 inches per year which is sufficient to manage the basin with the potential development numbers shown. The fifth year of the current cycle is 1990-91.

Ground Water Systems, cont.
Page 3

E.H.S. finds the report technically correct. It will be the responsibilities of others to determine exactly where to place the dwelling units within any Unit Area. A future and more specific report which delineates the exact locations of high volume wells would be needed. At this time, E.H.S. feels comfortable in approving the contents of this report. Yet, for point specific locations, "Quantity and Quality" of any well is and will not be known until it is drilled.

GWS staff will be present and have an expanded size map available for presentation at the next community meeting in Anza.

Should you have any questions, please call us at (714) 275-8980.

Very Truly Yours,



Earl E. Tuntland, Manager
Environmental Health Services

EET:JCS:cr

cc: John M. Fanning, Director - Environmental Health
John C. Silva, P.E. - Senior Public Health Engineer

1 INTERLOCUTORY JUDGMENT

2 ANZA GROUND WATER BASIN

3 1.

4 IT IS ORDERED, ADJUDGED AND DECREED that all ground
5 waters contained within the shallow aquifer of the Anza Ground
6 Water Basin add to, support and contribute to the Santa Mar-
7 garita River stream system; it is further ordered, adjudged
8 and decreed that said lands are described in Exhibit B in-
9 corporated herein by reference; that the owners of the lands
10 described in said Exhibit B have a correlative overlying right
11 to the use of the ground waters contained within the shallow
12 aquifer of the Anza Ground Water Basin; it is further ordered,
13 adjudged and decreed that this Court has continuing juris-
14 diction over the use of all of said ground waters contained
15 within the shallow aquifer of the Anza Ground Water Basin.

16 2.

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all
18 ground waters contained within the deep aquifer of the Anza
19 Ground Water Basin do not add to, support nor contribute to
20 the Santa Margarita River stream system and are not a part of
21 the Santa Margarita River or any tributary thereto, and that
22 this Court has no jurisdiction over the use of said waters con-
23 tained within the deep aquifer of the Anza Ground Water Basin;
24 that said lands which overlie the deep aquifer are described
25 and designated on Exhibit B, and it is ordered, adjudged and
26 decreed that all ground waters contained within said lands
27 below 100 feet in elevation from land surface are ground waters
28 contained within said deep aquifer.

29 3.

30 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
31 rights of the owners of said lands referred to in paragraph 2

19.

1110

63

1 have appropriative rights to the use of the waters of the
2 Santa Margarita River and/or its tributaries.

3 That except as to those appropriative rights as
4 exist from the factual statements which appear on certain
5 exhibits attached to these Findings of Fact, and other
6 appropriative rights specifically adjudged in other Findings
7 of Fact and Interlocutory Judgments in this cause, there are
8 no appropriative rights to the use of the waters which flow
9 over and upon any of the lands within the sub-watersheds of
10 Wilson and Cahuilla Creeks or to ground waters contained
11 within any of said lands.

12 CONCLUSIONS OF LAW

13 ANZA GROUND WATER BASIN 1.

14 That all ground waters contained within the shallow
15 aquifer of the Anza Ground Water Basin add to, support and
16 contribute to the Santa Margarita River stream system.

17 2.

18 That all lands described in Exhibit B have a cor-
19 relative overlying right to the use of the ground waters con-
20 tained within the shallow aquifer of the Anza Ground Water
21 Basin.

22 3.

23 That this Court has continuing jurisdiction over the
24 use of all ground waters contained within the shallow aquifer
25 of the Anza Ground Water Basin.

26 4.

27 That all ground waters contained within the deep
28 aquifer of the Anza Ground Water Basin do not add to, support
29 nor contribute to the Santa Margarita River stream system and
30 are not a part of the Santa Margarita River or any tributary
31 thereto.

15.

PARCEL 73E-5-205 Continued:

in the County of Riverside, State of California. Also, the West Half of the Southeast Quarter of the Southwest Quarter of said Section Five (5).

OWNERS:

WAGNER, Raymond N. Jr., & Alice

PARCEL 73E-5-206:

The West Thirty (30) Acres of Government Lot Ten (10)(Southwest Quarter of the Southwest Quarter), Section Five (5), Township Seven (7) South, Range Three (3) East, San Bernardino Base and Meridian, in the County of Riverside, State of California.

OWNER:

KELLOGG, Richard E.

PARCEL 73E-6-207:

The North Half of the Southeast Quarter; and, the Southeast Quarter of the Southeast Quarter of Section Six (6), Township Seven (7) South, Range Three (3) East, San Bernardino Base and Meridian, in the County of Riverside, State of California.

OWNER:

EMERY, William Howard, Sr.

PARCEL 73E-6-208:

The West Half of Lot Fifteen (15)(Southwest Quarter of the Southeast Quarter), Section Six (6), Township Seven (7) South, Range Three (3) East, San Bernardino Base and Meridian, in the County of Riverside, State of California.

OWNER:

OWENS, Maxine

PARCEL 73E-6-209:

The East Half of Lot Fifteen (Southwest Quarter of the Southeast Quarter) of Section Six (6), Township Seven (7) South, Range Three (3) East, San Bernardino Base and Meridian, in

PARCEL 73E-10-275 Continued:

OWNERS:

SGOBASSI, Louis J.

BURNETT, Leonard A.

PARCEL 73E-11-276:

The South Half of the Northwest Quarter; and, the North Half of the Southwest Quarter, Section Eleven (11), Township Seven (7) South, Range Three (3) East, San Bernardino Base and Meridian, in the County of Riverside, State of California.

OWNERS:

SOUTHERN PACIFIC LAND COMPANY.

PARCEL 73E-13, 14, 22, 23, 24, 74E-19-278:

The Northwest Quarter; the Northwest Quarter of the Southwest Quarter; the North Half of the Northeast Quarter of the Southwest Quarter of Section Thirteen (13), Township Seven (7) South, Range Three (3) East, San Bernardino Base and Meridian, in the County of Riverside, State of California. The East Half of Section Fourteen (14), said Township and Range, EXCEPT that portion described as follows: Beginning at the Southwest Corner of the East Half of the East Half of said Section Fourteen (14); thence West along the South line of said Section Fourteen (14), 132 feet; thence North 495 feet; thence East 792 feet; thence South 495 feet; thence West 660 feet, more or less, to point of beginning. Also EXCEPT the South 30 feet of the West Half of said property. Also, The East Half of the Northeast Quarter of Section Twenty-two (22), said Township and Range, EXCEPT the Northerly 30 feet thereof; the North Half of the Southeast Quarter of said Section Twenty-two (22); and, all that portion of the West Half of the Northeast Quarter of said Section Twenty-two (22), described as follows: Beginning at the Southeast Corner of the West Half

PARCEL 73E-5-204

E $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec 5, T7S, R3E

Apparent Owner: MATTIS, Louis

Gross Acreage 20.0

Wells:

Irrigable Acreage None

Surface Diversions:

PARCEL 73E-5-205

E 5.26 acres of Govt Lot 10 (SW $\frac{1}{4}$ of SW $\frac{1}{4}$), Sec. 5, T7S, R3E.
Also, W $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of sd Sec. 5.

Apparent Owners: WAGNER, Raymond N., Jr. & Alice

Gross Acreage 25.3

Wells:

Irrigable Acreage None

Surface Diversions:

PARCEL 73E-5-206

W 30 acres of Govt Lot 10 (SW $\frac{1}{4}$ of SW $\frac{1}{4}$), Sec. 5, T7S, R3E.

Apparent Owner: KELLOGG, Richard E.

Gross Acreage 30.0

Wells:

Irrigable Acreage None

Surface Diversions:

PARCEL 73E-10-275:

Bag at SE Cor of Lot 4 (SE $\frac{1}{4}$ of SE $\frac{1}{4}$), Sec 10, T7S, R3E; th Nly along Ely 11 of Lot 4, 1361.2' to NE Cor thereof; th Wly on Nly 11, 320.1'; th Sly 1361.2' to Sly 11 thereof; th Ely 320.1' to pob.

Apparent Owners: SCOBASSI, Louis J.
BURNETT, Leonard A.

Gross Acreage 9.8 Wells:

Irrigable Acreage 9.8

Surface Diversions:

PARCEL 73E-11-276:

S $\frac{1}{2}$ of NW $\frac{1}{4}$; &, N $\frac{1}{2}$ of SW $\frac{1}{4}$, Sec 11, T7S, R3E

Apparent Owner: SOUTHERN PACIFIC LAND CO.

Gross Acreage Wells:

Irrigable Acreage

Surface Diversions:

PARCEL 73E-13, 14, 22, 23, 24, 74E-19-278:

NW $\frac{1}{4}$; NW $\frac{1}{4}$ of SW $\frac{1}{4}$; N $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec 13, T7S, R3E.
E $\frac{1}{2}$ of Sec 14, T7S, R3E EXC por daf: Beg at SW Cor of E $\frac{1}{2}$ of E $\frac{1}{2}$ of sd Sec 14; th W along S 11 sd Sec 14, 132'; th N 495'; th E 792'; th S 495'; th W 660', m/1 to pob. Also EXC S 30' of W $\frac{1}{2}$ of sd prop. Also, E $\frac{1}{2}$ of NE $\frac{1}{4}$, Sec 22, T7S, R3E EXC Nly 30' thereof; N $\frac{1}{2}$ of SE $\frac{1}{4}$ sd Sec 22; and, all that por of W $\frac{1}{2}$ of NE $\frac{1}{4}$ of sd Sec 22 daf: Beg at SE Cor of W $\frac{1}{2}$ of sd NE $\frac{1}{4}$; th Nly along Ely 11 of sd W $\frac{1}{2}$ of NE $\frac{1}{4}$, 792'; th Wly, p/w Sly 11 of NE $\frac{1}{4}$, 660'; th Sly, p/w Ely 11, 792' to Sly 11 thereof; th Ely along Sly 11 of sd W $\frac{1}{2}$ of NE $\frac{1}{4}$, 660' to pob. Also, NW $\frac{1}{4}$ & N $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec 23, T7S, R3E.

Apparent Owners: EVERETT, Elmer E. & Olga C.

Gross Acreage Wells: 73E-13D1 - Stock

13D3 - Dom

Irrigable Acreage 22J1 - Stock

23D1 - Stock

Surface Diversions:

17E-13D - Reservoir, 200'x75'x6'

| <u>NAME</u> | <u>PARCEL NUMBER</u> | <u>PAGE NUMBER EXHIBIT "B"</u> | <u>PAGE NUMBER EXHIBIT "C"</u> |
|---|--------------------------|------------------------------------|------------------------------------|
| HUBBELL, Gladys | 73E-8-235 | 11 | 11 |
| HURST, Jerry R. & Marie M. | 73E-10-261 | 18A | 18A |
| JAMES, Ernest E. | 73E-10-262 | 19 | 20 |
| JOHNSON, Charles T. | 73E-21 & 22 - 362 | 47 | 45 |
| JOHNSON, Irving & Hazel P. | 73E-7-219 | 6 | 7 |
| JOHNSON, Okey F. & Edna L. | 73E-9-253 | 17 | 17A |
| JUNKIN, Gertrude D. | 73E-15-296 | 30 | 31 |
| KELLOG, Richard E. | 73E-5-206 | 4 | 3 |
| KING, Lydia B. | 73E-18-330 | 45 | 42 |
| LAPP, Edwin Walter & Mabel Catherine | 73E-10-263 | 19 | 20 |
| LARSON, Ray & Elizabeth | 73E-9-249 | 16 | 16 |
| LEICHTFUSS, W. A. & Helene | 73E-10-273 | 22 | 24 |
| LEONARD, Claude & Alice | 73E-16-319 | 40 | 39 |
| LICHTWALD, Henry R. | 73E-16-301 73E-22-364 | 33 48 | 33 46 |
| LIGER, John M. & Beverly | 73E-23-369A | 50 | 48 |

| <u>NAME</u> | <u>PARCEL NUMBER</u> | <u>PAGE NUMBER EXHIBIT "B"</u> | <u>PAGE NUMBER EXHIBIT "C"</u> |
|--|-------------------------|------------------------------------|------------------------------------|
| SKAGGS, Roy G. & Mabel J. | 73E-16-317 | 39 | 38 |
| SMITH, Irene | 73E-8-238 | 12 | 12 |
| SMITH, Zachaus A. & Faith Y. | 73E-8-237 | 12 | 12 |
| SMOLIER, Diane | 73E-20-353 | 45 | 43 |
| SMOLIER, S. M. | 73E-16-316 | 39 | 38 |
| SNOW, R. W. | 73E-7-221 | 7 | 7A |
| SOUTHERN CALIFORNIA DISTRICT ADVISORY BOARD | 73E-16-314 | 38 | 37 |
| SOUTHERN PACIFIC LAND CO | 73E-5-203 73E-11-276 | 3 24 | 2 25 |
| SPARKS, Anna D. | 73E-8-228 | 9 | 9 |
| STEWART, Theodore R. & Marian E. | 73E-16-309 | 35 | 35 |
| STONE, Yuma T. & Evelyn | 73E-16-310 | 35 | 36 |
| STRADER, Thomas P. | 73E-10-266 | 20 | 21 |
| STULTZ, Allan C. & Avis B. | 73E-7-211 | 5 | 5 |
| STULTZ, Allan C. Jr., & Helen D. | 73E-7-211 | 5 | 5 |
| SUNNY CAL RANCH CORP | 73E-9-251 | 16 | 17 |

MFLME

ENTERED

MAY 8 - 1963

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *William H. [Signature]*
Deputy Clerk

FILED

MAY 8 - 1963

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *William H. [Signature]*
Deputy

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

| | | |
|------------------------------------|---|----------------|
| UNITED STATES OF AMERICA, |) | No. 1247-SD-C |
| |) | |
| Plaintiff, |) | |
| |) | FINAL JUDGMENT |
| vs. |) | AND DECREE |
| |) | |
| FALLBROOK PUBLIC UTILITY DISTRICT, |) | |
| a public service corporation of |) | |
| the State of California, et al., |) | |
| |) | |
| Defendants. |) | |

The above-entitled cause came on regularly for trial before the Honorable James M. Carter, United States District Judge, following remand from the United States Circuit Court of Appeals for the Ninth Circuit, which directed that this Court ". . . enter no judgment until the entire suit can be disposed of at the same date."

Because of the complexities of this litigation and the fact that the physical water resources were located throughout the watershed, this Court determined that the said mandate could best be complied with by adjudicating the rights of the parties to the cause in segments of the watershed involving limited areas and numbers of defendants and

eh

1 by entering Interlocutory Judgments as the trial concerning
2 each such segment was concluded. Proceeding in this manner,
3 this Court has entered interlocutory judgments as the trial
4 progressed, each of which concerns a specified area within the
5 Santa Margarita River watershed, or a limited legal issue
6 presented by the parties. These interlocutory judgments
7 expressly provided that they were not final and not operative
8 until made a part of the final judgment. This Court having
9 now entered orders or interlocutory judgments on all areas
10 within the watershed and all issues presented for decision,
11 and the rights to the use of the waters of the Santa
12 Margarita River stream system having been adjudicated in
13 those interlocutory judgments, this Court therefore will enter
14 its final judgment and decree.

15 Evidence both oral and documentary having been
16 introduced, and the Court having heard arguments of counsel
17 on the issues presented, and having considered the matter,

18
19 NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND
20 DECREEED:

21
22 1.

23 IT IS ORDERED, ADJUDGED AND DECREEED that each of the
24 following Interlocutory Judgments or Orders and the Findings
25 of Fact and Conclusions of Law attached thereto, including
26 amendments, if any, are adopted by reference as the final
27 Findings of Fact, Conclusions of Law, and Judgment and
28 Decree of this Court:

*The free Adobe Reader may be used to view and complete this form. However, software must be purchased to complete, save, and reuse a saved form.

File Original with DWR

State of California
Well Completion Report
Refer to Instruction Pamphlet
No. **00279041**

DWR Use Only - Do Not Fill In

| | | | |
|-------------------------------|---|-----------|---|
| State Well Number/Site Number | | | |
| Latitude | N | Longitude | W |
| APN/TRS/Other | | | |

Page _____ of _____
 Owner's Well Number #3
 Date Work Began 04/28/2015 Date Work Ended 5/20/2015
 Local Permit Agency COUNTY OF RIVERSIDE
 Permit Number WP0025155 Permit Date 2/27/15

| Depth from Surface | | Description |
|--|---------|---|
| Feet | to Feet | Describe material, grain size, color, etc |
| 0 | 200 | PLASTIC, GRAVEL |
| <p style="font-size: 2em; margin: 0;">Perforations 8</p> <p style="font-size: 2em; margin: 0;">200' - 280'</p> | | |
| Total Depth of Boring | | 280 Feet |
| Total Depth of Completed Well | | 280 Feet |

| Well Owner | |
|-----------------|---|
| Name | THOMAS MOUNTAIN RANCH LLC |
| Mailing Address | PO BOX 391111 |
| City | ANZA State CA Zip 92539 |
| Well Location | |
| Address | UPPER VALLEY RD |
| City | ANZA County Riverside |
| Latitude | Dec. Min. Sec. N Longitude Dec. Min. Sec. W |
| Datum | Dec. Lat. Dec. Long. |
| APN Book | 573 Page 040 Parcel 055 |
| Township | 7S Range 3E Section 5 |

| Location Sketch | Activity |
|--|--|
| (Sketch must be drawn by hand after form is printed) | <input type="radio"/> New Well <input checked="" type="radio"/> Modification/Repair <input type="radio"/> Deepen <input type="radio"/> Other <input type="radio"/> Destroy <small>Describe procedures and materials under "GEOLOGIC LOG"</small> |
| North | <input type="radio"/> Water Supply <input type="checkbox"/> Domestic <input type="checkbox"/> Public <input type="checkbox"/> Irrigation <input type="checkbox"/> Industrial <input type="radio"/> Cathodic Protection <input type="radio"/> Dewatering <input type="radio"/> Heat Exchange <input type="radio"/> Injection <input type="radio"/> Monitoring <input type="radio"/> Remediation <input type="radio"/> Sparging <input type="radio"/> Test Well <input type="radio"/> Vapor Extraction <input type="radio"/> Other |
| South | |
| West | |
| East | |
| <p>See Attached Plot Plans</p> | |
| <small>Illustrate or describe distance of well from roads, buildings, fences, rivers, etc. and attach a map. Use additional paper if necessary. Please be accurate and complete.</small> | |

| Water Level and Yield of Completed Well | |
|---|---------------------------------|
| Depth to first water | (Feet below surface) |
| Depth to Static | |
| Water Level | (Feet) Date Measured |
| Estimated Yield | 30 (GPM) Test Type Air Lift |
| Test Length | 4 (Hours) Total Drawdown (Feet) |
| *May not be representative of a well's long term yield. | |

| Casings | | | | | | | Annular Material | | | |
|--------------------|-------------------|------|----------|----------------|------------------|-------------|------------------|--------------------|---------|---------------------|
| Depth from Surface | Borehole Diameter | Type | Material | Wall Thickness | Outside Diameter | Screen Type | Slot Size | Depth from Surface | FIN | Description |
| Feet | to Feet | | | (Inches) | (Inches) | | If Any (Inches) | Feet | to Feet | |
| 0' | 60' | | Steel | 1/8" | 8 1/2" | | | 0' | 60' | 10 Sack Sand Cement |
| 60' | 280' | | | | | | | 0' | 280' | Birdseye Gravel |
| 0' | 280' | | PVC | 5/8" | 6.9" | Slot | 1/32" | | | |

| Attachments |
|---|
| <input type="checkbox"/> Geologic Log <input type="checkbox"/> Well Construction Diagram <input type="checkbox"/> Geophysical Log(s) <input type="checkbox"/> Soil/Water Chemical Analyses <input type="checkbox"/> Other |
| <small>Attach additional information, if it exists.</small> |

| Certification Statement | |
|--|--|
| I, the undersigned, certify that this report is complete and accurate to the best of my knowledge and belief | |
| Name | L O LYNCH QUALITY WELLS & PUMPS INC |
| <small>Person, Firm or Corporation</small> | |
| Address | 856 W SEVENTH STREET SAN JACINTO CA 92582 |
| Signed | <i>Kenneth S Sweetheart</i> 8-11-2015 740156 |
| <small>C-57 Licensed Water Well Contractor</small> | |
| Date Signed | C-57 License Number |

By using land use areas and consumptive use quantities as defined in the USGS Report of 1988, the following values were derived for the Valley Fill sector of the Anza Valley Unit Area:

| <u>Land Use Category</u> | <u>Area (Acres)</u> | <u>Consumptive Use AF/Yr</u> | <u>Water Use (AF/Yr)</u> |
|------------------------------|---------------------|------------------------------|--------------------------|
| Domestic Dwelling Unit | --- | 1.0 AF/DU | 600.0 |
| Irrigated Potatoes | 930 | 2.1 AF/yr | 1,953.0 |
| Irrigated Apples | 33 | 2.1 AF/yr | 32.5 |
| Occasionally Irrigated Grain | 1,650 | 1.0 AF/yr | 1,650.0 |
| Lake/Reservoir Surfaces | 60 | 5.3 AF/yr | 318.0 |
| Irrigated Pasture | 105 | 2.1 AF/yr | 220.5 |
| Livestock | --- | --- | 100.0 |

Total Water Consumptive Use = 4,874.0 AF/yr

Say = 4,900.0 AF/yr

This 4,900 AF does not include waters derived from wells constructed into Basement Complex rocks in the Anza Valley Unit Area.

Available water well data indicate that 94 Basement Complex rock wells are recorded to have been drilled in the Unit Area and those with test data are described to have production rates averaging about 23' gpm. If the number of wells is increased to 200, to account for those unlocated, unknown and otherwise unaccounted for, the total use of water from UA Basement Complex wells having an average water duty of 0.5 acre feet would have been about 100 acre feet per year in 1986.

Thus, the total ground water consumptive use from the Anza Valley Unit Area was approximately 5,000 acre feet in 1986.

It should be noted that future municipal and industrial development in the Anza Valley Unit Area will probably supplant irrigation activity and continue to derive water supplies from ground water resources within the valley alluvium. Water production from the UA Basement Complex rocks is not expected to increase significantly.

6.2.14 Anza Valley Unit Area Valley Fill Basin, Potential Long-term Annual Yield

On the basis of the change in storage calculations described in foregoing text, GWS considers that the 1950 to 1986 average annual change in storage value of -464 acre feet to be a reasonable and representative quantity. This depletion factor includes ground water losses to all uses including, domestic, irrigation, evapotranspiration, stock watering, subsurface outflow, etc., from only the alluvial sector of the Unit Area.

Appendix 7
WATER RIGHTS- MAHER

RANDY R. MAHER

Attorney at Law

May 2, 2016

Gregory V. Burnett

Thomas Mountain Ranch

Sent Via E-mail

Dear Mr. Burnett:

My name is Randy Maher. I am a licensed attorney in the state of California and have been for over thirty years. I have served as an arbitrator for the NASD and later FINRA for the last twenty years hearing major civil matters. My office has been asked to write an opinion letter regarding the issue of water rights as it relates to the approximately 488 acres of land in Anza, California, which you purchased on or about December 19, 2002, from Pacific Properties Inc. and more particularly described as:

“Property located in Riverside County, California, and described as follows: Government Lots 3, 4, 5, and 6 in the Northwest Quarter of Fractional Section 5; Government Lots 7 and 8 in the Northeast Quarter of Fractional Section 5, Government Lot 9 in the Southwest Quarter of Fractional Section 5, the Northeast Quarter of the Southwest Quarter of Fractional Section 5, And the Southeast Quarter of Fractional Section 5, all in Township 7 South, Range 3 East, San Bernardino Base and Meridian, according to the official plat thereof”. To that end, I would advise the following:

Page two:

1. I have reviewed the original Federal Land Patent granted to Southern Pacific Railroad Company, dated October 15, 1921.
2. I have also reviewed the deed between Pacific Properties Inc. and Gregory V. Burnett, dated December 19, 2002.
3. I reviewed the title insurance policy issued by Chicago Title Insurance Company dated January 7, 2003 purchased in connection with the Pacific Properties Inc. to Gregory V. Burnett sale.
4. Finally I reviewed the deed from Gregory V. Burnett to Thomas Mountain Ranch, L.L.C. dated March 14, 2014, wherein Gregory V. Burnett transferred to Thomas Mountain Ranch the following: Lots 1 through 47 of Tract Map 36327, Book 438, Pages 70 through 79, inclusive, Records of Riverside County.

The facts of this case are simple. The original Land Patent provided, by an act of the Congress of the United States of America, a federal grant of the aforementioned real property" with the rights, privileges, immunities, and appurtenances, of whatever nature, thereunto belonging, unto the Southern Pacific Railroad Company, successor as aforesaid, **and to its successors and assigns forever**" on or about March 3, 1871. Said grant expressly reserved coal and iron rights only and was granted after California became a state in 1850. The Southern Pacific Railroad Company was an American Class 1 railroad that was formed in 1865 as a land holding company. It was absorbed in 1988 by the company that controlled the Denver and Rio Grande Western Railroad and eight years later in 1996 became part of the Union Pacific Railroad. Then, on or about December 19, 2002, Pacific Properties Inc., a subsidiary of Union Pacific Railroad Company, sold the land along with the attendant water rights to Gregory V. Burnett. Finally, on March 14, 2014, Gregory V. Burnett transfers to Thomas Mountain Ranch L.L.C. approximately 250 acres but reserves all water rights.

Page three:

The superiority of federal water rights is well settled at law, beginning with the case of *Winters v. United States*, 207 US 564 (1908). Furthermore, under the "prior appropriation doctrine" water rights are "first in time first in right". That is the older, or senior water right may operate to the exclusion of junior water rights. Finally, these federal water rights, by law, cannot be lost through non-use, and are immune to the state specific standards such as "beneficial" and "reasonable use doctrine".

Thus it is the opinion of this office that the federal land grant conferred a federal water right, superior to all other rights be they state or any other, upon Southern Pacific Railroad and to its successors and assigns. Further it is our opinion that said water right was conferred upon Gregory V. Burnett on or about December 19, 2002. Finally it is our opinion that said federal water right remains undiminished today and is superior to any and all other claims.

Thank you for the opportunity to serve you. As always, I remain available to discuss this, or any other matter, with you.

Sincerely,

Randy R. Maher

Appendix 8
POLICIES

POLICY MANUAL- ADDENDUM

J. CONSUMER COMPLAINT AND RESPONSE*

1. Record complaint in the complaint log (name, address, and nature of the problem).
2. Investigate the complaint
 - a. Verify or dismiss the complaint
3. Record the steps taken to address or correct the problem
 - a. Notify complainant of action taken
 - b. Keep complaint records with corrective action for five years

*A copy of the complaint form along with the abovementioned complaint and response process can be found in Section 5, Operations Plan.

K. HOURS WORKED AND OVERTIME

1. Members of the water system management team shall be compensated as members of the TMR HOA.
 - i. Management members will not receive additional compensation specific to this water system.
 - ii. No salaries shall be allocated to this water system without the consent of the collective homeowners.
2. Contract workers shall be compensated per signed agreement.
3. No employment shall be authorized, hourly, salary or otherwise, without consent of the collective homeowners. All work to be completed by water system management, or contractors.

L. SYSTEM CONSTRUCTION AND REPAIR

1. Construction of the water system will be completed by a license professional
2. Repairs to the system will be conducted by a member of the management team, water operator, or a licensed professional.

Appendix 9
FINANCIAL

FIVE YEAR BUDGET PROJECTION (Small Community Water System)

INSTRUCTIONS: Yellow-shaded cells are for data entry; all other cells are locked except line item descriptions which can be changed if needed.
 Years 2 through 5 will be compounded automatically by the inflation factor in Cell G6.

System Name: **TMR, LLC**
 Inflation Factor (%): **2.0**
 System ID Number: **N/A**

| LINE | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|---|-----------|-----------|-----------|-----------|
| OPERATIONS AND MAINTENANCE (O&M) EXPENSES | | | | | |
| 1 | | | | | |
| 2 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 3 | 4,800.00 | 4,896.00 | 4,993.92 | 5,093.80 | 5,195.67 |
| 4 | 6,000.00 | 6,120.00 | 6,242.40 | 6,367.25 | 6,494.59 |
| 5 | 750.00 | 765.00 | 780.30 | 795.91 | 811.82 |
| 6 | 15,000.00 | 15,300.00 | 15,606.00 | 15,918.12 | 16,236.48 |
| 7 | 395.00 | 402.90 | 410.96 | 419.18 | 427.56 |
| 8 | 3,000.00 | 3,060.00 | 3,121.20 | 3,183.62 | 3,247.30 |
| 9 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 10 | 500.00 | 510.00 | 520.20 | 530.60 | 541.22 |
| 11 | 1,000.00 | 1,020.00 | 1,040.40 | 1,061.21 | 1,082.43 |
| 12 | 500.00 | 510.00 | 520.20 | 530.60 | 541.22 |
| 13 | 0.00 | 0.00 | 0.00 | 2,000.00 | 2,040.00 |
| 14 | 31,945.00 | 32,583.90 | 33,235.58 | 35,900.29 | 36,618.30 |
| | Total O&M Expenses: | | | | |
| GENERAL AND ADMINISTRATIVE EXPENSES | | | | | |
| 16 | | | | | |
| 17 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 18 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 19 | 1,000.00 | 1,020.00 | 1,040.40 | 1,061.21 | 1,082.43 |
| 20 | 7,678.50 | 7,678.50 | 7,678.50 | 7,678.50 | 7,678.50 |
| 21 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 22 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 23 | 4,975.00 | 5,074.50 | 5,175.99 | 5,279.51 | 5,385.10 |
| 24 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 25 | 0.00 | 0.00 | 0.00 | 1,666.67 | 1,666.67 |
| 26 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 27 | | | | | |
| | Total General and Administrative Expenses: | | | | |
| 28 | 13,653.50 | 13,773.00 | 13,894.89 | 15,685.88 | 15,812.70 |
| | TOTAL EXPENSES (Line 14+ Line 27): | | | | |
| 29 | 45,598.50 | 46,356.90 | 47,130.47 | 51,586.17 | 52,430.99 |
| REVENUES RECEIVED | | | | | |
| 30 | | | | | |
| 31 | 45,598.50 | 46,356.90 | 47,130.47 | 51,586.17 | 52,430.99 |
| 32 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 33 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 34 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 35 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 36 | 911.97 | 927.14 | 942.61 | 1,031.72 | 1,048.62 |
| 37 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 38 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 39 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 40 | 46,510.47 | 47,284.04 | 48,073.08 | 52,617.90 | 53,479.61 |
| | NET LOSS OR GAIN: | | | | |
| 41 | 911.97 | 927.14 | 942.61 | 1,031.72 | 1,048.62 |

Report Prepared by (Name and Title): _____ Date: _____

| | | | | |
|---|-------------|-------------|-------------|-------------|
| 2016 | 2017 | 2018 | 2019 | 2020 |
| 85 | 85 | 85 | 85 | 85 |
| Number of Customers: | | | | |
| 44.70 | 45.45 | 46.21 | 50.57 | 51.40 |
| Average Monthly Revenue Needed Per Customer: | | | | |

SIMPLIFIED CAPITAL IMPROVEMENT PLAN (CIP)

Date: **1/14/16**
 System ID No.: **N/A**
 System Name: **TMR, LLC**
 Service Connections: **46**

*Enter information only in YELLOW shaded cells

| QTY | COMPONENT | UNIT COST | INSTALLED COST | AVG LIFE, YEARS | ANNUAL RESERVE | MONTHLY RESERVE | MONTHLY RESERVE PER CUSTOMER | |
|-------|---|-----------------|----------------|-----------------|----------------|-----------------|------------------------------|---------|
| | Drilled Well, 6", steel casing | Depth: | | 0 | 25 | 0.00 | 0.00 | 0.00 |
| 2 | Drilled Well, 8", steel casing | Depth: 300 | 130 | 78000 | 25 | 3120.00 | 260.00 | 5.65 |
| | Drilled Well, 12", steel casing | Depth: | | 0 | 25 | 0.00 | 0.00 | 0.00 |
| 2 | Wellhead Electrical Controls | | 700 | 1400 | 25 | 56.00 | 4.67 | 0.10 |
| | Submersible Pump, 20 HP | | | 0 | 7 | 0.00 | 0.00 | 0.00 |
| | Submersible Pump, 3 HP | | | 0 | 7 | 0.00 | 0.00 | 0.00 |
| 2 | Submersible Pump, 5 HP | | 3500 | 7000 | 7 | 1000.00 | 83.33 | 1.81 |
| | Booster Pump Station, 25 HP, complete | | | 0 | 5 | 0.00 | 0.00 | 0.00 |
| | Booster Pump Station Electrical Controls | | | 0 | 5 | 0.00 | 0.00 | 0.00 |
| | Pressure Tank | Gallons: | | 0 | 10 | 0.00 | 0.00 | 0.00 |
| | Pressure Tank | Gallons: | | 0 | 10 | 0.00 | 0.00 | 0.00 |
| | Storage Tank, Plastic | Gallons: | | 0 | 10 | 0.00 | 0.00 | 0.00 |
| | Storage Tank, Redwood | Gallons: | | 0 | 40 | 0.00 | 0.00 | 0.00 |
| | Storage Tank, Redwood | Gallons: | | 0 | 40 | 0.00 | 0.00 | 0.00 |
| 3 | Storage Tank, Steel | Gallons: 15,500 | 1.0 | 46500 | 50 | 930.00 | 77.50 | 1.68 |
| | Storage Tank, Steel | Gallons: | | 0 | 50 | 0.00 | 0.00 | 0.00 |
| | Storage Tank, Steel | Gallons: | | 0 | 50 | 0.00 | 0.00 | 0.00 |
| | Storage Tank, Concrete | Gallons: | | 0 | 80 | 0.00 | 0.00 | 0.00 |
| | Master Meter, 2" | | | 0 | 10 | 0.00 | 0.00 | 0.00 |
| 2 | Master Meter, 3" | | 800 | 1600 | 10 | 160.00 | 13.33 | 0.29 |
| | Master Meter, 4" | | | 0 | 10 | 0.00 | 0.00 | 0.00 |
| | Hypochlorinator w/ Tank & Pump, Complete | | | 0 | 10 | 0.00 | 0.00 | 0.00 |
| | Pipe w/ sand bedding, 1" (Enter linear feet for quantity) | | | 0 | 50 | 0.00 | 0.00 | 0.00 |
| | Pipe w/ sand bedding, 2" (Enter linear feet for quantity) | | | 0 | 50 | 0.00 | 0.00 | 0.00 |
| | Pipe w/ sand bedding, 3" (Enter linear feet for quantity) | | | 0 | 50 | 0.00 | 0.00 | 0.00 |
| | Pipe w/ sand bedding, 4" (Enter linear feet for quantity) | | | 0 | 50 | 0.00 | 0.00 | 0.00 |
| 10500 | Pipe w/ sand bedding, 8" (Enter linear feet for quantity) | | 5 | 52500 | 50 | 1050.00 | 87.50 | 1.90 |
| | Standpipe Hydrant, 1-1/2" | | | 0 | 20 | 0.00 | 0.00 | 0.00 |
| 15 | Standpipe Hydrant, 2-1/2" | | 900 | 13500 | 20 | 675.00 | 56.25 | 1.22 |
| 46 | Customer Meter w/ Box & Shutoff, Complete | | 250 | 11500 | 20 | 575.00 | 47.92 | 1.04 |
| | Distribution Valve, 2" | | | 0 | 10 | 0.00 | 0.00 | 0.00 |
| | Distribution Valve, 3" | | | 0 | 10 | 0.00 | 0.00 | 0.00 |
| | Distribution Valve, 4" | | | 0 | 20 | 0.00 | 0.00 | 0.00 |
| | Distribution Valve, 6" | | | 0 | 20 | 0.00 | 0.00 | 0.00 |
| 6 | Air & Vacuum Relief Valve, Typical | | 375 | 2250 | 20 | 112.50 | 9.38 | 0.20 |
| | OTHER ITEM | | | 0 | 1 | 0.00 | 0.00 | 0.00 |
| | OTHER ITEM | | | 0 | 1 | 0.00 | 0.00 | 0.00 |
| | OTHER ITEM | | | 0 | 1 | 0.00 | 0.00 | 0.00 |
| | SUBTOTAL Existing CIP Costs | | | \$214,250.00 | | \$7,678.50 | \$639.88 | \$13.91 |
| | NEW Project CIP Costs | | | | | | | |
| 1 | Iron & manganese removal plant | | 75000 | 75000 | 45 | 1666.67 | 138.89 | 3.02 |
| 1 | New well & controls, complete | | | 0 | 30 | 0.00 | 0.00 | 0.00 |
| | OTHER ITEM | | | 0 | 1 | 0.00 | 0.00 | 0.00 |
| | OTHER ITEM | | | 0 | 1 | 0.00 | 0.00 | 0.00 |
| | OTHER ITEM | | | 0 | 1 | 0.00 | 0.00 | 0.00 |
| | OTHER ITEM | | | 0 | 1 | 0.00 | 0.00 | 0.00 |
| | OTHER ITEM | | | 0 | 1 | 0.00 | 0.00 | 0.00 |
| | OTHER ITEM | | | 0 | 1 | 0.00 | 0.00 | 0.00 |
| | SUBTOTAL New Project CIP Costs | | | \$75,000.00 | | \$1,666.67 | \$138.89 | \$3.02 |
| | TOTAL Existing and New Project CIP: | | | \$289,250.00 | | \$9,345.17 | \$778.78 | \$16.93 |

Report Prepared by (Title): _____ Date: _____

NOTE: Installed costs are averages and include all materials and contracted labor and equipment.

NOTES:

WATERMASTER
SANTA MARGARITA RIVER WATERSHED
P.O. Box 631
Fallbrook, California 92088
(760) 728-1028
FAX (760) 728-1990

June 13, 2016

Via E-Mail Only (mabbott@rivcocha.org)

Mr. Mark Abbott
Supervising REHS
Department of Environmental Health
County of Riverside
47950 Arabia Street, Suite A
Indio, CA 92201

Re: Review and Comments Regarding May 23, 2016 Thomas Mountain Ranch Addendum Providing Response to TMF Review and Corrections, *U.S.A. v. Fallbrook Public Utility District, et al.*, Civil No. 51-cv-1247-GPC-RBB

Dear Mr. Abbott:

In accordance with your request, this letter is to respond to the questions posed in your May 26, 2016 e-mail (see Attachment 1 for body of e-mail only), and to provide comments on the materials included in the May 23, 2016 Addendum ("Addendum") to the Thomas Mountain Ranch ("TMR") Domestic Water Supply Permit Application & Technical-Managerial-Financial ("TMF") Assessment for a Community Water System, Anza, California. The Santa Margarita River Watershed Watermaster ("Watermaster") previously provided comments on the TMR TMF in our May 9, 2016 letter to Jackuelyn Jones (see Attachment 2). The Watermaster responses and comments related to the Addendum are presented first with general comments responding to your questions, and then specific comments with references to specific materials provided in the Addendum.

General Comments

G1. Question Regarding Characterization of Basement Complex in Addendum

The materials provided in the Addendum are insufficient to definitively conclude that the specific wells proposed for the project will produce water solely from the Basement Complex. It is suggested that a Certified Hydrogeologist, registered in the State of California, provide a report certifying that the specific wells proposed for the project are perforated entirely within Basement Complex. See also specific pertinent comments provided below.

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Review and Comments Regarding May 23, 2016 Thomas Mountain Ranch
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G2. *Question Regarding Watermaster Approval of Section 8 Relative to Arguments Related to Basement Complex Provided in Addendum*

Assuming that a Certified Hydrogeologist certifies that the specific wells proposed for the project are perforated entirely within Basement Complex, as described in Comment G1, above, the Watermaster cannot provide any approval or certification of water rights derived from the Basement Complex for purposes of meeting Section 8 requirements to approve the TMF. See also pertinent specific comments provided below.

Specific Comments

S1. Second Paragraph, Item 1, May 22, 2016 Letter from TMR to Steve Van Stockum

The Watermaster's response [May 9, 2016 letter to Jackuelyn Jones] did not "clearly state" that TMR "... has water rights to produce groundwater." Rather, the Watermaster merely stated that the properties for the TMR development were determined to be subject to the continuing jurisdiction of the Court, and any water rights for the properties, as determined in the *Fallbrook Case*, were determined pursuant to the various provisions contained in Interlocutory Judgment No. 33 ("IJ-33"). Furthermore, the Watermaster stated "In conclusion, the Court and Watermaster have not made any determination whether the proposed water system and subject properties have a legal right to the quantity of water necessary to assure an adequate and reliable water supply to meet the requirements of Section 8—Water Rights of the TMF Criteria and Assessment Form. The attorney for the Watermaster continues to advise Watermaster that any quantification or apportionment of water rights for lands subject to the continuing jurisdiction of the Court, requires Court action."

S2. Third and Fourth Paragraphs, May 22, 2016 Letter from TMR to Steve Van Stockum

The language in these two paragraphs may be interpreted that the Watermaster agrees with the applicant's assertion that TMR has an "undiminished federal water right." The Watermaster does not agree with any such assertion.

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S3. TMF Addendum, Section 8, Water Rights

The applicant has not addressed the prior comments by the Watermaster that Section 8 was completed incorrectly by showing the box checked as “NA” or not applicable for the section on Groundwater—Adjudicated Basin. The Watermaster has clearly determined that the TMR properties are subject to the continuing jurisdiction of the Court in the *Fallbrook Case* adjudication and counsel for the applicant in Appendix 5 of the Addendum has acknowledged such determination.

S4. TMF Addendum, Section 8, Water Rights, Additional Information, Third Bullet

The applicant completely misrepresents Watermaster’s statements during the quarterly Watermaster Steering Committee meeting held on April 19, 2016. The Watermaster did not state that settlement negotiations for the complaints filed by the Cahuilla Band of Indians and the Ramona Band of Cahuilla (“Tribes”) “... were stalled and this case would continue for generations.” Mr. Robert Burnett, Director of Development for TMR, attended the meeting and it is inexplicable that anyone in attendance would interpret the Watermaster’s statements in such a fashion. The Watermaster clearly did not state that the negotiations were stalled. Conversely, the Watermaster reported to the Watermaster Steering Committee, as reported at prior meetings, that progress continues with the negotiations and that Watermaster is participating in the settlement proceedings. It is understood that the timeframe for completing the settlement proceedings (or any litigation) is indeterminate, but the Watermaster clearly did not state that the proceedings would continue for generations. Perhaps the confusion on the part of the applicant relates to the continuing jurisdiction of the Court in the *Fallbrook Case*. The Court and the Watermaster will have continuing jurisdiction in the *Fallbrook Case* (including any decree or order arising from the complaints filed by the Tribes) for an indeterminate period for administration of the adjudication.

S5. TMF Addendum, Section 8, Water Rights, Cooperative Points of Interest, First Bullet

The applicant again misrepresents Watermaster’s comments provided in the May 9, 2016 letter to Jackuelyn Jones. The Watermaster did not provide any “...explanations of a right to water and a right to sufficient water to service the TMR project.” Conversely, the Watermaster stated “In conclusion, the Court and Watermaster have not made any determination whether the proposed water system and subject properties have a legal right to the quantity of water necessary to assure an adequate and reliable water supply to meet the

Mr. Mark Abbott
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requirements of Section 8—Water Rights of the TMF Criteria and Assessment Form. The attorney for the Watermaster continues to advise Watermaster that any quantification or apportionment of water rights for lands subject to the continuing jurisdiction of the Court, requires Court action.”

S6. TMF Addendum, Section 8, Water Rights, Appendix 5, Water Rights—Schatz, Page 2 of 4, Third Paragraph, Last Sentence

The Watermaster did not responsively state that TMR's land has a right to extract water under the Judgment in the *Fallbrook Case*. Rather, Watermaster concluded that the lands were within continuing jurisdiction of the Court and that the water rights pursuant to the *Fallbrook Case* for these lands would be based on the provisions contained in IJ-33. Neither the Watermaster nor the Court has made any determination regarding the water rights for these lands in the context of the TMF requirements and the present litigation initiated by the Tribes.

S7. TMF Addendum, Section 8, Water Rights, Appendix 5, Water Rights—Schatz, Page 3 of 4, First Paragraph, Last Sentence, and Fourth Paragraph

Insufficient information is provided to definitively conclude that the two wells constructed by TMR are perforated entirely within the Basement Complex, as noted in the following three points. First, the generalization from IJ-33 that the shallow aquifer extends to a maximum depth of 100 feet has no bearing on the depth to Basement Complex for a specific well location. Second, extrapolation of information from the 1990 Study¹ is insufficient with respect to the depth to Basement Complex for a specific well. Third, the information provided in the geologic logs for the two well completion reports (Report Nos. e0279035 and e0279041) is insufficient to definitely determine that the wells are perforated within the Basement Complex. It is suggested that a Certified Hydrogeologist, registered in the State of California, provide documentation and certify that the wells are perforated entirely within Basement Complex.

S8. TMF Addendum, Section 8, Water Rights, Appendix 7, Water Rights--Maher

It is not clear whether the applicant is still asserting that any water rights conveyed as part of the land patent and subsequent land transfers described in Appendix 7 provide the basis for the water rights for the proposed project or whether the arguments provided in Appendix 5 relative to groundwater pumped from Basement Complex provide the basis for the water rights for the proposed project. With respect to the May 2, 2016 letter from Randy R. Maher concerning

¹ Ground Water Systems, Inc., October 1990, "Hydrogeologic Evaluation and Water Resources Analysis of the Anza-Terwilliger Area, Riverside County, California.


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the referenced land patent, any determination pertaining to any associated water rights would be subject to the continuing jurisdiction of the Court and would require Court action.

If you have any questions or need additional information, please do not hesitate to call.

Sincerely,



Charles W. Binder, P.E.
Watermaster

CWB:aen
Enclosures

cc: Eric Stopher (Riverside County Office of County Counsel)
William J. Brunick (Brunick, McElhaney & Kennedy)

ATTACHMENT 1