

FOX CANYON GROUNDWATER MANAGEMENT AGENCY

A STATE OF CALIFORNIA WATER AGENCY



BOARD OF DIRECTORS

Eugene F. West, Chair, Director, Camrosa Water District
Kelly Long, Vice Chair, Supervisor, County of Ventura
Michael Craviotto, Farmer, Agricultural Representative
Lynn Maulhardt, Director, United Water Conservation District
Tony Trembley, Mayor, City of Camarillo

INTERIM EXECUTIVE OFFICER

Arne Anselm

October 23, 2024

Board of Directors

Fox Canyon Groundwater Management Agency
800 South Victoria Avenue
Ventura, CA 93009-1600

SUBJECT: Policy Advisory Committee Request for Technical Advisory Committee Consultation on Del Norte Mutual Water Company (WMID 3500) Basin Assessment Protest – (New Item)

RECOMMENDATIONS: (1) Receive a presentation from Agency staff on the Las Posas Valley (LPV) Watermaster Policy Advisory Committee (collectively, the PAC) request for LPV Watermaster Technical Advisory Committee (collectively, the TAC) consultation on Del Norte Mutual Water Company's protest to payment of Water Year (WY) 2023 LPV Adjudication Basin Assessment; and (2) Deny the PAC request for TAC consultation and refer the matter back to the PAC for deliberation and recommendation.

BACKGROUND:

The LPV Adjudication Judgment (Judgment) requires the Watermaster to levy and collect a Basin Assessment from Water Right Holders: "Watermaster shall set, levy, and collect Basin Assessments and fees from Water Right Holders[.]" (Judgment, § 7.1.) The Judgment also provides that the Watermaster "may reduce the amount of the Basin Assessments levied on Water Right Holders that pay an assessment to [United Water Conservation District] if Watermaster determines, after Committee Consultation, that such a reduction is appropriate as a matter of equity." (Judgment, § 7.9.)

DISCUSSION:

On December 15, 2023, with the adoption of Resolution 2023-03¹, Watermaster Board adopted a \$64 WY 2023 Basin Assessment and levied it in two equal installments, effective March 1, 2024, and June 1, 2024, although the second installment was later rescinded by the Watermaster Board with the adoption of Resolution 2024-04².

On April 18, 2024, DNMWC submitted a written protest challenging payment of the WY 2023 Basin Assessment, claiming its WY 2023 Basin Assessment should be reduced under Section 7.9 of the Judgment because it paid assessments to United Water Conservation District (attached as Exhibit 26A). Subsequently, on July 12, 2024, DNMWC submitted a second protest letter

¹ Resolution 2023-03: https://s42135.pcdn.co/wp-content/uploads/2024/04/Resolution-2023-03_website.pdf

² Resolution 2024-04: <https://s42135.pcdn.co/wp-content/uploads/2024/07/Resolution-2024-04.pdf>

invoking Sections 9.2.1.1 and 9.2.1.2 of the Judgment, which prescribe potential avenues for resolving Basin Management Actions before Judicial Review (attached as Exhibit 26B).

DNMWC's total WY 2023 Basin Assessment was \$75,272.96 with an additional \$112.55 in accrued interest. DNMWC has protested the full amount because, "DNWC is informed and believes the Watermaster assessment is for activities and administration that either duplicate the activities of the UWCD or has no benefit to DNWC and its Shareholders."

On July 17, 2024, Watermaster staff submitted DNMWC's protest letters to the PAC for consultation as required by Section 7.1 of the Judgment (attached as Exhibit 26C).

The PAC discussed the issue at its August 1 and 15, 2024 meetings and submitted their recommendation report on August 16, 2024 (attached as Exhibit 26D). The PAC states that, "There are clearly policy aspects to the second question, but there are hydrogeological aspects to it, as well, and the PAC determined that without a technical foundation, it cannot develop any policy recommendations for the Watermaster. As such, at this juncture, the PAC recommends, per Section 6.4 of the Judgment, that Watermaster assign this issue to TAC for review. Once a TAC recommendation report has been developed and returned to the PAC, the PAC can discuss the policy implications and develop a recommendation report to the Watermaster regarding the Del Norte protest."

Under the Judgment, the "PAC is the primary advisory body to Watermaster on policy-related matters of a non-technical nature to be considered by Watermaster," while the "TAC is the primary advisory body to Watermaster on all matters requiring expertise to be considered by Watermaster relating to Groundwater management and sustainability of the Basin." (Judgment, § 6.10.1, 6.11.1.)

Although the PAC's responsibilities are limited to "policy-related matters of a non-technical nature," the PAC may request that the Watermaster assign **a matter involving a technical question** to TAC for review and issuance of a Recommendation Report to Watermaster." (Judgment, § 6.4 (emphasis added).) But the DNMWC protest does not involve a "technical question." Basin Assessments are calculated based on a Water Right Holder's annual allocation once calculated by staff, reviewed and approved by the PAC and the TAC, and adopted by your Board. (Judgment, §§ 4.2, 7.2.) Nor does adjustment of Basin Assessments under Section 7.9 of the Judgment require any "technical foundation" or understanding of "hydrogeological aspects" of the LPV Basin. Section 7.9 of the Judgment authorizes the Watermaster to reduce the Basin Assessments of those "Water Right Holders that pay an assessment to United Water Conservation District[.]" Consideration of factors other than whether the Water Right Holder paid an assessment to United Water Conservation District are irrelevant. The only issue is whether the Water Right Holder paid a United Water Conservation District assessment, which does not involve technical experience or expertise. Finally, the plain language of Section 7.9 is clear that any decision to reduce a Basin Assessment shall be determined "as a matter of equity" rather than on any technical basis or evaluation.

CONCLUSION:

Whether DNMWC's WY 2023 Basin Assessment should be reduced under Section 7.9 of the Judgment does not involve a technical matter. Watermaster forwarded the matter to the PAC, as required by the Judgment, for its members and their constituents to provide policy opinions and recommendations on whether DNMWC should be allowed to avoid paying its total WY 2023 Basin

Assessment only because it paid a United Water Conservation District assessment the same year. No technical assistance or evaluation from the TAC would aid the PAC in providing a recommendation on this issue. Accordingly, staff recommends that your Board deny the PAC request for TAC consultation on the DNMWC protest, and direct staff to return the item to the PAC for their consideration with direction to prepare and provide a recommendation report to the Watermaster no later than November 8, 2024.

This letter has been reviewed by Agency Counsel. If you have any questions, please call me at (805) 654 2954.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kaseke', with a stylized flourish at the end.

Kudzai Farai Kaseke (PhD, PH, PMP, CSM)
Assistant Groundwater Manager

Attachments:

- Exhibit 26A – Del Norte Water Company Protest Letter (April 18, 2024)
- Exhibit 26B – Del Norte Water Company Protest Letter (July 12, 2024)
- Exhibit 26C – Watermaster Memo to PAC (July 17, 2024)
- Exhibit 26D – PAC Recommendation Report Letter (August 16, 2024)

Del Norte Water Company

Post Office Box 4065
Ventura, California 93007
Phone (805) 647-1092 Fax (805) 647-2805

April 18, 2024

Via E-Mail Transmission

Las Posas Valley Watermaster
LPV.Watermaster@ventura.org

Re: Protest of Basin Assessment - Release Date: 03/05/2024

Dear Sir or Madam:

Del Norte Water Company (“DNWC”) received a Notice of Basin Assessment Release Date: 03/05/2024 made pursuant to Final Judgment filed 07/10/2023 in *Las Posas Valley Water Rights Coalition, et al. v. Fox Canyon Groundwater Management Agency, et al.*, Case No. VENCI00509700. A copy of said Notice is attached hereto as Exhibit “A”.

As you are aware, appeals of the Judgment are pending, although it has not been stayed.

On April 6, 2024, DNWC forwarded a check to the Watermaster of the funds collected by it from its Shareholders in response to the Notice of Assessment.

DNWC, for itself and each of its Shareholders (see List of WMIDs attached hereto as Exhibit “B”), hereby Protests the payment of the Basin Assessments made, with full reservation of all applicable rights against the Las Posas Valley Watermaster, because of the provisions of Section 7.9 of the Judgment which reads:

“7.9 **Adjustments to Basin Assessments for UWCD Assessments.** Water Right Holders located in the western portion of the Basin within the UWCD’s service area presently pay assessments to UWCD, a portion of which is used to finance UWCD’s ongoing activities that are designed to replenish the Basin and neighboring basins. Watermaster may reduce the amount of the Basin Assessments levied on Water Right Holders that pay an assessment to UWCD if Watermaster determines, following Committee Consultation, that such a reduction is appropriate as a matter of equity.”

DNWC completed the UWCD’s Semi-Annual Groundwater Production Statements (attached hereto as Exhibit “C”) for the period 07/01/2023 to 12/31/2023. DNWC has partially paid 25% of the \$187,832 that was due and will pay the balance on June 30, 2024.

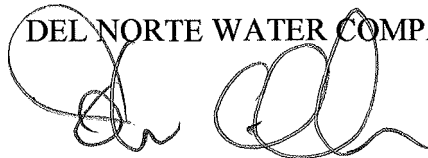
Item 26A – Del Norte Water Company protest letter (April 18, 2024)

Las Posas Valley Watermaster
April 18, 2024
Page 2

The UWCD assessment is based on replenishment activities that benefit DNWC and its Shareholders. DNWC is informed and believes the Watermaster assessment is for activities and administration that either duplicate the activities of the UWCD or has no benefit to DNWC and its Shareholders.

DNWC apologizes that, due to clerical error, this Protest was not made at the time the assessment monies were forwarded to the Watermaster on April 6, 2024.

Very Truly Yours,

DEL NORTE WATER COMPANY

JOHN C. ORR, President

JCO:mjr

cc: Shareholders of DNWC



Del Norte Water Company

Post Office Box 4065
Ventura, California 93007
Phone (805) 647-1092 Fax (805) 647-2805

July 12, 2024

Via E-Mail Transmission

Las Posas Valley Watermaster
LPV.Watermaster@ventura.org

Re: Protest of Basin Assessment-Release Date 03/05/2024

Dear Sir or Madam:

By letter dated April 18, 2024, Del Norte Water Company (“DNWC”) sent a letter to the Watermaster protesting the payment of the Basin Assessment based on Section 7.9 of the Final Judgment (the “April 18 Protest”). [A copy of the April 18 Protest is attached hereto as Exhibit “1”.] No response has been received from the Watermaster. Please be advised that DNWC intends to seek relief pursuant to the provisions of Section 9.2 of the Final Judgment:

Section 9.2.1.1 of the Final Judgment provides: “Any Party seeking judicial review of a Basin Management Action must have timely exhausted opportunities for relief through the submission of written comment(s) to Watermaster, either individually or through a written report submitted by PAC or TAC, concerning the Basin Management Action.”

Section 9.2.1.2 of the Final Judgment provides: “Prior to seeking judicial review of a Basin Management Action, Watermaster and the disputing Party(ies) shall first engage in mediation unless both Watermaster and the disputing Party(ies) agree in writing to forego mediation. Watermaster may waive the requirement to engage in mediation in which case a Party that has exhausted its administrative remedies with Watermaster may seek judicial review without having engaged in mediation.”

The April 18 Protest was DNWC’s good faith attempt to initiate a dialogue with Watermaster regarding Section 7.9 assessment reductions. Having received no response from Watermaster on the protested matter, DNWC has exhausted administrative remedies and will continue to pursue its sought-after remedies through the above-referenced channels. The Watermaster assessment is for activities and administration that either duplicate the activities of

Item 26B – Del Norte Water Company protest letter (July 12, 2024)

Las Posas Valley Watermaster
July 12, 2024
Page 2

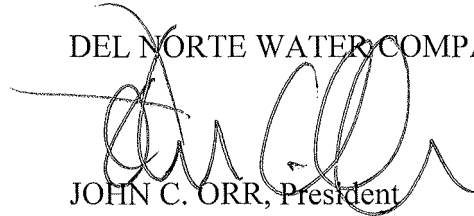
the UWCD or has no benefit to DNWC and its Shareholders. Notwithstanding the protest, DNWC complied with the Notice of Assessment and paid the \$187,832.00 basin assessment in full. DNWC seeks the following remedies:

- 1) An Amended Notice of Assessment reflecting a reduction that is proportionate to the duplicative or non-beneficial activities and administration referenced above; and
- 2) Reimbursement that is proportionate to the reduction in the Amended Notice of Assessment.

DNWC remains hopeful that an agreement can be reached without resorting to mediation or judicial review. Please advise whether mediation or review by the Santa Barbara Superior Court will be necessary to enforce Section 7.9 of the Final Judgment.

Very truly yours,

DEL NORTE WATER COMPANY

A handwritten signature in black ink, appearing to read 'John C. Orr', is written over the printed name and title.

JOHN C. ORR, President

JCO:nsh
Attachment

cc: DNWC Board of Directors – *Via E-Mail Transmission*
Barbara Brenner, Esq. – *Via E-Mail Transmission*

FOX CANYON GROUNDWATER MANAGEMENT AGENCY LAS POSAS VALLEY WATERMASTER



MEMORANDUM

Date: July 17, 2024
To: Las Posas Valley Watermaster Policy Advisory Committee
From: Kudzai F. Kaseke, Assistant Groundwater Manager
Subject: Protest of Water Year 2023 Basin Assessment levied on Del Norte Water Company (WMID 3500).

Dear Las Posas Valley Watermaster Policy Advisory Committee (PAC):

Attached for committee consultation is communication from Del Norte Water Company (WMID 3500) protesting the Water Year 2023 Basin Assessment levied against the company and its shareholders.

The Las Posas Valley Adjudication Judgment states that, the Watermaster, following Committee Consultation, may reduce the amount of the Basin Assessments levied on Water Right Holders that pay an assessment to United Water Conservation District (UWCD), if such a reduction is appropriate as a matter of equity. (Judgment § 7.9). The Las Posas Valley Adjudication Judgment also provides that, “Any Party seeking judicial review of a Basin Management Action must have timely exhausted opportunities for relief through the submission of written comment(s) to Watermaster, either individually or through a written report submitted by PAC or TAC, concerning the Basin Management Action;” (Judgment § 9.2.1.1).

Watermaster brings this issue before the PAC for discussion in compliance with the Judgment. Please provide feedback to the Watermaster by August 9, 2024.

Please contact me at 805 654 2010 or LPV.Watermaster@ventura.org with any questions or concerns.

Del Norte Water Company

Post Office Box 4065
Ventura, California 93007
Phone (805) 647-1092 Fax (805) 647-2805

July 12, 2024

Via E-Mail Transmission

Las Posas Valley Watermaster
LPV.Watermaster@ventura.org

Re: Protest of Basin Assessment-Release Date 03/05/2024

Dear Sir or Madam:

By letter dated April 18, 2024, Del Norte Water Company (“DNWC”) sent a letter to the Watermaster protesting the payment of the Basin Assessment based on Section 7.9 of the Final Judgment (the “April 18 Protest”). [A copy of the April 18 Protest is attached hereto as Exhibit “1”.] No response has been received from the Watermaster. Please be advised that DNWC intends to seek relief pursuant to the provisions of Section 9.2 of the Final Judgment:

Section 9.2.1.1 of the Final Judgment provides: “Any Party seeking judicial review of a Basin Management Action must have timely exhausted opportunities for relief through the submission of written comment(s) to Watermaster, either individually or through a written report submitted by PAC or TAC, concerning the Basin Management Action.”

Section 9.2.1.2 of the Final Judgment provides: “Prior to seeking judicial review of a Basin Management Action, Watermaster and the disputing Party(ies) shall first engage in mediation unless both Watermaster and the disputing Party(ies) agree in writing to forego mediation. Watermaster may waive the requirement to engage in mediation in which case a Party that has exhausted its administrative remedies with Watermaster may seek judicial review without having engaged in mediation.”

The April 18 Protest was DNWC’s good faith attempt to initiate a dialogue with Watermaster regarding Section 7.9 assessment reductions. Having received no response from Watermaster on the protested matter, DNWC has exhausted administrative remedies and will continue to pursue its sought-after remedies through the above-referenced channels. The Watermaster assessment is for activities and administration that either duplicate the activities of

Item 26C – Watermaster memo to PAC (July 17, 2024)

Las Posas Valley Watermaster
July 12, 2024
Page 2

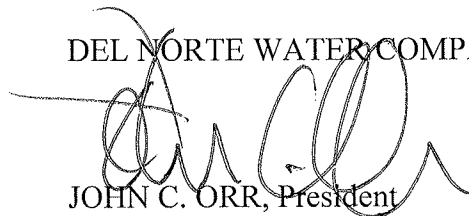
the UWCD or has no benefit to DNWC and its Shareholders. Notwithstanding the protest, DNWC complied with the Notice of Assessment and paid the \$187,832.00 basin assessment in full. DNWC seeks the following remedies:

- 1) An Amended Notice of Assessment reflecting a reduction that is proportionate to the duplicative or non-beneficial activities and administration referenced above; and
- 2) Reimbursement that is proportionate to the reduction in the Amended Notice of Assessment.

DNWC remains hopeful that an agreement can be reached without resorting to mediation or judicial review. Please advise whether mediation or review by the Santa Barbara Superior Court will be necessary to enforce Section 7.9 of the Final Judgment.

Very truly yours,

DEL NORTE WATER COMPANY

A handwritten signature in black ink, appearing to read 'John C. Orr', is written over the printed name and title.

JOHN C. ORR, President

JCO:nsh
Attachment

cc: DNWC Board of Directors – *Via E-Mail Transmission*
Barbara Brenner, Esq. – *Via E-Mail Transmission*

Item 26C – Watermaster memo to PAC (July 17, 2024)

EXHIBIT “1”

[DNWC’S APRIL 18 PROTEST]

Del Norte Water Company

Post Office Box 4065
Ventura, California 93007
Phone (805) 647-1092 Fax (805) 647-2805

April 18, 2024

Via E-Mail Transmission

Las Posas Valley Watermaster
LPV.Watermaster@ventura.org

Re: Protest of Basin Assessment - Release Date: 03/05/2024

Dear Sir or Madam:

Del Norte Water Company (“DNWC”) received a Notice of Basin Assessment Release Date: 03/05/2024 made pursuant to Final Judgment filed 07/10/2023 in *Las Posas Valley Water Rights Coalition, et al. v. Fox Canyon Groundwater Management Agency, et al.*, Case No. VENCI00509700. A copy of said Notice is attached hereto as Exhibit “A”.

As you are aware, appeals of the Judgment are pending, although it has not been stayed.

On April 6, 2024, DNWC forwarded a check to the Watermaster of the funds collected by it from its Shareholders in response to the Notice of Assessment.

DNWC, for itself and each of its Shareholders (see List of WMIDs attached hereto as Exhibit “B”), hereby Protests the payment of the Basin Assessments made, with full reservation of all applicable rights against the Las Posas Valley Watermaster, because of the provisions of Section 7.9 of the Judgment which reads:

“7.9 **Adjustments to Basin Assessments for UWCD Assessments.** Water Right Holders located in the western portion of the Basin within the UWCD’s service area presently pay assessments to UWCD, a portion of which is used to finance UWCD’s ongoing activities that are designed to replenish the Basin and neighboring basins. Watermaster may reduce the amount of the Basin Assessments levied on Water Right Holders that pay an assessment to UWCD if Watermaster determines, following Committee Consultation, that such a reduction is appropriate as a matter of equity.”

DNWC completed the UWCD’s Semi-Annual Groundwater Production Statements (attached hereto as Exhibit “C”) for the period 07/01/2023 to 12/31/2023. DNWC has partially paid 25% of the \$187,832 that was due and will pay the balance on June 30, 2024.

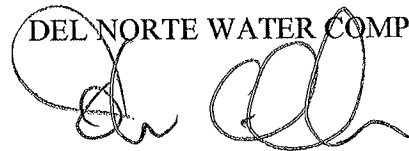
Item 26C – Watermaster memo to PAC (July 17, 2024)

Las Posas Valley Watermaster
April 18, 2024
Page 2

The UWCD assessment is based on replenishment activities that benefit DNWC and its Shareholders. DNWC is informed and believes the Watermaster assessment is for activities and administration that either duplicate the activities of the UWCD or has no benefit to DNWC and its Shareholders.


DNWC apologizes that, due to clerical error, this Protest was not made at the time the assessment monies were forwarded to the Watermaster on April 6, 2024.

Very Truly Yours,

DEL NORTE WATER COMPANY

JOHN C. ORR, President

JCO:mjr

cc: Shareholders of DNWC



Item 26, Exhibit 26D – PAC Recommendation Report Letter (August 16, 2024)

Gene West, Chair
Las Posas Valley Watermaster
800 S. Victoria Ave.
Ventura, CA 93009

August 16, 2024

Re: PAC Recommendation Report concerning Del Norte Protest

Chair West:

At its August 1 and 15, 2024 meetings, the PAC discussed the Del Norte basin assessment protest letters submitted for committee consultation by Watermaster staff July 17, 2024.

The PAC understands Del Norte's position to be that United Water Conservation District (UWCD) provides sufficient basin management to protect and maintain Del Norte's pumping capacity, and that no activity on the part of the Watermaster, administrative or otherwise, can benefit Del Norte in any way that is not duplicative of UWCD activities. As such, as matter of equity, Del Norte believes it should not pay any basin assessment.

After much discussion, two central questions presented themselves to the PAC:

1. Where does Del Norte's water come from? That is, how much of the water produced at their wells comes from UWCD's recharge efforts and how much from other basin inflows?
2. What is the generalized benefit to the Del Norte service area of being in the Las Posas Valley Basin and party to the Judgment? That is, can the benefit accrued to Del Norte's wells of Watermaster activity be quantified? And, if so, what would that value be?

There are clearly policy aspects to the second question, but there are hydrogeological aspects to it, as well, and the PAC determined that without a technical foundation, it cannot develop any policy recommendations for the Watermaster.

As such, at this juncture, the PAC recommends, per Section 6.4 of the Judgment, that Watermaster assign this issue to TAC for review. Once a TAC recommendation report has been developed and returned to the PAC, the PAC can discuss the policy implications and develop a recommendation report to the Watermaster regarding the Del Norte protest.

Thank you for the opportunity to weigh in on this important matter of equity.

Sincerely,



Ian Prichard, Chair, LPV Watermaster PAC