

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, *Councilmember, City of Camarillo*

INTERIM EXECUTIVE OFFICER
Jeff Palmer

June 25, 2025

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

SUBJECT: Adopt Proposed Resolution No. 2025-03 to Establish the Amount of the Las Posas Valley Overuse Assessment on the Use of Groundwater in Excess of What the Las Posas Valley Adjudication Judgment Allows [LPV Watermaster] – (New Item)

RECOMMENDATIONS: (1) Receive an Agency staff presentation on the Las Posas Valley (LPV) Overuse Assessment establishing the amount (or rate) of the Overuse Assessment; and (2) Adopt Resolution No. 2025-03 establishing the amount of the Overuse Assessment on groundwater use in excess of what's allowed under the LPV Adjudication Judgment equal to the prevailing Calleguas Municipal Water District's Tier 1 rate at the end of the cure period Water Year 2024, setting the interest rate on delinquent Overuse Assessments equal to the current real property tax delinquency rate for Ventura County, and directing staff to deposit Overuse Assessments collected from water right holders in the separate Watermaster Overuse Assessment account.

BACKGROUND:

The Las Posas Valley Adjudication Judgment (Judgment) defines "Overuse" as "a Use in Excess of that allowed under the Judgment." (Judgment, §4.15.1) Generally, Overuse occurs when a Water Right Holder Uses groundwater in excess of their Annual Allocation. Annual Allocations are determined for each Water Year by Watermaster following Committee Consultation pursuant to the protocols and formulas set forth in the Judgment. (See Judgment, § 4.2.) In addition, Overuse may occur where a Mutual Water Company reports an aggregate amount of Use on behalf of its Mutual Exclusive Shareholders that exceeds the Aggregate Mutual Supply, and where a Mutual Water Company Shareholder without an Annual Allocation Uses Groundwater. (See Judgment, § 4.15.1.1, 4.15.1.2.) Prior to a Party being assessed an Overuse Assessment, the Judgment provides Water Right Holders several options to cure the Overuse "in the Water Year [immediately] following the Water Year in which the Overuse occur[s]." (Judgment, § 4.15.2.) However, if a Water Right Holder fails to cure the Overuse as provided in the Judgment, then the Water Right Holder, Party, or Person shall be subject to an Overuse Assessment and/or injunctive relief, as the case may be. (Ibid.) "Failure to pay [an] Overuse Assessment will

incur interest on the amount owed and further enforcement [],” as well as additional enforcement including injunctive relief and lien on the associated real property for unpaid Overuse Assessments. (Judgment, § 4.15.3.)

The Judgment requires Watermaster, with Committee Consultation, to establish the amount of the Overuse Assessment. (Judgment, § 4.15.3.) To date, Watermaster has not established the amount or rate of the Overuse Assessment.

DISCUSSION:

Water Use during Water Year 2023 (Oct. 1, 2023 – Sept. 30, 2024) was the first Water Year that Water Right Holders reported their Groundwater Use to Watermaster, and thus was the first Water Year for which Overuse was determined. In order to avoid paying an Overuse Assessment for Overuse that accrued during Water Year 2023, Water Right Holders must cure Overuse during Water Year 2024 (Oct. 1, 2024 – Sept. 30, 2025). The Judgment provides several ways to cure an Overuse, each of which generally involves the Water Right Holder Using less Groundwater than their Annual Allocation during the cure period or obtaining additional Annual Allocation through the Judgment’s transfer processes. (Judgment, § 4.15.2.) Failure to cure any Overuse in the Water Year after it accrues will result in Overuse Assessments.

In compliance with the provisions of the Judgment to establish an Overuse Assessment, Watermaster submitted a request for consultation and policy recommendations to the Las Posas Valley Policy Advisory Committee (PAC) in a memo dated April 10, 2025 (Item 10A). The PAC deliberated on the issue at a regular meeting on April 17, 2025, and provided a Recommendation Report to Watermaster dated May 01, 2025 (Item 10B). The PAC recommended Watermaster establish an Overuse Assessment that meets the criteria summarized below:

1. The Overuse Assessment be charged at the prevailing Calleguas Tier 1 rate at the end of the Water Year.
2. Overuse Assessments, once collected, be sequestered in a separate Watermaster account reserved for replenishment.

The Judgment’s creation of the Overuse Assessment, as well as the authorities to collect associated interest charges and to take additional enforcement options for nonpayment (i.e., injunctive relief, lien on Water Right Holders’ underlying real property) (Judgment, § 4.15.3), is intended to encourage Groundwater Use according to the Annual Allocations set by the Watermaster and discourage Overuse. Historically, the Agency has set the rate of surcharges to be collected for groundwater extractions in excess of allocations established under its allocation ordinances according to the prevailing Calleguas Municipal Water District’s (CMWD) Tier 2 Supply Rate. However, CMWD no longer has a Tier 2 rate, only a Tier 1 rate. CMWD is a member agency of Metropolitan Water District and is the largest purveyor of imported water within the Agency. CMWD’s Tier 1 Supply Rate is “set at Metropolitan’s cost of maintaining a reliable amount of supply.” The 2025 CMWD Adopted Water Rates (attached as Item 10C) shows Tier 1 Supply Rate is \$1,895 per acre-foot.

Staff agree with the PAC recommendations. However, staff further propose (1) that Overuse Assessments be charged at the prevailing Calleguas Tier 1 rate at the end of the cure period, (2) Overuse Assessments become delinquent and accrue interest beginning one month after they are due; and (3) delinquent Overuse Assessments bear interest at the then current real property tax delinquency rate for Ventura County similar to the Delinquent Basin Assessments (Judgment, Exhibit A, § 2.8.2). Proposed Resolution No. 2025-03 (attached as Item 10D) would automatically adjust the Overuse Assessments, consistent with the increase in the CMWD Tier 1.

On June 13, 2025, Watermaster received correspondence from Michele Staples, whose law firm Jackson Tidus represents the defendants and intervenors that either did not receive a water under or are challenging the water rights they received under the Judgment, and recently sought to amend the Judgment. (Item 10E.) Ms. Staples' letter requested that this Item and the attached proposed resolution be amended to clarify that the Overuse Assessment does not apply to those defendants and intervenors because they intend to appeal the trial court's May 2025 decision denying their requested relief and granting some of them only nominal Water Right Allocations for their domestic use. This item and the attached resolution do not involve the applicability of Overuse Assessments. The applicability and obligation to pay an Overuse Assessment is set by the Judgment, not the Watermaster. (See Judgment, § 4.15.2.1 ["In the case of Overuse by a Party that reports its own Groundwater Use, [i]f a Party's Overuse is not so cured within the one-year cure period, the Party will be assessed an Overuse Assessment"]; see also Judgment, §§ 4.15.2.2, 4.15.2.3.) Nor does this item or adoption of the attached resolution amount to Watermaster levying any Overuse Assessment. As described above, the levying of Overuse Assessments will be approved after Watermaster determines which Water Right Holders use of groundwater resulted in an Overuse following the expiration of the applicable cure period. (Judgment, § 4.15.2.) Here, the recommended action involves only establishing the amount, or rate, of the Overuse Assessment that will be levied in the future once Watermaster determines the Overuse of Water Right Holders, if any. It does not involve the levying of an Overuse Assessment on any Party or Water Right Holder.

CONCLUSION:

Agency staff recommends your Board (1) receive a presentation on Overuse, the Overuse Assessment, and establishing the amount (or rate) of the Overuse Assessment under the LPV Adjudication Judgment; and (2) adopt proposed Resolution No. 2025-03 establishing the amount of the Overuse Assessment as a per acre-foot amount equal to Calleguas Municipal Water District's Tier 1 Water Supply rate; establishing that Overuse Assessments are delinquent and begin accruing interest a month after they are due; setting the rate of interest for delinquent Overuse Assessments at an amount equal to the current real property tax delinquency rate for Ventura County; and directing staff to deposit Overuse Assessments into the Watermaster Overuse Assessment account to be used in the LPV Basin as directed by the Agency Board of Directors.

This letter has been reviewed by Agency Counsel. If you have any questions, please call me at (805) 654-3942.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kaseke', written in a cursive style.

Kudzai Farai Kaseke (Ph.D., PH, PMP, CSM)
Assistant Groundwater Manager

Attachments:

- Exhibit 10A – Watermaster PAC Consultation Request, April 10, 2025
- Exhibit 10B – PAC Recommendation Report, May 01, 2025
- Exhibit 10C – Calleguas MWD 2025 Adopted Water Rates
- Exhibit 10D – Proposed Resolution No. 2025-03
- Exhibit 10E – Correspondence from Jackson Tidus dated June 13, 2025

FOX CANYON GROUNDWATER MANAGEMENT AGENCY

LAS POSAS VALLEY WATERMASTER



MEMORANDUM

Date: April 10, 2025
To: Las Posas Valley Watermaster Policy Advisory Committee
From: Kudzai F. Kaseke, Assistant Groundwater Manager
Subject: Committee Consultation for Establishment of an Overuse Assessment for Las Posas Valley Basin.

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

The Las Posas Valley Adjudication Judgment (Judgment) defines “Overuse” as “a Use in Excess of that allowed under the Judgment.” (Judgment, §4.15.1) Generally, Overuse occurs when a Water Right Holder Uses Groundwater in excess of Annual Allocation; Annual Allocations are determined for each Water Year by Watermaster according to the Annual Allocation Calculation process set forth Exhibit D of the Judgment. (See also Judgment, § 4.2.) More specifically, the Judgment provides that Overuse occurs where

Use of Groundwater by a Party other than Calleguas that is not a Mutual Exclusive Shareholder (unless that Mutual Shareholder and its Mutual Water Company have agreed to the separate reporting of said Mutual Exclusive Shareholder’s Groundwater Use pursuant to Section 4.7.1) that either has no Annual Allocation or exceeds such Party’s Annual Allocation (inclusive of Annual Allocation derived from Transferred Allocation Basis or Carryover), any Carryover, and any Groundwater to which such Party is entitled pursuant to a Subscription Project” or “The aggregate Use of Allocated Groundwater by a Mutual Water Company’s Mutual Exclusive Shareholders (excluding those Mutual Exclusive Shareholders who have agreed with their Mutual Water Company to separately report their Groundwater Use pursuant to section 4.7.1) exceeds the Aggregate Mutual Supply.

(Judgment, §§ 4.15.1.1, 4.15.1.2.) The Judgment provides Water Right Holders several options to cure Overuse “in the Water Year [immediately] following the Water Year in which the Overuse occur[s].” (Judgment, § 4.15.2.) However, if a Water Right Holder fails to cure the Overuse as provided in the Judgment, then the Water Right Holder, Party, or Person shall be subject to an Overuse Assessment and/or injunctive relief, as the case may be. (Ibid.) “Failure to pay [an] Overuse Assessment will incur interest on the amount owed and further enforcement [],” as well as additional enforcement including injunctive relief and lien on the associated real property for unpaid Overuse Assessments. (Judgment, § 4.15.3.)

The Judgment requires Watermaster, with Committee Consultation, to establish the amount of the Overuse Assessment. (Judgment, § 4.15.3.) To date, Watermaster has not established the amount or rate of the Overuse Assessment. In compliance with the Judgment, Watermaster requests your Committee’s consultation and policy recommendations on Watermaster’s establishment of the Overuse Assessment, specifically the amount of the Overuse Assessment. Watermaster staff plan to bring an item and

Item 10A – Watermaster PAC Consultation Request Memo, April 10, 2025

recommendation on the amount of the Overuse Assessment to the Fox Canyon Groundwater Management Agency Board of Directors (acting as the Watermaster Board) at the May 28, 2025, meeting. Please provide feedback via the email below to the Watermaster by May 09, 2025.

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

FCGMA Board Special Meeting, June 13, 2025
Item 10B - PAC Recommendation Report, May 01, 2025

TO: Las Posas Valley Watermaster

FROM: Las Posas Valley Watermaster Policy Advisory Committee

RE: Recommendation Report – Establishment of an Overuse Assessment for Las Posas

Valley Basin DATE: May 1, 2025

The Las Posas Valley Watermaster Policy Advisory Committee (PAC) provides this Recommendation Report on the **Establishment of an Overuse Assessment for Las Posas Valley Basin**.

Recommendation:

See memo below for recommendation.

Policy Rationale for Recommendation:

See memo below for rationale.

Summary of Facts in Support of Recommendation:

See memo below for complete summary of facts.

Tally of Committee Member Votes:

	YES	NO	ABSTAIN	ABSENT
Ian Prichard, Calleguas MWD	X			
Jeff Palmer, VC WWD No. 1 & 19				X
John Menne, Zone MWC	X			
Rob Grether, West LPV Large Ag	X			
David Schwabauer, East LPV Large Ag	X			
Josh Waters, East LPV Small Ag				X
Richard Cavaletto, West LPV Small Ag	X			
Laurel Servin, East LPV MWC	X			
Steven Murata, West LPV MWC	X			
Arturo Aseo, Commercial	X			

Report of Bases for Majority and Minority Committee Member Positions:

PAC Recommendation Report Regarding Establishment of an Overuse Assessment for Las Posas Valley Basin

On April 10, 2025, Watermaster sent the Las Posas Valley Basin Watermaster Policy Advisory Committee (PAC) a committee consultation for the establishment of an “Overuse Assessment,” as defined in Section 1.79 of the Judgment, for Las Posas Valley Basin. The PAC discussed this issue at its regular meeting on April 17, 2025.

By unanimous vote of those present, the PAC recommends that the Watermaster establish an Overuse Assessment that meets the following criteria:

- The Overuse Assessment shall be charged at the prevailing Calleguas Tier 1 rate at the end of the Water Year. Calleguas updates its rates annually and posts them on the Calleguas website, <https://www.calleguas.com>.
- Overuse Assessments, once collected, shall be sequestered in a separate Watermaster account reserved for replenishment.

Calleguas MWD			
2025 Adopted Water Rates			
	Effective Jan 1, 2024	Effective Jan 1, 2025	% Change
MWD Rates			
Tier 1 Supply Rate (\$/AF)	\$332	\$290	(12.7%)
System Access Rate (\$/AF)	\$389	\$463	19.0%
System Power Rate (\$/AF)	\$182	\$159	(12.6%)
Treatment Surcharge (\$/AF)	\$353	\$483	36.8%
MWD Treated Water Rates			
MWD Tier 1 (\$/AF)	\$1,256	\$1,395	11.1%
CMWD Rates			
O&M Surcharge (\$/AF)	\$202	\$214	5.9%
Capital Construction Surcharge (\$/AF)	\$272	\$286	5.1%
Total Calleguas Rates	\$474	\$500	5.5%
Combined MWD & CMWD Rates			
Tier 1 Rate (\$/AF)	\$1,730	\$1,895	9.5%
Temporary Water Rate (per 100 cu ft)	\$8.86	\$8.70	(1.8%)
Capacity Charge			
Estimated MWD Capacity Charge	\$ 2,123,520	\$ 2,464,800	16.1%
CMWD Capacity Charge Requirement	\$ 5,615,216	\$ 5,508,644	(1.9%)
Estimated MWD & CMWD Capacity Charge	\$7,738,736	\$7,973,444	3.03%
Estimated Purveyor CFS	134.92	143.74	6.5%
Capacity Charge /cfs - MWD	\$15,739	\$17,148	
Capacity Charge /cfs - CMWD	\$41,619	\$38,324	
Combined MWD & CMWD Capacity Charge	\$57,358	\$55,472	(3.3%)
RTS Charge			
Estimated MWD RTS Charge	\$ 8,358,310	\$ 9,096,290	8.8%

AF of Sales to calculate Capacity Chg & RTS Rate 73,000 73,000

	2024	2025	% Chg
MWD Per AF Rate	\$ 1,256	\$ 1,395	
MWD Capacity Charge	\$ 29	\$ 34	
MWD RTS	\$ 114	\$ 125	
	<u>\$ 1,399</u>	<u>\$ 1,554</u>	11.1%
CMWD Per AF Rate	\$ 474	\$ 500	
CMWD Capacity Charge	\$ 77	\$ 75	
	<u>\$ 551</u>	<u>\$ 575</u>	4.4%
Total MWD & CMWD Combined Rates	\$ 1,950	\$ 2,129	9.18%

Calleguas MWD			
2025 Adopted SMP & Wheeling Rates			
	Effective Jan 1, 2024	Effective Jan 1, 2025	% Change
Current SMP rate (\$/AF)			
Brine	\$683.90	\$749.10	9.5%
Non-Brine	\$54.80	\$60.00	9.5%
Outside District SMP rate (\$/AF)			
Brine	\$1,025.90	\$1,123.70	9.5%
Non-Brine	\$82.20	\$90.00	9.5%
Wheeling Rate (\$/AF)	\$27.20	\$29.39	8.1%

DEFINITIONS:

Tier 1 Supply Rate (Metropolitan) - recovers the of cost of maintaining a reliable amount of supply.

System Access Rate (Metropolitan) – recovers a portion of the costs associated with the delivery of supplies.

System Power Rate (Metropolitan) – recovers power costs for pumping supplies to Southern California.

Water Stewardship Rate (Metropolitan) – recovers the cost of Metropolitan’s financial commitment to conservation, water recycling, groundwater clean-up and other local resource management programs.

Treatment Surcharge (Metropolitan) – recovers the costs of treating imported water.

Readiness-to-Serve Charge (Metropolitan) - a fixed charge that recovers the capital cost of the portion of system capacity that is on standby to provide emergency service and operational flexibility. Based upon a calendar ten year rolling average.

Capacity Charge (Metropolitan) - recovers the cost of the assets that are providing peak capacity within the distribution system. Based on peak day delivery in previous three years.

Operations and Maintenance Surcharge (Calleguas) - recovers the cost of operating and maintaining system facilities and District administrative functions.

Capital Construction Surcharge (Calleguas) - recovers a portion of the cost of infrastructure expansion to accommodate new demand and increase system reliability.

Capacity Charge (Calleguas) recovers the cost of infrastructure to meet peaking and emergency demands. Based on the peak week demand on the system between May 1 and September 30, for the prior calendar year

Resolution 2025-03

A RESOLUTION OF THE FOX CANYON GROUNDWATER MANAGEMENT AGENCY BOARD OF DIRECTORS ESTABLISHING THE AMOUNT OF THE OVERUSE ASSESSMENT ON EXCESS GROUNDWATER USE IN THE ADJUDICATED LAS POSAS VALLEY BASIN

WHEREAS, the Fox Canyon Groundwater Management Agency (Agency) is a groundwater management agency created by special act of the Legislature to preserve and protect the groundwater resources within the Agency boundaries; and

WHEREAS, the Agency is the exclusive groundwater sustainability agency for the basins within the Agency's boundaries under the Sustainable Groundwater Management Act (SGMA); and

WHEREAS, on July 10, 2023, the Santa Barbara Superior Court entered a final judgment in *Las Posas Valley Water Rights Coalition, et al. v. Fox Canyon Groundwater Management Agency, et al.*, Santa Barbara Sup. Ct. Case No. VENC100509700 (LPV Adjudication Judgment); and

WHEREAS, the LPV Adjudication Judgment, among other things, determines and adjudicates all groundwater rights within the Las Posas Valley Groundwater Basin (LPV Basin) and establishes and implements a Physical Solution for the LPV Basin; and

WHEREAS, the LPV Adjudication Judgment appoints the Agency to serve as Watermaster for the LPV Basin to assist the court with administering and implementing the LPV Adjudication Judgment and Physical Solution, including regulating groundwater extraction and use according to adjudicated water rights and providing for sustainable groundwater management of the LPV Basin; and

WHEREAS, Section 4.15.3 of the LPV Adjudication Judgment requires the Agency, acting as Watermaster and following committee consultation, to establish the amount of an "Overuse Assessment," which is the fee charged to water right holders for the use of groundwater in excess of that allowed under the LPV Adjudication Judgment and not otherwise cured during the applicable cure period provided in the LPV Adjudication Judgment; and

WHEREAS, Section 2.8.2 of Exhibit A ("Watermaster Rules") of the LPV Adjudication Judgment provides that assessments, including the Overuse Assessment, become delinquent one month after they are due and "shall bear interest at the then current real property tax delinquency rate for Ventura County"; and

WHEREAS, on May 10, 2025, the Las Posas Valley Policy Advisory Committee released a report recommending that the amount or rate of the Overuse Assessment be established "at the prevailing Calleguas [Municipal Water District] Tier 1 [water] rate"

and Overuse Assessments “be sequestered in a separate Watermaster account reserved for replenishment”; and

WHEREAS, the Agency has historically set the amount of surcharges for extractions that exceeded the allocations established under the Agency’s ordinances commensurate with the Calleguas Municipal District (CMWD) water rates, which CMWD updates annually based on, among other things, the cost of purchasing water from the Metropolitan Water District of Southern California; and,

WHEREAS, the Agency, acting as Watermaster, has established a separate sub-account within its Las Posas Valley Watermaster Fund entitled “Watermaster Overuse Assessment Account” for the deposit of Overuse Assessments collected by Watermaster; and

WHEREAS, at the June 13, 2025, Fox Canyon Groundwater Management Agency special meeting, the Board of Directors received presentations and comments on establishing the amount of the Overuse Assessment commensurate with the CMWD Tier 1 water rates, charging interest on delinquent Overuse Assessments according to the current real property tax delinquency rate for Ventura County; and depositing Overuse Assessments collected by Watermaster in specified accounts; and,

WHEREAS, this Resolution is exempt from the provisions of the California Environmental Quality Act as an action taken to assure the maintenance, restoration, or enhancement of a natural resource and the environment and pursuant to Section 10.7 of the LPV Adjudication Judgment.

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED BY THE FOX CANYON GROUNDWATER MANAGEMENT AGENCY BOARD OF DIRECTORS THAT:

1. The amount (rate) of the Overuse Assessment is equal to the prevailing “per acre foot” amount for Calleguas Municipal Water District (CMWD) Tier I water.
2. The amount of the Overuse Assessment shall adjust automatically anytime that CMWD adjusts its “per acre foot” amount for CMWD Tier 1 water so that the amount of the Overuse Assessment is always equal to the “per acre foot” amount of CMWD Tier 1 water then in effect.
3. Overuse Assessments become delinquent one month after they are due and shall bear interest at the then-current real property tax delinquency rate for the County of Ventura.
4. Overuse Assessments shall be collected and deposited in the Agency’s “Watermaster Overuse Assessment Account” and used for LPV Adjudication Judgment purposes as approved by the Agency Board of Directors.
5. The amount of the Overuse Assessment shall become effective on July 1, 2025.

On a motion by Director _____ and seconded by Director _____,
the foregoing Resolution was duly passed and adopted by the Board of Directors at a
special meeting of the Board held on this 25th day of June 2025, in Ventura, California.

Eugene F. West, Chair, Board of Directors
Fox Canyon Groundwater Management Agency

ATTEST: I hereby certify that the above is a true and correct copy of Resolution No.
2025-03.

By: _____
Elka Weber, Clerk of the Board



June 13, 2025

Direct Dial: 949.851.7409
Email: mstaples@jacksontidus.law
Reply to: Irvine Office
File No: 10547-128970

VIA EMAIL ONLY (LPV.Watermaster@ventura.org; fcgma@ventura.org)

Policy Advisory Committee
LPV Watermaster
c/o Fox Canyon Groundwater Management
Agency
800 South Victoria Avenue L#1610
Ventura, CA. 93009-1610

Board of Directors
Fox Canyon Groundwater Management
Agency
Las Posas Valley Watermaster
800 South Victoria Avenue L#1610
Ventura, CA. 93009-1610

**Re: June 13, 2025 Agenda Item No. 18, Request for Clarification that Resolution
2025-03 Overuse Assessment Will Not Apply to Omitted Rights Holders**

Dear Members of the Public Advisory Committee and Board of Directors:

Our firm represents small farmers and landowners overlying the Las Posas Valley ("LPV") Basin who have long used groundwater pumped from the LPV Basin for domestic and agricultural purposes, regularly reported their groundwater extractions and paid their assessments to Fox Canyon Groundwater Management Agency ("FCGMA"), but nevertheless did not receive Allocations under the Judgment. (See previous correspondence to the Watermaster on this matter, attached.) This letter refers to our clients as "Omitted Rights Holders".

The Watermaster's proposed Resolution No. 2025-03 would establish an "Overuse Assessment". The last-minute noticing of the Board's consideration of Resolution No. 2025-03 at a special meeting does not give sufficient time for the Omitted Rights Holders and others similarly situated to adequately review and comment on the proposed resolution, and deprives them of their due process rights under the California and federal constitutions. ***We ask the Board to continue this agenda item to a regularly scheduled Board meeting, and to provide sufficient advance notice to enable adequate time for public review and comment.***

Resolution 2025-03 defines the proposed "Overuse Assessment" as "the fee charged to water right holders for the use of groundwater in excess of that allowed under the LPV Adjudication Judgment, following committee consultation". (Resolution 2025-03, p. 1 (Agenda Packet p. 181 of 192).) The Overuse Assessment should not be applied to the Omitted Rights Holders because they are not Water Right Holders as defined by Judgment section 1.111 ("Water Right Holder – A Party that holds an Allocation") and because they are appealing the trial court's ruling denying their motions to establish Allocations.

Irvine Office
2030 Main Street, Suite 1500
Irvine, California 92614
t 949.752.8585 f 949.752.0597

Westlake Village Office
2815 Townsgate Road, Suite 200
Westlake Village, California 91361
t 805.230.0023 f 805.230.0087

www.jacksontidus.law

Item 10E Page 1 of 13

LPV Watermaster Policy Advisory Committee
Board of Directors
June 13, 2025
Page 2

Applying the Overuse Assessment to all of the Omitted Rights Holders' groundwater pumping would make their historic water use economically infeasible and they would suffer irreparable harm that cannot be remedied if they win their appeal (which they are likely to do), including the complete loss of their crops, the loss of productive use of their land, and for many of them, loss of their livelihoods. The loss of crop trees, loss of harvest, and loss of agricultural use of their land and water rights would directly contradict state and local laws that protect small farmers, agricultural crops and agricultural land uses, including the SOAR initiative (Save Open Space and Agricultural Resources) that restricts many of the Omitted Rights Holders' properties to agricultural use. On the other hand, it does little harm to allow them to continue their historic groundwater production while they pursue the appeal and pay the ordinary course of water assessment fees.

For the avoidance of confusion, we ask the Watermaster Board to clarify that the Overuse Assessment established under Resolution 2025-03 does not apply to Omitted Rights Holders.

As we previously notified Watermaster, the Omitted Rights Holders were not served with the court-approved notice of the LPV Adjudication. They were denied a meaningful opportunity to participate in the adjudication, their exercised overlying water rights were overlooked in the Judgment, and they were stripped of their groundwater allocations without their knowledge. The Watermaster took part in the recent court proceedings on our motions to modify the Judgment that detailed the numerous violations of the California and federal constitutions, Streamlined Adjudication Act, Sustainable Groundwater Management Act and California Code of Civil Procedure, and the irregularities in the adjudication proceedings that led to the Judgment wrongly excluding our clients' exercised overlying water rights. These violations and irregularities include things like irregular certified mail receipts of the Court-approved adjudication notice (unsigned delivery receipts, receipts for different Omitted Rights Holders having identical "signatures" and identical delivery dates and times) and inadmissible hearsay declarations by the service administrator for the adjudication about how the certified mailing was carried out, even though the service administrator did not carry out the mailing but instead hired a contractor that was not disclosed to the Court or the parties during the adjudication and did not submit any declaration by the contractor confirming the certified mailing. The trial court denied our motions and the case is now headed for appeal.

Also, the Watermaster's Policy Advisory Committee ("PAC") has not yet considered or advised the Board on any assessment or other policy that should apply to overlying groundwater users such as the Omitted Rights Holders who historically extracted groundwater in compliance with FCGMA allocations, reported and paid for their groundwater use, yet received no Allocations under the Judgment. Rather, the PAC discussions have addressed applying the Overuse Assessments only to pumpers having Allocations under the Judgment who pump in excess of those Allocations. Debra Tash, Daryl Smith and Doug Homze are among the Omitted Rights Holders who have previously asked that the PAC consider the predicament of groundwater users in their position and advise on their continued use of overlying groundwater rights for domestic and agricultural purposes as

LPV Watermaster Policy Advisory Committee
Board of Directors
June 13, 2025
Page 3

necessary to spare their crops, continue productive use of their land and make a living. But the matter has not yet been included on a PAC agenda.

There is not yet any established water market, Basin Optimization Projects, or any other feasible way for Omitted Rights Holders to secure any Allocation in the LPV Basin other than to pursue amendment of the Judgment as they are doing. It would be unfair, inequitable and economically infeasible to impose the Overuse Assessment on all of their groundwater production.

Proposed Resolution 2025-3 correctly limits the application of the Overuse Assessment to overuse by “water rights holders”, which is in turn defined under section 1.111 of the Judgment as “A Party that holds an Allocation”. For avoidance of confusion in the future application of Resolution 2025-3, we ask the Watermaster Board to clarify that the Overuse Assessment established under the resolution does not apply to Omitted Rights Holders.

Sincerely,

A handwritten signature in blue ink that reads "Michele A. Staples". The signature is fluid and cursive, with a long horizontal flourish extending to the left.

Michele A. Staples

Attachments

Cc: Tiffany North, County Counsel, County of Ventura, tiffany.north@ventura.org
Jason Canger, Assistant County Counsel, County of Ventura, jason.canger@ventura.org
Elizabeth Ewens, Stoel Rives, elizabeth.ewens@stoel.com

1710929.1



June 24, 2024

Direct Dial: 949.851.7409
Email: mstaples@jacksontidus.law
Reply to: Irvine Office
File No: 10547-128970

VIA E-MAIL AND U.S. MAIL

Board of Directors
Fox Canyon Groundwater Management Agency
Las Posas Valley Watermaster
800 South Victoria Avenue
Ventura, CA 93009-1610
FCGMA@ventura.org

Re: *Las Posas Valley Water Rights Coalition, et al. v. Fox Canyon Groundwater Management Agency, et al.*: (1) Notification of Violation of Landowner Notice Requirements; and (2) Demand for Preservation of Evidence

Dear Honorable Board Members:

We represent landowners asserting overlying water rights in the Las Posas Valley Groundwater Basin ("Basin") who were not provided mailed or posted notice of the action entitled *Las Posas Valley Water Rights Coalition, et al. v. Fox Canyon Groundwater Management Agency, et al.*, Santa Barbara County Superior Court Case No. VENCI00509700 (the "Basin Adjudication"), in violation of the streamlined adjudication statutes (see, e.g., Code of Civil Procedure ("CCP") § 836(d); Water Code §§ 10720.5(c)).

Nevertheless, the Judgment incorrectly concludes at page 2, Paragraph E:

All holders of fee title to real property in the Basin were identified using the assessors records of the County of Ventura, and were served the Notice, Complaint, and Form Answer by registered mail, return receipt requested as required by Code of Civil Procedure section 836. Where the physical address of the real property differed from the mailing address of the holder of fee title, the Notice, Complaint, and Form Answer were mailed by registered mail, return receipt requested, to the physical address of the real property and the mailing address of the holder of fee title. A notice of completion of mailing was filed with the Court on June 3, 2019, consistent with Code of Civil Procedure section 836.

Plaintiffs' Notice of Completion of Mailing filed June 3, 2019 and the supporting Declaration of Jennifer M. Keough, CEO of JND Legal Administration LLC ("JND"), do not

Irvine Office
2030 Main Street, Suite 1500
Irvine, California 92614
t 949.752.8585 f 949.752.0597

Westlake Village Office
2815 Townsgate Road, Suite 200
Westlake Village, California 91361
t 805.230.0023 f 805.230.0087

www.jacksontidus.law

Fox Canyon Groundwater Management Agency
Las Posas Valley Watermaster
RE: Violation of Notice Requirements; Demand for Preservation of Evidence
June 24, 2024
Page 2

support the Judgment's conclusion that the requirements for notice under Code of Civil Procedure section 836 were complied with, and we found no other supporting evidence in the Court Docket. JND did not respond to our informal requests for information about addresses to which the Adjudication Notice Packets were mailed, which return receipts were received, or which parcels were posted with Adjudication Notice Packets.

Additionally, the Judgment entered in the Basin Adjudication fails to allocate groundwater to the Omitted Rights Holders, fails to reflect their water right priorities, does not treat them equitably as compared to the parties who participated in the Basin Adjudication, and does not take into account the groundwater used by those of our clients who are small farmers, all in violation of CCP section 850(a). Therefore, we are submitting this formal Demand for Preservation of Evidence in an effort to maintain Fox Canyon Groundwater Management Agency ("FCGMA") and Las Posas Valley Watermaster ("Watermaster") Documents and information related to whether notice was provided as required by law for purposes of potential litigation/alternative dispute resolution.

Litigation Hold and Preservation of Evidence

The Omitted Rights Holders hereby demand that FCGMA and the Watermaster preserve all Documents¹, tangible things, and electronically stored information ("ESI" as defined below) potentially relevant, and/or reasonably calculated to lead to the discovery of admissible evidence relating to:

- *Plaintiffs' mailed notices, posted notices and published notices of the Basin Adjudication required by CCP § 836(d);*
- *Plaintiffs' request to FCGMA for names and addresses of persons reporting extractions within the Basin required by CCP § 836.5(a); and*
- *FCGMA's response to Plaintiffs' request required by CCP § 836.5(b).*

As demanded in this letter, the requirement to maintain all Documents and information also pertains to any individual and/or entity working on behalf, or at the direction, of FCGMA or the Watermaster. This includes all employees, officers, directors, attorneys, accountants, partners, representatives, agents, independent contractors, divisions, and any third parties acting

¹ The term "Documents" and/or "Document" has the broadest meaning permissible pursuant to California Evidence Code § 250 and includes, without limitation, all writings, papers, books, records, memoranda, contracts, pictures, photographs, printouts, electronic data compilations, diskettes, tapes, media, and all other tangible things upon which any hand writing, typing, printing, drawing, representation, photostatic or copy, magnetic or electronic impulse, or other form of communication recorded or reproduced, and includes preliminary drafts, studies, analyses and reports as well as any and all non-identical copies of any of the foregoing now in the possession, custody, or control of each person, and her, his, or its counsel, agents, employees, and any and all persons acting on her, his, or its behalf. "Documents" includes all electronic and physical versions of any documents, including ESI.

Fox Canyon Groundwater Management Agency
Las Posas Valley Watermaster
RE: Violation of Notice Requirements; Demand for Preservation of Evidence
June 24, 2024
Page 3

on behalf of FCGMA or the Watermaster, whether or not those third parties are paid in performing their duties.

FCGMA and the Watermaster must anticipate that information either relevant to, and/or reasonably calculated to lead to the discovery of admissible evidence in, this matter is in its possession, custody, or control. The requested information includes all documents initially in FCGMA's or the Watermaster's possession, custody, or control and/or created by FCGMA or the Watermaster, as well as all Documents and information obtained by FCGMA or the Watermaster during the course of the Basin Adjudication, whether through formal discovery or otherwise. Such information may reside, without limitation, on current and former computer systems and removable electronic media, all computer systems, services, servers, and devices (including all remote access and wireless devices) used in any way relating to the Basin Adjudication, including, without limitation, phones and tablets, online repositories, and on other storage media and sources, voice and video recording systems, cloud storage services, servers, and social networking accounts. This may include, but not be limited to, Documents stored on the personal devices of Watermaster employees and/or those working on its behalf and/or at its direction (including all lawyers, consultants, experts, employees and independent contractors).

Electronically stored information ("ESI") shall be afforded the broadest possible meaning and includes, without limitation, potentially relevant information stored electronically, magnetically, optically, or otherwise as and on:

- Digital Communications (e.g., electronic mail ("email"), voicemail, text messages, WhatsApp messages, Facebook Messenger messages, or messages stored on SIM cards)
- Email Servers (e.g., Microsoft 365, Gmail, or Microsoft Exchange databases)
- Word Processed Documents (e.g., Microsoft Word, Apple Pages, or Google Docs files and drafts)
- Spreadsheets and Tables (e.g., Microsoft Excel, Apple Numbers, or Google Sheets files and drafts)
- Presentations (e.g., Microsoft PowerPoint, Apple Keynote, or Google Slides files and drafts)
- Social Networking Sites (e.g., Facebook, Twitter, Instagram, or LinkedIn)
- Online "Cloud" Repositories (e.g., Drive, OneDrive, Box, DropBox, iCloud, AWS, or Azure)
- Calendar, Journaling, and Diary Application Data (e.g., Microsoft Outlook PST, Google Calendar, or iCal)
- Online Access Data (e.g., Temporary Internet Files, Web cache, Google history, cookies)
- Routers and any other internet access devices
- Encrypted messages

ESI resides not only in areas of electronic, magnetic, and optical storage media

Fox Canyon Groundwater Management Agency
Las Posas Valley Watermaster
RE: Violation of Notice Requirements; Demand for Preservation of Evidence
June 24, 2024
Page 4

reasonably accessible, but also in areas that may not be deemed reasonably accessible. Regardless, FCGMA and the Watermaster are obligated to preserve potentially relevant evidence that resides in areas both reasonably accessible and not reasonably accessible, even if such ESI is not anticipated to be produced or claims may be made that such ESI is confidential or privileged from disclosure.

It is hereby demanded that FCGMA and the Watermaster act immediately to preserve potentially relevant Documents, tangible things, and ESI, including, without limitation, information with the earlier of a "Created" or "Last Modified" date on or after January 1, 2018 through the date of this demand and continuing thereafter.

Adequate preservation of ESI requires more than simply refraining from efforts to delete, destroy, or dispose of such evidence. FCGMA and the Watermaster must intervene to prevent loss due to routine operations or active deletion by employing proper techniques and protocols to preserve ESI. Many routine activities serve to irretrievably alter evidence and constitute unlawful spoliation of evidence.

Nothing herein shall be read to limit or diminish any concurrent common law and statutory obligations to preserve Documents, tangible things, and other potentially relevant evidence. These duties and obligations exist under federal and state law, and require FCGMA and the Watermaster to preserve evidence of the subject-matter of litigation from the moment such litigation is reasonably anticipated. (*See e.g., Montoya v. Orange County Sheriff's Dept.*, 987 F.Supp.2d 981, 1010 (C.D. Cal. 2013) (citing *Apple Inc. v. Samsung Electronics Co., Ltd.*, 881 F.Supp.2d 1132, 1136 (N.D. Cal. 2012).) Since the Basin Adjudication was filed on March 27, 2018, such preservation must date back at least that far, but we are demanding preservation back to January 1, 2018. Further, "[w]hen a company or organization has a document retention policy, it is obligated to suspend that policy and implement a litigation hold to ensure the preservation of relevant documents after the preservation duty has been triggered." (*Apple Inc. v. Samsung Electronics Co., Ltd.*, *supra*, 881 F.Supp.2d at 1137.) The failure to preserve evidence may result in sanctions against FCGMA and the Watermaster. (*See, e.g., Kwan Software Eng'g, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 74; *Kim v. R Consulting & Sales, Inc.* (2021) 67 Cal.App.5th 263, 268–269.)

Suspension of Routine Destruction

Demand is hereby made that FCGMA and the Watermaster immediately initiate a hold for potentially relevant ESI, Documents, and tangible things and to act diligently and in good faith to secure and audit compliance with such hold. Demand is further made that FCGMA and the Watermaster immediately identify and modify or suspend features of their information systems and devices that, in routine operation, operate to cause the loss of potentially relevant ESI, if such features or operations exist. Examples of such features and operations may include, without limitation:

- Purging the contents of email and messaging repositories by age, quota, or other criteria;

Fox Canyon Groundwater Management Agency
Las Posas Valley Watermaster
RE: Violation of Notice Requirements; Demand for Preservation of Evidence
June 24, 2024
Page 5

- Using data or media wiping, disposal, erasure, or encryption utilities or devices;
- Overwriting, erasing, destroying, or discarding backup media;
- Re-assigning, re-imaging, or disposing of systems, servers, devices, or media;
- Running "cleaner" or other programs effecting wholesale metadata alteration;
- Releasing or purging online storage repositories or non-renewal of online accounts;
- Using metadata stripper utilities;
- Disabling server, packet, or local instant messaging logging; and
- Executing drive or file defragmentation, encryption, or compression programs.

Guard Against Deletion and Spoliation

FCGMA and the Watermaster should anticipate the potential that their employees, officers, directors, attorneys, accountants, bookkeepers, consultants, partners, representatives, agents, independent contractors, divisions, and/or any third parties acting on their behalf, or at their direction, may seek to hide, destroy, or alter ESI. FCGMA and the Watermaster must act to prevent and guard against such actions. Especially where machines were used for internet access or personal communications, it must be anticipated that users may seek to delete or destroy information they regard as personal, confidential, incriminating, or embarrassing, and, in so doing, may also unintentionally delete or destroy potentially relevant ESI.

FCGMA and the Watermaster must take affirmative steps to prevent anyone with access to their data, systems, accounts, and archives from seeking to modify, destroy, or hide potentially relevant ESI wherever it resides (such as by deleting or overwriting files, using data shredding and erasure applications, re-imaging, damaging or replacing media, encryption, compression, steganography, or the like).

Preservation in Native Forms

FCGMA and the Watermaster must anticipate that ESI, including, without limitation, emails, text messages, Documents, spreadsheets, presentations, and databases, will be sought in the form(s) in which it is ordinarily maintained (i.e., native form). Accordingly, demand is hereby made that FCGMA and the Watermaster preserve ESI in such native forms, and ensure that no methods be employed to preserve ESI that removes or degrade the ability to search the ESI by electronic means or that make it difficult or burdensome to access or use that information.

It is also requested that FCGMA and the Watermaster refrain from actions that shift ESI from reasonably accessible media and forms to less accessible media and forms if the effect of such actions is to make such ESI not reasonably accessible. This includes, but is not limited to, maintaining all metadata.

Fox Canyon Groundwater Management Agency
Las Posas Valley Watermaster
RE: Violation of Notice Requirements; Demand for Preservation of Evidence
June 24, 2024
Page 6

Metadata

FCGMA and the Watermaster should anticipate the need to disclose and produce system and application metadata and act to preserve it. System metadata is information describing the history and characteristics of other ESI. This information is typically associated with tracking or managing an electronic file and often includes data reflecting a file's name, size, custodian, location, and dates of creation and last modification. Application metadata is information automatically included or embedded in electronic files, but which may not be apparent to a user, including deleted content, draft language, commentary, tracked changes, speaker notes, collaboration and distribution data, and dates of creation and printing. For email, metadata includes all header routing data and Base 64 encoded attachment data, in addition to the To, From, Subject, Received Date, CC, and BCC header fields.

Metadata may be overwritten or corrupted by careless handling or improper preservation, including by carelessly copying, forwarding, or opening files.

Servers

With respect to servers used to manage email (*e.g.*, Microsoft 365, Gmail, Microsoft Exchange) and network storage (referred to as a "network share"), the complete contents of all relevant custodians network share and email accounts must be preserved. If FCGMA or the Watermaster is uncertain whether the preservation method they plan to employ is one that we will deem sufficient, please contact the undersigned.

Home Systems, Laptops, Phones, Tablets, Online Accounts, Messaging Accounts, and Other ESI Sources

Though we expect that FCGMA and the Watermaster will act swiftly to preserve data on office workstations and servers, they also must determine whether any home or portable systems or devices may contain potentially relevant data. To the extent that any potentially relevant emails or other digital communications have been sent or received, or potentially relevant Documents have been created or viewed away from the office, the contents of systems, devices, and media used for these purposes (including not only potentially relevant data from portable or home computers, but also from external storage devices, thumb drives, CD-R/DVD-R disks, and the user's phone, tablet, voice mailbox, or other forms of ESI storage) must be preserved.

Similarly, if FCGMA or the Watermaster use(d) online or browser-based email and messaging accounts or services/servers (such as Gmail, Yahoo Mail, Microsoft 365, Slack, Apple Messaging, WhatsApp, or the like) to send or receive potentially relevant messages and attachments, the contents of these account mailboxes and messages must be preserved.

Fox Canyon Groundwater Management Agency
Las Posas Valley Watermaster
RE: Violation of Notice Requirements; Demand for Preservation of Evidence
June 24, 2024
Page 7

Ancillary Preservation

The Omitted Rights Holders demand FCGMA and the Watermaster preserve passwords, keys, and other authenticators required to access encrypted files or run applications, along with the installation disks, use manuals, and license keys for applications required to access the ESI.

Paper Preservation of ESI is Inadequate

As hard copies do not preserve electronic searchability or metadata, they are not an adequate substitute for, or cumulative of, electronically stored versions. If information exists in both electronic and paper forms, FCGMA and the Watermaster should preserve both forms.

Agents, Attorneys, and Third Parties

FCGMA and the Watermaster's preservation obligations extend beyond ESI in their care, possession, or custody and includes ESI in the custody of others that are subject to the direction or control of FCGMA or the Watermaster. Accordingly, it is hereby demanded that FCGMA and the Watermaster immediately notify any current or former employees, officers, directors, attorneys, accountants, bookkeepers, consultants, partners, representatives, agents, independent contractors, divisions, and/or third parties acting on their behalf in possession of potentially relevant ESI to preserve such ESI and all relevant evidence to the full extent of the obligations to do so referenced in this letter, and take reasonable steps to secure their compliance.

We are available to discuss reasonable preservation steps at your convenience; however, FCGMA and the Watermaster must not defer preservation steps pending such discussions, as ESI and other evidence may be lost or corrupted because of delay. Should the failure to preserve potentially relevant evidence result in the corruption, loss, or delay in production of evidence to which the Omitted Rights Holders are entitled, such failure would constitute spoliation of evidence.

Please confirm by June 28, 2024 that FCGMA and the Watermaster have taken the steps outlined in this letter to preserve all Documents, tangible things, and ESI potentially relevant to this matter.

Sincerely,



Michele Staples

Cc: Arne Anselm, Interim Executive Officer, Arne.anselm@ventura.org
Tiffany North, County Counsel, County of Ventura, tiffany.north@ventura.org
Jason Canger, Assistant County Counsel, County of Ventura, jason.canger@ventura.org
Elizabeth Ewens, Stoel Rives, elizabeth.ewens@stoel.com

From: Michele Staples
Sent: Friday, September 13, 2024 6:17 PM
To: LPV.Watermaster@ventura.org
Subject: COMMENTS ON WATERMASTER TENTATIVE DECISIONS ON REQUESTS FOR CORRECTION TO GROUNDWATER SCHEDULE FOR WY2024

We represent the following landowners overlying the Las Posas Valley Groundwater Basin ("Basin") who have historically used groundwater from the Basin for agricultural and/or domestic use on their overlying land, have regularly reported their groundwater extractions to Fox Canyon Groundwater Management Agency, but are omitted from the parties receiving Allocations under the Judgment as a result of the violations of the Streamlined Groundwater Adjudication Act and irregularities in the Court proceedings. The omitted overlying landowners would suffer significant damage such as loss of productive use of their land and their livelihood without that water source. Their extractions during 2013-2019 (the period used to calculate Allocations under the Judgment) are on the order of 1,200 AFY.

We understand that it is the Court and not the Watermaster that has authority to correct the Allocations, and we will move the Court accordingly. We ask the Watermaster to make allowance for Court corrections to Allocations in considering the Groundwater Schedule for WY2024. Thank you

1. Marvin Franklin
2. Adan Chairez, Successor Trustee of the Jose I. Chairez and Rosa D. Chairez Revocable Trust
3. Richard F. Rhoads and Brenda Rhoads, as Trustees of the Rhoads 1987 Family Trust dated February 25, 1987
4. Terry Phillips, Trustee of the Phillips Trust dated January 22, 1997
5. Harold Douglas Sulser
6. Brian Williams and Caran Williams
7. Daryl E. Smith and Susan L. Smith trustees of the Daryl and Susan Smith Family Trust dated November 30, 2015
8. Joe Gillaspy and Cheryl Gillaspy, Trustees, Gillaspy Family 2004 Revocable Trust dated June 8, 2004
9. Gary G. Cervený and Diane Cervený, Trustees of the Cervený Family Trust dated 11/8/1992 as restated on April 3, 2017
10. Laureate Farm Trust dated October 8, 2012, Richard W. Gray and Laura C. Gray, trustees

11. Mina Laya Haddadzadeh, Trustee of the Mina Laya Haddadzadeh Trust dated October 9, 2017
12. SSL Management LLC
13. Sunil Kumar Sreerama
14. Ventavo Farms LLC, a California limited liability company
15. Douglas J. Homze and Sharon M. Homze as Trustees of the Homze Family Living Trust, dated 9/22/23
16. Robert J. Perry
17. Mohammad Riaz and Parveen Akhtar Riaz, Trustees of the Riaz Family Trust, dated February 26, 2009
18. Jacob Dakessian, Trustee of the Survivor's Trust established under the Dakessian Family Trusts, and Jacob Dakessian, Trustee of the Unified Credit Trust established under the Dakessian Family Trusts
19. Ashish Shah and Payal Kamdar
20. Beardsley Associates, a California General Partnership
21. Debra B. Tash, as Trustee of the George Tash Administrative Trust created under the George Tash and Debra B. Tash Inter Vivos Trust agreement dated November 25, 1985, as amended and fully restated on July 18, 2022

Thank you

Michele A. Staples
Shareholder
mstaples@jacksontidus.law
D: 949.851.7409
C: 949.233.5039

 **Jackson Tidus**
A LAW CORPORATION
2030 Main Street, Suite 1500
Irvine, CA 92614
O: 949.752.8585
F: 949.752.0597
www.jacksontidus.law
[Click here to share files larger than 25 MB](#)



From: Ian Prichard <IPrichard@calleguas.com>
Sent: Tuesday, May 20, 2025 7:09 AM
To: Debra Tash <debra@debratash.com>
Subject: RE: Request for Agenda Item LV PAC

Hello, Debra. Request received.
All best,
Ian

Ian Prichard
Deputy General Manager
Calleguas Municipal Water District
805.256.0949 (call or text)

From: Debra Tash <debra@debratash.com>
Sent: Monday, May 19, 2025 6:45 PM
To: Ian Prichard <IPrichard@calleguas.com>
Subject: Request for Agenda Item LV PAC
Importance: High

Dear Mr. Prichard

Request to be placed on the agenda to discuss staying all fines and fees for those property owners currently in litigation (or on appeal) concerning their zero allocation under the adjudication. Request that fines would only be imposed if the property owners lose in court with the appeal and continue to use their wells without authorization from the Watermaster.

Sincerely,
Debra Tash

DEBRA TASH

To send me items securely, click:
<https://bracket.email/debra>



June 24, 2025

Direct Dial: 949.851.7409
Email: mstaples@jacksontidus.law
Reply to: Irvine Office
File No: 10547-128970

VIA EMAIL ONLY (LPV.Watermaster@ventura.org; fcgma@ventura.org)

Policy Advisory Committee
LPV Watermaster
c/o Fox Canyon Groundwater Management
Agency
800 South Victoria Avenue L#1610
Ventura, CA. 93009-1610

Board of Directors
Fox Canyon Groundwater Management
Agency
Las Posas Valley Watermaster
800 South Victoria Avenue L#1610
Ventura, CA. 93009-1610

**Re: June 25, 2025 Agenda Item No. 10, Request for Clarification that
Resolution 2025-03 Overuse Assessment Will Not Apply to Omitted
Rights Holders**

Dear Members of the Public Advisory Committee and Board of Directors:

This letter follows up on our June 13, 2025 letter submitted on behalf of multiple small farmers and landowners overlying the Las Posas Valley ("LPV") Basin who have long used groundwater pumped from the LPV Basin on their overlying land for domestic and agricultural purposes, regularly reported their groundwater extractions and paid their assessments to Fox Canyon Groundwater Management Agency ("FCGMA"), but nevertheless did not receive Allocations under the Judgment. This letter refers to our clients as "Omitted Rights Holders".

We thank the Watermaster for continuing its consideration of proposed Resolution No. 2025-03 to its regularly scheduled meeting and for responding to our letter in the June 25 agenda report for Item 10 at page 3. The agenda report confirms that the recommended resolution involves only establishing the amount of the overuse Assessment, and does not involve the levying of an Overuse Assessment on anyone. The agenda report also explains that the levying of the Overuse Assessments will be approved after the Watermaster determines which Water Right Holders' use of groundwater resulted in an Overuse following the expiration of the applicable cure period.

For avoidance of confusion in implementing Resolution 2025-03, we renew our request that the Board take action to clarify that the Overuse Assessment should not be applied to the Omitted Rights Holders. If Watermaster believes that such action is beyond the scope of the current proposal, we ask the Board to refer the matter to the Policy Advisory Committee for input and add the matter to a future Watermaster agenda.

Irvine Office
2030 Main Street, Suite 1500
Irvine, California 92614
t 949.752.8585 f 949.752.0597

Westlake Village Office
2815 Townsgate Road, Suite 200
Westlake Village, California 91361
t 805.230.0023 f 805.230.0087

www.jacksontidus.law

LPV Watermaster Policy Advisory Committee
Board of Directors
June 24, 2025
Page 2

By way of background, the Omitted Rights Holders were not parties to the adjudication during Water Year 2023 (October 1, 2023-September 30, 2024) as referenced on page 2 of the Item 10 Agenda Report and by definition did not engage in Overuse. They had not been provided the required Court-approved notice of the adjudication and as a result, were denied the opportunity to meaningfully participate in the adjudication as parties. The Omitted Rights Holders did not receive allocations under the Judgment even though their historic pumping collectively totaled over 1,000 acre-feet annually, they publicly reported their groundwater use to FCGMA and paid their extraction fees for many years prior to the adjudication.

The Omitted Rights Holders are appealing the trial court's ruling on the notice issue that has the effect of extinguishing their overlying groundwater rights in violation of the California and federal constitutions, Streamlined Adjudication Act, Sustainable Groundwater Management Act and California Code of Civil Procedure, and laws that protect small farmers, agricultural crops and agricultural land uses such as the SOAR initiative (Save Open Space and Agricultural Resources) that restricts many of the Omitted Rights Holders' properties to agricultural use.

There is not yet any established water market, Basin Optimization Projects, or any other feasible way for Omitted Rights Holders to secure any Allocation in the LPV Basin other than to pursue amendment of the Judgment as they are doing. The Court determined that it cannot currently approve any new allocations because of the pending appeals challenging the 2023 Judgment. The Watermaster previously declined our request to make allowance for the Omitted Rights Holders' groundwater production when Watermaster considered correction to the groundwater allocation schedule for Water Year 2024 on grounds that the Court (not Watermaster) must approve such allocations. (See 6/25/25 Agenda Packet Page 39 of 340.)

Under these circumstances, it would be unfair, inequitable and economically infeasible to impose the Overuse Assessment on all of the Omitted Rights Holders' groundwater production, and would cause them to suffer irreparable harm that cannot be remedied if they win their appeal (which they are likely to do), including the complete loss of their crops, the loss of productive use of their land, and for many of them, loss of their livelihoods.

For the avoidance of confusion, we ask the Watermaster Board to clarify that the Overuse Assessment established under Resolution 2025-03 should not be applied to the Omitted Rights Holders.

Sincerely,



Michele A. Staples

Cc: Tiffany North, County Counsel, County of Ventura, tiffany.north@ventura.org
Jason Canger, Assistant County Counsel, County of Ventura, jason.canger@ventura.org
Elizabeth Ewens, Stoel Rives, elizabeth.ewens@stoel.com

Resolution 2025-03

A RESOLUTION OF THE FOX CANYON GROUNDWATER MANAGEMENT AGENCY BOARD OF DIRECTORS ESTABLISHING THE AMOUNT OF THE OVERUSE ASSESSMENT ON EXCESS GROUNDWATER USE IN THE ADJUDICATED LAS POSAS VALLEY BASIN

WHEREAS, the Fox Canyon Groundwater Management Agency (Agency) is a groundwater management agency created by special act of the Legislature to preserve and protect the groundwater resources within the Agency boundaries; and

WHEREAS, the Agency is the exclusive groundwater sustainability agency for the basins within the Agency's boundaries under the Sustainable Groundwater Management Act (SGMA); and

WHEREAS, on July 10, 2023, the Santa Barbara Superior Court entered a final judgment in *Las Posas Valley Water Rights Coalition, et al. v. Fox Canyon Groundwater Management Agency, et al.*, Santa Barbara Sup. Ct. Case No. VENC100509700 (LPV Adjudication Judgment); and

WHEREAS, the LPV Adjudication Judgment, among other things, determines and adjudicates all groundwater rights within the Las Posas Valley Groundwater Basin (LPV Basin) and establishes and implements a Physical Solution for the LPV Basin; and

WHEREAS, the LPV Adjudication Judgment appoints the Agency to serve as Watermaster for the LPV Basin to assist the court with administering and implementing the LPV Adjudication Judgment and Physical Solution, including regulating groundwater extraction and use according to adjudicated water rights and providing for sustainable groundwater management of the LPV Basin; and

WHEREAS, Section 4.15.3 of the LPV Adjudication Judgment requires the Agency, acting as Watermaster and following committee consultation, to establish the amount of an "Overuse Assessment," which is the fee charged to water right holders for the use of groundwater in excess of that allowed under the LPV Adjudication Judgment and not otherwise cured during the applicable cure period provided in the LPV Adjudication Judgment; and

WHEREAS, Section 2.8.2 of Exhibit A ("Watermaster Rules") of the LPV Adjudication Judgment provides that assessments, including the Overuse Assessment, become delinquent one month after they are due and "shall bear interest at the then current real property tax delinquency rate for Ventura County"; and

WHEREAS, on May 10, 2025, the Las Posas Valley Policy Advisory Committee released a report recommending that the amount or rate of the Overuse Assessment be established "at the prevailing Calleguas [Municipal Water District] Tier 1 [water] rate" and Overuse Assessments "be sequestered in a separate Watermaster account reserved for replenishment"; and

WHEREAS, the Agency has historically set the amount of surcharges for extractions that exceeded the allocations established under the Agency's ordinances commensurate with the Calleguas Municipal District (CMWD) water rates, which CMWD updates annually based on, among other things, the cost of purchasing water from the Metropolitan Water District of Southern California; and,

WHEREAS, the Agency, acting as Watermaster, has established a separate sub-account within its Las Posas Valley Watermaster Fund entitled "Watermaster Overuse Assessment Account" for the deposit of Overuse Assessments collected by Watermaster; and

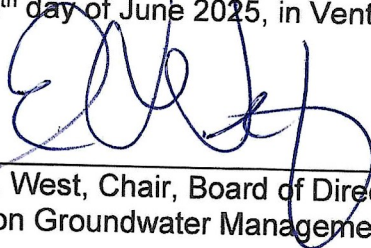
WHEREAS, at the June 13, 2025, Fox Canyon Groundwater Management Agency special meeting, the Board of Directors received presentations and comments on establishing the amount of the Overuse Assessment commensurate with the CMWD Tier 1 water rates, charging interest on delinquent Overuse Assessments according to the current real property tax delinquency rate for Ventura County; and depositing Overuse Assessments collected by Watermaster in specified accounts; and,

WHEREAS, this Resolution is exempt from the provisions of the California Environmental Quality Act as an action taken to assure the maintenance, restoration, or enhancement of a natural resource and the environment and pursuant to Section 10.7 of the LPV Adjudication Judgment.

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED BY THE FOX CANYON GROUNDWATER MANAGEMENT AGENCY BOARD OF DIRECTORS THAT:

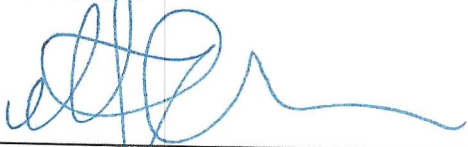
1. The amount (rate) of the Overuse Assessment is equal to the prevailing "per acre foot" amount for Calleguas Municipal Water District (CMWD) Tier I water.
2. The amount of the Overuse Assessment shall adjust automatically anytime that CMWD adjusts its "per acre foot" amount for CMWD Tier 1 water so that the amount of the Overuse Assessment is always equal to the "per acre foot" amount of CMWD Tier 1 water then in effect.
3. Overuse Assessments become delinquent one month after they are due and shall bear interest at the then-current real property tax delinquency rate for the County of Ventura.
4. Overuse Assessments shall be collected and deposited in the Agency's "Watermaster Overuse Assessment Account" and used for LPV Adjudication Judgment purposes as approved by the Agency Board of Directors.
5. The amount of the Overuse Assessment shall become effective on July 1, 2025.

On a motion by Director Cravioffo and seconded by Director Perello,
the foregoing Resolution was duly passed and adopted by the Board of Directors at a
special meeting of the Board held on this 25th day of June 2025, in Ventura, California.



Eugene F. West, Chair, Board of Directors
Fox Canyon Groundwater Management Agency

ATTEST: I hereby certify that the above is a true and correct copy of Resolution No.
2025-03.

By: 

Elka Weber, Clerk of the Board