



## MEMORANDUM

TO: Antelope Valley Watermaster Board      DATE: September 23, 2020  
FROM: Craig A. Parton      FILE NO.: 23641-1  
General Counsel to the Watermaster  
Cc: Watermaster Engineer  
SUBJECT: Banuk New Production Application

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The New Production application by Ron Banuk is before the Watermaster Board for consideration at the September 23, 2020 meeting. The Watermaster Engineer and Richard Wood have both asked whether a New Production applicant is allowed to export Groundwater Produced on his property for use on another property within the Basin. As discussed in this memorandum, nothing in the Judgment explicitly prohibits such New Production exportation, as long as there is no Material Injury.

As discussed in the memorandum submitted concurrently herewith, Judgment Paragraph 18.5.13 and Rules and Regulations Sections 7.b.xi and 14.1 govern New Production. Applicants must detail, among other things, the proposed quantity, source and place of use, and the manner of delivery. Such information would expose any proposed use outside of the Basin or other prohibited or harmful uses. However nothing in either the Judgment or the Rules and Regulations explicitly prohibits New Production Groundwater from being exported off-site for use on a different parcel for a different Party, as long as such place and manner of use is identified in the application and considered as part of the Material Injury analysis.

The exportation of Groundwater from the subject parcel to another parcel located within the Basin is not a “transfer” of a Production Right as defined in Judgment Paragraph 16 and Rules and Regulations Section 13. Rather than transferring his Production Right to another Party for Production on another parcel, Banuk is proposing to use Groundwater—which he will Produce on his property pursuant to a New Production Right—on another Party’s property. The Party who uses the water on their Property has no rights to the Groundwater Produced by Banuk. However, if approved, Banuk may only use the Groundwater on the other Party’s property, and only within the amount approved in his application. No transfer application is being considered. Rather, the New Production application, if approved, specifically contemplates that all New Production will be used on the parcel identified in the application.

Finally, although Banuk is a Small Pumper Class Member, his New Production is not associated with his Small Pumper well, but rather a separate industrial well on his property. Although Judgment Paragraph 5.1.3.3 prohibits Small Pumper Class Members from transferring their pumping rights separately from their parcel, as discussed above this is not a transfer of Production Rights, and this does not involve a Small Pumper Class pumping right.