

1 TWENTY-FIRST AMENDMENT TO AGREEMENT REGARDING  
2 ADDITIONAL EXTRACTIONS FROM THE  
3 SAN BERNARDINO BASIN AREA  
4

5 This Twenty-first Amendment to Agreement Regarding Additional Extractions from the  
6 San Bernardino Basin Area is entered into between the San Bernardino Valley Municipal Water  
7 District, hereinafter called "Valley District," and the Western Municipal Water District of  
8 Riverside County, hereinafter called "Western."  
9

10 RECITALS

11 On December 22, 1981, the parties hereto entered into an Agreement providing for  
12 additional extractions from the San Bernardino Basin Area by or on behalf of the City of  
13 Riverside, and by later amendment also the Riverside Highland Water Company, upon the terms  
14 and conditions specified therein. Paragraph 8 of said Agreement provides that it may be amended  
15 with mutual consent of the parties in writing, and the parties desire now to further amend said  
16 Agreement to provide for increased extractions for the calendar year 2004 only.  
17

18 AGREEMENT

19 NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

20 1. Definition of Additional Extractions.

21 As used herein, the term "additional extractions" means any extractions of water by the  
22 plaintiffs in the action described in Paragraph 2, on page 1 of the December 22, 1981 Agreement  
23 in excess of the amounts permitted by the Judgment in such action; and with respect to entities  
24 other than the plaintiffs in such action, the term means any extractions of water in excess of the  
25 total amount of water that can be produced without any replenishment obligations.

26 2. Temporary Surplus.

27 It is agreed that there is an existing temporary surplus of natural groundwater supply in the  
28 artesian zone of the San Bernardino Basin Area; that in the Pressure Zone near the San Jacinto

1 Fault, a localized condition of elevated water levels exists; that there is a need for dewatering  
2 measures in the area; and that it is in the public interest and in the interest of sound groundwater  
3 resources management that production of water from such area be increased as provided herein.

4 3. Additional Extractions by Plaintiffs.

5 During the calendar year 2004, the plaintiffs may make additional extractions from the  
6 San Bernardino Basin Area for use within Western in the aggregate amount of 10,000 acre-feet.  
7 Such total amount shall be allocated among the plaintiffs as follows:

8 City of Riverside	8,047 AF
9 Meeks & Daley Water Co.	1,209 AF
10 Riverside Highland Water Co.	662 AF
11 Regents of University of California	82 AF

12 Provided, that in the Watermaster's accounting, pumping by any plaintiff in excess of its  
13 allocation may be offset by underpumping of additional extractions by one or more of the other  
14 plaintiffs, so long as the aggregate additional pumping by all plaintiffs does not exceed 10,000  
15 acre-feet. The individual allocations are in proportion to plaintiffs' respective shares of the safe  
16 yield of the San Bernardino Basin Area.

17 4. Additional Extractions by Entities Other than Plaintiffs.

18 During the calendar year 2004, entities other than the plaintiffs may make additional  
19 extractions from the San Bernardino Basin Area in the amount of 25,778 acre-feet, which is their  
20 share of the total 35,778 acre-feet of additional extractions, determined in proportion to their  
21 share of the safe yield of the San Bernardino Basin Area. The replenishment obligations provided  
22 in Paragraph X of the Western Judgment shall not apply to such additional extractions,  
23 irrespective of the place of use of such water, provided that such water may not be exported  
24 outside the Santa Ana River Watershed.

25 5. Paragraphs V and VI Plaintiff Service Area Delivery Limitations and Paragraph X  
26 Replenishment.

27 The service area delivery limitations provided in Paragraphs V and VI of the Western  
28 Judgment shall not apply to Adjusted Right extractions made during periods covered by this

1 amendment to the 1981 Agreement. The replenishment obligations provided in Paragraph X of  
2 the Western Judgment shall not apply to Adjusted Right or additional extractions, irrespective of  
3 the place of use of such water, provided that no water can be exported from the Santa Ana River  
4 Watershed.

5 6. Use in Calendar Year 2004 Only.

6 Additional extractions are permitted hereunder only for the calendar year ending  
7 December 31, 2004. If not made in full or in part in 2002, they do not carry forward or give  
8 rights to make any additional extractions in future years.

9 7. Other Terms and Conditions.

10 This Twenty-first Amendment supersedes Paragraph 2 on page 4 of the December 22,  
11 1981 Agreement, and any prior amendments thereto or provisions thereof which are in conflict  
12 with this Amendment. All other provisions of the 1981 Agreement shall remain in effect.  
13 Extractions made under this Amendment are in addition to those authorized under the Twentieth  
14 Amendment for delivery of water to the Orange County Water District.

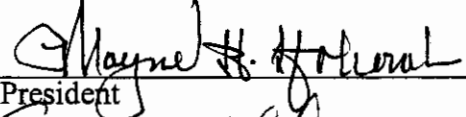
15 Dated: August 18, 2004

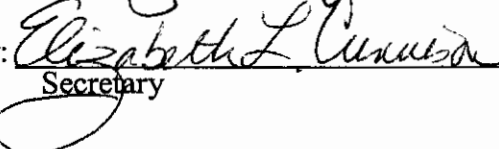
SAN BERNARDINO VALLEY  
MUNICIPAL WATER DISTRICT

17 By:   
18 President

19 By:   
20 Secretary

21  
22 WESTERN MUNICIPAL WATER  
DISTRICT OF RIVERSIDE COUNTY

23  
24 By:   
25 President

26 By:   
27 Secretary

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ARTHUR L. LITTLEWORTH, Bar No. 022041  
STEVEN M. ANDERSON, Bar No. 186700  
BEST BEST & KRIEGER LLP  
3750 University Avenue  
P.O. Box 1028  
Riverside, California 92502  
Telephone: (951) 686-1450  
Facsimile: (951) 686-3083

Attorneys for Plaintiff  
Western Municipal Water District

BRUCE D. VARNER, Bar No. 033068  
Varner Saleson & Brandt LLP  
3750 University Avenue, Suite 610  
Riverside, CA 92501  
Telephone: (951) 274-7777  
Facsimile: (951) 274-7770

Attorneys for Defendant  
San Bernardino Valley Municipal Water District

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE

WESTERN MUNICIPAL WATER DISTRICT, et al.,

Plaintiffs,

v.

EAST SAN BERNARDINO COUNTY WATER DISTRICT, et al.,

Defendants.

Case No. CIV 78426  
Judge: Gloria Trask

NOTICE OF MOTION FOR ORDER APPROVING THE TWENTIETH AND TWENTY-FIRST AMENDMENTS TO THE AGREEMENT PROVIDING FOR ADDITIONAL EXTRACTIONS FROM THE SAN BERNARDINO BASIN AREA

Hearing: 10/25/04  
Date:  
Time: 8:30 am  
Department 4

EXEMPT FROM FILING FEES  
PURSUANT TO GOVERNMENT  
CODE SECTION 6013

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

SEP 13 2004

LAW OFFICES OF  
BEST, BEST & KRIEGER LLP  
3750 UNIVERSITY AVENUE  
P.O. BOX 1028  
RIVERSIDE, CALIFORNIA 92502

1 TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

2 NOTICE IS HEREBY GIVEN that on 10/25, 2004 at 830am, in

3 Department 4, the above-entitled Court, located at 4050 Main Street, Riverside, California, the  
4 San Bernardino Valley Municipal Water District ("Valley District") and Western Municipal  
5 Water District of Riverside County ("Western") will move this Court, pursuant to its continuing  
6 jurisdiction in this case, to issue an order approving the Twentieth and Twenty-first Amendments  
7 to an Agreement dated December 22, 1981 between the San Bernardino Valley Municipal Water  
8 District ("Valley District") and Western Municipal Water District of Riverside County  
9 ("Western") providing for additional extractions from the San Bernardino Basin Area. The  
10 Twentieth and Twenty-first Amendments are dated August 18, 2004, and are attached hereto as  
11 Exhibits "A" and "B," respectively.

12 The Twentieth Amendment provides for the additional extraction of 10,000 acre-feet  
13 during the calendar year ending December 31, 2004, by producers authorized by Valley District,  
14 and the delivery of such water to the Orange County Water District for beneficial use therein.

15 The Twenty-first Amendment provides for total additional extractions of 37,778 acre-feet  
16 during the calendar year ending December 31, 2004, to be allocated 10,000 acre-feet to the  
17 plaintiffs herein and 25,778 acre-feet to entities other than plaintiffs, as provided in such  
18 agreement.

19 This Motion is made pursuant to the continuing jurisdiction of the Court, and the  
20 provisions of the Judgment providing for additional extractions.

21 The Motion is based on the desirability of providing for temporary increases of extractions  
22 in order to lower groundwater levels in the high groundwater area of the San Bernardino Basin  
23 Area, and to put such water to beneficial use. High groundwater levels in the area threaten  
24 damage to property and injury to persons.

25 The Motion will be based on this Notice, the following Points and Authorities, the  
26 Declaration of Donald L. Harriger and Robert L. Reiter attached as Exhibit "C," all other matters  
27 in the Clerk's files herein, and such other evidence or grounds as may be presented at the hearing.  
28

LAW OFFICES OF  
BEST BEST & KRIEGER LLP  
3750 UNIVERSITY AVENUE  
P.O. BOX 1028  
RIVERSIDE, CALIFORNIA 92502

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Dated: September 8, 2004

BEST BEST & KRIEGER LLP

By: Arthur L. Littleworth

ARTHUR L. LITTLEWORTH  
Attorneys for Plaintiff  
Western Municipal Water District

Dated: September 8, 2004

VARNER SALESON & BRANDT LLP

By: Brian Saleson

Attorneys for Defendants  
San Bernardino Valley Municipal  
Water District



LAW OFFICES OF  
BEST BEST & KRIEGER LLP  
3750 UNIVERSITY AVENUE  
P.O. BOX 1028  
RIVERSIDE, CALIFORNIA 92502

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Dated: September 8, 2004

BEST BEST & KRIEGER LLP

By: Arthur L. Littleworth  
ARTHUR L. LITTLEWORTH  
Attorneys for Plaintiff  
Western Municipal Water District

Dated: September 8, 2004

VARNER SALESON & BRANDT LLP

By: Blaine Skape  
Attorneys for Defendants  
San Bernardino Valley Municipal  
Water District





1 TWENTIETH AMENDMENT TO AGREEMENT REGARDING  
2 ADDITIONAL EXTRACTIONS FROM THE SAN BERNARDINO BASIN AREA  
3

4 This Twentieth Amendment to Agreement Regarding Additional Extractions from the San  
5 Bernardino Basin Area is entered into between the San Bernardino Valley Municipal Water  
6 District, hereinafter called "Valley District," and the Western Municipal Water District of  
7 Riverside County, hereinafter called "Western."

8  
9 RECITALS

10 On December 22, 1981, the parties hereto entered into an Agreement providing for  
11 additional extractions from the San Bernardino Basin Area by or on behalf of the City of  
12 Riverside, and pursuant to later amendments by other producers, upon the terms and conditions  
13 specified therein. Paragraph 8 of the Agreement provides that it may be amended with mutual  
14 consent of the parties in writing, and the parties desire now to amend the Agreement further in  
15 order to provide for increased extractions for the calendar year 2004, and for the export of such  
16 water for use in Orange County.

17 Efforts have been made under the prior amendments to the 1981 Agreement to lower  
18 groundwater levels in the pressure zone of the San Bernardino Basin Area. Despite such  
19 additional extractions, groundwater levels in the area have not been lowered to a desirable level.  
20 Damage to property and injury to persons are threatened. It is in the public interest, and in the  
21 interest of sound water resources management, that additional extractions be sanctioned in order  
22 to lower such groundwater levels, and that the water produced be put to beneficial use.

23 Arrangements have been made with producers from the pressure zone to increase their  
24 extractions, and with the Orange County Water District to put the water to beneficial use.  
25  
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28

1 AGREEMENT

2 NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

3 1. Other Amendments Unaffected.

4 This Twentieth Amendment is in addition to other amendments to the 1981 Agreement,  
5 including any subsequent amendments, and shall have no effect upon the rights and obligations  
6 provided in any such amendments.

7 2. Definition of Additional Extractions.

8 As used herein, the term "additional extractions" means any extraction of the natural  
9 groundwater supply by the plaintiffs in the action described in Paragraph 2 on page 1 of the  
10 December 22, 1981 Agreement in excess of the amounts permitted by the Judgment in such  
11 action, or by any amendments to such Agreement; and with respect to entities other than the  
12 plaintiffs in such action, the term means any extractions of natural groundwater in excess of the  
13 total amount of water that can be produced without any replenishment obligation, or produced  
14 pursuant to any such amendments to the 1981 Agreement. No replenishment obligations shall be  
15 incurred on account of any additional extractions made pursuant to this Amendment.

16 3. Total Additional Extractions for the Calendar Year Ending December 31, 2004.

17 It is agreed that there is an existing temporary surplus of natural groundwater supply in the  
18 artesian zone of the San Bernardino Basin Area, in addition to the needs of the producers  
19 therefrom, and that it is in the public interest and in the interest of sound groundwater resources  
20 management that the production of water therefrom be increased for the calendar year ending  
21 December 31, 2004 by up to 10,000 acre-feet of additional extractions. The water pumped and  
22 delivered hereunder is part of the natural water supply to the San Bernardino Basin Area and shall  
23 be so accounted for by the Watermaster under the Western Judgment. It is not water from the  
24 State Water Project.

25 4. Authorized Producers.

26 The Valley District shall designate the entities authorized to make additional extractions  
27 under this Amendment, and shall determine from time to time the amounts which any such entity  
28 may be allowed or required to pump. The terms and conditions of such additional extractions

1 shall be in accord with this Twentieth Amendment, and shall be memorialized by written  
2 agreement among the Valley District, Western, and each participating pumper.

3 5. Beneficial Use of Additional Extractions.

4 The groundwater pumped pursuant to this Amendment shall be discharged into the Santa  
5 Ana River or its tributaries for use within the Orange County Water District (hereinafter called  
6 "Orange County"). Responsibility for any construction or capital expenditures necessary to  
7 deliver the water to the River or its tributaries shall be included in the agreement with the  
8 pumping entity. Such agreement shall also provide for the measurement of both the quantity and  
9 quality of such deliveries. To the extent feasible, the blended quality thereof shall be controlled  
10 so as to meet the Objectives of the Regional Water Quality Control Plan. Orange County shall  
11 pay to Valley District the sum of \$150.00 per acre-foot of water delivered to the Santa Ana River  
12 or its tributaries. A separate agreement, including such terms and conditions as are necessary,  
13 has been executed by Orange County, Valley District and Western for the delivery of such water.  
14 The agreement, dated February 2, 2002, continues on an annual basis unless terminated, and such  
15 agreement remains in force.

16 6. Application of Proceeds from Orange County.

17 Payments received by the Valley District from Orange County for such deliveries of water  
18 shall be separately accounted for. Each pumping entity shall be reimbursed for the actual energy  
19 costs which it incurs in pumping the additional extractions allowed under this Amendment,  
20 together with a uniform sum of \$10.00 per acre-foot for the use of capital facilities and other  
21 costs. The difference between the amounts received from Orange County and the amounts paid  
22 to participating pumpers shall be used for water quality protection and improvements in the  
23 Upper Basin, for conservation, or for other water management programs including the  
24 implementation of this Amendment, all as agreed upon by Valley District and Western. The  
25 collection, payment and expenditure of all such funds shall be administered by the Valley  
26 District.

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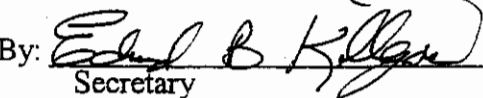
7. Regulatory Requirements.

Compliance with the California Environmental Quality Act, and any permits required by the Santa Ana Regional Water Quality Control Board or other regulatory agency, shall be the joint responsibility of the Valley District and Western.

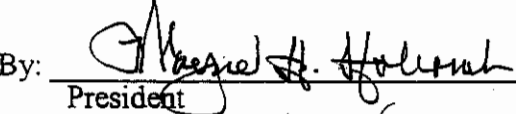
Dated: August 18, 2004

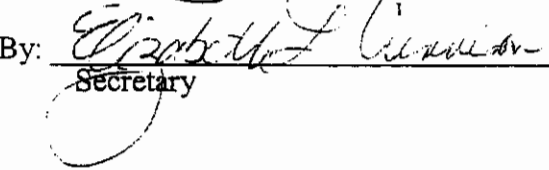
SAN BERNARDINO VALLEY  
MUNICIPAL WATER DISTRICT

By:   
President

By:   
Secretary

WESTERN MUNICIPAL WATER  
DISTRICT OF RIVERSIDE COUNTY

By:   
President

By:   
Secretary



1 TWENTY-FIRST AMENDMENT TO AGREEMENT REGARDING  
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26 2. Temporary Surplus.

27 It is agreed that there is an existing temporary surplus of natural groundwater supply in the  
28 artesian zone of the San Bernardino Basin Area; that in the Pressure Zone near the San Jacinto

1 Fault, a localized condition of elevated water levels exists; that there is a need for dewatering  
2 measures in the area; and that it is in the public interest and in the interest of sound groundwater  
3 resources management that production of water from such area be increased as provided herein.

4 3. Additional Extractions by Plaintiffs.

5 During the calendar year 2004, the plaintiffs may make additional extractions from the  
6 San Bernardino Basin Area for use within Western in the aggregate amount of 10,000 acre-feet.  
7 Such total amount shall be allocated among the plaintiffs as follows:

8 City of Riverside	8,047 AF
9 Meeks & Daley Water Co.	1,209 AF
10 Riverside Highland Water Co.	662 AF
11 Regents of University of California	82 AF

12 Provided, that in the Watermaster's accounting, pumping by any plaintiff in excess of its  
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15 acre-feet. The individual allocations are in proportion to plaintiffs' respective shares of the safe  
16 yield of the San Bernardino Basin Area.

17 4. Additional Extractions by Entities Other than Plaintiffs.

18 During the calendar year 2004, entities other than the plaintiffs may make additional  
19 extractions from the San Bernardino Basin Area in the amount of 25,778 acre-feet, which is their  
20 share of the total 35,778 acre-feet of additional extractions, determined in proportion to their  
21 share of the safe yield of the San Bernardino Basin Area. The replenishment obligations provided  
22 in Paragraph X of the Western Judgment shall not apply to such additional extractions,  
23 irrespective of the place of use of such water, provided that such water may not be exported  
24 outside the Santa Ana River Watershed.

25 5. Paragraphs V and VI Plaintiff Service Area Delivery Limitations and Paragraph X  
26 Replenishment.

27 The service area delivery limitations provided in Paragraphs V and VI of the Western  
28 Judgment shall not apply to Adjusted Right extractions made during periods covered by this



1 amendment to the 1981 Agreement. The replenishment obligations provided in Paragraph X of  
2 the Western Judgment shall not apply to Adjusted Right or additional extractions, irrespective of  
3 the place of use of such water, provided that no water can be exported from the Santa Ana River  
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5 6. Use in Calendar Year 2004 Only.

6 Additional extractions are permitted hereunder only for the calendar year ending  
7 December 31, 2004. If not made in full or in part in 2002, they do not carry forward or give  
8 rights to make any additional extractions in future years.

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10 This Twenty-first Amendment supersedes Paragraph 2 on page 4 of the December 22,  
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13 Extractions made under this Amendment are in addition to those authorized under the Twentieth  
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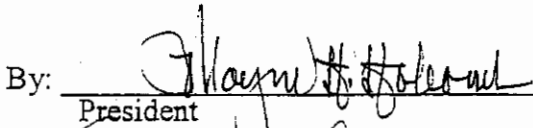
15 Dated: August 18, 2004

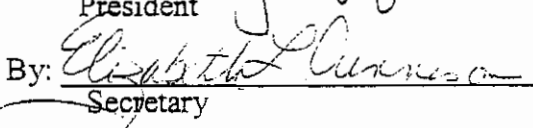
SAN BERNARDINO VALLEY  
MUNICIPAL WATER DISTRICT

17 By:   
18 President

19 By:   
20 Secretary

21  
22 WESTERN MUNICIPAL WATER  
23 DISTRICT OF RIVERSIDE COUNTY

24 By:   
25 President

26 By:   
27 Secretary





1 have caused the groundwater table in the area near the San Jacinto Fault to rise in part to the  
2 ground surface.

3  
4 5. The hydrology of this area immediately upstream from the San Jacinto Fault,  
5 referred to as the Pressure Zone, is extremely complex and is affected by many factors, one of  
6 which is the shift of pumping patterns by the City of San Bernardino which has reduced the  
7 amount of groundwater extracted from this area.

8 6. The San Bernardino Basin Area is located between the San Andreas Fault on the  
9 north and the San Jacinto on the south. The localized high water problem area is immediately  
10 adjacent to the San Jacinto Fault, which is an active earthquake fault. The risk of catastrophic  
11 structural failures in the area due to earthquake is substantially increased by the saturation of the  
12 foundation materials resulting from the high groundwater table. An earthquake may cause  
13 liquefaction of the soil in the area. Several multi-story structures, and a major freeway  
14 interchange, have been constructed in the high water table area. Since groundwater levels were  
15 much lower at the time of construction, the engineering designs for all of these structures may not  
16 have been based upon saturated soil conditions. Under saturated soil conditions, an earthquake  
17 compounds the damages normally associated with a high water table and poses the threat of  
18 massive property damage, as well as a threat to life.

19  
20 7. A period of dry years and efforts to increase pumping in the high water table area  
21 reduced water levels somewhat after 1985, but water levels in the Pressure Zone still remain  
22 undesirably high. Water levels are less than fifty feet below ground surface in some portions of  
23 the Pressure Zone. There is surplus water in this area that should be pumped and put to beneficial  
24 use.

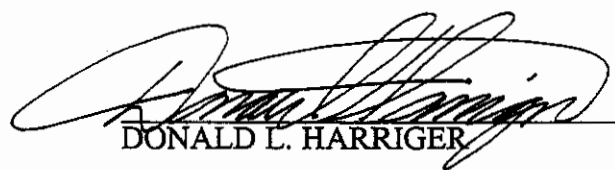
25 8. In recent years, temporary additional extractions of 25,000 acre-feet have been  
26 authorized for local producers supplying water within Western and SBVMWD. However, such  
27 additional pumping has not been sufficient to control the high groundwater levels. The Twentieth  
28 Amendment to the 1981 Agreement therefore authorizes the pumping of up to 10,000 acre-feet in

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BEST BEST & KRIEGER LLP  
3750 UNIVERSITY AVENUE  
P.O. BOX 1028  
RIVERSIDE, CALIFORNIA 92502

1 2004 to be delivered for use in Orange County. Such amounts are in addition to the extractions  
2 authorized under the Twenty-First Amendment for use within Western and SBVMWD. The  
3 extractions authorized under both the Twentieth and Twenty-First Amendments are needed in  
4 order to lower the high groundwater levels, and are in the interest of sound water resources  
5 management. All such additional extractions will be put to beneficial use.

6 Each of the deponents hereby declares, under penalty of perjury, that the foregoing is true  
7 and correct.

9  
10 Dated: September 3, 2004

  
DONALD L. HARRIGER

12  
13 Dated: September 3, 2004

  
ROBERT L. REITER

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LAW OFFICES OF  
BEST BEST & KRIEGER LLP  
3750 UNIVERSITY AVENUE  
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RIVERSIDE, CALIFORNIA 92502

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John E. Brown, Esq.  
General Counsel, Elsinore Valley Municipal Water District  
Best Best & Krieger LLP  
P.O. Box 1028  
Riverside, California 92502

James E. Holst, Esq.  
General Counsel of The Regents  
Vice President – Legal Affairs  
University of California  
1111 Franklin Street, 8<sup>th</sup> Floor  
Oakland, CA 94607-5200

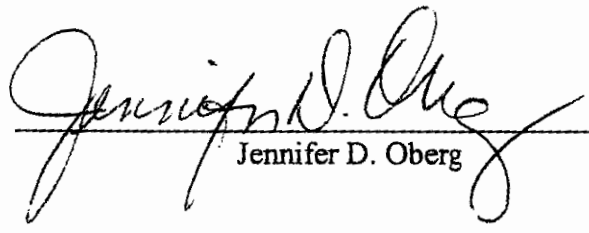
Don Hough  
General Manager  
Riverside Highland Water Company  
1450 East Washington Street  
Colton, CA 92324

Joe Aklufi  
Aklufi and Wysocki  
3403 Tenth Street  
Riverside, CA 92501

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 14, 2004, at Riverside, California.

  
Jennifer D. Oberg