

RESOLUTION NO. 2015-43

RESOLUTION OF NECESSITY OF THE TOWN OF APPLE VALLEY AUTHORIZING ACQUISITION BY EMINENT DOMAIN OF THOSE PORTIONS OF APPLE VALLEY RANCHOS WATER COMPANY'S WATER SYSTEM KNOWN AS THE APPLE VALLEY WATER SYSTEM TO THE EXTENT LOCATED WITHIN THE TOWN OF APPLE VALLEY

WHEREAS, by this Resolution of Necessity the Town proposes to acquire that portion of the Apple Valley Water System as further described in Exhibits "A" and "B," to the extent located within the Town's limits, for a proposed public project, to wit, for the public ownership, operation and maintenance of the Apple Valley Water System to provide water service to the public (hereinafter, the Project) pursuant to Sections 1240.010, 1240.110, 1240.120, 1240.610, *et seq.*, and 1240.650 of the California Code of Civil Procedure; Sections 37350.5 and 38730 of the California Government Code; and Article I, Section 19, Article X, Section 5, and Article XI Section 9 of the Constitution of the State of California; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the Town scheduled a public hearing on this proposed Resolution of Necessity for Tuesday, November 17, 2015, at 6:30 p.m. at the Town Council Chambers at Town Hall located at 14955 Dale Evans Parkway, in Apple Valley, California, and gave Apple Valley Ranchos Water Company notice and an opportunity to appear and be heard at the hearing on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the Town Council, and all interested parties were afforded an opportunity to be heard; and

WHEREAS, the Town Council may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Apple Valley as follows:

Section 1. Incorporation of Recitals and Staff Report. The Town Council finds that all of the foregoing recitals and the staff report presented herewith are true and correct and are hereby incorporated and adopted as findings of the Town Council as if fully set forth herein.

Section 2. CEQA Compliance. In accordance with the California Environmental Quality Act (Pub. Res. Code, § 21000 *et seq.* [CEQA]) and the State Guidelines for Implementation of CEQA (Tit. 14, Cal. Code Regs § 15000 *et seq.*), the Town Council certified a final Environmental Impact Report (State Clearinghouse # 2015061078) for the Project that fully analyzes and discloses the potential environmental impacts associated with the Town's acquisition of the Apple Valley Water

System. No further environmental review is required for the Town Council to adopt this Resolution of Necessity.

Section 3. Compliance with California Code of Civil Procedure. The Town has complied with the requirements of section 1245.235 of the California Code of Civil Procedure, regarding notice and the hearing.

Section 4. Public Use. The Proposed Project, namely, for public ownership, operation, and maintenance of the Apple Valley Water System to provide water service to the public, constitutes a public use.

Section 5. Description of Property. Attached as Exhibit "A" is a map of the Apple Valley Water System to be acquired within the Town of Apple Valley. Attached as Exhibit "B" is a description of the property and its location, to be acquired.

Section 6. Findings. The Town Council hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed Project;
- (b) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The property defined, described and depicted in Exhibits "A" and "B" is necessary for the proposed Project; and
- (d) The offer required by Section 7267.2 of the California Government Code was made.


Section 7. More Necessary Public Use. The Town Council further finds and determines that use of the Apple Valley Water System by the Town for the proposed Project is a more necessary public use within the meaning of California Code of Civil Procedure sections 1240.610 and 1240.650, than the use to which the Apple Valley Water System is already appropriated.

Section 8. Further Activities. The Town Attorney is hereby authorized to acquire the Apple Valley Water System in the name of and on behalf of the Town by eminent domain and the Town Attorney is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. The Town Attorney is further authorized to take such steps as may be authorized and required by law, and to make such deposits as may be required by order of court, to permit the Town to take possession of and use the Apple Valley Water System as needed. The Town Attorney is further authorized to correct any errors or to make or agree to non-material changes in the description of the property interests to be acquired that are deemed necessary for the conduct of the condemnation action, or other proceedings or transactions required

to acquire the Apple Valley Water System. The Town Attorney is further authorized to reduce or modify the extent of the property or other interests to be acquired, with the consent of the Court and/or the parties, so as to reduce the compensation payable in the action where such change would not substantially impair the operation of the proposed Project.

Section 9. This Resolution shall take effect immediately upon adoption. The Mayor Pro Tem shall sign this Resolution and the Town Clerk shall attest and certify to the passage and adoption thereof.

PASSED AND ADOPTED this 17th day of November, 2015.



Mayor Pro Tem

ATTEST:

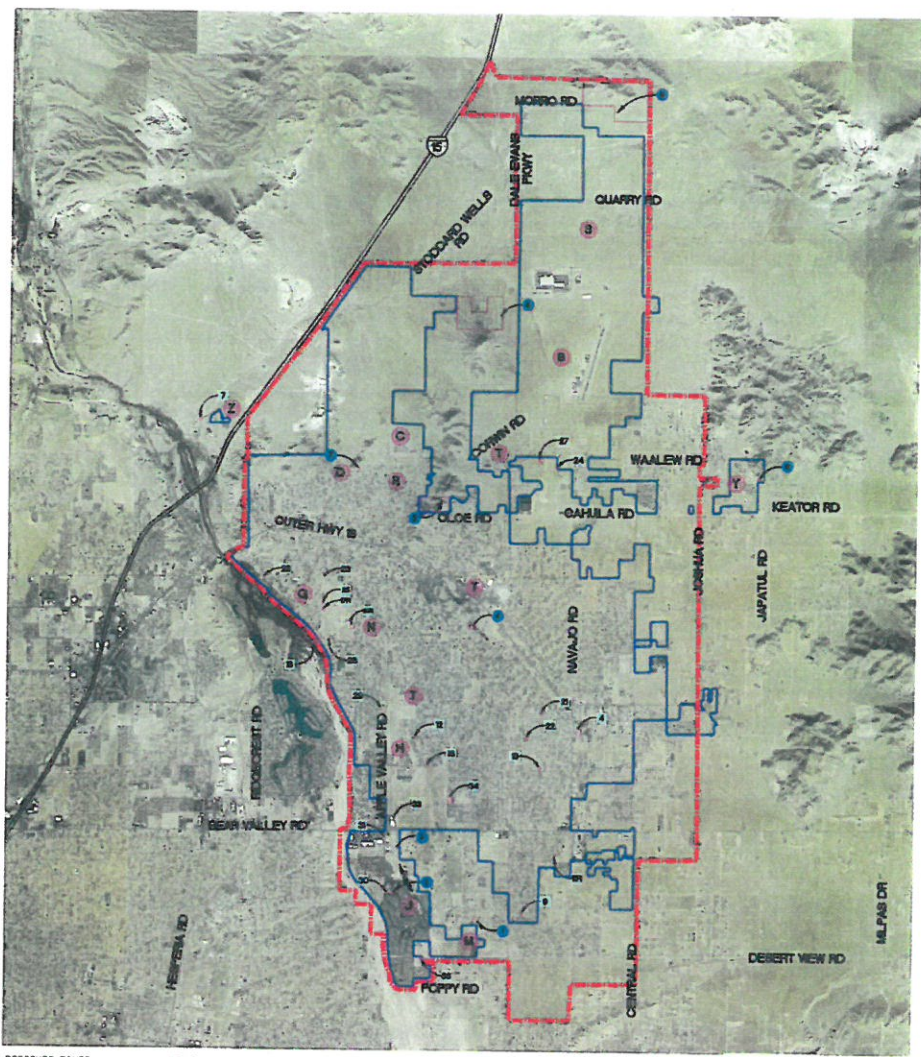


Town Clerk

EXHIBIT A

MAP OF APPLE VALLEY WATER SYSTEM WITHIN TOWN LIMITS

(On File in Town Clerks Office and available for viewing at <http://avh2ours.com/council>)



PRESSURE ZONES		WELLS		STORAGE TANKS		LEGEND	
A) AZUL 3007 ELEV	1) S'OODARD 1370 ELEV	4) WELL 4 APN 3067-351-08-0000	22) WELL 22 APN 3067-291-01-0000	35) WELL 35 APN 0436-021-14-0000 19759 TUSING RANCH ROAD	1) MOONBROOK TANK 1.8 MG 3147 ELEV APN 0434-191-85-0000	5) BULL MOUNTAIN TANK 1.8 MG 3147 ELEV APN 0472-502-34-0000	TOWN BOUNDARY
B) BULL MOUNTAIN 3140 ELEV	7) TRACT 15520 2653 ELEV	7) WELL 7 APN 0472-081-22-0000	23) WELL 23 APN 0478-073-35-0000 18555 Tucano Rd	3) J.R. DEL ORO TANK 0.29 MG 3246 ELEV APN 0434-871-05-0000	6) S'OODARD TANK 1.0 MG 3374 ELEV APN 0463-081-10-0000	8) S'OODARD TANK 1.0 MG 3374 ELEV APN 0463-081-10-0000	AVRUC SYSTEM BOUNDARY
C) BULL HOLE 2820 ELEV	15) YOUNGSTOWN 3175 ELEV	8) WELL 8 APN 0434-333-08-0000	25) WELL 25 APN 0478-073-35-0000 18555 Tucano Rd	3) J.R. HILLTOP TANK 0.28 MG 3244 ELEV APN 0434-021-52-0000			PARCEL BOUNDARY
C) CORNIN 3307 ELEV		11A) WELL 11A APN 0434-443-05-0000	26) WELL 26 APN 0478-073-37-0000 18568 Terrace Rd	4) HILLTOP TANKS 2 TANKS 3.0 MG 3140 ELEV APN 3112-181-05-0000 3112-181-05-0000			STORAGE TANK
D) DESERT KNOLS 3340 ELEV		12) WELL 12 APN 0584-711-24-0000	27) WELL 27 (STANDBY) APN 0440-014-05-0000 21271 WAALLEW ROAD	5) CORNIN TANK 1.8 MG 3266 ELEV APN 0441-041-11-0000			PRODUCTION WELL
H) HIGH COUNTRY 3060 ELEV		16) WELL 16 APN 3087-072-13-0000	28) WELL 28 APN 0478-141-85-0000	6) YOUNGSTOWN TANK 0.12 MG 3147 ELEV APN 0437-553-24-000			PRESSURE ZONE
J) JESS RANCH 3036 ELEV		17) WELL 17R APN 0478-073-29-0000	29) WELL 29 APN 3087-431-30-0000 19237 Yucca Loma Rd	7) DESERT KNOLS TANKS 2 TANKS 2.7 MG 2982 ELEV APN 0473-011-31-0000 0473-481-04-0000			
K) MAIN 3155 ELEV		18) WELL 18 APN 0584-233-01-0000	30) WELL 30 APN 0434-871-06-0000 11401 Apple Valley Rd				
N) NARANJA 3644 ELEV		19) WELL 19 APN 3087-471-12-0000	31) WELL 31 APN 0338-271-38-0000				
R) REDUCED CORNIN 3180 ELEV		09P) WELL 09P APN 0476-072-07-0000	33) WELL 33 APN 3087-751-03-0000 12297 APPLE VALLEY RD				
C) RIVERPOLE 2937 ELEV		21) WELL 21 APN 3067-371-01-0000	34) WELL 34 APN 3087-201-01-0000 12500 Garmonia Rd				



TKE ENGINEERS & ARCHITECTS
 200 N. MAIN ST., SUITE 200
 APPLE VALLEY, CA 92308
 (951) 860-2942

TOWN OF APPLE VALLEY
 APPLE VALLEY RANDOS WATER CO
 SERVICE AREA
 EXHIBIT

EXHIBIT B

DESCRIPTION OF APPLE VALLEY WATER SYSTEM

(On File in Town Clerks Office and available for viewing at <http://avh2ours.com/council>)

Town of Apple Valley
Resolution No. 2015-43

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF APPLE VALLEY

I, LA VONDA M-PEARSON, Town Clerk for the Town of Apple Valley, Apple Valley, California, do hereby certify that Resolution No. 2015-43, duly and regularly adopted by the Town Council at a meeting thereof held on the 17th day of November, 2015 by the following vote:

AYES: Council Members Bishop, Emick, Nassif, Mayor Pro Tem Stanton.

NOES: None.

ABSTAIN: None.

ABSENT: Mayor Cusack.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Apple Valley, California, this 18th day of November, 2015.

LA VONDA M-PEARSON, CMC
TOWN CLERK

By:



Yvonne Rivera, Deputy

(SEAL)