

RESOLUTION NO. 2015-44

RESOLUTION OF NECESSITY OF THE TOWN OF APPLE VALLEY AUTHORIZING ACQUISITION BY EMINENT DOMAIN OF PORTIONS OF APPLE VALLEY RANCHOS WATER COMPANY'S WATER SYSTEM KNOWN AS THE APPLE VALLEY WATER SYSTEM TO THE EXTENT LOCATED WITHIN PORTIONS OF THE CITY OF VICTORVILLE AND AN UNINCORPORATED AREA OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, OR OTHERWISE OUTSIDE THE BOUNDARIES OF 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 outside the Town's limits, including in small portions of the City of Victorville and an unincorporated area of the County of San Bernardino, 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, 1240.050, 1240.110, 1240.120, 1240.125, 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 City 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 and 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 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 outside the Town's limits, including small portions of the City of Victorville and an unincorporated area of the County of San Bernardino. Attached as Exhibit "B" is a description of the property and its location, to be acquired.

The Yermo water system, which was recently acquired by Apple Valley Ranchos Water Company, is not considered a part of the Apple Valley Water System. The Yermo water system located approximately 45 miles from the Town; does not provide any water services to the Town's residents, businesses, or other uses; and its facilities do not provide any other benefit to the Town's residents. Furthermore, the Yermo water system is an entirely separate and distinct system that is not integrated into the Apple Valley Water System.

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 the 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, if 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:

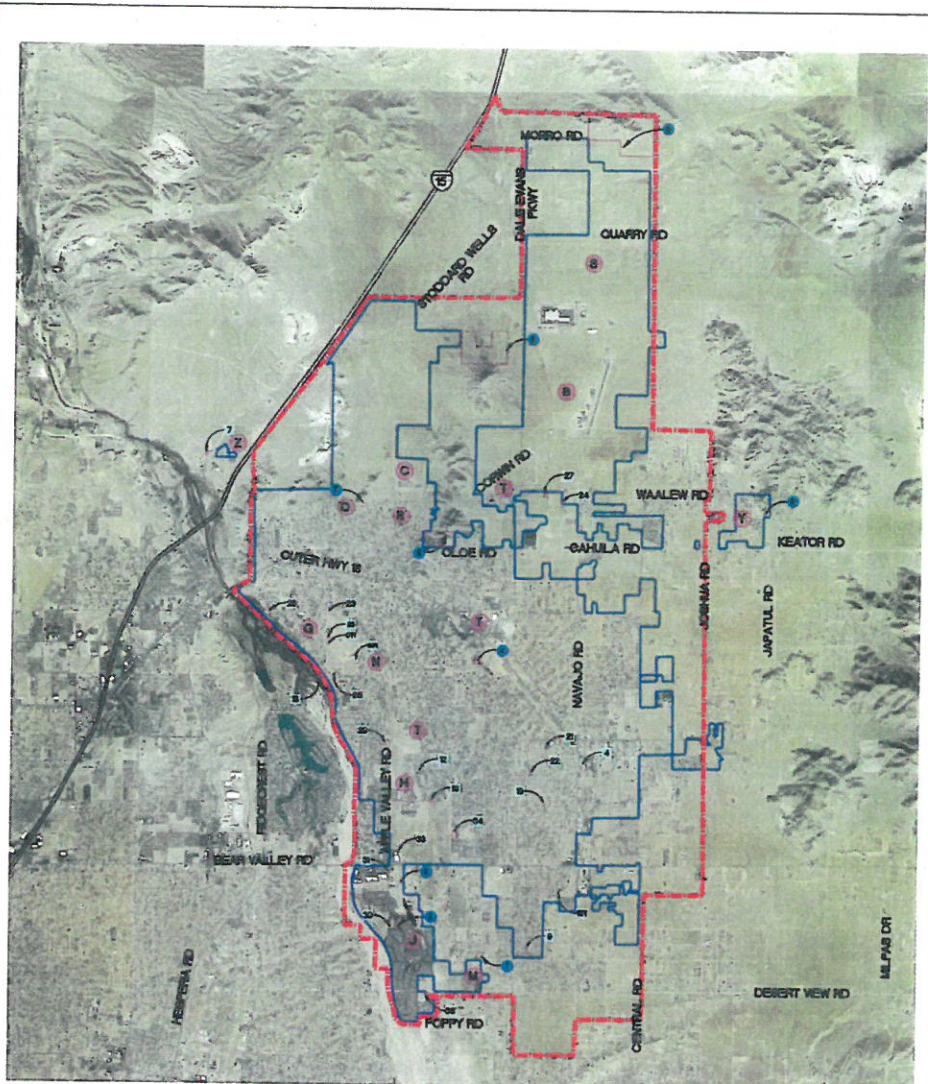


Town Clerk

EXHIBIT A

MAP OF APPLE VALLEY WATER SYSTEM OUTSIDE TOWN LIMITS

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



PRESSURE ZONES	WELLS	STORAGE TANKS	LEGEND
A) AZTEC 3000' ELEV	5) STODDARD 3370' ELEV	1) WOODBERRY TANK 1.8 MG, 3043' ELEV APN: 0434-18-00-0000	TOWN BOUNDARY
B) BELL MOUNTAIN 3140' ELEV	7) TRACT 15250 2920' ELEV	2) JR DEL ORD TANK 0.28 MG, 2886' ELEV APN: 0434-171-00-0000	AGRIC SYSTEM BOUNDARY
C) BELLVUE 2920' ELEV	15) YOUNGSTOWN 3170' ELEV	3) JR MILL TOP TANK 0.28 MG, 2874' ELEV APN: 0434-121-02-0000	PARCEL BOUNDARY
D) DESERT KNOLLS 3340' ELEV	4) CORNIN 3380' ELEV	4) MILL TOP TANKS 2 TANKS 1.0 MG, 3140' ELEV APN: 3112-18-04-0000, 3112-18-05-0000	STORAGE TANK
E) HIGH COUNTRY 3040' ELEV	10) W. VALLEY RD APN: 0434-144-05-0000	5) CORNIN TANK 1.8 MG, 3386' ELEV APN: 0441-04-11-0000	PRODUCTION WELL
F) JESS RANCH 3030' ELEV	12) W. VALLEY RD APN: 3084-211-24-0000	6) YOUNGSTOWN TANK 0.12 MG, 3184' ELEV APN: 0437-533-24-0000	PRESSURE ZONE
G) MAIN 3150' ELEV	16) W. VALLEY RD APN: 0444-133-01-0000	7) DESERT KNOLLS TANKS 2 TANKS 2.7 MG, 3140' ELEV APN: 0432-011-31-0000, 0473-481-04-0000	
H) SANDAN 3044' ELEV	18) W. VALLEY RD APN: 3087-471-12-0000		
I) REDUCED CORNIN 3180' ELEV	20) W. VALLEY RD APN: 0478-072-07-0000		
J) REVERSE 2843' ELEV	21) W. VALLEY RD APN: 3067-271-01-0000		
	41) W. VALLEY RD APN: 3087-351-08-0000		
	71) W. VALLEY RD APN: 0472-081-22-0000		
	81) W. VALLEY RD APN: 0434-353-09-0000		
	101) W. VALLEY RD APN: 0434-144-05-0000		
	121) W. VALLEY RD APN: 3084-211-24-0000		
	161) W. VALLEY RD APN: 3087-471-12-0000		
	171) W. VALLEY RD APN: 0478-072-07-0000		
	181) W. VALLEY RD APN: 0444-133-01-0000		
	191) W. VALLEY RD APN: 3087-471-12-0000		
	20) W. VALLEY RD APN: 0478-072-07-0000		
	21) W. VALLEY RD APN: 3067-271-01-0000		
	22) W. VALLEY RD APN: 3087-281-01-0000		
	23) W. VALLEY RD APN: 0473-069-01-0000		
	24) W. VALLEY RD APN: 0478-073-35-0000		
	25) W. VALLEY RD APN: 0478-073-35-0000		
	26) W. VALLEY RD APN: 0478-073-35-0000		
	27) W. VALLEY RD (STANLEY) APN: 0440-264-02-0000		
	28) W. VALLEY RD APN: 0473-141-80-0000		
	29) W. VALLEY RD APN: 3088-431-30-0000		
	30) W. VALLEY RD APN: 0434-471-08-0000		
	31) W. VALLEY RD APN: 0338-271-38-0000		
	32) W. VALLEY RD APN: 3087-251-03-0000		
	34) W. VALLEY RD APN: 3067-221-01-0000		
	36) W. VALLEY RD APN: 0438-021-48-0000		
	19738 YUSHC RANCH ROAD		

TKE THE TOWN OF APPLE VALLEY
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 APPLE VALLEY, CA 92308
 (951) 860-3440
 FAX: (951) 860-3442

TOWN OF APPLE VALLEY
 APPLE VALLEY RANCHOS WATER CO.
 SERVICE AREA
 EXHIBIT 1

1" = 3,500 FEET

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. 2015-44

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. 2015-44, 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)