TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: **Honorable Mayor Pro Tem and Town Council** **Date: November 17, 2015**

From: **Frank Robinson, Town Manager** **Item No: 1**
Lori Lamson, Assistant Town Manager

Subject: **ADOPT RESOLUTION NO. 2015-42, A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CERTIFYING THE APPLE VALLEY RANCHOS WATER SYSTEM ACQUISITION PROJECT FINAL ENVIRONMENTAL IMPACT REPORT (SCH #2015061078) AND APPROVING THE PROJECT.**

T.M. Approval:_____ **Budgeted Item:** ☐ **Yes** ☐ **No** ☐ **N/A**

RECOMMENDED ACTION:

Staff recommends that the Town Council take the following actions:

A. Conduct a public hearing on the Apple Valley Ranchos Water System Acquisition Project **Final Environmental Impact Report (SCH # 2015061078);**

B. Adopt Resolution No. 2015-42, a Resolution of the Town Council of the Town of Apple Valley adopting environmental findings pursuant to the California Environmental Quality Act ("CEQA"), certifying the Apple Valley Ranchos Water System Acquisition Project Final Environmental Impact Report (SCH # 2015061078) and approving the Project.

SUMMARY:

Staff recommends that the Town Council consider the certification of the Apple Valley Ranchos Water System Acquisition Project Final Environmental Impact Report prepared for the Town's proposed acquisition of the Apple Valley Ranchos Water System ("AVR System") (the "Project"), make findings in accordance with CEQA, and approve the

Project. A resolution reflecting these actions has been prepared for the Town Council's consideration and is attached to this agenda report as Attachment A.

BACKGROUND:

The Town began exploring the potential acquisition of the AVR System in response to a number of factors, including, but not limited to, the following: longstanding public concern about escalating water rates; the significantly higher water rates paid by customers of the AVR System as compared to neighboring jurisdictions; lack of local control over water rates, service, expenditures, and policy; lack of responsiveness and accountability to concerns of ratepayers within the service area; and the lack of transparency in the operation of the AVR System.

At the direction of the Town Council, Town staff and the Town's expert CEQA consultants undertook an extensive environmental evaluation process for the Town's proposed acquisition of the AVR System as required by CEQA. This process included: reviewing official filings, reports and documents; reviewing reports and resolutions from civic organizations; conducting public meetings seeking input from the community; retaining consulting firms; and preparing and presenting a detailed Final Environmental Impact Report on the proposed acquisition.

Even though the Project is merely a proposed title transfer, this CEQA analysis was undertaken to ensure an open and transparent decision-making process and to ensure that the public was provided with all relevant information regarding potential environmental effects.

CEQA REVIEW

A. Project Description

In addition to the Town's potential acquisition of the AVR System, the proposed Project includes the Town's subsequent operation and maintenance of the AVR System, which would occur out of Apple Valley Ranchos Water Company's existing operations and maintenance ("O&M") facility, located at 21760 Ottawa Road. The Town is proposing only to acquire and operate the existing system, and is not proposing changes or expansion to the physical AVR System or to the associated water rights nor is the Town proposing any changes to the manner of operation of the AVR System.

The Project area covers approximately 50 square miles. The AVR System currently serves the area generally located in the incorporated area of the Town. However, part of the Project area is located outside the Town's corporate boundary in the following locations: (1) along the western boundary of the Project area within the incorporated area of the City of Victorville; and (2) in the unincorporated areas of San Bernardino County, east of the Town, including (a) the area running east along Cahuilla Road for approximately five (5) miles, within approximately one mile north and south of the road and (b) a small area within one-tenth of a mile of the Town's boundary, south of Yucca

Loma Road near its intersection with Joshua Road, which are served by the AVR System.

B. Initial Study & Scoping Process

In accordance with State CEQA Guidelines section 15063, the Town prepared an Initial Study to determine whether an Environmental Impact Report ("EIR") was required. Based on the Initial Study, the Town determined that an EIR should be prepared to more carefully evaluate the Project's potential environmental impacts to: Air Quality, Greenhouse Gas Emissions, Hydrology and Water Quality, Land Use and Planning, Noise, Transportation and Traffic, Utilities and Service Systems, and Mandatory Findings of Significance. The Town further determined, based on the Initial Study, that impacts to Aesthetics, Agricultural and Forest Resources, Biological Resources, Cultural Resources, Geology/Soils, Hazards and Hazardous Materials, Mineral Resources, Population/Housing, Public Services, and Recreation would be less than significant and thus need not be analyzed further in the EIR.

A Notice of Preparation ("NOP") of an EIR was distributed to state agencies, local organizations and individuals as required by State CEQA Guidelines section 15082. The NOP was issued for a 30-day review period on June 26, 2015 in accordance with State CEQA Guidelines section 15082(a).

The Town held a Scoping Meeting on July 7, 2015, to solicit comments on the scope of the environmental review of the proposed Project.

In response to comment letters and at the public's request, on July 17, 2015, the Town issued an amended NOP, Initial Study, and held a second scoping meeting on August 4, 2015, to ensure the public was fully involved in the environmental review process. The Town posted notice of the extension and the second scoping meeting in the manner required by CEQA.

C. The EIR Process

The Draft Environmental Impact Report ("Draft EIR") was prepared, incorporating comments received during the NOP review period. The analysis in the Draft EIR demonstrates why there would be no significant and unavoidable impacts resulting from the Project. The Draft EIR further demonstrates why no mitigation measures would be required to mitigate impacts to a less than significant level. Further, although no significant and unavoidable impacts were identified, four alternatives were evaluated in the Draft EIR to provide additional information and flexibility to the Town Council when considering the proposed Project. The evaluated alternatives included:

1. Alternative 1: No Project
2. Alternative 2: Alternative Operator – City of Victorville
3. Alternative 3: Alternative Operator – City of Hesperia
4. Alternative 4: Operated by Apple Valley, Alternative O&M Facility

The Draft EIR was circulated for a 45-day public review period commencing on September 18, 2015. Copies of the Draft EIR and technical appendices were available for review and inspection at Town Hall, on the Town's website at http://avh2ours.com/council/ at the Apple Valley Development Service building, and at other locations accessible to the public. Notices of the Draft EIR's availability were also circulated and posted as required by CEQA. During the public review period, the Town consulted with all responsible and trustee agencies, other regulatory agencies, and others pursuant to State CEQA Guidelines section 15086.

The Town has prepared a Final EIR, which consists of the Draft EIR, all written comment letters received on the Draft EIR, written responses to all written comment letters received on the Draft EIR, and clarifications to the Draft EIR. A copy of the Final EIR was previously provided to the Council and is available on the Town's website at http://avh2ours.com/council/. Responses to letters from commenting agencies were delivered on November 6, 2015 at least ten days in advance of tonight's hearing. The Final EIR fully analyzes and discloses the potential environmental impacts associated with the Town's potential acquisition of the AVR System.

Finally, as a point of reference, a lead agency is required to recirculate an EIR only when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review, but before certification. None of the comments made in the comment letters and no additional information submitted to the Town have produced significant new information requiring recirculation of the EIR or additional environmental review of the Project under Public Resources Code section 21092.1 and State CEQA Guidelines section 15088.5.

Attachments:

A — Resolution No. 2015-42 Adopting CEQA Findings, Certifying the Final EIR, and Approving the Project
B — Final EIR (on file and available at http://avh2ours.com/council/)

RESOLUTION NO. 2015-42

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CERTIFYING THE APPLE VALLEY RANCHOS WATER SYSTEM ACQUISITION PROJECT FINAL ENVIRONMENTAL IMPACT REPORT (SCH #2015061078) AND APPROVING THE PROJECT.

WHEREAS, the Town of Apple Valley ("Town" or "Apple Valley ") seeks to provide greater local control and greater local responsiveness over the existing water supply and distribution system, and to improve public transparency and accountability with respect to the water supply; and

WHEREAS, in order to achieve these goals, the Town decided to explore potential acquisition of the existing Apple Valley Ranchos Water Supply System ("AVR System") from Apple Valley Ranchos Water Company ("AVRWC"), a wholly-owned subsidiary of Park Water Company, including the facilities, infrastructure, real property, and rights to water supply for the AVR System ("Project" or "proposed Project"). In addition to the Town's potential acquisition of the AVR System, the proposed Project includes the Town's subsequent operation and maintenance of the AVR System, which would occur out of AVRWC's existing operations and maintenance (O&M) facility, located at 21760 Ottawa Road. The Town is proposing only to acquire and operate the existing system, and is not proposing changes or expansion to the physical AVR System or to the associated water rights nor is the Town proposing any changes to the manner of operation of the AVR System; and

WHEREAS, the Project area covers approximately 50 square miles and the AVR System currently serves the area generally located in the incorporated area of the Town. However, part of the Project is located outside the Town's corporate boundary in the following locations: (1) along the western boundary of the Project area within the incorporated area of the City of Victorville; and (2) in the unincorporated areas of San Bernardino County, east of the Town, including (a) the area running east along Cahuilla Road for approximately five (5) miles, within approximately one mile north and south of the road and (b) a small area within one-tenth of a mile of the Town's boundary, south of Yucca Loma Road near its intersection with Joshua Road, which are served by the AVR System; and

WHEREAS, pursuant to section 21067 of the Public Resources Code, and section 15367 of the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), the Town of Apple Valley is the lead agency for the proposed Project; and

WHEREAS, in accordance with State CEQA Guidelines section 15063, the Town evaluated the Project by preparing an Initial Study, to evaluate whether an Environmental Impact Report ("EIR") was required; and

WHEREAS, based on the Initial Study, the Town determined that an EIR should be prepared to more carefully evaluate the Project's potential environmental impacts to: Air Quality, Greenhouse Gas Emissions, Hydrology and Water Quality, Land Use and Planning, Noise, Transportation and Traffic, Utilities and Service Systems, and Mandatory Findings of Significance; and

WHEREAS, based on the Initial Study, the Town determined that the Project would result in no impacts to Aesthetics, Agricultural and Forest Resources, Biological Resources, Cultural Resources, Geology/Soils, Hazards and Hazardous Materials, Mineral Resources, Population/Housing, Public Services, or Recreation, such that further analysis of these issues in the EIR was unnecessary; and

WHEREAS, in accordance with State CEQA Guidelines section 15082, on June 26, 2015, the Town publicly posted and sent to the Office of Planning and Research and each responsible and trustee agency a Notice of Preparation ("NOP") stating that an Environmental Impact Report (State Clearinghouse Number #2015061078) would be prepared; and

WHEREAS, pursuant to State CEQA Guidelines sections 15082 and 15083, the Town held a duly noticed Scoping Meeting on July 7, 2015, to solicit comments on the scope of the environmental review of the proposed Project; and

WHEREAS, during the 30-day public review period, the Town received several comment letters regarding the need for additional notice and review time; and

WHEREAS, in response to comment letters, on July 17, 2015, the Town publicly posted and circulated an amended NOP, Initial Study, scheduled a second scoping meeting, posted notice of the extension and additional scoping meeting in two newspapers, and sent an amended NOP and Initial Study to the initial notification list and additional recipients identified during the initial scoping process; and

WHEREAS, pursuant to State CEQA Guidelines sections 15082 and 15083, the Town held a second duly noticed Scoping Meeting on August 4, 2015; and

WHEREAS, a Draft Environmental Impact Report ("Draft EIR") was subsequently prepared, addressing comments received in response to the NOPs; and

WHEREAS, the Draft EIR demonstrates why there would be no significant and unavoidable impacts resulting from the Project; and

WHEREAS, the Draft EIR further demonstrates why no mitigation measures would be required to mitigate impacts to a less than significant level; and

WHEREAS, in accordance with State CEQA Guidelines section 15085, a Notice of Completion of the Draft EIR was prepared and filed with the Office of Planning and Research on September 18, 2015; and

WHEREAS, as required by State CEQA Guidelines section 15087(a), the Town provided and publicly posted a Notice of Availability of the Draft EIR in the manner required by CEQA on September 18, 2015; and

WHEREAS, the above notices commenced a 45-day public review and comment period on the Draft EIR as required by CEQA; and

WHEREAS, during the public comment period, copies of the Draft EIR and technical appendices were available for review and inspection at Town Hall, on the Town's website at http://avh2ours.com/council/, at the Apple Valley Development Services building, and at other locations accessible to the public; and

WHEREAS, during the public comment period, the Town consulted with and requested comments from all responsible and trustee agencies, other regulatory agencies, and others pursuant to State CEQA Guidelines section 15086; and

WHEREAS, the Town received written comment letters on the Draft EIR; and

WHEREAS, the Town prepared responses to all comments received on the Draft EIR and prepared a Final EIR for the Project, consisting of the Draft EIR, all comments received on the Draft EIR, written responses to all comments received on the Draft EIR, clarifications/corrections made to the Draft EIR in response to public comments, and all technical appendices (the "Final EIR"); and

WHEREAS, pursuant to Public Resources Code section 21092.5, the Town provided copies of its written responses to public agencies who timely commented on the Draft EIR at least ten (10) days prior to the Town's consideration of the Final EIR; and

WHEREAS, all adverse environmental impacts were fully analyzed in the EIR; and

WHEREAS, as contained herein, the Town has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, all of the requirements of CEQA have been satisfied by the Town in connection with the preparation of the EIR, which is sufficiently detailed so that all of the potential environmental effects of the Project have been fully evaluated; and

WHEREAS, the EIR prepared in connection with the Project fully analyzes the Project's potentially significant environmental impacts and, although no significant and unavoidable impacts were identified, the EIR analyzes a range of potentially feasible alternatives capable of reducing these effects to an even lesser level of significance; and

WHEREAS, all of the findings and conclusions made by the Town pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and the entirety of the administrative record for the Project, which are incorporated herein by this reference, and not based solely on the information provided in this Resolution; and

WHEREAS, the Town finds that all environmental impacts identified in the EIR are less than significant and do not require mitigation as described in Section 2 hereof; and

WHEREAS, the cumulative impacts of the Project identified in the EIR and set forth herein, are described in Section 3 hereof; and

WHEREAS, any potential significant and irreversible environmental changes that would result from the proposed Project identified in the EIR and set forth herein, are described in Section 4 hereof; and

WHEREAS, any growth-inducing impacts resulting from the proposed Project identified in the EIR and set forth herein, are described in Section 5 hereof; and

WHEREAS, alternatives to the proposed Project that might further reduce the already less than significant environmental impacts are described in Section 6 hereof; and

WHEREAS, prior to taking action, the Town has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including but not limited to the EIR, and all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the EIR reflects the independent judgment of the Town and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, no comments made in the public hearings conducted by the Town and no additional information submitted to the Town have produced substantial new information requiring recirculation of the EIR or additional environmental review of the Project under Public Resources Code section 21092.1 and State CEQA Guidelines section 15088.5; and

WHEREAS, on November 17, 2015, the Town conducted a duly noticed public hearing on this Resolution, at which time all persons wishing to testify were heard and the Project was fully considered; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY:

SECTION 1

PROJECT DESCRIPTION AND LEGAL OVERVIEW

A. Project Description

The Town of Apple Valley has decided to investigate the potential acquisition of the AVR System that currently serves an approximately 50-square mile area that encompasses the majority of the incorporated area of the Town as well as some outlying areas in a portion of the incorporated City of Victorville and unincorporated San Bernardino County; the acquisition and subsequent operation and maintenance of this water supply system by the Town represents the proposed Project.

Although AVRWC recently acquired the Yermo Water District and its facilities, the proposed Project does not include acquisition of the Yermo Water System, which is located east of the City of Barstow and is currently undergoing a transfer from its current owner to AVRWC. This is because the Yermo Water District facilities are located approximately 45 miles from the Town; Yermo Water District does not provide any water services to the Town's residents, businesses, or other uses; and the Yermo system is an entirely separate and distinct system that is not integrated into the AVR System that serves the Town.

The existing AVR System is currently owned and operated by AVRWC, a wholly owned subsidiary of Park Water Company. AVRWC was first created in 1947, and then purchased by Park Water Company in 1987. As part of the proposed Project, the Town would purchase all rights and interests in the AVR System from AVRWC and/or Park Water Company. The Town's proposed acquisition of the AVR System would include all associated assets (i.e., real, intangible, and personal property), including, but not limited to the following:

- Water systems and production wells, as defined in Section 240 of the California Public Utilities Code;
- Utility plants;
- Water rights;
- Water supply contracts; and
- Records, books, and accounts

In addition to the Town's acquisition of the AVR System, the proposed Project includes the Town's subsequent operation of the AVR System. The Town is proposing only to acquire and operate/maintain the existing system, and is not proposing changes or expansions to the physical AVR System or to the associated water rights, nor is the Town proposing any changes to the manner of operation of the AVR System or the exercise of the associated water rights. The Town would operate and maintain the system out of AVRWC's existing operations and maintenance facility, which is located at 21760 Ottawa Road, approximately half a mile south of Highway 18 and 300 feet east of the intersection of Navajo Road and Ottawa Road.

The AVR System is reported to be comprised of approximately 23 groundwater wells, 11 storage tanks, 16 emergency generators, 8 booster pump stations, 469 miles of pipeline, and 22,431 active service connections, covering 14 interconnected pressure zones and providing service to approximately 62,602 customers. (DEIR 2.5.) The AVR System supplies approximately 11,193 AFY (based on the average deliveries from 2009 to 2014) of water to customers within the AVR System service area, which includes some customers outside of the

Town's corporate boundary. (DEIR 2.5.) Connections to the AVR System located outside the Town boundaries would continue to be served and no change in service to those connections would occur as a result of the proposed Project.

The Town's acquisition of AVRWC's interest in the AVR System would include its water rights to the Mojave Groundwater Basin. These water rights would entitle the Town to the currently established base annual production ("BAP") and associated free production ("FAP") allowance allocations to the Alto Subarea assigned to the AVRWC, and would require the Town meet the same standards in terms of replenishment of water supplies if it were to exceed established limits on withdrawals. (DEIR 2.5.)

O&M activities will be managed from the same location from which they are currently performed: 21760 Ottawa Road. Additionally, the AVR System infrastructure, including supply pipelines and storage tanks, would remain at existing locations within the existing AVR System service area. (DEIR 2.5, Figure 2-3 and Figure 2-4.) Finally, the Town would operate the AVR System and exercise the associated water rights in the same manner as AVRWC has done. Other potential operational scenarios for the AVR system, including other public agencies and private contractors, are considered in Section 6, Alternatives, of this document as required under CEQA.

The AVR System O&M facility currently houses the operation and maintenance functions of the AVR System, with approximately 39 employees working from this facility, many of whom are in the field regularly conducting various maintenance operations. The existing 4.69-acre O&M facility would continue providing office space for approximately 5 division managers, 8 supervisors, and 35 staff. Fleet maintenance functions, including service and repair of primary system equipment, would continue to be performed out of this location, as well as other operations, including minor equipment/tool repair, storage of building materials, traffic control materials, tools, customer service, billing, engineering and human resources, and other supplies.

The Town would also maintain equipment and vehicles at the location ranging from emergency plumbing equipment to dump trucks to tractors. The regular business hours of the facility would continue as under existing operations, from Monday through Friday from 7:30 AM to 5:30 PM. It is anticipated that operation and maintenance activities associated with the AVR System occurring at the site would occur during the usual business hours, with the exception of during calls for emergency services.

The existing buildings at the site would be maintained at their current locations and continue to house their current O&M functions. The existing parking lot is more than sufficient to continue providing parking to all employee, guests,

vendors, and consultants that may have business at the location. Given that the existing O&M facility has sufficient existing space and facilities to support current O&M staff and activities, the proposed Project would not involve construction of new facilities.

B. Legal Requirements

Public Resources Code section 21002 states that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" Section 21002 further states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects."

Pursuant to section 21081 of the Public Resources Code, the Town may only approve or carry out a project for which an EIR has been completed that identifies any significant environmental effects if the Town makes one or more of the following written finding(s) for each of those significant effects accompanied by a brief explanation of the rationale for each finding:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

As indicated above, section 21002 requires an agency to "avoid or substantially lessen" significant adverse environmental impacts. Thus, mitigation measures that "substantially lessen" significant environmental impacts, even if not completely avoided, satisfy section 21002's mandate. (*Laurel Hills*

Homeowners Assn. v. City Council (1978) 83 Cal.App.3d 515, 521 ["CEQA does not mandate the choice of the environmentally best feasible project if through the imposition of feasible mitigation measures alone the appropriate public agency has reduced environmental damage from a project to an acceptable level"]; *Las Virgenes Homeowners Fed., Inc. v. County of Los Angeles* (1986) 177 Cal.App. 3d 300, 309 ["[t]here is no requirement that adverse impacts of a project be avoided completely or reduced to a level of insignificance . . . if such would render the project unfeasible"].)

While CEQA requires that lead agencies adopt feasible mitigation measures or alternatives to substantially lessen or avoid significant environmental impacts, an agency need not adopt infeasible mitigation measures or alternatives. (Pub. Res. Code § 21002.1(c) [if "economic, social, or other conditions make it infeasible to mitigate one or more significant effects on the environment of a project, the project may nonetheless be carried out or approved at the discretion of a public agency"]; see also State CEQA Guidelines § 15126.6(a) [an "EIR is not required to consider alternatives which are infeasible"].) CEQA defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (Pub. Res. Code § 21061.1.) The State CEQA Guidelines add "legal" considerations as another indicia of feasibility. (State CEQA Guidelines § 15364.) Project objectives also inform the determination of "feasibility." (*Jones v. U.C. Regents* (2010) 183 Cal. App. 4th 818, 828-829.) "'[F]easibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) "Broader considerations of policy thus come into play when the decision making body is considering actual feasibility[.]" (*Cal. Native Plant Soc'y v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000 ("*Native Plant*"); see also Pub. Res. Code § 21081(a)(3) ["economic, legal, social, technological, or other considerations" may justify rejecting mitigation and alternatives as infeasible] (emphasis added).)

Furthermore, environmental impacts that are less than significant do not require the imposition of mitigation measures. (*Leonoff v. Monterey County Board of Supervisors* (1990) 222 Cal.App.3d 1337, 1347.)

The California Supreme Court has stated, "[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 576.) In addition, perfection in a project or a project's environmental alternatives is not required; rather, the requirement is that sufficient information be produced "to permit a reasonable choice of alternatives so far as environmental aspects are concerned." Outside agencies (including courts) are not to "impose unreasonable extremes or to interject [themselves] within the area of discretion as to the choice of the action to be taken." (*Residents Ad Hoc Stadium Com. v. Board of Trustees* (1979) 89 Cal.App.3d 274, 287.)

C. Summary of Environmental Findings

At a meeting assembled on November 17, 2015, the Town Council determined that, based on all of the evidence presented, including but not limited to the EIR, written and oral testimony given at meetings and hearings, the submission of testimony from the public, organizations and regulatory agencies, and the whole of the administrative record, which is incorporated by reference herein, that all environmental impacts associated with the Project are less than significant and do not require mitigation.

No comments made in the public hearings conducted by the Town Council or any additional information submitted to the Town has produced any substantial new information requiring recirculation or additional environmental review of the Final EIR under CEQA because no new significant environmental impacts were identified, no substantial increase in the severity of any environmental impacts would occur, and no feasible Project mitigation measures or Project alternatives as defined in State CEQA Guidelines section 15088.5 were rejected.

SECTION 2

FINDINGS REGARDING ENVIRONMENTAL

IMPACTS NOT REQUIRING MITIGATION

The Town Council hereby finds that the following potential environmental impacts of the Project are less than significant and therefore do not require the imposition of Mitigation Measures.

Air Quality

1. Thresholds: Would the proposed Project: (a) conflict with or obstruct implementation of the applicable air quality plan; (b) violate any air quality standard or contribute substantially to an existing or projected air quality violation; (c) result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors); or (d) expose sensitive receptors to substantial pollutant concentrations? (DEIR 4.1.2(b).)

   a. Impacts: Implementation of the proposed Project would not require the construction or operation of any new physical facilities and would not create any construction emissions, new are source emissions, or new stationary operational emissions. In addition, while implementation of the proposed Project would result in air emissions associated with operation and maintenance of water supply system infrastructure as well as operation of vehicles and equipment in and around the Project area, these activities would be similar to those performed under existing operations. As a result, the proposed Project would result in little to no increase in air emissions, and these impacts would be less than significant as to each of the above thresholds. (DEIR 4.1.2(b).)

   b. Supporting Explanation: Because the proposed Project would not require the construction or operation of any new physical facilities, the proposed Project would not create any construction emissions, new area source emissions, or new stationary operational emissions.

      Long-term air pollutant emission impacts are those associated with stationary sources and mobile sources related to operation of the AVR System. The existing water supply system is fully functional and would not require any additional new infrastructure as a result of the proposed Project, i.e. transfer of ownership to the Town. In addition, the proposed Project does not include any expansion in the delivery capacity of the AVR System nor does it contemplate any physical upgrades to any of the AVR System facilities (i.e., no construction is proposed). Although some level of maintenance activity would be required in order to operate and maintain the water supply system, this activity would be in line with what would occur under the existing ownership. Because the proposed Project would not result in any population increase or new physical facilities, it would not result in any increase in

stationary operational emissions from increased water delivery or treatment. In addition, as operation of the system is expected to continue in much the same manner as under existing conditions, the proposed Project would not require installation of new equipment at any system location that would combust diesel nor would it require any new Air Pollution Control District-permitted stationary sources. Therefore, the proposed Project would not result in additional stationary operational emissions as compared to existing baseline conditions. (DEIR 4.1.2(b).)

Mobile source emissions would be generated from truck trips from the AVR System O&M facility to locations throughout the Town. As no new facilities are proposed under the Project, the EIR assumed that the system would require the same number of technical and field staff (19 employees) and the same number of truck trips to operate and maintain the system as under existing conditions; therefore, the proposed Project would not generate any new truck trips. Given that the AVR System would continue to be operated out of the existing AVR System O&M facility after the acquisition, and the only change would be that these activities would be performed by the Town instead of by AVRWC following the acquisition, the proposed Project would not result in substantial changes in the distribution or length of these truck trips. Therefore, the number of vehicle miles travelled associated with operation and maintenance of the AVR System, and thus the associated amount of vehicular (mobile) air emissions, would not substantially increase as a result of the proposed Project. (DEIR 4.1.2(b).)

Given that the proposed Project would not result in an increase in air emissions from operation or maintenance activities, it would not conflict with any air quality plans, violate any air quality standards, result in a cumulatively considerable net increase of any criteria pollutant, or expose sensitive receptors to substantial pollutant concentrations. Therefore, these impacts are less than significant. (DEIR 4.1.2(b).)

Greenhouse Gas Emissions

1. Threshold: Would the proposed Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? (DEIR 4.2.2(b).)

    a. Impact: Implementation of the proposed Project could potentially result in GHG emissions associated with operation and maintenance of system infrastructure as well as operation of vehicles and equipment in and around the Project area. However, given that these activities would be similar to those performed under the existing ownership, the proposed

Project would result in little to no increase in GHG emissions, and these impacts would be less than significant. (DEIR 4.2.2(b).)

b. Supporting Explanation: *Operational Emissions.* The existing water supply system is fully functional and would not require any additional new infrastructure as part of the proposed Project, i.e. transfer of ownership to the Town. Although some level of maintenance activity would be required in order to operate and maintain the water supply system, this activity would be in line with existing operations under the current ownership. Therefore, the proposed Project would not require new or expanded facilities, as the proposed Project would not result in an increase in the amount of water delivered or treated. A substantial increase in stationary operational GHG emissions would not occur. (DEIR 4.2.2(b).)

Transportation Emissions. GHG emissions from mobile sources would be generated by truck trips to and from the AVR System O&M facility to locations throughout the Town. As no new facilities are proposed under the Project and the Project would be operated out of AVRWC's existing operations yard, no changes in the number of employees or operational truck trips are anticipated to occur. Therefore, the GHG emissions associated with mobile sources would not substantially increase, as mobile traffic would not substantially increase. (DEIR 4.2.2(b).)

Construction Emissions. The proposed Project would not involve construction of new facilities; therefore, it would not result in any emissions of construction-related GHGs. (DEIR 4.1.2(a).)

As the proposed Project would not change the AVR System, GHG emissions that would be associated with the proposed Project, both stationary and mobile, would be emissions that are already a part of California's total GHG emissions and below both the annual and daily Mojave Desert Air Quality Management District (MDAQMD) thresholds. Therefore, these impacts are less than significant. (DEIR 4.2.2(b).)

2. Threshold: Would the proposed Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? (DEIR 4.2.2(b).)

a. Impact: Implementation of the proposed Project could potentially result in GHG emissions associated with operation and maintenance of system infrastructure as well as operation of vehicles and equipment in and around the Project area. However, given that these activities would be similar to those performed under the existing ownership, the proposed

Project would result in little to no increase in GHG emissions and impacts would be less than significant. (DEIR 4.2.2(b).)

b. Supporting Explanation: SB 375 requires the inclusion of Sustainable Communities' Strategies (SCS) in Regional Transportation Plans (RTPs) for the purpose of reducing GHG emissions. In April 2012, the Southern California Association of Governments (SCAG) adopted the 2012-2035 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). The proposed Project would not involve development of new facilities nor alter operational and maintenance activities which are part of the current GHG emissions baseline. Therefore, the proposed Project would not impede the achievement of the GHG emission reduction goals in the adopted RTP/SCS. (DEIR 4.2.2(b).)

Additionally, the Town has adopted a Climate Action Plan ("CAP"). The CAP indicates that new projects demonstrating a reduction in emissions of 15% or more are consistent with the Plan. The proposed Project, however, involves a mere transfer of ownership from AVRWC to the Town and thus would not involve construction of new facilities or buildings or result in any operational increases in GHG emissions. Therefore, a 15% reduction in GHG emissions would not be required for the Project to be consistent with the Plan. In addition, operation of the system is not currently subject to the Town's GHG reduction goals for community and municipal operations. As such, the proposed Project would not conflict with any policies regarding GHG reductions. (DEIR 4.2.2(b).)

The Attorney General's 2008 GHG Reduction Report lists measures that may reduce a project's global warming impacts. Here, however, the Project would not involve construction of new facilities or buildings and would not result in emission of GHGs requiring any mitigation measures. As such, the proposed Project would not conflict with these measures. (DEIR 4.2.2(b).)

The proposed Project would be consistent with SB 375, the Town of Apple Valley's Climate Action Plan, and would not conflict with the Attorney General's GHG Reduction Measures. Therefore, the proposed Project would be consistent with applicable plans, policies and regulation adopted for the purpose of reducing the emissions of GHGs, and its impact would not be significant. (DEIR 4.2.2(b).)

Hydrology and Water Quality

1. Threshold: Would the Project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local ground water table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? (DEIR 4.3.2(b).)

   a. Impact: The proposed Project would alter the entity that operates the existing AVR System, which could potentially alter the rate structure and fee charged for water service; if a reduction in pricing occurs, water use in the area could potentially increase because water use is linked to cost. However, the operator of the system would be required to comply with the water use reduction strategies and goals contained within the California Water Conservation Act of 2009, which requires specific reductions in urban water consumption by the year 2020. As a result, water use rates would continue to decline on a per capita basis regardless of potential changes in the system operator or water rate structures. Therefore, potential impacts to groundwater supply would be less than significant.

   b. Supporting Explanation: The proposed Project would not construct new infrastructure or facilities and therefore, would not introduce new impermeable areas that would have potential to affect groundwater recharge. Similarly, operation and maintenance activities that would occur under the proposed Project would utilize the same access roads as current operation and maintenance activities, and road improvements that could have potential to affect groundwater recharge would not be necessary under the proposed Project. Therefore, potential for the proposed Project to adversely affect groundwater supplies would be limited to the potential for increased groundwater use to occur as a result of the Project, an impact that would be less than significant. (DEIR 4.3.2(b).)

      Specifically, one of the objectives of the proposed Project is to provide greater local control over the rate setting process and rate increases. The municipalization, or public acquisition of the current private water system, would transfer authority and responsibility for system management and operation to the Town of Apple Valley. It would be speculative, from a CEQA perspective, to numerically predict changes in water usage based on potential future fluctuations in water rates, and CEQA does not require speculation. (State CEQA Guidelines, § 15004.)

In fact, the scope of an EIR's analysis is guided by standards of reasonableness and practicality. The level of specificity required of an EIR generally depends on the degree of specificity involved in the proposed activity reviewed in the EIR. (State CEQA Guidelines, § 15146.) Here, analysis of any future actions must be undertaken when and if those future actions are sufficiently well defined to allow for "meaningful" environmental analysis.)

It is for that reason that the Draft EIR set forth in Section 4.3.2(b) that "[r]educed water pricing could potentially result in increased water usage, as it is generally accepted that water use can increase with decreased cost, and decrease with increased cost." However, it would be inherently too speculative at this time to numerically predict changes in water usage based on potential future changes in water rates. As explained in the Draft EIR, this is because "the amount of change in water use responding to changes in water cost can be a function of several factors including but not limited to: the availability of alternate water sources, price range and elasticity, and customer knowledge and understanding of bill information." (DEIR § 4.3.2(b).) Nonetheless, to fully address the issue consistent with the limitations of State CEQA Guidelines Section 15145, the Draft EIR provided an extensive discussion relating to this issue and potential opportunities the Town may employ to address it. (*See* DEIR 4.3.2(b).)

Similarly, it would be speculative to attempt and predict what operational changes and/or system upgrades may become necessary at some future date. Nonetheless, the Draft EIR described the existing system and summarizes its current operational characteristics for purposes of meeting CEQA's informational disclosure requirements.

Here, while the Town fully expects water rates to remain stable, and stabilizing rates is one of the purposes behind the Town's consideration of the Project (*see* DEIR § 4.3.2(b)), any change in water rates would necessarily be "economic" and not "environmental." Moreover, as discussed above, it would be too speculative to analyze any potential environmental impacts associated with a potential future change in water rates at this time. Rather, such an environmental analysis would appropriately be conducted if and when such rate changes are proposed in

the future. As a result, the Town is not required to analyze any economic impact associated with a change in water rates in its Draft EIR. Nonetheless, economic and social impacts, although not pertinent to the CEQA analysis, may be taken into consideration by the decision-makers on the proposed project – here, the Town Council. Nonetheless, and even if minor changes in water demands occurred in response to potential changes in water pricing, compliance with the Adjudication Judgment and existing laws and regulations relevant to water conservation practices and goals would continue to be required. For instance, the California Water Conservation Act of 2009 mandates conservation goals for urban retail water suppliers, including an ultimate goal of 20 percent reduction in per capita urban consumption by 2020. Effective 2016, urban retail water suppliers who do not meet the water conservation requirements established by this bill are not eligible for state water grants or loans as well as other penalties. The AVR System is currently subject to the provisions of the California Water Conservation Act, and the current UWMP (2010), which identifies a per capita water use goal of 245 gallons per capita per day (GPCD) by the year 2020 and methods of conservation for achieving this goal. The 2010 UWMP will be updated by July 1, 2016, and will identify additional methods of conservation. (DEIR 4.3.2(b).)

Therefore, and even if minor fluctuations in water pricing leads to minor fluctuations in water usage, compliance with the existing Adjudication Judgment and other laws and regulations would avoid significant adverse impacts to groundwater supply reliability. Impacts of the proposed project on groundwater supplies and recharge would be less than significant, with no mitigation required. (DEIR 4.3.2(b).)

Land Use and Planning

1. Threshold: Would the Project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? (DEIR 4.4.2(b).)

   a. Impact: The proposed Project would alter the entity that owns and operates the existing AVR System, but would not alter the nature or intensity of operation and maintenance of the water system. The Project would not alter existing compliance with applicable land use plans,

policies, or regulations. Therefore, potential impacts would be less than significant. (DEIR 4.4.2(b).)

b. Supporting Explanation: Implementation of the proposed Project would not affect any land use designations or intensity of development in Apple Valley, which are regulated by the adopted General Plan and Municipal Code. The General Plan does refer to the water system and AVRWC in multiple elements of the General Plan, including the Land Use Element, Water Resources Element, and the Water, Wastewater, and Utilities Element. The following General Plan Policies relate to the proposed acquisition of the AVR System:

    i. Land Use Element. Policy 8.A:

        1. The Town shall coordinate with all public service providers to assure that adequate services are available to meet the demands of growth in Town.

    ii. Water, Wastewater, and Utilities Element:

        1. Policy 1.A : The Town shall coordinate with the various domestic water service providers to ensure that local and regional domestic water resources and facilities are protected from over-exploitation and contamination.

        2. Policy 1.C: The Town shall ensure that every effort is made to facilitate cost-effective and timely extension and expansion of community-development support services.

    iii. Water Resources Element:

        1. Policy 1.D Policy 1.G: To the greatest extent practicable, the Town shall direct new development to provide irrigation systems that are able to utilize reclaimed water, when available, for use in common area and streetscape landscaping.

        2. Policy 1.G: To facilitate the sharing of information on potential groundwater contamination and potential sources, the Town shall confer and coordinate with the California Regional Water Quality Control Board, Apple Valley Ranchos Water Company, Golden State Water

Company, other water purveyors that serve the Town and its Sphere of Influence.

3. Policy 1.H: The Town shall confer with appropriate water agencies and purveyors, as necessary, to assure adequate review and mitigation of potential impacts of proposed development on local water resources.

Implementation of the proposed Project would not conflict with any of the policies listed above because it would not impede the ability of the Town to coordinate/confer with public service or water service providers on the provision of services or on sources of groundwater contamination. Nor would the Project prevent the Town from facilitating cost-effective and timely expansion of support services or encouraging the use of reclaimed water in new development. Additionally, the purchase of AVRWC could, in fact, assist in the pursuit of some of the policies. For example, policies that require the Town to work with AVRWC, such as Water Resources Policies 1.G and 1.H and Water, Wastewater, and Utilities Policy 1.A, could instead be carried out by or pursued directly by the Town. While some policies still require coordination with other agencies, such as Water Resources Policy 1.G and Water, Wastewater, and Utilities Policy 1.A, the Town may be in a better position to work directly with the agencies if it is its own water provider. Water, Wastewater, and Utilities Policy 1.C requires the Town to work towards cost-effective and timely development of services. Being its own water provider would allow the Town to pursue cost-effective and timely water services development. Also, a stated goal of the proposed Project is to enable the Town to use reclaimed water for public facilities without invoking potential duplication of service issues with AVRWC. This objective is consistent with Water Resources Policy 1.D, which requires the Town to direct new development to use reclaimed water for irrigation of common landscaped areas. (DEIR 4.4.2(b).)

Finally, as noted above, portions of the AVR System are located outside the Town's corporate boundary. Most of the portions of the AVR System service area that fall within San Bernardino County are currently zoned HF/SP (Hacienda Fairview Specific Plan) and AV/RL-40 (Apple Valley/Rural Living – 40 acre minimum). (DEIR 4.4.2(b).) The remaining areas are zoned AV/RL-20 40 (Apple Valley/Rural Living – 20 acre minimum), AV/RL (Apple Valley/Rural Living), AV/IC (Apple

Valley/Community Industrial), AV/CN (Apple Valley/Neighborhood Commercial) and AV/RS-1 (Apple Valley/Single Residential 1 acre minimum). (DEIR 4.4.2(b).) The location of Well 7 in the City of Victorville is zoned SP (Specific Plan). In both cases, the proposed Project would not alter existing compliance with applicable land use plans, policies, or regulations, given that the proposed Project would alter the entity that owns and operates the existing AVR System, but would not alter the nature or intensity of operation and maintenance of the water system. (DEIR 4.4.2(b).)

The General Plan does not contain any policies discouraging the provision of services by the Town outside the corporate boundaries. Furthermore, the Town currently provides public services that extend outside of the Town's incorporated area through the provision of the Horsemen's Center equestrian park, located 1.2 miles east of the Town's boundary. Therefore, no conflicts with the General Plan would occur in this regard. (DEIR 4.4.2(b).)

Noise

1. Thresholds: Would the proposed Project result in: (a) exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; (b) a substantial permanent increase in ambient noise levels above levels existing without the proposed Project; or (c) a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the proposed Project? (DEIR 4.5.2(b).)

   a. Impacts: Implementation of the proposed Project could potentially result in noise impacts associated with operation and maintenance of the water supply system due to maintenance of system infrastructure as well as operation of vehicles and equipment in and around the Project area. However, given that these activities would be similar to those performed under the existing ownership, the proposed Project would result in little to no increase in noise. Therefore, noise levels would fall within existing ranges and would not expose sensitive receptors to levels exceeding applicable standards. As a result, impacts would be less than significant as to each of the above thresholds. (DEIR 4.5.2(b).)

   b. Supporting Explanation: Although some level of maintenance activity would be required in order to operate and maintain the water supply

system, this activity would be in line with existing operations. In addition, the proposed Project, i.e. transfer of ownership, would not result in the addition of stationary sources of noise, such as generators and other heavy equipment. (DEIR 4.5.2(b).)

Noise has the potential to occur from vehicle trips on local roads; however, the proposed Project would not increase the length, distribution, or number of vehicle trips required to operate and maintain the water supply system. Additionally, vehicle trips associated with operation and maintenance activities would be spread throughout the day and across the Project area's street system, rather than concentrated on any one roadway in any one hour. Even assuming that all of the estimated 154 vehicle trips to and from the O&M facility were new to the street system, the maximum number of trips in one hour would be the 39 inbound trips from arriving employees and 19 outbound trips from the departure of all field staff, for a total of 58 vehicles in one hour. This maximum number of vehicle trips would occur during either the AM or PM peak hours. During a traffic count performed on Ottawa Road at peak hour on July 8, 2015, 50 vehicles were observed over a 15-minute interval, indicating that there are approximately 200 cars per hour that travel this road. Assuming the estimated maximum 58 vehicle trips were added to the roadway, this would represent a 29 percent increase in traffic. As discussed above, traffic would have to double in order for there to be a 3 decibels using the A-weighted sound pressure level (dBA) increase in the resulting level of noise. Therefore, even assuming that the Project would result in an increase of 58 vehicle trips, such an increase would not have a perceptible effect on the noise environment, and the increase in noise levels would not exceed the significance threshold for this analysis, which restricts increases in project-related noise levels to 3 dBA. Therefore, the proposed Project would not result in noise impacts to sensitive receptors and this impact would be less than significant under each of the above thresholds. (DEIR 4.5.2(b).)

2. Threshold: Would the proposed Project result in a significant impact because it would expose persons to or generate excessive groundborne vibration or groundborne noise levels? (DEIR 4.5.2(b).)

   a. Impact: Implementation of the proposed Project could potentially result in vibration associated with equipment used to operate and maintain the water supply system and vehicles used to service the system. However, given that operation and maintenance activities would remain similar to existing activities, the proposed Project would result in little to no increase in vibration and would not generate excessive groundborne vibration or

groundborne noise. As a result, this impact would be less than significant. (DEIR 4.5.2(b).)

b. Supporting Explanation: With the Project, maintenance activities would continue to occur similar to existing operations. Therefore, the proposed Project would not result in the addition of stationary sources of groundborne vibration, such as generators and other heavy equipment. (DEIR 4.5.2(b).)

The proposed Project would require continued use of operation and maintenance vehicles on local roads throughout the Project area; however, these trips would be in line with existing operations and would not result in additional vehicle trips. Additionally, the Town's roadways are well developed (i.e. smooth), and therefore vehicle traffic on these roads does not generally result in groundborne vibration or associated groundborne noise. Therefore, the proposed Project would not result in vibration impacts to sensitive receptors and this impact would be less than significant. (DEIR 4.5.2(b).)

Transportation/Traffic

1. Thresholds: Would the proposed Project: (a) conflict with an applicable plan, ordinance or policy establishing a measure of effectiveness for the performance of the circulation system, taking into account all modes of transportation, including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways, and freeways, pedestrian and bicycle paths, and mass transit; or (b) would the proposed Project conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? (DEIR 4.6.2(b).)

   a. Impacts: Operation of the AVR System by the Town following acquisition would contribute to continued trips on the local street network; however, given that operation and maintenance activities would be similar to those performed under existing operations and no expansion of the system is proposed, the proposed Project would result in little to no increase in traffic and would not degrade LOS at any intersection when compared to baseline conditions. Therefore, as to each of the above thresholds, these impacts would be less than significant. (DEIR 4.6.2(b).)

   b. Supporting Explanation: The Project would result in continued vehicle trips throughout the Project area in order to operate and maintain the water

supply system. However, the system would continue to be operated out of the existing AVR System O&M facility, and no change to the system's existing size and coverage is included as part of the proposed Project. Accordingly, the Project would not increase the length, distribution, or number of truck trips required to operate and maintain the water supply system, and therefore would not result in increased traffic on local roadways and at existing intersections. (DEIR 4.6.2(b).)

The continuation of existing activities would include the continuation of an estimated 154 vehicle trips per day to and from the O&M facility to locations throughout the town. These trips would be spread throughout the day and across the Project area's street system, rather than concentrated on any one roadway in any one hour. The roadways and intersections in close proximity to the maintenance and operation facility would experience the most trips from this activity, with most vehicles traveling through the intersection of Navajo Road at Ottawa Road, traveling north or south on Navajo Road, and then traveling in various directions from there. The segment of Navajo Road between SR-18 and Nisqually Road currently supports 15,100 trips and has a capacity of 40,500 trips, and therefore has ample capacity to accommodate vehicle trips associated with operation and maintenance of the system. (DEIR 4.6.2(b).)

The closest intersection to the O&M facility with a LOS D or lower is Navajo Road at Nisqually Road, which operates at LOS D during the AM peak hour. However, any trips associated with the Project are already occurring under existing baseline conditions, such that no significant new impact is anticipated. Moreover, and even assuming that all of the vehicle trips to and from the O&M facility were new to the street system, and that half of employee arrival trips (20 trips) passed through the intersection of Navajo Road at Nisqually Road during the AM peak hour, and that the first 19 service trips back out of the O&M facility occurred during the AM peak, the total increase would amount to a maximum of 39 vehicles trips per day during the AM peak at this intersection. Given that the equivalent of 1,498 passenger vehicles currently passes through this intersection during the AM peak, this would amount to an increase of 2.6 percent, which would not be sufficient to result in a decrease in LOS at this intersection during the AM peak hour. Therefore, as to each of the above thresholds of significance, and even making a worst-case scenario assumption that all

operational trips are "new" and generated by the Project, the proposed Project would still not result in traffic impacts that would degrade the LOS at any intersections when compared to baseline conditions or conflict with an applicable plan, ordinance or policy, and these impacts would be less than significant. (DEIR 4.6.2(b).)

Utilities and Service Systems

1. Thresholds: Would the proposed Project: (a) exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board; (b) require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; or (c) result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the proposed Project's projected demand in addition to the provider's existing commitments? (DEIR 4.7.2(b).)

   a. Impacts: Implementation of the proposed Project could potentially result in wastewater discharges associated with operation and maintenance of system infrastructure as well as operation of the AVR System. However, the proposed Project would not change the nature or amount of water used or the amount of wastewater generated in the Project area, and would not result in the exceedance of Regional Water Quality Control Board wastewater treatment requirements. Because the proposed Project would not result in an increased demand for potable water or the generation of substantial additional wastewater, no increase in capacity of the existing water or wastewater conveyance and treatment system which serve the Project area would be required. As a result, as to each of the above thresholds, impacts would be less than significant. (DEIR 4.7.2(b).)

   b. Supporting Explanation: As discussed above, no increases in water usage or changes in system operation are proposed as part of the Project. Although minor variations in water usage may occur as a result of future weather changes or potential pricing issues, any prediction of what those impacts may be would be speculative. CEQA does not require a lead agency to engage in speculation. (State CEQA Guidelines Section 15145.) Further, and even if minor increases in water demand occurred, compliance with the Adjudication Judgment for the local ground water basin (Upper Mojave River Valley Groundwater Basin) would restrict the amount of groundwater that may be pumped, and would require the provision of replacement water to offset any water supply required in excess of what is allowed per the Adjudication Judgement. In addition,

laws and regulations such as the California Water Conservation Act of 2009 require specific goals to be set and milestones achieved towards reducing per capita water usage. Further, future UWMPs for the AVR System would be required to demonstrate how per capita water usage reduction will be achieved over time. Therefore, water demand would not substantially increase as a result of the proposed Project. (DEIR 4.7.2(b).)

As the proposed Project would continue to supply water to the same customer base for the same general purposes, it would not result in substantial changes to the way in which water is used in the service area and, therefore, would not directly influence the amount of wastewater generated in the service area. For example, residential customers would continue to dedicate roughly the same percentage of their water use to various activities such as watering plants, which does not result in wastewater flows, and washing dishes, which results in flows to the wastewater system. Therefore, as to each of the above thresholds of significance, the proportion of the water supply that is disposed of as wastewater after use would remain constant. Given that there would not be a substantial change to water demand and the proportion of water that enters the wastewater system would remain constant, wastewater generation also would not substantially increase as a result of the Project. (DEIR 4.7.2(b).)

In addition, the Project does not propose any water treatment facilities, new water or sewer connections and would not alter the rates or characteristics of existing wastewater discharges in the Project area; therefore the Project would not alter the status of compliance of existing wastewater discharges with wastewater treatment requirements of the Lahontan Regional Water Quality Board (RWQCB), and would not result in an exceedance of the capacity of a wastewater treatment provider. Similarly, because the Project would not substantially alter water supply demands or associated wastewater discharge rates, the proposed Project also would not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities. Therefore, as to each of the above thresholds, potential impacts associated with water treatment and wastewater generation, quality, and treatment would be less than significant. (DEIR 4.7.2(b).)

2. Threshold: Would the proposed Project require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (DEIR 4.7.2(b).)

   a. Impact: The proposed Project would not necessitate upgrades to existing stormwater conveyance facilities. Impacts associated with stormwater generation and conveyance would be less than significant. (DEIR 4.7.2(b).)

   b. Supporting Explanation: The proposed Project would not involve construction of a new or expanded water system or alteration of the existing water system. Ongoing operation and maintenance activities would continue under the proposed Project, using the same access roads and maintenance yards that are currently used to operate and maintain the system. The existing stormwater drainage system in the Project area is operated and maintained to function appropriately with existing and anticipated load. The proposed Project would not discharge water to the ground surface or alter the rate, amount, or quality of existing stormwater discharge in the Project area. In summary, the proposed Project would not substantially affect existing stormwater drainage patterns in the area, and would therefore not require the construction or expansion of stormwater drainage facilities. Therefore, impacts would be less than significant. (DEIR 4.7.2(b).)

3. Threshold: Would the proposed Project have sufficient water supplies available to serve the Project from existing entitlements and resources? (DEIR 4.7.2(b).)

   a. Impact: The AVWRC has determined that there is sufficient water supply available to meet water demands in the Project area through the year 2035. The proposed Project would not result in substantial new or increased water demands in the Project area, and any new operator of the water system would be required to comply with the California Water Conservation Act of 2009 and requirements for decreased urban water consumption included therein. Therefore, the proposed Project would not require or result in the construction of new water facilities or expansion of existing facilities or require new or expanded entitlements. As a result, potential impacts to water supply would be less than significant. (DEIR 4.7.2(b).)

   b. Supporting Explanation: Certain types of projects that are subject to CEQA are required to prepare a Water Supply Assessment (WSA) which assesses water supply reliability under varying drought conditions over a

20-year horizon. Projects located within an adjudicated groundwater basin are exempt from preparing a WSA, and the annual Watermaster reports required per the Adjudication Judgment fulfill the same purposes of a WSA. In addition, the 2010 UWMP for the AVRWC assesses water supply availability to the Project area, accounting for local groundwater supplies as well as imported surface water supplies, and with consideration to varying climatic (drought) conditions over a 25-year planning horizon. The 2010 UWMP determined that there are adequate water supplies to meet demands in the Project area during average, single-dry, and multiple-dry years through the Year 2035. Furthermore, as discussed in the preceding impact discussions as well as in Section 4.3 of the Draft EIR, Hydrology and Water Quality, the proposed Project would not substantially increase water demand in the Project area and thus would not require new or expanded water entitlements. (DEIR 4.7.2(b).)

Similarly, because the Project would not substantially alter water supply demands or approve any uses that might alter water supply demands, the proposed Project also would not require or result in the construction of new water treatment facilities or expansion of existing facilities. Operation and maintenance of the water system would require occasional repair or upgrade of existing facilities, but such actions are typical of the operation and maintenance of a water system, would be required regardless of the ownership of the system and would not constitute the construction or expansion of new or existing facilities. As a result, potential impacts associated with water supply availability would be less than significant. (DEIR 4.7.2(b).)

Mandatory Findings of Significance

1. Threshold: Would the proposed Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

   a. Impact: Implementation of the proposed Project would not involve substantial physical construction or other physical changes to the environment. As a result, implementation of the proposed Project would not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or

wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.

b. Supporting Explanation: As discussed fully in the Amended Initial Study provided as Appendix A to the Draft EIR, implementation of the proposed Project would not involve substantial physical construction or other physical changes to the environment. It would therefore not have the potential to physically impact species or habitats, nor would it have the potential to physically affect historical, archeological, or paleontological resources, or to disturb any human remains. Therefore, no impact to biological or cultural resources would occur. This conclusion is further supported by the California Department of Fish and Wildlife's "No Effect" Determination, which was issued by the Department on October 15, 2015.

2. Threshold: Would the proposed Project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current project, and the effects of probable future projects.)?

   a. Impact/Supporting Explanation: As discussed further in Section 3 below, the proposed Project would not result in any potentially significant environmental impacts either individually or when considered in conjunction with cumulative projects.

3. Would the proposed Project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

   a. Impact: The proposed Project is not anticipated to result in any potentially significant environmental impacts. As a result, the proposed Project will not have cause any substantial adverse effects on human beings.

   b. Supporting Explanation: Under *State CEQA Guidelines* Section *15065(a)(4)*, a lead agency must find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if humans would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the

designated CEQA issue areas, those that could directly affect human beings include air quality, greenhouse gas emissions, hydrology and water quality, noise, transportation and traffic, and utilities and service systems, each of which is addressed in the Draft EIR and above. According to these analyses, the proposed Project would have less than significant impacts on human beings, and therefore would not have the potential to cause substantial adverse effects on human beings.

SECTION 3
CUMULATIVE ENVIRONMENTAL IMPACTS

CEQA defines "cumulative impacts" as two or more individual events that, when considered together, are considerable or will compound other environmental impacts. (State CEQA Guidelines, § 15355.) Cumulative impacts are the changes in the environment that result from the incremental impact of development of the proposed Project and other nearby projects. Cumulative impact analysis allows the EIR to provide a reasonable forecast of future environmental conditions and can more accurately gauge the effects of a series of projects. (DEIR 3.3.)

For purposes of the EIR's environmental evaluation, the Initial Study confirmed that the Project would not result in any impacts to Aesthetics, Agricultural and Forest Resources, Biological Resources, Cultural Resources, Geology/Soils, Hazards and Hazardous Materials, Mineral Resources, Population/Housing, Public Services, or Recreation. Thus, the Town Council finds that the Project will not result in any cumulative considerable contributions to impacts associated with these resource areas.

As to other resource areas, the Town undertook further analysis in the Draft EIR to confirm whether impacts (even those that are less than significant) might result in cumulatively considerable environmental impacts. For purposes o this analysis, cumulative projects were assumed to be the buildout of the 2009 Apple Valley General Plan, which was adopted on August 11, 2009 as well as selected specific development projects proposed in the vicinity of the Project area within the Town of Apple Valley and the unincorporated area of San Bernardino County east of the town where a portion of the AVR System service area is located. The Community Development Chapter of the Apple Valley General Plan projects that implementation of the General Plan could result in a population of 185,858 persons in Apple Valley at buildout. This would be an increase of 115,766 persons from the General Plan's 2008 population baseline of 70,092, and an increase of 114,462 persons from the Town's current population of 71,396 (California Department of Finance, 2015). (DEIR 3.3.)

Thus, the EIR analyzed impacts based on a list of past, present, and probable future projects producing related impacts, including projects outside of the Town's jurisdiction. Specific development projects proposed in the vicinity of the Project area were also included in the cumulative impacts analysis. A list of these is found in Table 3-1 of the Draft EIR. This list was sourced from the Town of Apple Valley Planning Department in June 2015. (DEIR 3.3.)

With these principles in mind, the Town hereby finds as follows:

Air Quality

- *Cumulative Air Quality Impacts* (DEIR 4.1.2(c).)

  a. Impact: The proposed Project would not have a cumulatively considerable impact on air quality emissions. (DEIR 4.1.2(c).)

  b. Supporting Explanation: The EIR for the Apple Valley General Plan determined that buildout of the Town and the surrounding area would contribute to regional air pollution, and these impacts can be considered cumulatively significant. The air emissions that would be generated by the proposed Project have been ongoing since the time that the Apple Valley General Plan EIR was prepared and the emissions were fully accounted for in the General Plan EIR. As discussed above, the proposed Project would not result in an increase in daily operational emissions from stationary or mobile sources. Therefore, the proposed Project would not result in addition of criteria pollutants to the Basin. Given that the proposed Project would not contribute any additional air pollutants, it would not contribute to any cumulative impacts when considered in conjunction with other projects in the region, and it would not exceed MDAQMD thresholds. Therefore, the proposed Project's contribution to cumulative regional long-term air quality impacts would not be cumulatively considerable. (DEIR 4.1.2(c).)

Greenhouse Gas Emissions

- *Cumulative GHG Impacts* (DEIR 4.2.2(c).)

  a. Impact: As demonstrated in Section 2, above, the proposed Project would not have a cumulative considerable impact on GHG emissions. (DEIR 4.2.2(c).)

  b. Supporting Explanation: The General Plan EIR for the Town of Apple Valley did not include an assessment of the cumulative impact from GHG emissions. However, GHG emissions associated with buildout of the

General Plan along with development throughout the wider region, including the proposed Specific Plans in proximity to the Town, would contribute to regional GHG emission volumes. The proposed Project would not result in an increase in daily operational emissions from stationary or mobile sources. Therefore, the proposed Project would not result in the addition of GHG emissions to the Basin. Given that the project would not contribute any additional GHG emissions, it would not contribute to any cumulative impacts when considered in conjunction with other projects in the region, and it would not exceed any thresholds for GHGs. Therefore, the proposed Project's contribution to cumulative regional GHG emissions would not be cumulatively considerable. (DEIR 4.2.2(c).)

Hydrology and Water Quality

- *Cumulative Hydrology and Water Quality Impacts* (DEIR 4.3.2(c).)

  a. Impact: The proposed Project would not have a cumulatively considerable impact to hydrology and water quality. (DEIR 4.3.2(c).)

  b. Supporting Explanation: Continued growth in the Project area, including buildout of the General Plan as well as implementation of the proposed Specific Plans identified in Table 3-1 of the DEIR, would introduce increasing water requirements, and it is reasonably anticipated that local groundwater will continue to be a substantial source of water supply to the area. The General Plan EIR determined that implementation of the General Plan and annexation areas would result in increased demand for domestic water. While the General Plan includes policies and programs intended to promote and support the conservative use of water resources for domestic and landscaping uses, and to encourage the use of drought tolerant planting materials, the General Plan EIR determined that General Plan buildout would contribute to a cumulative reduction in groundwater in the Basin. (DEIR 4.3.2(c).)

  However, with continued implementation of the Adjudication Judgment and the conservation efforts described above for compliance with local and State regulations, the change in system ownership that would occur under the proposed Project is not expected to contribute to cumulative impacts to groundwater supply reliability. The Project itself would not contribute to future increases in water supply demand, and its contribution to cumulative impacts in relation to groundwater supplies would not be considerable. Therefore, the proposed Project's contribution to cumulative impacts associated with water supply and water quality would not be cumulatively considerable. (DEIR 4.3.2(c).)

Land Use and Planning

- *Cumulative Land Use and Planning Impacts* (DEIR 4.4.2(c).)

  a. Impact: The proposed Project would not result in any cumulatively considerable land use and planning impacts. (DEIR 4.4.2(c).)

  b. Supporting Explanation: The General Plan EIR found that development of new residential, commercial and industrial projects within the General Plan and annexation areas will be consistent with that which has occurred in Town in the past, due to the policies and programs in the General Plan and that impacts associated with land use would not be cumulatively significant. The exception to this was the intensity of development in Annexation 2008-001, which was determined to be significantly different from that which has occurred to-date, or which is planned under the County General Plan, resulting in a cumulatively significant land use impact. (DEIR 4.4.2(c).)

     However, the proposed Project's contribution to cumulative land use impacts would not be cumulatively considerable as it would not alter any land use designations nor conflict with land use plans, policies, or regulations. The Apple Valley General Plan does not prohibit or restrict the Project. The proposed Project may assist in furthering the policies set forth in the General Plan and assist in their implementation. (DEIR 4.4.2(c).)

Noise

- *Cumulative Noise Impacts* (DEIR 4.5.2(c).)

  a. Impact: The proposed Project would not result in any cumulatively considerable noise impacts. (DEIR 4.5.2(c).)

  b. Supporting Explanation: The General Plan EIR determined that increased traffic volumes within the Town and surrounding areas would result in the most significant noise impacts, with the most impacted areas expected to be lands adjacent to major arterials and regional roadways, which carry the highest traffic volumes. The General Plan EIR determined that the cumulative noise impact would not be significant as the General Plan includes a wide range of policies and programs which, when implemented, would reduce potential noise impacts to less than significant levels. (DEIR 4.5.2(c).)

In addition, because the proposed Project would make no noticeable contribution to noise or vibration, it would also make no noticeable contribution to cumulative noise and vibration both in proximity to the Apple Valley Ranchos Water Company O&M facility and throughout the wider Project area. Therefore, the proposed Project's cumulative contribution to cumulative noise and vibration in the Project area and its immediate vicinity would not be cumulatively considerable. (DEIR 4.5.2(c).)

Transportation/Traffic

- *Cumulative Transportation/Traffic Impacts* (DEIR 4.6.2(c).)

  a. Impact: The proposed Project would not result in cumulatively considerable impacts to transportation or traffic. (DEIR 4.6.2(c).)

  b. Supporting Explanation: Cumulative development in Apple Valley and surrounding jurisdictions would add residential and non-residential development and resulting traffic to local roads and intersections. The EIR for the Town's General Plan includes a region-based analysis of potential traffic impacts to roadways and intersections in the Town as a result of full buildout of the General Plan as well as development under the General Plans of the surrounding jurisdictions. This analysis considers both projected increases in traffic as well as proposed improvements to the circulation system. The analysis found that under the cumulative development scenario, required levels of service would be maintained at all intersections except Dale Evans Parkway and Corwin Road, which would operate at LOS E at buildout during the AM peak without future mitigation from development in the area. However, the General Plan requires that all intersections operate at LOS D or better and that mitigation be incorporated for any new development that would potentially contribute to a loss of service at an impacted intersection; therefore, this intersection would be maintained at an acceptable level of service. The one intersection that is currently operating below LOS D, Kiowa Road at Sitting Bull Road, is projected to improve to LOS C during the AM and PM peak hours under full buildout of the General Plan. Additionally, the Town is currently planning to construct a traffic signal at this intersection, using funds from the Town's fair share fee program as new development is approved in the vicinity of the intersection. (DEIR 4.6.2(c).)

  As no new development would occur as a result of the proposed Project, it would contribute the same number of vehicle trips to the local road network as under existing conditions. Therefore, it would not contribute any additional traffic to these intersections or any other intersections or roadways in the town. Thus, the proposed Project would

not result in a cumulatively considerable contribution to cumulatively significant traffic impacts under either existing or future conditions in the Project area. (DEIR 4.6.2(c).)

Utilities and Service Systems

- *Cumulative Utilities and Service System Impacts* (DEIR 4.7.2(c).)

  a. Impact: The proposed Project would not result in cumulatively considerable impacts to the following utilities and service systems: water, wastewater and stormwater conveyance. (DEIR 4.7.2(c).)

  b. Supporting Explanation: Cumulative development in the Project area would add residential and non-residential development to the Project area, as discussed below by impact area. (DEIR 4.7.2(c).)

  Water. Cumulative buildout in the Project area could introduce new and expanded water demands. These future water demands, including development projections based on allowable land uses in the Project area, are accounted for in the current 2010 UWMP, which estimates that the AVR System's service area will grow at a rate of just over two percent per year from 2010 through 2035 (Apple Valley Ranchos Water Company, 2010). The 2010 UWMP determined that there is adequate water supply to the Project area to meet demands through 2035, including under varying climatic (drought) conditions. As development in the Project area expands as predicted, it will become necessary to add additional connections to the existing water system. The exact location and connection would need to be determined at the time development is proposed, and would be subject to subsequent environmental review. Compliance with Municipal Code and General Plan policies (including those listed above) would ensure that future connections to the water system are appropriately planned, designed, and implemented to avoid adverse effects. As discussed, the proposed Project would not contribute to future increases in demand for water in the Project area; future increased water demands would occur as a result of cumulative developments, regardless of the proposed Project, i.e. transfer of ownership of the AVR System. Therefore, the proposed Project's contribution to cumulative impacts to water supply and water conveyance facilities would not be cumulatively significant. (DEIR 4.7.2(c).)

  Wastewater. Similar to how future cumulative development in the Project area could increase water demands, wastewater generation may also increase, thereby introducing a need for new wastewater conveyance facilities. The Town of Apple Valley maintains its sewer system per a

Sewer System Master Plan Update, which includes a "Long-Term Routine Maintenance Program" including specifications for testing, inspections, and repairs, and also accounting for projected growth in the area. The Sewer System Master Plan Update considered land use data from the 2009 Apple Valley General Plan and local Specific Plans that would be served by the Town in order to generate future flow predictions and buildout requirements. Based on the modeling results, hydraulic deficiencies for the projected growth were identified, and the need for new pipes to support growth projections was identified. Future upgrades to existing wastewater facilities would become necessary regardless of the transfer of water system ownership that would occur under the proposed Project. Compliance with Municipal Code and General Plan policies (including those listed above) would ensure that future connections to the wastewater system are appropriately planned, designed, and implemented to avoid adverse effects. The proposed Project would not contribute to any future increases in the need for wastewater treatment or conveyance. Therefore, the proposed Project's contribution to cumulative impacts to wastewater treatment and conveyance facilities would not be cumulatively considerable. (DEIR 4.7.2(c).)

Stormwater Conveyance. Cumulative development resulting from buildout in the Project area could increase the amount of impervious surfaces and increase the rate and quantity of stormwater runoff. Individual developments would be required to incorporate appropriate drainage systems, in compliance with Municipal Code and General Plan policies. It is anticipated that future development in the Project area would utilize existing stormwater conveyance infrastructure in the Project area. The Apple Valley Master Plan of Drainage included in the 2009 Apple Valley General Plan (Chapter IV, Environmental Hazards) specifies future planned upgrades to the area's existing stormwater drainage facilities; as with water and wastewater facilities, stormwater drainage facilities in the Project area would be expanded and upgraded regardless of the water system ownership transfer that would occur under the proposed Project. As discussed above, the proposed Project would not contribute to demands on stormwater conveyance infrastructure; therefore, the proposed Project's contribution to cumulative impacts to stormwater infrastructure would not be cumulatively considerable. (DEIR 4.7.2(c).)

Thus, the proposed Project would not result in cumulatively considerable impacts to the following utilities and service systems: water, wastewater and stormwater conveyance. (DEIR 4.7.2(c).)

SECTION 4

FINDINGS REGARDING SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES AND ENERGY USE

Significant Irreversible Environmental Changes

The State CEQA Guidelines require that EIRs reveal the significant environmental changes that would occur as a result of a proposed project. CEQA also requires decision makers to balance the benefits of a project against its unavoidable environmental risks in determining whether to approve a project. This section addresses non-renewable resources, the commitment of future generations to the proposed uses, and irreversible impacts associated with the Project. (DEIR 5.2.)

The proposed Project would not require construction of new or expanded water treatment or distribution facilities. As part of the proposed Project, employees engaged in operation and maintenance of the water system would be based at the existing O&M facility located at 21760 Ottawa Road. The same sized staff would be utilized, including approximately 20 office workers and 19 technical and field staff. Expansion of facilities or staff to accommodate operations and maintenance activities is not anticipated; therefore, the use of more than minor amounts of building materials and energy, some of which are non-renewable resources, would not occur. Increasingly efficient building fixtures and automobile engines are expected to offset any incremental increase in demand for non-renewable energy resources, such as petroleum and natural gas, which could result due to the presence of additional employees at the operations and maintenance facility, in the unlikely event that is required. As further discussed below, it is not anticipated that the proposed Project would significantly affect local or regional energy supplies.

As described above, the water system would be operated out of the existing O&M facility at 21760 Ottawa Road, and there would be little to no change in the length, distribution, or number of vehicle trips required to operate and maintain the system. The Project would therefore not incrementally increase local traffic, noise levels and regional air pollutant emissions. In addition, the proposed Project would not result in an increase in air emissions from operation or maintenance activities. Moreover, no increased noise levels from traffic noise associated with the proposed Project would occur or expose sensitive receptors to noise levels exceeding applicable standards. No impacts related to additional vehicle trips would occur.

Energy Use

Effects on Energy Consumption from Land Use Locations and Patterns. The proposed Project would not require construction of new facilities or infrastructure to facilitate transfer of ownership of the system from AVRWC to the Town. Therefore, the Project would not result in a change in land use or development of new structures. Following the proposed acquisition, the Town would continue to operate the AVR System and typical, ongoing operations and maintenance activities would be required, similar to if the system remained in AVRWC ownership. Operation and maintenance of the existing water system would utilize the existing operations and maintenance facility at 21760 Ottawa Road and therefore, in addition to not generating new trips associated with operation and maintenance of the system, the Project also would not alter the distribution or duration of vehicle trips to or from the operations and maintenance facility. No increased energy demand would result from implementation of the proposed Project. (DEIR 5.3.)

Increased Energy Demand and Need for Additional Energy Infrastructure. As shown above, implementation of the proposed Project would not increase energy demand associated with vehicle trips or other factors associated with operation and maintenance of the water system. Therefore, the Project would not require new construction and operation of energy-related facilities. As a result, no impacts associated with a need for new systems or substantial alterations to energy systems would occur. (DEIR 5.3.)

SECTION 5

GROWTH-INDUCING IMPACTS

Section 15126(d) of the State CEQA Guidelines requires a discussion of a proposed project's potential to foster economic or population growth, including ways in which a project could remove an obstacle to growth. Growth does not necessarily create significant physical changes to the environment. However, depending upon the type, magnitude, and location of growth, it can result in significant adverse environmental effects if it requires new development or infrastructure to support it. The proposed Project's growth-inducing effects would be considered significant if they could result in significant physical effects in one or more environmental resource areas. (DEIR 5.1.)

Economic and Population Growth. As discussed above, the proposed Project involves the Town's acquisition of the AVR System, as well as the operation and maintenance of the water system by the Town. These actions in and of themselves would not directly have any economic or growth-inducing effects, as

they would not alter the area or number of customers served by the water system. However, one of the objectives of the proposed Project is to provide greater local control over the water rate-setting process in order to control the pace of future rate increases. Theoretically, if long-range water rates are reduced or, in the more likely scenario, the pace of rate increases is slowed, customers of the water system would save money and be able to spend that money in other ways, thus producing a beneficial impact on the local economy. However, the proposed Project would not change zoning or land use designations or provide new facilities that would accommodate an increased population; therefore, the Project would not induce substantial population growth, including in the unlikely event of a reduction in water rates. This conclusion is supported by determinations made in the Initial Study included as Appendix A to the Draft EIR. (DEIR 5.1.)

The Initial Study also concluded that the potential for the proposed Project to result in a substantial change in employment within the Town of Apple Valley or surrounding areas beyond employment already provided by the AVRWC would be minimal because no new facilities would be developed as part of the Project. Therefore, any local employment growth generated by the proposed Project would not be expected to draw a significant number of new employees to the community. (DEIR 5.1.)

Removal of Obstacles to Growth. As discussed above, the proposed Project involves the Town's acquisition of the AVRWC water system, and subsequent operation and maintenance of the water system by the Town. As further discussed above, no expansion of the water system facilities is proposed and thus the Project would not induce growth that would not otherwise occur in areas not previously served by municipal water supplies. While one of the Project's objectives is to provide greater local control over the rate setting process and rate increases, that does not necessarily translate into higher usage and demand because there are other regulatory controls in place that encourage users to conserve water. Environmental impacts resulting from the proposed Project have been determined to be less than significant and the proposed Project would not induce growth or remove any obstacles to growth because it would not require new or expanded facilities such as water or wastewater treatment plants, or require procurement of additional water supplies beyond what is currently occurring under the existing ownership. The proposed Project would therefore not have any significant effect from removing obstacles to growth. (DEIR 5.1.2.)

SECTION 6

ALTERNATIVES

A. Background

The evaluation of environmental impacts in the Draft EIR concluded that the proposed Project would not result in temporary or permanent significant and unavoidable effects for any of the environmental issue areas identified in Appendix G of the State CEQA Guidelines. However, a range of potentially feasible alternatives to the proposed Project was developed to provide additional information and flexibility to the decision-makers when considering the proposed Project. (DEIR 6.)

Where significant impacts are identified, section 15126.6 of the State CEQA Guidelines requires EIRs to consider and discuss alternatives to the proposed actions. Subsection (a) states:

> (a) An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

Subsection 15126.6(b) states the purpose of the alternatives analysis:

> (b) Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

In subsection 15126.6(c), the State CEQA Guidelines describe the selection process for a range of reasonable alternatives:

(c) The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the Project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination. Additional information explaining the choice of alternatives may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.

The range of alternatives required is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed Project. Alternatives are limited to ones that would avoid or substantially lessen any of the significant effects of the Project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the Project.

However, when a project would not result in any significant and unavoidable impacts, the lead agency has no obligation to consider the feasibility of alternatives to lessen or avoid environmental impacts, even if the alternative would reduce the impact to a greater degree than the proposed Project. (Pub. Res. Code § 21002; *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 521; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 730-731; *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 400-403.)

Again, the analysis of alternatives set forth in this section are intended to provide additional information and flexibility to the decision-makers when considering the proposed Project. (DEIR 6.)

B. The Project Objectives

The following objectives have been established for the Project (DEIR 2.6, 6):

1. Allow the Town to independently own and operate a water production and distribution system;

2. Provide for greater transparency and accountability, as well as increased customer service and reliability;

3. Enhance customer service and responsiveness to Apple Valley customers;

4. Provide greater local control over the rate setting process and rate increases;

5. Provide direct access to locally elected policy makers for the water operations;

6. Allow the Town to pursue grant funding and other types of financing for any future infrastructure needs, including grants and financing options which the CPUC does not allow private company to include in their rate base (such that private companies do not pursue advanced planning and investment for infrastructure);

7. Ensure better coordination amongst Town decisions involving land use, emergency services, policy, the location and need for capital improvements, and overall planning in the water context; and

8. Enable the Town to use reclaimed water for public facilities without invoking potential duplication of service issues with AVRWC.

The evaluation of environmental impacts in Chapter 4.0, Environmental Impact Analysis, of the Draft EIR concludes that the proposed Project would not result in any temporary or permanent significant and unavoidable effects for any of the environmental issue areas identified in Appendix G of the State CEQA Guidelines. However, a range of potentially feasible alternatives to the proposed Project was developed to provide additional information and flexibility to the decision-makers when considering the proposed Project. (DEIR 6.)

The following alternatives are evaluated in this EIR:

1. Alternative 1: No Project

2. Alternative 2: Alternative Operator – City of Victorville

3. Alternative 3: Alternative Operator – City of Hesperia

4. Alternative 4: Operated by Apple Valley, Alternative O&M Facility

A more detailed description of the alternatives is included in the impact analysis for each alternative. As required by CEQA, this section also includes a discussion of the "environmentally superior alternative" among those studied.

Finally, the EIR considers the whole of the action (i.e., the Project) as proposed by the Town, but also considers alternatives involving operation of the system by other public agencies and by the Town from an alternative location. This is a reasonable range of alternatives meeting CEQA's requirements. Nonetheless, while the Town fully anticipates operating the proposed Project, one option available to the Town is to subcontract operation of the AVR System to a private party. If this option were to be pursued, it is anticipated that the impacts from a private operator would be similar to the type and magnitude of impacts associated with the proposed Project, if the AVR System continued to be operated from the current O&M facility. This is mainly because the operation and maintenance activities associated with the AVR System are currently part of the existing environmental condition. If a private operator were to relocate the base for maintenance and operation activities to an alternate facility, impacts would likely be of similar type and magnitude as for Alternatives 2 and 3, described below. Given that under any of these scenarios the Town would maintain ownership and thus final approval authority over the system, this option would also be consistent with the proposed Project objectives.

C. Evaluation of Alternatives Selected for Analysis

1. Alternative 1: No Project

Description: The No Project alternative assumes that the proposed acquisition of the AVR Water System by the Town would not occur. Under this alternative, AVRWC would continue to operate and maintain the system from its existing facilities. The No Project Alternative would not achieve any of the project objectives because it would not allow the Town to independently own and operate a water system, provide greater local control over the system and the rate setting process, enhance customer service and responsiveness, allow the Town to pursue grant funding related to operation of a water system, ensure better coordination amongst Town decisions involving land use, emergency services, policy, the location and need for capital improvements and overall planning in the water context, enable the Town to use reclaimed water for public facilities without duplicating service issues with AVRWC, or improve public transparency and accountability. (DEIR 6.1.1.)

Finding: Although findings rejecting alternatives in favor of the Project are not required because the Project as proposed would not result in any significant and unavoidable impacts (Pub. Res. Code § 21002), for the reasons set forth below in the Environmental Analysis and Supporting Explanation, and as discussed

further in the Draft EIR, the Town Council hereby rejects the No Project Alternative because it would not attain any of the Project's basic objectives (DEIR 6). (State CEQA Guidelines § 15126.6(c)(i).)

Environmental Analysis: The No Project alternative would maintain the current ownership and operational regime for the AVR System. In reality the less than significant impacts under Air Quality, Greenhouse Gas Emissions, Noise and Transportation/Traffic under the proposed Project, would be the same as under existing conditions (i.e. the No Project Alternative), since no change in operation or maintenance activities would occur. No change in demand for groundwater supplies would occur. While this alternative would not conflict with current General Plan policies, it also would not assist in the pursuit of some of the policies provided in the General Plan by reducing the coordination required on water issues. Therefore, the No Project alternative would be slightly worse than the proposed Project in relation to land use, although any land use impact resulting from the No Project alternative would remain less than significant.

Supporting Explanation

Avoid or Substantially Lessen Project Impacts. As stated in the Environmental Analysis of the No Project Alternative above and in the Draft EIR (DEIR 6.1.1), the alternative would reduce the already less than significant impacts of the Project.

Attainment of Project Objectives. The No Project Alternative would not achieve any of the project objectives because it would not provide greater local control over the system and the rate setting process, enhance customer service and responsiveness or improve public transparency and accountability. (DEIR 6.1.1.)

Comparative Merits. Compared to the proposed Project, the No Project Alternative would not avoid certain impacts, although already less than significant, because it would not alter where hazardous materials and wastes are transported or handled from current conditions and no change in impacts to demand for groundwater would occur. The No Project Alternative would, however, avoid all other impacts resulting from relocation of operation and maintenance activities; but these impacts for the Project are less than significant. Further, this alternative would not achieve any of the Project objectives.

Therefore, the Town Council hereby rejects this No Project Alternative.

2. Alternative 2: Alternative Operator – City of Victorville

Description: Alternative 2 (Alternative Operator – City of Victorville) assumes that the proposed acquisition of the AVR System by the Town would

proceed but that the City of Victorville Public Works Department would be contracted to operate and maintain the System. The assumed location where these operations and maintenance activities would be based is the City of Victorville Public Works Yard located at 14177 Mc Art Road in Victorville; located approximate four miles from the western border of the AVR System Service Area. The size of the system and the associated infrastructure would be the same as under the proposed Project and no substantial construction would occur. Therefore, the number of vehicle trips required to operate the system as well as the timing of those trips from the Victorville Public Works Yard are assumed to be the same as if the system were operated by the Town of Apple Valley. This alternative would achieve all of the stated project objectives, with the exception of the objective to operate the system listed in Objective 1. (DEIR 6.2.1.)

Finding: Alternative 2 would have slightly greater impacts than the proposed Project with respect to air quality and greenhouse gas emissions, and would be similar to the Project in all other impact categories. (DEIR 6.2.2.) Further, Alternative 2 would achieve most of the basic Project objectives. (DEIR 6.2.2)

Supporting Explanation:

Air Quality. Alternative 2 would relocate operations and maintenance activities to a location outside Apple Valley, potentially leading to an increase in vehicular trip length and distribution, and therefore also lead to an increase in mobile source emissions. The Victorville Public Works Yard is located approximately four miles from the AVR System's western boundary. The existing AVR System O&M Facility is located within the AVR System Service Area and is the current base for existing operations and maintenance activities. In order to operate the system from the Victorville Public Works Yard an estimated additional 79,040 annual vehicle miles travelled would be required to operate the AVR System from Victorville. This is based on the distance from the western boundary of the system to the Victorville Public Works Yard and assumes that each of the 19 field staff would make two service calls to and from the Public Works Yard per day. Mileage traveled within the service area is excluded to account for the fact that those trips are already occurring, as discussed in Section 4.1 of the Draft EIR, Air Quality, as is mileage generated by employees traveling to and from their residences. The greater distance of the Victorville Public Works Yard to the AVR System service area would therefore potentially increase vehicle miles traveled (VMT) associated with operations and maintenance activities when compared to the proposed Project, resulting in an incremental increase in associated air quality emissions from mobile sources.

Impacts to air quality would therefore be greater than from the proposed Project.

Greenhouse Gas Emission. Alternative 2 would potentially increase the VMT associated with operation and maintenance of the AVR System, given the greater distance of the Victorville Public Works Yard to the AVR System service system. Therefore, impacts would increase when compared to the proposed Project, but would remain less than significant given the minor increase in distance that would occur under Alternative 2. (DEIR 6.2.2.)

Hydrology and Water Quality. No new facilities are proposed as part of Alternative 2; therefore, an increase in impermeable surfaces within the Project area would not occur and thus there would be no reduction in groundwater recharge, similar to the proposed Project. (DEIR 6.2.2.)

As in the case of the Town of Apple Valley, if Victorville were contracted to operate and maintain the AVR System it is anticipated that DMMs would be implemented for the AVR System and that continued improvements in conservation would be achieved even if rates charged are less than would have been charged by Apple Valley Ranchos Water Company. Thus, the requirement to comply with the mandated reduction of the California Water Conservation Act will drive a reduction in water use throughout the AVR System, even if the price charged for water is less than under AVRWC ownership. As a result, increased demand for groundwater supplies would not occur as a result of Alternative 2 and impacts would be less than significant, similar to the proposed Project. (DEIR 6.2.2.)

Land Use. Similar to the proposed Project, this alternative would involve operation and maintenance of an existing water supply system. As such, it would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect. This impact would be less than significant, similar to the proposed Project. (DEIR 6.2.2.)

Noise. Alternative 2 could increase traffic and associated noise levels along area roadways in and around the Project area, including in the vicinity of the City of Victorville Public Works Yard, potentially exposing existing and future land uses to increased noise. The estimated number of trips leaving or entering the site during the peak hour is 58 (20 office employees and 19 field staff arriving for work; 19 field staff leaving for service calls) of the estimated ADT of 154. Given the minimal number of trips associated with operation of the system relative to the level of existing traffic along most roadways in the Project area, increases in noise levels associated with Alternative 2 would not be noticeable, and would therefore not expose sensitive receptors to noise levels exceeding applicable standards in the Town of Apple Valley, City of Victorville or surrounding area.

Impacts would therefore be less than significant, though slightly greater than the proposed Project. (DEIR 6.2.2.)

Transportation/Traffic. Implementation of Alternative 2 would contribute trips to the local street network. It should be noted that while these trips would be slightly longer, they would not be "new" trips, but instead would be trips redistributed along the network due to the relocation of operation and maintenance activities to the Victorville Public Works Yard. Conservatively assuming that all trips associated with operation of the system are in fact new, Alternative 2 would contribute no more than 58 trips at any one intersection in each of the peak hours, which equates to approximately one trip every minute. Similar to the proposed Project, this minor increase in trip volume along area roadways would not be anticipated to degrade LOS at any intersection. Impacts would therefore be less than significant, similar to proposed Project. (DEIR 6.2.2.)

Utilities and Service Systems. Operation and maintenance of the system by the City of Victorville would not result in alterations to the service provided or the number of connections to the system. In addition, in the unlikely event water rates are reduced when compared to the current rates charged by AVR System, this would not be expected to result in an increase in demand on the water supply as discussed above under Hydrology and Water Quality. Therefore, implementation of Alternative 2 would not result in a commensurate increase in demand for wastewater treatment or need for an increase in capacity of the stormwater conveyance. Impacts would therefore be less than significant, similar to the proposed Project. (DEIR 6.2.2.)

3. Alternative 3: Alternative Operator – City of Hesperia

Description: Alternative 3 (Alternative Operator – City of Hesperia) assumes that the proposed acquisition of the AVR System by the Town would proceed but that the Town would not operate and maintain the system. Instead the City of Hesperia Public Works Department would be contracted to operate and maintain the system. The assumed location for operations and maintenance activities to be based would be the City of Hesperia Public Works Yard located at 17282 Mojave St, Hesperia approximately three miles from the southwestern border of the AVR System service area (see DEIR Figure 6-1). The size of the system and the associated infrastructure would be the same as under the proposed Project and no substantial construction would occur. Therefore, the number of vehicle trips required to operate the system as well as the timing of those trips from the Hesperia Public Works Yard are assumed to be the same as if the system were operated by the Town of Apple Valley, as described in Section 2.0 of the Draft EIR, Project Description. This alternative would achieve all of the

stated project objectives, except the objective to operate the system. (DEIR 6.3.1.)

Finding: Alternative 3 would have slightly increased impacts to the less than significant impacts of the Project with respect to air quality and greenhouse gas emissions, and would be similar to the Project in all other impact categories. All impacts would remain less than significant. Further, Alternative 3 would achieve most of the basic Project objectives. (DEIR 6.3.2.)

Supporting Explanation:

Air Quality. The comparison of the environmental impacts of Alternative 3 to those of the proposed Project are presented below. To be clear, none of the potential environmental impacts resulting from the proposed Project or from Alternative 3 would be significant. Instead, and although Alternative 3 has environmental impacts that may be slightly greater or less than those of the proposed Project, all of the impacts of Alternative 3 are fully analyzed in this Draft EIR and would remain less than significant.

Alternative 3 would relocate operations and maintenance activities to a location outside Apple Valley, potentially leading to an increase in vehicular trip length and distribution, and therefore also lead to an increase in mobile source emissions. The Hesperia Public Works Yard, located at 17282 Mojave St, is located approximately three miles from the southwestern border of the AVR System service area. The existing AVR System O&M Facility is located within the AVR System Service area and is the current base for existing operations and maintenance activities. In order to operate the system from the Hesperia Public Works Yard an estimated additional 59,280 annual vehicle miles travelled would be required to operate the AVR System from Hesperia. This is based on the distance from the southwestern boundary of the system to the Hesperia Public Works Yard and assumes that each of the 19 field staff would make two service calls to and from the Public Works Yard per day. Mileage traveled within the service area was excluded to account for the fact that those trips are already occurring, as discussed above, as is mileage generated by employees traveling to and from their residences. The greater distance of the Hesperia Public Works Yard to the AVR System service area would potentially increase vehicle miles traveled (VMT) associated with operations and maintenance activities when compared to the proposed Project, resulting in an incremental increase in associated air quality emissions from mobile sources. As discussed in Section 4.1 of the Draft EIR, Air Quality, not all of the trips associated with operations and maintenance activities would be new, but instead would be redistributed trips that are currently being generated during operation and maintenance of the system by AVRWC. (DEIR 6.1.2.)

Impacts to air quality would therefore be greater than from the proposed Project. (DEIR 6.1.2.)

Greenhouse Gas Emission. Alternative 3 would potentially increase the VMT associated with operation and maintenance of the AVR System, given the increase in distance between the Hesperia Public Works Yard and the AVR System service area. Therefore, impacts would increase when compared to the proposed Project, but would remain less than significant given the minor increase in distance that would occur under Alternative 3. (DEIR 6.1.2(a).)

Similar to the proposed Project, this alternative would involve operation and maintenance of an existing water supply system. As such, it would not conflict with California GHG reduction goals, or any applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. This impact would be less than significant, similar to the proposed Project. (DEIR 6.1.2(a).)

Hydrology and Water Quality. No new facilities are proposed as part of Alternative 3; therefore, an increase in impermeable surfaces within the Project area would not occur and thus there would be no reduction in groundwater recharge, similar to the proposed Project. (DEIR 6.1.2(b).)

Similar to the Town of Apple Valley, should Hesperia be contracted to operate and maintain the AVR System it is anticipated that DMMs would be implemented for the AVR System and that continued improvements in conservation would be achieved even if rates charged are less than would have been charged by AVRWC. Thus, the requirement to comply with the mandated reduction of the California Water Conservation Act will drive a reduction in water use throughout the AVR System, even if the price charged for water is less than under AVRWC ownership. As a result, increased demand for groundwater supplies would not occur as a result of Alternative 3 and impacts would be less than significant, similar to the proposed Project. (DEIR 6.1.2(b).)

Land Use. Similar to the proposed Project, this alternative would involve operation and maintenance of an existing water supply system. As such, it would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect. This impact would be less than significant, similar to the proposed Project. (DEIR 6.1.2(c).)

Noise. Alternative 3 could increase traffic and associated noise levels along area roadways in and around the Project area, in particular in the vicinity of the City of Hesperia Public Works Yard, potentially exposing existing and future land uses to increased noise. The estimated number of trips leaving or entering the site during the peak hour is 58 (20 office employees and 19 field staff arriving for

work; 19 field staff leaving for service calls) of the estimated ADT of 154; equating to approximately one trip every minute during the peak hour only. Given the minimal number of trips associated with operation of the system relative to the level of existing traffic along most roadways in the Project area, increases in noise levels associated with Alternative 3 would not be noticeable, and would therefore not expose sensitive receptors to noise levels exceeding applicable standards in the Town of Apple Valley, City of Hesperia or surrounding area. Impacts would therefore be less than significant, though slightly greater than the proposed Project. (DEIR 6.1.2(d).)

Transportation/Traffic. Implementation of Alternative 3 would contribute trips to the local street network. It should be noted that while these trips would be slightly longer, these would not be "new" trips but rather trips redistributed along the network due to the relocation of operation and maintenance activities to the Hesperia Public Works Yard. Conservatively assuming that all trips associated with operation of the system are in fact new, Alternative 3 would contribute no more than 58 trips at any one intersection in each of the peak hours, which equates to approximately one trip every minute. Similar to the proposed Project, this minor increase in trip volume along area roadways would not be anticipated to degrade LOS at any intersection. Impacts would therefore be less than significant, similar to proposed Project. (DEIR 6.1.2(e).)

Utilities and Service Systems. Operation and maintenance of the system by the City of Hesperia would not result in alterations to the service provided or the number of connections to the system. In addition, in the unlikely event water rates are reduced when compared to the current rates charged by the AVR System, this would not be expected to result in an increase in demand on the water supply as discussed above under Hydrology and Water Quality. Therefore, implementation of Alternative 3 would not result in a commensurate increase in demand for wastewater treatment or need for an increase in capacity of the stormwater conveyance. Impacts would therefore be less than significant, similar to the proposed Project.

Attainment of Project Objectives. As the alternative includes only a change in operator of the Project, the alternative would still achieve most of the basic Project objectives.

Alternative 4: Alternative Operator – Operated by Apple Valley at an Alternate O&M Facility

Description: Alternative 4 (Operated by Apple Valley at an Alternate O&M Facility) assumes that the proposed acquisition of the AVR System by the Town of Apple Valley would proceed and the Town would operate and maintain the system. However, under this alternative rather than continuing to use the current

AVR System O&M facility as the base for all operations and maintenance activities, the majority of these would be relocated to the Town of Apple Valley Public Works Yard located at 13450 Nomwaket Road (see DEIR Figure 6-1). The only exception would be for equipment and material storage, which would continue at the existing AVR System O&M facility. The size of the system and the associated infrastructure would be the same as under the proposed Project and construction of new or expanded facilities would not be required to facilitate the proposed Project. Therefore, the number of vehicle trips required to operate the system as well as the timing of those trips are assumed to be the same as if the system were operated by the Town out of the AVR System O&M facility, as described in Section 2.0 of the Draft EIR, Project Description. This alternative would achieve all of the stated project objectives. (DEIR 6.4.1.)

Finding: Alternative 4 would be similar to the Project in all impact categories. (DEIR 6.4.2.) Further, Alternative 4 would achieve the Project objectives. (DEIR 6.4.2.)

Supporting Explanation:

Air Quality. Similar to the proposed Project, Alternative 4 would maintain operations and maintenance activities within the AVR System service area. Because these activities would remain within the service area, trips associated with operations and maintenance activities are currently part of the existing baseline. While some redistribution of trips within the service area would occur these trips would not be “new”, but instead would be redistributed trips that are currently being generated during operation and maintenance of the system by AVRWC. This would result in a broadly similar number of miles traveled (VMT) associated with operations and maintenance activities when compared to the proposed Project; therefore, no new air emissions from mobile sources would be generated. (DEIR 6.4.2(a).)

Impacts to air quality would therefore be less than significant, similar to the proposed Project. (DEIR 6.4.2(a).)

Greenhouse Gas Emission. Alternative 4 would result in a similar number of VMT associated with operation and maintenance of the AVR System as the proposed Project, given the fact that the operations and maintenance activities would be based out of a location within the AVR System service area. As discussed in Section 4.2 of the Draft EIR, Greenhouse Gas Emissions, these are part of the current baseline since mobile trips associated with operation of the AVR System currently occur. Therefore, impacts would be similar to the proposed Project, and would remain less than significant. (DEIR 6.4.2(b).)

Similar to the proposed Project, this alternative would involve operation and maintenance of an existing water supply system. As such, it would not conflict with California GHG reduction goals, or any applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. This impact would be less than significant, similar to the proposed Project. (DEIR 6.4.2(b).)

Hydrology and Water Quality. No new facilities are proposed as part of Alternative 4; therefore, an increase in impermeable surfaces within the Project area would not occur and thus there would be no reduction in groundwater recharge, similar to the proposed Project. (DEIR 6.4.2(c).)

Similar to the proposed Project, should the Town of Apple Valley operate the system out of an alternate location, it is anticipated that DMMs would be implemented for the AVR System and that continued improvements in conservation would be achieved even if rates charged are less than would have been charged by AVRWC. Thus, the requirement to comply with the mandated reduction of the California Water Conservation Act will drive a reduction in water use throughout the AVR System, even if the price charged for water is less than under AVRWC ownership. As a result, increased demand for groundwater supplies would not occur as a result of Alternative 4 and impacts would be less than significant, similar to the proposed Project. (DEIR 6.4.2(c).)

Land Use. Similar to the proposed Project, this alternative would involve operation and maintenance of an existing water supply system. As such, it would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect. This impact would be less than significant, similar to the proposed Project. (DEIR 6.4.2(d).)

Noise. Alternative 4 could potentially redistribute traffic and associated noise levels along area roadways in and around the Project area, including the vicinity of the Apple Valley Public Works Yard, potentially exposing existing and future land uses to localized increases in noise. The maximum estimated number of trips leaving or entering the site during the peak hour is 58 (20 office employees and 19 field staff arriving for work; 19 field staff leaving for service calls) of the estimated ADT of 154; equating to approximately one trip every minute. However, in the case of the alternative, the number could be less given that some employees may travel directly to the existing AVR System O&M facility rather than to the Apple Valley Public Works Yard. In either case, given the minimal number of trips associated with operation of the system relative to the level of existing traffic along most roadways in the Project area, increases in noise levels associated with Alternative 4 would not be noticeable, and would therefore not expose sensitive receptors to noise levels exceeding applicable

standards in the Town of Apple Valley. Impacts would therefore be less than significant, similar to the proposed Project. (DEIR 6.4.2(e).)

Transportation/Traffic. Implementation of Alternative 4 would redistribute existing trips associated with operation and maintenance of the AVR System along the local street network, due to the relocation of most operation and maintenance activities to the Apple Valley Public Works Yard. Given that these trips would remain within the AVR System service area, little to no increase in VMT is anticipated to occur. Conservatively assuming that all trips associated with operation of the system are in fact new, Alternative 4 would contribute no more than 58 trips at any one intersection in each of the peak hours, which equates to approximately one trip every minute. Similar to the proposed Project, this minor increase in trip volume along area roadways would not be anticipated to degrade LOS at any intersection. Impacts would therefore be less than significant, similar to proposed Project. (DEIR 6.4.2(f).)

Utilities and Service Systems. Similar to the proposed Project, operation and maintenance of the system by the Town would not result in alterations to the service provided or the number of connections to the system. In addition, this alternative would not be expected to result in an increase in demand on the water supply as discussed above under Hydrology and Water Quality. Therefore, implementation of Alternative 4 would not result in a commensurate increase in demand for wastewater treatment or need for an increase in capacity of the stormwater conveyance. Impacts would therefore be less than significant, similar to the proposed Project. (DEIR 6.4.2(g).)

Attainment of Project Objectives. As Alternative 4 includes only a change in Project operator, it would also achieve all of the Project objectives.

4. Environmentally Superior Alternative

Background: CEQA requires that an EIR identify the environmentally superior alternative of a project other than the No Project Alternative (CEQA Guidelines § 15126.6(e)(2).) The lead agency is not required to choose the "environmentally superior" alternative identified in the EIR if the alternative specific legal, social, economic, technological or other considerations make the alternative infeasible. (Pub. Rec. Code § 21080(a)(3); CEQA Guidelines 15091(a)(3).) Public Resources Code section 21081 provides that if one or more significant impacts will not be avoided or substantially lessened by adopting mitigation measures, the environmentally superior alternative must be adopted unless it is infeasible.

Description: The proposed Project is environmentally superior to all of the proposed Project Alternatives. This is because it would slightly reduce the already less than significant impacts to air quality and greenhouse gas emissions

to an even lower level of significance. All other impacts would be similar in magnitude to the proposed Project. (DEIR 6.5.)

Finding: The proposed Project is environmentally superior to the alternatives as it would slightly reduce the already less than significant impacts to air quality and greenhouse gas emissions to an even lower level of significance. However, of the alternatives to the Project, the Town finds that Alternative 4 is environmentally superior.

Supporting Explanation:

No significant impacts would result from implementation of the proposed Project or any of the alternatives considered. Based on the comparison provided in Table 6-1 of the Draft EIR, the proposed Project is considered environmentally superior. Based on the comparison provided in Table 6-1, there is no clearly Environmentally Superior Alternative to the proposed Project; however, of the alternatives considered, Alternative 4 is considered to be Environmentally Superior since it is similar in impact level to the proposed Project for all issue areas analyzed in the EIR. (DEIR 6.5.)

The No Project alternative (Alternative 1) would be similar though slightly less preferable to the proposed Project. This is because this alternative, while consistent with the current land use policy framework, would not provide some of the consistency benefits of the proposed Project. It also would not accomplish any of the objectives of the proposed Project, including: allowing the Town to independently own and operate a water system, providing greater local control over the system and the rate setting process, enhancing customer service and responsiveness, allowing the Town to pursue grant funding related to operation of a water system, ensuring better coordination amongst Town decisions involving land use, emergency services, policy, the location and need for capital improvements, and overall planning in the water context, enabling the Town to use reclaimed water for public facilities without duplicating service issues with AVRWC, or improving public transparency and accountability. (DEIR 6.5.)

CEQA does not require the Town to adopt the environmentally superior alternative. Instead CEQA requires the Town to consider environmentally superior alternatives, explain the considerations that led it to conclude that those alternatives were infeasible from a policy standpoint, weigh those considerations against the environmental impacts of the proposed Project, and make findings that the benefits of those considerations outweighed the harm.

SECTION 7

SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS

CEQA Guidelines § 15126.2, subd. (b) requires that an EIR describe significant impacts where the impacts cannot be alleviated without making it infeasible to achieve Project objectives. Here, the EIR has identified no unavoidable significant adverse impacts from implementing the Project. (DEIR Table ES-1.) Nonetheless, a statement of benefits provided by the Project's implementation is provided below.

The Project will provide, among others, the following benefits (DEIR 1.1):

1. Enhance customer service and responsiveness to Apple Valley customers by allowing the Town to independently own and operate a water production and distribution system;

2. Provide greater local control, transparency, and accountability over the rate setting process and rate increases;

3. Minimize any adverse economic and environmental impacts to the community by allowing the Town to pursue grant funding and other types of financing for any future infrastructure needs, including grants and financing options which the CPUC does not allow private company to include in their rate base (such that private companies do not pursue advanced planning and investment for infrastructure);

4. Maximize coordination amongst Town decisions involving land use, emergency services, policy, the location and need for capital improvements, and overall planning in the water context; and

5. Enable the Town to use reclaimed water for public facilities without invoking potential duplication of service issues with AVRWC.

6. Maximize drought responsiveness and environmental sustainability by allowing the Town to exercise its police powers to adjust land use standards, establish excessive use violations and accompanying fines, and set landscaping requirements.

SECTION 8

CERTIFICATION OF THE EIR

The Town Council hereby finds that it has been presented with the EIR, which it has reviewed and considered, and further finds that the EIR is an accurate and objective statement that has been completed in full compliance with CEQA, the State CEQA Guidelines and the Town's Local CEQA Guidelines and that the EIR reflects the independent judgment and analysis of the Town.

The Town declares that no evidence of new significant impacts or any new information of "substantial importance", as defined by State CEQA Guidelines section 15088.5, has been received by the Town after circulation of the Draft EIR that would require recirculation.

Therefore, the Town hereby certifies the EIR based on the entirety of the record of proceedings, including but not limited to the following findings and conclusions:

A. Findings

As set forth in Section 2, above, the EIR did not disclose any potentially significant or significant and unavoidable impacts.

B. Conclusions

The evaluation of environmental impacts in the DEIR concluded that the proposed Project would not result in temporary or permanent significant and unavoidable effects. However, a range of feasible alternatives to the proposed Project was developed to provide additional information and flexibility to the decision-makers when considering the proposed Project.

Although no significant and unavoidable impacts were identified, Section 7, above, identifies the environmental, economic, social and other considerations and benefits derived from the development of the Project.

SECTION 9

PROJECT APPROVAL

Based upon the entire record before the Town Council, including the above findings and all written evidence presented, the Town Council hereby approves

the Project, namely pursuing the acquisition of and operation of AVRWC's Water System.

SECTION 10

CUSTODIAN OF RECORDS

The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at Apple Valley Town Hall, 14955 Dale Evans Parkway, Apple Valley, California. The custodian for these records is the Assistant Town Manager. This information is provided pursuant to Public Resources Code Section 21081.6.

SECTION 11

NOTICE OF DETERMINATION

Town staff shall cause a Notice of Determination to be filed and posted with the County of San Bernardino Registrar-Recorder/County Clerk and the State Clearinghouse within five (5) working days of the Town's final Project approval.

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

_____
MAYOR

ATTEST:

_____
TOWN CLERK

APPROVED AS TO FORM:

_____
TOWN ATTORNEY

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO) ss

TOWN OF APPLE VALLEY)

I, La Vonda M. Pearson, Town Clerk of the Town of Apple Valley, do hereby certify that the foregoing Resolution Number 2015-42 was duly adopted by the Town Council of the Town of Apple Valley at a scheduled special meeting thereof held on the 17 day of November, 2015 by the following vote:

AYES:

NOES:

ABSENT:

_____

Town Clerk