

RESOLUTION NO. 1083

**A RESOLUTION OF THE CARPINTERIA VALLEY WATER DISTRICT BOARD
OF DIRECTORS, CHANGING FROM AT-LARGE TO BY-DIRECTOR
DIVISION ELECTIONS COMMENCING IN NOVEMBER 2022**

Members of the Board of Directors of the Carpinteria Valley Water District (“Water District” or “District”) are currently elected in “at-large” elections, i.e., elections in which each board member is elected by the registered voters of the entire water district (Elec. Code § 1426(a)(1)); and

WHEREAS, the Water Code authorizes the District to establish by-division elections with the approval of the District’s voters (Wat. Code § 30730 et seq.); and

WHEREAS, the term “by divisions,” ... means election of the directors by voters of the division alone” (Wat. Code § 30730); and

WHEREAS, under certain circumstances Elections Code § 10650 authorizes the Board of Directors by resolution to change the method of election to by-division elections without being required to submit the resolution to the voters for approval; and

WHEREAS, on April 23, 2020, the District received a certified letter from the law firm of Shenkman & Hughes, asserting that the District’s electoral system violates the California Voting Rights Act (“CVRA”) and threatening litigation if the District declined to change voluntarily to a by-division election system for electing board members (“CVRA Demand”); and

WHEREAS, the CVRA states that it was enacted to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution and Carpinteria Valley Water District believes that its current electoral system is consistent with Section 7 of Article I and Section 2 of Article II of the California Constitution, and resulted in the election of candidates including a member of a protected class, who were the chosen candidates of voters who are also members of a protected class as defined in the CVRA; and

WHEREAS, litigation under the CVRA is very expensive, and if the defendant loses, it is required to pay the plaintiff’s reasonable attorneys’ fees and expenses, which in most cases to date have been significantly over a million dollars; and

WHEREAS, the California Legislature, in amendments to Elections Code section 10010 and in Elections Code section 10650, provided a method whereby a special district can change to a by-division election system and be protected from litigation under the CVRA if it acts within particular timeframes; and

WHEREAS, changing to a by-division electoral system pursuant to Elections Code section 10010 would avoid the extraordinary cost to defend against a CVRA lawsuit, even if the District were to prevail in that action; and

WHEREAS, the Carpinteria Valley Water district believes that a by-division electoral system can also be consistent with Section 7 of Article I and Section 2 of Article II of the California Constitution and for that reason wishes to take advantage of the protections provided by Elections Code sections 10010 and 10650; and

WHEREAS, to take advantage of the protection from litigation provided by Elections Code sections 10010 and 10650, at its regular meeting on June 3, 2020, the Board adopted Resolution No. 1076, formally initiating the process of changing the District's method of election to "by-division" elections, and thereafter retained a qualified demographic consultant; and

WHEREAS, Elections Code section 10010 requires five public hearings in connection with the change to by-division elections and special notice periods for draft maps, which process would extend beyond the date when it would be reasonably feasible to implement by-division elections for the November 2020 election for the Board of Directors; and

WHEREAS, the 2020 decennial Census is currently underway, the results of which will be reported in 2021.

WHEREAS, on June 24, 2020 and July 10, 2020, pursuant to California Elections Code Section 10010(a)(1), the Board held public hearings where the public was invited to provide input regarding the composition of the Director Divisions before any draft maps were drawn; and

WHEREAS, on July 15, 2020, the District made public three draft Director Division plans and a proposed sequencing of elections in each plan (the Teal, Violet, and Yellow Maps), prepared by its demographic consultant, which were posted on the District's website at <http://www.cvwd.net/redistricting/>; and

WHEREAS, on July 22, 2020 and August 12, 2020, respectively, pursuant to California Elections Code Section 10010(a)(2), public hearings were held where the public was invited to provide input regarding the content of the draft maps that had been published at least seven (7) days before the meetings, and the proposed sequence of elections, and the Board considered and discussed the same; and

WHEREAS, after the public hearing on August 12, 2020, the Board of Directors requested development of a new map combining elements of the Yellow map and the Teal map; and

WHEREAS, on August 17, 2020, the new map, called the “Magenta Map, was published, along with a proposed sequence of elections, on the District’s webpage for the project; and

WHEREAS, the District engaged in public outreach and engagement as suggested by California Elections Code section 10010(a)(1); and

WHEREAS, at its August 26, 2020 regular public meeting, the Board of Directors held a fifth public hearing after which it adopted the Magenta Map and sequence of elections published therewith; and

WHEREAS, the sequence of elections in the Magenta Map provides an opportunity for the voters in the most Latino portion of the District to have the opportunity to elect a chosen candidate for membership on the Board of Directors at the November 2022 elections, the first elections at which the new by-division electoral system will be used; and

WHEREAS, the Board of Directors will adjust the boundaries of the Director Divisions in accordance with Elections Code section 22000 upon receipt of the 2020 Census tabulations and in connection with that process, members of the public will have additional opportunities to comment on the configuration of the director divisions in the Magenta Map.

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. RECITALS ARE TRUE AND CORRECT.

The above recitals are true and correct and form the basis of this Resolution.

SECTION 2. PURPOSE AND AUTHORITY.

The purpose of this Resolution is, pursuant to California Elections Code section 10010, to change the method for the election of members of the Board of Directors of the Carpinteria Valley Water District from at-large to by-division in five (5) single-member divisions commencing with the 2022 elections for Board of Directors, and thereafter until changed in accordance with law. This Resolution is adopted pursuant to the District’s authority under California Elections Code section 10010 and California Elections Code section 10650.

SECTION 3. BY-DIVISION ELECTORAL SYSTEM FOR FIVE DIRECTORS.

Pursuant to California Elections Code Sections 10010 and 10650, and except as provided in Section 5(a), below, Directors shall be elected by-divisions in five (5)

divisions as that term is defined in California Water Code sections 30730 and 30735, meaning one member of the division shall be elected from each division, by the voters of that division alone commencing with the general District election in November 2022; directors elected by-division shall be voters of the divisions by which they are elected.

SECTION 4. DIVISIONS.

(a) Subject to Subsection (b) of this section, the divisions shall be as reflected in the map attached hereto as Exhibit A, which is incorporated herein by this reference.

(b) In accordance with Elections Code section 22000, after release of the 2020 Census tabulations the District General Manager shall cause the map to reviewed for compliance with all applicable laws including requirements for relatively equal population in the divisions and the federal Voting Rights Act.

(c) If the map is not in compliance with law, the General Manager shall propose to the Board of Directors a process and timeline for making such adjustments to the division boundaries as may be necessary to bring the map into compliance with law. Any such adjustments shall be finalized prior to May 12, 2022 in accordance with Elections Code § 22000(d).

(d) If necessary to facilitate the implementation of this Resolution, the General Manager or his or her designee is authorized to make technical adjustments to the division boundaries that do not substantively affect the populations in the divisions or the eligibility of candidates. The General Manager shall consult with the District General Counsel concerning any technical adjustments deemed necessary and shall advise the Board of Directors of any such adjustments required in the implementation of the divisions.

(e) The divisions specified in subdivision (b) shall continue in effect until they are amended or repealed in accordance with law.

SECTION 5. TERM OF OFFICE AND ELECTIONS

(a) A Director in office at the time this resolution takes effect shall continue in office until the expiration of the full term to which he or she was elected or appointed and until his or her successor is qualified. If vacancies in Director offices elected at-large occur before expiration of the full term thereof, such vacancies may be filled according to law from the District at-large.

(b) Upon expiration of the full term of each Director elected at-large, that Director's successor shall be elected only on a by-division basis in the divisions established by this Resolution, as may be modified in accordance with Section 4(c) of this

Resolution. A vacancy in a Director office elected or appointed by-division shall be filled according to law by a person qualified to hold the office, who lives, and is a registered voter, in the division.

(c) In November 2022, Directors shall be elected for Divisions 1, 3, and 5.

(d) In November 2024, Directors shall be elected for Divisions 2 and 4.

(e) Except as provided in subdivision (a) hereof, the Director elected to represent a division must live in that division and be a registered voter in that division, and any candidate for Director must live in and be a registered voter in, the division in which he or she seeks election at the time nomination papers are issued, pursuant to California Water Code section 30735 and California Elections Code section 10227.

SECTION 6. EXEMPTION FROM CEQA.

The Board of Directors finds that the actions taken in this Resolution are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) because it can be said with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 7. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this resolution is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this resolution. The Board of Directors of the Carpinteria Valley Water District hereby declares that it would have passed this resolution and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 8. ADMINISTRATIVE IMPLEMENTATION.

The General Manager is authorized and directed to establish appropriate administrative procedures consistent with the provisions of this resolution and to take reasonable and appropriate action to fully implement the provisions of this resolution.

ADOPTED by the Board of Directors of the Carpinteria Valley Water District, a public agency in the State of California, Santa Barbara, at its regular meeting held on the 26th day of August 2020, by the following vote:

AYES: Board Members: Roberts, Holcombe, Van Wingerden, Johnson and Capozza

NOES: Board Members: None

ABSTAIN: Board Members: None

ABSENT: Board Members: None

APPROVED:

DocuSigned by:
Matthew T. Roberts
AD1FEFD48C254ED...
Mathew Roberts, President, Board of Directors

ATTEST:

DocuSigned by:
R. Myers
3955BCFFA2504C3
Roger Myers, District General Counsel
Myers, Widders, Gibson, Jones &
Feingold, LLP

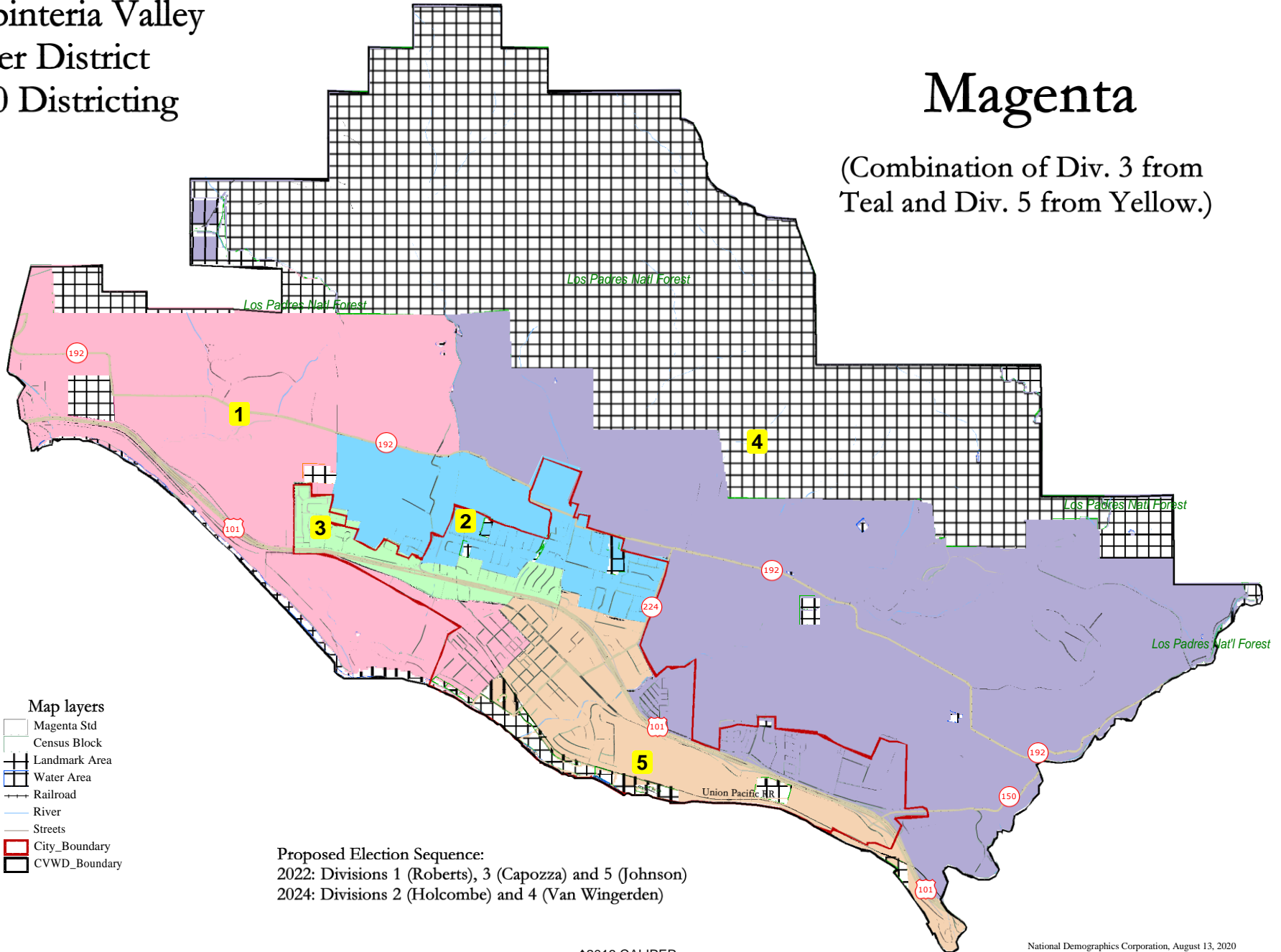
DocuSigned by:
Ursula Santana
85A319CE7A9B4C3...
Ursula Santana, Board Secretary

EXHIBIT A

Carpinteria Valley Water District 2020 Districting

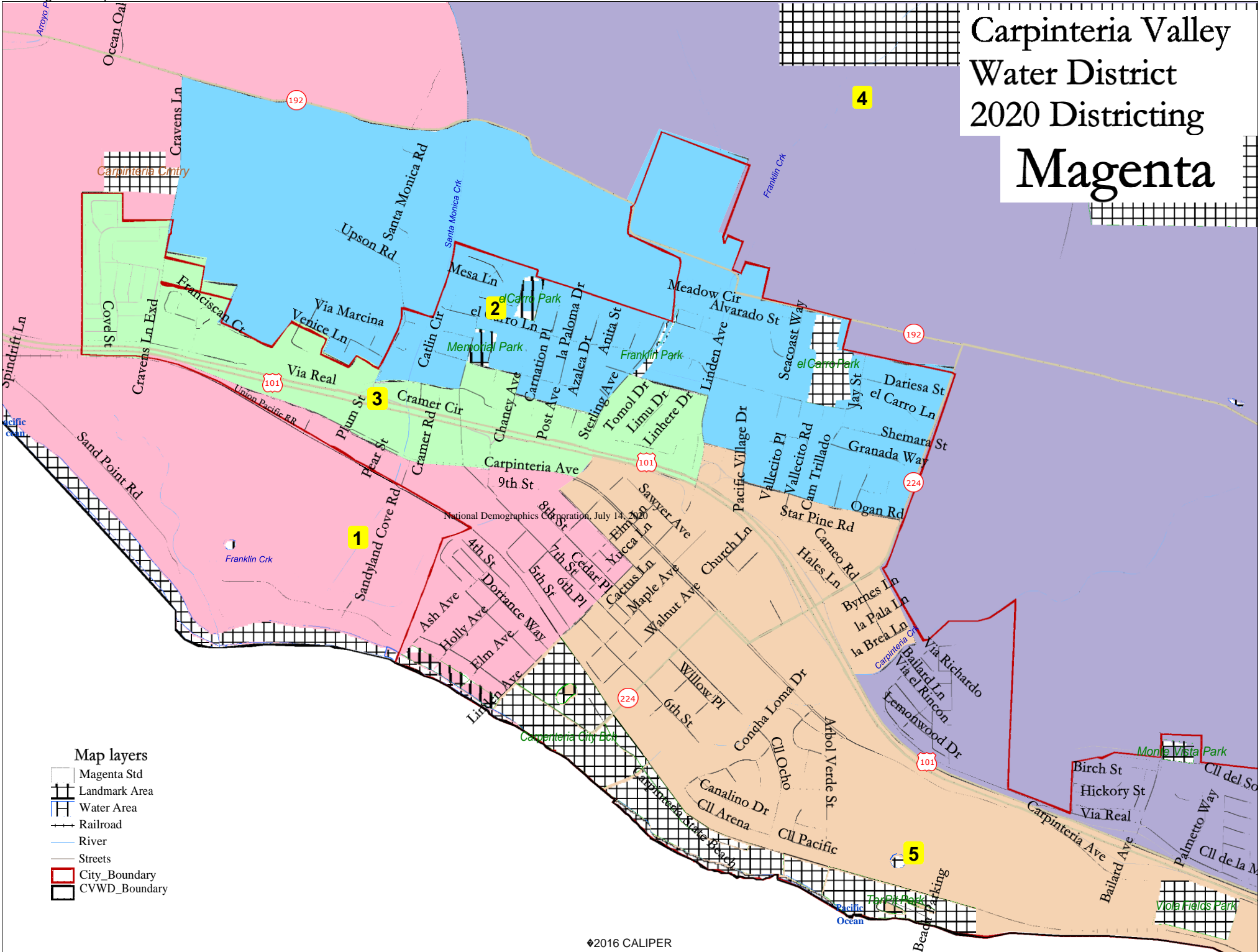
Magenta

(Combination of Div. 3 from
Teal and Div. 5 from Yellow.)



Proposed Election Sequence:
 2022: Divisions 1 (Roberts), 3 (Capozza) and 5 (Johnson)
 2024: Divisions 2 (Holcombe) and 4 (Van Wingerden)

Carpinteria Valley Water District 2020 Districting Magenta



- Map layers**
- Magenta Std
 - Landmark Area
 - Water Area
 - Railroad
 - River
 - Streets
 - City_Boundary
 - CVWD_Boundary

Carpinteria Valley Water District - Magenta Draft Map							
District		1	2	3	4	5	Total
	Total Pop	3,265	3,131	3,108	3,175	3,121	15,800
	Deviation from ideal	105	-29	-52	15	-39	157
	% Deviation	3.32%	-0.92%	-1.65%	0.47%	-1.23%	4.97%
Total Pop	% Hisp	41%	40%	59%	45%	39%	45%
	% NH White	56%	54%	36%	50%	56%	51%
	% NH Black	1%	1%	1%	1%	1%	1%
	% Asian-American	2%	4%	3%	3%	3%	3%
Citizen Voting Age Pop	Total	2,115	2,395	1,905	2,355	2,297	11,067
	% Hisp	21%	24%	52%	31%	21%	29%
	% NH White	75%	70%	45%	61%	74%	66%
	% NH Black	0%	0%	0%	2%	0%	1%
	% Asian/Pac.Isl.	5%	4%	3%	5%	3%	4%
Voter Registration (Nov 2018)	Total	1,665	2,082	1,609	1,541	2,062	8,959
	% Latino est.	26%	31%	35%	23%	30%	29%
	% Spanish-Surnamed	23%	28%	32%	21%	27%	26%
	% Asian-Surnamed	2%	2%	1%	2%	2%	2%
	% Filipino-Surnamed	0%	1%	1%	0%	1%	1%
	% NH White est.	71%	66%	61%	73%	69%	68%
	% NH Black	0%	0%	0%	2%	0%	1%
Voter Turnout (Nov 2018)	Total	1,252	1,600	1,214	1,198	1,587	6,852
	% Latino est.	22%	26%	30%	18%	25%	24%
	% Spanish-Surnamed	19%	23%	27%	16%	22%	22%
	% Asian-Surnamed	1%	2%	1%	2%	2%	2%
	% Filipino-Surnamed	0%	1%	1%	0%	0%	1%
	% NH White est.	76%	71%	66%	77%	74%	73%
	% NH Black	0%	0%	0%	2%	0%	1%
Voter Turnout (Nov 2016)	Total	1,475	1,770	1,387	1,680	1,466	7,778
	% Latino est.	24%	28%	33%	24%	20%	26%
	% Spanish-Surnamed	22%	25%	29%	21%	18%	23%
	% Asian-Surnamed	1%	2%	1%	2%	2%	2%
	% Filipino-Surnamed	0%	1%	1%	0%	1%	1%
	% NH White est.	73%	68%	63%	73%	77%	71%
	% NH Black est.	0%	0%	0%	2%	0%	1%
ACS Pop. Est.	Total	2,877	3,405	3,072	3,718	3,045	16,117
Age	age0-19	17%	24%	21%	22%	21%	21%
	age20-60	51%	51%	51%	51%	54%	52%
	age60plus	32%	24%	29%	27%	25%	27%
Immigration	immigrants	21%	21%	21%	32%	23%	24%
	naturalized	49%	37%	44%	39%	36%	41%
Language spoken at home	english	70%	64%	67%	50%	63%	62%
	spanish	24%	34%	29%	47%	32%	34%
	asian-lang	3%	1%	2%	1%	3%	2%
	other lang	3%	1%	2%	2%	2%	2%
Language Fluency	Speaks Eng. "Less than Very Well"	11%	11%	11%	25%	14%	15%
Education (among those age 25+)	hs-grad	44%	52%	48%	43%	49%	47%
	bachelor	28%	22%	25%	20%	21%	23%
	graduatedegree	14%	13%	14%	12%	13%	13%
Child in Household	child-under18	19%	29%	24%	27%	24%	24%
Pct of Pop. Age 16+	employed	62%	61%	61%	60%	65%	62%
Household Income	income 0-25k	15%	10%	11%	12%	15%	13%
	income 25-50k	19%	14%	16%	20%	20%	18%
	income 50-75k	19%	18%	18%	18%	21%	19%
	income 75-200k	27%	47%	39%	39%	30%	36%
	income 200k-plus	19%	11%	15%	13%	13%	15%
Housing Stats	single family	61%	86%	78%	57%	53%	65%
	multi-family	39%	14%	22%	43%	47%	35%
	rented	55%	35%	40%	37%	58%	46%
	owned	45%	65%	60%	63%	42%	54%

Total population data from the 2010 Decennial Census. Surname-based Voter Registration and Turnout data from the California Statewide Database. Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2014-2018 American Community Survey and Special Tabulation 5-year data.