

Michael Duane Davis, SBN 093678
Derek R. Hoffman, SBN 285784
GRESHAM SAVAGE NOLAN & TILDEN, PC
550 East Hospitality Lane, Suite 300
San Bernardino, CA 92408-4205
Telephone: (909) 890-4499
Facsimile: (909) 890-9877

Attorneys for La Cosepa, a non-profit Religious Corporation

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES**

Coordination Proceeding Special Title (Rule 1550(b)))	Judicial Council Coordination Proceeding No. 4408
ANTELOPE VALLEY GROUNDWATER CASES)	Santa Clara Case No. 1-05-CV-049053 Assigned to the Honorable Jack Komar Department 17C
Including <u>Consolidated</u> Actions:)	LA COSEPA'S NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES
Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. Superior Court of California, County of Los Angeles, Case No. BC 325 201)	[Declaration of Benito Rojas Barron; Declaration of Michael Duane Davis; and [Proposed] Order filed concurrently]
Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. Superior Court of California, County of Kern, Case No. S-1500-CV-254-348)	Date: August 9, 2018 Time: 9:00 a.m. Dept.: 1 – Appearance By CourtCall Judge: Hon. Jack Komar, Judge
Wm. Bolthouse Farms, Inc. v. City of Lancaster Diamond Farming Co. v. City of Lancaster Diamond Farming Co. v. Palmdale Water Dist. Superior Court of California, County of Riverside, consolidated actions, Case Nos. RIC 353 840, RIC 344 436, RIC 344 668)	[Hearing to be conducted by CourtCall]
AND RELATED ACTIONS.)	

1 **TO THE COURT, ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on August 9, 2018 at 9:00 a.m. or as soon as the Santa
3 Clara County Superior Court [for above-entitled court located at 111 North Hill Street, Los
4 Angeles, California] may hear the matter telephonically by CourtCall, with the parties to appear
5 by CourtCall, LA COSEPA, a non-religious Corporation ("La Cosepa"), will and hereby does
6 move the Court for an order granting it leave to intervene in the December 23, 2015 Judgment
7 and Physical Solution ("Judgment") in the above-captioned Antelope Valley Groundwater
8 Adjudication, pursuant to Section 20.9 of the Judgment and Section 387 of the California *Code*
9 *of Civil Procedure*. This notice and motion is based on the attached Memorandum of Points and
10 Authorities, the concurrently-filed Declarations of Benito Rojas Barron and Michael Duane
11 Davis, on all papers filed and records in this action, and on any evidence received at the hearing.

12 The grounds for granting this Motion are as follows:

13 1. As set forth in the Judgment, this Court retained continuing jurisdiction over the
14 groundwater adjudication action to make such further supplemental orders or directions as may
15 be necessary or appropriate to implement the Judgment for the proper management of the
16 Antelope Valley Area of Adjudication's ("Basin") water resources. (Judgment § 6.5.)

17 2. The Judgment provides that any person or entity, who is not a Party or successor
18 to a Party and who proposes to Produce Groundwater from the Basin, to acquire a Production
19 Right or to otherwise take actions that may affect the Basin's Groundwater is required to seek to
20 become a Party subject to the Judgment through a noticed motion to intervene in this Judgment
21 prior to commencing Production, following consultation with the Antelope Valley Watermaster
22 ("Watermaster") Engineer ("Engineer") and requesting the Watermaster's stipulation to the
23 proposed intervention. (Judgment § 20.9.)

24 3. La Cosepa's Motion to intervene and become a party to the Judgment is proper
25 under Section 20.9 of the Judgment because La Cosepa procured a projection of it estimated
26 annual water demand of 14.16 acre feet for the property at 39000 East 170th Street in Lake Los
27 Angeles, CA [APN 3075-003-008] through Antelope Valley Engineering, Inc. and submitted a

28

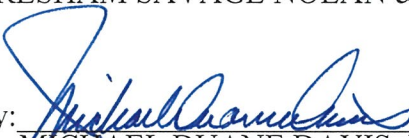
1 *Draft New Production Application* to the Watermaster Engineer, which Application was
2 recommended by the Engineer and approved by the Watermaster on May 23, 2018.

3 4. La Cosepa's intervention in the Judgment is also proper under California *Code of*
4 *Civil Procedure* section 387 because it owns property subject to the Judgment, because
5 intervention is necessary to protect La Cosepa's interest in that property and its ability to produce
6 groundwater in accordance with the Judgment, and because La Cosepa's interests are not
7 adequately represented by existing parties to the Judgment.

8 DATED: July 18, 2018

Respectfully submitted,

9 GRESHAM SAVAGE NOLAN & TILDEN, PC

10
11 By: 
12 MICHAEL DUANE DAVIS, ESQ.
13 DEREK R. HOFFMAN, ESQ.
14 Attorneys for La Cosepa
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 LA COSEPA (“La Cosepa”), brings this Motion to Intervene (“Motion”) in the December
4 23, 2015 Judgment and Physical Solution (“Judgment”) in the above-captioned action pursuant to
5 Section 20.9 of the Judgment. That section provides that any person or entity, who is not a Party
6 or successor to a Party and who proposes to Produce Groundwater from the Basin, to acquire a
7 Production Right or to otherwise take actions that may affect the Basin’s Groundwater is required
8 to seek to become a Party subject to the Judgment through a noticed motion to intervene in this
9 Judgment prior to commencing Production, following consultation with the Antelope Valley
10 Watermaster (“Watermaster”) Engineer (“Engineer”) and requesting the Watermaster’s approval
11 of the proposed intervention. (Judgment § 20.9.) La Cosepa seeks an order of the Court allowing it
12 to intervene in the Judgment and establish rights to produce ground under the Judgment and
13 become subject, in all material respects, to the Judgment as an intervenor.

14 **II. STATEMENT OF FACTS**

15 La Cosepa acquired and now owns approximately 148 acres of real property at 39000 170th
16 Street East in in the unincorporated community of Lake Los Angeles, CA which bears Los Angeles
17 County Assessor’s Parcel Number 3075-003-008 (“Property”). The Property had an existing well
18 at the time of acquisition, with an annual production of approximately one (1) acre foot of water.
19 La Cosepa plans to phase the development of the Property, with a project to be known as “Christ
20 of the Desert” (“Project”). The Project will contain multiple buildings for a variety of religious
21 purposes, chapels, living accommodations, an auditorium, classroom facilities, kitchens, restrooms,
22 and related support facilities, which buildings will comprise approximately 77,600 square feet.
23 La Cosepa also plans to pave roadways and develop approximately 463 parking spaces. Further,
24 La Cosepa plans to install low water consumptive landscaping on approximately 18,700 square
25 feet of the Property, and leave approximately 14,200 square feet of the Property in its natural
26 condition.

27 In preparation for this Project, Lucino Gopar, Project Assistant for La Cosepa, contacted
28 the Watermaster and Engineer, and began the process of applying for new groundwater production

1 pursuant to the Judgment.

2 On April 26, 2016, La Cosepa applied for and secured a Los Angeles County Well Permit
3 [SR0097443] for a new production well on the Property.(Declaration of Michael Duane Davis
4 (“Davis Decl.”) ¶ 7, Ex. “A”; Declaration of Benito Rojas Barron, President, (“Barron Decl.”) ¶ 6.)

5 La Cosepa secured a Geotechnical Report for the Property from AZ Geo Technics, Inc. on
6 March 13, 2017. (Davis Decl., ¶ 8, Ex. “B”; Barron Decl., ¶ 7.)

7 La Cosepa commenced construction of the well on April 10, 2017 and completed the well
8 on April 14, 2017. (Davis Decl., ¶ 9, Ex. “C”; Barron Decl., ¶ 8.)

9 La Cosepa submitted a *Preliminary Draft Water Conservation Practices* [form] for *Single*
10 *Family Home* to the Antelope Valley Watermaster on March 7, 2018. (Davis Decl., ¶ 10, Ex. “D”;
11 Barron Decl., ¶ 9.)

12 La Cosepa also submitted a *Draft New Production Application* form to the Antelope Valley
13 Watermaster on March 7, 2018. (Davis Decl., ¶ 11, Ex. “E”; Barron Decl., ¶ 9.)

14 La Cosepa supplemented the application with square footage information on March 29,
15 2018. (Davis Decl., ¶ 12, Ex. “F”; Barron Decl., ¶ 10.)

16 On May 14, 2018, La Cosepa’s engineer, Antelope Valley Engineering, Inc., submitted an
17 Estimate of Annual Water Demands for the Project, which demands are projected to be 14.16 acre
18 feet. (Davis Decl., ¶ 13, Ex. “G”; Barron Decl., ¶ 11.)

19 In order to ensure that this Project does not cause a material injury to the Basin, La Cosepa
20 agreed to meter the well, pay replacement assessments, abandon the existing well on the Property,
21 and abide by the terms of the Judgment applicable to the Property and the Project. (Davis Decl.,
22 ¶ 14, Ex. “E”; Barron Decl., ¶ 12.)

23 Accordingly, the Engineer recommended that the Watermaster Board approve La Cosepa’s
24 Application on May 16, 2018. (Davis Decl., ¶ 15, Ex. “H”; Barron Decl., ¶ 13.)

25 The Watermaster Board approved La Cosepa’s Application on May 23, 2018. (Davis
26 Decl., ¶ 16, Ex. “E”; Barron Decl., ¶ 14.)

27 Intervention is appropriate under the Judgment because La Cosepa has acquired property
28 that is within the jurisdiction boundaries of the Judgment, has applied for and obtained the

1 Engineer's recommendation and the Watermaster's approval for intervention, and seeks an order
2 of the Court making it an intervenor under and subject to the Judgment. La Cosepa' intervention
3 will not cause a material injury to the Basin. (Davis Decl., ¶¶ 14, 15; Barron Decl., ¶¶ 12, 13, 14.)

4 **III. LA COSEPA IS ENTITLED TO INTERVENE IN THIS ACTION**

5 **a. La Cosepa Has Complied with the Requirements of the Judgment.**

6 As required by Section 20.9 of the Judgment, La Cosepa applied to and secured the
7 approval of the Engineer and Watermaster. The Engineer and Watermaster made findings that La
8 Cosepa' projected groundwater production would not cause a Material Injury to the Basin as
9 defined by Section 3.5.18 of the Judgment, and that it is appropriate to allow La Cosepa to
10 intervene in the Judgment. (Davis Decl., ¶¶ 14, 15; Barron Decl., ¶¶ 12, 13.) La Cosepa will serve
11 this Motion in accordance with Section 20.7 of the Judgment by e-filing on the Court's website, as
12 required by Section 20.3.2.

13 **b. La Cosepa' Intervention is Necessary and Appropriate.**

14 La Cosepa' intervention is also necessary and appropriate under California *Code of Civil*
15 *Procedure* section 387. Section 387 provides that a court *shall* permit a nonparty to intervene in an
16 action or proceeding when that person claims an interest relating to the property that is the subject
17 of the action, when the disposition of the action may impair or impede that person's ability to
18 protect that interest, and when that interest is not adequately represented by an existing party. A
19 court *may* also permit intervention upon timely application by a nonparty that has an interest in the
20 subject matter of the litigation that may be affected, when the intervention will not enlarge the
21 issues in the litigation and when the reasons for the intervention outweigh any opposition by the
22 parties presently in the action. (Code Civ. Proc. § 387, subd. (d); *US Ecology, Inc. v. State of*
23 *California* (2001) 92 Cal.App.4th 113, 139; *Timberidge Enterprises, Inc. v. City of Santa Rosa*
24 (1978) 86 Cal.App.3d 873, 881.) As reflected by Section 20.9 of the Judgment, intervention may
25 be granted at any time, even after judgment has been rendered. (*Mallick v. Superior Court* (1979)
26 Cal.App.3d 434, 437.) The intervention statute is designed to promote fairness and to ensure
27 maximum involvement by all responsible, interested and affected parties. (*Mary R. v. B. & R.*
28 *Corp.* (1983) 149 Cal.App.3d 308, 314.) The statute "should be liberally construed in favor of

1 intervention.” (*Lindelli v. Town of San Anselmo* (2006) 139 Cal.App.4th 1499, 1505.)

2 La Cosepa’s intervention is necessary to protect its Property and its ability to produce
3 groundwater in accordance with the Judgment. Having acquired all of the rights to the Property
4 within the jurisdiction of the Judgment, La Cosepa’s interests are not now represented by an
5 existing party to the Judgment. La Cosepa requires water for the Project and intervention is
6 necessary to develop and operate the Project and to accomplish its objectives for the use of the
7 Property overlying the Basin. (Davis Decl., ¶¶ 2, 3, 5 and 13; Barron Decl., ¶ 2, 5, 11 and 12.)

8 Neither Section 387 of the *Code of Civil Procedure* nor Section 20.9 of the Judgment
9 impose a specific deadline for seeking intervention. Section 387 requires a “timely application”,
10 which courts have construed broadly and “liberally ... in favor of intervention.” (*Lindelli v.*
11 *Town of San Anselmo* (2006) 139 Cal.App.4th 1499, 1505.). Though the provision of Section
12 20.9 requiring the filing of a motion “prior to commencing Production,” La Cosepa has already
13 agreed to satisfy the requirements of the Judgment and to ensure that its production cause no
14 Material Injury to the Basin.

15 La Cosepa does not seek to modify the Judgment, except to reflect La Cosepa as a party
16 intervenor to the Judgment. (Davis Decl., ¶¶ 6, 14; Barron Decl., ¶ 12.) La Cosepa’s
17 groundwater production will not cause Material Injury. (Davis Decl., ¶ 14; Barron Decl., ¶ 12.)
18 For these reasons, no reasonable or good faith basis exists for the existing parties to the
19 Judgment to oppose La Cosepa’s Motion to Intervene.

20 **IV. CONCLUSION**

21 La Cosepa has complied with the prerequisites of Section 20.9 of the Judgment, and the
22 intervention is necessary and appropriate under Section 387 of the *Code of Civil Procedure*.
23 La Cosepa respectfully requests that this Court grant La Cosepa’s Motion to Intervene.

24 DATED: July 18, 2018

Respectfully submitted,

25 GRESHAM SAVAGE NOLAN & TILDEN, PC

26
27 By: 
MICHAEL DUANE DAVIS, ESQ.
DEREK R. HOFFMAN, ESQ.
Attorneys for La Cosepa

28 -4-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO


Re: *ANTELOPE VALLEY GROUNDWATER CASES*
Los Angeles County Superior Court Judicial Council Coordinated
Proceedings No. 4408; Santa Clara County Superior Court Case No. 1-05-CV-049053

I am employed in the County of San Bernardino, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 550 E. Hospitality Lane, Suite 300, San Bernardino, CA 92408-4205. On July 18, 2018 **NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES**, I served copies of the within documents described as on the interested parties in this action in a sealed envelope addressed as follows:

See attached Service List

- ☒ **BY MAIL** - I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on the same day in the ordinary course of business, with postage thereon fully prepaid at San Bernardino, California. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☐ **BY PERSONAL SERVICE** - I caused such envelope to be delivered by hand to the offices of the addressee pursuant to C.C.P. § 1011.
- ☐ **BY EXPRESS MAIL/OVERNIGHT DELIVERY** - I caused such envelope to be delivered by hand to the office of the addressee via overnight delivery pursuant to C.C.P. § 1013(c), with delivery fees fully prepaid or provided for.
- ☐ **BY FACSIMILE** - I caused such document to be delivered to the office of the addressee via facsimile machine pursuant to C.C.P. § 1013(e). Said document was transmitted to the facsimile number of the office of the addressee from the office of Gresham Savage Nolan & Tilden, in San Bernardino, California, on the date set forth above. The facsimile machine I used complied with California *Rules of Court*, Rule 2003(3) and no error was reported by the machine. Pursuant to California *Rules of Court*, Rule 2009(i), I caused the machine to print a record of the transmittal, a copy of which is attached to this declaration.
- ☐ **BY ELECTRONIC/EMAIL** - I caused such document to be delivered to the office of the addressee via electronic e-mail pursuant to C.C.P. § 1013(a). Said document was transmitted to the email address of that office which is listed on the above Service List. Said document was served electronically and the transmission was reported as complete and without error.
- ☐ **FEDERAL** - I am employed in the office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 18, 2018, at San Bernardino, California.


Dina Snider

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST

Re: *ANTELOPE VALLEY GROUNDWATER CASES*
Los Angeles County Superior Court Judicial Council Coordinated
Proceedings No. 4408; Santa Clara County Superior Court Case No. 1-05-CV-049053

Benito Rojas Barron, President Lucino Gopar, Project Assistant LA COSEPA 17938 East Foothill Blvd Fontana, CA 92335	
---	--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

Re: *ANTELOPE VALLEY GROUNDWATER CASES*
Los Angeles County Superior Court Judicial Council Coordinated
Proceedings No. 4408; Santa Clara County Superior Court Case No. 1-05-CV-049053


I am employed in the County of San Bernardino, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 550 East Hospitality Lane, Suite 300, San Bernardino, CA 92408-4205.

On July 18, 2018, I served the foregoing document(s) described **LA COSEPA'S NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE IN JUUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES** on the interested parties in this action in the following manner:

(X) **BY ELECTRONIC SERVICE** – I caused such document(s) listed above to be electronically served, via One Legal, to all parties appearing on the Santa Clara County Superior Court website, <http://www.scefiling.org>, in the action of the Antelope Valley Groundwater Cases; proof of electronic-filing through One Legal is then printed and maintained with the original documents in our office. Electronic service is complete at the time of transmission. My electronic notification email address is dina.snider@greshamsavage.com,

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

Executed on July 18, 2018 at San Bernardino, California.


DINA M. SNIDER