

1 reflects the combined volume of groundwater produced through the two Production Wells  
2 between June 2006 and August 2008, or a twenty-six month period. Using this total, average  
3 production can be reasonably estimated as fifteen acre-feet per month and 180 acrefeet per  
4 year during the same period. Photographs of the two Production Wells' meters, taken on  
5 October 4, 2018, are included as Exhibit E."

6 Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be  
7 challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (*Estate of*  
8 *Wise* (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might  
9 show that jurisdiction did not in fact exist." (*Hogan v. Superior Court* (1925) 74 Cal.App. 704,  
10 708.) This presumption applies "to all varieties of judgment, decrees or orders." (*Lieberman v.*  
11 *Superior Court* (1925) 72 C.A. 18, 34.) Long Valley Road, L.P. is attempting to admit extrinsic  
12 evidence in order to collaterally attack the Judgment. Objectors further object that this paragraph  
13 calls for speculation as to the total amount of water pumped between June 2006 and August 2008.

14 Specific Objection Number 4

15 MOTION TO INTERVENE, page 2, lines 18-21: "As Treeland Antelope Valley is an  
16 agricultural operation, LVRP has also pumped significant groundwater for irrigation and  
17 other agricultural purposes in each year – and indeed each month – since completing the first  
18 of the Production Wells in June 2006. Pherson Decl., ¶¶ 7-9.

19 Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be  
20 challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (*Estate of*  
21 *Wise* (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might  
22 show that jurisdiction did not in fact exist." (*Hogan v. Superior Court* (1925) 74 Cal.App. 704,  
23 708.) This presumption applies "to all varieties of judgment, decrees or orders." (*Lieberman v.*  
24 *Superior Court* (1925) 72 C.A. 18, 34.) Long Valley Road, L.P. is attempting to admit extrinsic  
25 evidence in order to collaterally attack the Judgment. Objectors further object that this paragraph  
26 calls for speculation as to what "significant groundwater" constitutes.

1 Specific Objection Number 5

2 MOTION TO INTERVENE, page 2, lines 21-28, and footnote 2: "Specifically, LVRP  
3 has produced and beneficially used the following amounts of water from beneath the Property,  
4 via the Production Wells<sup>2</sup> : <sup>2</sup> Water production for the twenty-six month period beginning  
5 June 1, 2006 and ending July 31, 2008 is estimated by deducting recorded water production in  
6 all months since August 2008 from the cumulative lifetime totals reflected on the Production  
7 Wells as of September 30, 2018. Water production for all months beginning in August 2008  
8 and continuing through the present was contemporaneously tracked and recorded by staff at  
9 the Treeland Antelope Valley operation. Pherson Decl. ¶¶ 7-9."

10 Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be  
11 challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (*Estate of*  
12 *Wise* (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might  
13 show that jurisdiction did not in fact exist." (*Hogan v. Superior Court* (1925) 74 Cal.App. 704,  
14 708.) This presumption applies "to all varieties of judgment, decrees or orders." (*Lieberman v.*  
15 *Superior Court* (1925) 72 C.A. 18, 34.) Long Valley Road, L.P. is attempting to admit extrinsic  
16 evidence in order to collaterally attack the Judgment. Objectors further object that this paragraph  
17 calls for speculation as to the total amount of water pumped between June 2006 and August 2008.

18 Specific Objection Number 6

19 MOTION TO INTERVENE, page 3, lines 1-4: Table of alleged water use from 2006-  
20 2018.

21 Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be  
22 challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (*Estate of*  
23 *Wise* (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might  
24 show that jurisdiction did not in fact exist." (*Hogan v. Superior Court* (1925) 74 Cal.App. 704,  
25 708.) This presumption applies "to all varieties of judgment, decrees or orders." (*Lieberman v.*  
26 *Superior Court* (1925) 72 C.A. 18, 34.) Long Valley Road, L.P. is attempting to admit extrinsic  
27 evidence in order to collaterally attack the Judgment. Objectors further object that this paragraph  
28 calls for speculation as to the total amount of water pumped between June 2006 and August 2008.

1 Specific Objection Number 7

2 MOTION TO INTERVENE, page 4, lines 9-12: "Since and including 2006, LVRP has  
3 pumped and beneficially used more than twenty-five acre-feet of groundwater at the Property .  
4 .."

5 Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be  
6 challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (*Estate of*  
7 *Wise* (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might  
8 show that jurisdiction did not in fact exist." (*Hogan v. Superior Court* (1925) 74 Cal.App. 704,  
9 708.) This presumption applies "to all varieties of judgment, decrees or orders." (*Lieberman v.*  
10 *Superior Court* (1925) 72 C.A. 18, 34.)

11 Specific Objection Number 8

12 MOTION TO INTERVENE, page 4, lines 16-18: "This is the case whether LVRP  
13 received notice(s) of related actions or not, because had LVRP received such notice(s), it would  
14 have reasonably understood it/them to not apply to LVRP because LVRP has never fallen within  
15 the class definition;"

16 Objectors hereby object on the grounds that these statements lack foundation, call for  
17 speculation, and assumes facts not in evidence.

18 Specific Objection Number 9

19 MOTION TO INTERVENE, page 5, lines 19-23: "LVRP was erroneously listed as a  
20 member of the "Small Pumper Class" despite not meeting the substantive requirements used  
21 to define that Class, and as such may have received related notices. But that error, and  
22 LVRP's receipt of any corresponding notices, each of which included a class definition that  
23 would have lead LVRP to reasonably conclude that such notices did not apply to or bind  
24 LVRP, do not have any legal effect."

25 Objectors hereby object on the grounds that this allegation lacks foundation and calls for  
26 speculation and is an impermissible legal conclusion.

1 Specific Objection Number 10

2 MOTION TO INTERVENE, page 5, lines 19-23 and page 6, line 1: "Based on the  
3 definition of the Small Pumper Class used in all relevant class documents and Orders issued by  
4 the Court, LVRP is clearly not a member because it never pumped less than twenty-five acre-  
5 feet in any year that it owned the Property. Conversely, LVRP is an overlying landowner that  
6 has pumped and beneficially used significantly more than twenty-five acre-feet in all years  
7 since it owned the Property, and therefore should have been included in the Adjudication as a  
8 Party with Overlying Production Rights."

9 Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be  
10 challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (*Estate of*  
11 *Wise* (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might  
12 show that jurisdiction did not in fact exist." (*Hogan v. Superior Court* (1925) 74 Cal.App. 704,  
13 708.) This presumption applies "to all varieties of judgment, decrees or orders." (*Lieberman v.*  
14 *Superior Court* (1925) 72 C.A. 18, 34.) Long Valley Road, L.P. is attempting to admit extrinsic  
15 evidence in order to collaterally attack the Judgment. Objectors further object in that this statement  
16 lacks foundation and calls for speculation.

17 Specific Objection Number 11

18 MOTION TO INTERVENE, page 7, lines 11-17: "LVRP's sole connection to the  
19 Adjudication is the fact that it was erroneously listed – at an unknown date, by an unknown  
20 person, and based on some unknown (but clearly erroneous) information about LVRP's  
21 pumping history – as a member of the Small Pumper Class for purposes of *Wood v. Los*  
22 *Angeles Co. Waterworks Dist. 40, et al.*, (Case No.: BC 391869) ("Small Pumper Class  
23 Action"). See Dkt. 11020, Ex. C at 6 ("List of Known Small Pumper Class Members..."). As  
24 such, LVRP may have been served with related notices such as those discussing class  
25 certification and settlement, but each of those notices was more than defective as to LVRP"

26 Objectors hereby object on the grounds that these statements lack foundation and call for  
27 speculation and are an impermissible legal conclusion.  
28

1 Specific Objection Number 12

2 MOTION TO INTERVENE, page 7, footnote 4: "However, as discussed below, whether  
3 LVRP received actual or even constructive notice of the Small Pumper Class and related  
4 events has no legal consequence because LVRP is by definition not a member of the Small  
5 Pumper Class."

6 Objectors hereby object on the grounds that these statements lack foundation and call for  
7 speculation.

8 Specific Objection Number 13

9 MOTION TO INTERVENE, page 8, lines 10-14: "LVRP purchased the Property in  
10 2006 and immediately permitted, completed, and began pumping significantly more than  
11 twenty-five acre-feet from the Production Wells. Pherson Decl., ¶¶ 7-9, Ex. D. It did so in each  
12 year from 2006 through the operative date for Small Pumper Class purposes of September 2,  
13 2008, and indeed through the date of this Motion. Id."

14 Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be  
15 challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (*Estate of*  
16 *Wise* (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might  
17 show that jurisdiction did not in fact exist." (*Hogan v. Superior Court* (1925) 74 Cal.App. 704,  
18 708.) This presumption applies "to all varieties of judgment, decrees or orders." (*Lieberman v.*  
19 *Superior Court* (1925) 72 C.A. 18, 34.) Long Valley Road, L.P. is attempting to admit extrinsic  
20 evidence in order to collaterally attack the Judgment. Objectors further object in that this statement  
21 lacks foundation and calls for speculation.

22 Specific Objection Number 14

23 MOTION TO INTERVENE, page 8, lines 14-17: "To the extent LVRP received actual  
24 or constructive notice related to the Small Pumper Class Action, it would have reasonably (and  
25 correctly) understood that it was not a member of that Class and therefore no action was  
26 required by LVRP to preserve its overlying water right."

27 Objectors hereby object on the grounds that these statements lack foundation and call for  
28 speculation.

1 Specific Objection Number 15

2 MOTION TO INTERVENE, page 9, lines 22-25 and page 10 lines 1-2: "Had any Party  
3 to the Adjudication searched the primary repositories of public information about active water  
4 wells after July 2006, they would have and should have properly identified LVRP and/or  
5 Boething Treeland as an active, overlying agricultural user. As such, LVRP could have and  
6 should have been provided notice and an opportunity to participate in the Adjudication but  
7 was not, not alter water rights with respect to the Basin in any event because it specifically  
8 exempts management of the Antelope Valley Groundwater Basin from its main substantive  
9 requirements due to the existence of the Judgment and therefore due process requires that it  
10 may not be restrained by the Judgment unless and until it becomes a Party to it."

11 Objectors hereby object on the grounds that these statements lack foundation, call for  
12 speculation, and assume facts not in evidence.

13 Specific Objection Number 16

14 MOTION TO INTERVENE, page 10, footnote 6: "As discussed above, what LVRP may  
15 have been provided is notice(s) related to the Small Pumper Class, which as a person who at all  
16 times since owning the Property pumped significantly more than twenty-five acre feet per year,  
17 LVRP reasonably would have understood to relate to a class action lawsuit that: (a) LVRP was  
18 not a party to; and (b) in no way would impact LVRP's water right."

19 Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be  
20 challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (*Estate of*  
21 *Wise* (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might  
22 show that jurisdiction did not in fact exist." (*Hogan v. Superior Court* (1925) 74 Cal.App. 704,  
23 708.) This presumption applies "to all varieties of judgment, decrees or orders." (*Lieberman v.*  
24 *Superior Court* (1925) 72 C.A. 18, 34.) Long Valley Road, L.P. is attempting to admit extrinsic  
25 evidence in order to collaterally attack the Judgment. Objectors further object in that this statement  
26 lacks foundation and calls for speculation.



1           **D.     CODE OF CIVIL PROCEDURE SECTION 387 IS A STATUTORY**  
2           **PROCEDURE RESERVED FOR INTERESTED NON-PARTIES AND**  
3           **THEREFOR NOT APPLICABLE TO THE MOVING PARTY'S EFFORT TO**  
4           **SECURE THE RELIEF SOUGHT.**

5           Code of Civil Procedure section 387 is for the benefit of a non-party with an interest in  
6           pending litigation. Moving party is a member of the Small Pumper Class, identified in the Judgment  
7           as such, and received all notices and failed to act in any manner to refute or discount its status as a  
8           Class Member. Thus, as an existing party bound by the Judgment, intervention under Code of Civil  
9           Procedure section 387 is unnecessary and inappropriate as to the moving party.

10           **E.     IF APPLICABLE, THE MOVING PAPERS ARE DEFECTIVE IN THAT THE**  
11           **REQUIRED PROPOSED ANSWER AND/OR COMPLAINT, REQUIRED BY**  
12           **CODE OF CIVIL PROCEDURE SECTION 387(c), HAS NOT BEEN FILED**  
13           **WITH THE MOVING PAPERS, THEREBY RENDERING THE MOTION**  
14           **PROCEDURALLY DEFECTIVE.**

15           The failure to file concurrently with the moving papers the "Proposed Answer and/or  
16           Complaint" renders this motion procedurally defective and for that reason alone, it must be denied.

17           **F.     OBJECTION TO PROPOSED ORDER.**

18           The foregoing objecting parties object to the proposed order as follows:

19           1.     Paragraph 1 of the proposed order is inappropriate in that given that the moving party is  
20           already a party to the Judgment and the action, that intervention is inappropriate.

21           2.     Paragraph 2 is inappropriate that the proposed judgment cannot be amended until after  
22           the claims of the moving party have been fully litigated, i.e., with a due process opportunity to  
23           examine and cross-examine the witnesses and the proffered evidence in support of the purported claim.  
24           Thus, the necessity for the mandated pleading contemplated by Code of Civil Procedure section  
25           387(c), identifying all parties as against whom the claim is being asserted.

26           3.     Paragraph 3 of the proposed order is inappropriate and would prospectively constitute a  
27           denial of due process of all other interested parties, if it would deny their right to examine and cross-  
28           examine the witnesses and evidence proffered by the moving party in support of the claim being  
29           asserted in the moving papers.

30           In short, the moving party must file an appropriate pleading naming all parties as against whom  
31           the relief sought is desired to be invoked and enforced. And as noted at the outset, in essence the

moving party would have to start either a new action and/or revive and re-open the existing action thus jeopardizing the integrity of the Judgment already entered.

### III. CONCLUSION.

This Court already has jurisdiction over Long Valley as an identified member of the Small Pumper Class. Long Valley was given proper notice at each stage of the proceeding, failed to opt out of the class, and allowed Judgment to be entered. Jurisdiction over Long Valley is apparent on the face of the Judgment. Thus, Long Valley is conclusively bound by the Judgment and its right to pump in the AVAA is as defined in the Judgment. Long Valley's extrinsic evidence is not admissible, and its motion to intervene in a Judgment to which it is already a party bound by the Judgment must be denied.

Dated: October 18, 2018

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Dated: October 18, 2018

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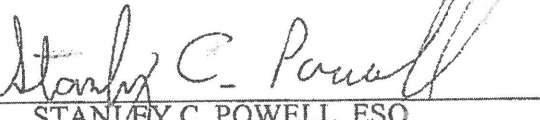
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I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within action; my business address is: 5001 E. Commercenter Drive, Suite 300, Bakersfield, California 93309.

(XX) BY ANTELOPE VALLEY WATERMASTER'S ELECTRONIC DOCUMENT SERVICE: I uploaded the document(s) listed above to www.avwatermaster.org, for electronic service on counsel of record listed on the Electronic Service List for Case No. 1-05-CV-049053.

Requetta Hansen  
LEQUETTA HANSEN