

# GRESHAM SAVAGE NOLAN & TILDEN

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September 29, 2008

## *Posted Via Court Website*

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All other Interested Counsel

and to

The Honorable Jack Komar, Judge  
Superior Court of Santa Clara County  
*by Court Website posting*

Re: Antelope Valley Groundwater Adjudication

Messrs. Lemieux, Dunn, Bunn, Tootle, Evertz, Orr, Leininger and Zimmer,  
and the Honorable Jack Komar:

On September 23, 2008, I expressly directed a letter to each of the attorneys to whom this letter is addressed (and indirectly to Mr. Zimmer), inquiring into whether any of

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Michael Duane Davis

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you had experts who were prepared to opine on the issues<sup>1</sup> addressed in *Sheep Creek Water Company's Motion to be Excluded from the Antelope Valley Groundwater Adjudication, or, in the alternative, for Recognition of its Prior Rights to the Waters of Sheep Creek* ("Motion").

On September 24th, I received a posted letter from Mr. Zimmer in which he stated that he had not yet had the opportunity to discuss the issues with his expert (Thomas Sheahan) and to determine whether Mr. Sheahan has an opinion on those issues. I have not received any other written communication from anyone informing me that they have an expert who is prepared to opine on the hydrology issues addressed in the Motion, though I did receive the September 22, 2008 "Opposition" from the Public Water Suppliers to the Motion.

I have, however, had a number of telephone conversations with both Jeffrey Dunn and Lee Leininger with regard to their experts (Joseph Scalmanini and Dr. June Oberdorfer) needing more time to finish their preparations to opine on the hydrology issues addressed in the Motion. Their representations are that, though both Mr. Scalmanini and Dr. Oberdorfer have begun evaluating the hydrologic issues addressed in the Motion, though neither has yet completed formulating their opinions and preparations to be deposed on whatever opinions they might develop. For that reason, Mr. Dunn, Mr. Leininger and I have agreed that the depositions of Dr. Ram Arora and an additional deposition of Joe Scalmanini and Dr. Oberdorfer, on this subject matter, will be set for a date as soon as they can be scheduled after Mr. Scalmanini and Dr. Oberdorfer have formulated their opinions. In light of Mr. Zimmer's letter, Mr. Sheahan may be included in that arrangement if he will likewise be formulating an opinion on those same issues.

Accordingly, Mr. Dunn, Mr. Leininger and I have agreed that we will formally inform Judge Komar on the morning of October 6th, that Mr. Scalmanini and Dr. Oberdorfer (and possibly Mr. Sheahan) are working on, but have not yet completed, formulating their opinions regarding the issues raised in the Motion, as a consequence of which, it will be requested of the Court: (1) that the hydrology issues raised in the Motion be scheduled to occur at the end of the Phase II Trial; and (2) that the depositions of Mr. Scalmanini, Dr. Oberdorfer, Dr. Arora (and possibly , Mr. Sheahan) be taken (**solely** on the

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<sup>1</sup> In summary, the issues are whether Sheep Creek Water Company's property is situated in the El Mirage Basin; whether the El Mirage Basin is a separate and distinct hydrologic basin that is situated to the east of the Antelope Valley Groundwater Basin, as designated in DWR Bulletin 118-2003; whether the El Mirage Basin has any material hydrogeologic connectivity with the Antelope Valley Groundwater Basin in the general vicinity of that property; and whether the waters of Sheep Creek arise and remain in the El Mirage Basin, and the waters extracted from the property are derivative of the waters of Sheep Creek (in the El Mirage Basin).

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hydrology issues raised in the Motion) when they have formulated their opinions on the hydrology issues raised in the Motion.

Mr. Dunn and Mr. Leininger have pre-reviewed and concur with this letter.

Sincerely,



Michael Duane Davis of  
GRESHAM SAVAGE NOLAN & TILDEN,  
a Professional Corporation

MDD:tdg

cc: C. Cummings  
Ernest E. Riffenburgh

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