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Exempt from Filing Fees
Government Code § 6103

7 Attorneys for
8 Antelope Valley Watermaster

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

11 Coordination Proceeding,
12 Special Title (Rule 1550(b))

13 **ANTELOPE VALLEY GROUNDWATER**
14 **CASES**

Judicial Council Coordination
Proceeding No. 4408

LASC Case No.: BC 325201

Assigned to the Hon. Jack Komar, Judge of the
Santa Clara Superior Court

Santa Clara Court Case No. 1-05-CV-049053

16 **WATERMASTER'S RESPONSE TO**
17 **MOTION OF STEVEN SELAK AS**
18 **TRUSTEE TO INTERVENE TO BECOME**
19 **A PARTY TO THE JUDGMENT AND**
20 **EXHIBIT A; [PROPOSED] ORDER**

21 Date: September 12, 2018
22 Time: 8:30 a.m.
23 Dept: By Courtcall

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I.

INTRODUCTION

The Watermaster has received the pro per motion to intervene filed by “Steven Selak as Trustee and on behalf of the Christine and Steven Selak Trust” (hereinafter “Trustee”). While the Watermaster does not oppose Trustee’s motion and has provided a proposed order for execution since Watermaster has already voted to approve Trustee’s transfer request, the Trustee’s motion does not comply with the terms of the Judgment or the Rules and Regulations pertaining to Transfers. In addition, the Trustee may not have standing to appear pro per on behalf of the Trust.

II.

**THE WATERMASTER HAS ALREADY VOTED TO APPROVE THE
TRUSTEE’S APPLICATION FOR TRANSFER**

By Resolution R-18-24 unanimously adopted by the Watermaster Board on July 25, 2018, the pending transfer application of Trustee was approved (see Exhibit A, which is R-18-24 and accompanying Transfer Request Form submitted by Trustee). Trustee’s Transfer Request Form sought Board approval for the transfer of one acre foot of water to Trustee as transferee. The transferors, Jeffrey and Nancee Siebert, are listed on Exhibit 4 to the Judgment and Physical Solution as overlying landowners. Because the Trustee is not a Party to the Judgment, the approval by the Watermaster Board of the transfer was necessarily subject to Trustee successfully intervening in the Judgment.

Trustee’s pro per motion includes none of these facts and, as noted below, does not comply with the Judgment or with the Rules and Regulations concerning transfers. However, because the Watermaster Board has already approved the transfer based on evidence submitted by the Trustee as part of the transfer application process and the submission of a Transfer Request Form by Trustee, the Watermaster does not oppose this motion and has submitted a proposed order for review and possible execution.

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1 III.

2 **TRUSTEE'S MOTION DOES NOT COMPLY WITH THE JUDGMENT OR**
3 **WITH THE RULES AND REGULATIONS CONCERNING TRANSFERS**

4 The motion requests that the Trustee be allowed to intervene in the December 2015
5 Judgment and Physical Solution ("Judgment") as a Party because the Trustee has allegedly
6 acquired water rights "from a member of the Antelope Valley Groundwater Adjudication, Section
7 (sic) 4 of the Final Judgment" (see Trustee's Motion, at 2:9-11). As a transferee of water rights
8 from a Party to the Judgment, the Trustee is required to itself become a Party to the Judgment
9 (Section 16.1).

10 Trustee's motion lacks any evidence or a declaration, does not provide any points and
11 authorities or a proposed order, does not recite that the Trustee has made an effort to "consult
12 with the Watermaster Engineer" about the terms of the intervention as is required under Section
13 20.9 of the Judgment, does not state what Party to the Judgment allegedly conveyed water rights
14 to the Trustee, and does not state the location of the Trustee's property where the purportedly
15 transferred water right will be applied.

16 The Trustee's motion to intervene also makes no representations as to whether the
17 acquiring of the Production Right has occurred as a result of a property sale or some other event
18 or transaction as required under Section 1.2 of the Rules & Regulations. In addition, the Trustee
19 fails to furnish its completed Transfer Request Form (now produced as Exhibit A to this response)
20 as required under Section 1.4.4 of the Rules and Regulations. There is also no indication as to the
21 nature of the transfer or whether the transferors are members of the small pumper class who are
22 not eligible to transfer Production Rights separately from the parcel of property from which the
23 water is pumped. (Section 1.5.2 of Rules and Regulations.)

24 Finally, the Judgment requires the Trustee to consult with the Watermaster Engineer so
25 that conditions can be set for the approval of any transfer, including "payment of assessments,
26 production reporting, and Meter Requirements." (Section 1.4.6 of Rules and Regulations.) As
27 the Rules and Regulations state in Section 1.6, "[p]rior to a transfer, Parties are required to submit
28 a Transfer Request Form to the Watermaster for review. The form will include specific

1 information required for the Watermaster Engineer to record and track each transfer and to
2 conduct a hydrologic review, including a Material Injury analysis. Although all transfers will be
3 subject to hydrologic review by the Watermaster Engineer, no Material Injury analysis will be
4 required on a transfer that results from a property sale.” (Section 1.6 of Rules and Regulations.)

5 In this case the Trustee has not included his Transfer Request Form, has not stated that he
6 consulted with the Watermaster Engineer, and fails to note that any Material Injury analysis has
7 been done by the Watermaster Engineer to approve the transfer. The Watermaster Engineer
8 “must make the finding that the transfer will not cause, or will fully mitigate (3.5.18.2 of the
9 Judgment) the potential for, Material Injury in order for the transfer to be approved by the Board.”
10 See Section 1.7 of the Rules and Regulations. The Trustee has not complied with the Judgment or
11 the Rules and Regulations in this regard as to its motion.

12 There is also a more fundamental concern. As a matter of procedure, the Trustee has not
13 submitted a declaration stating that it is the sole trustee of the trust, that it is the sole beneficiary
14 of the trust, and that it is the sole settlor of the trust and as such has the right to self-representation
15 in this matter. As such it would appear that the motion may be inappropriate because pro per
16 representation of a trust is generally not authorized under California law unless the sole trustee is
17 also both the sole beneficiary and sole settlor of the trust. *Ziegler v. Nickel* (1998) 64 Cal.App.4th
18 545, 621, “A non-attorney trustee who represents the trust in court is representing and effecting
19 the interests of the beneficiary and is thus engaged in the unauthorized practice of law.” *Ziegler*
20 at 549; see also *Aulisio v. Bancroft* (2014) 230 Cal.App.4th 1516, 1519-1520, 1524, 1531 n. 1.
21 Absent evidence that the Trustee is the sole settlor, sole trustee and sole beneficiary of the trust, it
22 appears under California law that the Trustee may not exercise the right of self-representation.

23 IV.

24 CONCLUSION

25 Regardless of whether the Trustee may be self-represented in this matter without being in
26 violation of the rules against the unauthorized practice of law, the motion does not comply with
27 the Judgment or the Rules and Regulations concerning transfers. However, the Watermaster
28 Board notes that it had sufficient evidence from Trustee to proceed to adopt Resolution R-18-24

1 and to approve Trustee's transfer application based on Trustee's completion of a Transfer Request
2 Form. Thus to deny Trustee's motion will only create further delay and cost in approving
3 Trustee's intervention in the Judgment.

4 Therefore, a proposed order is submitted for this Court's review if it believes it now has
5 sufficient evidence to grant the motion and since the Watermaster does not oppose the granting of
6 Trustee's motion.

7 Respectfully submitted,

8 Dated: August 27, 2018

PRICE, POSTEL & PARMA LLP

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10 By: Craig A. Parton
11 CRAIG A. PARTON
12 Attorneys for
13 Antelope Valley Watermaster
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Exhibit A

RESOLUTION NO. R-18-24

**APPROVING APPLICATIONS FOR TRANSFERS PURSUANT TO THE TERMS OF
THE JUDGMENT; ATTACHED EXHIBIT A**

WHEREAS, the Antelope Valley Watermaster, formed by the Antelope Valley Groundwater Cases Final Judgment ("Judgment"), Santa Clara Case No. 1-05-CV-049053 signed December 23, 2015, is to administer the Judgment; and

WHEREAS, a process for considering and approving applications for transfers is set forth in the Judgment and in the Rules and Regulations relating to transfers contained in the Memorandum from Todd Groundwater to the Watermaster Board dated May 14, 2018 and unanimously adopted by the Board pursuant to Resolution No. R-18-19; and

WHEREAS, the Watermaster Engineer is authorized under the Judgment to recommend to the Watermaster Board that applications for transfers be denied or approved and that approval may be pursuant to certain conditions; and

WHEREAS, pursuant to the terms of the Judgment, the Watermaster Engineer is required to make certain findings and to consider, investigate and recommend to the Watermaster Board denial or approval, or approval with certain conditions, of these applications consistent with the terms of the Judgment; and

WHEREAS, the Watermaster Engineer has reviewed all the applications listed on attached Exhibit A and has made the appropriate findings that all conditions for transfers under the Judgment and the Rules and Regulations have been satisfied, and that no Material Injury will result from the proposed transfers; and

WHEREAS, the Watermaster Board has considered and adopts the findings and recommendations of the Watermaster Engineer and is prepared to approve the applications listed on Exhibit A pursuant to any conditions recommended by the Watermaster Engineer and so noted on Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, that the Watermaster Board unanimously approves the applications for transfers listed on attached Exhibit A to this Resolution as being consistent with the terms of the Judgment and applicable Rules and Regulations.

I certify that this is a true copy of Resolution No. R-18-24 as passed by the Board of Directors of the Antelope Valley Watermaster at its meeting held July 25, 2018, in Palmdale, California.

Date: 7-26-18

ATTEST: Patricia Rose
Patricia Rose – Interim Secretary

Dennis Atkinson
Dennis Atkinson, Vice-Chairman

Exhibit A Attachment to
Resolution No. R-18-24
Approving Applications for Transfers
Pursuant to the Terms of the Judgment

List of Transfers for Approval

Original Producer	Transferee	Type of Transfer	Amount (AFY)	Original Parcel(s) (APN#)	Parcels Water Transferred to (APN#)
Miracle Improvement Co.	New Goldensands Investments	Permanent	27	3154-002-024	3154-002-024
Jeffrey & Nancee Siebert	Steven & Christine Selak	Permanent	1	3256-018-001	3256-018-009, 010, 011, 012, 005, 006, 007, 001, 008, 3256-008-005, 009

TRANSFER REQUEST FORM

ANTELOPE VALLEY WATERMASTER

Attach application fee of \$300 for review and processing. Make check out to: Antelope Valley Watermaster
Please mail to: Antelope Valley Watermaster, P.O. Box 3025, Quartz Hill, California 93586 OR email to: info@avwatermaster.net

PERMANENT TRANSFER? Yes or No or TEMPORARY/ONE-TIME TRANSFER? Yes or No
IF TRANSFER DUE TO CHANGE IN LAND OWNERSHIP, PLEASE ATTACH DEED AS PROOF OF SALE

Date Requested 4-23-18 Amount Requested 1 acre foot acre-feet
If Temporary, Calendar Year(s) to be Used N/A
Is either Party a member of the Antelope Valley United Mutuals Group? Yes or No

TRANSFER FROM (SELLER/TRANSFEROR):

Name Jeffrey & Nancee Siebert Street Address 19235 West Avenue C
City Lancaster State CA Zip Code 93536
Phone 805-341-0994 email _____
APN#(s) where transfer originates (i.e., production well location(s)) 3256-018-001

APN#(s) (or water supply service area) where groundwater was used 3256-018-009, 010, 011, 012, 005, 008, 007, 001
008, 3256-008-005, 009

TRANSFER TO (BUYER/TRANSFeree): See attached Addendum A

Name Steven & Christine Selak Street Address 1200 Lida St
City Pasadena State CA Zip Code 91103
Phone 1-213-709-4909 email _____

Note: Legal notices under the Judgment will be sent to the above email address. You are required to keep this information up to date. Please notify the Watermaster of any changes.

APN#(s) (or water supply service area) where transfer will be pumped and used _____
I am buying this water as an investment only and do not foresee ever pumping any water myself. My intention is to sell this water ASAP to another investor and repeat this process over and over as I obtain additional investment funds.
Purpose of Transfer:

- ☐ Permanent Transfer resulting from Property Sale/Transfer [PLEASE ATTACH DEED AS PROOF OF SALE]
☒ Additional Source of Water
☐ Other, explain _____

Water is to be Transferred from/to: (transferred water retains its original water type):

- ☒ Current Year Production Right: amount 1 acre-feet
☐ Carry Over Water: amount _____ acre-feet
☐ Storage: amount _____ acre-feet
☐ Other, explain _____

(Transferred water retains its original water type – e.g., transferred Carry Over Water remains Carry Over water)

WATER QUALITY AND WATER LEVELS (not required if transfer is in association of change of land ownership)

Are Parties aware of any water quality issues that exist in either the area transferred from or to? Yes or No

If yes, please explain: _____

Please provide groundwater elevations in the areas affected by the transfer. 175'

Are Parties aware of any water level issues that exist in either the area transferred from or to? Yes or No

If yes, please explain: _____

MAPS

➡ Please include a map of the area where the water was used by the Transferor and a map of the area where the water is intended to be used by the Transferee. Include locations of production facilities involved in or affected by the Transfer. This map can include all possible locations of past source and use and future source and use.

The transfer shall be conditioned upon:

1. Transferee shall succeed to the right of Transferor under the terms of the Judgment.
2. Transferee shall only use Transferred waters for reasonable and beneficial uses.
3. Any Transferee not already a Party to the Judgment must intervene and become a Party to the Judgment.
4. All applicable assessments (Administrative and Balance) and transfer fees are paid in full.
5. If the Watermaster determines that the transfer has resulted in a material injury, the parties will be required to work with the Watermaster Board to mitigate that material injury.

SIGNATURES

I understand and agree to abide by the terms of the Antelope Valley Adjudication Judgment. I certify that the information provided on this Transfer Form is correct to the best of my knowledge and that the signature below, whether original, electronic, or photocopied, is authorized and valid, and is affixed with the intent to be enforceable. I understand that it is my responsibility to notify the Antelope Valley Watermaster of any changes in any of the information provided on this form within 15 days. I also understand that additional information may be required if there is a suspected potential for a material injury as defined in the Judgment.

Signature of Transferor [Signature] Date 7/11/18

Signature of Transferee _____ Date _____

Approved by _____ Date _____

Transfer Requests review could take up to 60 days.

WATER QUALITY AND WATER LEVELS (not required if transfer is in association of change of land ownership)

Are there areas of any water quality known that exist in either the area transferred from or to? Yes, see 10/1/10

If yes, please explain:

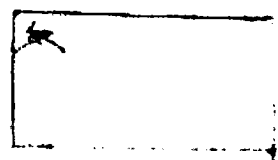
Please provide groundwater elevation in the areas affected by the transfer. 175

Are further notes of any other level issued? If so, in what? Do any transfers from or to? Yes, to the

It was, please continue

100 D

North



100 ft wide

West side

170th St West

100

100

100

ADDENDUM "A"

Jeff and Nancee Siebert / Steven James Selak and Christine Viglione Selak Trustees of the Christine and Steven Selak Trust, dated October 16, 2007.

Antelope Valley Watermaster water rights transfer dated April 23, 2018

TRANSFER REQUEST FORM

Section: TRANSFER TO (BUYER/TRANSFeree)

New Owner Title

Steven James Selak and Christine Viglione Selak Trustees of the Christine and Steven Selak Trust, dated October 16, 2007.

Address: 1200 Lida St. Pasadena, CA 91103

Phone: 626-584-8110 O / 213-709-4909 M

E mail: steve@selakentertainment.com


Purchase price \$15,000 = one acre foot of water

BILL OF SALE


Jeffrey and Nancee Siebert of 19235 W. Ave C, Lancaster, CA 93536 (SELLER) agree to sell to Steven James Selak and Christine Viglione Selak, Trustees of the Christine and Steven Selak Trust, dated October 16, 2007 (PURCHASER) of 1200 Lida St., Pasadena, CA 91103 the following:

For the sum of \$15,000 (fifteen thousand), SELLER agrees to sell to PURCHASER one acre foot of "Water Rights", and not more than one acre foot, in perpetuity, belonging to SELLER received from the Antelope Groundwater Adjudication.

PURCHASER is the son and co-administrator of the Lilia Mabel Selak, TTEE; Barbara Aznarez Deed Trust and Selak, Mabel Trust which received 150 acre feet of water rights from the Antelope Groundwater Adjudication.


Jeffrey and Nancee Siebert

4/23/18.
Date


Steven and Christine Selak

4/23/18
Date

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am employed in the County of Santa Barbara, State of California. I am over the age of eighteen (18) and not a party to the within action. My business address is 200 East Carrillo Street, Fourth Floor, Santa Barbara, California 93101.

On August 27, 2018, I served the foregoing document described as **WATERMASTER'S RESPONSE TO MOTION OF STEVEN SELAK AS TRUSTEE TO INTERVENE TO BECOME A PARTY TO THE JUDGMENT AND EXHIBIT A; PROPOSED ORDER** on all interested parties in this action by placing the original and/or true copy thereof enclosed in sealed envelopes, addressed as follows:

Steven Selak, Trustee
1200 Lida Street
Pasadena, CA 91103

- ☒ BY MAIL: I placed the original and/or true copy in a sealed envelope addressed as indicate above. I am readily familiar with the firm's practice of collection and processing documents for mailing. It is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.
- ☐ BY PERSONAL DELIVERY: I personally delivered the original and/or true copy in a sealed envelope addressed as indicated above.
- ☐ BY OVERNIGHT DELIVERY: I enclosed the original and/or true copy of the document(s) in an envelope or package provided by an overnight delivery carrier and addressed as indicated herein. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- ☐ BY FACSIMILE: Based on an agreement of the parties to accept service by fax transmission, I faxed the referenced document(s) from fax number (805) 967-3978 at [insert time] to the person(s) indicated above at the fax number(s) indicated above. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- ☐ BY E-MAIL: I caused to be e-mailed a true copy to the e-mail addresses listed above.
- ☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- ☐ (FEDERAL) I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on August 27, 2018, at Santa Barbara, California.



Signature
Elizabeth Wright

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

3 I am employed in the County of Santa Barbara, State of California. I am over the age of
4 eighteen (18) and not a party to the within action. My business address is 200 East Carrillo Street,
Fourth Floor, Santa Barbara, California 93101.

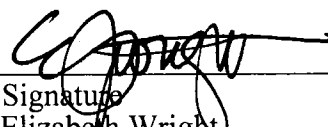
5 On August 27, 2018, I served the foregoing document described as **WATERMASTER'S**
6 **RESPONSE TO MOTION OF STEVEN SELAK AS TRUSTEE TO INTERVENE TO**
7 **BECOME A PARTY TO THE JUDGMENT AND EXHIBIT A; [PROPOSED] ORDER** on
all interested parties in this action by placing the original and/or true copy.

8 ☒ **BY ELECTRONIC SERVICE:** I posted the document(s) listed above to the Santa Clara
9 County Superior Court Website @ www.scefiling.org and Glotrans website in the action of
the Antelope Valley Groundwater Cases.

10 ☒ (STATE) I declare under penalty of perjury under the laws of the State of California that
11 the foregoing is true and correct.

12 ☐ (FEDERAL) I hereby certify that I am employed in the office of a member of the Bar of
this Court at whose direction the service was made.

13
14 Executed on August 27, 2018, at Santa Barbara, California.

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16 
17 Signature
Elizabeth Wright