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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

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

ANTELOPE VALLEY GROUNDWATER 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

WATERMASTER'S OPPOSITION TO LONG VALLEY ROAD, L.P.'S MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; DECLARATIONS OF CRAIG A. PARTON, MICHAEL D. MCLACHLAN, AND JEFFREY V. DUNN IN SUPPORT THEREOF

Date: November 1, 2018
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The Antelope Valley Watermaster ("Watermaster") submits this opposition to Long Valley Road, L.P.'s ("LVRP") Motion for Leave to Intervene in Judgment (the "Motion") as follows:

I. INTRODUCTION

LVRP seeks leave to intervene in the December 23, 2015 Judgment and Physical Solution (the "Judgment") on the basis that: (1) it was never provided adequate notice of the Antelope Valley Groundwater Cases (the "Adjudication"), and thus was erroneously excluded from the Adjudication "through no fault of its own"; and (2) it was improperly included in the Small Pumper Class because it has always produced in excess of 25 acre-feet per year, did not receive proper notice of the Small Pumper Class Action, and thus by definition is not a "Party" to the Judgment.

LVRP fails to recognize that: (1) it was provided ample opportunity to participate in the Adjudication if it so desired because it was properly served with notice of the Small Pumper Class Action, which provided LVRP an opportunity to opt-out of the Class and prove-up its alleged overlying claim to Groundwater under the Judgment; and (2) regardless of whether LVRP was appropriately designated as a Small Pumper Class Member, it failed to timely opt-out of the Small Pumper Class after receiving proper notice, and is therefore already a Party to the Judgment and intervention is not available to it under the Judgment or C.C.P. 387.

Allowing LVRP to intervene in the Judgment—or more appropriately change from a Small Pumper Class Member to an Exhibit 4 Party with Overlying Production Rights under section 3.5.26 of the Judgment—would set a dangerous precedent for future Small Pumper Class Members, defaulted Parties, and non-parties who will attempt to join the Exhibit 4 list of overlying producers based solely on conclusory allegations that they did not receive notice of the Adjudication. Furthermore LVRP should not be rewarded for its failure to properly report its actual Production.

For these reasons LVRP's motion to intervene is improper and should be denied.

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II. FACTUAL BACKGROUND

Parties identified as members of the Small Pumper Class were served with notice of the Small Pumper Class Action in 2009, 2013, and 2015 by first-class mail and publication. (McLachlan Decl. at ¶ 2-3; Dunn Decl. at ¶¶ 3, 5; Dkt. 7678 at ¶ 6, Exh. A (RJN, Exh. 1); Dkt. 7679 at ¶ 3, Exh. 3 (RJN, Exh. 2); Dkt. 9968 at ¶ 6, Exh. A (RJN, Exh. 3); Dkt. 9969 at ¶ 3, Exh. 1 (RJN, Exh. 4).)

The 2009 notice informed all recipients that they have been designated as possible class members, and that they must submit a response form no later than September 9, 2009 if they contend they are not a class member for any reason, including if they have pumped in excess of 25 acre-feet per year in any calendar year since 1946. The 2009 notice further informed recipients that "[a]ll persons who receive this Notice should respond, so that the parties and the Court will know whether you are a class member or not." (Dunn Decl. at Exh. B.)

The 2013 notice stated that recipients of the notice have been designated as class members, and "[i]f you do nothing, you will remain in the class and be bound by the terms of the settlement." The 2013 notice further provided an opportunity for recipients to respond with a request for exclusion by no later than December 2, 2013. (Dkt. 7678 at Exh. A (RJN, Exh. 1).)

The 2015 notice explained that the recipients have been designated as class members and are not in the class only if: (1) their property is connected to and receives water from a public water system, public utility or mutual water company; (2) they are already a party to the litigation; or (3) they have timely excluded themselves from the class and have not rejoined. The 2015 notice also set forth the final terms of settlement and further explained that recipients were no longer able to opt-out of the class because all class members were given two prior opportunities to do so. (Dkt. 9968 at Exh. A (RJN, Exh. 3).)

The 2009, 2013, and 2015 notices were each properly mailed to LVRP's address at 23475 Long Valley Road, Woodland Hills, California, 91367-6006. (Dunn Decl. at ¶ 3; McLachlan Decl. at ¶ 2-3; Dkt. 7678 at ¶ 6 (RJN, Exh. 1); Dkt. 9968 at ¶ 6 (RJN, Exh. 3).) This is the correct address for LVRP as listed with the California Secretary of State since LVRP's formation in 1989 (Dunn Decl. at ¶ 4, Exh. C; RJN, Exh. 5), and as admitted by LVRP in the Motion at p. 7, fn. 4.

On December 23, 2015, the Judgment was entered by the Court. (Dkt. 11020.) In the following years, as alleged by LVRP in the Motion, LVRP continued to produce in excess of the 3 acre-feet per year allowed for Small Pumper Class Members under the Judgment—an alleged average of 312.31 acre-feet per year from 2009 through 2018. (Motion at p. 3, lines 1-3, and p. 5, lines 26-28; Dkt. 11020 at Exh. A, ¶ 5.1.3.)

On July 9, 2018, the Watermaster General Counsel sent a letter to LVRP based on the understanding that LVRP was not a Party to the Judgment and was producing Groundwater in violation of the Judgment. Under the mistaken assumption that LVRP was not a Small Pumper Class Member, the letter suggested that LVRP's only recourse was to intervene in the Judgment pursuant to Paragraph 20.9. (Parton Decl. at ¶ 2.) On August 13, 2018, Watermaster General Counsel sent LVRP's counsel an email clarifying that LVRP is already a Small Pumper Class Member, and therefore subject to the Judgment and need not intervene. (Parton Decl. at ¶ 3.) During a subsequent discussion with LVRP on September 4, 2018, Watermaster General Counsel noted the fact that LVRLP is on the list of Small Pumper Class Members and yet its actual production appears to significantly exceed the limitations on the Small Pumper Class. After LVRP explained its position that it never received notice of the Small Pumper Class settlement and was not a Small Pumper Class Member, Watermaster General Counsel explained that the Watermaster does not have the power or authority to unilaterally alter, amend or modify the results of the Judgment, and that LVRP would need to petition the Court if it believes it is wrongly listed as a Small Pumper Class Member and should instead have some other Production Right. (Parton Decl. at ¶ 4.)

III. LEGAL ANALYSIS

A. LVRP IS A PARTY TO THE JUDGMENT AND WAS PROVIDED WITH NOTICE AND AN OPPORTUNITY TO JOIN AS AN EXHIBIT 4 PARTY

LVRP takes the position that it "was not and is not a party to any of the lawsuits that, as coordinated, make up the Adjudication," and therefore "LVRP is not a 'Party,' as the term is defined in the Judgment, and is not bound by the Judgment." (Notice of Motion at p. 1, lines 18-20; *see also* Motion at p. 5, lines 18-19 ("The Judgment, which by its own language applies to and

governs water use by 'Parties,' does not apply to LVRP.").)

Contrary to LVRP's allegations, LVRP is currently a Party to the Judgment as a Small Pumper Class Member. (*See* Dkt. 11020 at Exh. C, Exh. A p. 29 ("List of Known Small Pumper Class Members for Final Judgment"). It was properly served with notice of its designation as a Small Pumper Class Member and notified of the opportunity to opt-out and join the Adjudication as an overlying producer. Had LVRP taken action any time prior to the deadline stated in the 2013 notice, it could have attempted to prove-up its Overlying Production Rights under the Judgment along with those who timely joined the Adjudication as Exhibit 4 Parties. LVRP failed to timely do so, and is now bound by the terms of the Judgment as a Small Pumper Class Member. Any overlying rights LVRP may now claim to groundwater in the Basin cannot alter, amend or modify the rights allocated by the Court to Parties under the Judgment.

1. LVRP, as a Small Pumper Class Member, is a Party and Need Not Intervene

LVRP alleges that had it received notice of the Small Pumper Class Action, "it would have reasonably understood [the notices] not to apply to LVRP because LVRP has never fallen within the class definition." (Motion at p. 4, lines 16-18.) It further alleges that "each notice or any document LVRP could have looked to in order to determine whether it was a member of the Small Pumper Class included a precise, carefully formulated definition that would have unambiguously instructed LVRP . . . that LVRP was not a member, period." (Motion at p. 7, lines 19-20 – p. 8, lines 1-2; *see also* Motion at p. 5, lines 22-23 (alleging each of the notices "included a class definition that would lead LVRP to reasonably conclude *that such notices did not apply to or bind LVRP*" (emphasis in original).)

The trial court has virtually complete discretion as to the manner of giving notice to class members. (*Chavez v. Netflix, Inc.* (2008) 162 Cal. App. 4th 43, 57.) The standard is whether the notice has a reasonable chance of reaching a substantial percentage of the class members. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 251 ("it is not necessary to show that each member of a nationwide class has received notice").) Courts have held that "individual notice" is generally required for class actions in which members have a substantial claim, whereas notice by publication is adequate when the damages are minimal. (*Cooper v. Am. Sav. & Loan*

Assn. (1976) 55 Cal. App. 3d 274, 285.) "Individual notice" is generally accepted as first-class mailing to each individual class member. (*Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 174.) In this case, the "belt-and-suspenders" approach was followed, and the Court ordered the notice of Small Pumper Class Action be served by first class mail *and* publication in each instance. (Dkt. 11020 at Exh. C, p. 3 lines 14-15, 18-20, 26-27.) The Court further determined that notice "was given in an adequate and sufficient manner, and constituted the best practicable notice under the circumstances." (Dkt. 11020 at Exh. C, p. 3 lines 18-20 and 27-28.)

It is highly improbable that LVRP did not receive actual, much less constructive, notice of the Small Pumper Class Action and the Adjudication. LVRP acquired its property in 2006 (Motion at p. 2, lines 1-2), three years prior to the service of the 2009 notice of Small Pumper Class Action. LVRP's address for service of process listed in the Judgment Approving Small Pumper Class Action—23475 Long Valley Road, Woodland Hills, California, 91367-6006—is the entity's correct address since 1989 according to the California Secretary of State and LVRP's own admission. (Dunn Decl. at ¶ 4, Exh. C; McLachlan Decl. at ¶ 2-3; RJN, Exh. 5; Dkt. 11020 at Exh. C, Exh. A p. 29; Motion at p. 7, fn. 4.)

California Rule of Court 3.766 requires, among other things, that the notice to class members explain that the court will exclude the member from the class if the member so requests by a specified date, include a procedure for the member to follow in requesting exclusion from the class, and include a statement that the judgment will bind all members who do not request exclusion. (CRC Rule 3.766(d)(2)-(4).) "There is clearly no legal impediment whatsoever to making it harder to opt out than to stay in," and "requiring class members to take affirmative steps to opt in has been held to be contrary to state and federal class action law and policy." (*Chavez, supra*, 162 Cal. App. 4th at 58–59.)

Each of the notices clearly explained that LVRP, as a recipient, had been named as a Small Pumper Class Member and must respond in writing by a specific date if it believed it had been erroneously included in the Small Pumper Class. (Dunn Decl. at Exh. B; Dkt. 7678 at Exh. A (RJN, Exh. 1); Dkt. 9968 at Exh. A (RJN, Exh. 3).) There was no option to do nothing in response in the 2009 notice, and the 2013 notice stated that "[i]f you do nothing, you will remain

in the class and be bound by the terms of the settlement." (Dunn Decl. at Exh. B; Dkt. 7678 at Exh. A (RJN, Exh. 1).) None of the recipients of the notices of Small Pumper Class Action could have reasonably believed that the notices did not apply to them, or that by doing nothing they would not be subject to the terms of the Judgment, regardless of the amount of groundwater such recipients historically produced from their properties. These notices clearly complied with California law governing notices of class action, and the manner of service was in excess of legal requirements and was approved by the Court.

By way of the Motion, LVRP is requesting a second—or even third—opportunity to opt-out of the Small Pumper Class after notice of the Small Pumper Class Action, notice of partial settlement, and notice of the final Judgment had been properly served on it. Denying the Motion and confirming LVRP's status as a Small Pumper Class Member would not violate LVRP's due process rights. "[T]o hold that due process requires a second opportunity to opt out after the terms of the settlement have been disclosed to the class would impede the settlement process so favored in the law." (*Officers for Justice v. Civil Serv. Comm'n of City & Cty. of San Francisco*, 688 F.2d 615, 634–35 (9th Cir. 1982) (discussing FRCP Rule 23(b)(3).)

LVRP further argues that the relevant inquiry is whether a person that owns property within the Basin pumped less than 25 acre-feet of water from beneath its property in any year between 1946 and September 2, 2008. (Motion at p. 8, lines 7-10.) This may be the definition of a Small Pumper Class Member, but the relevant inquiry for the purposes of determining whether a person or entity is a Party to the Judgment as a Small Pumper Class Member is whether such person or entity was properly served with notice of the Small Pumper Class Action and failed to timely opt-out. (*See* Dkt. 11020 at Exh. C, p. 2, lines 14-15 ("The Court has jurisdiction over all parties to the Settlement Agreement including Class members who did not timely opt out of the Settlement."); *see also id.* at p. 4, lines 9-10 ("All members of the class who did not opt out of the Class shall be subject to all the provisions of . . . this Judgment as entered by the Court.").)

Moreover, in the three years leading up to the certification of the Small Pumper Class on September 2, 2008, LVRP's water meter data is merely an estimate based on **post**-2008 data, and the Motion fails to set forth any verifiable evidence that it did in fact pump in excess of 25 acre-

feet per year prior to and during the time of the Small Pumper Class certification. (*See* Motion at p 2, fn. 2.) It is speculative at best to conclude that LVRP did not fall under the Small Pumper Class definition as of 2008, at least as to the amount of groundwater production.

LVRP is therefore a named Party in the Adjudication as a Small Pumper Class Member and need not intervene pursuant to Paragraph 20.9 of the Judgment or C.C.P. Section 387, both of which are procedures reserved for non-Parties. (*See* Dkt. 11020 at Exh. A, ¶ 20.9 (limiting intervention to "[a]ny Person who is not a Party or a successor to a Party"); *see also* C.C.P. § 387(b) ("An intervention takes place when a nonparty . . . becomes a party to an action or proceeding between other persons").)

2. LVRP Was Given an Opportunity to Join the Adjudication as an Exhibit 4 Party

LVRP claims it "should have been provided notice and an opportunity to participate in the Adjudication but was not, and therefore due process requires that it may not be restrained by the Judgment unless and until it becomes a Party to it." (Motion at p. 9, line 25, and p. 10, lines 1-2.)

The 2009 notice stated that "[t]he case has been combined with other cases to determine all the groundwater rights in the Basin." (Dunn Decl. at Exh. B.) The 2013 notice explained that "[t]his lawsuit is coordinated with several other lawsuits pending before a single judge, the Honorable Jack Komar," and "[t]hose other lawsuits involve many other parties who also claim the right to pump groundwater in the Antelope Valley." (Dkt. 7678 at Exh. A (RJN, Exh. 1).) The 2015 notice likewise explained that "[t]he case has been combined with other cases to determine all the groundwater rights in the Basin," and "[t]he Court has not yet decided the case." (Dkt. 9968 at Exh. A (RJN, Exh. 3).) All of these notices more than sufficiently advised LVRP of the Adjudication, clearly set forth the need to opt-out of the Small Pumper Class if it believed it was incorrectly included, and notified LVRP of the opportunity to seek to join in the Adjudication as an Exhibit 4 Party if it so desired. LVRP failed to timely do so, and is now bound by the terms of the Judgment as a Small Pumper Class Member.

The plain terms of the Judgment preclude LVRP from claiming that it is not bound by it. "All real property owned by the parties within the Basin is subject to [the] Judgment." (Dkt. 11020 at p. 3, line 25.) "The Court required that all Persons claiming any right, title or interest to

Groundwater within the Basin be notified of the Action," and "[n]otice has been given pursuant to the Court's order." (Dkt. 11020 at Exh. A, ¶ 3.2.) The Physical Solution "is a fair and reasonable allocation of Groundwater rights in the Basin after giving due consideration to water rights priorities and the mandate of Article X, section 2 of the California Constitution," and "is a remedy that gives due consideration to applicable common law rights and priorities to use Basin water . . . without substantially impairing such rights." (Dkt. 11020 at Exh. A, ¶ 3.4; *see also* Dkt. 11020 at Exh. A, ¶ 7.1.) The Judgment itself is defined as a "judgment . . . determining *all rights to Groundwater in the Basin*, establishing a Physical Solution, and *resolving all claims in the Action.*" (Dkt. 11020 at Exh. A, ¶ 3.5.13 (emphasis added).) Within this framework, LVRP was given more than an adequate opportunity to participate in the Adjudication as a Party with Overlying Production Rights. LVRP cannot now challenge the finality of the litigation by claiming, almost three years after the fact, that "due process requires that it may not be restrained by the Judgment." (*See* Motion at p. 8, lines 20-23, and p. 10, line 1.)

Citing California case law, LVRP suggests that it is a necessary non-party to the Judgment, and absent the Court's approval of its intervention, cannot be bound by the Judgment. (Motion at p. 8, lines 20-23.) LVRP further suggests that the apportionment of Groundwater rights under the Judgment cannot bind LVRP unless LVRP is afforded "notice and an opportunity to resist any interference with [its present and future groundwater rights]" because the Judgment "disregards existing overlying users' rights." (Motion at p. 9, lines 4-10 (citing *Wright v. Goleta Water Dist.* (1985) 174 Cal. App. 3d 74, 88-89, and *City of Barstow v. Mojave Water Agency* (2000) 23 Cal. 4th 1224, 1249.)

As set forth above, all interested parties—including LVRP—*were* provided with more than adequate notice and opportunity to assert alleged overlying rights to Goundwater in the Basin. "Courts are vested with not only the power but also the affirmative duty to suggest a physical solution where necessary, and [they have] the power to enforce such solution regardless of whether the parties agree." (*California Am. Water v. City of Seaside* (2010) 183 Cal. App. 4th 471, 480 (quotations and citations omitted).) "The solution must not, of course, unreasonably or adversely affect the existing legal rights and respective priorities of the parties," but "a trial court

nonetheless has discretion to implement its physical solution within the bounds of its authority." (*Ibid.*) Enforcing the Judgment against LVRP as a Small Pumper Class Member is fully within the Court's jurisdiction. To hold otherwise would dangerously undermine the legitimacy and efficacy of the Judgment as a comprehensive Physical Solution for "satisfaction of all water rights in the Basin." (Dkt. 11020 at Exh. A, ¶ 7.1.) LVRP's claims to prescriptive rights (Motion at p. 11, lines 24-28 – p. 13, lines 1-7) are of no import, given that it has been a Party to the Judgment since December 23, 2015, and has failed to raise its alleged prescriptive rights until the present Motion.

B. THE MOTION SHOULD BE DENIED BECAUSE ALLOWING LVRP TO INTERVENE WOULD SET A DANGEROUS PRECEDENT

As set forth above, all Small Pumper Class Members were properly served with notice of the Small Pumper Class Action. Likewise, numerous Parties failed to respond timely, or at all, to the Public Water Suppliers' cross-complaint, as amended, and their defaults were entered by the Court. (Dkt. 11020 at Exh. A, ¶ 1.6.) Allowing a Party to intervene—whether a Small Pumper Class Member, a defaulted Party, or a non-party—based solely on unsubstantiated and improbable allegations that they never received notice of the Adjudication—sets a dangerous precedent. Such a precedent could open the floodgates to other Small Pumper Class Members, defaulted Parties and non-parties seeking to intervene by simply alleging a lack of notice without any supporting evidence.

All of the Parties to the Judgment participated in good faith in each phase of trial in order to prove-up their Groundwater rights and calculate the Safe Yield. Allowing LVRP to intervene and/or alter the Judgment at this point in time would send the wrong message to other Small Pumper Class Members, defaulted Parties and non-parties who may have also failed to report their actual Production, and would now seek to prove-up Overlying Production Rights pursuant to historical production. (*See* Motion at p. 1, lines 21-23 ("If this Motion is granted . . . LVRP will seek a modification of the Judgment to recognize LVRP's status as a Party with Overlying Production Rights and to quantify LVRP's Production Right.").) Thus concerns of fairness and equitable enforcement of the Judgment support denial of the Motion.

C. LVRP MUST PAY ADMINISTRATIVE ASSESSMENTS, REPLACEMENT WATER ASSESSMENTS, AND BE REQUIRED TO INSTALL METERS

In denying the Motion, the Court should order LVRP's compliance with its Replacement Obligation as defined in Paragraph 3.5.39 of the Judgment. By its own admission, LVRP has been pumping in excess of 3 acre-feet per year since entry of the Judgment, and continues to do so on an ongoing basis. LVRP is therefore obligated to pay for the Replacement Water it produces in excess of its Production Right beginning with 2018. Even if the Court chooses to grant LVRP leave to "intervene" in the Judgment, LVRP should still be required to pay such Replacement Water Assessment for the same reasons.

LVRP has also failed to pay Administrative Assessments pursuant to Paragraph 9.1 of the Judgment. As such, in denying the Motion the Court should order LVRP to pay Administrative Assessments for each acre-foot LVRP has produced each year in 2016, 2017 and 2018. LVRP should also be obligated to pay Administrative Assessments for all future years. Even if the Court chooses to grant LVRP leave to "intervene" in the Judgment, LVRP should still be required to pay such Administrative Assessments for the same reasons.

Finally, although LVRP alleges that it currently monitors its Groundwater Production (Motion at p. 2, fn. 2), LVRP must ensure that its metering practices comply with the Watermaster Engineer's rules and regulations regarding determination of Production amounts and installation of individual water meters pursuant to Paragraph 18.5.5 of the Judgment. Given that LVRP alleges it has produced well in excess of 3 acre-feet per year since entry of the Judgment, it should be required to install a Watermaster Engineer-approved meter on its wells pursuant to Paragraph 5.1.3.2 of the Judgment.

D. IF THE MOTION IS GRANTED, LVRP SHOULD BE ALLOWED TO INTERVENE ONLY AS A NON-STIPULATING PARTY

If the Court grants LVRP's Motion despite its status as a Small Pumper Class Member, LVRP should be allowed to intervene only as a Non-Stipulating Party pursuant to Paragraph 5.1.10 of the Judgment. A "Non-Stipulating Party" is defined as "[a]ny Party who had not executed a Stipulation for Entry of this Judgment prior to the date of approval of this Judgment by

the Court." (Dkt. 11020 at Exh. A, ¶ 3.5.24.) Should the Court, after taking evidence, rule that LVRP has a Production Right, LVRP must be subject to all provisions of the Judgment, including reduction in Production necessary to implement the Physical Solution and the requirements to pay Assessments, but shall *not* be entitled to benefits including, but not limited to, Carry Over and Transfers. (Dkt. 11020 at Exh. A, ¶ 5.1.10.) All other provisions applicable to Non-Stipulating Parties, including but not limited to limits on Production in relation to the Native Safe Yield, must also apply to LVRP in the event the Motion is granted.

IV. CONCLUSION

For the foregoing reasons, the Watermaster respectfully requests that the Court: (1) deny the Motion in its entirety; (2) confirm that LVRP is a Party to the Judgment as a Small Pumper Class Member; (3) require LVRP to pay Replacement Water Costs for all water produced from its property in excess of its Production Right beginning in 2018; (4) require LVRP to pay Administrative Assessments for each acre-foot LVRP has produced per year in 2016, 2017 and 2018, as well as all such future Production as a Small Pumper Class Member; and (5) require LVRP to comply with the Watermaster Engineer's rules and regulations regarding determination of Production amounts and installation of individual water meters. Alternatively, if the Motion is granted, LVRP should be allowed to intervene only as a Non-Stipulating Party pursuant to Paragraph 5.1.10 of the Judgment.

Respectfully submitted,

Dated: October 19, 2018

PRICE, POSTEL & PARMA LLP

By: Craig A. Parton
CRAIG A. PARTON
Attorneys for
Antelope Valley Watermaster

DECLARATION OF CRAIG A. PARTON

I, CRAIG A. PARTON, declare as follows:

1. I am a partner in the law firm of Price, Postel & Parma LLP, general counsel for the Antelope Valley Watermaster herein. I have personal knowledge of the matters set forth below and if called as a witness could testify competently thereto.

2. On July 9, 2018, I sent a letter to Long Valley Road, L.P. ("LVRP") based on the understanding that LVRP was not a Party to the Judgment and was producing groundwater in violation of the Judgment. Under the mistaken assumption that LVRP was not a Small Pumper Class Member, the letter suggested that LVRP's only recourse was to intervene in the Judgment pursuant to Paragraph 20.9.

3. On August 13, 2018, after learning that LVRP was already a Party to the Judgment, I sent LVRP's counsel an email clarifying that LVRP is already a Small Pumper Class Member, and therefore subject to the Judgment and need not intervene.

4. On September 4, 2018 I had a phone conversation with LVRP representatives. During that conversation I noted the fact that LVRP is on the list of Small Pumper Class Members, and yet its actual production appears to significantly exceed the limitations on the Small Pumper Class. LVRP explained its position that it never received notice of the Small Pumper Class settlement and was not a Small Pumper Class Member. I responded that the Watermaster does not have the power or authority to unilaterally alter, amend or modify the results of the Judgment, and that LVRLP would need to petition the Court if it believes it is wrongly listed as a Small Pumper Class Member and should instead have some other Production Right.

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

Dated: October 19, 2018

Craig A. Parton

CRAIG A. PARTON

DECLARATION OF MICHAEL D. MCLACHLAN

I, MICHAEL D. MCLACHLAN, declare as follows:

1. I was co-counsel of record of record for Plaintiff Richard Wood and the Small Pumper Class (the "Class") in the Antelope Valley Groundwater Cases, and am duly licensed to practice law in California. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

2. As set forth in the Declaration of Jennifer M. Keough Regarding Notice Dissemination filed with the Court on December 3, 2013 as Document No. 7678, the 2013 Notice of Partial Class Action Settlement for the "Small Pumper" Class Action (the "2013 Notice") was printed, posted for first-class mail, postage prepaid, and delivered to a U.S. Post Office for mailing to each Class Member on October 31, 2013. Long Valley Road, L.P. ("LVRP") was included in the list of Class Members who were mailed the 2013 Notice. LVRP's address as of the date of mailing the 2013 Notice was 23475 Long Valley Road, Woodland Hills, California, 91367-6006. The 2013 Notice that was mailed to LVRP was not returned as undeliverable or with forwarding address information.

3. As set forth in the Declaration of Jennifer M. Keough Regarding Dissemination of Small Pumper Notice filed with the Court on June 4, 2015 as Document No. 9968, the 2015 Notice of Proposed Settlement for the "Small Pumper" Class Action and Settlement Hearing (the "2015 Notice") was printed, posted for first-class mail, postage prepaid, and delivered to a U.S. Post Office for mailing to each Class Member on April 3, 2015. LVRP was included in the list of Class Members who were mailed the 2015 Notice. LVRP's address as of the date of mailing the 2015 Notice was 23475 Long Valley Road, Woodland Hills, California, 91367-6006. The 2015 Notice that was mailed to LVRP was not as undeliverable or with forwarding address information.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on October 18, 2018, at Hermosa Beach, California.

MICHAEL D. MCLACHLAN

DECLARATION OF JEFFREY V. DUNN

I, JEFFREY V. DUNN, declare as follows:

1. I am a partner with the law firm of BEST BEST & KRIEGER LLP, counsel of record for Los Angeles County Waterworks District No. 40 ("District 40"), and am duly licensed to practice law in California. I have personal knowledge of the facts stated herein and, if called upon to do so, I could testify to these facts.

2. On March 13, 2009, the Court in the above captioned matter approved the form of notice to be provided to all potential members of the Small Pumper Class, and ordered the publication of the notice both via newspaper publication and website. A true and correct copy of the Order Approving Revised Class Notice for Small Pumper Class Action is attached hereto as Exhibit "A."

3. Thereafter, my office coordinated with Mr. Michael McLachlan, counsel for Small Pumper Class, to prepare the mailing list for the Small Pumper Class. My office then provided that mailing list to a third-party vendor to mail the 2009 Notice of Class Action for the "Small Pumper" Class Action (the "2009 Notice") to each of the approximately 9,883 potential Small Pumper Class members.

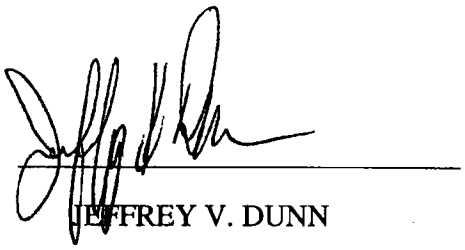
3. On July 2, 2009, my office received the mailing list used by the vendor to provide the 2009 Notice, which lists Long Valley Road LP's mailing address as "23475 LONG VALLEY RD, WOODLAND HILLS, CA 91367-6006." I am informed and therefore believe that a copy of the 2009 Notice was mailed to Long Valley Road LP in late June or early July 2009 at that address. A true and correct copy of the 2009 Notice is attached hereto as Exhibit "B." A copy of the 2009 Notice is also made publicly available at www.avgroundwater.com/smallpumper/wood.cfm.

4. On or about October 18, 2018, my office conducted a search for "Long Valley Road LP" on the California Secretary of State Business Search website, https://businesssearch.sos.ca.gov/. Pursuant to the California Secretary of State website, the mailing address that was used to mail the 2009 Notice to Long Valley Road appears to be the Long Valley Road LP's address for service of process since 1989. Attached as Exhibit "C" is a true and correct copy of the Certificate of Limited Partnership for Long Valley Road that my office

downloaded from the website of Secretary of State. Exhibit "C" is available at https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=198926300045-87029.

5. Additionally, my office caused a summary of the 2009 Notice to be published in The Bakersfield Californian, the Antelope Valley Press Newspaper and the Los Angeles Times. True and correct copies of the proofs of publication for each of these newspapers are attached hereto as Exhibit "D."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 19th day of October, 2018, at Irvine, California.



JEFFREY V. DUNN

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 October 19, 2018, I served the foregoing document described as **WATERMASTER'S OPPOSITION TO LONG VALLEY ROAD, L.P.'S MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; DECLARATIONS OF CRAIG A. PARTON AND JEFFREY V. DUNN IN SUPPORT THEREOF** on all interested parties in this action by placing the original and/or true copy.

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

☒ (*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 October 19, 2018, at Santa Barbara, California.

Signature
Elizabeth Wright