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Attorneys for
Antelope Valley Watermaster

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICTCoordination Proceeding, Special Title (Rule 1550(b))

## ANTELOPE VALLEY GROUNDWATER CASES

Judicial Council Coordination
Proceeding No. 4408
LASC Case No.: BC 325201
Santa Clara Court Case No. 1-05-CV-049053
Assigned to the Hon. Jack Komar, Judge of the Santa Clara Superior Court

WATERMASTER'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF ITS OPPOSITIONS TO THE MOTIONS TO SET ASIDE OR MODIFY JUDGMENT BY JOHNNY AND PAMELLA ZAMRZLA AND JOHNNY LEE AND JEANNETTE ZAMRZLA; EXHIBITS 1-18

Date: December 13-14, 2022
Time: 9:00 AM
Dept: 17

In support of its Oppositions to the Motions to Set Aside or Modify Judgment filed by Johnny and Pamella Zamrzla and Johnny Lee and Jeanette Zamrzla, and pursuant to California Rules of Court Rules 3.1306(c) and 3.1113(1), and Evidence Code sections 452 and 453, the Antelope Valley Watermaster hereby requests that the Court take judicial notice of the following court documents:

1. Declaration of Jeffrey V. Dunn in support of Watermaster's Reply to Zamrzla's

Opposition to Motion for Declaratory and Injunctive Relief, filed with this Court as an attachment to the Watermaster's Reply brief on December 3, 2021 as Document \#12153, a true and correct copy of which is attached hereto as Exhibit 1.
2. Declaration of Jennifer M. Keough Regarding Notice Dissemination, dated and filed with the Court on December 3, 2013 as Document \# 7678, a true and correct copy of which is attached hereto as Exhibit 2.
3. Supplemental Declaration of Michael D. McLachlan in Support of Motion for Final Approval of Partial Class Settlement, dated and filed with the Court on December 3, 2013 as Document \# 7679, a true and correct copy of which is attached hereto as Exhibit 3.
4. Declaration of Jennifer M. Keough Regarding Dissemination of Small Pumper Notice, dated June 3, 2015 and filed with the Court on June 4, 2015 as Document \# 9968, a true and correct copy of which is attached hereto as Exhibit 4.
5. Declaration of Michael D. McLachlan Re: Publication of Summary Class Notice of Settlement, dated and filed with the Court on June 4, 2015 as Document \# 9969, a true and correct copy of which is attached hereto as Exhibit 5.
6. Long Valley Road L.P.'s Notice of Motion and Motion for Leave to Intervene in Judgment; Memorandum of Points and Authorities in Support, dated and filed with the Court on October 9, 2018 as Document \# 11811, a true and correct copy of which is attached hereto as Exhibit 6.
7. Declaration of Bruce E. Pherson Jr. in Support of Long Valley Road L.P.'s Motion to Intervene in Judgment, dated October 8, 2018 and filed with the Court on October 9, 2018 as Document \# 11808, a true and correct copy of which is attached hereto as Exhibit 7.
8. Declaration of Andrew W. Homer in Support of Long Valley Road L.P.'s Motion to Intervene in Judgment, dated and filed with the Court on October 9, 2018 as Document \# 11810, a true and correct copy of which is attached hereto as Exhibit 8.
9. Proposed Order Re: Long Valley Road L.P.'s Motion for Leave to Intervene in Judgment, filed with the Court on October 9, 2018 as Document \# 11809, a true and correct copy of which is attached hereto as Exhibit 9.
10. 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, dated and filed with the Court on October 19, 2018 as Document \# 11814, a true and correct copy of which is attached hereto as Exhibit 10.
11. Notice of Errata to 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, dated and filed with the Court on October 19, 2018 as Document \# 11819, a true and correct copy of which is attached hereto as Exhibit 11.
12. Watermaster's Request for Judicial Notice in Support of its Opposition to Long Valley Road, L.P.'s Motion for Leave to Intervene in Judgment; Exhibits 1-5, dated and filed with the Court on October 19, 2018 as Document \# 11815, a true and correct copy of which is attached hereto as Exhibit 12.
13. [Proposed] Order Denying Long Valley Road, L.P.'s Motion for Leave to Intervene in Judgment, filed with the Court on October 19, 2018 as Document \# 11816, a true and correct copy of which is attached hereto as Exhibit 13.
14. Joint Opposition to Motion of Long Valley Road, L.P. for Leave to Intervene in Judgment; Objections to the Declarations of Andrew W. Homer and Bruce E. Pherson, Jr., Filed in Support of the Motion; and Objection to the Proposed Order on the Motion, dated and filed with the Court on October 18, 2018 as Document \# 11813, a true and correct copy of which is attached hereto as Exhibit 14.
15. Public Water Supplier Opposition to Long Valley Road, L.P.'s Motion for Leave to Intervene in Judgment, dated and filed with the Court on October 19, 2018 as Document \# 11817, a true and correct copy of which is attached hereto as Exhibit 15.
16. Long Valley Road, L.P.'s Reply in Support of Motion to Intervene in Judgment, dated and filed with the Court on October 25, 2018 as Document \# 11825, a true and correct copy of which is attached hereto as Exhibit 16.
17. Order Denying Long Valley Road, L.P.'s Motion to Intervene in Judgment, dated November 1, 2018 and filed with the Court on November 9, 2018 as Document \# 11833, a true
and correct copy of which is attached hereto as Exhibit 17.
18. Declaration of Kevin Berg Regarding Dissemination of Small Pumper Class Action Notice, dated August 24, 2022 and filed with the Court on October 11, 2022 as Document \#12374, a true and correct copy of which is attached hereto as Exhibit 18.

## A. This Court May Take Judicial Notice of Court Documents on File in the Antelope

 Valley Groundwater Cases, Los Angeles Superior Court Case No. BC 325201Evidence Code section 452(d) provides for taking judicial notice of the records of any court of this state. Exhibits $1-18$ constitute records of the Los Angeles County Superior Court, which is a court of the State of California, and are documents which are on file with said court. B. A Request for Judicial Notice is Conditionally Mandatory Upon Proper Request

Under Evidence Code section 453, this Request for Judicial Notice pursuant to any matter specified in Section 452 is conditionally mandatory and must be granted if sufficient notice is given to the other parties and if the Court is furnished with sufficient information to enable it to take notice of this matter. (People v. Maxwell (1978) 78 Cal.App.3d 124, 130-131.) By this request, Watermaster gives sufficient notice and gives this Court sufficient information to enable it to take judicial notice of the documents attached hereto as Exhibits $1-18$.

Respectfully submitted,

Dated: October 12, 2022
PRICE, POSTEL \& PARMA LLP

By: $\frac{\text { Unes } a \cdot P a}{\text { CRAIGA. PARTON }}$

## 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 12, 2022, I served the foregoing document described WATERMASTER'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF ITS OPPOSITIONS TO THE MOTIONS TO SET ASIDE OR MODIFY JUDGMENT BY JOHNNY AND PAMELLA ZAMRZLA AND JOHNNY LEE AND JEANNETTE ZAMRZLA; EXHIBITS 1-18 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.

凹 (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 12, 2022, at Santa Barbara, California.


## Exhibit 1

## DECLARATION OF JEFFREY V. DUNN

I, JEFFREY V. DUNN, declare and state as follows:

1. I make this declaration in support of WATERMASTER'S REPLY TO ZAMRZLAS' OPPOSITION TO MOTION FOR MONETARY, DECLARATORY AND INJUNCTIVE RELIEF.
2. 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.
3. 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."
4. 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.
5. On July 2, 2009, my office received the mailing list used by the vendor to provide the 2009 Notice, which lists Johnny Zamrzla's and Pamella Zamrzla's ("Zamrzla") mailing address as "48910 80TH ST W, LANCASTER, CA 93536-8740." I am informed and therefore believe that a copy of the 2009 Notice was mailed to Zamrzla 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.
6. 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 "C."

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 December 2, 2021, at Irvine, California.

## Exhibit A

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# SUPERIOR COURT FOR THE STATE OF CALIFORNIA 

 COUNTY OF LOS ANGELESANTELOPE VALLEY GROUNDWATER CASES

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
v.

LOS ANGELES COUNTY •
WATERWORKS DISTRICT NO. 40; et al.

Defendants.

Judicial Council Coordination Proceeding No. 4408 (Hon, Jack Komar)

Case No.: BC391869 i
[peoproped] ORDER APPROVING
REVISED CLASS NOTICE FOR
SMALL PUMPER CLASS ACTION
Having received no objections to the revised class notice filed by counsel for the Small Pumper Class, the Court hereby approves the form of notice electronically filed on February 18, 2009.


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## Exhibit B

# ***IF YOU RECEIVED A PRIOR CLASS ACTION NOTICE RELATING TO GROUNDWATER RIGHTS IN THE ANTELOPE VALLEY, THAT NOTICE RELATED TO A DIFFERENT LAWSUIT, DEALING WITH A DIFFERENT CLASS OF LANDOWNERS WITH DIFFERENT RIGHTS. *** 

*** IMPORTANT: IF YOU PUMP GROUNDWATER OR YOU OR YOUR PREDECESSORS HAVE EVER PUMPED GROUNDWATER ON YOUR PROPERTY, CAREFULLY READ THIS NOTICE - THIS LAWSUIT MAY AFFECT YOUR RIGHTS TO PUMP GROUNDWATER IN THE FUTURE. ***

## SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
v.
LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; et al.

Defendants.

JUDICIAL COUNCIL COORDINATION PROCEEDING No. 4408

NOTICE OF CLASS ACTION FOR THE "SMALL PUMPER" CLASS ACTION

TO CERTAIN ANTELOPE VALLEY LANDOWNERS: CAREFULLY READ AND RESPOND TO THIS NOTICE, AS IT MAY AFFECT YOUR RIGHT TO PUMP GROUNDWATER ON YOUR PROPERTY IN THE FUTURE.

This notice is to advise you about a pending class action lawsuit, referred to as the "Small Pumper" class action. You may be a member of the Class. PLEASE TAKE THE TIME TO READ THIS IMPORTANT LEGAL NOTICE. YOU ARE REQUIRED TO RETURN THE ATTACHED RESPONSE FORM, EITHER BY MAIL OR BY THE INTERNET, ON OR BEFORE SEPTEMBER 9, 2009.

This Class Action lawsuit involves water rights in the Antelope Valley Groundwater Basin. Plaintiff Richard Wood brought this case to protect his right and those of other landowners in the Basin to pump water on their properties in the future. The case has been combined with other cases to determine all the groundwater rights in the Basin. The Court has not yet decided the case. This Notice is intended to inform you of the pendency of this case and advise you how you can protect your rights. You have been sent this Notice because as a property owner in the Antelope Valley your rights to pump and use groundwater on your property may be affected by this case.

## ARE YOU A MEMBER OF THE CLASS?

You have been designated as a possible class member because records show that you may own improved property in the Antelope Valley. The class includes all private (i.e., non-governmental) landowners within the Antelope Valley Groundwater Basin that have pumped groundwater on their property at any time since 1946, with certain exceptions set out below.

You are NOT in the Class if you fall within one of the categories set forth below. BUTYOUR RIGHTS MAY BE AFFECTED UNLESS YOU RETURN THE ATTACHED RESPONSE FORM AND MAKE CLEAR THAT YOU ARE NOT IN THE CLASS. HENCE, IT IS IMPORTANT THAT YOU RETURN THE RESPONSE FORM AS PROMPTLY AS POSSIBLE, EVEN IF YOU ARE NOT A CLASS MEMBER.

## YOU ARE NOT IN THE CLASS WITH RESPECT TO ANY GIVEN PARCEL OF PROPERTY IF THAT PARCEL FALLS WITHIN ANY OF THE FOLLOWING CATEGORIES:

1. You have pumped 25 acre-feet or more of groundwater for use on a that parcel in any calendar year since 1946; or
2. You are a shareholder in a mutual water company in the Antelope Valley; or
3. You are already a party to this litigation (but, in that event, you may elect to join the Class).

## WHAT IS THE CASE ABOUT?

Under California law, property owners have a right to pump and use groundwater (water underneath the surface) on their land. In this case, however, the naturally available supply of water in the Basin may not be adequate to satisfy everyone who wants to use that water. Plaintiff Richard Wood brought this action to protect his right and that of other Antelope Valley landowners to pump and use the water under their properties and to obtain compensation for any wrongful taking of their property rights. Mr. Wood claims that he and other landowners have water rights which are superior to the rights of certain public water suppliers to use that water. The public water suppliers claim that their historical pumping has given them superior water rights. If the public water suppliers win, your rights to use the groundwater under your property may be cut back. The Court has not yet ruled on these claims.

## WHAT DO YOU NEED TO DO?

YOU ARE REQUIRED TO SUBMIT the attached RESPONSE FORM, either by mail or on the internet, by September 9, 2009. The instructions for completing this form are below. All persons who receive this Notice should respond, so that the parties and Court will know whether you are a class member or not.

If you are a Class Member, you have the right to remain in the Class or exclude yourself from the Class. Class Members are defined to include all private (i.e., non-governmental) landowners within the Antelope Valley Groundwater Basin that have pumped groundwater on a given parcel of property at any time since 1946, and who does not fall within any of the exclusions set forth above. Class Members should complete and return the attached response form.

## If you remain in the Class:

- You will be bound by the decision in the case, whether favorable or unfavorable.
- Plaintiff Wood and his attorneys will act as your representatives in this case, and you will not personally be obligated to pay any fees or costs out of your pocket.
- You may, but need not, hire your own lawyer at your own expense to represent you.

If you exclude your parcel(s) from the Class:

- Your parcel(s) will not be bound by any decision that affects the Class.
- But you (or your parcel) may be added to the lawsuit as an individual defendant, and you may have to represent yourself or hire a lawyer to represent you.

Please complete the response form on the website for the Small Pumper Class at http://www.avgroundwater.com/smallpumper/ResponseForm.cfm by September 9, 2009. Alternatively, you may complete and return the attached response form by mail no later than September 9,2009 to the following address:

Antelope Valley Groundwater Litigation
P.O. BOX 12013

Riverside, CA 92502-9839

## WHERE CAN YOU GET ADDITIONAL INFORMATION?

The complaint, certain other documents from the litigation, and some other general information are available at: http://www.avgroundwater.com/smallpumper/wood.cfm. You may complete and submit the response form on that website. In addition, that website has a list of answers to certain other questions you may have. That website has an e-mail address for you to obtain information if you have further questions. That website will be updated from time to time to advise you of the status of this litigation. Also, all of the documents filed in the case are available on the court's website at: http://www.scefiling.org/cases/casehome.jsp?caseId=19

PLEASE DO NOT CALL OR WRITE THE COURT OR CLERK'S OFFICE. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT YOUR OWN COUNSEL, VISIT THE WEB SITES LISTED ABOVE, OR WRITE TO CLASS COUNSEL AT THE ADDRESS ABOVE.

## Exhibit C

## PROOF OF PUBLICATION

The BAKERSFIELD CALIFORNIAN POO. BOX 440 BAKERSFIELD, CA 93302<br>BEST, BEST \& KRIEGER, LIP 5 PARK PLAZA SUITE 1500<br>IRVINE, CA 92614



Solicitor 1.D.: $\quad 0$
First Text
SUPERIOR COURT FOR THE STATE OF CALIFORA
Ad Number 11393604

AND WHICH NEWSPAPER HAS BEEN ADJUDGED A NEWSPAPER OF GENERAL CIRCULATION BY THE SUPERIOR COURT OF THE COUNTY OF KERN, STATE OF CALIFORNIA, UNDER DATE OF FEBRUARY 5, 1952, CASE NUMBER 57610; THAT THE NOTICE, OF WHICH THE ANNEXED IS A PRINTED COPY, HAS BEEN PUBLISHED IN EACH REGULAR AND ENTIRE ISSUE OF SAID NEWSPAPER AND NOT IN ANY SUPPLEMENT THEREOF ON THE FOLLOWING DATES, TO WIT: 8/2/09

8/5/09
8/9/09 8/12/09

## ALL IN YEAR 2009

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.


DATED AT BAKERSFIELD CALIFORNIA



> | Best Best \& Krieger LLP |
| :--- |
| 5 Park Plaza, Suite 1500 |

Irvine, CA 92614

Angelina de Cordova

County and State being duly swom, says;
That he is and at all times heretn mentioned was a cittien of the Unlted States, ower 21 years of age, and not a party to nor interested in the above entilled matter; that hs is a princtpal clerk of the printers and publishers of the LOS ANGELES TMMES a newspaper printed and Rubldthendeften the sald Los Angeles County: that the
in the above enttled matter of which the annexed is a prited copy, was published in sald newspaper

## LOS ANGELES TIMES

202 West First St. Los Angeles, CA. 90012
on the following days, to-wit:
Sun; August 2, 2009 \& Wed; August 5, 2009
Sun; August 9, 2009 \& Wed; August 12, 2009

## Affidavit of Public: thion

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AFFIDAVIT OF INSERTION

Angela Edwards
Antelope Valley Press
P.O. Box 4050

Palmdale, CA 93590-4050
(661) 940-5368

Advertiser: $\quad$ Best Best Krieger LLP
Day/Date of distribution: Sun Aug $2^{\text {nd }}$, Wed Aug $5^{\text {th }}$;
Sun Aug $9^{\text {th }} ;$ Wed Aug. $12^{\text {th }}$
Number of inserts distributed: ROP Advertising
Publication Name: Antelope Valley Press Newspaper

Affidavit Completed:
Date: September 11, 2009
By:
 Title: Advertiser Representative


## Exhibit 2

## SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))
ANTELOPE VALLEY GROUNDWATER CASES

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
v.

LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; et al.,

Defendants.

I, JENNIFER M. KEOUGH, declare as follows:

1. I am Chief Operating Officer of The Garden City Group, Inc. ("GCG"). The following statements are based on my personal knowledge and information provided by other GCG employees working under my supervision, and if called on to do so, I could and would testify competently thereto.
2. GCG was retained in the above-captioned litigation (the "Litigation"), and appointed pursuant to Section VI.B of the Wood Class Stipulation of Settlement (the "Stipulation of Settlement") to serve as the Administrator. I submit this Declaration in order to provide the Court and the parties to the Litigation with information regarding: (i) the dissemination of the

Notice of Partial Class Action Settlement for the "Small Pumper" Class Action (the "Notice"), as directed by paragraph 1 of the Court's Order Granting Preliminary Approval of Class Action Partial Settlement and Notice to the Class (the "Order"); and (ii) the list of persons who have requested exclusion from the Class, pursuant to paragraph 7 of the Order.

## DISSEMINATION OF THE NOTICE

3. In paragraph 1 of the Order, the Court found that the form and content of the Notice would provide the best practicable notice to Class Members. Pursuant to the Order, GCG was responsible for disseminating the Notice to the "Wood Class," as defined in Section III.Y of the Stipulation of Settlement:

All private (i.e., non-governmental) persons and entities that own real property within the Basin, as adjudicated, and that have been pumping less than 25 acrefeet per year on their property during any year from 1946 to the present. The Class excludes the defendants herein, any person, firm, trust, corporation, or other entity in which any defendant has a controlling interest or which is related to or affiliated with any of the defendants, and the representatives, heirs, affiliates, successors-in interest or assigns of any such excluded party. The Class also excludes all persons and entities that are shareholders in a mutual water company.
4. On or about October 29, 2013, Plaintiff's Counsel provided GCG with Excel spreadsheets containing data records for 4,312 Class Members ("Class List"), which included Class Members' names and addresses. However, data records for nine (9) Class Members did not contain a valid mailing address. Those nine (9) records were forwarded to Class Counsel for further research.
5. GCG promptly loaded the information into the database created for this Litigation and updated the addresses through the National Change of Address (NCOA) database. Of the 4,312 records sent out for search, 366 were returned with address updates, and GCG updated the addresses accordingly. GCG gave unique identifiers to all records in order to maintain the ability to track them throughout the administration process.
6. GCG thereafter formatted the Notice and caused it to be printed, posted for firstclass mail, postage prepaid, and delivered to a U.S. Post Office for mailing to each Class Member on October 31, 2013 (the "Main Notice Date").
7. On the Main Notice Date, 4,303 copies of the Notice were mailed. A copy of the Notice, as mailed, is attached hereto as Exhibit A.
8. Pursuant to Section VI.B of the Stipulation of Settlement, on the Main Notice Date, GCG also sent the Notice as a PDF e-mail attachment to the 124 unique Class Member email addresses contained in the Class List. The Notice was successfully delivered to 89 of the 124 e-mail addresses.
9. On or about November 2, 2013, Class Counsel provided contact information for the nine (9) Class Members for whom contact information was missing on the original Class List. Two (2) of the nine (9) Class Members had additional contact addresses. GCG caused eleven (11) copies of the Notice to be printed, posted for first-class mail, postage prepaid, and delivered to a U.S. Post Office for mailing to each Class Member on November 6, 2013 (the "Supplemental Notice Date").
10. Notices that were returned by the U.S. Postal Service with forwarding address information were promptly re-mailed using the updated address information received from the U.S. Postal Service. As of December 2, 2013, GCG had re-mailed eleven (12) Notices to updated addresses received from the U.S. Postal Service.
11. As of December 2, 2013, a total of 690 Notices had been returned undeliverable without forwarding address information.

## REQUESTS FOR EXCLUSION

12. Pursuant to Section VI.C of the Stipulation of Settlement, Class Members who wished to exclude themselves from the Settlement had to do so in writing by submitting a signed and dated opt-out request to GCG, postmarked no later than December 2, 2013. As of December 2, 2013, GCG had received six (6) timely requests for exclusions from the Class.

A list of the Class Members who have requested exclusion is attached to this Declaration as Exhibit B.

## OBJECTIONS TO THE SETTLEMENT

13. Pursuant to paragraph 10 (d) of the Order, Class Members who wish to object to the Settlement have to do so in writing by submitting their objections to the Court and the parties' Counsel by December 4, 2013. As of December 2, 2013, the Administrator had not received any objections.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge and belief.

Executed on December 3, 2013, at Seattle, Washington.


JENNIFER M. KEOUGH

## Exhibit A

# SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES 

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
v.

## LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; et al.,

JUDICIAL COUNCIL COORDINATION
PROCEEDING No. 4408

NOTICE OF PARTIAL CLASS ACTION SETTLEMENT FOR THE "SMALL PUMPER" CLASS ACTION

Defendants.
TO CERTAIN ANTELOPE VALLEY LANDOWNERS WHO HAVE IN THE PAST, OR CURRENTLY PUMP GROUNDWATER ON THEIR PROPERTY: CAREFULLY READ THIS NOTICE, AS IT MAY AFFECT YOUR RIGHT TO PUMP GROUNDWATER ON YOUR PROPERTY IN THE FUTURE.

## GENERAL INFORMATION

## 1. Why was this notice issued?

You have been sent this Notice because as a property owner in the Antelope Valley, your rights to pump and use groundwater on your property may be affected by this case. The Court issued this notice because you have a right to know about a proposed partial settlement of a class action lawsuit that the Court has preliminarily approved. If the Court grants final approval and any appeals are resolved, this settlement will resolve certain of your rights with the Settling Defendants, and may impact the future determination of your water rights. This notice explains the lawsuit, the partial settlement, your legal rights, who is in the class, and your options.

## 2. What is this lawsuit about?

This Class Action lawsuit involves water rights in the Antelope Valley Groundwater Basin. Under California law, property owners have a right to pump and use groundwater (water underneath the surface) on their land. In this case, however, the Court has determined that the naturally available supply of water in the Basin may not be adequate to satisfy everyone who wants to use that water.

Plaintiff Richard Wood brought this action to protect his right and that of other Antelope Valley landowners to pump and use the water under their properties and to obtain compensation for any wrongful taking of their property rights. Mr. Wood claims that he and other landowners have water rights which are superior to the rights of certain public water suppliers to use that water. The public water suppliers claim that their historical pumping has given them superior water rights. If the public water suppliers win, your rights to use the groundwater under your property may be cut back. The Court has not yet ruled on these claims.

## 3. Who is involved in this lawsuit?

Plaintiff Richard Wood is the plaintiff and class representative. On his behalf and on behalf of the class he represents, he is suing ten public water suppliers in the Antelope Valley: City of Lancaster; City of Palmdale; Desert Lake Community Services District; Littlerock Creek Irrigation District; Los Angeles County Waterworks District No. 40; North Edwards Water District; Palmdale Water District; Palm Ranch Irrigation District; Phelan Piñon Hills Community Services District; Quartz Hill Water District; and Rosamond Community Services District. Mr. Wood also sued the cities of Lancaster and Palmdale.

This lawsuit is coordinated with several other lawsuits pending before a single judge, the Honorable Jack Komar. Those other lawsuits involve many other parties who also claim the right to pump groundwater in the Antelope Valley.

## 4. Why is there a partial settlement?

Some of the defendants wished to resolve their claims with the class at this time, while several others did not wish to settle. Richard Wood is settling with the City of Lancaster, Palmdale Water District, Phelan Piñon Hills Community Services District, and Rosamond Community Services District. Mr. Wood will continue to litigate all of the claims against the non-settling defendants.

## CLASS MEMBERSHIP

## 5. How do I know if I am part of the class subject to this settlement?

You have been designated as a class member because records show that you own improved property in the Antelope Valley, and otherwise meet the class definition. The class includes all private (i.e., non-governmental) landowners within the Antelope Valley Groundwater Basin that have pumped groundwater on their property at any time since 1946, with certain exceptions set out below. You were sent a Class Notice in 2009, and did not choose to opt out of the class at that time.

## 6. Are there exceptions to being included in the settlement?

You are not in the class if you fall within one of the categories set forth below:
A. You have pumped 25 acre-feet or more of groundwater for use on that parcel in any calendar year since 1946; or
B. You are a shareholder in a mutual water company in the Antelope Valley; or
C. You are already a party to this litigation.

## THE PARTIAL SETTLEMENT OF THIS LAWSUIT

## 7. Who is included in the settlement?

Richard Wood and the class are settling with six defendants in this lawsuit: City of Lancaster; Palmdale Water District; Phelan Piñon Hills Community Services District; and Rosamond Community Services District.

## 8. What does the settlement provide?

Of primary benefit to you is the agreement by the Settling Defendants to drop their prescription claims against you. The prescription claims asserted that these defendants had potentially obtained by way of their adverse historical pumping, a portion of your right to pump water in the Antelope Valley. The Settling Defendants are agreeing not to challenge the class' assertion of the right of class members to pump up to 3 acre-feet of water per year for domestic purposes without having to pay a fee to for doing so. Other parties remain free to challenge that water right, which will be determined in the future. Under the settlement, you are agreeing not to challenge the Settling Defendants' right to pump up to a set amount of groundwater each year. The Settlement Agreement also contains agreements among the parties as to your rights if you pump more than 3 acre-feet per year. The Court has not yet ruled on any of these Settling Parties' water rights, and is not limited in the future by the terms of the settlement. You may read the Settlement Agreement at: http://www.avgroundwater.com/smallpumper/wood.cfm.

## 9. What happens with class claims against the defendants who are not part of the settlement?

Richard Wood and the Class Counsel will continue to pursue all of the claims in the lawsuit against the non-settling defendants until those claims are resolved in a future settlement or by order of the court after trial.

## 10. Does this settlement give me a water right?

No. This settlement does not provide you with a Court-determined water right. The Court has not yet determined the water rights of any party, but those determinations are expected to be made in future phases of the proceeding. As set forth above, this settlement may impact the determination of your water right at a future date.

## 11. What claims against the Settling Defendants am I releasing?

As part of the settlement, you will be releasing (giving up) certain of your legal rights against the Settling Defendants only. The release in the Settlement Agreement is as follows:

In addition to the effect of any Judgment entered in accordance with this Stipulation, upon this Stipulation becoming final as set out in Section Paragraph VIII.H of this Stipulation, and in consideration for the settlement consideration set forth above, and for other valuable consideration, the Settling Plaintiffs, except as otherwise expressly provided for herein, shall completely release, acquit and forever discharge the Settling Defendants and their representatives, successors, agents, affiliates, attorneys, employees, supervisors, officers, directors, or shareholders, from any and all claims, demands, actions, suits, causes of action, whether class, individual, or otherwise in nature that Settling Plaintiffs, or each of them, ever had, now has, or hereafter can, shall, or may have on account of or in any way arising out of, any and all known or unknown, foreseen or unforeseen, suspected or unsuspected injuries, damages, and the consequences thereof in any way arising out of or relating in any way to the matters at issue in the Wood Action ("Released Claims"). Each Settling Plaintiff may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims which are the subject matter of
this Stipulation, but each Settling Plaintiff hereby expressly waives and fully, finally, and forever, settles and releases, upon this Stipulation becoming final, any known or unknown, suspected or unsuspected, contingent or non-contingent claim with respect to the subject matter of the provisions of Paragraph VII.A of this section of the Stipulation, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

1. As provided in the Release set forth above, the Settling Plaintiffs, including any of Settling Plaintiffs' representatives, successors, agents, affiliates, employees, supervisors, officers, directors, or shareholders, agree to waive and release all rights and benefits which they might otherwise have pursuant to Section 1542 of the California Civil Code with regard to the release of such unknown, unanticipated or misunderstood claims, causes of action, liabilities, indebtedness and obligations. California Civil Code section 1542, provides that:

A General Release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the Release, which if known by him or her must have materially affected his or her settlement with the debtor.
2. The Release set forth above does not include claims by any of the Settling Plaintiffs other than the claims set forth therein. In particular, the Settling Parties recognize that many persons own more than one parcel of land within the Basin. The foregoing Release only binds Wood Class Members and only with respect to those properties within the Basin on which they have pumped or are pumping within the terms of the class definition.
12. Who are the lawyers for the class?

The lawyers for Richard Wood and the class are:

Michael D. McLachlan<br>LAW OFFICES OF MICHAEL D. McLACHLAN, APC<br>10490 Santa Monica Boulevard<br>Los Angeles, California 90025<br>mike@mclachlanlaw.com

Daniel M. O'Leary<br>LAW OFFICE OF DANIEL M. O'LEARY 10490 Santa Monica Boulevard Los Angeles, California 90025<br>dan@danolearylaw.com

## 13. How will the lawyers be paid?

The lawyers' fees and case costs will be paid by the Settling Defendants. You will not be asked to pay legal fees or case costs. Per the terms of the settlement, the parties have agreed to the amounts of the legal fees and case costs, which are set forth in the Settlement Agreement. The Court will be asked to approve these payments at the time of the final approval hearing.

## YOUR OPTIONS

## 14. What happens if I do nothing at all?

If you do nothing, you will remain in the class and be bound by the terms of the settlement. You will not be able to sue the Settling Defendants for any of the claims being released by this settlement. You will also be bound by the future decisions in the case, whether favorable or unfavorable. Plaintiff Richard Wood and the class attorneys will continue to act as your representatives in this case, and you will not personally be obligated to pay any legal fees or costs of suit.

## 15. What if $I$ do not want to participate in the settlement?

If you wish to be excluded from the settlement, you must complete and mail a valid request for exclusion postmarked by no later than December 2, 2013 to the Class Administrator identified below. This exclusion request must contain your name, address, signature, and a statement that you wish to be excluded from the class. If you timely do so, the Court will exclude you from the class. If you do nothing, you will remain in the class.
Your exclusion request must be sent to:
Small Pumper Class Action Administrator
c/o GCG
P.O. Box 35100

Seattle, WA 98124-1100
16. What happens if I exclude myself from the settlement?

If you opt out of the settlement, it is very likely that you will be sued directly by the public waters supplier defendants because the Court may still need to determine your water right in the future. If you are sued, you will either need to hire your own attorney at your expense or represent yourself in Court.

## 17. How do I tell the Court that I don't like the settlement?

If you're a class member, you can object to the settlement if you do not like it. To object, you must send a letter saying that you object to the settlement in Richard Wood v. Los Angeles County Waterworks District No. 40, et al. Be sure to include the case number (J.C.C.P. No. 4408), your name, address, telephone number, your signature, and the reasons why you object to the settlement. You must send the objection to these three different places so that they receive it by December 4, 2013:

## COURT:

Clerk of the Court
600 South Commonwealth Avenue
Los Angeles, CA 90005
CLASS COUNSEL:
Michael D. McLachlan
LAW OFFICES OF MICHAEL D. McLACHLAN, APC
10490 Santa Monica Boulevard
Los Angeles, California 90025
mike@mclachlanlaw.com
DEFENSE COUNSEL:
Thomas S. Bunn III
LAGERLOF, SENECAL, GOSNEY \& KRUSE, LLP
301 North Lake Avenue, 10th floor
Pasadena, California 91101
Attorneys for Palmdale Water District

## 18. When and where will the Court decide whether to grant final approval?

The Court has scheduled a hearing at 9:00 A.M. on December 11, 2013, at Santa Clara Superior Court, Department 1, 191 North First Street, San Jose, California. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court will also rule on the request for attorneys' fees and costs. After the hearing, the Court will decide whether to grant final approval of the settlement.

## 19. May I speak at the hearing?

You are welcome to come to the hearing at your own expense. If you send a written objection, you don't have to come to Court to talk about it. As long as you send your written objection so that it arrives on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.
You may ask the Court for permission to speak at the hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in "Antelope Valley Groundwater Litigation." Be sure to include the case number (J.C.C.P. No. 4408), your name, address, telephone number, and signature. This letter must be received no later than December 4, 2013, and be sent to the Clerk of the Court, Class Counsel, and Defense Counsel at the three addresses listed in the answer to Question 17.

## GETTING MORE INFORMATION

## 20. How do I get more information about the settlement?

The Class Action Complaint, certain other documents from the litigation, and some other general information are available at: http://www.avgroundwater.com/smallpumper/wood.cfm. You may complete and submit the response form on that website. In addition, that website has a list of answers to certain other questions you may have. That website has an e-mail address for you to obtain information if you have further questions. That website will be updated from time to time to advise you of the status of this litigation. Also, all of the documents filed in the case are available on the court's website at: http://www.scefiling.org/cases/casehome.jsp?caseld=19.

## PLEASE DO NOT CALL OR WRITE THE COURT OR CLERK'S OFFICE. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT YOUR OWN COUNSEL, VISIT THE WEB SITES LISTED ABOVE, OR WRITE TO CLASS COUNSEL AT THE ADDRESS ABOVE.

## Exhibit B

# Antelope Valley Groundwater Litigation 

## List of Class Members Requesting Exclusion from the Small Pumper Class Action

Frank Small
Bennie and Annette Moore
Edward Shelton
William Basner
The George and Charlene Lane Family Trust and George M. Lane Raymond Eyherabide

## Exhibit 3

Michael D. McLachlan, Bar No. 181705
LAW OFFICES OF MICHAEL D. McLACHLAN, APC
10490 Santa Monica Boulevard
Los Angeles, California 90025
Phone: (310) 954-8270
Fax: (310) 954-8271
Daniel M. O'Leary, Bar No. 175128
LAW OFFICE OF DANIEL M. O'LEARY
10490 Santa Monica Boulevard
Los Angeles, California 90025
Phone: (310) 481-2020
Fax: (310) 481-0049
Attorneys for Plaintiff and the Class

## SUPERIOR COURT FOR THE STATE OF CALIFORNIA

 COUNTY OF LOS ANGELESCoordination Proceeding
Special Title (Rule 1550(b))
ANTELOPE VALLEY GROUNDWATER CASES

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
v.

LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; et al.

Defendants.

Judicial Council Coordination
Proceeding No. 4408
(Honorable Jack Komar)

Case No.: BC 391869
SUPPLEMENTAL DECLARATION
OF MICHAEL D. MCLACHLAN IN SUPPORT OF MOTION FOR FINAL APPROVAL OF PARTIAL CLASS SETTLEMENT

Date: December 11, 2013
Time: 9:00 a.m.
Dept: Santa Clara Superior Court, Dept 1

## SUPPLEMENTAL DECLARATION OF MICHAEL D. MCLACHLAN

I, Michael D. McLachlan, declare:

1. I make this declaration of my own personal knowledge, except where stated on information and belief, and if called to testify in Court on these matters, I could do so competently.
2. I am co-counsel of record of record for Plaintiff Richard Wood and the Class, and am duly licensed to practice law in California. I make this supplemental declaration in support of the joint motion for preliminary approval of the settlement agreement.
3. I, along with defense counsel for the Settling Defendants, caused the approved form of the summary class notice to be published in consecutive weeks in the Bakersfield Californian, the Antelope Valley Press and the Los Angeles Times. I attach collectively as Exhibit 3 the proofs of publication for each of these newspapers.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this $3^{\text {rd }}$ day of December, 2013, at Los Angeles, California.

#  DN: cn=Michael McLachlan, o=Law DN: $\mathrm{cn}=$ Michael McLachlan, $\mathrm{o=}$ Law Offices of Michael D. McLachlan, ou, <br> Offices of Michael D. McLachlan, ou, email=mike@mclachlanlaw.com, $c=U S$ <br> Date: 2013.12.03 18:17:19-08'00' 

Michael D. McLachlan

## Exhibit 3

RECORDING/FILING REQUESTED BY AND MAIL TO:
Lagerlof Senecal Gosney \& Kruse LL
301 N. Lake Ave Ste 1000
Pasadena, CA 91101

PROOF OF PUBLICATION
(California Code of Civil Procedure 2010, 2015.5)

## STATE OF CALIFORNIA



I am a citizen of the United States and a resident of the aforesaid County. I am over the age of eighteen years (18) years, and not a party to or interested in the above-entitled matter. I am the Principal Clerk of the printer of the LOS ANGELES TIMES, a newspaper of general circulation, printed and published DAILY in the City of Los Angeles, County of Los Angeles and which newspaper was adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under the date of April 28, 1952, Case Number 598599.
The notice, a true and correct copy of which is annexed, has been published in each regular and entire issue of said newspaper on the following dates, to wit:

SUNDAY; NOVEMBER 3, 2013
SUNDAY; NOVEMBER 10, 2013
I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated at Los Angeles, California,
This $18^{\text {th }}$ day of November, 2013


Jessica Winn

## PROOF OF PUBLICATION

## ALL IN YEAR <br> 2013

1 CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATED AT BAKERSFIELDD CALIFORNIA


Printed on 11/18/2013 at 8:53:05AM


The BAKERSFIELD CALIFORNIAN<br>P. O. BOX 440<br>BAKERSFIELD, CA 93302

Murphy and Evertz<br>650 Town Center Dr Suite550<br>COSTA MESA, CA 92626

| Ad Number: | 13344354 | PO \#: |  |
| :--- | :--- | :--- | :--- |
| Edition: | TBC | Run Times | 2 |
| Class Code | Legal Notices |  |  |
| Start Date | $11 / 10 / 2013$ | Stop Date | $11 / 17 / 2013$ |
| Billing Lines | 25 | Inches | 2.10 |
| Total Cost | $\$ 273.50$ | Account | 18763665 |
| Billing | Murphy and Evertz |  |  |
| Address | 650 Town Center Dr Suite550 |  |  |
|  | COSTA MESA,CA | 92626 |  |

## Solicitor I.D.:

First Text
SUMMARY NOTICE OF PROPOSED PARTIAL CLA:
Ad Number 13344354

| SUMMAKY NOTICE OF PROPOSED PARTLAL CLASS ACTION SETTLEMEENT IN WOOD V. LOS ANGELES COUNTY WATERWORKS DIST. NO. 40, ET AL, JUDICIAL COUNCIL COORDINATION NO. 4408 <br> This Summary Notice is to advise you that there is a proposed partual settlement of the above referciced class action, which is pending on behalf of certaln landowars withlin the Antelope Valley Groundwater Basin whio are pumping or have pumped less than 25 acrefeet of ground water on their propertles during any year from 1946 to the present (with certaln specific exceptions). The proposed settlement does not prowide any monetary compensation to the chass members, but resolves certain potentially adverse cialms filed by the settling defendant public water supplers, fincluding prescription. <br> On October 25, 2013, the Los Angeles County Superior Conit granted prelliminary approval of the proposed settiement, subject to further conslderation al a fatruess hearing scheduled for December 11, 2013. The terms of the pruposed settlement, as well as class members' optlons, are more fully de talled th a Notloed of Proposed Partial Class Settlement mailed to the class members' last known addresses. You may find a copy of that Notice, as well as the Settlement Agreement and other relevant docaments at http://www, avgromid. water.com. Alternatively, you may call 310-954-8270 to request a copy of the Notlce. <br> THE COURT HAS MADE NO DECISION AS TO LIABILTTY AND THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION ON THE MERITS OF THE CLAIMS ASSBRTED IN THB ACTION. <br> November 10, 17, 2013 (13344354) |
| :---: |
|  |  |
|  |  |
|  |  |
|  |  |

AND WHICH NEWSPAPER HAS BEEN ADJUDGED A
NEWSPAPER OF GENERAL CIRCULATION BY THE SUPERIOR COURT OF THE COUNTY OF KERN, STATE OF CALIFORNIA, UNDER DATE OF FEBRUARY 5, 1952, CASE NUMBER 57610; THAT THE NOTICE, OF WHICH THE ANNEXED IS A PRINTED COPY, HAS BEEN PUBLISHED IN EACH REGULAR AND ENTIRE ISSUE OF SAID NEWSPAPER AND NOT IN ANY SUPPLEMENT THEREOF ON THE FOLLOWING DATES, TO WIT: 11/10/13

11/17/13

OF THE COUNTY AFORESAID; I AM OVER THE AGE OF EIGHTEEN YEARS, AND NOT A PARTY TO OR INTERESTED IN THE ABOVE ENTITLED MATTER. I AM THE ASSISTANT PRINCIPAL CLERK OF THE PRINTER OF THE BAKERSFIELD CALIFORNIAN, A NEWSPAPER OF GENERAL CIRCULATION. PRINTED AND PUBLISHED DAILY IN THE CITY OF BAKERSFIELD COUNTY OF KERN,

## STATE OF CALIFORNIA COUNTY OF KERN

I AM A CITIZEN OF THE UNITED STATES AND A RESIDENT BAKERSFIELD COUNTY OF KERN

Mailing Address: P.O. Box 4050, Palmdale, California 93590-4050

November 18, 2013

LAW OFFICES OF MICHAEL D. McLACHLAN, APC<br>Mr. Mike McLachlan<br>10490 SANTA MONICA BLVD<br>LOS ANGELES CA 90025

RE: Affidavit of Publication -NOTICE OF PROPOSED PARTIAL CLASS ACTION SETTLEMENT WOOD v. LOS ANGELES COUNTY WATERWORKS DIST. NO. 40

Dear Mr. Mike McLachlan;
Enclosed please find the Affidavit of Publication for the NOTICE OF PROPOSED PARTIAL CLASS ACTION SETTLEMENT WOOD v. LOS ANGELES COUNTY WATERWORKS DIST. NO. 40 notice published on November 10, 17, 2013.

Thank you again for considering the Antelope Valley Press for your publication needs. If you need further assistance, please do not hesitate to contact me at (661) 267-4112.


Legal Advertising Coordinator

Enclosure

## AFFIDAVIT OF PUBLICATION

(2015.5 C.C.P.)

# STATE OF CALIFORNIA 

County of Los Angeles


Dated: November 18, 2013

Executed at Palmdale, California

# AFFIDAVIT OF PUBLICATION 

(2015.5 C.C.P.)

## STATE OF CALIFORNIA <br> County of Los Angeles

## NOTICE OF PROPOSED PARTIAL CLASS

 ACTION SETTLEMENTWOOD $v$. LOS ANGELES COUNTY
WATERWORKS DIST. NO. 40

I am a citizen of the United Slates and a resident of the Comity aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entilled matter. I am the principal clerk of the printer of the Antelope Valley Press, a newspaper of general circulation, printed and published daily in the City of Palmdale, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of Califormia, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the Ledger-Gazette, adjudicated a legal newspaper June 15, 1927, by Superior Court decree No. 22.4545; also operating as the Desert Mailer News, formerly known as the South Antelope Valley Foothill News, adjudicated a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of Califomia on May 29, 1967, Case Number NOC564 and adjudicated a newspaper of general circulation for the City of Lancaster, State of California on January 26, 1990, Case Number NOCI0714, Modified October 22, 1990; that the notice, of which the annexed is in printed copy (set in type not smaller than nompareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

November 10, 17, 2013
I certify (or declare) under penalty of perjury that the fore-going is true and correct.


Signature

Dated: November 18, 2013


Executed at Palmdale, California

Exhibit 4

## SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))
ANTELOPE VALLEY GROUNDWATER CASES
$\qquad$
RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
v.

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et al., Defendants.

Judicial Council Coordination
Proceeding No. 4408
(Honorable Jack Komar)
Case No. BC 391869

DECLARATION OF
JENNIFER M. KEOUGH REGARDING DISSEMINATION OF SMALL PUMPER NOTICE

I, JENNIFER M. KEOUGH, declare as follows:

1. As stated in my Declaration filed December 3, 2013, I am Chief Operating Officer of The Garden City Group, LLC ${ }^{1}$ ("GCG"). The following statements are based on my personal knowledge and information provided by other GCG employees working under my supervision, and if called on to do so, I could and would testify competently thereto.
2. GCG was originally retained as Administrator in the above-captioned litigation (the "Litigation") pursuant to Section VI.B of the Wood Class Stipulation of Settlement (the "Stipulation of Settlement") filed on October 7, 2013. Pursuant to the Order Granting Preliminary Approval of Small Pumper Class Action Settlement and Notice to the Class (the "Order"), dated April 6, 2015, GCG was further engaged to distribute the Notice of Proposed Settlement for the "Small Pumper" Class Action and Settlement Hearing (the "Class Notice").

## DISSEMINATION OF THE CLASS NOTICE

3. In paragraph 1 of the Order, the Court found that the form and content of the Class Notice would provide the best practicable notice to Class Members. Pursuant to the Order, GCG was responsible for disseminating the Class Notice to the "Small Pumper Class," as defined in Section 3.5.44 of the Proposed Judgment and Physical Solution:

All private (i.e., non-governmental) Persons and entities that own real property within the Basin, as adjudicated, and that have been pumping less than 25 acre-feet per Year on their property during any Year from 1946 to the present. The Class excludes the defendants in Wood v. Los Angeles Co. Waterworks Dist. 40, et al., any Person, firm, trust, corporation, or other entity in which any such defendants has a controlling interest or which is related to or affiliated with any such defendants, and the representatives, heirs, affiliates, successors-ininterest or assigns of any such excluded party. The Class also excludes all Persons and entities that are shareholders in a mutual water company. The Class does not include those who opted out of the Class.
4. On or about March 31, 2015, GCG provided an Excel spreadsheet to Plaintiff's Counsel containing mailing information for (a) Class Members who received a copy of the Notice that was mailed pursuant to the Order of the Court dated October 25,

2013, and (b) other persons or entities who had notified GCG that they believed they were also Class Members. The mailing list did not include those persons or entities who had requested exclusion from the Class. Plaintiff's Counsel reviewed the records and provided GCG with a revised mailing list and confirmed that thirteen (13) individuals, including those the Court added to the list of known class members, should also receive the Notice. Five (5) recipients from the earlier mailing were removed from the mailing list, either because the available information did not include the identity of the person or entity, or because the person or entity was no longer a Class Member.
5. GCG promptly updated the information in the database created for this Litigation and assigned a unique identifier to those records that did not already have an identifier in order to maintain the ability to track them. GCG then submitted the addresses for all Class Members to the National Change of Address (NCOA) database. Of the 4,310 records sent out for search, 152 were returned with address updates, and GCG updated the addresses accordingly.
6. GCG thereafter formatted the Class Notice and caused it to be printed, posted via first-class mail, postage prepaid, and delivered to a U.S. Post Office on April 3, 2015, for mailing to each of the 4,310 Class Members. A copy of the Class Notice, as mailed, is attached hereto as Exhibit A.
7. Class Notices that were returned by the U.S. Postal Service with forwarding address information were promptly re-mailed using the updated address information received from the U.S. Postal Service. As of May 31, 2015, GCG had re-mailed six (6) Class Notices to updated addresses received from the U.S. Postal Service.
8. As of May 31, 2015, a total of 770 Class Notices had been returned -3-

DECLARATION OF JENNIFER M. KEOUGH REGARDING DISSEMINATION OF SMALL PUMPER NOTICE
undeliverable without forwarding address information, including two (2) Class Notices that had previously been re-mailed.

## OBJECTIONS TO THE SETTLEMENT

9. Pursuant to paragraph 5 of the Order, Class Members who wished to object to the Settlement had to do so in writing by submitting their objections to the Court and the parties' counsel by May 15, 2015. As of May 19, 2015, GCG had not received any objections. However, GCG did receive two written responses to the Class Notice in which the recipient provided notification that they no longer owned the property in question.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge and belief.

Executed on June 3, 2015, at Seattle, Washington.


JENNIFER M. KEOUGH

## Exhibit A

# SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES 

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff, v.

LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; et al.

Defendants.

JUDICIAL COUNCIL COORDINATION PROCEEDING No. 4408

NOTICE OF PROPOSED SETTLEMENT FOR THE "SMALL PUMPER" CLASS ACTION AND SETTLEMENT HEARING NOTICE, AS IT MAY AFFECT YOUR RIGHT TO PUMP GROUNDWATER ON YOUR PROPERTY IN THE FUTURE.

1. Why should I read this Notice? ..... 2
2. What is this lawsuit about? ..... 2
3. Who is covered by the proposed settlement? ..... 2
4. What are the terms of the proposed settlement? ..... 2
5. What do I need to do? ..... 3
6. Can I exclude myself from the Class? ..... 4
7. Why, when and where will the Settlement Hearing take place? ..... 4
8. Who represents Plaintiff and the Class? ..... 4
9. Why does Plaintiff's Counsel favor the Settlement? ..... 4
10. How will Plaintiff's Counsel's fees be paid? ..... 4
11. Will I have to pay anything? ..... 5
12. Will I receive any monetary compensation? ..... 5
13. What happens if the Settlement is approved by the Court? ..... 5
14. What happens if the Settlement is not approved by the Court? ..... 5
15. Where can I get additional information? ..... 5
16. What are the relevant dates? ..... 5
17. May I pump water on my property? ..... 5
18. What if I pump more than 3 acre-feet of groundwater per year? ..... 6
19. Will I have to install a water meter on my property? ..... 6
20. Will my groundwater use be monitored? ..... 6
21. What if I sell my property? ..... 6

## 1. WHY SHOULD I READ THIS NOTICE?

Available records indicate that you own property in the Antelope Valley Groundwater Basin (the "Basin"). Your property rights may be affected by the proposed settlement of this lawsuit. Your right to object to, or comment on that settlement is described below. In addition, this Notice contains important information about your disclosure obligations in the event you sell your property. PLEASE TAKE THE TIME TO READ THIS IMPORTANT LEGAL NOTICE, WHICH IS DIFFERENT FROM THE PRIOR NOTICES SENT TO YOU ABOUT THIS CASE.

## 2. WHAT IS THIS LAWSUIT ABOUT?

This Class Action lawsuit involves water rights in the Antelope Valley Groundwater Basin. Plaintiff Richard Wood brought this case to protect his right and those of other landowners (the Wood Class comprises persons who are pumping or have pumped less than 25 acre-feet of groundwater during any year from 1946 to the present) in the Basin to pump water on their properties in the future. The case has been combined with other cases to determine all the groundwater rights in the Basin. The Court has not yet decided the case.

Property owners have a right to pump groundwater (water underneath the surface) and use it for reasonable and beneficial purposes on their overlying land. The right to use groundwater, however, may be limited during times of groundwater shortage conditions. In this case, the naturally available supply of groundwater is not adequate to meet the groundwater pumping demands of everyone who wants to use that water. For that reason, the Court decides how much water can be pumped by each party under a claim of priority to use the groundwater. Richard Wood claims that he and other such landowners have water rights that are superior to the water rights of certain public water suppliers and entities, listed in the Settlement Agreement ("Settling Defendants") who have used and continue to use groundwater. The public water suppliers claim that their historical pumping has given them superior water rights for a public water supply as to some or all of the Richard Wood and Wood Class members' rights to use groundwater.

## 3. WHO IS COVERED BY THE PROPOSED SETTLEMENT?

You have been designated as a Class member because records indicate that you own property in the Antelope Valley. The Wood Class includes all private (i.e., nongovernmental) landowners within the Antelope Valley Groundwater Basin who are pumping or have pumped less than 25 acre-feet of groundwater during any year from 1946 to the present on their properties, with certain exceptions set out below.

You are not in the Class if you do not own real property within the Basin. In addition, you are NOT in the Class if any of the following are true as to you:

1. Your property is connected to and receives water from a public water system, public utility or mutual water company; or
2. You are already a party to this litigation; or
3. You have already timely excluded yourself from the Wood Class and have not rejoined the Class.

## 4. WHAT ARE THE TERMS OF THE PROPOSED SETTLEMENT?

The Small Pumper Class has previously settled its claims with the City of Lancaster, Palmdale Water District, Phelan Piñon Hills Community Services District, and the Rosamond Community Services District. By way of the current settlement, the Small Pumper Class is now attempting to resolve all claims with California Water Service Company, City of Palmdale, Desert Lake Community Services District, Littlerock Creek Irrigation District, Los Angeles County Waterworks District No. 40, North Edwards Water Questions? Visit www.Avgroundwater.com.

District, Palm Ranch Irrigation District, and Quartz Hill Water District. Through the Stipulation for Entry of Judgment and Physical Solution, which is incorporated into the Small Pumper Class Stipulation of Settlement, the Small Pumper Class is also resolving its claims with many other parties claiming beneficial interest in the groundwater in the Antelope Valley basin. These additional parties are listed on the signature pages to the Judgment and Physical Solution.

The following is a summary of the basic terms and conditions of the proposed settlement. You may view the complete settlement agreement at www.avgroundwater.com. If you do not have Internet access, you may request a copy of the settlement agreement by writing to the following: Small Pumper Class Settlement, 44 Hermosa Avenue, Hermosa Beach, CA 90254.

In summary, the proposed settlement includes the following terms (capitalized terms are defined in the Settlement Agreement), in addition to other terms discussed in other sections of this Notice:
A. Members of the Small Pumper Class will have the right to pump up to 3 acre-feet of groundwater per year for reasonable and beneficial use without having to pay any replacement water assessment. Small Pumper Class members pumping between 3 and 25 acre-feet per year will pay a replacement water assessment.
B. To the extent the Settling Defendants have obtained water rights by prescription, those rights shall not be exercised to diminish the Small Pumper Class' water rights.
C. The Parties agree that the United States has a Federal Reserved Right to some portion of the Basin's Native Safe Yield.
D. The Class agrees not to challenge certain Parties' right to recapture return flows from water that they import. The Class agrees not to contest Settling Defendants' best estimates that agricultural use of imported water results in $34 \%$ return flows and municipal and industrial use of imported water results in $39 \%$ return flows.
E. The Settling Parties agree that the Basin has limited water resources and that there is a need for a groundwater management plan for the Basin. The Parties have agreed to be bound by such a plan, which is subject to approval and modification by the Court. This management plan will be supervised and administered by a watermaster engineer and watermaster board, which will report to the Court.
F. The Settlement contains mutual releases of the claims the Settling Parties have asserted against each other in the litigation.

## 5. WHAT DO I NEED TO DO?

You are not required to do anything, unless you wish to object to the settlement. However, if you wish to object to the settlement or to Plaintiffs' Counsel's Application for Fees and Expenses, you must file a Notice of Intent to Appear and Be Heard with the Clerk, Los Angeles County Superior Court, 111 N . Hill Street, Los Angeles, CA 90012. That Notice must be received by May 15, 2015 for it to be considered and must briefly state the position(s) you wish to take with respect to the settlement and/or any related matters, such as Counsel's fee application. In addition, you must send a copy of that Notice to the following attorneys by that date:

Michael D. McLachlan
mike@mclachlan-law.com
Law Offices of Michael D. McLachlan
44 Hermosa Avenue
Hermosa Beach, CA 90254
Class Counsel

Jeffrey V. Dunn
jeffrey.dumn@bbklaw.com
Best Best \& Krieger LLP
18101 Von Karman Avenue, Suite 1000
Irvine, CA 92614
Liaison Counsel for Defendants

Questions? Visit www.AvGroundwater.com.

## 6. CAN I EXCLUDE MYSELF FROM THE CLASS?

No. All Class members have been given two prior opportunities to opt out of the Class, therefore the Court will not permit further opt outs.

## 7. WHY, WHEN, AND WHERE WILL THE SETTLEMENT HEARING TAKE PLACE?

The Court must approve the proposed settlement after a fairness hearing in order for the settlement to become effective. That fairness hearing will take place on August 3, 2015, at 10:00 a.m. in Room 222 of the Stanley Mosk Courthouse, 111 North Hill Street, Los Angeles, CA 90010. You are welcome to attend that hearing but you are not required to attend.

Any Class member may appear in person or through counsel and state his or her comments on or objections to the proposed settlement and/or on counsel's fee application, but only if he or she files a Notice of Intent to Appear and Be Heard pursuant to the procedures set forth in paragraph 5, above, on or before May 15, 2015.

## 8. WHO REPRESENTS PLAINTIFF AND THE CLASS?

Plaintiff and the Class are represented by the following attorneys in this matter:

Michael D. McLachlan Daniel M. O'Leary<br>mike@mclachlan-law.com<br>Law Offices of Michael D. McLachlan<br>44 Hermosa Avenue<br>Hermosa Beach, CA 90254<br>310.954-8270<br>310.954 .8271 (fax)<br>dan@)danolearylaw.com<br>Law Offices of Daniel M. O'Leary<br>2300 Westwood Boulevard, Suite 105<br>Los Angeles, CA 90064<br>310.481 .2020<br>310.481 .0049 (fax)

## 9. WHY DOES CLASS COUNSEL SUPPORT THE SETTLEMENT?

Class Counsel believes that the settlement reflects a reasonable and fair resolution of the claims asserted in this matter. The Settling Defendants assert that they have prescriptive rights to substantially more than $15 \%$ of the Basin's Native Safe Yield; the Class asserts that the Settling Defendants have no such prescriptive rights. Counsel believe that the Settlement fairly compromises the parties' positions, and resolves the risk that the class members will lose water rights to the Settling Defendants. Further, the settlement protects the rights of all Class members to use water for domestic use in amounts sufficient to sustain such use without the requirement to pay any replacement water assessment.

## 10. HOW WILL PLAINTIFF'S COUNSEL'S FEES BE PAID?

Plaintiff's Counsel will petition for an award of fees and expenses to be paid by the Settling Defendants. You will not be responsible to pay any portion of their fees. Plaintiff's Counsel have already been paid for some work on this matter.

Plaintiff's Counsel have worked on this matter for over seven years without being paid and they have advanced considerable amounts to pay for out-of-pocket expenses, including travel, hearing transcripts, consultants, etc. The Court will ultimately determine whether Counsel is entitled to a fee award and the appropriate amount of any such award.

## 11. WILL I HAVE TO PAY ANYTHING?

You will not be required to pay anything in connection with Plaintiff's Counsel's fees and costs. However, you will have to pay an annual administrative assessment which will be used to fund the watermaster appointed by the Court to implement certain provisions of the settlement. For those pumping in excess of three acre-feet of groundwater per year, the assessment will be up to $\$ 5$ per acre-foot, or as ordered by the Court. For those pumping less than three acre-feet per year, the administrative settlement will be based on 1.2 acre-feet of groundwater pumping multiplied by up to $\$ 5$ per acre-foot, or as ordered by the Court. You might also be required to pay an additional balance assessment in the future if the watermaster determines it necessary.

## 12. WILL I RECEIVE ANY MONETARY COMPENSATION FROM THE SETTLEMENT?

No. The settlement does not provide you with any monetary benefits.

## 13. WHAT HAPPENS IF THE SETTLEMENT IS APPROVED BY THE COURT?

If the settlement is approved, and not successfully appealed, the above litigation between and among the settling parties will be over and you will be bound by the stipulation for judgment and physical solution.

## 14. WHAT HAPPENS IF THE SETTLEMENT IS NOT APPROVED BY THE COURT?

If the settlement is not approved, the settlement agreement will be null and void and the parties will be returned to their prior positions in the litigation.

## 15. WHERE CAN I GET ADDITIONAL INFORMATION?

The amended complaint and certain other documents from the litigation are available at www.avgroundwater.com. In addition, that website has a list of answers to certain other questions you may have and has an email address for you to obtain information if you have further questions. That website will be updated from time to time to advise you of the status of this litigation. Also, all of the documents filed in the case are available on the court's website at http://www. scefiling.orq/cases/casehome.isp?caseld=19.

## 16. WHAT ARE THE RELEVANT DATES?

The Settlement Hearing is scheduled for August 3, 2015. If you wish to be heard at the Hearing, you must file a Notice of Intent to Appear and Be Heard with the Clerk, Los Angeles County Superior Court, as discussed above in paragraph 5. That Notice must be received by May 15, 2015 for it to be considered. In addition, by that date, you must send a copy of that Notice to the attorneys identified in paragraph 5, above.

## 17. MAY I PUMP WATER ON MY PROPERTY?

Yes. There are presently no restrictions on your ability to pump water on your property or the amount that you can pump for reasonable and beneficial uses on your property. However, it is possible that there will be limits imposed on the amount of pumping in the future.

## 18. WHAT IF I PUMP MORE THAN 3 ACRE-FEET OF GROUNDWATER PER YEAR?

A Class Member will have the right to pump up to 3 acre-feet per year for reasonable and beneficial use on his or her property, without assessment. However, if you pump more than 3 acre-feet per year, you may be required to pay a replacement assessment in the future for any water you pump in excess of 3 acrefeet per year. This settlement does not affect your ability to continue to pump in excess of 3 acre-feet per year, but the Court may limit those rights in future proceedings. The replacement assessments, if any, will be levied by a court-appointed watermaster, who will implement various provisions of this settlement.

## 19. WILL I HAVE TO INSTALL A WATER METER ON MY PROPERTY?

If the watermaster develops a reasonable belief that you are pumping more than 3 acre-feet of groundwater per year, you may be required to install a water meter.

## 20. WILL MY GROUNDWATER USE BE MONITORED?

The watermaster may choose to monitor your water use through aerial photography and/or satellite imagery. The watermaster may also decide to subpena your electrical usage records from your electrical utility provider. As noted above, if you are pumping less than 3 acre-feet of groundwater per year, you will not be required to install a meter.

## 21. WHAT HAPPENS IF I SELL MY ANTELOPE VALLEY PROPERTY?

If the settlement is approved by the Court, anyone who acquires your property will be bound by the terms of the settlement. Hence, you should disclose the terms of the settlement to anyone who may acquire your Antelope Valley property.

PLEASE DO NOT CALL OR WRITE THE COURT OR CLERK'S OFFICE. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT YOUR OWN COUNSEL, VISIT THE WEB SITES LISTED ABOVE, OR WRITE TO CLASS COUNSEL AT THE ADDRESS ABOVE.

Dated: March 27, 2015
BY ORDER OF THE SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

Exhibit 5

Michael D. McLachlan (State Bar No. 181705)
LAW OFFICES OF MICHAEL D. MCLACHLAN, APC
44 Hermosa Avenue
Hermosa Beach, California 90254
Phone: (310) 954-8270
Fax: (310) 954-8271
Daniel M. O'Leary (State Bar No. 175128)
LAW OFFICE OF DANIEL M. O'LEARY
2300 Westwood Boulevard, Suite 105
Los Angeles, California 90064
Phone: (310) 481-2020
Fax: (310) 481-0049
Attorneys for Plaintiff Richard Wood and the Class

## SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES

Coordination Proceeding Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER CASES

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
V.

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et
al.
Defendants.

Judicial Council Coordination
Proceeding No. 4408
(Honorable Jack Komar)

Case No.: BC 391869
DECLARATION OF MICHAEL D. MCLACHLAN RE: PUBLICATION OF SUMMARY CLASS NOTICE OF SETTLEMENT

1
DECLARATION OF MICHAEL D. MCLACHLAN RE: PUBLICATION OF SUMMARY CLASS NOTICE OF SETTLEMENT

## DECLARATION OF MICHAEL D. MCLACHLAN

I, Michael D. McLachlan, declare:

1. I make this declaration of my own personal knowledge, except where stated on information and belief, and if called to testify in Court on these matters, I could do so competently.
2. I am co-counsel of record of record for Plaintiff Richard Wood and the Class, and am duly licensed to practice law in California.
3. Pursuant to the Court's order of April 6, 2015, counsel has caused the Summary Notice of the Small Pumper Class settlement to be published in the Los Angeles Times, the Bakersfield Californian and the Antelope Valley Press. Attached collectively as Exhibit 1 are the proofs of publication for the Summary Notice.
4. Prior to the Administrator issuing Class Notice by U.S. Mail, the Class website, www.avgroundwater.com, was updated with all of the settlement documents and the Class Notice. The website has been continuously operational since that time.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this $4^{\text {th }}$ day of June, 2015, at Hermosa Beach, California.

> Digitally signed by Michael D. McLachlan DN: cn=Michael D. McLachlan, o=Law Offices of Michael D. McLachlan, ou, email=mike@mclachlanlaw.com, c=US Date: 2015.06 .04 20:41:14-07'00'

Michael D. McLachlan

## Exhibit 1

Sold To:
Best Best \& Krieger LLP - CU00265209 300 South Grand Ave, 25th Floor Los Angeles,CA 90071

Bill To:
Best Best \& Krieger LLP - CU00265209
300 South Grand Ave, 25th Floor
Los Angeles,CA 90071

## SUMMARY NOTICE OF PROPOSED CLASS ACTION SETTLEMENT IN WOOD V. LOS ANGELES COUNTY WATERWORKS DIST. NO. 40, ETAL.

This Sumnary Notice is to advise you that there is a proposed seatiement of the above dass action, which is pending on behalf of landowners within the Antelope Valley Groundwater Basin who are pumping of have pumped less than 25 acre-feet of groundwater during any yeas from 1946 to the present on their properties (with certain specific exceptions). The proposed settlement does not provide any monetary compensation to the Class members, but protects Class Members' rights to make reascnable future uses of the groundwater underying their properties.

On March 26, 2015, the Supetior Court for Los Angeles County granted preliminary approval of the proposed settiement, subject to further consideration at a faimess hearing scheduled for August 3,2015. The tems of the proposed settiement, as well as Cass Members" options, are more fully detalled in a Moticed of Proposed Class Settlement that was previcusly mailed to the last known addresses of all class members. You may find a copy of that Hotice, as well as the Settiement Agreement and other relevant cocuments at htte://wwwavgroundwate. com.

THE COURT HAS MADE NO DECISION AS TO LABHITY AND THIS NOIICE IS HOT AN EXPRESSON OE ANY OPINON ON THE MERITS OF THE CLAMS RSSERTED INTHEACTON.

# Los Angeles Thmes <br> MEDIA GROUP 

## PROOF OF PUBLICATION <br> (2015.5 C.C.P.)

## STATE OF ILLINOIS

## County of Cook

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 or interested in the action for which the attached notice was published.
$I$ am a principal clerk of the Los Angeles Times, which was adjudged a newspaper of general circulation on May 21, 1952, Cases 598599 for the City of Los Angeles, County of Los Angeles, and State of California. Attached to this Affidavit is a true and complete copy as was printed and published on the following date(s):

Apr 12, 2015; Apr 19, 2015
I certify (or declare) under penalty of perjury
under the laws of the State of California that the foregoing is true and correct.


435 N. Michigan Ave.
Chicago, IL 60611

Mailing Address: P.O. Box 4050, Palmdale, California 93590-4050

April 20, 2015
Mr. McLachlan
MICHAEL D. MCLACHLAN
44 HERMOSA AVE
HERMOSA BEACH CA 90254

RE: Affidavit of Publication - SUMMARY NOTICE OF PROPOSED CLASS ACTION - LACO DIST.\#40

Enclosed please find 2 original signed Affidavit of Publication for the SUMMARY NOTICE OF PROPOSED CLASS ACTION - LACO DIST.\#40 notice published on April 12, 19, 2015.

Thank you again for considering the Antelope Valley Press for your publication needs. If you need further assistance, please do not hesitate to contact me at (661) 267-4112.


Alison Adams
Procompons
Legal Advertising Coordinator

Enclosure

## AFFIDAVIT OF PUBLICATION

(2015.5 C.C.P.)


## SUMMARY NOTICE OF PROPOSED CLASS ACTION

LACO DIST.\#40
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 or interested in the above entitled matter. I am the principal clerk of the printer of the Antelope Valley Press, a newspaper of general circulation, printed and published daily in the City of Palmdale, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of Califormia, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the Ledger-Gazette, adjudicated a legal newspaper June 15, 1927, by Superior Court decree No. 224545; also operating as the Desert Mailer News, formerly known as the South Antelope Valley Foothill News, adjudicated a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California on May 29, 1967, Case Number NOC564 and adjudicated a newspaper of general circulation for the City of Lancaster, State of California on January 26, 1990, Case Number NOC10714, Modified October 22, 1990; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

## April 12, 19, 2015

I certify (or declare) under penalty of perjury that


Dated: April 20, 2015
Executed at Palmdale, California

## 

The space above for filing stamp only
SUMMARY NOTICE OF,
PROPOSED CLASS ACTION PROPOSED CLASS ACTION
SETTLEMENT IN WOOD V. LOS SETTLEMENT IN WOOD V. LOS WATERWORKS DIST. NO. WATERWORKS DIST
This Summary Notice is to advise you that there is a above class action, which is pending on behalt of, landowners within the Antelope Valley Groundwater Basin who are pumping or have pumped less than 25 acre-feet of from 1946 to the present on their properties (with certain specific exceptions). The proposed seltlement does not proposed seltement does nol compensation to the Class members, but protects Class Members' rights to make reasonable future uses of the groundwater underlying their properties.
On March 26,2015 , the Superior Court for Los Angeles approval of the proposed settlement, subject to further consideration at a fairness hearing scheduled for August 3, 2015. The terms of the proposed settlement, as well as Class Members' options, are more fully detailed in a Noticed of Proposed Class Settlement that was previously mailed to the last known addresses of all class members. You may find a copy of that Notice, as well a other relevant documents at http//www avgroundwater com THE COURT HAS MADE NO DECISION AS TO LIABILITY AND THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION ON THE MERITS OF THE CLAIMS ASSERTED IN THE ACTION.
Publish: April 12, 19, 2015

# AFFIDAVIT OF PUBLICATION 

(2015.5 C.C.P.)


## SUMMARY NOTICE OF PROPOSED CLASS <br> ACTION <br> LACO DIST.\#40


#### Abstract

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 or interested in the above entitled matter. I am the principal clerk of the printer of the Antelope Valley Press, a newspaper of general circulation, printed and published daily in the City of Palmdale, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the Ledger-Gazette, adjudicated a legal newspaper June 15, 1927, by Superior Court decree No. 224545; also operating as the Desert Mailer News, formerly known as the South Antelope Valley Foothill News, adjudicated a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California on May 29, 1967, Case Number NOC564 and adjudicated a newspaper of general circulation for the City of Lancaster, State of California on January 26, 1990, Case Number NOC10714, Modified October 22, 1990; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:


## April 12, 19, 2015

I certify (or declare) under penalty of perjury that


Dated: April 20, 2015
Executed at Palmdale, California
prong Prons

The space above for filing stamp only
SUMMAR Y NOTICE OF
PROPOSED CLASS ACTION PROPOSED CLASS ACTION
SETTL EMENT IN WOOD V. LOS SETTLEMENT IN WOODV.
ANGELES COUNTV
WATERWORKS DIST. NO. 40 , ETAL.
This Summary Notice is to advise vou that there is a proposed settlement of the pending on behalfof landowners within the Antelope: Valley Groundwater Basin who are pumping or have pumped
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On March 26, 2015, the Superior Court for Los Angeles County granted preliminary approval of the proposed settlement, subject to further: consideration at a fairness hearing scheduled for August 3, 2015. The terms of the: proposed settlement, as well as more fully detailed in a Noticed of Praposed Class Settlement that was previously mailed to the last known addresses of al class members. You may find a copy of that Notice, as well as the Settiement Agreement and other relevant documents at http://www.avgroundwater.com. THE COURT HAS MADE NO DECISION AS TO LIABILITY EXPRESSION OF ANY OPINION, OXPRESSION OF ANY OPINION. CLAIMS ASSERTED IN THE ACTION.
Publish: April 12, 19, 2015

## PROOF OF PUBLICATION

The BAKERSFIELD CALIFORNIAN

P. O. BOX 440<br>BAKERSFIELD, CA 93302

BBK Attorneys At Law
300 South Grand Ave, 25th Floor
LOS ANGELES, CA 90071

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| Edition: | TBC | Run Times | 2 |
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| Total Cost | $\$ 232.46$ | Account | 28932239 |
| Billing | BBK Attorneys At Law |  |  |
| Address | 300 South Grand Ave, 25th Floor |  |  |
|  | LOS ANGELES,CA $\quad 90071$ |  |  |

Solicitor I.D.: $\quad 0$
First Text
SUMMARY NOTICE OF PROPOSED CLASS ACTIOI

Ad Number 13833899


## ALL IN YEAR 2015

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.


$$
4-20-15
$$

Exhibit 6

KELLEY DRYE \& WARREN LLP
Michael J. O'Connor (State Bar No. 090017)
10100 Santa Monica Boulevard, $23{ }^{\text {rd }}$ Floor
Los Angeles, CA 90067-4008
Telephone: (310) 712-6100
moconnor@kelleydrye.com
KELLEY DRYE \& WARREN LLP
Andrew W. Homer (State Bar No. 259852)
7825 Fay Avenue, Suite 200
La Jolla, CA 92037
Telephone: (858) 795-0426
ahomer@kelleydrye.com
Attorneys for Defendant
Long Valley Road, L.P.

## SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER CASES

Judicial Council Coordination Proceeding No. 4408

Santa Clara County Superior Court Case No 1-05-CV-049053

Los Angeles County Superior Court Case No. BC 325201

Assigned to Honorable Jack Komar (Ret.)
Department 17C
LONG VALLEY ROAD, L.P.'S NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
[Declaration of Bruce E. Pherson, Jr., Declaration of Andrew W. Homer and [Proposed] Order filed concurrently]

Hearing Date: November 1, 2018
Time: 9:00 AM

## TO THE COURT, ALL PARTIES AND TO THEIR ATTORNEYS OR RECORD:

PLEASE TAKE NOTICE THAT on November 1, 2018 at 9:00 AM or as soon as thereafter as the matter may be heard, non-party Long Valley Road, L.P., a California limited partnership ("LVRP"), will and hereby does move the Court for an order granting it leave to intervene in the December 23, 2015 Judgment and Physical Solution ("Judgment") in the above-captioned Antelope Valley Groundwater Cases ("Adjudication") pursuant to Section 20.9 of the Judgment and Section 387 of the California Code of Civil Procedure. This Notice and Motion are based on the attached Memorandum of Points and Authorities and concurrently filed Declaration of Bruce E. Pherson, Jr., on all papers filed and records in this action, and on any evidence received at the hearing.

The grounds for granting of this Motion are as follows:

1. Since 2006, LVRP has been the owner of property that overlies the Antelope Valley Groundwater Basin ("Basin") that is the subject of the Adjudication and Judgment. As an overlying landowner LVRP has a right to pump and beneficially use water from beneath its property, as provided for and limited by Article 5, Section 2 of the California Constitution. CAL. Const., ART. X, § 2. Since acquiring its property in 2006, LVRP has in each year pumped groundwater in excess of twenty-five acre-feet from beneath its property and beneficially used that groundwater for agricultural purposes on that property.
2. LVRP was not and is not a party to any of the lawsuits that, as coordinated, make up the Adjudication. As such, LVRP is not a "Party," as the term is defined in the Judgment, and is not bound by the Judgment. LVRP was erroneously named as a member of the "Small Pumper Class" for purposes of the underlying action Wood v. Los Angeles Co. Waterworks Dist. 40, et al., (Case No.: BC 391869). While LVRP was erroneously named as a class member and may have been served with related notices of Small Pumper Class certification and settlement, LVRP clearly is not covered by the definition repeatedly used to delineate the Class. As such, any Small Pumper Class notices, decisions, settlements or other related documents or actions are not binding and have no other legal effect on LVRP. See, e.g., Dkt. 11020 at Ex. A, § 3.5.44 (defining Small Pumper Class with requisite element that members pumped less than twenty-five acre feet in any year from 1946 through the date of the Judgment, December 23, 2015).

LONG VALLEY ROAD, L.P.'S NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES
3. As a significant pumper, agricultural user, and overlying water right holder, LVRP was erroneously excluded from the Adjudication and Judgment through no fault of its own. By this Motion LVRP seeks to rectify that error and become a Party to the Judgment, and to quantify and memorialize its right to beneficially use groundwater from beneath its property for agricultural purposes on that property.
4. Pursuant to Section 20.9 of the Judgment, LVRP has consulted with the Watermaster Engineer and sought the stipulation of the Watermaster before bringing this Motion.
5. LVRP's intervention in the Judgment is necessary and appropriate under Section 387 of the California Code of Civil Procedure because LVRP owns property that is purportedly subject to the Judgment, and intervention is necessary to protect LVRP's property rights, appurtenant water right, and ability to produce groundwater in accordance with the Judgment. LVRP's interests are not adequately represented by any existing party to the Adjudication or Judgment.
6. Even if the overlying water right held by LVRP or former owners of LVRP's property was arguably impacted by prescriptive use of Basin water during periods of overdraft, LVRP itself has openly and notoriously used Basin water since 2006 during a period of overdraft, so would itself hold a prescriptive right to continue to beneficially using the same volume of groundwater from beneath the its property.

Respectfully Submitted,

DATED: October 9. 2018


Andrew W. Homer
Attorneys for Defendant
Long Valley Road, L.P.

## MEMORANDUM OF POINTS AND AUTHORITIES

## I. INTRODUCTION

Through this Motion for Leave to Intervene non-party Long Valley Road, L.P., a California limited partnership ("LVRP") seeks to intervene in the in the December 23, 2015 Judgment and Physical Solution ("Judgment") in the above-captioned Antelope Valley Groundwater Cases ("Adjudication") pursuant to Section 20.9 of the Judgment and Section 387 of the California Code of Civil Procedure. Currently LVRP is not a party to the Adjudication or the Judgment, but it is the owner of a property that overlies the Antelope Valley Groundwater Basin ("Basin"), holds a Constitutionally protected water right as an overlying landowner, was erroneously listed as a member of the "Small Pumper Class" in the Adjudication, and was erroneously excluded from the Adjudication and the resulting list of parties with Overlying Production Rights ${ }^{1}$ that was included in the Judgment. Pursuant to Section 20.9 of the Judgment, LVRP consulted with the Watermaster Engineer and sought the stipulation of the Watermaster before bringing this Motion. This Motion is proper under Section 387 of the California Code of Civil Procedure, which requires courts to permit nonparties to intervene where, as here, " $[t]$ he person seeking intervention claims an interest relating to the property ... that is the subject of the action and that person is so situated that the disposition of the action may impair or impede that person's ability to protect that interest, unless that person's interest is adequately represented by one or more of the existing parties." CAL. CIV. Proc. CODE § 387.

LVRP respectfully moves the Court for an Order granting it leave to intervene in the Judgment. If this Motion is granted, as LVRP believes it must be, 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.

## II. STATEMENT OF FACTS

LVRP is the owner of approximately 135 acres of real property, consisting of five contiguous parcels, located near the intersection of $160^{\text {th }}$ Street East and Palmdale Boulevard in Llano,
${ }^{1}$ Unless otherwise specified, defined terms in this document have the meaning given to them in the Judgment.

LONG VALLEY ROAD, L.P.'S NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES

California (the "Property"). See Declaration of Bruce E. Pherson, Jr. ("Pherson Decl."), ๆ 2. LVRP obtained the property in March 2006 from an entity known as the Palmdale Administrative Trust. See Pherson Decl., 9[f] 2-3 Ex. A. Between May and July of 2006, LVRP, through its tenant/lessee Boething Treeland Farms, Inc. ("Boething Treeland") and contractor Rottman Drilling Co. ("Rottman Drilling"), completed three new wells on the Property and properly submitted Well Completion Reports to the State of California, Division of Water Resources. Pherson Decl., ${ }^{\text {If 6, Ex. }}$ C. Prior to completing these wells, Rottman Drilling obtained the necessary permits from the Los Angeles County Department of Environmental Health on Boething Treeland's behalf. Pherson Decl., ${ }^{\text {If }} 6$, Ex. C. The wells that Boething Treeland refers to as "Well \#1" and "Well \#3" ("Production Wells") are the primary agricultural wells for the Treeland Antelope Valley operation. Pherson Decl., If 6. The vast majority of groundwater that is pumped through the Production Wells is used to irrigate the plants that Treeland Antelope Valley grows, and the remainder is used for other agricultural purposes such as washing. The well that Boething Treeland refers to as "Well \#2" is an auxiliary well, is not used to produce significant amounts of groundwater for irrigation, and is rather for miscellaneous purposes incidental to the Treeland Antelope Valley agricultural operation. Pherson Decl., ${ }^{[1]} 6$.

Since completing Well \#1 in June 2006, LVRP has continuously operated a wholesale commercial nursery known as "Treeland Antelope Valley" at the Property. Pherson Decl., I 5. As Treeland Antelope Valley is an agricultural operation, LVRP has also pumped significant groundwater for irrigation and other agricultural purposes in each year - and indeed each month since completing the first of the Production Wells in June 2006. Pherson Decl., $\|\|\|$ 7-9. Specifically, LVRP has produced and beneficially used the following amounts of water from beneath the Property, via the Production Wells ${ }^{2}$ :

2 Water production for the twenty-six month period beginning June 1, 2006 and ending July 31, 2008 is estimated by deducting recorded water production in all months since August 2008 from the cumulative lifetime totals reflected on the Production Wells as of September 30, 2018. Water production for all months beginning in August 2008 and continuing through the present was contemporaneously tracked and recorded by staff at the Treeland Antelope Valley operation. Pherson Decl. 9IT 7-9.

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| YEAR | $\underline{\mathbf{2 0 0 6}}$ | $\underline{\mathbf{2 0 0 7}}$ | $\underline{\mathbf{2 0 0 8}}$ | $\underline{\mathbf{2 0 0 9}}$ | $\underline{\mathbf{2 0 1 0}}$ | $\underline{\mathbf{2 0 1 1}}$ | $\underline{\mathbf{2 0 1 2}}$ | $\underline{\mathbf{2 0 1 3}}$ | $\underline{\mathbf{2 0 1 4}}$ | $\underline{\mathbf{2 0 1 5}}$ | $\underline{\mathbf{2 0 1 6}}$ | $\underline{\mathbf{2 0 1 7}}$ | $\underline{\mathbf{2 0 1 8}}$ |
| :--- | :--- | :--- | :--- | :--- | :--- | :--- | :--- | :--- | :--- | :--- | :--- | :--- | :--- |
| AF | $90^{*}$ | $180^{*}$ | $194^{*}$ | 405 | 335 | 278 | 292 | 247 | 284 | 268 | 325 | 387 | $302.1^{\dagger}$ |

*See note 2, supra.
+2018 production is YTD through September 30, 2018.
Pherson Decl., f|f 7-9, Ex. D, Ex. E.
On approximately July $10,2018,{ }^{3}$ LVRP received a letter from the Watermaster General Counsel ("Watermaster Letter") stating that "[i]t is our understanding that you may be pumping groundwater from the Antelope Valley Adjudicated Basin" and "[i]f you do not have a right to do so under the terms of the Judgment that Watermaster is required by the Court to stop all unauthorized pumping. Pherson Decl., $\|$ 10, Ex. F. The Watermaster General Counsel further encouraged LVRP to "immediately comply with Section 20.9 of the Judgment," which the Watermaster described as providing "a process for non-parties to intervene in the Judgment to become a party and then to seek the right to produce groundwater from the Basin." Id.

LVRP, through counsel, promptly reached out to the Watermaster General Counsel. See Declaration of Andrew W. Homer ("Homer Decl."), ๆ 3. After limited discussion between LVRP's former counsel and the Watermaster, on August 15, 2018 LVRP's existing counsel emailed a response to the Watermaster Letter to the Watermaster General Counsel. Homer Decl. $\mathbb{f}[\| 4-5$, Ex. A. In its August 15 email to the Watermaster, LVRP's counsel explained the following facts, each of which it reiterates and incorporates in this Motion and Memorandum:

- Despite being listed as a member of the "Small Pumper Class" in the Judgment, and having purportedly been provided notice of related actions such as class certification and class settlement, LVRP has no record of receiving such notice(s);
- LVRP was at all times (and remains), by the Court's approved definition, not a member of the Small Pumper Class;
- The Judgment Approving Small Pumper Class Action Settlements ("Small Pumper Class Settlement Order") defines the Small Pumper Class as follows: "All private (i.e. non-

3 The Watermaster Letter is dated on its face with June 9, 2018. The Watermaster confirmed with LVRP's counsel that this is an error, and the Watermaster Letter was actually mailed on July 9 , 2018. Declaration of Andrew W. Homer, 『l 7.b.

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governmental) persons and entities that own property within the Basin, as adjudicated, and that have been pumping less than 25 acre-feet per year on their property during any year from 1946 to the present";

- The same paragraph refers to the Court's September 2, 2008 class certification order as the source of this definition, so for purposes of establishing whether a person or entity is a member of the class the relevant inquiry appears to be as of September 2, 2008;
- LVRP purchased the Property in 2006, and properly permitted and completed groundwater wells that year;
- Since and including 2006, LVRP has pumped and beneficially used more than twenty-five acrefeet of groundwater at the Property, which is a wholesale nursery that grows and sells hundreds of varieties of trees and shrubs, including drought-tolerant and low water use plants for sale in Southern California;
- As such, LVRP is not a "person or entity that own[s] property within the Basin ... and that [has] been pumping less than 25 acre-feet per year on [it's] property during any year from 1946 through [September 2, 2008]" so by definition not a member of the Small Pumper Class;
- This is the case whether LVRP received notice(s) of related actions or not, because had LVRP received such notice(s), it would have reasonably understood it/them to not apply to LVRP because LVRP has never fallen within the class definition;
- LVRP believes that it was improperly excluded from the Judgment, and that as an overlying landowner it is entitled to pump and beneficially use groundwater from beneath the Property, on the Property;
- LVRP also understands that it must follow required procedures to establish and quantify this right within the framework of the Judgment, and wishes to work cooperatively with the Watermaster and other parties subject to the Judgment toward that end.

Id. With the exception of being erroneously listed as a member of the Small Pumper Class, to the best of its knowledge neither LVRP, any of its affiliates, nor its predecessors-in-interest with respect to the Property were named or otherwise included in the Adjudication or Judgment. Pherson Decl., II 13.

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The Watermaster General Counsel promptly replied to LVRP's counsel's email on August 16,2018, requested some additional information, and asked to set a time to discuss. Homer Decl., $\boldsymbol{q}$ 6, Ex. A. After exchanging requested information, the Watermaster General Counsel, Watermaster Engineer, and counsel for LVRP met by telephone on September 4, 2018. Homer Decl., IT 7. During this call, LVRP generally confirmed the information it had previously provided and sought input from both the Watermaster General Counsel and the Watermaster Engineer. Id. The Watermaster General Counsel confirmed that the Watermaster could not itself address the status of LVRP's water right and associated rights and responsibilities under the Judgment, which are the province of the Court, and that to do so LVRP would need to move to intervene in the Judgment. Homer Decl. ๆf 7. The Watermaster General Counsel also confirmed that this conversation satisfied the requirement in Section 20.9 of the Judgment that LVRP (as a non-party) consult with the Watermaster Engineer and seek the Watermaster's stipulation before moving to intervene. Homer Decl. If 8; See Dkt. 11020 at Ex. A, § 20.9.

## III. Long Valley Road, L.P. is Entitled to Intervene in the Judgment.

As the owner of the Property, which overlies the Basin, LVRP is an "overlying landowner." Under bedrock principles of California water law, overlying landowner like LVRP have a right to extract and beneficially use as much groundwater as needed from beneath their property, so long as such use is reasonable. The Judgment, which by its own language applies to and governs water use by "Parties," does not apply to LVRP. LVRP was erroneously listed as a member of the "Small Pumper Class" despite not meeting the substantive requirements used to define that Class, and as such may have received related notices. But that error, and LVRP's receipt of any corresponding notices, each of which included a class definition that would have lead LVRP to reasonably conclude that such notices did not apply to or bind LVRP, do not have any legal effect. Based on the definition of the Small Pumper Class used in all relevant class documents and Orders issued by the Court, LVRP is clearly not a member because it never pumped less than twenty-five acre-feet in any year that it owned the Property. Conversely, LVRP is an overlying landowner that has pumped and beneficially used significantly more than twenty-five acre-feet in all years since it owned the Property, and therefore should have been included in the Adjudication as a Party with Overlying

Production Rights.
As discussed in more detail below, LVRP has satisfied the procedural requirements of the Judgment for a non-party seeking intervention, and the relevant statute and cases interpreting it require intervention where - as here - the party seeking it has a real property interest that is impacted by a judgment and no existing party adequately represents that interest on the moving party's behalf.

## A. LVRP has a Constitutionally Protected Right to Use Basin Groundwater as an Overlying Landowner.

Under the California Constitution and long-standing, binding precedent, there is no question that overlying landowners have a right to pump and beneficially use water from beneath their properties in whatever amounts they require, so long as the use is "reasonable." CAL. CONST., ART. X, § 2; see City of Pasadena v. City of Alhambra, 33 Cal.2d. 908, 925 (Cal. 1949) ("[An overlying right ... is the right of the owner of land to take water from the ground underneath for use on his land within the basin ... [and] it is now clear that an overlying owner or any other person having right to surface or groundwater may take only such amount as he reasonably needs for beneficial purposes") (citing Hillside Water Co. v. Los Angeles, 10 Cal.2d 677, 686 (Cal. 1938); Katz $v$. Walkinshaw, 141 Cal. 116 (Cal. 1903)) (additional citations omitted); see also City of Barstow $v$. Mojave Water Agency, 23 Cal.4th 1224, 1240 (Cal. 2000) ("Mojave") ("An overlying right ... is the owner's right to take water from the ground underneath for use on his land within the basin or watershed."). This right is "based on the ownership of the land; and appurtenant thereto" and allows owners of such property to pump the water they need for both "present and prospective reasonable beneficial uses." Id. (emphasis added); see also See City of Santa Maria v. Adam, 211 Cal.App.4th 266, 298 (Ct. App. 2012) ("the full amount of the overlying right is that required for the landowners' 'present and prospective' reasonable beneficial use upon the land.").

## B. The Judgment Does Not Currently Apply to LVRP, Which is Not a Party to the Adjudication and was Erroneously Listed as a Member of the Small Pumper Class.

The Judgment does not currently apply to LVRP, and as such does not restrain LVRP's use of groundwater from the Basin. The Judgment states its own applicability as follows:

This Judgment is entered as a Judgment binding on all Parties served or appearing in this

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Action, including without limitation, those Parties which have stipulated to this Judgment, are subject to prior settlement(s) and judgment(s) of this Court, have defaulted or hereafter stipulate to this Judgment.

Dkt. 11020 at Ex. A, Preamble. The Judgment defines "Parties" as follows:
Any Person(s) that has (have) been named and served or otherwise properly joined, or has (have) become subject to this Judgment and any prior judgments of this Court in this Action and all their respective heirs, successors-in-interest and assigns.

Dkt. 11020 at Ex. A, § 3.527. The Judgment applies to "Parties," and Parties include those who have been properly named, served and/or joined to the Adjudication, including any of its subsidiary actions. LVRP is not a named party in the Adjudication or any of its underlying actions, and to the best of LVRP's knowledge neither are its predecessor-in-interest as to the Property, the Palmdale Administrative Trust, or any of that Trust's individual trustees or beneficiaries.

LVRP's sole connection to the Adjudication is the fact that it was erroneously listed - at an unknown date, by an unknown person, and based on some unknown (but clearly erroneous) information about LVRP's pumping history - as a member of the Small Pumper Class for purposes of Wood v. Los Angeles Co. Waterworks Dist. 40, et al., (Case No.: BC 391869) ("Small Pumper Class Action"). See Dkt. 11020, Ex. C at 6 ("List of Known Small Pumper Class Members..."). As such, LVRP may have been served with related notices such as those discussing class certification and settlement, but each of those notices was more than defective as to LVRP. ${ }^{4}$ This is because even if such notices were in fact received by LVRP, or LVRP can be charged with constructive notice of the existence of the Small Pumper Class Action, 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
${ }^{4}$ LVRP is a small, family-owned and operated business. The husband and wife who ran the business during much of the pendency of the Small Pumper Class Action (filed June 3, 2008 and ultimately resolved by the Judgment on December 23, 2015, see Dkt. 11020, Ex. C), are now deceased. Pherson Decl., $\mathbb{\$ 1 1}$. After conducting a reasonable search, LVRP has not located any records indicating that it was in fact served with Small Pumper Class documents. Pherson Decl., I 12. That said, LVRP has no reason to believe that it was not served with any documents that were sent to the address listed on Exhibit A to Judgment Approving Small Pumper Class Action Settlements: List of Known Pumper Class Members for Final Judgment (Dkt. 11020, Ex. C at p. 6), which is LVRP's correct, listed address for service of process. However, as discussed below, whether LVRP received actual or even constructive notice of the Small Pumper Class and related events has no legal consequence because LVRP is by definition not a member of the Small Pumper Class.

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precise, carefully formulated class definition that would have unambiguously instructed LVRP (and the world) that LVRP was not a member, period. The Small Pumper Class is defined in the Judgment as follows:

All private (i.e. non-governmental) persons and entities that own property within the Basin, as adjudicated, and that have been pumping less than 25 acre-feet per year on their property during any year from 1946 to the present.

Dkt. 11020 at Ex. C, $\mathbb{\|}$ F (December 28, 2015). The same paragraph refers to the Court's September 2, 2008 class certification order as the source of this definition, so for purposes of establishing whether a person or entity is a member of the Small Pumper Class the relevant inquiry is whether a "person" that "own[s] property" within the "Basin" pumped less than twenty-five acre-feet of water from beneath its property in any year between 1946 and September 2, 2008. Id. LVRP purchased the Property in 2006 and immediately permitted, completed, and began pumping significantly more than twenty-five acre-feet from the Production Wells. Pherson Decl., Iff 7-9, Ex. D. It did so in each year from 2006 through the operative date for Small Pumper Class purposes of September 2, 2008, and indeed through the date of this Motion. Id.. To the extent LVRP received actual or constructive notice related to the Small Pumper Class Action, it would have reasonably (and correctly) understood that it was not a member of that Class and therefore no action was required by LVRP to preserve its overlying water right.

## C. LVRP was Erroneously Excluded from the Adjudication and the Judgment, and Should Have Been Granted Overlying Production Rights.

The Judgment ambitiously seeks to cover all uses of groundwater in the Basin, but it is well understood that in groundwater adjudications the finality of the litigation is dependent on the number of groundwater users joined in the action. If significant groundwater users are not joined, they cannot be bound by the judgment. See Wright v. Goleta Water Dist., 174 Cal.App.3d 74, 88-89 (Ct. App. 1985) ("A court has no jurisdiction over an absent party and its judgment cannot bind him ... absent a statutory scheme for comprehensive determination of all groundwater rights, ${ }^{5}$ the application of

5 The 2014 Sustainable Groundwater Management Act ("SGMA"), which requires - among other things - the formation and designation of Groundwater Sustainability Agencies to manage basins, is not a "statutory scheme for comprehensive determination of all groundwater rights" and does

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Long Valley to a private adjudication would allow prospective [water] rights of overlying landowners to be subject to the vagaries of an individual plaintiff's pleading without adequate due process protections.") (discussing In re. Waters of Long Valley Creek Stream System, 25 Cal.3d 339 (Cal. 1979) (additional citations omitted). In Wright, in reversing the trial court's attempt at adjudicating a basin in Santa Barbara County, the Court of Appeal noted that "other overlying landowners owning these present rights to future use are entitled to notice and an opportunity to resist any interference with them." Id. (citing Orange County Water Dist. v. City of Colton, 226 Cal.App.2d 642, 649 (Ct. App. 1964)). The Supreme Court has also recognized that "no appellate court has endorsed an equitable apportionment [i.e., a physical solution] that disregards existing overlying users' rights." Mojave, 23 Cal 4th at 1249.

In keeping with these principles, the terms of the Judgment itself make clear that a significant overlying agricultural user like LVRP should have been joined:

The Court required that all Persons having or claiming any right, title or interest to the Groundwater within the Basin be notified of the Action. Notice has been given pursuant to the Court's order. All Public Water Suppliers, landowners, Non-Pumper Class and Small Pumper Class members and other Persons having or making claims have been or will be included as Parties to the Action. All named Parties who have not been dismissed have appeared or have been given adequate opportunity to appear.

Dkt. 11020, Ex. A, § 3.2. The Judgment does not describe how such notice was given to LVRP, as an overlying landowner who purchased the Property in 2006 and immediately and openly began preparing to complete and pump from significant agricultural wells, including properly obtaining required permits from the Los Angeles County Department of Environmental Health and filing Well Completion Reports with the State of California's Division of Water Resources. Pherson Decl., If 6, Ex. C. Had any Party to the Adjudication searched the primary repositories of public information about active water wells after July 2006, they would have and should have properly identified LVRP and/or Boething Treeland as an active, overlying agricultural user. As such, LVRP could have and should have been provided notice and an opportunity to participate in the Adjudication but was not,
not alter water rights with respect to the Basin in any event because it specifically exempts management of the Antelope Valley Groundwater Basin from its main substantive requirements due to the existence of the Judgment. See CAL. WATER CODE § 109720.8(a) and (b).

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and therefore due process requires that it may not be restrained by the Judgment unless and until it becomes a Party to it. ${ }^{6}$

Like the Parties that were properly joined and granted Overlying Production Rights via the Judgment, LVRP is committed the sustainable management of the Basin, and therefore seeks to intervene in and be bound by the Judgment with the expectation that its Overlying Production Right, priority and any future modifications to its water right and priority will be determined fairly and equitably with due process and in keeping with the formula used to determine the rights of other similar overlying agricultural users. ${ }^{7}$

## D. LVRP's Intervention is Necessary and Appropriate.

Because it owns the Property and holds the appurtenant overlying water right, and was not properly included in the Adjudication or the Judgment, LVRP's intervention in the Judgment is necessary and appropriate. See City of Pasadena 33 Cal.2d. at 926 ("Overlying owners are entitled to the protection of the courts against any substantial infringement of their rights in water which they reasonably and beneficially need."). Section 387 of the California Code of Civil Procedure also makes clear that a court shall permit a non-party to intervene in an action or proceeding when that person claims an interest in property that is subject to the action and that interest is not adequately represented by an existing party. CAL Code Civ. P. § 387. Under Section 387, intervention may be granted at any time, even after judgment has been rendered. ${ }^{8}$ Mallick v. Superior Court, 89 Cal.App.3d 434, 437(Ct. App. 1979). The intervention statute is designed to promote fairness and
${ }^{6}$ As discussed above, what LVRP may have been provided is notice(s) related to the Small Pumper Class, which as a person who at all times since owning the Property pumped significantly more than twenty-five acre feet per year, LVRP reasonably would have understood to relate to a class action lawsuit that: (a) LVRP was not a party to; and (b) in no way would impact LVRP's water right.
7 While this Motion is not the proper vehicle to quantify LVRP's Overlying Production Right, by seeking to intervene in the Judgment LVRP in no way limits or waives its right to assert that it is entitled to an Overlying Production Right greater than the maximum annual amount it has pumped and beneficially used since purchasing the Property in 2006.
8 Section 20.9 of the Judgment, which establishes the procedure for non-party intervention, also does not include any temporal limitation on such intervention. Dkt. 11020 at Ex. A, § 20.9. Because this procedure is set in the Judgment itself, it necessarily follows that non-parties may intervene after the Judgment was entered.

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to ensure maximum involvement by all responsible, interested and affected parties. Mary R. v. B. \& R. Corp. 149 Cal.App.3d 308, 314 (Ct. App. 1983). The intervention statute "should be liberally construed in favor of intervention." Lindelli v. Town of San Anselmo 139 Cal.App.4th 1499, 1505 (Ct. App. 2006).

Here, there is no question that LVRP has owned the Property since 2006 and that the Property overlies the Basin. Pherson Decl. at 9 2, Ex. A. LVRP was improperly excluded from the portions of the Adjudication that impacted its rights as a significant agricultural overlying landowner, and was improperly named in a portion of the Adjudication that clearly did not apply to it in the Small Pumper Class Action. See supra, sections II.B and II.C. The Watermaster has taken the position that the Judgement applies to LVRP's use of groundwater on the Property, and that if LVRP does not intervene in the Judgment that the Watermaster may bring an action to restrain LVRP's use of groundwater at the Property and seek assessment costs for LVRP's past Production, legal fees, etc. Pherson Decl. If 10, Ex. F. LVRP has complied with the procedural requirements under Section 20.9 of the Judgment by consulting with the Watermaster Engineer and seeking the Watermaster's stipulation to its intervention in the Judgment. Homer Decl., of 8; See Dkt. 11020 at Ex. A, § 20.9. To the best of LVRP's knowledge, with the exception of being erroneously listed as a member of the Small Pumper Class, neither LVRP, its affiliates, nor its predecessor-in-interest with respect to the Property were named or otherwise included in the Adjudication. Pherson Decl., II 13. As such, LVRP's rights and interests were not adequately represented by an existing party during the Adjudication and are not currently represented by an existing party to the Judgment. LVRP is a responsible, interested and affected party, and fairness, the required liberal construction of the intervention statute, and the permissive nature of Section 20.9 of the Judgment all favor allowing LVRP to intervene in the Judgment.

## E. LVRP's Overlying Water Right Was Not Impacted by Prescription.

This Motion is not the proper vehicle to quantify or prioritize LVRP's water right, which to LVRP's knowledge the Court has not heard evidence on. Nonetheless, in responding to this request to intervene by LVRP, other Parties may take the position that the overlying water right appurtenant to the Property was either diminished or dissolved by prescription because non-overlying users
pumped groundwater from the Basin during times that LVRP's predecessor-in-interest to the Property did not, and such pumping was adverse to the overlying right. For purposes of this Motion that is of no moment, because the quantity and quality of LVRP's overlying water right is not properly before the Court. To the best of LVRP's knowledge, there has been no evidence presented to the Court regarding historical pumping at the Property and/or whether former owner(s) were on notice of an overdraft condition if one existed during any periods of non-use, other than the facts that: (a) former owners did complete and use groundwater wells on the Property at presently unknown times, which wells still existed at the time LVRP purchased it (Pherson Decl. at q 6); and (b) the Court did not declare the Basin to be in a state of overdraft until it filed its July 13, 2011 Statement of Decision (Dkt. 4523 at 5) ("The preponderance of the evidence presented establishes that the adjudication are aquifer is in a state of overdraft."). ${ }^{9}$ With respect to pumping by former owners of the Property, any party asserting that LVRP's right was impacted by prescription during the period before LVRP's ownership would need to prove, among other things, that the former owners did not engage in "self help" by continuing to pump during periods of adverse use by nonoverlying users. See Hi-Desert County Water Dist. V. Blue Skies Country Club, Inc., 23 Cal.App.4th 1723, 1731 (Ct. App. 1994) (citing City of Pasadena, 33 Cal.2d at 931-32). ${ }^{10}$

Of equal importance, even if non-overlying users did impact the water right appurtenant to the Property via prescriptive use of Basin water in the distant past, at all times since it acquired the Property in 2006 (and indeed during the majority of years that the Adjudication was underway), LVRP openly pumped and beneficially used significant volumes of groundwater from beneath the Property. It necessarily follows that if the overlying water right appurtenant to the Property was previously impacted by prescription, LVRP re-established its right via prescription through its

9 See City of Pasedena, 33 Cal.2d at 930 (for use by non-overlying users to be "adverse" to overlying owners that are not pumping and beneficially using their water right during time of overdraft, there must be evidence sufficient to charge the overlying owners with notice that the basin is in overdraft and that the non-overlying users' "appropriations causing the overdraft were invasions of the rights of the overlying owners.").
${ }^{10}$ See City of Santa Maria, 211 Cal.App.4th at 298 ("Landowners may limit prescriptive rights by showing that although they had not sought an injunction during the prescriptive period they exercised self-help by continuing to pump during that time" and "proof of the quantities they pumped during the long ago prescriptive period was unnecessary.")

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continuous pumping and beneficial use in all years beginning in 2006. Pherson Decl. at q9 7-9, Ex. D, Ex. E; see City of Pasadena, 33 Cal.2d at 927 (" $[P]$ rescriptive rights to ground water, as well as the rights of an overlying owner, are subject to loss by adverse user.") (citations omitted). In other words, even if there is evidence that a former owner(s) of the Property arguably allowed the appurtenant overlying water right to be impacted by prescription, LVRP's actual, open, notorious, hostile and adverse use of groundwater from beneath the Property since 2006 would satisfy the elements of prescription in order to reclaim that overlying right. Id. at 296-27.

## IV. CONCLUSION

For the foregoing reasons non-party Long Valley Road, L.P. respectfully requests that the Court grant this Motion for Leave to Intervene in the December 23, 2015 Judgment and Physical Solution entered in the Antelope Valley Groundwater Cases pursuant to Section 20.9 of that Judgment and Section 387 of the California Code of Civil Procedure. Further, because no procedure is established in the Judgment to recognize, quantify and prioritize an overlooked Overlying Production Right, non-party Long Valley Road, L.P. respectfully requests that the Court order it and the Watermaster to promptly meet and confer regarding the proper procedure for Long Valley Road, L.P. to seek a determination and declaration of its right to Produce Groundwater, as those terms are used in the Judgment, in accordance with the terms and conditions Judgment, and in light of its unique status as a significant overlying landowner and producer of Groundwater that, prior to the issuance of this Order, was not covered by or otherwise included in the Judgment.

DATED: October 9. 2018
KELLEY DRYE \& WARREN LLP
Michael J. O'Connor


Andrew. W Homer
Attorneys for Defendant
Long Valley Road, L.P.

## PROOF OF SERVICE

## STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 10100 Santa Monica Boulevard, Twenty-Third Floor, Los Angeles, California 90067-4008.

On October 9, 2018 I served true copies of the following document(s) described as:

- LONG VALLEY ROAD, L.P.'S NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES
- DECLARATION OF BRUCE E. PHERSON, JR. IN SUPPORT OF LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
- DECLARATION OF ANDREW W. HOMER IN SUPPORT OF LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
- [PROPOSED] ORDER RE: LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
on the interested parties in this action as by placing the true copy:
囚 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.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and 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 9, 2018, at Los Angeles, California.


## Exhibit 7

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AHomer@KelleyDrye.com
Attorneys for Defendant
Long Valley Road, L.P.

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER CASES

Judicial Council Coordination Proceeding No. 4408

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

Los Angeles County Superior Court Case No. BC 325201

Assigned to Honorable Jack Komar (Ret)
Department 17C
DECLARATION OF BRUCE E. PHERSON, JR. IN SUPPORT OF LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
[Notice of Motion and Motion for Leave to Intervene in Judgment, Memorandum of Points and Authorities, Declaration of Andrew W. Homer and [Proposed] Order filed concurrently]

Hearing Date: November 1, 2018
Time: 9:00 AM

I, Bruce E. Pherson, Jr., declare as follows:

1. I am an advisor to Long Valley Road, L.P. ("LVRP") and am the President of LVRP's affiliate and tenant/lessee Boething Treeland Farms, Inc. ("Boething Treeland"). I have personal knowledge of the following facts by virtue of my role and personal involvement in these businesses.
2. LVRP is the owner of five contiguous parcels of land, together consisting of approximately 135 acres of agricultural real property, near the intersection of $160^{\text {th }}$ Street East and Palmdale Boulevard in Llano, California, approximately fifteen miles east of the city center in Palmdale, California. LVRP agreed to purchase these properties, which at the time it understood to consist of four parcels, on or about March 8, 2006 from its former owner, the Palmdale Administrative Trust. The purchase was completed, and the transfer of title became effective, on or about May 9, 2006. A true and correct copy of the associated grant deed is attached as Exhibit A.
3. According to records maintained by the Assessor for the County of Los Angeles, LVRP's property actually consists of five parcels, as one of the parcels described in Exhibit A was divided into two parcels by a prior owner before LVRP purchased the property in 2006. True and correct copies of related records that LVRP obtained from the Assessor are included as Exhibit B.
4. Shortly after purchasing the property, LVRP leased the property to its affiliate Boething Treeland, a wholesale grower of trees and shrubs. Boething Treeland has leased the property continuously since 2006, and continues to lease it today as the sole and exclusive tenant to LVRP. LVRP and Boething Treeland refer to the property as "Treeland Antelope Valley," which name I will use to refer to it for the remainder of this declaration.
5. LVRP purchased Treeland Antelope Valley for the purpose of establishing Treeland Antelope Valley as an agricultural operation, at which Boething Treeland cultivates trees, shrubs and other plants as part of its wholesale commercial nursery business. LVRP's longterm tenant/lessee Boething Treeland commenced wholesale nursery operations almost immediately upon completing the purchase of Treeland Antelope Valley in May 2006 and have used it for the same purpose at all times since May 2006.
6. Between approximately May and July of 2006, Boething Treeland and its contractor Rottman Drilling Co. ("Rottman Drilling") examined existing wells on the property, completed three new water wells at Treeland Antelope Valley. LVRP and Boething Treeland refer to these as "Well \#1," "Well \#2" and "Well \#3." Boething Treeland also refers to Well \# 1 and Well \# 3 together as the "Production Wells," and they are the primary source of irrigation water for the Treeland Antelope Valley operation. Well \# 2 is an auxiliary agricultural well, used for miscellaneous purposes and not as a primary irrigation well. Boething Treeland hired Rottman Drilling to obtain the necessary permits from the Los Angeles County Department of Environmental Health, and to file required Well Completion Reports with the State of California, Department of Water Resources. To the best of LVRP's and Boething Treeland's knowledge, the proper permits were obtained prior to drilling and the proper reports were filed upon completion. True and correct copies of the associated permit applications, receipts for application fees, and Well Completion Reports are included as Exhibit C.
7. Beginning in approximately June 2006 with respect to its "Well \#1," and approximately July 2006 with respect to its and "Well \#3" at Treeland Antelope Valley, and in each consecutive 12-month period and each consecutive calendar year, LVRP and Boething Treeland have pumped and used significant amounts of groundwater from beneath the Treeland Antelope Valley property via the Production Wells. Such water was pumped and used within the Treeland Antelope Valley property for irrigation of Boething Treeland's wholesale nursery plants and other agricultural purposes as LVRP and Boething Treeland established and improved the Treeland Antelope Valley operation.
8. Beginning in August 2008, Boething Treeland began recording its water usage by reading meters on the Treeland Antelope Valley Production Wells, and manually noting the combined number of acre-feet pumped in each month. Neither LVRP nor Boething Treeland have such records for water used between June 2006 (completion of Well \#1) and August 2008, but water use at the property during that period, and associated pumping from the Production Wells, were consistent with current water use and pumping and in any event was not less than twentyfive acre-feet in any year since LVRP purchased the Treeland Antelope Valley property. A true
and correct copy of a spreadsheet showing combined Well \# 1 and Well \#3 water production from August 1, 2008 through August 3, 2018, based on combined meter reads for these Production Wells, is included as Exhibit D. Well \#2, which is not used for primary irrigation and only for auxiliary purposes, is not equipped with a meter. Treeland Antelope Valley's staff estimates that water usage from Well \# 2 since it was completed in 2006 was less than three acre-feet per annum ("AFA").
9. While LVRP and Boething Treeland do not have contemporaneous records of groundwater pumping through the Production Wells between June 2006 and August 2008, because each of LVRP's Production Wells is metered and the same meters have been used since inception and for the duration of pumping, it is possible to calculate such production by subtracting total recorded production from August 2008 to the present, as reflected in Exhibit D, from the cumulative totals recorded on the two Production Wells' meters. The meters were installed when the wells were completed, and have not been replaced or otherwise altered since initial installation. As of October 4, 2018, the meters show cumulative production of 1,801 acre-feet (Well \#1) and 1,886 acre-feet (Well \#3), or a total of 3,687 acre-feet produced through the two Production Wells since Well 1 was completed in June 2006 ("Metered Total Production"). The combined production for the two Production Wells for the period August 1, 2008 through September 30, 2018, as reflected in Exhibit D, is 3,296 acre-feet ("Partial Recorded Production"). Subtracting the Partial Recorded Production from the Metered Total Production leaves a total of 391 acre-feet, which LVRP believes reflects the combined volume of groundwater produced through the two Production Wells between June 2006 and August 2008, or a twenty-six month period. Using this total, average production can be reasonably estimated as fifteen acre-feet per month and 180 acrefeet per year during the same period. Photographs of the two Production Wells' meters, taken on October 4, 2018, are included as Exhibit E.
10. On approximately July 10, 2018, LVRP received a letter from the Antelope Valley Watermaster General Counsel ("Watermaster Letter"). Among other things, the Watermaster Letter instructs LVRP that:
a. "LVRP may be pumping groundwater in violation of the "Judgment and

DECLARATION OF BRUCE E. PHERSON, JR. IN SUPPORT OF LONG VALLEY ROAD L.P.'S MOTION TO

Physical Solution dated December 23, 2015 [] relating to the Antelope Valley Adjudicated Basin";
b. That if LVRP "do[es] not have a right to do so under the terms of the Judgment the Watermaster is required by the Court to stop all unauthorized pumping"; and
c. LVRP should "immediately comply with Section 20.9 of the Judgment," which "provides a process for non-parties to intervene in the Judgment to become a party then seek the right to produce groundwater from the Adjudicated Basin." A true and correct copy of the "Watermaster Letter" is included as Exhibit F.
11. LVRP is a small, family-owned and operated business. The husband and wife who ran the business during much of the pendency of the Small Pumper Class Action are now deceased.
12. I have conducted a reasonable search of LVRP's files and have not located any records indicating that it was in fact served with Small Pumper Class documents.
13. To the best of my knowledge, none of LVRP's predecessors-in-interest to the Treeland Antelope Valley property were named in the "Judgment and Physical Solution dated December 23, 2015 [] relating to the Antelope Valley Adjudicated Basin" or any of the underlying lawsuits it was intended to resolve.

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

Executed on October 8, 2018 at Woodland Hills, California.


Bruce E. Pherson, Jr.


RECORDING REQUESTED BY:
Fidelity National Title
Escrow No 88719 VV
When Recorded Mail Document
and Tax Statement To:
Bruce Pherson
23475 Long Valley Road
Woodland Hills, CA 91367

APN: 3075-7-1,2,3 and 6

## 061018407

GRANT DEED

The undersigned grantor(s) declares)
Documentary transfer tax is $\$ 1,320.00$
$[X]$ computed on full value of property conveyed, or
$\left[\begin{array}{l|l}{[ } & \text { computed on full value less value of liens or encumbrances remaining at time of sale, }\end{array}\right.$
FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Rona Becker, Trustee of the Palmdale Administrative Trust, dated April 2, 1993 as to Parcels 1 and 2 and Rona Helene Becker, Successor Trustee of the Ingber Living Trust, dated April 23,1991 as to Parcels 3 and 4
hereby GRANT(S) to Long Valley Road, L.P., a California limited partnership
the following described real property in the
County of Los Angeles, State of California:
SEE EXHIBIT ONE ATTACHED HERETO AND MADE A PART HEREOF

DATED: May 3, 2006

STATE OF CALIFORNIA
 Stuart S.bagaeti, montane public personally appeared RONA Becker foster Al <A RonA Hecewe' beater far one personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons) whose names) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(les), and that by histher/their signatures) on the instrument the persons), or the entity upon behalf of which the persons) acted, executed the instrument.


Rona Becker, Trustee of the Palmdale Administrative Trust, dated April 2, 1993 as to Parcels 1 and 2


Rona Becker, Trustee
Rona Helene Becker, Successor Trustee of the Ingber Living Trust, dated April23,1991 as to Parcels 3 and 4 By: Coma Ie lent Becker TRuster Rona Helene Becker, Trustee


## EXHIBIT "ONE"

## PARCEL 1:

THE SOUTHEAST QUARTER OF SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND.

PARCEL 2
THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 6 NDRTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND.

PARCEL 3:

THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28 , TOWNSHIP 6 NORTH, RANGE 9 WEST, SAN BERNARDIND MERIDIAN, IN THE JUDICIAL TOWNSHIP OF ANTELOPE, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND APPROVED BY THE SURVEYOR GENERAL ON JUNE 19, 1856

PARCEL 4:
THE EAST HALF OF THE WEST OF THE NORTHEAST QUARTER OF THE SOUTHWES QUARTER OF SECTION 28, TOWNSHIP GN, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, IN THE JUDICIAL TOWNSHIP OF ANTELOPE, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND APPROVED BY THE SURVEYOR GENERAL ON JUNE 19, 1856

Exhibit B


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TYPE=LD ASSR TD NO= 3075 007 002 SBN NO =
                            FILE NO= 18 UPDATE= 09/16/18 DATE= 09/21/18
ASSR ID NO VC REC DT TRF PRICE # DOC NO OC1 OC2 DT INT DRC
3075 007 002 7 CURRENT: M 060509-50 1200000 4 1018407 3 S S Y O O O % O A
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REG CC USE
    A1 01010 580V
        PARCEL STATUS TS TY SCP TRA HOX KEY HOX AMT CLATM TYPE REX AMOUNT
ACTIVE 0 04683 N TNACTIVE
NAME
LONG VALLEY ROAD LP
SPECIAL NAME: NO SPECIAL NAME ON FILE
SITUS ADDRESS
VAC/PALMDALE BLVD(PAV)/VIC 165 S BLACK BUTTE CA
MAIL ADDRESS
23475 LONG VALLEY RD
.. LEGAL DESCRIPTION...
W 1/2 OF W 1/2 OF NE 1/4 OF SW 1/4 EX
OF ST OF SEC 28 T 6N R 9W
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TYPE= LD ASSR ID NO= 3075 007 003 SBN NO =
                        FILE NO= 18 UPDATE= 09/16/18 DATE= 09/21/18
ASSR ID NO VC REC DT TRF PRICE # DOC NO OC1 OC2 DT INT DRC
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REG CC USE
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NAME
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        BLACK BUTTE CA
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        91367-6006
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        LEGAL DESCRIPTION LINES 2
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TYPE= LD ASSR ID NO= 3075 007 009 SBN NO = % FILE NO= 18 UPDATE= 09/16/18 DATE= 09/21/18
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    PARCEL STATUS TS TY SCP TRA HOX KEY HOX AMT CLAIM TYPE REX AMOUNT
ACTIVE 0 04683 INACTIVE
NAME
LONG VALLEY ROAD LP
SPECIAL NAME: NO SPECTAL NAME ON FILE
SITUS ADDRESS
                    VAC/COR AVE R/165TH STE LAKE LOS ANGELES CA
MAIL ADDRESS
23475 LONG VALLEY RD
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SPECIAL NAME: NO SPECIAL NAME ON FILE
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"Valuing People and Property"

KAREN GRAY OWNERSHIP SERVIGES SPECIALIST INVESTGATOR.
OWNERSHIP DNISION

JEFFREY PRANG
ASSESSOR
COUNTY OF LOS ANGELES
assessorlacounty.gov

251 East Avenue K 6 Lancaster, Californla 93535 (661) 940-6741 / (661) 940-6713 Fax kgray(@)assessor.lacounty.gov
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| 05/09/2006 | 50 | 1018407 | 3 | 5 | 2 | 00\% 0 | M | 1200,000 | 1,200,012 | 662800 | LONG VALLEY ROAD LP |
| 07/13/1993 | 50 | 1944419 | 3 | 7 |  | 00\%-0 |  | 0 | 0 | 170.001 | BECKER,RONA TR |
| 04/29/1987 | 50 | 0664614 | 3 | 5 | $2+$ | 00\%-0 | M | 240,000 | 0 | 148,000 | INGBER, BEN AND PHYLLIS ET AL |
| 04/1011984 | 50 | 0431740 |  |  | 1 | 00\%-0 | A | 1 | 0 | 100,200 | SHETLEF,CLARENCE E JR AND |
| 10/10/1978 | 60 |  |  |  |  | 00\% 0 |  | 0 | 0 | 0 | SHELTER,MARY F CO-TR |

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## ssessment History

| Bill Number | Bill T/S | Date Created | Recording Date | Seq. | Doc 4 | \% | Total | Land Value | RCIBY | Imp Value | RCIBY | Owner Name |
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| 219-PSEG | 1 |  | 05/09/2006 | 60 | 1018407 | 00\%.0 | 145,500 | 138,600 | $8 / 2006$ | 6.900 | $8 / 2008$ | LONG VALLEY ROAD LP |
| 218000 C | R/A | C7/19/2018 | 05/0¢/2006 | 50 | 1018407 | 00\% 0 | 145.500 | 138,600 | 8/200G | 6,900 | $8 / 2006$ | LONG VALLEY ROAD LP |
| 2170000 | R/A | C6/2612017 | 05/05/2006 | 50 | 1018407 | 00\% 0 | 145,500 | 138,600 | 8/2006 | 6,900 | $8 / 2006$ | LONG VALLEY ROAD LP |
| 2160000 | R/A | 07/05/2016 | 05/09/2006 | 50 | 1016407 | 00\%-0 | 145,500 | 138,600 | $8 / 2006$ | 6,900 | $8 / 2006$ | LONG VALLEY ROAD LP |
| 2150000 | R/A | 08/23/2015 | 05/05/2006 | 50 | 1018407 | 00\%-0 | 145,500 | 138,600 | $8 / 2006$ | 8,903 | $8 / 2006$ | LONG VALLEY ROAO LP |
| 2140000 | R/A | $06124 / 2014$ | 05/09/2006 | 50 | 1018407 | 00\%-0 | 145,500 | 138,600 | 8/2006 | 6,900 | $8 / 2006$ | LONG VALLEY RGAD LP |

IN: 3075-007-002 7
Owner:LONG VALLEY ROAD LP (1)
Regicn Cluster Use Zoning Parcel Status Create Date Delete Date Total Base Land Base Imp Base HOX TRA Tax Status Tax Year

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| 0971111982 | 50 | 777777 | 3 | A | 1 | 50\% 2 | 1 | - |  | 61,807 | BECKER.RONA TRETAL |
| 0857714991 | 50 | 1085707 | 3 | 7 |  | 00\% 0 |  | c | $\bigcirc$ | 74,814 | INGEER, BEA AND PHYLLIS TRS ETAL |
| 11/2311988 | 50 | 1883793 | 3 | 5 | 2 | 00\% 0 | 2 | $\bigcirc$ | 141001 | 70,500 | Ingber,gen and phyllis et al |
| 04/25/1958 | 50 |  |  |  |  | 00\%00 |  | c | $\bigcirc$ | 0 | King. ELSIE |

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| - Composite: Total Units: Total SgFt Avg SqFI per Unit O |  |  |  |  |  |  |  |  |  |  |  |
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| 219-FSEG | 1 |  | 05/09/2006 | 50 | 1018407 | 00\%-0 | 106,085 | 106.085 | T/2006 | 0 | T/2006 | LONG VALLEY ROAD LP |
| 2180000 | R/A | 07/19/2018 | 05/09,2006 | 50 | 1018407 | 00\% 0 | 104,005 | 104,005 | T12006 | 0 | T/2006 | LONG VALLEY ROAD LP |
| 2170000 | RI'A | 06/26/2017 | 05/09/2006 | 50 | 1018407 | 00\%-0 | 101,965 | 101,966 | T/2006 | 0 | T/2006 | LONG VALLEY ROAD LP |
| 2160000 | RIA | 07/05/2016 | 05/00,2006 | 50 | 1018207 | 00\%-0 | 99,967 | 99,967 | T/2006 | 0 | T/2006 | LONG VALLEY ROAD LP |
| 2150000 | RIA | 06123/2075 | $05100 / 2006$ | 50 | 1018407 | 00\%-0 | 98,456 | 90,456 | T/2000 | 0 | T/2006 | LONG VALLEY ROAD LP |
| 2140000 | R/A | 06124/2014 | 05/69/2006 | 50 | 1018407 | 00\% 0 | 96.538 | 96.538 | T12006 | 0 | 7/2006 | LONG VALLE |

IN: 3075-007-003
Owner:LONG VALLEY ROAD LP (1)

itus Address: VAC/PAI MDAIE BLVD(PAV)NIC 165 S, BLACK BUTTE. CA $93591-0000$ Maling Addross: 23475 LONG VALLEY RD, WOODLAND HIILS, CA $91367-6006$
iwnership History

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| 05109/2006 | 50 | 1018407 | 3 | 5 | 4 | 00\% 0 | M | 1,200,000 | 1,200,012 | 86,600 | LONG VALLEY ROAD LP |
| $09 / 1111982$ | 50 | 7117777 | 3 | A | 1 | 50\%-2 | 1 | 0 | 5 | 61,857 | BECKER,RONA TRETAL |
| 06/0711991 | 50 | 0857707 | 3 | 7 |  | 00\%-0 |  | C | 0 | 74,814 | INGBER, BEN AND PHYLLIS TRS ET AL |
| \|1/23/1988 | 50 | 1893793 | 3 | 5 | 2 | 00\%-0 | 2 | C | 141001 | 70,500 | INGBER, BEN ANO PHYLLIS ET AL |
| 04/25/1958 | 50 |  |  |  |  | 00\%-0 |  | c | 0 | 0 | KING.FRED |

uilding Data


## ssessment History

| Bill Number | BIIT TIS | Date Created | Recording Date | Seg $\quad$ \# | Doc ${ }^{\text {\% }}$ | \% | Total | Land Value | RC/BY | Imp Value | RCIBY | Owner Name |
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| $219 . \mathrm{PSEG}$ | - |  | $05 / 092006$ | 50 | 1018407 | 00\%-0 | 106.085 | 106,085 | T/2006 |  | T/2006 | LONG VALLEY ROAD LP |
| 2180000 | RIA | $07 / 19 / 2018$ | 0510912006 | 50 | 1018407 | 00\% 0 | 104,005 | 104,005 | T/2006 | 0 | T/2006 | LONG VALLEY ROAD LF |
| $2170000^{\circ}$ | RIA | 06/20/2017 | 051092006 | 50 | 1018407 | 00\%-0 | 101,965 | 101,966 | T/2006 | 0 | T/2006 | LONG VALLEY ROAD LP |
| 2160000 | RiA | 07/05/2016 | 05/0912006 | 60 | 1018407 | 00\%-0 | 99,967 | 99,567 | T/2006 | 0 | T/2006 | LONG VALLEY ROAD LP |
| 2150000 | R/A | $00123 / 2015$ | 05\%01200a | 50 | 1013407 | 00\%-0 | 98,466 | 98,456 | T/2006 | 0 | T/2006 | LONG VALLEY ROAD LP |
| 2140000 | RIA | $06 / 24 / 2014$ | 05/092000 | 50 | 1018407 | 00\%-0 | 96,538 | 96.538 | Ti2006 | 0 | 7/2006 | LONG VALLEY ROAD LP |

IN: 3075-007-009 0) Owner:LONG VALLEY ROAD LP (1)
Region [Cluster Use, Zoning: Parcel Status [ Crate Date [ Delete Date Tolal Base [Land Base Imp Base HOX TRA|Tax Status] Tax Year
itus Address: VAC/COR AVE R/165TH STE. LAKE LOS ANGELES, CA 93591-0000 Mailing Address: 23475 LONG VALLEY RD WOODLAND HILLS. CA 91367-6006 Iwnership History

| Recording Date | Seq | DOC\# | OC1 | 0 Ca | \# of Pcls | \% | VC | Reported S.P. | DTT S.F. | Assessed Value | Transferee Name |
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| 05/09/2006 | 50 | 1016407 | 3 | 5 | 4 | 00\%-0 | 4 | 0 | 1,200,012 | 210,600 | LONG VALLEY ROAD LP |

uilding Data

| Suppart Key | Desigr: | QC Y¢ Blt | Efl Yr | \# Units | BD BA | SQFT Main | Year Change | RCN Other | RCNO Trend |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: |
|  | Composite: Tcta Units: Total SqFt Avg SgFt per Unto |  |  |  |  |  |  |  |  |


egal Desciption: LAND DESC IN DOC 722656,032307 POR OF SE $1 / 4$ OF SW $1 / 4$ OF SEC 28 T6N R9W
pen New Construction and Exclusion Information (Current Owner)
CONEX Date Begin Roll Year NCC PC \# Land Added Value Land PC Kay Land Appr Date Imp Added Value Imp PC Key Imp RC|Imp BY| Imp App Oate

## ermit Information



## ssessment History

| Bitl Number | Bill TIS | Date Created | Recording Date | Sec $i$ | Doc | \% | Total | Land Value | RCIGY | Imp Value | RCIBY | Owner Name |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: |
| 219-PSEG | I |  | 0510912006 | 60 | 1018407 | 00\%-0 | 257.993 | 257,993 | 9/2006 | - | 5/2006 | LONG VALLEY ROAD LP |
| 2180000 | R/A | 077192018 | 05109/2000 | 50 | 1016407 | 00\% 0 | 252.935 | 252,935 | $9 / 2006$ | 0 | 9.2006 | LONG VALLEY ROAD LP |
| 2770000 | R/A | 06/26/2a17 | 05109/2006 | 50 | 1018407 | 00\% 0 | 247,976 | 247,973 | 9/2006 | 0 | 9/2006 | LONG VALLEY ROAD LP |
| 2160000 | EIA | 07105/2016 | 05/09/2006 | 50 | 1018407 | 00\%-0 | 243,114 | 243,114 | 9,2006 | 0 | 9/2006 | LONG VALLEY ROAD LP |
| 2150000 | R/A | 06/23/2015 | 05109/2006 | 50 | 1018407 | 00\% 0 | 239,463 | 239,463 | 9/2006 | 0 | 9/2006 | LONG VALLEY ROAD LP |
| 2140000 | F/A | 06/24/2014 | 05/09/2005 | 50 | 1018407 | 00\%-0 | 234.773 | 234,773 | 9/2006 | 0 | 9/2006 | LONG VALLEY ROAD LP |

IN: 3075-007-010 7

itus Address: VAC/165TH STENIC AVE R, LAKE LOS ANGELES, CA $93591-0000$ Malling Address: 23475 LONG VALLEY RD, WOODLAND HILLS, CA $9135 \overline{-g}-5006$
iwnership History

egal Desciption: LAND DESC IN DOC 722537,032807 POR OF SE $1 / 4$ OF SW $1 / 4$ OF SEC 28 TGN REW
Ipen New Construction and Exclusion Information (Current Owner)
CONEX Date Begin Roil Year [NGC PC \# Land Added Value Land PC Key Land Appr Date Imp Added Value ITp PC Key Imp RC Imp BY Imp Appr Date
ermit Information

| Permit ${ }^{\text {a }}$ | Streel | City | Name | Date | Value | Permit Descriplion | Status |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: |
|  | No data |  |  |  |  |  |  |

## ssessment History

| Bill Number | Bill T/S | Date Created | Recording Date | Seq\# | Doc \# | \% | Tolal | Lanc Value | RC/EY | Imp Value | RC/BY | Owner Name |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: |
| 21s.PSEG | 1 |  | 0510912006 | 50 | 1018407 | 00\%-C | 149,933 | 89.423 | 9/2000 | 60.510 | 9/2005 | IONG VALLEY ROAD LP |
| 2180000 | R/A | $07 / 18 / 2018$ | 05/09/2006 | 50 | 1018407 | 00\%- | 146,954 | 87,670 | $0 / 2006$ | 59,324 | 9/2006 | LONG VALLEY ROAD LP |
| 2170000 | R/A | 06/26/2017 | 05109/2006 | 50 | 2018407 | 00\% 0 | 144,112 | 85,951 | 9/2006 | 58,161 | 9/2006 | LONC VALIEY ROAD LP |
| 2160000 | R'A | 07/05/2015 | 05109/2006 | 50 | 1018407 | 00\%-U | 141,287 | 84.286 | 9,2006 | 57.021 | 9/2000 | LONG VALLEY ROAD LP |
| 2150000 | R'A | C3i23/2015 | 05/09/2006 | 50 | 1018407 | 00\%-0 | 139,186 | 83,001 | 9/2006 | 56,165 | $9 / 2000$ | LONG VALLEY ROAD LP |
| 2140000 | RiA | $08 / 24 / 2014$ | 051092006 | 50 | 1018407 | 00\%-0 | 136,441 | 81,376 | 912006 | 55,065 | $9 / 2006$ | LONG VALLEY ROAD LP |

Exhibit C

## Well \#1



Attach addilional information, II il exists.
DWF 198 REV. 1/2005

WELL PERMIT APPLICATION－PRODUCTION WELLS
WATER \＆SEWAGE／MOUNTAIN \＆RURAL PROORAMS－ENVIRONMENTAL HEALTHDIVISION 5050 COMMERCE DKVVE，EALDWTN PARK，CA $91706(626) 410-5310$ FAK $(626) 1313.3016$

DATE：
05－04－06

| Y＇NEW WELC CONSTRUCTION | DPgIVATE DOMESTIC | －PURLIC DOMESTIC |
| :---: | :---: | :---: |
| TORECONSTRUCTIOR OR RENOVATION | －IRRIGATION | －Smull Syatem |
| －IECOMMLSSIONING | －indubtelal | －Larce Syatem |
| 口OTEER； | DGRAVELPACK | －Other： |




| $\cdots$ | Woll 0 Onder | Boething Treeland Farms |
| :---: | :---: | :---: |
| \％ | Addrests | 36151 N 日2nd street East |
| 雨 | Cry／Eip Cade | Littlerock，CA 93543 |
| E | Teliphoue | 661－944－9565 |
| 员 | Well Driluer | Rottman Dri111ng Co |
| 吕 | Adhese | 46474 N Division |
| \％ | City／Tip Code | Iancaster，CA 93535 |
|  | C． 57 Likense $\mathrm{NO}_{0}$ | 316599 |
| $\because$ | Telephere | 6610942－6125 |


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| Comast Perion |  |
| Address |  |
| Cily ，Stare Zip |  |
| Tidephowe |  |

IF WELL AND GEOLOGIC CONDTTIONS ENCOUNTEEYD IN THE FIELD ARE FOUND TO DIFFER FROM THE SCOFE OF WOME PRESENTED TO THIS OFFICE， WORK PLAN MODIFICATKONS MAY BE MEQUTMED

| DIEPOATTION OF PERMTX（Dopatcment Use Only） <br> THES PRQMIT IS COMSTDEDED COMPLETE WFEN TKE WORK PLAN IS AFPROVED，A FWAL PRSFECTION CONDUCTED EY THIS DFPARTMENT，AND THE RECEGT OF A WELL COMPLETION LOG，NO WELL CONSTRUCTIDN OR DECOMMLSSIONING CAN 最 ENTLATED FITEOUT THE WORK MLAN APPROVAL FROM THLS DEPARTRENT， |  |
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| $\text { Dese } 5-10-\infty$ | REHS 2 |
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| FREEO 5／15／0R T0： $249-1565$ |  |
| THE PLACEMENT OF THE ANNULAR SEAL MUST RE WITREESED BY THIS DEPARTMENT．CONTACT THIS OFFICE AND ARRANGE POR AN AFPODATMERT． |  |
|  |  |
| Dipe | REHS |
| What <br>  <br>  |  |
| Dum | REHS |

1 bercty agree to camply in every respect with ull the regulations of the
Cownty Euvireamental Healh Divinion and with all orilnaned and laws of
the Conesty of Los Asgeles and the State of Callforais pertuinion to well
codstrection，recenstruction and dreammosioning．Upon completion of the
well and withia chirt days thereafter，I will furnish the Envirosmental
Heath ofloce withay acompletion tog of the welf ghing date drilied，depth of
the well．perforations is the caslag，and any other date deneed encessary by
Coasty Earlocmenemal Health Divisian，


THE COMPLETED WEXL MUST BE PROFELLY DHENERCRED AND MEET RACTHRIOLOGLEAL ETANOARDS PAOR TO USE

| Dest | 203645 |
| :---: | :---: |

[^0]county of los angeles

DEPARTMENT OF HEALTH SERVICES
RECEIPT/RECIBO

HARBOR-UCLA MEUTGAL CENTER
high desert hospital
KING/DREW MEDICAL CENTER
OLIVE VIEW MEDICAL CENTER

RANCHO LOS AMIGOS MED_... CENTER
LAC-USC MEDICAL CENTER
PUBLIC HEALTH
SPECIFY:


## ..PPLICATION REQUEST AND FEE - JLLECTION SERVICE ...PPLICATION REQUEST AND FEE . JLLEC ION UTY OF LOS ANGELES - DEPARTMENT OF HEALTH SERVICES' PUBLIC HEALTH PROGRAMS - ENVIRONMENTAL HEALTH SERVICE REQUEST APPLICATION

## INSTRUCTIONS

1. Check the TYPE OF SERVICE requested and attach the required non-refundable fee to the application. Make the money order or check payable to LOS ANGELES COUNTY TREASURER, DO NOT SEND CASH. This application is nontransferable.

FEE REQUIRED

|  | $\square$ | MONITORING WELL CONSTRUCTION/DECOMMISSIONING Complete and attach a Non-Production Well-Well Permit Application. |
| :---: | :---: | :---: |
| 302.00 | $x$ x | WELL CONSTRUCTION, RENOVATION OR DECOMMISSIONING PERMIT Complete and attach a Well-Well Pernit Application |
|  | $\square$ | PRIVATE SEWAGE DISPOSAL SYSTEM CONSTRUCTION PERMIT |
|  | $\square$ | PRIVATE SEWAGE DISPOSAL RENOVATION / EXPANSION |
|  | $\square$ | INSPECTION OF MOUNTAIN CABIN SITE as required by the United States Forest Service |
|  | $\square$ | SEPTIC TANK REPLACEMENT |
|  | $\square$ | INSPECTION OF EXISTING PRIVATE SEWAGE SYSTEM |
|  | $\square$ | WATER SUPPLY TEST AND CERTIFICATION as required by U.S. Department of Agriculture |
|  | $\square$ | WELL YIELD TEST PERMIT |
|  | $\square$ | COASTAL COMMISSION APPROVAL IN CONCEPT |

2. Check with the Contact Office stamped below for requirements or information
3. Deliver the completed application, money order or check with the forms indicated to:

## County of Los Angeles

Mountain and Rural Program / Water, Sewage, \&\& Subdivision Program 5050 Commerce Drive, Baldwin Park, CA 91706
(626) 430-5380 FAX (626) 813-3016
4. Please contact office noted below, after you have received your receipt, to request an inspection.

Avenue R and
Scrvice/ JobLocation Address

Co. Engineer Plan Check No. $\qquad$ Tract no. $\qquad$ Lot No. $\qquad$ No. Bedrooms $\qquad$ Fixture Unit Count $\qquad$
(Complete the line above for Private Sewage Disposal System Construction or Renovation Application)

| CONTACT OFFICE | DEPARTMENTSTAMP |
| :--- | :--- |



## WELL CONSTRUCTION LOCATION DETAILS



## Well \#2

athe free Acobe Rearder may be used to view and comp. is form. However, software must be purchased to complete File Original with DWR

State of California
Well Completion Report
Refer to instrudion Pamphtet
Page 1 of 1
Owner's Well Number $\qquad$ No. e051324
Date Work Began 05/25/2006 Date Work Ended 7/14/2006
 Local Permit Agency Los Anaeles County Environmental Health Permit Number Permit Date 5/10/06


|  |  |  | Gealogic Log |  |
| :---: | :---: | :---: | :---: | :---: |
| Orientation © Vertical <br> Drilling Melthoc |  |  | O Horlzontal | $\begin{array}{r} \text { Specili } \\ \hline \end{array}$ |
| Depth from Surfaco DescriptiónFeet to Feet $\quad$ Describe material, grain size, color, elc |  |  |  |  |
| 1 | 10 | Fine | medlum sand |  |
| 10 | 20 | Fine | coarse sand |  |
| 20 | 30 | Fine | coarse sand w/ pi |  |
| 30 | 40 | Fine | coarse sand |  |
| 40 | 60 | Fine | coarse sand and |  |
| 60 | 80 | Fine | coarse sand |  |
| 80 | 90 | 70\% | to coarse sand, | rock |
| 90 | 115 | Fine | coarse sand w/ tra |  |
| 115 | 158 | Fine | coarse sand |  |
| 158 | 190 | Fine | coarse sand w/ cl |  |
| -90 | 222 | 70\% | e to coarse sand, | own clay |
| 222 | 252 | 85\% | e to coarse sand, | wn clay |
| 252 | 285 | 90\% | to coarse sand. | wn clay |
| 285 | 348 | Fine | coarse sand |  |
| 348 | 356 | 60\% | e to coarse sand, |  |
| 358 | 378 | 80\% | to coarse sand, | lay |
| 378 | 470 | Fine | coarse sand |  |
| 470 | 490 | Fine | coarse sand w/ ro |  |
| 490 | 530 | Fine | coarse sand and |  |
| 530 | 563 | Fine | crarse sand (hard) |  |
| 563 | 575 | Fine | medlum sand (hard) |  |
| 575 | 595 | Fine | coarse sand w/ so | sed gra |
|  |  |  |  |  |
|  |  |  |  |  |
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|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| Total Depth of Boing 595 <br> Total Depth of Complated Well 507 Feet |  |  |  |  |
|  |  |  |  |  |

 Plasse be accuirte ond complate.
Water Level and Yield of Completed Well
Depth to first water 145
Depth to Stalic
Waler Level 145 $\qquad$ (Feet) Date Measured 07/12/2006 Estimated Yield * 50 $\qquad$ (GPM) Test Type Airlift Test Length 1.0 (Hours) Tolal Drawdown (Hours) Tolal Drawdown
a well's long Lerm yield. $\qquad$ (Feel) *May nol be representalive of a well's long lerm yield.

Annular Material

| Casings |  |  |  |  |  |  |  |  |  |  |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: |
| Depth from Surface Feet to Feet |  | BoraholeDiameter (Inches) |  | Material | WallThlckness(Irches) |  | Outside <br> Diameter <br> (inches) |  | $\begin{gathered} \hline \text { Slot Sizy } \\ \text { if Any } \\ \text { (Inchos) } \\ \hline \end{gathered}$ | F |
| 0 | 305 | 12 | Sulid | A538 | . 188 |  | 6 |  |  | 0 |
| 305 | 507 | 12 | Screen | A53B | . 188 |  | 6 | Milled Flots | 0.080 | 50 |
|  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |
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| Annular Material |  |  |  |
| :--- | :--- | :--- | :--- |
| Dopth from <br> Surface <br> Feet feet | Fill | Description |  |
| 0 | 50 | Cemant | 10-sack |
| 50 | 595 | Filter Pack | $1 / 4 \times 10$ Gravel |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

## Attachments

$\square$ Geologic Log
$\square$ Well Construction Diagram
$\square$ Geophysical Log(s)
$\square$ Soil Water Chemical Analyses
$\square$ Other $\qquad$
Attach acdrional intormation, Hit exists. DWR 13 R REV. I/2006

Certification Statement

| I, the undersigned, certify that this report is complete and accurate to the best of my knowledge and belief Name Rottman Drilling Co. |  |  |
| :---: | :---: | :---: |
| Person, Firm or Corparation 46471 N. Division Street | Lancaster | CA 93535 |
|  | n Cily n /(4)/or | $\begin{aligned} & \text { Site } \\ & 316599 \\ & \hline \end{aligned}$ |
|  | Date | C-57 License Numb |

[^1]WELL PERMIT APPLICATION - PRODUCTION WELLS
WATEK \& SEWAGE M MOUNTAN \& RURAL PROGRAMS - ENVIRONMENTAL HEALTH DIVISION
DATE: $05 / 04 / 06$
5050 COMMERCE ORUVE, BALDWIN PARK, CA 91706 (626) 930 - 5380 FAX (626) 813 - 3016
0


|  | STE ADORES <br> Palmdale Blvd. and |  |  | 65 | ZIP CODE |  |  |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: |
|  | Township | 6 N | Fange | 9 W | Section | 2 B | Mapp BOO |
|  | GPS LOCATIOM : (To be completed nter the (lani seal) |  |  |  |  |  |  |


|  | Type end Size of Productica Casing | 12" Steel |  |
| :---: | :---: | :---: | :---: |
|  | Saniary' Armine Sealint Maran | 10 | Sack. |
|  | Deaph of Sumimy : Annuisersed | $50^{\prime}$ |  |
|  | $\begin{aligned} & \text { Cenchartur Ceminy } \\ & \text { Seal } \end{aligned}$ | N/A |  |


| \% | Well Omma | Boething Treeland Farms |
| :---: | :---: | :---: |
|  | Addras | 36151 N 82 nd Street East |
|  | Ciy $/$ zip Code | Iittlerock, CA 93543 |
|  | Teltabose | 661-944-9565 |
|  | Well Driler | Rottman Drilling Co |
|  | Addres | 46477 N Division |
|  | City/zip Cule | Lancaster, CA 93535 |
|  | C. 57 Licenes Na | 316599 |
|  | Tequane | 661-942-6125 |
| $\because$ | Well Derph <br> 0 log /roconds | ", " |
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 WORK PLAN MODIFRCATIONS MAY BE REQUIRED


I Derty deree to eamply in every respect with all the regulations of the





 Colmy Eaviramestal Hewien Divisise.


Aphinaliza: (FOMT) Larry W Rottman Tetephom:


IF WELL AND GEOLOGIC CONDITKONS ERCOUNTEKED INTHE FTETD ARE WORK PLAN MODIFLCATHONS MAY EE REQUTRED

DISPOSTION OR PERMIT (Depmoment Us: Ondy) THIS PRMMTT IS CONSIDERED COMPRETE WHEN THE WOMK TKE RECEIPT OPA WELL COMPLETION LOG. NO WELL CONSTAUCTION OR DECOMMLSEKONNG CAN RE DNTTAATED WTTHOUT THE WORK PLAN APYROVAL PBOM THIS DEFARTMENT.

 starases pelow ro usi

| Dex | RELS |
| :---: | :---: |

## 



COUNTY OF LOS ANGELESHARBOR-UCLA MEl_AL CENTERHIGH DESERT HOSPITALKINGIDREW MEDICAL CENTEROLIVE VIEW MEDICAL CENTER

RECEIPT/RECIBO
RANCHO LOS AMIGOS MEDIum CENTER
LAC-USC MEDICAL CENTER
PUBLIC HEALTH

ANY ALTERATION OR ERASURE RENDERS RECEIPT VOID CUALQUIER ALTERACION O BORRON HAE ESTE RECIBO NULO $\square$ 5m-10-6


PATIENT NAME

| PF H 4 | ACCOUNT NC. |
| :--- | :--- | :--- |



H56S 70EEOR (100) zig PATERTS COPY

SERVICE AFPLICATION REQUEST AND FEE CGLLEGTION COUNTY OF LOS ANGELES - DEPARTMENT OF HEALTH SERVICES' PUBLIC HEALTH PROGRAMS - ENVIRONMENTAL HEALTH

## SERVICE REQUEST APPLICATION

## INSTRUCTIONS

1. Check the TYPE OF SERVICE requested and attach the required non-refundable fee to the application. Make the money order or check payable to LOS ANGELES COUNTY TREASURER, DO NOT SEND CASH. This application is nontransferable.

| FEE REQUIRED* |  | TYPE OF SERVICE |
| :---: | :---: | :---: |
|  | $\square$ | MONITORING WELL CONSTRUCTION/DECOMMISSIONING <br> Complete and attach a Non-Production Well-Well Permit Application. |
| 302.00 | 农 | WELL CONSTRUCTION, RENOVATION OR DECOMMISSIONING PERMIT Complete and attach a Well-Well Permit Application |
|  | $\square$ | PRIVATE SEWAGE DISPOSAL SYSTEM CONSTRUCTION PERMIT |
|  | $\square$ | PRIVATE SEWAGE DISPOSAL RENOVATION / EXPANSION |
|  | $\square$ | INSPECTION OF MOUNTAIN CABIN SITE as required by the United States Forest Service |
|  | $\square$ | SEPTIC TANK REPLACEMENT |
|  | $\square$ | INSPECTION OF EXISTING PRIVATE SEWAGE SYSTEM |
|  | $\square$ | WATER SUPPLY TEST AND CERTIFICATION as required by U.S. Department of Agriculure |
|  | $\square$ | WELL YIELD TEST PERMIT |
|  | $\square$ | COASTAL COMMISSION APPROVAL IN CONCEPT |

* Refer to Schedule of Fees for the current fiscal year. Field personnel cannot accept fees.

2. Check with the Contact Office stamped below for requirements or information
3. Deliver the completed application, money order or check with the forms indicated to:

> County of Los Angeles
> Mountain and Rural Program / Water, Sewage, \& Subdivision Program
> 5050 Commerce Drive, Baldwin Park, CA 91706
> (626) 430-5380 FAX (626) 813-3016
4. Please contact office noted below, after you have received your receipt, to request an inspection.

$\qquad$ Fixture Unit Count $\qquad$ (Complete the line above for Private Sewage Disposal System Construction or Renovation Application)

| CONTACT OFFICE |  |  |
| :---: | :---: | :---: |
|  |  |  |




|  | Notes / Comurents (Department Use Oily) |
| :--- | :--- |
|  |  |
|  |  |
|  |  |

## $76 \mathrm{~A} 665-\mathrm{B}$

$\mathrm{H}-13$ (Rev. $10 / 2000$ )

# WEL.. CONSTRUCTION LOCATION $\lrcorner E T A I L S$ 



## Well \#3

"Tha froe Adobe Reader may be used to view and cor this form. However, soltwara must be purchased to compl
and reusu a saved form
File Orlginal with DWR

## State of California <br> Well Completion Report Retur to instrucion Pamphlet

Page $\frac{1}{0}$ $\qquad$

Owner's Well Number $\qquad$ Date Work Ended July 07, 2006
 Local Permill Agency Los Anceles County Environmental Heallh
Permit Number Permit Date June 5.2006
$\qquad$ Permit Number


| Well Owner <br> Name <br> Mailing Address <br> City <br> $\frac{\text { 23475 Long View Road }}{}$ |
| :--- |


Datum WGS84 Decimal Lat 34.57279N Decimal Long.117.84004W
APN Book 3075 Page 007 Parcel 001
Township 6N Range 9 W _._. Section 29

| Location Sketch (Sxatch must be aramion by hanc after Icm is printed.) | Activity |
| :---: | :---: |
|  | © New Well |
| North | O Modification/Ren |
| 菏 | O Deepen <br> O Other $\qquad$ Destray $\qquad$ unzer GEOLOGIC LOG: $\qquad$ |
| 다는 | Planned Uses |

West

thistrate or deseribe distarice of well fan teads, buildings, fances,


Water Level and Yield of Completed Wel
Depth to first water 150
Depth to Static
Water Level 150 $\qquad$ (Feet) Date Measured 05/26/2006 Estimated Yleid * 2,500 (GPM) Test Type Consiant Rate
$\qquad$ (Hours) Total Drawdown 74 (Feet)
"May not be representative of a well's long term yleld. $2 \mathrm{~L} 22 \leq \pm £ E t$




| DNEW WELL CONSTRCCTION | IPRIVATE SOMESTIC | QPUBLIC DOMESTIC |
| :---: | :---: | :---: |
| QRECONSTRUCTION OR RENOVATION | －IRRIGATION | $\square$ Small System |
| －DECOMMISSIONING | －INDUSTRIAL | $\square$ Large System |
| －OTHER： | －GRAVEL PACK | 口Other： |


| \％ | Sife address$\quad$ East 160th \＆Avenue R，Lake Los Angeles，CA 93591 |  |  | ZIP CODE |
| :---: | :---: | :---: | :---: | :---: |
| 号 | Township 6N | Range gW | Section 29 | Map Book Page／Grid 3075－016－031 |
| 禺 | GPS LOCATION：（To be completed after the final scal） |  |  |  |


|  | Typur and Size of Production Casing |  |
| :---: | :---: | :---: |
|  | Sanilitry／Annular Sealing Makerial |  |
|  | Depth of Sanitary！ Arinular Seal |  |
|  | $\begin{aligned} & \text { Cenductor Casing } \\ & \text { Seal } \end{aligned}$ |  |


| 飬 | Well Owner | Boething Treeland Farms．Inc． |
| :---: | :---: | :---: |
|  | Address | 23475 Long Valley Road |
|  | Cily／Zip Code | Woodland Hills，CA 91367 |
|  | Telephone | 805－529－1253 |
|  | Well Driler | ROTTMAN DRILLING CO． |
|  | Adurss | 46471 N．Division Street |
|  | City／2ip Code | Lancaster，CA 93535 |
|  | c． $57 . \mathrm{Lizense}$ So． | 316599 |
|  | Telephone | 661－942－6125 |

IF WELL ARD GEOLOGIC CONDITIONS ENCOUNTERED IN THE FIELD ARE FOUND TO DITFER FROM THE SCOPE OF WORK PRESENTED TO THIS OFFICE， WORK PLAN MODIFICATIONS MAY BE REQUIRED


I hereby agree to comply in every respeet with all the regulations of the County Environmental Health Division and with all ordinances and laws of the County or Los Angeles and the State of California pertaining to well construclion，reconstruction and decommissioning．Upon completion of the well and within thirty days thereafter，I will furnish the Envirommental Irealth office with a completion log or the well giving dute drilled，depth of the well，perforations in the casing，and any ather data demed necessary－by County Environmental Health Division．


[^2]
## WATER QUALITY

| WATER QUALITY |  |  |
| :--- | :--- | :---: |
| The water from the well must mect hacteriolagical standards prior to domestic ase |  |  |
| Date | REHS |  |

## $76.466 \mathrm{~s}-\mathrm{A}$

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AMENDED


76A668-B
H-13 (Rev. 10/2000)

WELL うONSTRUCTION LOCATION цટTAILS

| site apdress, East 160th | $\begin{gathered} \text { cाTr } \\ 93591 \end{gathered}$ |  | 7.teone |
| :---: | :---: | :---: | :---: |
| Township 6N | Range 9W | Section 29.78 | Map Baok Page/ Grid 3075-016-031 |




ITEMS WITH AN ASTERISK (*) WILL REQUIRE FURTHER DEPOSITS WHENEVEK ACTUAL COSTS EXCEED THE DEPOSIT AMOUNT
Assessor Map







Treeland Antelope Valley Production Well \# 3 (West), October 4, 2018


BOARD OF DIRECTORS
Robert Parris - Chair
AVEK Representative
Dennis Atkinson - Vice Chair Landowner Representative Adam Ariki LACWW Representative John Calandri Landowner Representative Leo Thibault
Public Water Suppliers Representative

# CERTIFIED MAIL - RETURN RECEIPT REQUESTED 

Long Valley Road LP
23475 Long Valley Road
Woodland Hills, CA 91367-6006
Ref: APN: 3075-007-001, 3075-007-002, 3075-007-003, 3075-007-009, 3075-007-010

Re: PUMPING OF GROUNDWATER FROM THE ANTELOPE VALLEY ADJUDICATIED BASIN

Dear Sir,
This office serves as staff to the Antelope Valley Watermaster. The Watermaster was created by the Los Angeles Superior Court and charged with assisting the Court in administering the terms of a Judgment and Physical Solution dated December 23, 2015 (hereinafler the "Judgment") relating to the Antelope Valley Adjudicated Basin. A copy of the Judgment can be found at www.avwatermaster.net under the "Resources" tab. The Judgment spells out in detail all the rights to groundwater production in the Antelope Valley Adjudicated Basin. Any groundwater pumping outside of an identified right to do so pursuant to the terms specified in the Judgment is strictly prohibited.

It is our understanding that you may be pumping groundwater from the Antelope Valley Adjudicated Basin. If you do not have a right to do so under the terms of the Judgment the Watermaster is required by the Court to stop all unauthorized pumping. This is our notice that you immediately comply with Section 20.9 of the Judgment. That Section of the Judgment provides a process for non-parties to intervene in the Judgment to become a party and to then seek the right to produce groundwater from the Adjudicated Basin.

Intervening to become a party to the Judgment actually has a number of potential advantages including having access to replacement water and the right to benefit from groundwater transfers and other privileges under the Judgment. In addition, by intervening in the Judgment you have the potential to obtain a legally recognized right to produce groundwater from the Adjudicated Basin thus directly affecting the value of your real property from which you may be currently extracting groundwater without the legal right to do so. We have been advised that the fact that you have no current legal right to extract groundwater from your property pursuant to the Judgment is a fact which you are likely obligated to disclose to potential purchasers or lenders interested in your property.

If you intervene in the Judgment and obtain a right to produce groundwater from the Adjudicated Basin, you may be able to acquire transfer water or will be required to pay replacement water costs for your groundwater production. If you continue to produce groundwater without intervening in the Judgment, we will ask the Court that you be found to be responsible to pay those replacement water costs for all past production, that you be prevented from further producing groundwater from your property and will also seek to recover all attorney's fees and other direct and indirect costs incurred in being required to engage in this legal process.

In short, if I am required to bring a motion before the court to determine your right to produce groundwater from the Adjudicated Basin, we may seek to halt your production of groundwater entircly and/or may seek imposition of Watermaster assessment costs on you for all past production in violation of the Judgment, as well as all legal and other costs incurred to obtain that order from the Court.

Please contact Watermaster Administrative offices at (661)234-8233, or PO Box 3025, Quartz Hill, CA. 93586 within 10 days, so that we can explain your options and address your groundwater production in the Adjudicated Basin.

If we do not receive a written response from you within 30 days from the date of this letter, the Watermaster will have no other choice but to proceed as discussed above and will seek to halt your groundwater production by bringing a motion before the Los Angeles Superior Court and seek recovery of our fees and associated costs for being forced to do so.

Thank you in advance for your cooperation and we look forward to working with you to obtain compliance with the judgement so that no Court action will be necessary.

Very truly yours,
cc: Watermaster Board of Directors
Watermaster Engineer
P.O. Box 3025 •Quartz Hill, California, 93586 • www.avwatermaster.net (661) 234-8233

## PROOF OF SERVICE

## STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 10100 Santa Monica Boulevard, Twenty-Third Floor, Los Angeles, California 90067-4008.

On October 9, 2018 I served true copies of the following document(s) described as:

## - LONG VALLEY ROAD, L.P.'S NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES

- DECLARATION OF BRUCE E. PHERSON, JR. IN SUPPORT OF LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
- DECLARATION OF ANDREW W. HOMER IN SUPPORT OF LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
- [PROPOSED] ORDER RE: LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
on the interested parties in this action by placing the true copy:


## 区 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.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and 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 9, 2018, at Los Angeles, California.


## Exhibit 8

KELLEY DRYE \& WARREN LLP
Michael J. O'Connor (State Bar No. 090017)
10100 Santa Monica Boulevard, $23^{\text {rd }}$ Floor
Los Angeles, CA 90067-4008
Telephone: (310) 712-6100
moconnor@kelleydrye.com
KELLEY DRYE \& WARREN LLP
Andrew W. Homer (State Bar No. 259852)
7825 Fay Avenue, Suite 200
La Jolla, CA 92037
Telephone: (858) 795-0426
AHomer@KelleyDrye.com
Attorneys for Defendant
Long Valley Road, L.P.

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER CASES

Judicial Council Coordination Proceeding No. 4408

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

Los Angeles County Superior Court Case No. BC 325201

Assigned to Honorable Jack Komar (Ret) Department 17C

## DECLARATION OF ANDREW W. HOMER IN SUPPORT OF LONG <br> VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT

[Notice of Motion and Motion for Leave to Intervene in Judgment, Memorandum of Points and Authorities, Declaration of Bruce E. Pherson, Jr. and [Proposed] Order filed concurrently]

Hearing Date: November 1, 2018
Time: 9:00 AM

I, Andrew W. Homer, declare as follows:

1. I am an attorney with the law firm of Kelley Drye \& Warren LLP. I am one of the attorneys from our firm that represents non-party Long Valley Road, L.P. ("LVRP") in connection with the letter that LVRP received from the Antelope Valley Watermaster General Counsel on approximately July 10, 2018 ("Watermaster Letter"), and in connection with LVRP's concurrently filed Motion to Intervene. I have personal knowledge of the following facts by virtue of my role as outside counsel to LVRP and my participation in the communications discussed herein.
2. Among other things, the Watermaster Letter states that:
a. "LVRP may be pumping groundwater in violation of the "Judgment and Physical Solution dated December 23, 2015 [] relating to the Antelope Valley Adjudicated Basin";
b. That if LVRP "do[es] not have a right to do so under the terms of the Judgment the Watermaster is required by the Court to stop all unauthorized pumping"; and
c. LVRP should "immediately comply with Section 20.9 of the Judgment," which "provides a process for non-parties to intervene in the Judgment to become a party then seek the right to produce groundwater from the Adjudicated Basin." A true and correct copy of the "Watermaster Letter" is included as Exhibit F to the concurrently filed Declaration of Bruce E. Pherson, Jr. See Pherson Decl. at $\mathbb{I}$ I 10 , Ex. F.
3. Upon receiving the Watermaster Letter, LVRP instructed its former counsel to arrange a time to discuss its contents and LVRP's options with the Watermaster General Counsel. LVRP's former counsel promptly contacted the Watermaster General Counsel to acknowledge receipt and to confirm that LVRP would respond to the Watermaster Letter in more detail.
4. On August 13, 2018, the Watermaster General Counsel emailed LVRP's former counsel and stated as follows:
"It appears LVRP is already a member of the Small Pumper Class (unless they opted out of being a member of that class). ... If they are a member of the Small Pumper Class, they presumably are already subject to the Judgment and Physical Solution and need not intervene."

A true and correct copy of the Watermaster General Counsel's August 13, 2018 email is included as the third message in the thread that is reproduced in Exhibit A.
5. On August 15, 2018, Michael J. O'Connor, a Partner with my firm, responded to the Watermaster General Counsel's August 13 email. Among other things, in the August 15 email Mr. O'Connor explained that:
a. Despite being listed as a member of the "Small Pumper Class" in the Judgment, and having purportedly been provided notice of related actions such as class certification and class settlement, LVRP has no record of receiving such notice(s);
b. LVRP was at all times (and remains), by the Court's approved definition, not a member of the Small Pumper Class;
c. The Judgment Approving Small Pumper Class Action Settlements ("Small Pumper Class Settlement Order") defines the Small Pumper Class as follows: "All private (i.e. non-governmental) persons and entities that own property within the Basin, as adjudicated, and that have been pumping less than 25 acrefeet per year on their property during any year from 1946 to the present";
d. The same paragraph refers to the Court's September 2, 2008 class certification order as the source of this definition, so for purposes of establishing whether a person or entity is a member of the class the relevant inquiry appears to be as of September 2, 2008;
e. LVRP purchased the Property in 2006, and properly permitted and completed groundwater wells that year;
f. In each year since and including 2006, LVRP has pumped and beneficially used more than twenty-five acre-feet of groundwater at the Property, which is a wholesale nursery that grows and sells hundreds of varieties of trees and shrubs, including drought-tolerant and low water use plants for sale in Southern California;
g. As such, LVRP is not a "person or entity that own[s] property within the Basin

DECLARATION OF ANDREW W. HOMER IN SUPPORT OF LONG VALLEY ROAD L.P.'S MOTION TO INTERVENE IN JUDGMENT
... and that [has] been pumping less than 25 acre-feet per year on [it's] property during any year from 1946 through [September 2, 2008]" so by definition not a member of the Small Pumper Class;
h. This is the case whether LVRP received notice(s) of related actions or not, because had LVRP received such notice(s), it would have reasonably understood it/them to not apply to it because it has never fallen within the class definition;
i. LVRP believes that it was improperly excluded from the Judgment, and that as an overlying landowner it is entitled to pump and beneficially use groundwater from beneath the Property, on the Property; and
j. LVRP also understands that it must follow required procedures to establish and quantify this right within the framework of the Judgment, and wishes to work cooperatively with the Watermaster and other parties subject to the Judgment toward that end.

A true and correct copy of LVRP's counsel's August 15, 2018 email to the Watermaster General Counsel is included as the second message in the thread that is reproduced in Exhibit A.
6. On August 16, 2018, the Watermaster General Counsel responded to Mr. O'Connor's August 15 email, requested some additional information, and asked to arrange a time to discuss the matter with LVRP's counsel and the Watermaster Engineer. A true and correct copy of the Watermaster General Counsel's August 16, 2018 email to Mr. O'Connor is included as the first message in the thread that is reproduced in Exhibit A.
7. Mr. O'Connor promptly provided the additional information requested by the Watermaster General Counsel, and on September 4, 2018 LVRP's counsel, the Watermaster General Counsel and the Watermaster Engineer convened by teleconference to discuss the Watermaster Letter and LVRP's options and obligations in response. During this call:
a. LVRP generally confirmed the information it had previously provided and sought input from both the Watermaster General Counsel and the Watermaster Engineer;
b. The Watermaster General Counsel confirmed that the June 9, 2018 date listed on the face of the Watermaster Letter is incorrect, and that the Watermaster Letter

DECLARATION OF ANDREW W. HOMER IN SUPPORT OF LONG VALLEY ROAD L.P.'S MOTION TO INTERVENE IN JUDGMENT
was in fact mailed on or about July 9, 2018;
c. The Watermaster General Counsel confirmed that the Watermaster could not itself address the status of LVRP's water right and associated rights and responsibilities under the Judgment, which are the province of the Court, and that to do so LVRP would need to move to intervene in the Judgment; and
8. During the September 4, 2018 teleconference, the Watermaster General Counsel confirmed that the conversation satisfied the requirement in Section 20.9 of the Judgment that LVRP (as a non-party) consult with the Watermaster Engineer and seek the Watermaster's stipulation before moving to intervene.

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

Executed on October 9, 2018 at La Jolla, California.


Andrew W. Homer.

Exhibit A

| From: | Craig A. Parton [Cparton@ppplaw.com](mailto:Cparton@ppplaw.com) |
| :--- | :--- |
| Sent: | Thursday, August 16, 2018 4:04 PM |
| To: | O'Connor, Michael J. |
| Cc: | Homer, Andrew W. |
| Subject: | RE: Antelope Valley Groundwater Cases/Long Valley Road LP |

Mr. O'Connor: Thank you for your e-mail below and raising these concerns about the status of your client vis-à-vis the Judgment and Physical Solution.

First, let me confirm with staff as to when my letter went out to your clients.

Second, I will try and determine how your client's name appeared on the Small Pumper list. In the interim can you supply me with the name of the predecessor in title to your client's property?

Third, I will circle back with you next week and will work with the Watermaster Engineer about a convenient time to talk at the end of next week (perhaps on Friday afternoon?).....Craig Parton
$\mathrm{Pr}_{\mathrm{r}}$ Price, Postel \& Parma llp
Craig A. Parton
Price Postel \& Parma LLP
200 E Carrillo Street, Suite 400
Santa Barbara, CA 93101
T: 805.962.0011 (Main);
T: 805.882-9822 (Direct)
F: 805.965 .3978
E: cap (10)ppplaw.com
Website: http://ppplaw.com
This message, including any attachments, is for the sole use of the intended recipient. It may contain material that is confidential or privileged. Any review or distribution by anyone other than the intended recipient, without the express permission of that person, is unauthorized and strictly prohibited. If you have received this message but you are not either the intended recipient or authorized to receive it for that person, please advise the sender and delete this message and any attachments without copying or forwarding.

From: O'Connor, Michael J. [mailto:moconnor@KelleyDrye.com]
Sent: Wednesday, August 15, 2018 12:26 PM
To: Craig A. Parton
Cc: Homer, Andrew W.
Subject: Antelope Valley Groundwater Cases/Long Valley Road LP

Dear Mr. Parton -
Long Valley Road LP ("LVRP") has recently retained Kelley Drye \& Warren LLP to represent it in connection with your letter dated June 9, 2018 (attached) and related matters. Thank you for previously discussing the matter with William Carter of the Musick Peller firm on behalf of LVRP. We understand from Mr. Carter that he noted in a July 23 conversation with Ms. Patty Rose of the Antelope Valley Watermaster's office that LVRP believes that the letter is misdated, and was actually sent on July 9, 2018. It was received by LVRP on or about July 10, 2019. As an initial item, could you please confirm the correct transmission date?

On the substance of the letter and your August 13 email below, we have conferred with LVRP and confirmed that the organization does not have any record of receiving actual notice of the overall Antelope Valley Adjudication and/or any notices sent to the "Small Pumper Class," either at the initiation of the underlying class action, class certification or class settlement stages. We understand that actual notice was attempted via mail and constructive notice was attempted through publication at various times during the pendency of the litigation, but also that the Class Administrator submitted testimony, for example, noting that 770 (18\%) of the 4,310 notices of the proposed Small Pumper Class settlement were returned as undeliverable. Dkt. 9968 (June 4,2015 ). Please let us know if you have any records that establish how and when notice of these proceedings was sent to our client.

In any event, and more importantly, LVRP was at all times (and remains), by the Court's approved definition of the Small Pumper Class, not a member of that class. The Small Pumper Class is defined in the December 23, 2015 Judgment Approving Small Pumper Class Action Settlements as follows:
"All private (i.e. non-governmental) persons and entities that own property within the Basin, as adjudicated, and that have been pumping less than 25 acre-feet per year on their property during any year from 1946 to the present."

Dkt. 11020 at Exhibit C, para. F (December 28, 2015). The same paragraph refers to the Court's September 2, 2008 class certification order as the source of this definition, so for purposes of establishing whether a person or entity is a member of the class the relevant inquiry appears to be as of September 2, 2008. Id.

LVRP purchased the property that is the subject of your correspondence in 2006, and properly permitted and completed groundwater wells that year. We understand that LVRP's drilling contractor certified and submitted associated Well Completion Reports with the California Department of Water Resources in July 2006. Since that time, LVRP has in each year since (and including) 2006 pumped and beneficially used more than 25 acrefeet of groundwater at its property, which is a wholesale nursery that grows and sells hundreds of varieties of trees and shrubs, including drought-tolerant and low water use plants for sale in Southern California. As such, LVRP is not a "person or entity that own[s] property within the Basin ... and that [has] been pumping less than 25 acre-feet per year on [it's] property during any year from 1946 through [September 2, 2008]" so by definition not a member of the Small Pumper Class. This is the case whether LVRP received adequate notice of related actions or not. Had LVRP received such notice(s), it would have reasonably understood it/them to not apply to it because it has never fallen within the class definition.

Based on the above, we are hoping to arrange a time to discuss LVRP's options under the main judgment with you. LVRP believes that it was improperly excluded from the judgment, and that as an overlying user should be entitled to pump and use groundwater from beneath its property. LVRP also understands that it must follow required procedures to establish this right, and wishes to work cooperatively with the Watermaster and other parties subject to the judgment toward that end.

Please let me know if you have some time to discuss this during the week of August 20. As I will likely involve another attorney from my office, it would be helpful if we could set a date and time in advance.

Sincerely,

## MICHAEL J. O'CONNOR

Partner

Kelley Drye \& Warren LLP (310) 712-6120
moconner@kelleydrye.com

From: Craig A. Parton [mailto:Cparton@ppplaw.com]
Sent: Monday, August 13, 2018 3:25 PM
To: Carter, William
Cc: Phyllis Stanin (PStanin@toddgroundwater.com)
Subject: Long Valley Road LP
Mr. Carter: It appears your client (Long Valley Road LP) is already a member of the Small Pumper Class (unless they opted out of being a member of that class). See page 29 of the "List of Known Small Pumper Class Members for Final Judgment" which is attached to the December 23, 2015 "Judgment Approving Small Pumper Class Action Settlements"......If they are a member of the Small Pumper Class, they presumably are already subject to the Judgment and Physical Solution and need not intervene.

Is this consistent with what you know? Once your client's legal status is agreed upon, we can discuss how to go forward......Thank you, Craig Parton (Watermaster General Counsel)
${ }^{P_{P}}$ Price, Postel \& Parma llp

Craig A. Parton
Price Postel \& Parma LLIP
200 E Carrillo Street, Suite 400
Santa Barbara, CA 93101
T: 805.962.0011 (Main);
T: 805.882-9822 (Direct)
F: 805.965.3978
E: cap@ppplaw.com
Website: http://ppplaw.com
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This message is subject to Kelley Drye \& Warren LLP's email communication policy. KDW-Disclaimer

## PROOF OF SERVICE

## STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 10100 Santa Monica Boulevard, Twenty-Third Floor, Los Angeles, California 90067-4008.

On October 9, 2018 I served true copies of the following document(s) described as:

- LONG VALLEY ROAD, L.P.'S NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES
- DECLARATION OF BRUCE E. PHERSON, JR. IN SUPPORT OF LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
- DECLARATION OF ANDREW W. HOMER IN SUPPORT OF LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
- [PROPOSED] ORDER RE: LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
on the interested parties in this action by placing the true copy:
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.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and 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 9, 2018, at Los Angeles, California.


Exhibit 9

KELLEY DRYE \& WARREN LLP
Michael J. O'Connor (State Bar No. 090017)
10100 Santa Monica Boulevard, 23rd Floor
Los Angeles, CA 90067-4008
Telephone: (310)712-6100
moconnor@kelleydrye.com
KELLEY DRYE \& WARREN LLP
Andrew W. Homer (State Bar No. 259852)
7825 Fay Avenue, Suite 200
La Jolla, CA 92037
Telephone: (858) 795-0426
AHomer@KelleyDrye.com
Attorneys for Defendant
Long Valley Road, L.P.

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

## FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER CASES

Judicial Council Coordination Proceeding No. 4408

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

Los Angeles County Superior Court Case No.: BC 325201

Assigned to Honorable Jack Komar (Ret.)
Department 17C
[PROPOSED] ORDER RE: LONG VALLEY ROAD L.P.'S MOTION FOR LEAVE TO INTERVENE IN JUDGMENT
[Notice of Motion and Motion for Leave to Intervene in Judgment, Memorandum of Points and Authorities, Declaration of Bruce E. Pherson, Jr. and Declaration of Andrew W. Homer filed concurrently]

Hearing Date: November 1, 2018
Time: 9:00 AM

## [PROPOSED] ORDER

On November 1, 2018 the Court, the Honorable Judge Jack Komar, presiding, conducted a hearing by CourtCall, on non-party Long Valley Road, L.P.'s Motion for Leave to Intervene in the December 23, 2015 Judgment and Physical Solution ("Judgment") entered in the above-captioned Antelope Valley Groundwater Cases.

The Court, having reviewed the Motion and supporting declaration and all papers filed in connection therewith, and having heard argument, hereby GRANTS the Long Valley Road, L.P.'s Motion and ORDERS as follows:

1. Pursuant to Section 20.9 of the Judgment and California Code of Civil Procedure section 387, Long Valley Road L.P. is granted leave to intervene in the Judgment in the abovecaptioned action;
2. The Judgment is hereby amended to reflect Long Valley Road, L.P.'s intervention and status as a Party to the Judgment as of the date of this Order;
3. Long Valley Road, L.P. and the Watermaster shall promptly meet and confer on the appropriate procedure for Long Valley Road, L.P. to seek a determination and declaration of its right to Produce Groundwater, as those terms are used in the Judgment, in accordance with the terms and conditions Judgment and in light of Long Valley Road, L.P.'s unique status as a significant overlying landowner and producer of Groundwater that, prior to the issuance of this Order, was not covered as a Party under or otherwise included in the Judgment.

IT IS SO ORDERED.

Dated: $\qquad$ , 2018

## PROOF OF SERVICE

## STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 10100 Santa Monica Boulevard, Twenty-Third Floor, Los Angeles, California 90067-4008.

On October 9, 2018, I served true copies of the following document(s) described as:

- LONG VALLEY ROAD, L.P.'S NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES
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- DECLARATION OF ANDREW W. HOMER IN SUPPORT OF LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
- [PROPOSED] ORDER RE: LONG VALLEY ROAD, L.P.'S MOTION TO INTERVENE IN JUDGMENT
on all interested parties in this action by placing the true copy;
® BY ANTELOPE VALLEY WATERMASTERS ELECTRONIC DOCUMENT
SERVICE: I uploaded the document(s) listed above to Antelope Valley www.avwatermaster.org, for electronic service on counsel of record listed on the Electronic Service List for Case No. 1-05-CV-049053.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and 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 9, 2018, at Los Angeles, California.


## Exhibit 10

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICTCoordination 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
Time: 9:00 AM
Dept: Courtcall

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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.

## 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 $\mathbb{\|}$ 2-3; Dunn Decl. at $9 \mathbb{T} \|$ 3, 5; Dkt. 7678 at $\mathbb{\|}$ 6, Exh. A (RJN, Exh. 1); Dkt. 7679 at ๆ 3, Exh. 3 (RJN, Exh. 2); Dkt. 9968 at ๆ 6, Exh. A (RJN, Exh. 3); Dkt. 9969 at ๆ 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 ๆ 2-3; Dkt. 7678 at ${ }^{\text {I }} 6($ RJN, Exh. 1); Dkt. 9968 at ๆ 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 ब 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, If 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 ๆ 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 『f 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 1820; 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 ๆ 4, Exh. C; McLachlan Decl. at ๆ 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 optout 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. " $[\mathrm{T}]$ 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 " $[\mathrm{t}]$ 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, I 3.4; see also Dkt. 11020 at Exh. A, I 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, $\mathbb{\|}$ 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, 『l 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, ${ }^{\text {f }} 3.5 .24$.) 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, 9 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


## 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


## 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.


## 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.
4. 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.
5. 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.
6. 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.


## 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.

囚 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.


## Exhibit 11

CRAIG A. PARTON, State Bar No. 132759
Exempt from Filing Fees
PRICE, POSTEL \& PARMA LLP
200 East Carrillo Street, Fourth Floor
Santa Barbara, California 93101
Telephone: (805) 962-0011
Facsimile: (805) 965-3978
Attorneys for
Antelope Valley Watermaster

## 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
NOTICE OF ERRATA TO 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
Time: 9:00 A.M.
Dept: Courtcall

NOTICE is hereby given that Watermaster's Opposition to Long Valley Road, L.P.'s Motion for Leave to Intervene in Judgment, electronically served and filed on October 19, 2018, inadvertently omitted Exhibits A through D which are referenced in the Declaration of Jeffrey V. Dunn.

Therefore attached hereto are true and correct copies of Exhibits A through D to the Watermaster's Opposition to Long Valley Road, L.P.'s Motion for Leave to Intervene in Judgment which are referenced in the Declaration of Jeffrey V. Dunn.

Respectfully submitted,
Dated: October 19, 2018
PRICE, POSTEL \& PARMA LLP

By: Craiga Patim
CRAIG A. PARTON
Attorneys for
Antelope Valley Watermaster

## Exhibit A



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Small Pumper Class, the Court hereby approves the form of notice electronically filed on February 18, 2009.

Furthermore, except as indicated in that notice, the publication of notice shall otherwise be the same as that for the Willis class, including newspaper publication and website content to be determined by counsel for the class with approval from the public water suppliers.

IT IS SO ORDERED.

Dated:
MAR 152009
$\qquad$


## Exhibit B

# ***IF YOU RECEIVED A PRIOR CLASS ACTION NOTICE RELATING TO GROUNDWATER RIGHTS IN THE ANTELOPE VALLEY, THAT NOTICE RELATED TO A DIFFERENT LAWSUIT, DEALING WITH A DIFFERENT CLASS OF LANDOWNERS WITH DIFFERENT RIGHTS. *** 

# *** IMPORTANT: IF YOU PUMP GROUNDWATER OR YOU OR YOUR PREDECESSORS HAVE EVER PUMPED GROUNDWATER ON YOUR PROPERTY, CAREFULLY READ THIS NOTICE - THIS LAWSUIT MAY AFFECT YOUR RIGHTS TO PUMP GROUNDWATER IN THE FUTURE. *** 

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
v.

LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; et al.

Defendants.

JUDICIAL COUNCIL COORDINATION PROCEEDING No. 4408

NOTICE OF CLASS
ACTION FOR THE "SMALL PUMPER" CLASS ACTION

TO CERTAIN ANTELOPE VALLEY LANDOWNERS: CAREFULLY READ AND RESPOND TO THIS NOTICE, AS IT MAY AFFECT YOUR RIGHT TO PUMP GROUNDWATER ON YOUR PROPERTY IN THE FUTURE.

This notice is to advise you about a pending class action lawsuit, referred to as the "Small Pumper" class action. You may be a member of the Class. PLEASE TAKE THE TIME TO READ THIS IMPORTANT LEGAL NOTICE. YOU ARE REQUIRED TO RETURN THE ATTACHED RESPONSE FORM, EITHER BY MAIL OR BY THE INTERNET, ON OR BEFORE SEPTEMBER 9, 2009.

This Class Action lawsuit involves water rights in the Antelope Valley Groundwater Basin. Plaintiff Richard Wood brought this case to protect his right and those of other landowners in the Basin to pump water on their properties in the future. The case has been combined with other cases to determine all the groundwater rights in the Basin. The Court has not yet decided the case. This Notice is intended to inform you of the pendency of this case and advise you how you can protect your rights. You have been sent this Notice because as a property owner in the Antelope Valley your rights to pump and use groundwater on your property may be affected by this case.

## ARE YOU A MEMBER OF THE CLASS?

You have been designated as a possible class member because records show that you may own improved property in the Antelope Valley. The class includes all private (i.e., non-governmental) landowners within the Antelope Valley Groundwater Basin that have pumped groundwater on their property at any time since 1946, with certain exceptions set out below.

You are NOT in the Class if you fall within one of the categories set forth below. BUTYOUR RIGHTS MAY BE AFFECTED UNLESS YOU RETURN THE ATTACHED RESPONSE FORM AND MAKE CLEAR THAT YOU ARE NOT IN THE CLASS. HENCE, IT IS IMPORTANT THAT YOU RETURN THE RESPONSE FORM AS PROMPTLY AS POSSIBLE, EVEN IF YOU ARE NOT A CLASS MEMBER.

## YOU ARE NOT IN THE CLASS WITH RESPECT TO ANY GIVEN PARCEL OF PROPERTY IF THAT PARCEL FALLS WITHIN ANY OF THE FOLLOWING CATEGORIES:

1. You have pumped 25 acre-feet or more of groundwater for use on a that parcel in any calendar year since 1946; or
2. You are a shareholder in a mutual water company in the Antelope Valley; or
3. You are already a party to this litigation (but, in that event, you may elect to join the Class).

## WHAT IS THE CASE ABOUT?

Under California law, property owners have a right to pump and use groundwater (water underneath the surface) on their land. In this case, however, the naturally available supply of water in the Basin may not be adequate to satisfy everyone who wants to use that water. Plaintiff Richard Wood brought this action to protect his right and that of other Antelope Valley landowners to pump and use the water under their properties and to obtain compensation for any wrongful taking of their property rights. Mr. Wood claims that he and other landowners have water rights which are superior to the rights of certain public water suppliers to use that water. The public water suppliers claim that their historical pumping has given them superior water rights. If the public water suppliers win, your rights to use the groundwater under your property may be cut back. The Court has not yet ruled on these claims.

## WHAT DO YOU NEED TO DO?

YOU ARE REQUIRED TO SUBMIT the attached RESPONSE FORM, either by mail or on the internet, by September 9, 2009. The instructions for completing this form are below. All persons who receive this Notice should respond, so that the parties and Court will know whether you are a class member or not.

If you are a Class Member, you have the right to remain in the Class or exclude yourself from the Class. Class Members are defined to include all private (i.e., non-governmental) landowners within the Antelope Valley Groundwater Basin that have pumped groundwater on a given parcel of property at any time since 1946, and who does not fall within any of the exclusions set forth above. Class Members should complete and return the attached response form.

## If you remain in the Class:

- You will be bound by the decision in the case, whether favorable or unfavorable.
- Plaintiff Wood and his attorneys will act as your representatives in this case, and you will not personally be obligated to pay any fees or costs out of your pocket.
- You may, but need not, hire your own lawyer at your own expense to represent you.


## If you exclude your parcel(s) from the Class:

- Your parcel(s) will not be bound by any decision that affects the Class.
- But you (or your parcel) may be added to the lawsuit as an individual defendant, and you may have to represent yourself or hire a lawyer to represent you.

Please complete the response form on the website for the Small Pumper Class at http://www.avgroundwater.com/smallpumper/ResponseForm.cfm by September 9, 2009. Alternatively, you may complete and return the attached response form by mail no later than September 9, 2009 to the following address:

Antelope Valley Groundwater Litigation
P.O. BOX 12013

Riverside, CA 92502-9839

## WHERE CAN YOU GET ADDITIONAL INFORMATION?

The complaint, certain other documents from the litigation, and some other general information are available at: http://www.avgroundwater.com/smallpumper/wood.cfm. You may complete and submit the response form on that website. In addition, that website has a list of answers to certain other questions you may have. That website has an e-mail address for you to obtain information if you have further questions. That website will be updated from time to time to advise you of the status of this litigation. Also, all of the documents filed in the case are available on the court's website at: http://www.scefiling.org/cases/casehome.jsp?caseId=19

[^4]Dated: June 26, 2009
BY ORDER OF THE SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF

LOS ANGELES

## Exhibit C



## State of Madifomiax



## CERTIFICATE OF LIMITED PARTNERSHIP IMPORTANT-Read instructlons on back before completing this form

This Cortificate is prosented for flling pursuant to Section 15621, Callfornia Corporations Code.

1. NAME OF LMMITED PARTNERSHIP
Long Valley Road, L. P.

 THE ORIEINAL LIMITBD PARTNEREHIP CERTIPICATE WAS RECORDIED ON WITH THI

RECORDER OR $\qquad$ COUNTY.

FILE OR RECORDATION NUMEAR


O. NAME AND ADDRESS OF AGENT FOR GEPVICE OP PROCESS
name Sally Hilton



## Exhibit D

## PROOF OF PUBLICATION

The BAKERSFIELD CALIFORNIAN
PRO. BOX 440
BAKERSFIELD, CA 93302

BEST, BEST \& KRIEGER, LLD
5 PARK PLAZA SUITE 1500
IRVINE, CA 92614

| Ad Number: | 11393604 | PO \#: |  |
| :--- | :--- | :--- | :--- |
| Edition: | THC | Run Times | 4 |
| Class Code | Legal Display Only |  |  |
| Start Date | $8 / 2 / 2009$ | Stop Date | $8 / 12 / 2009$ |
| Billing Lines | 0 | Inches | 756.00 |
| Total Cost | $\$ 4,510.80$ | Account | 57195635 |
| Billing | BEST, BEST \& KRIEGER, LL |  |  |
| Address | 5 PARK PLAZA SUITE 1500 |  |  |
|  | IRVINE,CA | 92614 |  |

## Solicitor I.D.: 0

First Text
SUPERIOR COURT FOR THE STATE OF CALIFORN
Ad Number 11393604

> AND WHICH NEWSPAPER HAS BEEN ADJUDGED A NEWSPAPER OF GENERAL CIRCULATION BY THE SUPERIOR COURT OF THE COUNTY OF KERN, STATE OF CALIFORNIA, UNDER DATE OF FEBRUARY 5,1952, CASE NUMBER $57610 ;$ THAT THE NOTICE, OF WHICH THE ANNEXED IS A PRINTED COPY, HAS BEEN PUBLISHED IN EACH REGULAR AND ENTIRE ISSUE OF SAID NEWSPAPER AND NOT IN ANY SUPPLEMENT THEREOF ON THE FOLLOWING DATES, TO WIT: $8 / 2 / 09$  $8 / 5 / 09$ $8 / 9 / 09$ $8 / 12 / 09$

## ALL IN YEAR 2009

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.



TÔ: ALEL PERSONS WHOOWN LAND NTHE ANTELOPE VALLEY BASIN AND HAVEPUMPED GROUNDWATER ON HELR PROPERTIES AT ANY TMES SINCE 1946 ("THE SMALL PUMPER GLASS ${ }^{\prime \prime}$ )

This Sumary Notice is to adyise you about a pending class action law suit that may affect yourpropertyinghts, Plaintiff Richatd, Wood is a landownerin the Antelope Valley who alleges on behalf of himself and others similarly situated tyad suchlandowners have a right to puntp and use the groundwater under their propetties and to seek compensation for any wrongili taking of their water rights by the Public Water Sppplers. The Public Water Suppliers claim that their historical pumping has given them a sipertor right to pump groundwater Ifthe public water sufplieis winy your rights to use the groundwater undery your propertymy be modified.

W. OnSeptember 2 , 2008 the Gourt certified this case to proceed as class actioñ oid
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 by sending an enkil to pumperinfogaveroubwater.cong orty mail to PO. Box 12016,

 FITATMOURESPONDNORDERTOEROTECTYOURNGHTS PLEASEDONOT CONTAOTHECOURT.


# Best Best \& Krieger LLP ${ }_{*}^{*} 5$ Park Plaza, Suite 1500 

Irvine, CA 92614

Angelina de Cordova

County and State being duly sworn, says:
That he is and at all times herein mentioned was a oittixen of the United States, over 21 years of age, and not a party to nor interested in the above entitled matter: that he is a principal clerk of the printers and publishers of the LOS ANGELES TEMES a newspaper printed and Aletyatendeffeln the said Los Angeles County; that the
in the above entitled matter of which the annexed is a printed copy, was published in said newspaper

## LOS ANGELES TIMES

 202 West First St. Los Angeles, CA. 90012on the following days, to-wtt:
Sun; August 2, 2009 \& Wed; August 5, 2009
Sun; August 9, 2009 \& Wed; August 12, 2009

## Affichevit of Publication

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-0 f-
$$

Classified Advertising



State of Calfompa


Subscribed and swam to (or affirmed) before me on this



# AFFIDAVIT OF INSERTION 

Angela Edwards
Antelope Valley Press
P.O. Box 4050

Palmdale, CA 93590-4050
(661) 940-5368

Advertiser: Best Best Krieger LLP
Day/Date of distribution: Sun Aug $2^{\text {nd }}, \operatorname{Wed} \operatorname{Aug} 5^{\text {th }}$;
Sun Aug $9^{\text {th }} ;$ Wed Aug. $12^{\text {th }}$
Number of inserts distributed: ROP Advertising
Publication Name: Antelope Valley Press Newspaper

## Affidavit Completed:

Date: September 11, 2009
By:
 Title: Adivertioun Repusentatui


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 NOTICE OF ERRATA TO 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.

区 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.
区 (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.


## Exhibit 12

CRAIG A. PARTON, State Bar No. 132759

Exempt from Filing Fees Government Code § 6103

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICTSpecial Title (Rule 1550(b))

## ANTELOPE VALLEY GROUNDWATER CASES

Judicial Council Coordination<br>Proceeding No. 4408<br>LASC Case No.: BC 325201<br>Assigned to the Hon. Jack Komar, Judge of the Santa Clara Superior Court<br>Santa Clara Court Case No. 1-05-CV-049053<br>WATERMASTER'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF ITS OPPOSITION TO LONG VALLEY ROAD, L.P.'S MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; EXHIBITS 1-5

Date: November 1, 2018
Time: 9:00 AM
Dept: Courtcall

In support of its Opposition to Long Valley Road, L.P.'s Motion for Leave to Intervene in Judgment, and pursuant to California Rules of Court Rules 3.1306(c) and 3.1113(1), and Evidence Code sections 452 and 453, the Antelope Valley Watermaster hereby requests that the Court take judicial notice of the following court documents and official records:

1. Declaration of Jennifer M. Keough Regarding Notice Dissemination, dated and filed with the Court on December 3, 2013 as Document \# 7678, a true and correct copy of which is attached hereto as Exhibit 1.
2. Supplemental Declaration of Michael D. McLachlan in Support of Motion for Final Approval of Partial Class Settlement, dated and filed with the Court on December 3, 2013 as Document \# 7679, a true and correct copy of which is attached hereto as Exhibit 2.
3. Declaration of Jennifer M. Keough Regarding Dissemination of Small Pumper Notice, dated June 3, 2015 and filed with the Court on June 4, 2015 as Document \# 9968, a true and correct copy of which is attached hereto as Exhibit 3.
4. Declaration of Michael D. McLachlan Re: Publication of Summary Class Notice of Settlement, dated and filed with the Court on June 4, 2015 as Document \# 9969, a true and correct copy of which is attached hereto as Exhibit 4.
5. Long Valley Road, L.P.'s Certificate of Limited Partnership on file with the California Secretary of State, a true and correct copy of which is attached hereto as Exhibit 5.
A. This Court May Take Judicial Notice of Court Documents on File in the Antelope Valley Groundwater Cases, Los Angeles Superior Court Case No. BC 325201

Evidence Code section 452(d) provides for taking judicial notice of the records of any court of this state. Exhibits $1-4$ constitute records of the Los Angeles County Superior Court, which is a court of the State of California, and are documents which are on file with said court. B. This Court May Take Judicial Notice of Organizational Documents on File with the California Secretary of State Regarding Long Valley Road, L.P.

Evidence Code section 452(c) provides for taking judicial notice of documents reflecting official acts of the executive department of the State of California, which includes business entities' organizational documents filed with the California Secretary of State. (Friends of Shingle Springs Interchange, Inc. v. Cty. of El Dorado (2011) 200 Cal. App. 4th 1470, 1484; Waltrip v. Kimberlin (2008) 164 Cal. App. 4th 517, 522.) Exhibit 5 was filed with the California Secretary of State and can found at the California Secretary of State's webpage (https://businesssearch.sos.ca.gov).

## C. A Request for Judicial Notice is Conditionally Mandatory Upon Proper Request

 Under Evidence Code section 453, this Request for Judicial Notice pursuant to any matter specified in Section 452 is conditionally mandatory and must be granted if sufficient notice is given to the other parties and if the Court is furnished with sufficient information to enable it to take notice of this matter. (People v. Maxwell (1978) 78 Cal.App.3d 124, 130-131.) By this request, Watermaster gives sufficient notice and gives this Court sufficient information to enable it to take judicial notice of the documents attached hereto as Exhibits $1-5$.Respectfully submitted,
Dated: October 19, 2018
PRICE, PASTEL \& PARMA LLP

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

EXHIBIT 1

## SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))
ANTELOPE VALLEY GROUNDWATER CASES

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
v.

LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; et al.,

Defendants.

I, JENNIFER M. KEOUGH, declare as follows:

1. I am Chief Operating Officer of The Garden City Group, Inc. ("GCG"). The following statements are based on my personal knowledge and information provided by other GCG employees working under my supervision, and if called on to do so, I could and would testify competently thereto.
2. GCG was retained in the above-captioned litigation (the "Litigation"), and appointed pursuant to Section VI,B of the Wood Class Stipulation of Settlement (the "Stipulation of Settlement") to serve as the Administrator. I submit this Declaration in order to provide the Court and the parties to the Litigation with information regarding: (i) the dissemination of the

Notice of Partial Class Action Settlement for the "Small Pumper" Class Action (the "Notice"), as directed by paragraph 1 of the Court's Order Granting Preliminary Approval of Class Action Partial Settlement and Notice to the Class (the "Order"); and (ii) the list of persons who have requested exclusion from the Class, pursuant to paragraph 7 of the Order.

## DISSEMINATION OF THE NOTICE

3. In paragraph 1 of the Order, the Court found that the form and content of the Notice would provide the best practicable notice to Class Members. Pursuant to the Order, GCG was responsible for disseminating the Notice to the "Wood Class," as defined in Section IIII.Y of the Stipulation of Settlement:

All private (i.e., non-governmental) persons and entities that own real property within the Basin, as adjudicated, and that have been pumping less than 25 acrefeet per year on their property during any year from 1946 to the present. The Class excludes the defendants herein, any person, firm, trust, corporation, or other entity in which any defendant has a controlling interest or which is related to or affiliated with any of the defendants, and the representatives, heirs, affiliates, successors-in interest or assigns of any such excluded party. The Class also excludes all persons and entities that are shareholders in a mutual water company.
4. On or about October 29, 2013, Plaintiff's Counsel provided GCG with Excel spreadsheets containing data records for 4,312 Class Members ("Class List"), which included Class Members' names and addresses. However, data records for nine (9) Class Members did not contain a valid mailing address. Those nine (9) records were forwarded to Class Counsel for further research.
5. GCG promptly loaded the information into the database created for this Litigation and updated the addresses through the National Change of Address (NCOA) database. Of the 4,312 records sent out for search, 366 were returned with address updates, and GCG updated the addresses accordingly. GCG gave unique identifiers to all records in order to maintain the ability to track them throughout the administration process.
6. GCG thereafter formatted the Notice and caused it to be printed, posted for firstclass mail, postage prepaid, and delivered to a U.S. Post Office for mailing to each Class Member on October 31, 2013 (the "Main Notice Date").
7. On the Main Notice Date, 4,303 copies of the Notice were mailed. A copy of the Notice, as mailed, is attached hereto as Exhibit A.
8. Pursuant to Section VI.B of the Stipulation of Settlement, on the Main Notice Date, GCG also sent the Notice as a PDF e-mail attachment to the 124 unique Class Member email addresses contained in the Class List. The Notice was successfully delivered to 89 of the 124 e-mail addresses.
9. On or about November 2, 2013, Class Counsel provided contact information for the nine (9) Class Members for whom contact information was missing on the original Class List. Two (2) of the nine (9) Class Members had additional contact addresses. GCG caused eleven (11) copies of the Notice to be printed, posted for first-class mail, postage prepaid, and delivered to a U.S. Post Office for mailing to each Class Member on November 6, 2013 (the "Supplemental Notice Date").
10. Notices that were returned by the U.S. Postal Service with forwarding address information were promptly re-mailed using the updated address information received from the U.S. Postal Service. As of December 2, 2013, GCG had re-mailed eleven (12) Notices to updated addresses received from the U.S. Postal Service.
11. As of December 2, 2013, a total of 690 Notices had been returned undeliverable without forwarding address information.

## REQUESTS FOR EXCLUSION

12. Pursuant to Section VI.C of the Stipulation of Settlement, Class Members who wished to exclude themselves from the Settlement had to do so in writing by submitting a signed and dated opt-out request to GCG, postmarked no later than December 2, 2013. As of December 2, 2013, GCG had received six (6) timely requests for exclusions from the Class. -3-

A list of the Class Members who have requested exclusion is attached to this Declaration as Exhibit B.

## OBJECTIONS TO THE SETTLEMENT

13. Pursuant to paragraph 10 (d) of the Order, Class Members who wish to object to the Settlement have to do so in writing by submitting their objections to the Court and the parties' Counsel by December 4, 2013. As of December 2, 2013, the Administrator had not received any objections.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge and belief.

Executed on December 3, 2013, at Seattle, Washington.


JENNIFER M. KEOUGH

## Exhibit A

# SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES 

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
v.

LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; et al.,

JUDICIAL COUNCIL COORDINATION PROCEEDING No. 4408

NOTICE OF PARTIAL CLASS ACTION<br>SETTLEMENT FOR THE "SMALL<br>PUMPER" CLASS ACTION

Defendants.

## TO CERTAIN ANTELOPE VALLEY LANDOWNERS WHO HAVE IN THE PAST, OR CURRENTLY PUMP GROUNDWATER ON THEIR PROPERTY: CAREFULLY READ THIS NOTICE, AS IT MAY AFFECT YOUR RIGHT TO PUMP GROUNDWATER ON YOUR PROPERTY IN THE FUTURE. <br> GENERAL INFORMATION

## 1. Why was this notice issued?

You have been sent this Notice because as a property owner in the Antelope Valley, your rights to pump and use groundwater on your property may be affected by this case. The Court issued this notice because you have a right to know about a proposed partial settlement of a class action lawsuit that the Court has preliminarily approved. If the Court grants final approval and any appeals are resolved, this settlement will resolve certain of your rights with the Settling Defendants, and may impact the future determination of your water rights. This notice explains the lawsuit, the partial settlement, your legal rights, who is in the class, and your options.

## 2. What is this lawsuit about?

This Class Action lawsuit involves water rights in the Antelope Valley Groundwater Basin. Under California law, property owners have a right to pump and use groundwater (water underneath the surface) on their land. In this case, however, the Court has determined that the naturally available supply of water in the Basin may not be adequate to satisfy everyone who wants to use that water.
Plaintiff Richard Wood brought this action to protect his right and that of other Antelope Valley landowners to pump and use the water under their properties and to obtain compensation for any wrongful taking of their property rights. Mr . Wood claims that he and other landowners have water rights which are superior to the rights of certain public water suppliers to use that water. The public water suppliers claim that their historical pumping has given them superior water rights. If the public water suppliers win, your rights to use the groundwater under your property may be cut back. The Court has not yet ruled on these claims.

## 3. Who is involved in this lawsuit?

Plaintiff Richard Wood is the plaintiff and class representative. On his behalf and on behalf of the class he represents, he is suing ten public water suppliers in the Antelope Valley: City of Lancaster; City of Palmdale; Desert Lake Community Services District; Littlerock Creek Irrigation District; Los Angeles County Waterworks District No. 40; North Edwards Water District; Palmdale Water District; Palm Ranch Irrigation District; Phelan Piñon Hills Community Services District; Quartz Hill Water District; and Rosamond Community Services District. Mr. Wood also sued the cities of Lancaster and Palmdale.
This lawsuit is coordinated with several other lawsuits pending before a single judge, the Honorable Jack Komar. Those other lawsuits involve many other parties who also claim the right to pump groundwater in the Antelope Valley.

## 4. Why is there a partial settlement?

Some of the defendants wished to resolve their claims with the class at this time, while several others did not wish to settle. Richard Wood is settling with the City of Lancaster, Palmdale Water District, Phelan Piñon Hills Community Services District, and Rosamond Community Services District. Mr. Wood will continue to litigate all of the claims against the non-settling defendants.

## CLASS MEMBERSHIP

## 5. How do I know if I am part of the class subject to this settlement?

You have been designated as a class member because records show that you own improved property in the Antelope Valley, and otherwise meet the class definition. The class includes all private (i.e., non-governmental) landowners within the Antelope Valley Groundwater Basin that have pumped groundwater on their property at any time since 1946, with certain exceptions set out below. You were sent a Class Notice in 2009, and did not choose to opt out of the class at that time.

## 6. Are there exceptions to being included in the settlement?

You are not in the class if you fall within one of the categories set forth below:
A. You have pumped 25 acre-feet or more of groundwater for use on that parcel in any calendar year since 1946; or
B. You are a shareholder in a mutual water company in the Antelope Valley; or
C. You are already a party to this litigation.

## THE PARTIAL SETTLEMENT OF THIS LAWSUIT

## 7. Who is included in the settlement?

Richard Wood and the class are settling with six defendants in this lawsuit: City of Lancaster; Palmdale Water District; Phelan Piñon Hills Community Services District; and Rosamond Community Services District.

## 8. What does the settlement provide?

Of primary benefit to you is the agreement by the Settling Defendants to drop their prescription claims against you. The prescription claims asserted that these defendants had potentially obtained by way of their adverse historical pumping, a portion of your right to pump water in the Antelope Valley. The Settling Defendants are agreeing not to challenge the class' assertion of the right of class members to pump up to 3 acre-feet of water per year for domestic purposes without having to pay a fee to for doing so. Other parties remain free to challenge that water right, which will be determined in the future. Under the settlement, you are agreeing not to challenge the Settling Defendants' right to pump up to a set amount of groundwater each year. The Settlement Agreement also contains agreements among the parties as to your rights if you pump more than 3 acre-feet per year. The Court has not yet ruled on any of these Settling Parties' water rights, and is not limited in the future by the terms of the settlement. You may read the Settlement Agreement at: http://www.avgroundwater.com/smallpumper/wood.cfm.
9. What happens with class claims against the defendants who are not part of the settlement?

Richard Wood and the Class Counsel will continue to pursue all of the claims in the lawsuit against the non-settling defendants until those claims are resolved in a future settlement or by order of the court after trial.

## 10. Does this settlement give me a water right?

No. This settlement does not provide you with a Court-determined water right. The Court has not yet determined the water rights of any party, but those determinations are expected to be made in future phases of the proceeding. As set forth above, this settlement may impact the determination of your water right at a future date.

## 11. What claims against the Settling Defendants am I releasing?

As part of the settlement, you will be releasing (giving up) certain of your legal rights against the Settling Defendants only. The release in the Settlement Agreement is as follows:

In addition to the effect of any Judgment entered in accordance with this Stipulation, upon this Stipulation becoming final as set out in Section Paragraph VIII.H of this Stipulation, and in consideration for the settlement consideration set forth above, and for other valuable consideration, the Settling Plaintiffs, except as otherwise expressly provided for herein, shall completely release, acquit and forever discharge the Settling Defendants and their representatives, successors, agents, affiliates, attorneys, employees, supervisors, officers, directors, or shareholders, from any and all claims, demands, actions, suits, causes of action, whether class, individual, or otherwise in nature that Settling Plaintiffs, or each of them, ever had, now has, or hereafter can, shall, or may have on account of or in any way arising out of, any and all known or unknown, foreseen or unforeseen, suspected or unsuspected injuries, damages, and the consequences thereof in any way arising out of or relating in any way to the matters at issue in the Wood Action ("Released Claims"). Each Settling Plaintiff may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims which are the subject matter of
this Stipulation, but each Settling Plaintiff hereby expressly waives and fully, finally, and forever, settles and releases, upon this Stipulation becoming final, any known or unknown, suspected or unsuspected, contingent or non-contingent claim with respect to the subject matter of the provisions of Paragraph VII.A of this section of the Stipulation, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

1. As provided in the Release set forth above, the Settling Plaintiffs, including any of Settling Plaintiffs' representatives, successors, agents, affiliates, employees, supervisors, officers, directors, or shareholders, agree to waive and release all rights and benefits which they might otherwise have pursuant to Section 1542 of the California Civil Code with regard to the release of such unknown, unanticipated or misunderstood claims, causes of action, liabilities, indebtedness and obligations. California Civil Code section 1542, provides that:

A General Release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the Release, which if known by him or her must have materially affected his or her settlement with the debtor.
2. . The Release set forth above does not include claims by any of the Settling Plaintiffs other than the claims set forth therein. In particular, the Settling Parties recognize that many persons own more than one parcel of land within the Basin. The foregoing Release only binds Wood Class Members and only with respect to those properties within the Basin on which they have pumped or are pumping within the terms of the class definition.

## 12. Who are the lawyers for the class?

The lawyers for Richard Wood and the class are:
Michael D. McLachlan
LAW OFFICES OF MICHAEL D. McLACHLAN, APC
10490 Santa Monica Boulevard
Los Angeles, California 90025
mike@mclachlanlaw.com

Daniel M. O'Leary<br>LAW OFFICE OF DANIEL M. O'LEARY<br>10490 Santa Monica Boulevard<br>Los Angeles, California 90025<br>dan@danolearylaw.com

## 13. How will the lawyers be paid?

The lawyers' fees and case costs will be paid by the Settling Defendants. You will not be asked to pay legal fees or case costs. Per the terms of the settlement, the parties have agreed to the amounts of the legal fees and case costs, which are set forth in the Settlement Agreement. The Court will be asked to approve these payments at the time of the final approval hearing.

## YOUR OPTIONS

## 14. What happens if I do nothing at all?

If you do nothing, you will remain in the class and be bound by the terms of the settlement. You will not be able to sue the Settling Defendants for any of the claims being released by this settlement. You will also be bound by the future decisions in the case, whether favorable or unfavorable. Plaintiff Richard Wood and the class attorneys will continue to act as your representatives in this case, and you will not personally be obligated to pay any legal fees or costs of suit.

## 15. What if I do not want to participate in the settlement?

If you wish to be excluded from the settlement, you must complete and mail a valid request for exclusion postmarked by no later than December 2, 2013 to the Class Administrator identified below. This exclusion request must contain your name, address, signature, and a statement that you wish to be excluded from the class. If you timely do so, the Court will exclude you from the class. If you do nothing, you will remain in the class.
Your exclusion request must be sent to:
Small Pumper Class Action Administrator
c/o GCG
P.O. Box 35100

Seattle, WA 98124-1100
16. What happens if I exclude myself from the settlement?

If you opt out of the settlement, it is very likely that you will be sued directly by the public waters supplier defendants because the Court may still need to determine your water right in the future. If you are sued, you will either need to hire your own attorney at your expense or represent yourself in Court.

## 17. How do I tell the Court that I don't like the settlement?

If you're a class member, you can object to the settlement if you do not like it. To object, you must send a letter saying that you object to the settlement in Richard Wood v. Los Angeles County Waterworks District No. 40, et al. Be sure to include the case number (J.C.C.P. No. 4408), your name, address, telephone number, your signature, and the reasons why you object to the settlement. You must send the objection to these three different places so that they receive it by December 4, 2013:

COURT:<br>Clerk of the Court<br>600 South Commonwealth Avenue<br>Los Angeles, CA 90005<br>CLASS COUNSEL:<br>Michael D. McLachlan<br>LAW OFFICES OF MICHAEL D. McLACHLAN, APC<br>10490 Santa Monica Boulevard<br>Los Angeles, California 90025<br>mike@mclachlanlaw.com<br>DEFENSE COUNSEL:<br>Thomas S. Bunn III<br>LAGERLOF, SENECAL, GOSNEY \& KRUSE, LLP<br>301 North Lake Avenue, 10th floor<br>Pasadena, California 91101<br>Attorneys for Palmdale Water District

## 18. When and where will the Court decide whether to grant final approval?

The Court has scheduled a hearing at 9:00 A.M. on December 11, 2013, at Santa Clara Superior Court, Department 1, 191 North First Street, San Jose, California. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court will also rule on the request for attorneys' fees and costs. After the hearing, the Court will decide whether to grant final approval of the settlement.

## 19. May I speak at the hearing?

You are welcome to come to the hearing at your own expense. If you send a written objection, you don't have to come to Court to talk about it. As long as you send your written objection so that it arrives on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.
You may ask the Court for permission to speak at the hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in "Antelope Valley Groundwater Litigation." Be sure to include the case number (J.C.C.P. No. 4408), your name, address, telephone number, and signature. This letter must be received no later than December 4, 2013, and be sent to the Clerk of the Court, Class Counsel, and Defense Counsel at the three addresses listed in the answer to Question 17.

## GETTING MORE INFORMATION

20. How do I get more information about the settlement?

The Class Action Complaint, certain other documents from the litigation, and some other general information are available at: http://www.avgroundwater.com/smallpumper/wood.cfm. You may complete and submit the response form on that website. In addition, that website has a list of answers to certain other questions you may have. That website has an e-mail address for you to obtain information if you have further questions. That website will be updated from time to time to advise you of the status of this litigation. Also, all of the documents filed in the case are available on the court's website at: http://www.scefiling.org/cases/casehome.jsp?caseld=19.

## PLEASE DO NOT CALL OR WRITE THE COURT OR CLERK'S OFFICE. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT YOUR OWN COUNSEL, VISIT THE WEB SITES LISTED ABOVE, OR WRITE TO CLASS COUNSEL AT THE ADDRESS ABOVE.

## Exhibit B

# Antelope Valley Groundwater Litigation 

## List of Class Members Requesting Exclusion from the

 Small Pumper Class ActionFrank Small<br>Bennie and Annette Moore<br>Edward Shelton<br>William Basner<br>The George and Charlene Lane Family Trust and George M. Lane<br>Raymond Eyherabide

## EXHIBIT 2

Michael D. McLachlan, Bar No. 181705
LAW OFFICES OF MICHAEL D. McLACHLAN, APC
10490 Santa Monica Boulevard
Los Angeles, California 90025
Phone: (310) 954-8270
Fax: (310) 954-8271
Daniel M. O'Leary, Bar No. 175128
LAW OFFICE OF DANIEL M. O'LEARY
10490 Santa Monica Boulevard
Los Angeles, California 90025
Phone: (310) 481-2020
Fax: (310) 481-0049
Attorneys for Plaintiff and the Class

## SUPERIOR COURT FOR THE STATE OF CALIFORNIA

 COUNTY OF LOS ANGELESCoordination Proceeding Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER CASES

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Judicial Council Coordination
Proceeding No. 4408
(Honorable Jack Komar)

Case No.: BC 391869

Plaintiff,
v.

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et al.
situated,

Defendants.

SUPPLEMENTAL DECLARATION OF MICHAEL D. MCLACHLAN IN SUPPORT OF MOTION FOR FINAL APPROVAL OF PARTIAL CLASS SETTLEMENT

Date: December 11, 2013
Time: 9:00 a.m.
Dept: Santa Clara Superior Court, Dept 1

## SUPPLEMENTAL DECLARATION OF MICHAEL D. MCLACHLAN

I, Michael D. McLachlan, declare:

1. I make this declaration of my own personal knowledge, except where stated on information and belief, and if called to testify in Court on these matters, I could do so competently.
2. I am co-counsel of record of record for Plaintiff Richard Wood and the Class, and am duly licensed to practice law in California. I make this supplemental declaration in support of the joint motion for preliminary approval of the settlement agreement.
3. I, along with defense counsel for the Settling Defendants, caused the approved form of the summary class notice to be published in consecutive weeks in the Bakersfield Californian, the Antelope Valley Press and the Los Angeles Times. I attach collectively as Exhibit 3 the proofs of publication for each of these newspapers.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this $3^{\text {rd }}$ day of December, 2013, at Los Angeles, California.

Michael D. McLachlan

## Exhibit 3

RECORDING/FILING REQUESTED BY AND MAIL TO:
Lagerlof Senecal Gosney \& Kruse LL 301 N. Lake Ave Ste 1000
Pasadena, CA 91101
PROOF OF PUBLICATION
(Callfornia Code of Clvil Procedure 2010, 2015.5)

## STATE OF CALIFORNIA

County of Los Angeles


I am a citizen of the United States and a resident of the aforesaid County. I am over the age of eighteen years (18) years, and not a party to or interested in the above-entitled matter. I am the Principal Clerk of the printer of the LOS ANGELES TIMES, a newspaper of general circulation, printed and published DAILY in the City of Los Angeles, County of Los Angeles and which newspaper was adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under the date of April 28, 1952, Case Number 598599. The notice, a true and correct copy of which is annexed, has been published in each regular and entire issue of said newspaper on the following dates, to wit:

SUNDAY; NOVEMBER 3, 2013
SUNDAY; NOVEMBER 10, 2013
I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated at Los Angeles, California,
This $18^{\text {th }}$ day of November, 2013


Jessica Winn

## PROOF OF PUBLICATION

The BAKERSFIELD CALIFORNIAN
P. O. BOX 440

BAKERSFIELD, CA 93302

Murphy and Evertz
650 Town Center Dr Suite550
COSTA MESA, CA 92626

| Ad Number: | 13344354 | PO \#: |  |
| :--- | :--- | :--- | :--- |
| Edition: | TBC | Run Times | 2 |
| Class Code | Legal Notices |  |  |
| Start Date | $11 / 10 / 2013$ | Stop Date | 11/17/2013 |
| Billing Lines | 25 | Inches | 2.10 |
| Total Cost | $\$ 273.50$ | Account | 18763665 |
| Billing | Murphy and Evertz |  |  |
| Address | 650 Town Center Dr Suite550 |  |  |
|  | COSTA MESA,CA | 92626 |  |

Solicitor I.D.:

## First Text

SUMMARY NOTICE OF PROPOSED PARTIAL CLA:


## ALL IN YEAR 2013

1 CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATED AT BAKERSFIELD CALIFORNIA

Printed on 11/18/2013 at 8:53:05AM


AND WHICH NEWSPAPER HAS BEEN ADJUDGED A NEWSPAPER OF GENERAL CIRCULATION BY THE SUPERIOR COURT OF THE COUNTY OF KERN, STATE OF CALIFORNIA, UNDER DATE OF FEBRUARY 5, 1952, CASE NUMBER 57610; THAT THE NOTICE, OF WHICH THE ANNEXED IS A PRINTED COPY, HAS BEEN PUBLISHED IN EACH REGULAR AND ENTIRE ISSUE OF SAID NEWSPAPER AND NOT IN ANY SUPPLEMENT THEREOF ON THE FOLLOWING DATES, TO WIT: 11/10/13

11/17/13

## STATE OF CALIFORNIA

COUNTY OF KERN
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 OR INTERESTED IN THE ABOVE ENTITLED MATTER. I AM THE ASSISTANT PRINCIPAL CLERK OF THE PRINTER OF THE BAKERSFIELD CALIFORNIAN, A NEWSPAPER OF GENERAL CIRCULATION. PRINTED AND PUBLISHED DAILY IN THE CITY OF BAKERSFIELD COUNTY OF KERN,

November 18, 2013
LAW OFFICES OF MICHAEL D. McLACHLAN, APC
Mr. Mike McLachlan
10490 SANTA MONICA BLVD
LOS ANGELES CA 90025
RE: Affidavit of Publication -NOTICE OF PROPOSED PARTIAL CLASS ACTION SETTLEMENT WOOD v. LOS ANGELES COUNTY WATERWORKS DIST. NO. 40

Dear Mr. Mike McLachlan;
Enclosed please find the Affidavit of Publication for the NOTICE OF PROPOSED PARTIAL CLASS ACTION SETTLEMENT WOOD v. LOS ANGELES COUNTY WATERWORKS DIST. NO. 40 notice published on November 10, 17, 2013.

Thank you again for considering the Antelope Valley Press for your publication needs. If you need further assistance, please do not hesitate to contact me at (661) 267-4112.


Alison Adams
Legal Advertising Coordinator
hose
Enclosure

## AFFIDAVIT OF PUBLICATION

(2015.5 C.C.P.)

## STATE OF CALIFORNIA

## NOTICE OF PROPOSED PARTIAL CLASS ACTION SETTLEMENT

WOOD $v$. LOS ANGELES COUNTY WATERWORKS DIST. NO. 40

I am a citizen of the United Sintes mad a residem of the Comnty aforesaid; I am over the age of eigheen years, and not a party to or interested in the above entitled matter. I an the principal clerk of the printer of the Antelope Valley Press, a newspaper of general circulation, printed and published daily' in the Clty of Palmdale, Country of Los Angeles, and which newspaper has beco adjudged a newspaper of general cirenlation by the Superior Court of the County of Los Angeles, State of Califonia, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the Ledger-Gazette, adjudicated a legal newspaper June 15, 1927, by Superior Court decree No. 2245.15; also operating as the Desert Mailer News, formerly known as the South Antelope Valley Foothill News, adjudicated a newspaper of general circulation by the Superior Court of the County of Los Angeles, Stale of Califomia on May 29, 1967, Case Number NOC564 and adjudicated a newspaper of general circulation for the City of Laneaster, Sinte of Califormin on Jamuars 26, 1990, Case Number NOCl0714, Modified October 22, 1990; that the notice, of which the anmexed is a printed copy (set in lype not smaller than nompareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereat on the following dates, to-wit:

November 10, 17, 2013
I certify (or declare) under penalty of perjury that the fore-going is true and correct.


Dated: November 18, 2013

Executed at Palmdale, California

[^5]
## AFFIDA VIT OF PUBLICATION

(2015.5 C.C.P.)

## state of california



## NOTICE OF PROPOSED PARTIAL CLASS ACTION SETTLEMENT

WOOD $v$. LOS ANGELES COUNTY WATERWORKS DIST. NO. 40

I am a cilizen of the Unied States and a resident of the Combly aforesnid; | :ans over the age of eighteen jecars, and not a party to or interested in the above entitled maller. I am the principal clerk of the prither of the Autelope Valley Press, a newspaper of general circulation, prined and published dally in the Clty of Palmdale, Combt' of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by' the Sunserior Court of the County of Los Angeles, Slate of California, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the Ledger-Gnzette, adjudicated a legal newspaper Jone 15, 1927, by Superior Cour decree No. 224.545 ; ilso operating as the Desert Mailer News, formerly known as the South Amelope Valley Foohill News, adjudicated a newspaper of general circulation by the Superior Cour of the County of Los Angeles, State of Califoruia on May' 29, 1967, Case Number NOC564 and adjudicaled a newspaper of general circulation for the City of Lancasier; State of Califormia on January 26, 1090, Case Number NOCl0714, Modified Oetaber 22, 1990; that the notice, of which the amexed is a primed cops' (set in type not smaller than nonpareil), bas been published in ench regular and entire issile of sadd newspaper and not in any supplement thereof on the following dates, to-wit:

November 10, 17, 2013
I certify (or declare) under penalty of perjury that


Dated: November 18, 2013

Execuled at Palndalc, California

EXHIIBIT 3

# SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES 

Coordination Proceeding
Special Title (Rule 1550(b))
ANTELOPE VALLEY GROUNDWATER CASES

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
v.

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et al.,
Defendants.

Judicial Council Coordination
Proceeding No. 4408
(Honorable Jack Komar)

Case No. BC 391869

## DECLARATION OF JENNIFER M. KEOUGH REGARDING DISSEMINATION OF SMALL PUMPER NOTICE

I, JENNIFER M. KEOUGH, declare as follows:

1. As stated in my Declaration filed December 3, 2013, I am Chief Operating Officer of The Garden City Group, LLC" ("GCG"). The following statements are based on my personal knowledge and information provided by other GCG employees working under my supervision, and if called on to do so, I could and would testify competently thereto.
${ }^{1}$ The Garden City Group, Inc. is now Garden City Group, LLC.
2. GCG was originally retained as Administrator in the above-captioned litigation (the "Litigation") pursuant to Section VI.B of the Wood Class Stipulation of Settlement (the "Stipulation of Settlement") filed on October 7, 2013. Pursuant to the Order Granting Preliminary Approval of Small Pumper Class Action Settlement and Notice to the Class (the "Order"), dated April 6, 2015, GCG was further engaged to distribute the Notice of Proposed Settlement for the "Small Pumper" Class Action and Settlement Hearing (the "Class Notice").

## DISSEMINATION OF THE CLASS NOTICE

3. In paragraph 1 of the Order, the Court found that the form and content of the Class Notice would provide the best practicable notice to Class Members. Pursuant to the Order, GCG was responsible for disseminating the Class Notice to the "Small Pumper Class," as defined in Section 3.5.44 of the Proposed Judgment and Physical Solution:

All private (i.e., non-governmental) Persons and entities that own real property within the Basin, as adjudicated, and that have been pumping less than 25 acre-feet per Year on their property during any Year from 1946 to the present. The Class excludes the defendants in Wood v. Los Angeles Co. Waterworks Dist. 40, et al., any Person, firm, trust, corporation, or other entity in which any such defendants has a controlling interest or which is related to or affiliated with any such defendants, and the representatives, heirs, affiliates, successors-ininterest or assigns of any such excluded party. The Class also excludes all Persons and entities that are shareholders in a mutual water company. The Class does not include those who opted out of the Class.
4. On or about March 31, 2015, GCG provided an Excel spreadsheet to Plaintiff's Counsel containing mailing information for (a) Class Members who received a copy of the Notice that was mailed pursuant to the Order of the Court dated October 25,

2013, and (b) other persons or entities who had notified GCG that they believed they were also Class Members. The mailing list did not include those persons or entities who had requested exclusion from the Class. Plaintiff's Counsel reviewed the records and provided GCG with a revised mailing list and confirmed that thirteen (13) individuals, including those the Court added to the list of known class members, should also receive the Notice. Five (5) recipients from the earlier mailing were removed from the mailing list, either because the available information did not include the identity of the person or entity, or because the person or entity was no longer a Class Member.
5. GCG promptly updated the information in the database created for this Litigation and assigned a unique identifier to those records that did not already have an identifier in order to maintain the ability to track them. GCG then submitted the addresses for all Class Members to the National Change of Address (NCOA) database. Of the 4,310 records sent out for search, 152 were returned with address updates, and GCG updated the addresses accordingly.
6. GCG thereafter formatted the Class Notice and caused it to be printed, posted via first-class mail, postage prepaid, and delivered to a U.S. Post Office on April 3,2015, for mailing to each of the 4,310 Class Members. A copy of the Class Notice, as mailed, is attached hereto as Exhibit A.
7. Class Notices that were returned by the U.S. Postal Service with forwarding address information were promptly re-mailed using the updated address information received from the U.S. Postal Service. As of May 31, 2015, GCG had re-mailed six (6) Class Notices to updated addresses received from the U.S. Postal Service.
8. As of May 31, 2015, a total of 770 Class Notices had been returned -3-
undeliverable without forwarding address information, including two (2) Class Notices that had previously been re-mailed.

## OBJECTIONS TO THE SETTLEMENT

9. Pursuant to paragraph 5 of the Order, Class Members who wished to object to the Settlement had to do so in writing by submitting their objections to the Court and the parties' counsel by May 15, 2015. As of May 19, 2015, GCG had not received any objections. However, GCG did receive two written responses to the Class Notice in which the recipient provided notification that they no longer owned the property in question.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge and belief.

Executed on June 3, 2015, at Seattle, Washington.


## Exhibit A

# SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES 

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff, v.

LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; et al.

JUDICIAL COUNCIL COORDINATION PROCEEDING No. 4408

NOTICE OF PROPOSED SETTLEMENT FOR THE "SMALL PUMPER" CLASS ACTION AND SETTLEMENT HEARING

## TO CERTAIN ANTELOPE VALLEY LANDOWNERS: CAREFULLY READ AND RESPOND TO THIS NOTICE, AS IT MAY AFFECT YOUR RIGHT TO PUMP GROUNDWATER ON YOUR PROPERTY IN THE FUTURE.

1. Why should I read this Notice? ..... 2
2. What is this lawsuit about? ..... 2
3. Who is covered by the proposed settlement? ..... 2
4. What are the terms of the proposed settlement? ..... 2
5. What do I need to do? ..... 3
6. Can I exclude myself from the Class? ..... 4
7. Why, when and where will the Settlement Hearing take place? ..... 4
8. Who represents Plaintiff and the Class? ..... 4
9. Why does Plaintiff's Counsel favor the Settlement? ..... 4
10. How will Plaintiff's Counsel's fees be paid? ..... 4
11. Will I have to pay anything? ..... 5
12. Will I receive any monetary compensation? ..... 5
13. What happens if the Settlement is approved by the Court? ..... 5
14. What happens if the Settlement is not approved by the Court? ..... 5
15. Where can I get additional information? ..... 5
16. What are the relevant dates? ..... 5
17. May I pump water on my property? ..... 5
18. What if I pump more than 3 acre-feet of groundwater per year? ..... 6
19. Will I have to install a water meter on my property? ..... 6
20. Will my groundwater use be monitored? ..... 6
21. What if I sell my property? ..... 6

## 1. WHY SHOULD I READ THIS NOTICE?

Available records indicate that you own property in the Antelope Valley Groundwater Basin (the "Basin"). Your property rights may be affected by the proposed settlement of this lawsuit. Your right to object to, or comment on that settlement is described below. In addition, this Notice contains important information about your disclosure obligations in the event you sell your property. PLEASE TAKE THE TIME TO READ THIS IMPORTANT LEGAL NOTICE, WHICH IS DIFFERENT FROM THE PRIOR NOTICES SENT TO YOU ABOUT THIS CASE.

## 2. WHAT IS THIS LAWSUIT ABOUT?

This Class Action lawsuit involves water rights in the Antelope Valley Groundwater Basin. Plaintiff Richard Wood brought this case to protect his right and those of other landowners (the Wood Class comprises persons who are pumping or have pumped less than 25 acre-feet of groundwater during any year from 1946 to the present) in the Basin to pump water on their properties in the future. The case has been combined with other cases to determine all the groundwater rights in the Basin. The Court has not yet decided the case.

Property owners have a right to pump groundwater (water underneath the surface) and use it for reasonable and beneficial purposes on their overlying land. The right to use groundwater, however, may be limited during times of groundwater shortage conditions. In this case, the naturally available supply of groundwater is not adequate to meet the groundwater pumping demands of everyone who wants to use that water. For that reason, the Court decides how much water can be pumped by each party under a claim of priority to use the groundwater, Richard Wood claims that he and other such landowners have water rights that are superior to the water rights of certain public water suppliers and entities, listed in the Settlement Agreement ("Settling Defendants") who have used and continue to use groundwater. The public water suppliers claim that their historical pumping has given them superior water rights for a public water supply as to some or all of the Richard Wood and Wood Class members' rights to use groundwater.

## 3. WHO IS COVERED BY THE PROPOSED SETTLEMENT?

You have been designated as a Class member because records indicate that you own property in the Antelope Valley. The Wood Class includes all private (i.e., nongovernmental) landowners within the Antelope Valley Groundwater Basin who are pumping or have pumped less than 25 acre-feet of groundwater during any year from 1946 to the present on their properties, with certain exceptions set out below.

You are not in the Class if you do not own real property within the Basin. In addition, you are NOT in the Class if any of the following are true as to you:

1. Your property is connected to and receives water from a public water system, public utility or mutual water company; or
2. You are already a party to this litigation; or
3. You have already timely excluded yourself from the Wood Class and have not rejoined the Class.

## 4. WHAT ARE THE TERMS OF THE PROPOSED SETTLEMENT?

The Small Pumper Class has previously settled its claims with the City of Lancaster, Palmdale Water District, Phelan Piñon Hills Community Services District, and the Rosamond Community Services District. By way of the current settlement, the Small Pumper Class is now attempting to resolve all claims with California Water Service Company, City of Palmdale, Desert Lake Community Services District, Littlerock Creek Irrigation District, Los Angeles County Waterworks District No. 40, North Edwards Water

QUESTIONS? VISIT WWW.AVGROUNDWATER.COM.

District, Palm Ranch Irrigation District, and Quartz Hill Water District. Through the Stipulation for Entry of Judgment and Physical Solution, which is incorporated into the Small Pumper Class Stipulation of Settlement, the Small Pumper Class is also resolving its claims with many other parties claiming beneficial interest in the groundwater in the Antelope Valley basin. These additional parties are listed on the signature pages to the Judgment and Physical Solution,

The following is a summary of the basic terms and conditions of the proposed settlement. You may view the complete settlement agreement at www.avgroundwater.com. If you do not have Internet access, you may request a copy of the settlement agreement by writing to the following: Small Pumper Class Settlement, 44 Hermosa Avenue, Hermosa Beach, CA 90254.

In summary, the proposed settlement includes the following terms (capitalized terms are defined in the Settlement Agreement), in addition to other terms discussed in other sections of this Notice:
A. Members of the Small Pumper Class will have the right to pump up to 3 acre-feet of groundwater per year for reasonable and beneficial use without having to pay any replacement water assessment. Small Pumper Class members pumping between 3 and 25 acre-feet per year will pay a replacement water assessment.
B. To the extent the Settling Defendants have obtained water rights by prescription, those rights shall not be exercised to diminish the Small Pumper Class' water rights.
C. The Parties agree that the United States has a Federal Reserved Right to some portion of the Basin's Native Safe Yield.
D. The Class agrees not to challenge certain Parties' right to recapture return flows from water that they import. The Class agrees not to contest Settling Defendants' best estimates that agricultural use of imported water results in $34 \%$ return flows and municipal and industrial use of imported water results in 39\% return flows.
E. The Settling Parties agree that the Basin has limited water resources and that there is a need for a groundwater management plan for the Basin. The Parties have agreed to be bound by such a plan, which is subject to approval and modification by the Court. This management plan will be supervised and administered by a watermaster engineer and watermaster board, which will report to the Court.
F. The Settlement contains mutual releases of the claims the Settling Parties have asserted against each other in the litigation.

## 5. WHAT DO I NEED TO DO?

You are not required to do anything, unless you wish to object to the settlement. However, if you wish to object to the settlement or to Plaintiffs' Counsel's Application for Fees and Expenses, you must file a Notice of Intent to Appear and Be Heard with the Clerk, Los Angeles County Superior Court, 111 N . Hill Street, Los Angeles, CA 90012. That Notice must be received by May 15, 2015 for it to be considered and must briefly state the position(s) you wish to take with respect to the settlement and/or any related matters, such as Counsel's fee application. In addition, you must send a copy of that Notice to the following attorneys by that date:

Michael D. McLachlan<br>mike@mclachlan-law.com<br>Law Offices of Michael D. McLachlan<br>44 Hermosa Avenue<br>Hermosa Beach, CA 90254<br>Class Counsel

Jeffrey V, Dunn
jeffrey.dunn@bbklaw.com
Best Best \& Krieger LLP
18101 Von Karman Avenue, Suite 1000
Irvine, CA 92614
Liaison Counsel for Defendants

QUESTIONS? VISIT WWW.AVGROUNDWATER.COM.

## 6. CAN I EXCLUDE MYSELF FROM THE CLASS?

No. All Class members have been given two prior opportunities to opt out of the Class, therefore the Court will not permit further opt outs.

## 7. WHY, WHEN, AND WHERE WILL THE SETTLEMENT HEARING TAKE PLACE?

The Court must approve the proposed settlement after a fairness hearing in order for the settlement to become effective. That fairness hearing will take place on August 3, 2015, at 10:00 a.m. in Room 222 of the Stanley Mosk Courthouse, 111 North Hill Street, Los Angeles, CA 90010. You are welcome to attend that hearing but you are not required to attend.

Any Class member may appear in person or through counsel and state his or her comments on or objections to the proposed settlement and/or on counsel's fee application, but only if he or she files a Notice of Intent to Appear and Be Heard pursuant to the procedures set forth in paragraph 5, above, on or before May 15, 2015.

## 8. WHO REPRESENTS PLAINTIFF AND THE CLASS?

Plaintiff and the Class are represented by the following attorneys in this matter:

```
Michael D. McLachlan
mike@mclachlan-law.com
Law Offices of Michael D. McLachlan
44 Hermosa Avenue
Hermosa Beach, CA }9025
310.954-8270
310.954.8271 (fax)
```

Daniel M. O'Leary dan@danolearylaw.com
Law Offices of Daniel M. O'Leary
2300 Westwood Boulevard, Suite 105
Los Angeles, CA 90064
310.481 .2020
310.481 .0049 (fax)

## 9. WHY DOES CLASS COUNSEL SUPPORT THE SETTLEMENT?

Class Counsel believes that the settlement reflects a reasonable and fair resolution of the claims asserted in this matter. The Settling Defendants assert that they have prescriptive rights to substantially more than $15 \%$ of the Basin's Native Safe Yield; the Class asserts that the Settling Defendants have no such prescriptive rights. Counsel believe that the Settlement fairly compromises the parties' positions, and resolves the risk that the class members will lose water rights to the Settling Defendants. Further, the settlement protects the rights of all Class members to use water for domestic use in amounts sufficient to sustain such use without the requirement to pay any replacement water assessment.

## 10. HOW WILL PLAINTIFF'S COUNSEL'S FEES BE PAID?

Plaintiff's Counsel will petition for an award of fees and expenses to be paid by the Settling Defendants. You will not be responsible to pay any portion of their fees. Plaintiff's Counsel have already been paid for some work on this matter.

Plaintiff's Counsel have worked on this matter for over seven years without being paid and they have advanced considerable amounts to pay for out-of-pocket expenses, including travel, hearing transcripts, consultants, etc. The Court will ultimately determine whether Counsel is entitled to a fee award and the appropriate amount of any such award.

QUESTIONS? VISIT WWW.AVGROUNDWATER.COM.

## 11. WILL I HAVE TO PAY ANYTHING?

You will not be required to pay anything in connection with Plaintiff's Counsel's fees and costs. However, you will have to pay an annual administrative assessment which will be used to fund the watermaster appointed by the Court to implement certain provisions of the settlement. For those pumping in excess of three acre-feet of groundwater per year, the assessment will be up to $\$ 5$ per acre-foot, or as ordered by the Court. For those pumping less than three acre-feet per year, the administrative settlement will be based on 1.2 acre-feet of groundwater pumping multiplied by up to $\$ 5$ per acre-foot, or as ordered by the Court. You might also be required to pay an additional balance assessment in the future if the watermaster determines it necessary.

## 12. WILL I RECEIVE ANY MONETARY COMPENSATION FROM THE SETTLEMENT?

No. The settlement does not provide you with any monetary benefits.

## 13. WHAT HAPPENS IF THE SETTLEMENT IS APPROVED BY THE COURT?

If the settlement is approved, and not successfully appealed, the above litigation between and among the settling parties will be over and you will be bound by the stipulation for judgment and physical solution.

## 14. WHAT HAPPENS IF THE SETTLEMENT IS NOT APPROVED BY THE COURT?

If the settlement is not approved, the settlement agreement will be null and void and the parties will be returned to their prior positions in the litigation.

## 15. WHERE CAN I GET ADDITIONAL INFORMATION?

The amended complaint and certain other documents from the litigation are available at www.avgroundwater.com. In addition, that website has a list of answers to certain other questions you may have and has an email address for you to obtain information if you have further questions. That website will be updated from time to time to advise you of the status of this litigation. Also, all of the documents filed in the case are available on the court's website at http://www.scefiling.org/cases/casehome.isp?caseld=19.

## 16. WHAT ARE THE RELEVANT DATES?

The Settlement Hearing is scheduled for August 3, 2015. If you wish to be heard at the Hearing, you must file a Notice of Intent to Appear and Be Heard with the Clerk, Los Angeles County Superior Court, as discussed above in paragraph 5. That Notice must be received by May 15, 2015 for it to be considered. In addition, by that date, you must send a copy of that Notice to the attorneys identified in paragraph 5, above.

## 17. MAY I PUMP WATER ON MY PROPERTY?

Yes. There are presently no restrictions on your ability to pump water on your property or the amount that you can pump for reasonable and beneficial uses on your property. However, it is possible that there will be limits imposed on the amount of pumping in the future.

QUESTIONS? VISIT WWW.AVGROUNDWATER.COM.

## 18. WHAT IF I PUMP MORE THAN 3 ACRE-FEET OF GROUNDWATER PER YEAR?

A Class Member will have the right to pump up to 3 acre-feet per year for reasonable and beneficial use on his or her property, without assessment. However, if you pump more than 3 acre-feet per year, you may be required to pay a replacement assessment in the future for any water you pump in excess of 3 acrefeet per year. This settlement does not affect your ability to continue to pump in excess of 3 acre-feet per year, but the Court may limit those rights in future proceedings. The replacement assessments, if any, will be levied by a court-appointed watermaster, who will implement various provisions of this settlement.

## 19. WILL I HAVE TO INSTALL A WATER METER ON MY PROPERTY?

If the watermaster develops a reasonable belief that you are pumping more than 3 acre-feet of groundwater per year, you may be required to install a water meter.

## 20. WILL MY GROUNDWATER USE BE MONITORED?

The watermaster may choose to monitor your water use through aerial photography and/or satellite imagery. The watermaster may also decide to subpena your electrical usage records from your electrical utility provider. As noted above, if you are pumping less than 3 acre-feet of groundwater per year, you will not be required to install a meter.

## 21. WHAT HAPPENS IF I SELL MY ANTELOPE VALLEY PROPERTY?

If the settlement is approved by the Court, anyone who acquires your property will be bound by the terms of the settlement. Hence, you should disclose the terms of the settlement to anyone who may acquire your Antelope Valley property.

PLLEASE DO NOT CALL OR WRITE THE COURT OR CLERK'S OFFICE. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT YOUR OWN COUNSEL, VISIT THE WEB SITES LISTED ABOVE, OR WRITE TO CLASS COUNSEL AT THE ADDRESS ABOVE.

Dated: March 27, 2015
BY ORDER OF THE SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

QUESTIONS? VISIT WWW.AVGROUNDWATER.COM.

EXHIBIT 4

Michael D. McLachlan (State Bar No. 181705)
LAW OFFICES OF MICHAEL D. McLACHLAN, APC
44 Hermosa Avenue
Hermosa Beach, California 90254
Phone: (310) 954-8270
Fax: (310) 954-8271
Daniel M. O'Leary (State Bar No. 175128)
LAW OFFICE OF DANIEL M. O'LEARY
2300 Westwood Boulevard, Suite 105
Los Angeles, California 90064
Phone: (310) 481-2020
Fax: (310) 481-0049
Attorneys for Plaintiff Richard Wood and the Class

## SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))
ANTELOPE VALLEY GROUNDWATER CASES

RICHARD A. WOOD, an individual, on behalf of himself and all others similarly situated,

Plaintiff,
V.

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et al.

Defendants.

1
DECLARATION OF MICHAEL D. MCLACHLAN RE: PUBLICATION OF SUMMARY CLASS NOTICE OF SETTLEMENT

## DECLARATION OF MICHAEL D. MCLACHLAN

I, Michael D. McLachlan, declare:

1. I make this declaration of my own personal knowledge, except where stated on information and belief, and if called to testify in Court on these matters, I could do so competently.
2. I am co-counsel of record of record for Plaintiff Richard Wood and the Class, and am duly licensed to practice law in California.
3. Pursuant to the Court's order of April 6, 2015, counsel has caused the Summary Notice of the Small Pumper Class settlement to be published in the Los Angeles Times, the Bakersfield Californian and the Antelope Valley Press.

Attached collectively as Exhibit 1 are the proofs of publication for the Summary Notice.
4. Prior to the Administrator issuing Class Notice by U.S. Mail, the Class website, www.avgroundwater.com, was updated with all of the settlement documents and the Class Notice. The website has been continuously operational since that time.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this $4^{\text {th }}$ day of June, 2015, at Hermosa Beach, California.

Michael D. McLachlan

## Exhibit 1

# Los Angeles Times <br> MEDIA GROUP 

Sold To:<br>Best Best \& Krleger LLP - CU00265209 300 South Grand Ave, 25th Floor<br>Los Angeles, CA 90071<br>\section*{Bill To:}<br>Best Bost \& Krieger LLP - CU00265209 300 South Grand Ave, 25th Floor Los Angeles,CA 90071<br>\section*{SUMMARY NOTICE OF PROPOSED CLASS ACTION SETTLEMENT IN WOOD V. LOS ANGELES COUNTY WATERWORKS DIST. NO. 40, ET AL}

This Summary Notice is to advise you that there is a proposed settiement of the above dass action, which is pending on behalf of landowners viltinn the Antelope Valley Groundwater Basin who are pumping or have pumped less than 25 acre-feet of groundwater during any year from 1946 to the present on their properties (with certain specific exceptions). The proposed settement does not provide any monetary compensation to the Class members, but proteds Class Members' righss to make reasonable furure uses of the groundwater underlying their properties.

On March 26, 2015, the Superior Court for Los Angeles County granted preliminary approval of the proposed setilement, subjed so hurther consideration at a faimess hearing scheduled for August 3, 2015. The terms of the proposed settlement, as well as Class Members' options, are more fully detailed in a Hatced of Proposed Class Setulement that was previously mailed to the last known addresses of all dass members. You may find a copy of that Notice, as well as the Settement Agreement and other relevant documents at hnp://www.avgroundwater.com.

THE COURT HAS MADE MO DEIISION AS TO UABLITY AND THIS MOIICE IS NOT AN EXPRESSION OF ANY OPINLON ON THE MERITS OF THE CLAIMS ASSERTED IN THE ACTYON.

# Los Angeles Times <br> MEDIA GROUP 

## PROOF OF PUBLICATION

(2015.5 C.C.P.)

## STATE OF ILLINOIS

## County of Cook

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 or interested in the action for which the attached notice was published.

I am a principal clerk of the Los Angeles Times, which was adjudged a newspaper of general circulation on May 21, 1952, Cases 598599 for the City of Los Angeles, County of Los Angeles, and State of California. Attached to this Affidavit is a true and complete copy as was printed and published on the following date(s):

Apr 12, 2015; Apr 19, 2015
I certify (or declare) under penalty of perjury
under the laws of the State of California that the foregoing is true and correct.


435 N. Michigan Ave.
Chicago, IL 60611

April 20, 2015

Mr. McLachlan
MICHAEL D. MCLACHLAN
44 HERMOSA AVE
HERMOSA BEACH CA 90254

## RE: Affidavit of Publication - SUMMARY NOTICE OF PROPOSED CLASS ACTION - LACO DIST.\#40

Enclosed please find 2 original signed Affidavit of Publication for the SUMMARY NOTICE OF PROPOSED CLASS ACTION - LACO DIST.\#40 notice published on April 12, 19, 2015.

Thank you again for considering the Antelope Valley Press for your publication needs. If you need further assistance, please do not hesitate to contact me at (661) 267-4112.


Alison Adams
Probigh Tencta
Legal Advertising Coordinator

## Enclosure

# AFFIDAVIT OF PUBLICATION 

(2015.5 C.C.P.)

STATE OF CALIFORNIA<br>County of Los Angeles

## SUMMARY NOTICE OF PROPOSED CLASS ACTION <br> LACO DIST.\#40

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 or interested in the above entitled matter. I am the principal clerk of the printer of the Antelope Valley Press, a newspaper of general circulation, printed and published daily in the City of Palmdale, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by he Superior Court of the County of Los Angeles, State of Califomia, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the Ledger-Gazette, adjudicated a legal newspaper June 15, 1927, by Superior Court decree No. 224545; also operating as the Desert Mailer News, formerly known as the South Antelope Valley Foothill News, adjudicated a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California on May 29, 1967, Case Number NOC564 and adjudicated a newspaper of general circulation for the City of Lancaster, State of California on January 26, 1990, Case Number NOC10714, Modified October 22, 1990; that the notice, of which the annexed is a printed copy (set in rype not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

## April 12, 19, 2015

I certify (or declare) under penalty of perjury that


Dated: April 20, 2015
Executed at Palmdale, California

The space above for filing stamp only

$$
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& \text { ANGELES COUNTY } \\
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& \text { ET AL } \\
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& \text { other relevant documents at } \\
& \text { http://www.avgroundwater.com. } \\
& \text { THE COURT HAS MADE NO } \\
& \text { DECISION AS TO LIABILITY } \\
& \text { AND THIS NOTICE IS NOT AN } \\
& \text { EXPRESSION OF ANY OPINION } \\
& \text { ON THE MERITS OF THE } \\
& \text { CLAIMS ASSERTED IN THE } \\
& \text { Publish: } \\
& \text { Publishi April 12, 19, } 2015
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## AFFIDAVIT OF PUBLICATION

(2015.5 C.C.P.)

## STATE OF CALIFORNIA <br> County of Los Angeles

SUMMARY NOTICE OF PROPOSED CLASS ACTION

## LACO DIST.\#40

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 or interested in the above entitled matter. I am the principal clerk of the printer of the Antelope Valley Press, a newspaper of general circulation, printed and published daily in the City of Palmdale, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the Ledger-Gazette, adjudicated a legal newspaper June 15, 1927, by Superior Court decree No. 224545; also operating as the Desert Mailer News, formerly known as the South Antelope Valley Foothill News, adjudicated a newspaper of general circulation by the Supcrior Court of the County of Los Angeles, State of California on May 29, 1967, Case Number NOC564 and adjudicated a newspaper of general circulation for the City of Lancaster, State of Califomia on January 26, 1990, Case Number NOC10714, Modified October 22, 1990; that the notice, of which the annexed is a printed copy (set in type not smaller than nonparcil), has been published in each regular and entire issue of said newspaper and not in any supplement thercof on the following dates, to-wit:

## April 12, 19, 2015

I certify (or declare) under penalty of perjury that


Dated: April 20, 2015
Executed at Palmdale, California

## PROOF OF PUBLICATION

The BAKERSFIELD CALIFORNIAN<br>P. O. BOX 440<br>BAKERSFIELD, CA 93302<br>BBK Attorneys At Law<br>300 South Grand Ave, 25th Floor<br>LOS ANGELES, CA 90071

| Ad Number: | 13833899 | PO\#: |
| :--- | :--- | :--- | :--- |
| Edition: | TBC | Run Times |

STATE OF CALIFORNIA
COUNTY OF KERN
1 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 OR INTERESTED IN THE ABOVE ENTITLED MATTER. I AM THE ASSISTANT PRINCIPAL CLERK OF THE PRINTER OF THE BAKERSFIELD CALIFORNIAN, A NEWSPAPER OF GENERAL CIRCULATION. PRINTED AND PUBLISHED DAILY IN THE CITY OF BAKERSFIELD COUNTY OF KERN,

AND WHICH NEWSPAPER HAS BEEN ADJUDGED A NEWSPAPER OF GENERAL CIRCULATION BY THE SUPERIOR COURT OF THE COUNTY OF KERN, STATE OF CALIFORNIA, UNDER DATE OF FEBRUARY 5, 1952, CASE NUMBER 57610; THAT THE NOTICE, OF WHICH THE ANNEXED IS A PRINTED COPY, HAS BEEN PUBLISHED IN EACH REGULAR AND ENTIRE ISSUE OF SAID NEWSPAPER
AND NOT IN ANY SUPPLEMENT THEREOF ON THE
FOLLOWING DATES, TO WIT: $4 / 12 / 15$
4/19/15

## ALL IN YEAR 2015

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.


$$
4-20-15
$$

[^6]Solicitor I.D.: $\quad 0$
First Text
SUMMARY NOTICE OF PROPOSED CLASS ACTIOI
Ad Number 13833899


## EXHIBIT 5

## $\mathscr{S}$ tate of（11）alifornia

AHiturch thomg tix
§ocretary of Strate
Form LP－1

## CERTIFICATE OF LIMITED PARTNERSHIP

IMPORTANT－Read insiructions on back beiore completing this form
This Certiflcate is ppesented for illing pursuant to Section 15621，Calltornia Corporatlons Code．

| 1．NAME OF LMMITED PARTNERSHIP |  |  |
| :---: | :---: | :---: |
| 2 STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE | City And state | 218 code |
| 23475 Long Valley Road | Woodland Hills，CA | 91367 |
| 3．STREET ADORESS OF CALIFORNIA OFFICE IF EXECUTIVE OFFICE IS IN | OTHER STATE CITY | 2 Pa CODE |
| CA |  |  |
| 4．COMPLETE IF LIMITED PARTNERSHIP WAS FORMED PRIOR TO JULY 1， 1884 AND IS IN EXISTENGE ON DATE THIS CERTIFIGATE IS EX the original limitbo partnership certificate was recorded on $\qquad$ 19. $\qquad$ WTTH THE |  |  |
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| A．name：Sally Hilton | c．NAME： |  |
| adoress： 23475 Long Valley Road | address： | 20］CODG： |
| citr：Woodland Hillsstate：CA zip coder 91367 | CITY：STATE： |  |
| B．NAME： | D．NAME： |  |
| ADDRESS： | address： |  |
| CITY：STATE：ZIP CODE： | crty：statei | 21P CODE： |

6．NAME AND ADDRESS OF AGENT FOR SERVICE OF PROCESS：
NAME：Sally Hilton
AdDress： 23475 Long Valley Road
cirryoodland Hills state CA zup cone 91367
\％．ANY OTHER MATTERS TO BE INCLUDED IN THIS CERTFICATE MAY A PART OF THIS CERTIFICATE．
A PART OF THIS CERTIFICATE．$n$ nUMBER OF PAGES ATTACHED：n／a
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6．INDICATE THE NUMEER OF GENERAL PARTNERS SIGNATURES REQUIRED FOR FILING CERTIFICATES OF AMENDMENT， DISSOLUTION，CONTINUATION AND CANCELLEATION，
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THIS SPACE FOR FILING OFFICER USE

FILED
SIGNATUNE

10．RETURN ACKNOWLEDGEMENT TO：
AME $\square^{-}$
NAME RDDESS Robert L．Whitmire，Esq．
CITY
Kindel \＆Anderson
STATE
555 South Flower Street，Suite 2900
zip code Los Angeles，CA 90071

## 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 REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF ITS OPPOSITION TO LONG VALLEY ROAD, L.P.'S MOTION FOR LEAVE TO INTERVENE IN JUDGMENT;
EXHIBITS 1-5 on all interested parties in this action by placing the original and/or true copy.

区 BY ELECTRONIC SERVICE: I posted the documents) 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.

ख (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.


## Exhibit 13

CRAIG A. PARTON, State Bar No. 132759
CAMERON GOODMAN, State Bar No. 307679
PRICE, POSTEL \& PARMA LLP
200 East Carrillo Street, Fourth Floor
Santa Barbara, California 93101
Telephone: (805) 962-0011
Facsimile: (805) 965-3978
Attorneys for
Antelope Valley Watermaster <br> \title{

## SUPERIOR COURT OF THE STATE OF CALIFORNIA <br> \title{ \section*{SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT} 

 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT}}

Coordination Proceeding,

## ANTELOPE VALLEY GROUNDWATER CASES

Special Title (Rule 1550(b))

Exempt from Filing Fees Government Code § 6103

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
[PROPOSED] ORDER DENYING LONG
VALLEY ROAD, L.P.'S MOTION FOR LEAVE TO INTERVENE IN JUDGMENT

Date: November 1, 2018
Time: 9:00 AM
Dept: Courtcall

On November 1, 2018 the Court held a hearing in the above-captioned matter before the Honorable Jack Komar, judge presiding, on a motion for leave to intervene in the Judgment in the above captioned action ("Motion") by Long Valley Road, L.P.

The Court, having reviewed the Motion and the oppositions by the Antelope Valley Watermaster and other Parties, and having heard argument, and finding good cause appearing, hereby orders as follows:

III

1. The Motion is denied in its entirety.
2. Long Valley Road, L.P.'s status as a Small Pumper Class Member subject to the terms of the Judgment is hereby confirmed.
3. Long Valley Road, L.P. shall, beginning with the year 2018, pay Replacement Water Costs for all Groundwater produced from its property in excess of its annual Production Right as a Small Pumper Class Member.
4. Long Valley Road, L.P. shall pay Administrative Assessments for each acre-foot it produced annually in 2016, 2017 and 2018, as well as for all such future Production as a Small Pumper Class Member.
5. Long Valley Road, L.P. shall comply with the Watermaster Engineer's rules and regulations regarding determination of Production amounts and installation of individual water meters, and is ordered to install a Watermaster Engineer-approved meter on its property pursuant to Paragraph 5.1.3.2 of the Judgment.

DATED: $\qquad$
By: $\qquad$

Hon. Jack Komar Judge of the Superior Court

## 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 [PROPOSED] ORDER DENYING LONG VALLEY ROAD, L.P.'S MOTION FOR LEAVE TO INTERVENE IN JUDGMENT 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.


## Exhibit 14

Bob H. Joyce, Esq. (SBN 84607)
LAW OFFICES OF LeBeau • Thelen, LLP 5001 East Commercenter Drive, Suite 300

Post Office Box 12092
Bakersfield, California 93389-2092
(661) 325-8962; Fax (661) 325-1127

Attorneys for DIAMOND FARMING COMPANY, a California corporation, CRYSTAL ORGANIC
FARMS, a limited liability company, GRIMMWAY
ENTERPRISES, INC., and LAPIS LAND COMPANY, LLC

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER CASES

Judicial Council Coordination Proceeding No. 4408

Santa Clara County Superior Court Case No.
1-05-CV-049053
Los Angeles County Superior Court Case No.
BC 325201
Assigned to the Honorable Jack Komar (Ret.)
Department 17C
JOINT OPPOSITION TO MOTION OF LONG VALLEY ROAD, L.P. FOR LEAVE TO INTERVENE IN JUDGMENT; OBJECTIONS TO THE DECLARATIONS OF ANDREW W. HOMER AND BRUCE
E. PHERSON, JR., FILED IN SUPPORT

OF THE MOTION; AND OBJECTION TO
THE PROPOSED ORDER ON THE
MOTION
Date: November 1, 2018
Time: 9:00 a.m.
Dept:

## TABLE OF CONTENTS

I. INTRODUCTION.
II. ARGUMENT
A. LONG VALLEY ROAD, L.P. IS A PARTY BOUND BY THE JUDGMENT.
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TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:
PLEASE BE ADVISED that GRIMMWAY ENTERPRISES, INC., DIAMOND FARMING COMPANY, LLC, CRYSTAL ORGANIC FARMS, LLC and LAPIS LAND COMPANY, LLC, GRANITE CONSTRUCTION COMPANY, TEJON RANCHCORP, BOLTHOUSE PROPERTIES, LLC, WM. BOLTHOUSE FARMS, INC., CITY OF LOS ANGELES AND LOS ANGELES WORLD AIRPORTS, COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY NOS. 14 AND 20, all parties to the Second Amended Stipulation for Entry of Judgment and Physical Solution as accepted and approved by the Court and apart thereof.

## I. INTRODUCTION.

The Motion to Intervene in the Judgment must be denied for both procedural and substantive legal reasons:
a. The moving party is and was at all material times a member of the Small Pumpers Class, did not opt out after notice and an opportunity to do so, and is named in the Judgment as a party bound by the Judgment;
b. This motion is an impermissible collateral attack on this Judgment;
c. The evidence proffered in support of the motion is extrinsic to the Judgment Roll and therefore inadmissible and objected to in its entirety;
d. Code of Civil Procedure section 387 is a statutory procedure reserved for interested non-parties and therefore not applicable to the moving party's effort to secure the relief sought; and,
e. If applicable, the moving papers are defective in that the required proposed answer and/or complaint, mandated by Code of Civil Procedure section 387(c), has not been filed with the moving papers, thereby rendering the motion procedurally defective.

## II. ARGUMENT.

The Motion by LONG VALLEY ROAD, L.P. ("Long Valley"), attempts through this collateral attack to overturn the finality and the certainty of the Judgment entered on December 23,

2015 ${ }^{1}$, and thereby implicates the rights of virtually every landowner within the area of adjudication to pump groundwater now, and in the future. The Motion purports to be based upon the provisions of Code of Civil Procedure section 387, but as explained below, a motion to intervene under 387 is not appropriate because Long Valley is already a party to the Judgment. The Motion is also defective because the moving papers did not include the proposed answer and/or complaint as mandated by subsection (c) of that code section. Any proposed complaint as required by C.C.P. section 387 (c) would of necessity have to name virtually every landowner within the area of adjudication. Thus, the finality and certainty achieved by the Judgment after nearly two decades of litigation and as entered on December 23, 2015, would be irreversibly jeopardized and all parties to that Judgment would be adversely affected if Long Valley was allowed to shed its Small Pumper Class status and relitigate its water right. In substance, this litigation would start anew.

## A. LONG VALLEY ROAD, L.P. IS A PARTY BOUND BY THE JUDGMENT. The Judgment, paragraph 3.d. states as follows:

"d. Each member of the Small Pumper Class can exercise an overlying right pursuant to the Physical Solution. The Judgment Approving Small Pumper Class Action Settlements is attached as Exhibit C ("Small Pumper Class Judgment") and is incorporated herein by reference."

Now that the Watermaster has discovered that Long Valley's water use far exceeds its class allocation, Long Valley claims that this Court never had jurisdiction over Long Valley because it does not fit the class definition and seeks to have the Judgment set aside and its water rights determined anew. Exhibit " $C$ " to the Judgment is the "JUDGMENT APPROVING SMALL PUMPER CLASS ACTION SETTLEMENTS." That Judgment recites the history of the 2013 partial settlement and the 2015 settlement by the class. Commencing on page 2 of that Judgment, the Court made the following FINDINGS:
'A. The Court has jurisdiction over all parties to the Settlement Agreement including Class members who did not timely opt out of the Settlement.' [Emphasis Added.]
${ }^{1}$ Notice of Entry of Judgment was served on December 28, 2015.
'E. The Small Pumper Class Action was filed on June 3, 2008 against certain public water entities asserting claims for declaratory relief, quiet title, and various claims related to the alleged taking of water rights. The Small Pumper Class action was subsequently added to the Coordinated Cases.'
'G. Notice of the pendency of this class action was initially provided to the Class by mail and publication, with a final opt out date of December 4, 2009.'
'H. On October 25, 2013, the Court issued an order preliminarily approving the 2013 Partial Settlement. Notice of this Settlement was provided in accordance with the Court's order preliminarily approving the settlement and the terms of the Settlement Agreement. Notice was given in an adequate and sufficient manner, and constituted the best practicable notice under the circumstances. Those class members who timely opted out of this Partial Settlement, or in response to the initial class notice in 2009 (and who did not subsequently opt back into the Class) are not bound by the settlements or this Judgment (but may be bound by the final judgment in these coordinated proceedings). On or about January 7, 2014, the Court approved the 2013 Partial Settlement between the Small Pumper Class and the 2013 Settling Defendants.'
'I. On April 6, 2015, the Court issued an order preliminarily approving the 2015 Settlement. Notice of this Settlement was provided in accordance with the Court's order preliminarily approving the settlement and the terms of the Settlement Agreement. Notice was given in an adequate and sufficient manner, and constituted the best practicable notice under the circumstances, as set forth in the Declaration of Jennifer M. Keogh and Michael D. McLachlan, both filed June 4, 2015. No class member timely filed an objection to the 2015 Settlement.'
'K. All members of the Class who did not opt out of the Class shall be subiect to all the provisions of the 2013 Partial Settlement, the 2015 Settlement, and this Judgment as entered by the Court (the "Settlement Class" members). The known Small Pumper Class members are listed in Exhibit A, attached hereto."" [Emphasis Added.]

This moving party is identified as a party to that Judgment and therefor the overall Judgment on page 29 of Exhibit "A" to the "JUDGMENT APPROVING SMALL PUMPER CLASS ACTION

## SETTLEMENTS."

This Court on the basis of the foregoing recited findings ordered as follows:
". . . IT IS HEREBY ORDERED, ADJUGED AND DECREED:
'2. The Settlement Class members and their heirs, successors, assigns, executors or administrators are permanently barred and enjoined from instituting, commencing, prosecuting, any Released Claim against any of the Released Parties in any forum, other than claims to enforce the terms of the Settlement Agreement. Each member of the Settlement Class has waived and fully, finally and forever settled and released, upon this Judgment becoming final, any known or unknown, suspected or unsuspected, contingent or noncontingent Released Claim, whether or not concealed or hidden, without regard to the subsequent discovery of different or additional facts.'

## '5. The Small Pumper Class members are bound by the Judgment and Physical Solution, and their rights and obligations are relative to future groundwater use are set forth therein." [Emphasis Added.]

Long Valley now seeks to impermissibly challenge the Court's recited findings which are now conclusively binding and which established its status as a member of the Small Pumper Class, and thus a party bound by the Judgment. Long Valley did not, even after notice on at least three separate occasions, opt out or otherwise object or contest its class member status in 2009, 2013, or 2015. Long Valley's impermissible collateral attack on the Judgment, cannot be entertained, and the Court must deny this motion.

Class members who failed to opt out within the period specified in the notice are deemed members of the Class. Thus, they generally will not be permitted to "opt out" later if they do not like a proposed settlement or other development in the case. Officers for Justice v. Civil Service Comm ' $n$ ( $9^{\text {th }}$ Cir. 1982) 688 F.2d 615, 634-635.

## B. LONG VALLEY'S MOTION IS AN IMPERMISSIBLE COLLATERAL

## ATTACK ON THE JUDGMENT.

Attacks on a judgment in the trial court are generally classified as either "direct" or "collateral." 8 Witkin, Cal. Procedure ( $5{ }^{\mathrm{TH}}$ ed. 2008) Attack on Judgment, § 1, p. 583. A direct attack on a judgment must be made by one of the recognized statutory methods, such as a motion for new trial or to vacate the judgment. (Id. § 2, p. 584.) A motion to directly attack the judgment must be made within strict statutory time limits, e.g., within 15 days after notice of entry of judgment or, if no notice is served, within 180 days after judgment. See Code Civ. Proc., § 663a. All other attacks in the trial court after the statutory time period has run are collateral attacks. 8 Witkin, Cal. Procedure ( $5^{\mathrm{TH}}$ ed. 2008) Attack on Judgment, § 6, p. 590 and § 8, p. 592.

Here, Judgment was entered on December 23, 2015, and Notice of Entry of Judgment was served by posting on December 28, 2015. Thus, the time within which to make a direct attack has long since passed. Long Valley's attack is collateral and, as discussed below, extrinsic evidence is not admissible.

Long Valley attempts to attack the Judgment based upon extrinsic evidence attempting to establish that it did not satisfy the definition of the Small Pumper Class. Long Valley's attack fails because a judgment of a court of general jurisdiction is presumed to be valid, i.e., the court is presumed to have jurisdiction of the subject matter and the person, and to have acted within its jurisdiction. 8 Witkin, Cal. Procedure ( $5^{\mathrm{TH}}$ ed. 2008) Attack on Judgment, §5, p. 589. And, since Long Valley's attack is collateral, the presumption of jurisdiction is conclusive and extrinsic evidence is not admissible to rebut the presumption that this Court has jurisdiction over Long Valley as a member of the small pumper class.
"Where a collateral attack is made on a California judgment, the presumption of jurisdiction is conclusive if the jurisdictional defect does not appear on the face of the record. Hence, the validity of the judgment cannot be challenged by collateral attack unless a jurisdictional defect appears on the judgment roll." [Citations Omitted.] 8 Witkin, Cal. Proc. ( $5^{\text {th }}$ ed. 2008) Attack on Judgment, § 11, p. 594.

As set forth above, the jurisdictional facts as to the Small Pumper Class are set forth in the Judgment, Exhibit "C" to the Final Judgment. Nothing in the Judgment Roll (C.C.P. § 670) evidences a lack of jurisdiction. Given the absence of a timely authorized "direct attack" the findings of jurisdiction are now conclusive, and the proffered extrinsic evidence is inadmissible and cannot be considered.

## C. THE EVIDENCE PROFFERED IN SUPPORT OF THE MOTION IS EXTRINSIC TO THE JUDGMENT ROLL AND THEREFORE INADMISSIBLE AND OBJECTED TO IN ITS ENTIRETY.

## General Obiection to Declarations in Support of Motion to Intervene and Exhibits

Objectors hereby object to the entirety of the Declarations of Bruce E. Pherson, Jr. and Andrew W. Homer made in support of Long Valley Road, L.P.'s Motion to Intervene in Judgement, and all of the Exhibits attached thereto or referred to therein, on the grounds that the findings, terms and validity of the Judgment cannot now be challenged by collateral attack since the jurisdictional defect does not appear on the judgment roll. (Estate of Wise (1949) 34 C.2d 376, 382.) "Extrinsic
evidence is wholly inadmissible, even though it might show that jurisdiction did not in fact exist." (Hogan v. Superior Court (1925) 74 Cal.App. 704, 708.) This presumption applies "to all varieties of judgment, decrees or orders." (Lieberman v. Superior Court (1925) 72 C.A. 18, 34.) Long Valley Road, L.P. is attempting to admit extrinsic evidence in order to collaterally attack its identified status as a member of the Small Pumper Class and the Judgment.

## Specific Objection Number 1

PHERSON DECLARATION, paragraph 7, page 3, lines 14-18: "Beginning in approximately June 2006 with respect to its "Well \#1," and approximately July 2006 with respect to its and "Well \#3" at Treeland Antelope Valley, and in each consecutive 12 -month period and each consecutive calendar year, LVRP and Boething Treeland have pumped and used significant amounts of groundwater from beneath the Treeland Antelope Valley property via the Production Wells."

Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (Estate of Wise (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might show that jurisdiction did not in fact exist." (Hogan v. Superior Court (1925) 74 Cal.App. 704, 708.) Objectors further object that this paragraph calls for speculation as to what constitutes the pumping and use of significant amount of groundwater.

## Specific Objection Number 2

PHERSON DECLARATION, paragraph 8: "Beginning in August 2008, Boething Treeland began recording its water usage by reading meters on the Treeland Antelope Valley Production Wells, and manually noting the combined number of acre-feet pumped in each month. Neither LVRP nor Boething Treeland have such records for water used between June 2006 (completion of Well \#1) and August 2008, but water use at the property during that period, and associated pumping from the Production Wells, were consistent with current water use and pumping and in any event was not less than twentyfive acre-feet in any year since LVRP purchased the Treeland Antelope Valley property. A true and correct copy of a spreadsheet showing combined Well \# 1 and Well \#3 water production from August 1, 2008
through August 3, 2018, based on combined meter reads for these Production Wells, is included as Exhibit D. Well \#2, which is not used for primary irrigation and only for auxiliary purposes, is not equipped with a meter. Treeland Antelope Valley's staff estimates that water usage from Well \# 2 since it was completed in 2006 was less than three acre-feet per annum ("AFA")."

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

## Specific Objection Number 3

PHERSON DECLARATION, paragraph 9: "While LVRP and Boething Treeland do not have contemporaneous records of groundwater pumping through the Production Wells between June 2006 and August 2008, because each of LVRP's Production Wells is metered and the same meters have been used since inception and for the duration of pumping, it is possible to calculate such production by subtracting total recorded production from August 2008 to the present, as reflected in Exhibit D, from the cumulative totals recorded on the two Production Wells' meters. The meters were installed when the wells were completed, and have not been replaced or otherwise altered since initial installation. As of October 4, 2018, the meters show cumulative production of 1,801 acre-feet (Well \#1) and 1,886 acre-feet (Well \#3), or a total of 3,687 acre-feet produced through the two Production Wells since Well 1 was completed in June 2006 ("Metered Total Production"). The combined production for the two Production Wells for the period August 1, 2008 through September 30, 2018, as reflected in Exhibit D, is 3,296 acre-feet ("Partial Recorded Production"). Subtracting the Partial Recorded Production from the Metered Total Production leaves a total of 391 acre-feet, which LVRP believes
reflects the combined volume of groundwater produced through the two Production Wells between June 2006 and August 2008, or a twenty-six month period. Using this total, average production can be reasonably estimated as fifteen acre-feet per month and 180 acrefeet per year during the same period. Photographs of the two Production Wells' meters, taken on October 4, 2018, are included as Exhibit E."

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

## Specific Objection Number 4

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

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

## Specific Obiection Number 5

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

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

## Specific Objection Number 6

MOTION TO INTERVENE, page 3, lines 1-4: Table of alleged water use from 20062018.

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

## Specific Objection Number 7

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

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

## Specific Objection Number 8

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

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

## Specific Objection Number 9

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

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

## Specific Obiection Number 10

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

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

## Specific Obiection Number 11

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

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

Specific Objection Number 12
MOTION TO INTERVENE, page 7, footnote 4: "However, as discussed below, whether LVRP received actual or even constructive notice of the Small Pumper Class and related events has no legal consequence because LVRP is by definition not a member of the Small Pumper Class."

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

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

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

## Specific Obiection Number 14

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

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

## Specific Objection Number 15

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

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

## Specific Obiection Number 16

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

Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (Estate of Wise (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might show that jurisdiction did not in fact exist." (Hogan v. Superior Court (1925) 74 Cal.App. 704, 708.) This presumption applies "to all varieties of judgment, decrees or orders." (Lieberman $v$. Superior Court (1925) 72 C.A. 18, 34.) Long Valley Road, L.P. is attempting to admit extrinsic evidence in order to collaterally attack the Judgment. Objectors further object in that this statement lacks foundation and calls for speculation.
D. CODE OF CIVIL PROCEDURE SECTION 387 IS A STATUTORY PROCEDURE RESERVED FOR INTERESTED NON-PARTIES AND THEREFOR NOT APPLICABLE TO THE MOVING PARTY'S EIFFORT TO SECURE THE RELIEF SOUGHT.

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

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

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

## F. OBJECTION TO PROPOSED ORDER.

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

1. Paragraph 1 of the proposed order is inappropriate in that given that the moving party is already a party to the Judgment and the action, that intervention is inappropriate.
2. Paragraph 2 is inappropriate that the proposed judgment cannot be amended until after the claims of the moving party have been fully litigated, i.e., with a due process opportunity to examine and cross-examine the witnesses and the proffered evidence in support of the purported claim. Thus, the necessity for the mandated pleading contemplated by Code of Civil Procedure section 387(c), identifying all parties as against whom the claim is being asserted.
3. Paragraph 3 of the proposed order is inappropriate and would prospectively constitute a denial of due process of all other interested parties, if it would deny their right to examine and crossexamine the witnesses and evidence proffered by the moving party in support of the claim being asserted in the moving papers.

In short, the moving party must file an appropriate pleading naming all parties as against whom 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
LeBEAU-THELEN, LLP


BOB H. JOYCE, ESQ.
Aftorneys for DIAMOND FARMING COMPANY, a California corporation, CRYSTAL ORGANIC FARMS, a limited liability company, GRIMMWAY ENTERPRISES, INC., and LAPIS LAND COMPANY, LLC

Dated: October 18 , 2018
KUHS \& PARKER


Dated: October \&\&, 2018
ELLISON, SCHNEIDER, HARRIS \& DONLAN, LLP

By:


Dated: October 18, 2018
KRONICK, MOSKOVITZ, TIEDEMANN
\& GIRARD
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Attorneys for CITY OF LOS
ANGELES AND LOS ANGELES
WORLD AIRPORTS

Dated: October $\qquad$ , 2018

CLIFFORD \& BROWN

By:
T. MARK SMITH, ESQ.

Attorneys for BOLTHOUSE
PROPERTIES, LLC and WM. BOLTHOUSE FARMS, INC.

Dated: October $\qquad$ 2018

Dated: October Ļ, 2018 ,

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## PROOF OF SERVICE

## STATE OF CALIFORNIA, COUNTY OF KERN

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.

On October 18, 2018 I served a true copy of the following document described as: JOINT OPPOSITION TO MOTION OF LONG VALLEY ROAD, LP. FOR LEAVE TO INTERVENE IN JUDGMENT; OBJECTIONS TO THE DECLARATIONS OF ANDREW W. HOMER AND BRUCE E. PERSON, JR., FILED IN SUPPORT OF THE MOTION; AND OBJECTION TO THE PROPOSED ORDER ON THE MOTION on the interested parties in said action:
(XX) BY ANTELOPE VALLEY WATERMASTER'S ELECTRONIC DOCUMENT SERVICE: I uploaded the documents) 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.
(XX) (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct, and that the foregoing was executed on October 18, 2018, in Bakersfield, California.


## Exhibit 15

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

EXEMPT FROM FILING FEES UNDER GOVERNMENT CODE SECTION 6103

COUNTY OF LOS ANGELES
ANTELOPE VALLEY GROUNDWATER
Included Actions:
Los Angeles County Waterworks District No. $40 v$.
Diamond Farming Co., Superior Court of
California, County of Los Angeles, Case No. BC 325201;
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;
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, Case Nos. RIC 353 840, RIC 344 436, RIC 344 668
Rebecca Lee Willis v. Los Angeles County
Waterworks District No, 40, et al., Superior Court of California, County of Los Angeles, Case No. BC364533
Richard Woodv. Los Angeles County Waterworks District No. 40, et al., Superior Court of
California, County of Los Angeles, Case No.


## CASES

 Califoria, County of Los Angeles, Case No .CENTRAL DISTRICT
Judicial Council Coordination
Proceeding No. 4408

## CLASS ACTION

Santa Clara Case No. 1-05-CV-049053 Assigned to the Honorable Jack Komar

PUBLIC WATER SUPPLIER OPPOSITION TO LONG VALLEY ROAD, L.P.'S MOTION FOR LEAVE TO INTERVENE IN JUDGMENT

Date: November 1, 2018
Time: $\quad 9: 00$ a.m.
Dept.:


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Los Angeles County Waterworks District No. 40, City of Lancaster, Rosamond Community Services District, Littlerock Creek Irrigation District, Palm Ranch Irrigation District, Desert Lake Community Services District, Palmdale Water District, and Quartz Hill Water District (collectively "Public Water Suppliers") oppose the Long Valley Road, LP's ("Long Valley"), intervention motion as follows:

Public Water Suppliers oppose an allocation of groundwater to Long Valley until such time, if ever, that Long Valley first establishes a right to a specific amount of groundwater under the Judgment. It may be that Long Valley is not entitled to an allocation of groundwater under the Judgment. In any event, Long Valley would first need to produce evidence to support its claimed groundwater right and such claimed right would need to be adjudicated by the Court. If Long Valley is permitted to intervene in the Judgment, Long Valley should be required to fully and immediately comply with all terms of the Judgment including, without limitation, prompt payment of administrative and water replacement assessments, and installation of meters.

Dated: October 19, 2018


## PROOF OF SERVICE

I, Kerry V. Keefe, declare:
I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best \& Krieger LLP, 18101 Von Karman Avenue, Suite 1000, Irvine, California 92612. On October 19, 2018, I served the following document(s):

## PUBLIC WATER SUPPLIER OPPOSITION TO LONG VALLEY ROAD, L.P.'S MOTION FOR LEAVE TO INTERVENE IN JUDGMENT

BY ELECTRONIC TRANSMISSION. I caused such document(s) to be X] electronically served to all parties appearing on the www.avwatermaster.org electronic service list for the Antelope Valley Groundwater Cases; proof of electronic-filing through the AV Watermaster website 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 Kerry.keefe@bbklaw.com.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 19, 2018, at Irvine, California.


## Exhibit 16

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## SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER CASES

Judicial Council Coordination Proceeding No. 4408

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

Los Angeles County Superior Court Case No. BC 325201

Assigned to Honorable Jack Komar (Ret.) Department 17C

LONG VALLEY ROAD, L.P.'S REPLY IN SUPPORT OF MOTION TO INTERVENE IN JUDGMENT

Hearing Date: November 1, 2018
Time: 9:00 AM

## I. INTRODUCTION AND SUMMARY OF ARGUMENT

Non-party LVRP files this single Reply in response to the separate Oppositions to LVRP's October 9, 2018 Motion for Leave to Intervene ("Motion," Dkt. 128157) filed by certain Stipulating Parties ${ }^{1}$ on October 19, 2018 ("Stipulating Party Opposition," Dkt. 128159), ${ }^{2}$ and by the Watermaster ("Watermaster Opposition," Dkt. 128160) and certain Public Water Suppliers ("Public Water Supplier Opposition," Dkt. 128163)3 on October 20, 2018. LVRP does not oppose the Watermaster's related Request for Judicial Notice (Dkt. 128161), but additionally requests that the Court take judicial notice of the June 26, 2009 Notice of Class Action for the "Small Pumper" Class Action ("2009 Notice"), which was approved by the Court for use in the Small Pumper Class Action on March 13, 2009 (Dkt. 2524; see also Dkt. 2445 (form of notice)). ${ }^{4}$

The primary arguments included in the Watermaster and Stipulating Party Oppositions hinge on whether LVRP is a Party to the Judgment because it was erroneously named in the Small Pumper Class Action and provided related notices. However, each of the related notices sent to LVRP made clear that LVRP was not a member of the class, because the class has always been defined to include only those landowners that pumped less than twenty-five acre-feet of water from the Basin in any year from 1946 forward. The cases cited by the Watermaster and Stipulating Parties do not address the effect of a class notice that, on its face, includes information that would lead a recipient like LVRP to understand that it was unequivocally not included in the class. In fact, California cases make clear that the class definition included in such notices is at the heart of their sufficiency, and

[^7]appellate courts have overturned entire class action settlements where related notices included definitions that could lead potential members to improperly conclude they were not included.

The Watermaster, which itself did not believe LVRP was a member of the Small Pumper Class until after this dispute arose, also claims that allowing LVRP to intervene in the Judgment for purposes of requesting the Court to subsequently recognize, quantify, and prioritize LVRP's right to Produce Groundwater would "set a dangerous precedent" and "open the floodgates" to various categories of parties and non-parties that may seek to alter the Judgment. But LVRP's factual basis for intervention is narrow and specific, and granting LVRP's Motion based on the unique facts before the Court would neither fully establish LVRP's rights under the Judgment, nor in any way clear a path for others to follow unless they could prove the same type of specific facts. Indeed, and in keeping with the positions voiced by the Public Water Suppliers, LVRP itself expects that is would be required to put on evidence in support of its claimed Production Right in subsequent proceedings if it is allowed to intervene. ${ }^{5}$

The Stipulating Parties also argue that LVRP's Motion is procedurally improper because it does not include a complaint or answer in intervention, as may be required in certain circumstances under Code of Civil Procedure section 387(c). The Stipulating Parties ignore the primary basis for LVRP's Motion, which is Section 20.9 of the Judgment itself. Section 20.9 expressly creates an independent mechanism for non-parties to intervene. Ignoring the Court's express statement that the Physical Solution must provide flexibility to maximize beneficial use in the Basin, and the reality that LVRP's claim is based on highly specific facts, the Stipulating Parties apocalyptically claim that allowing a single grower a chance to claim and prove a Production Right that was not previously recognized would require re-litigating the entire Adjudication. ${ }^{6}$ The Stipulating Parties also
${ }^{5}$ The Watermaster and Public Water Suppliers take positions regarding the status LVRP should obtain and what procedures must be followed if LVRP is allowed to intervene, none of which LVRP strictly opposes. Dkt. 128161 at 13-14; Dkt. 128163 at 1If allowed to intervene, LVRP expects to be required to prove its Production Right, to pay any applicable Assessments, to comply with all other requirements of the Judgment, and to enjoy only those benefits of the Judgment that similarly situated parties do.
${ }^{6}$ Section 20.9 of the Judgment, titled "Need for Flexibility," is a foundational clause and makes clear that the Physical Solution may be changed over time without causing, as the stipulating parties exaggerate, "the litigation [to] start anew." Dkt. 128159 at 2; see, Judgment at Section 7.2 ("This Physical Solution must provide flexibility and adaptability to allow the Court to use existing
mischaracterize LVRP's Motion as an impermissible collateral attack on the Judgment challenging the Court's jurisdiction over LVRP, and make numerous "evidentiary objections" based on the fact that documents LVRP submitted, and even legal arguments LVRP made, are "not in the judgment roll." These again fail to address the fact that the Judgment expressly establishes a mechanism for non-parties to intervene, such that if the Court agrees that LVRP was improperly included in the Small Pumper Class, these arguments are moot.

## II. ARGUMENT

## A. Class Ascertainability is Critical to Sufficient Notice.

California Rule of Court Rule 3.766 sets the baseline for what class notices must include, but the rule's requirements have been clarified by appellate courts. The Watermaster cites cases addressing sufficiency of notices in terms of manner of delivery, but does not include cases that speak to sufficiency of content under Rule 3.766 . Dkt. 128160 at 7-8. Review of a trial court's decisions on "manner of giving notice" is subject to an abuse of discretion standard, "but [appellate] review of the content of notice may be de novo." Cho v. Seagate Technology Holdings, Inc., 144 Cal.App.4th 734, 745 (Ct. App. 2009) (original emphasis) (citing Hypertouch, Inc. v. Superior Court, 128 Cal.App.4th 1527, 1537 (Ct. App. 2005); Wersheba v. Apple Computer, Inc., 91 Cal.App.4th 224, 234-35 (Ct. App. 2001)). As noted by the Court of Appeal in Cho, "[t]he goal in defining the class is to use terminology that will convey sufficient meaning to enable persons hearing it to determine whether they are members of the class." Id. at 746. A problem with a class definition that makes it difficult for a noticed party to determine whether it will be bound by the action "goes to the heart of the question of class certification" and "in the absence of an ascertainable class, it is not possible to give adequate notice to class members or to determine after the litigation is concluded who is barred from re-litigating." Id. (citing Global Minerals \& Metals Corp. v. Superior Court, 113 Cal.App.4th 836, 858 (Ct. App. 2003)) (internal quotations omitted).

Both the Cho and Global Minerals decisions reversed trial court decisions that relied on class definitions that made it difficult for parties to ascertain whether they were bound by

[^8]proceedings in the related class actions. Cho, 144 Cal.App.4th at 747; Global Minerals, 113 Cal.App.4th at 860. In doing so, the Cho court held:

We have no impression that there are large numbers of claimants who will come forward if the class notice and definition are corrected, but the problem with this notice creates more than a remote theoretical possibility that the claims of unsuspecting class members will be brushed aside.

144 Cal.App.4th at 747. In its analysis, the Global Minerals court stated:
[Class] [a]scertainability ...goes to the heart of the question of class certification, which requires a class definition that is precise, objective, and presently ascertainable. Otherwise, it is not is not possible to give adequate notice to class members or to determine after the litigation has concluded who is barred from relitigating.

113 Cal.App.4th at 858. The definition used in all notices to the Small Pumper Class was in fact unambiguous, and repeatedly and clearly told parties that pumped more than twenty-five acre feet - like LVRP did - that they were not in the class. But combined with inconsistent instructions on who should respond, the initial notice created ambiguity about whether clear non-members who received the notices were required to respond.

Only class members, as defined by the class definition, can be bound by a court's judgment in a class action. See, e.g., Home Sav. \& Loan Assn. v. Superior Court of Los Angeles County, 42 Cal.App.3d 1006, 1011 (Ct. App. 1974) ("The critical reason for notification of members of the class on whose behalf a class action has been brought is that notification makes possible a binding adjudication and an enforceable judgment with respect to the rights of the members of the class.") (emphasis added); Chance v. Superior Court of Los Angeles County, 58 Cal.2d 275, 288-90 (judgment in a class action is res judicata as to only defined class members). As the Court is well aware, certain parties and their counsel - including Class Counsel to the small pumpers - were concerned about the possibility of confusion if the 2009 Notice was sent to recipients who clearly did not fit within the class definition, but others insisted that this would not cause a problem because "[t]he fact that hundreds of persons outside the Class definition may receive the [2009] Class Notice and fail to return the questionnaire indicating that they are not properly members of the Class does
not render them class members; they are simply notice recipients." ${ }^{י 7}$ Indeed, two of the Stipulating Parties that oppose LVRP's Motion previously filed papers objecting to the 2009 Notice and predicted the very scenario that is at issue here. See, Dkt. $2798^{8}$ at 2 , $\|^{6}$ ("There is a lack of unity of interest and conflict of interest between parties included in the class which ... could confuse a potential member of the class into taking action and/or failing to take action appropriate to his/her/its own circumstances."). This is precisely what occurred with LVRP, and the mere fact that someone sent LVRP class notices and LVRP did not opt out where each of those notices informed it of a definition it did not fit within - a class specifically intended to include only small domestic water users with rights adverse to agricultural users ${ }^{9}$ - did not render LVRP a class member. Rather, as the Bolthouse parties that now oppose LVRP's Motion aptly recognized it would in 2008, it rendered LVRP a mere "notice recipient."

## B. By Definition, LVRP is Not a Member of the Small Pumper Class.

As an initial matter, LVRP has never taken the position in its discussions with the Watermaster or in its Motion papers that it did not receive the 2009 Notice or any other notices sent to the Small Pumper Class. Rather, LVRP merely stated that it has no record of receiving such notices, and that even if it did, those notices were defective because they informed LVRP that it did not fit within the defined class. See, e.g., Dkt. 128157 at 3, 7-8. In its Opposition and supporting papers, the Watermaster selectively quotes from various notices that were mailed to LVRP or
${ }^{7}$ Dkt. 2804 at 2-3 (AGWA's Objection to Proposed Order Approving Revised Class Notice for Small Pumper Class Action) ("The Class is defined to include only those who pump less than twenty-five acre-feet per year, and the proposed Class Notice makes this clear. The fact that hundreds of persons outside the Class definition may receive the Class Notice and fail to return the questionnaire indicating that they are not properly members of the Class does not render them class members; they are simply notice recipients. ... Nevertheless, counsel for the Small Pumper Class is sufficiently concerned that persons outside the Class definition may receive the Class Notice, that he has requested the Court appoint an expert to identify members of the Class with greater precision before the Class Notice is disseminated.") (emphasis added).
${ }^{8}$ Bolthouse Properties, LLC's and Wm. Bolthouse Farms, Inc. 's Objection to [Proposed] Notice of Class Action for the "Small Pumper" Class Action.
${ }^{9}$ See, e.g., Dkt. 2525 at 5 (Richard Wood's Renewed Motion For Appointment of Expert) ("There is no dispute that the vast majority of the Small Pumper Class members are single family residential users."); Dkt. 2616 at 6 (AGWA's Motion to Decertify Small Pumpers' Class) ("In recent filings, the Small Pumper[] Class has indicated that it believes that the class comprises small domestic users of water. In fact, the Class' filings make clear that Class Counsel ... believe[s] that the class' interests are adverse to those of agricultural water users in the Basin.").
summary notices that were published in local papers in 2009, 2013 and 2015. But as noted in LVRP's Motion, each of these notices included objective information that would lead a party in LVRP's situation to conclude that the notices did not apply to or bind it. As such, these notices all caused the precise problem that the Court of Appeals addressed when it overturned decisions based on class notices in the Cho and Global Minerals decisions cited above. Specifically, sending notices to significant agricultural pumpers like LVRP unquestionably "creat[ed] more than a remote theoretical possibility that the claims of unsuspecting class members will be brushed aside," because such recipients would read the definition and reasonably understand the notices to not apply. Cho, 144 Cal.App.4th at 747. Based on the class definition "it [was] not possible to give adequate notice to class members or to determine after the litigation has concluded who is barred from relitigating" without looking at the Judgment exhibit listing class members, something an unsuspecting notice recipient like LVRP would never have had reason to do (putting aside the fact that, by the time its name appeared buried in an exhibit to the Judgment, it would have been too later for LVRP to object or opt out). Global Minerals, 113 Cal.App.4th at 858.

Moreover, the notices included contradictory language that could have caused an unsuspecting notice recipient like LVRP to believe it need not respond. For example, with respect to the 2009 Notice, the Watermaster cites what it presumably thinks is the most compelling language regarding an opt-out requirement as: "[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." Dkt. 128160 at 5 (citing 2009 Notice) (emphasis added). Not only is this instruction permissive, using "should" rather than mandatory language such as "must," but it also clearly indicates that some recipients of the 2009 Notice may not be class members. The 2009 Notice states in its opening paragraph that recipients "may be a member of the Class" then "you have been designated as a possible class member," before stating "You are NOT in the Class if ... [y]ou have pumped 25 acre-feet or more of groundwater ... in any calendar year since 1946." 2009 Notice at 1-2 (emphasis in original).

While it is correct that the 2009 Notice goes on to state "[a]ll persons who receive this notice should respond," it also states in the same section that "Class Members should complete and return the attached response form." 2009 Notice at 2 (emphasis added). These two sentences are at odds
with one another, and at best leave ambiguity for a person who has already been told, in plain terms and with deliberate emphasis, "you are NOT in the Class" if you pumped more than the class limit at any time. The lawyers and parties who prepared and disseminated it and who focused on this litigation for years may find the 2009 Notice to be clear, but it is objectively reasonable that a recipient like LVRP would not. LVRP never so much as dipped a toe in groundwater litigation, in 2009 had only recently purchased its property, and knew only that it had pumped significantly more than the expressly stated class limit in each of the three years prior to the 2009 Notice, such that it was not a member of the Class, and therefore may not understand that a response was required.

The Watermaster cites to language in the Notice of Partial Class Action Settlement for the "Small Pumper" Class Action that was mailed to potential class members on or about November 6, 2013 ("2013 Notice," Dkt. 7678 at Ex. A) and the Notice of Proposed Settlement for the "Small Pumper" Class Action and Settlement Hearing that was mailed on or about April 3, 2015 ("2015 Notice," Dkt. 9968 at Ex. A) in support of its position that LVRP is a member of the Small Pumper Class, but these notices contain the same defects as the 2009 Notice for a party in LVRP's position. Specifically, immediately after stating "[y]ou were sent a Class Notice in 2009, and did not choose to opt out of the class at that time" the 2013 Notice states in clear terms:

You are not in the class if you fall within one of the categories set forth below: A. You have pumped 25 acre-feet or more groundwater for use on that parcel in any calendar year since 1946.

Dkt. 7678 at Ex. A at $9 \| 5$ (emphasis added). There is no way that LVRP could read these provisions together to mean anything other than it was not in the class, even if it received the 2009 Notice. The 2015 Notice also states that the "Class comprises persons who are pumping or have pumped less than 25 acre-feet of groundwater during any year from 1946 to the present," Dkt. 9968 at Ex. A $\| 2$, then repeats this statement (with minor changes) again in the following paragraph, $i d$. at 9 3. It then goes on to say "you are not required to do anything, unless you wish to object to the settlement," id at $\mathbb{I} 5$. By stating that property owners are not class members if they pumped more than the class limit in any year, the 2013 and 2015 Notices made it objectively impossible for LVRP to conclude that its critical water right would be stripped because it previously failed to "opt out" of a class it never belonged to.

The Summary Notice of Pendency of Class Action ("2009 Summary Notice") that was published in local newspapers in August 2009 did not include the twenty-five acre-foot limitation, but did point anyone who was interested to the 2009 Notice that did, and told landowners in clear terms that they were "NOT in the class" if they ever exceeded that pumping limit. See, Watermaster Notice of Errata, Dkt. 128165 at Ex. D. The Summary Notice of Proposed Partial Class Action Settlement Wood v. Los Angeles County Waterworks Dist. No. 40 ("2013 Summary Notice") and Summary Notice of Proposed Class Action Settlement in Wood v. Los Angeles County Water Works Dist. No. 40, et al. ("2015 Summary Notice") that were published in local newspapers in November 2013 and April 2015, respectively, in each instance did state the twenty-five acre-foot class limit. Dkt. 7679 at Ex. 3; Dkt. 9969 at Ex. 1. There is simply no way that LVRP, which by November 2013 had pumped above the class limit for more than seven years and by April 2015 for nearly nine, could have concluded that the 2013 and 2015 Summary Notices applied to it or required action.

While LVRP does not have any record of receiving the various notices related to the Small Pumper Class, based on their content it would have been objectively reasonable for LVRP to determine that: it was not a member of the class, and therefore did not need to opt out or take any other action.

## C. The Authorities Cited by the Opposition Parties Do Not Address Defective Content of Class Notices or Class Definitions.

The cases cited by the Watermaster and Stipulating Parties only support the general, uncontroversial proposition that a class member who declines to opt out may not do so after the deadline has passed merely because it is dissatisfied with the settlement terms class counsel achieved. See, e.g., Officers for Justice v. Civil Service Comm'n of City and Cty. Of San Francisco, 688 F.2d 615, 634-35 (9th Cir. 1982). While the Judgment, via the Small Pumper Class Action Settlement that it attaches and incorporates, does state that " $[\mathrm{t}]$ he Court has jurisdiction over all parties to the Settlement Agreement including Class members who did not timely opt out of the Settlement," Dkt. 11020 at Ex. C, p. 2 ๆ A, and "[a]ll members of the Class shall be subject to all the provisions of ... this Judgment as entered by the Court," id. at p. 4 § K, it also itself includes the same definition of the Small Pumper Class that was included in the 2009, 2013 and 2015 Notices,
id. at p. 3, IF. LVRP's position is the same: It never fell within the class definition, so was never required to opt out of a class it did not belong to in the first place. LVRP is not, like the class representative that sought to opt out in Officers for Justice was, a participant in the litigation that was dissatisfied with the terms of a binding settlement class counsel achieved. It is also not a party that knowingly pumped water and sought to evade detection. On the contrary, since buying its property in 2006, LVRP has at all times maintained a large commercial nursery in plain view from one of the main thoroughfares in the South East Subarea of the Basin. Not surprisingly, in the Watermaster's own words, LVRP was contacted in July 2018 "[u]nder the mistaken assumption that LVRP was not a Small Pumper Class Member." Dkt. 128160 at 6.

The fact that the Watermaster, an entity that is born of and exists solely to implement the Judgment and Physical Solution, instinctively believed that a large commercial nursery could not be a member of the Small Pumper Class illustrates the objective reasonableness of such a conclusion. Indeed, Class Counsel stated in documents filed in the Adjudication that the intent of the class definition was to reach typical, similarly situated, small scale, domestic users of groundwater. ${ }^{10}$ On the other hand, it is objectively unreasonable to assume that LVRP, like the class representative in Officers for Justice, was aware of, monitoring, and dissatisfied with the outcome in the Small Pumper Class Action, and as the Watermaster suggests "is requesting a second - or even third - opportunity to opt-out of the Small Pumper Class" because it is suddenly dissatisfied with the three acre-foot per parcel Small Pumper allocation. Dkt. 128160 at 9. Had LVRP understood that the water rights appurtenant to its property were being litigated and impacted via the Small Pumper Class Action, it would have participated. Indeed, the entire purpose of LVRP's significant investment in property was dependent upon a secure source of groundwater.

## D. The Stipulating Parties' Procedural and Evidentiary Arguments Are Not Applicable and Otherwise Not Determinative.

The Stipulating Parties argue that LVRP's Motion should be denied because it does not attach a complaint or answer in intervention, as may be required under Code of Civil Procedure
${ }^{10}$ See, supra, n. 9.

4828-6043-2249
section 387 (c). Dkt. 128159 at 14 . This argument is a red herring, and is not determinative because the primary basis of LVRP's Motion is Section 20.9 of the Judgment, titled "Intervention After Judgment," which expressly creates a mechanism for non-parties like LVRP to intervene. As discussed above, LVRP was never a member of the Small Pumper Class by definition. LVRP is in fact a "Person who is not a Party [to the Judgment] ... and who proposes to Produce Groundwater from the Basin," satisfying the requirements of Section 20.9. If the Court should determine otherwise, and also that in this irregular situation (post-judgment intervention) a complaint or answer in intervention must be attached to a motion for leave to intervene, the Court could simply Order LVRP to file such a pleading as a condition of its intervention. But the purpose of this requirement appears to be to allow the parties to an action to understand the factual basis of the would-be intervener's involvement, all of which is described in LVRP's Motion papers.

The Stipulating Parties also argue that LVRP's Motion is an impermissible collateral attack on the Judgment and based on that characterization make certain "evidentiary objections" on the basis that a final judgment may not be challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. Dkt. 128159 at 4-5, 5-13. As with the Stipulating Party's Code of Civil Procedure section 387(c) argument, these arguments are hinged on a determination of whether LVRP is presently a Party to the Judgment. If the Court determines that LVRP is not, these arguments are moot and the Judgment provides an express method for intervention and there is no colorable argument that invoking Section 20.9 is an impermissible collateral attack.

## III. CONCLUSION

For the foregoing reasons, non-party Long Valley Road, L.P. respectfully requests that the Court grant its Motion for Leave to Intervene in Judgment. No

DATED: October 25, 2018


Andrew W. Homer
Attorneys for Defendant Long Valley Road, L.P.

## PROOF OF SERVICE

## STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 10100 Santa Monica Boulevard, Twenty-Third Floor, Los Angeles, California 90067-4008.

On October 25, 2018 I served true copies of the following document(s) described as:

- LONG VALLEY ROAD, L.P.'S REPLY IN SUPPORT OF MOTION TO INTERVENE IN JUDGMENT
on the interested parties in this action as by placing the true copy:
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.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and 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 25, 2018, at Los Angeles, California.


## Exhibit 17

# SUPERIOR COURT OF CALIFORNIA 

 COUNTY OF LOS ANGELES
## ANTELOPE VALLEY GROUNDWATER CASES

Included Consolidated Actions:
Los Angeles County Waterworks District No. 40 v. Diamond Farming Co.
Superior Court of California
County of Los Angeles, Case No. BC 325201
Los Angeles County Waterworks District No. $40 \mathrm{v} \cdot$ - Diamond Farming Co.
Superior Court of California, County of Kem, Case No. S-1500-CV-254-348

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 344668

Rebecca Lee Willis v. Los Angeles County Waterworks District No. 40
Superior Court of California, County of Los
Angeles, Case No. BC 364553
Richard A. Wood v. Los Angeles County
Waterworks District No. 40
Superior Court of California, County of Los
Angeles, Case No. BC 391869

# This Document Pertains to Add-On Case: 

Little Rock Sand and Gravel, Inc., a California corporation v. Granite Construction Company Superior Court of California
County of Los Angeles, Case No. MC026932

The above-entitled matter came on regularly for hearing on November 1, 2018 at 9:00 a.m., the Honorable Jack Komar (Ret.) presiding, with all counsel appearing by CourtCall and appearances as stated in the record. The Court, having read and considered the supporting and opposing papers, and having heard and considered the arguments of counsel, and good cause appearing therefore, makes the following order:

1. The Motion is denied in its entirety.
2. Long Valley Road, L.P.'s status as a Small Pumper Class Member subject to the terms of the Judgment is hereby confirmed.
3. Long Valley Road, L.P. shall comply with the terms of the Judgment and the rules approved by the Court.

## SO ORDERED.

Dated: November 1, 2018


## 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 November 9, 2018, I served the foregoing document described as ORDER DENYING LONG BVALLEY ROAD, L.P.'S MOTION FOR LEAVE TO INTERVENE IN
JUDGMENT 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 November 9, 2018, at Santa Barbara, California.


## Exhibit 18

JEFFREY V. DUNN, Bar No. 131926
jeffrey.dunn@bbklaw.com
BEST BEST \& KRIEGER LLP
18101 Von Karman Avenue
Suite 1000
Irvine, California 92612
Telephone: (949) 263-2600
Facsimile: (949) 260-0972
Attorneys for Cross-Complainant:
LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40
Exempt from Filing Fees Pursuant to Government Code Section 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES

## ANTELOPE VALLEY GROUNDWATER CASES

Included Actions:
Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., Superior Court of California, County of Los Angeles, Case No. BC 325201;

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;

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, Case Nos. RIC 353 840, RIC 344 436, RIC 344668

Rebecca Lee Willis v. Los Angeles County Waterworks District No. 40, et al., Superior Court of California, County of Los Angeles, Case No. BC364533

Richard Wood v. Los Angeles County Waterworks District No. 40, et al., Superior Court of California, County of Los Angeles, Case No. BC391869 Coordination Proceeding Special Title (Rule 1550(b))

I, Kevin Berg, declare as follows:

1. I am the Chief Financial Officer and General Manager of PrintCom, Inc. dba Minuteman Press - Panorama City ("MMP"). I am also the co-owner and co-founder of MMP. I have personal knowledge of the matters contained in this declaration, and if called on to do so, I could and would testify competently thereto.
2. In or around 2009, MMP was retained in the above-captioned coordinated proceeding (the "Antelope Valley Groundwater Cases") by the law firm, Best Best \& Krieger, LLP ("BB\&K"), to print and mail notice of a "Small Pumper" Class Action. I submit this declaration in order to provide the Court and the parties to the Antelope Valley Groundwater Cases with information regarding the dissemination of the Notice of Class Action for the "Small Pumper" Class Action (the "Notice").
3. In 2009, BB\&K provided MMP with an Excel spreadsheet containing data records for approximately 9,884 potential Small Pumper Class Members, which included potential class member names and addresses. MMP processed the spreadsheet data for address correction and CASS (Coding Accuracy Support System) to ensure that the name and address data are in a deliverable format for the United States Postal Service. MMP identified approximately 166 potential class members for whom no mailing addresses were provided. Attached as Exhibit $\mathbf{A}$ is a true and correct copy of the mailing list MMP used to mail the Notice, including the approximately 166 entries for which no address was provided ("List").
4. BB\&K also provided MMP with a draft Notice. MMP formatted the Notice for mailing purposes. Attached as Exhibit B is a true and correct copy of the form Notice MMP formatted and used for mailing. The Notice consists of the "Notice of Class Action for the 'Small Pumper' Class Action," a "Small Pumper Class Action Response Form," and a prepaid return envelope for the potential class members to return the response form.
5. Under my direction, MMP caused the Notice to be printed and posted for firstclass mail, postage prepaid, and delivered to a U.S. Post Office for mailing to each individual/entity identified in the List with a mailing address on or about July 9, 2009.


## EXHIBIT A






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## EXHIBIT B

case and advise you how you can protect your rights. You have been sent this Notice because as a pro the case.
If you remain in the Class:

- You will be bound by the decision in the case, whether favorable or unfavorable.
- Plaintiff Wood and his attorneys will act as your representatives in this case, and you will not
personally be obligated to pay any fees or costs out of your pocket.
- You may, but need not, hire your own lawyer at your own expense to represent you.
If you exclude your parcel(s) from the Class:
- Your parcel(s) will not be bound by any decision that affects the Class.
But you (or your parcel) may be added to the lawsuit as an individual defendant, and you may
have to represent yourself or hire a lawyer to represent you.
ARE YOU A MEMBER OF THE CLASS?
You have been designated as a possible class member because records show that you may own improved property in the Antelope Valley. The class includes all private (i.e., non-governmental) landowners within the
Antelope Valley Groundwater Basin that have pumped groundwater on their property at any time since 1946, with certain exceptions set out below.
You are NOT in the Class if you fall within one of the categories set forth below. BUTYOUR RIGHTS MAY BE AFFECTED UNLESS YOU RETURN THE ATTACHED RESPONSE FORM AND MAKE CLEAR THAT YOU ARE NOT IN THE CLASS. HENCE, IT IS IMPORTANT THAT YOU RETURN THE RESPONSE FORM AS PROMPTLY AS POSSIBLE, EVEN IF YOU ARE NOT A CLASS MEMBER.
YOU ARE NOT IN THE CLASS WITH RESPECT TO ANY GIVEN PARCEL OF PROPERTY IF THAT
PARCEL FALLS WITHIN ANY OF THE FOLLOWING CATEGORIES:
You have pumped 25 acre-feet or more of groundwater for use on a that parcel in any calendar year since 1946; or

2. You are a shareholder in a mutual water company in the Antelope Valley; or
You are already a party to this litigation (but, in that event, you may elect to join the Class).

## WHAT IS THE CASE ABOUT?

Under California law, property owners have a right to pump and use groundwater (water underneath the surface) on their land. In this case, however, the naturally available supply of water in the Basin may not be adequate to satisfy everyone who wants to use that water. Plaintiff Richard Wood brought this action to protect his compensation for any wrongful taking of their property rights. Mr. Wood claims that he and other landowners have water rights which are superior to the rights of certain public water suppliers to use that water. The public water suppliers claim that their historical pumping has given them superior water rights. If the public water suppliers win, your rights to use the groundwater under your property may be cut back. The Court has not yet ruled on these WHAT DO YOU NEED TO DO?
 internet, by September 9,2009 . The instructions for completing this form are below. All persons who
receive this Notice should respond, so that the parties and Court will know whether you are a class member or not.
If you are a Class Member, you have the right to remain in the Class or exclude yourself from the Class.
Class Members are defined to include all private (i.e., non-governmental) landowners within the Antelope Valley Class Members are defined to include all private (i.e., non-governmental) landowners within the Antelope Valley
Groundwater Basin that have pumped groundwater on a given parcel of property at any time since 1946, and who does not fall within any of the exclusions set forth above. Class Members should complete and return the attached response form.

UOHN Q. LONGNAME]
[12345 ANYWHERE STREET]
[ANYCITY, CALIFORNIA 98765$]$

## SMALL PUMPER CLASS ACTION RESPONSE FORM

Please complete the response form on the website for the Small Pumper Class at http://www.avgroundwater.com/smallpumper/ResponseForm.cfm by September 9, 2009. Alternatively, you may complete and return this response form by mail no later than September 9, 2009 to the following address:

Antelope Valley Groundwater Litigation
P.O. BOX 12013

Riverside, CA 92502-9839

## PLEASE COMPLETE AND SUBMIT A SEPARATE FORM FOR EACH SEPARATE PARCEL OF PROPERTY YOU OWN WITHIN THE ANTELOPE VALLEY IN ORDER TO FULLY PROTECT YOUR RIGHTS.

PLEASE CHECK THE APPROPRIATE BOXES BELOW AND SUBMIT THIS FORM AS SOON AS POSSIBLE AND IN ANY EVENT BEFORE September 9, 2009. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT YOUR COUNSEL OR VISIT THE FOLLOWING WEB SITE, WHICH HAS INSTRUCTIONS ON HOW YOU SHOULD COMPLETE THIS FORM: http://www. avgroundwater.com/smallpumper/FAQ.cfm PLEASE CHECK ONLY ONE BOX FOR EACH ITEM. PLEASE THEN SUBMIT THE FORM ON-LINE, OR SIGN, FOLD, AND RETURN THE FORM BY MAIL.

1. ___ PLEASE CHECK THIS BOX IF YOU NO LONGER OWN PROPERTY IN THE ANTELOPE VALLEY

IF YOU CHECKED BOX 1, PLEASE PROVIDE THE CONTACT INFORMATION REQUESTED BELOW. THEN, SIGN AND DATE BELOW AND RETURN THIS FORM. OTHERWISE, PLEASE COMPLETE THE REMAINDER OF THIS FORM
2. I PRESENTLY PUMP GROUNDWATER ON THIS PARCEL OF PROPERTY: YES $\qquad$ NO $\qquad$
3. AT SOME TIME DURING THE PERIOD OF 1946 TO 2009, I, OR MY PREDECESSORS IN INTEREST, HAVE PUMPED ANY GROUNDWATER ON THIS PARCEL OF PROPERTY: YES $\qquad$ NO $\qquad$
4. I HAVE PUMPED MORE THAN 25 ACRE-FEET (8.1 MILLION GALLONS) ON THIS PARCEL OF PROPERTY IN ANY CALENDAR YEAR SINCE 1946: YES $\qquad$ NO $\qquad$
5. PLEASE SELECT ONE OF THE FOLLOWING TWO OPTIONS, IF APPLICABLE:
A. I WANT TO EXCLUDE MYSELF FROM THE CLASS $\qquad$
B. I AM A PARTY BUT WISH TO JOIN THE CLASS. I UNDERSTAND THAT BY JOINING THE CLASS I MAY BE GIVING UP THE RIGHTS I OTHERWISE WOULD HAVE TO CONTROL THE POSITIONS TAKEN ON MY BEHALF IN THIS LITIGATION. $\qquad$ _.
(CONTINUED ON REVERSE)

## ADDRESS OF YOUR PARCEL:

ASSESSOR'S PARCEL NUMBER OF YOUR PROPERTY:

THE ABOVE PARCEL TOTALS APPROXIMATELY $\qquad$ ACRES.

I CURRENTLY PUMP APPROXIMATELY $\qquad$ ACRE FEET PER YEAR. (CONVERSION: 1 ACRE-FOOT OF WATER EQUALS 325,850 GALLONS)

I DON'T CURRENTLY PUMP GROUNDWATER ON THIS PARCEL OF PROPERTY, BUT GROUNDWATER WAS LAST PUMPED ON THIS PARCEL BY ME OR MY PREDECESSORS IN OR ABOUT $\qquad$ (YEAR).

IF THERE IS MORE THAN ONE WELL ON THIS PARCEL OF PROPERTY, PLEASE INDICATE THE TOTAL NUMBER OF WELLS:

FOR EACH WELL ON THIS PARCEL OF PROPERTY THAT HAS PRODUCED WATER SINCE 1946, PLEASE PROVIDE THE WELL'S PUMPING CAPACITY IN GALLONS PER MINUTE OR THE PUMP'S HORSEPOWER RATING:

FOR EACH WELL ON THIS PARCEL OF PROPERTY THAT HAS PRODUCED WATER SINCE 1946, DO YOU HAVE DOCUMENTATION OF ITS HISTORICAL PUMPING AMOUNT (SUCH AS WRITTEN RECORDS OF FLOW RATE AND ANNUAL USAGE, FLOW METER RECORDS, OR ELECTRICAL RECORDS FOR THE WELL'S ELECTRICAL SERVICE CONNECTION)?:

IS THERE CURRENTLY OR HAS THERE BEEN AT ANY TIME SINCE 1946 IRRIGATED AGRICULTURE ON THIS PARCEL OF PROPERTY? IF SO, HOW MANY ACRES AND WHAT CROP(S)?
$\qquad$

PRINT YOUR NAME: $\qquad$

SIGNATURE:

MAILING ADDRESS: $\qquad$
CITY, STATE, ZIP CODE: $\qquad$
TELEPHONE NUMBER: $\qquad$

EMAIL ADDRESS:

## MAKE SURE TO FILL OUT A SEPARATE FORM FOR EACH PARCEL OF PROPERTYYOU OWN IN THE ANTELOPE VALLEY.

You may submit this form electronically at the following website:
http://www.avgroundwater.com/smallpumper/ResponseForm.cfm




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| BUSINESS REPLY MAM |  |  |
| :---: | :---: | :---: |
| FIRST-CLASS MAIL | PERMIT NO. 4 | RIVERSIDE, CA |

ANTELOPE VALLEY GROUNDWATER LITIGATION
PO BOX 12013
RIVERSIDE CA $92502-9839$

## PROOF OF SERVICE

I, Houda Matar, declare:
I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 300 South Grand Avenue, 25th Floor, Los Angeles, California 90071. On October 11, 2022, I served a copy of the within documents):

## DECLARATION OF KEVIN BERG REGARDING DISSEMINATION OF SMALL PUMPER CLASS ACTION NOTICE

BY ELECTRONIC TRANSMISSION. I caused such documents) to be electronically served, via Antelope Valley Groundwater portal, to all parties appearing on the www.scefiling.org electronic service list for 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 Houda.matar@bbklaw.com.
by personally delivering the documents) listed above to the persons) at the addresses) set forth below.
by transmitting via e-mail or electronic transmission the documents) listed above to the persons) at the e-mail addresses) set forth below.

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

Executed on October 11, 2022, at Los Angeles, California.


Honda Matar


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[^1]:    IF ADOITIONAL SPACE IS NEEDED LSE NEXT CCNSECUTIVELY NUMGERED FCRM

[^2]:    THE COMPLETED WELL MUST BE PROPERLY＇DISINFECTED AND MEET BACTENIOIOGICAL STANDARDS PRIOR TO LSE

[^3]:    $\square$
    

[^4]:    PLEASE DO NOT CALL OR WRITE THE COURT OR CLERK'S OFFICE. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT YOUR OWN COUNSEL, VISIT THE WEB SITES LISTED ABOVE, OR WRITE TO CLASS COUNSEL AT THE ADDRESS ABOVE.

[^5]:    Donsigy Prom
    374() 4 SIERRA HWY, PALMDALE CA 93550
    'Felephone (661)267-4112/Fax (661)947-4870

[^6]:    Printed on 4/20/2015 at 8:42:34AM

[^7]:    ${ }^{1}$ Unless otherwise specified, all defined terms have the meaning set forth in the Judgment (Dkt. 11020).
    ${ }^{2}$ The Stipulating Parties that joined in this Opposition are: (1) Grimway Enterprises, Inc., (2) Diamond Farming Company, LLC; (3) Crystal Organic Farms, LLC; (4) Lapis Land Company, LLC; (5) Granite Construction Company; (6) Tejon Ranchcorp; (7) Bolthouse Properties LLC; (8) Bolthouse Farms, Inc.; (9) City of Los Angeles and Los Angeles World Airports; and (10) County Sanitation Districts of Los Angeles County Nos. 14 and 20.
    ${ }^{3}$ The Public Water Suppliers that joined in this Opposition are: (1) Los Angeles County Waterworks District No. 40; (2) City of Lancaster; (3) Rosamond Community Services District; (4) Littlerock Creek Irrigation District; (5) Palmdale Irrigation District; and (6) Quartz Hill Water District.
    ${ }^{4}$ A copy of the 2009 Notice is attached to the Watermaster's October 20, 2018 Notice of Errata (Dkt. 128165) as Exhibit B, and it is discussed in the Declaration of Jeffrey V. Dunn in support of the Watermaster Opposition (Dkt. 128160 at 17, $9 \mathbb{T} 2,3$, and 3 [sic]), but it is not included in the Watermaster's Request for Judicial Notice.

[^8]:    and future technological, social, institutional, and economic options in order to maximize reasonable and beneficial water use in the Basin.").

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