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Attorneys for Defendant  
GARY VAN DAM

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

Coordination Proceeding  
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER  
CASES

Including Consolidated Actions:

Los Angeles County Waterworks District No. 40  
v. Diamond Farming Co.; Superior Court of  
California, County of Los Angeles, Case No.  
BC325201

Los Angeles County Waterworks District No. 40  
v. Diamond Farming Co.; Superior Court of  
California, County of Kern, Case No. S-1500-  
CV-254348

Wm. Bolthouse Farms, Inc. v. City of Lancaster;  
Diamond Farming Co. v. City of Lancaster;  
Diamon Farming Co. v. Palmdale Water Dist.;  
Superior Court of California, County of  
Riverside, consolidated actions, Case nos. RIC  
353840, RIC 344436, RIC 34468;

AND RELATED ACTIONS.

Judicial Council Coordination Proceeding  
No. 44008

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

Assigned to the Honorable Jack Komar,  
Judge to the Santa Clara Superior Court  
Department 17C

**DECLARATION OF ROBERT J.  
SAPERSTEIN IN SUPPORT OF GARY  
VAN DAM'S OPPOSITION TO  
MOTION TO APPROVE TRANSFER  
OF WATER RIGHTS TO CRAIG VAN  
DAM**

*[Filed concurrently with Opposition to  
Motion to Approve Transfer of Water  
Rights]*

Date: September 8, 2023  
Time: 9:00 a.m.  
Dept.: CourtCall

1 I, Robert J. Saperstein, declare:

2 1. I am an attorney duly admitted to practice before all of the courts of this State, and  
3 am a shareholder in the law firm of Brownstein Hyatt Farber Schreck, LLP, counsel of record for  
4 Gary Van Dam in the above-captioned matter. The statements herein are based on my own  
5 personal knowledge and are true and correct. If called to testify to their accuracy, I could and  
6 would do so. I make this declaration in support of Gary Van Dam's Opposition to Motion to  
7 Approve Transfer of Water Rights to Craig Van Dam ("Motion").

8 2. Attached hereto as **Exhibit 1** is a true and correct copy of correspondence I sent,  
9 on behalf of my client Gary Van Dam, to Craig Parton, Antelope Valley Groundwater Basin  
10 Watermaster General Counsel, on June 27, 2023. This correspondence attaches declarations  
11 signed under penalty of perjury from Mr. Gary Van Dam and Mrs. Gertrude Van Dam.

12 3. Attached hereto as **Exhibit 2** is a true and correct copy of a compilation of  
13 excerpts from the Judgment entered herein on December 23, 2015. Specifically, the excerpts  
14 which are compiled in Exhibit 2 are: (1) section 6.5 of Exhibit A [Stipulated Judgment]; (2)  
15 section 18.4.2 of Exhibit A [Stipulated Judgment]; (3) section 20.3 of Exhibit A [Stipulated  
16 Judgment]; and (4) page 3 of Exhibit 4 to Exhibit A [Stipulated Judgment], showing the relevant  
17 Pre-Rampdown Production and Overlying Production Rights. The Judgment in its entirety  
18 including all attachments is publicly available, last accessed August 24, 2023, at:  
19 <https://www.avwatermaster.org/document/document.jsp?documentId=119077>.

20 4. Attached hereto as **Exhibit 3** is a true and correct copy of the Antelope Valley  
21 Watermaster's approved minutes for the meeting held by its Board on June 28, 2023. These  
22 minutes are also publicly-available on the Antelope Valley Watermaster's website, last accessed  
23 August 24, 2023, at: [https://avwatermaster.net/wp-content/uploads/2023/07/2023-06-28-AVWM-](https://avwatermaster.net/wp-content/uploads/2023/07/2023-06-28-AVWM-BoD-Minutes.pdf)  
24 [BoD-Minutes.pdf](https://avwatermaster.net/wp-content/uploads/2023/07/2023-06-28-AVWM-BoD-Minutes.pdf).

25 5. Attached hereto as **Exhibit 4** is a true and correct copy of a compilation of  
26 excerpts from the Antelope Valley Watermaster's Rules and Regulations adopted June 24, 2020.  
27 Specifically, the excerpts which are compiled in Exhibit 4 are: (1) section 2.c [Definitions]; and  
28 (2) section 4.vi [Voting]. These Rules and Regulations are also publicly-available on the Antelope

1 Valley Watermaster's website, last accessed August 24, 2023, at: [https://avwatermaster.net/wp-](https://avwatermaster.net/wp-content/uploads/2023/01/Rules-and-Regulations-ADOPTED-June-24-20-to-post-on-website.pdf)  
2 [content/uploads/2023/01/Rules-and-Regulations-ADOPTED-June-24-20-to-post-on-website.pdf](https://avwatermaster.net/wp-content/uploads/2023/01/Rules-and-Regulations-ADOPTED-June-24-20-to-post-on-website.pdf).

3 6. Attached hereto as **Exhibit 5** is a true and correct copy of legal notice served by  
4 Antelope Valley Groundwater Basin Watermaster on August 24, 2023. This communication  
5 provides notice to all parties that Watermaster intends to consider modifications to its unanimous  
6 voting requirements at the Watermaster meeting scheduled for September 27, 2023.

7  
8 I declare under penalty of perjury under the laws of the State of California that the foregoing  
9 is true and correct. Executed this 25<sup>th</sup> day of August, 2023.



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11 ROBERT J. SAPERSTEIN  
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# **EXHIBIT 1**

June 27, 2023

Robert J. Saperstein  
Attorney at Law  
805.882.1417 direct  
rsaperstein@bhfs.com

## VIA E-MAIL

Craig A. Parton, Esq.  
Antelope Valley Groundwater Basin Watermaster, General Counsel  
Price, Postel & Parma LLP  
200 East Carrillo Street, Suite 400  
Santa Barbara, CA 93101

RE: Opposition to Proposed Transfer of Production Rights from High Desert Dairy LLC to Craig Van Dam

Dear Mr. Parton:

This letter is provided to the Antelope Valley Groundwater Basin Watermaster, on behalf of Mr. Gary Van Dam, in opposition to the proposed transfer of Overlying Production Rights from High Desert Dairy LLC ("Dairy") to Craig Van Dam. The water rights held by the Dairy (an affordable local groundwater supply) are critical to the ongoing economic stability of the Dairy. As a result of the Antelope Valley groundwater rights judgment and prior water right transfers, the Dairy has already modified its operations to accommodate an 80% reduction in its historic groundwater use. Any further loss of groundwater will likely bankrupt the Dairy.

In proposing to transfer water rights away from the Dairy, Mr. Craig Van Dam is breaching his fiduciary duty to the Dairy. While this conflict among the owners of the Dairy (members of the LLC) is not a Watermaster problem to resolve, as an attaché to the court Watermaster does have an obligation to consider the propriety of this proposed transfer and the balance of harms to the parties. On this basis alone, Watermaster should preserve the existing status quo by denying the transfer and allow the conflicting parties time to deal with this conflict in the proper forum.

### The Dairy Has Been in Operation for Almost a Century

The Van Dam family has owned and operated its dairy businesses in the Antelope Valley for almost a century.<sup>1</sup> The Antelope Valley offers a unique setting in southern California in that the business operations includes both the land to irrigate and produce feed for the cattle (and other livestock), and the dairy operations itself. The Dairy is the only operational dairy in Los Angeles County. Production of

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<sup>1</sup> Attached to this letter are declarations, signed under penalty of perjury, from Mr. Gary Van Dam and Ms. Gertrude Van Dam. These declarations provide the support for the factual background contained in this letter.

feedstock on the Dairy property is about 1/10<sup>th</sup> the cost of buying feed from a third-party. This cost advantage is crucial to the economic stability of the Dairy in this unique southern California location.

In the early 1900's, the Van Dam dairy business was established as a family partnership. The Dairy LLC was first established as a LLC in 2016, as a part of the distribution of certain family assets after the death of the family patriarch, Mr. Delmar Van Dam. Ms. Gertrude Van Dam (Gary and Craig Van Dam's mother) was initially the sole member of the Dairy LLC and owner of the Dairy.

Again, as a part of the distribution of certain family assets, the Dairy ownership quickly changed twice. Ms. Van Dam included two of her sons, Craig and Dean Van Dam, as co-owners in 2016. Then in 2017, Ms. Van Dam transferred her interest and authority as everyday manager to Mr. Gary Van Dam. As Ms. Van Dam notes in her declaration, there was an error in the distribution of ownership in the LLC – her intention was that first she, then her successor Gary Van Dam, would own 50% of Dairy, and each of the two other brothers would own 25%. That error has not yet been corrected.

In any event, Mr. Gary Van Dam has been the day-to-day manager and operator of the Dairy for about 10 years. Neither Craig Van Dam, nor Dean Van Dam, the two other brothers and part owners of the Dairy, have taken any meaningful responsibility for the Dairy operations since the death of their father, Delmar Van Dam. Dean Van Dam lives out of California and has other businesses of his own. Craig Van Dam lives in California and owns or operates other businesses, some of which compete with the Dairy.

### **Every Drop of Groundwater is Essential to the Dairy**

For decades, the Dairy used almost 10,000 acre-feet per year of groundwater to generate feed for the Dairy operations and related businesses. The Antelope Valley groundwater rights judgment confirms the Pre-Rampdown Production at the Dairy was 9,931.5 acre-feet per year. To accommodate the required reduction associated with the groundwater rights judgment, the Dairy was granted an Overlying Production Right of 3,215 acre-feet – a 68% reduction.

In 2020, an additional 1,398 acre-feet of water rights was transferred away from the Dairy so that it now holds only 1,817 acre-feet of its original 9,931.5 acre-feet of historic production. That amounts an 80% reduction in groundwater rights.

The Dairy relies on groundwater to generate feed for the Dairy cattle. Feed generated from on-site farming is about 10 times less expensive than purchasing feed from third parties. Because of the other higher costs of operating the Dairy in southern California, maintaining this lower cost feed source is essential to sustain the economics of the Dairy. Having to purchase a material portion of the livestock feed from third parties will likely bankrupt the Dairy.

### **The Proposed Transfer is a Breach of Fiduciary Duty**

Craig and Dean have repeatedly shown a complete disregard of their fiduciary obligations to the Dairy. The three brothers, Gary, Craig, and Dean Van Dam are the current members of the Dairy LLC. Only Gary Van Dam is involved in operating the business since their father's death. Nonetheless, Craig and Dean have a legal responsibility, as members of the Dairy LLC, to protect and support the ongoing Dairy business operations. This proposed groundwater transfer is the most recent of Craig and Dean's repeatedly actions that put their own self-interest above the Dairy, in violation of their legal responsibilities.

Members of a limited liability company (LLC) owe the LLC duties of loyalty and care, referred to as fiduciary duties. (Corp. Code § 17704.09.) LLC members must be able to trust one-another to promote the interest of the LLC above their own or some other outside interest. Members are supposed to put the success of and benefits to the LLC above any personal or individual advantages. In showing loyalty to the LLC, members must act honestly in any dealings with the LLC and avoid any conflicts of interest between the LLC's objectives and their own personal goals. (*Feresi v. The Livery, LLC* 232 Cal.App.4th 419, 425 (2014) (members owe the LLC the utmost loyalty and the highest good faith, such that the person owing the duty may not obtain any advantage by even the slightest misrepresentation or concealment).) As part of the duty of loyalty, a person may not take advantage of any LLC business opportunities, amass secret profits from the LLC's commercial activities, or compete directly with the LLC. Every LLC member owes a duty of good faith and fair dealing to the LLC itself and the other members. (*Berg & Berg Enterprises, LLC v. Boyle* 178 Cal.App.4th 1020 (2009).)

Breach of that fiduciary duty – that is conduct that harms the LLC or the membership interests – subjects the bad-acting member to a wide range of liability, including punitive damages. (See e.g., *Feresi, supra*, 232 Cal.App.4th 419.) A member can also be personally liable for any tortious conduct that harms the LLC or its membership interests (see *People v. Pacific Landmark* 129 Cal. App. 4th 1203 (2005), including conversion (see *Holistic Supplements, LLC v. Christopher Stark* 61 Cal.App.5th 530 (2021). Third parties who conspire or knowingly enable a bad acting member may also be liable for damages to the LLC. (*American Master Lease, LLC v. Idanta Partners, Ltd.* 225 Cal.App.4th 1451 (2014).)

### **The Sanitation District Contract Breach of Fiduciary Duty**

In 2017 Craig Van Dam and Mr. Steven Derryberry conspired to take from the Dairy a contract with Los Angeles County Sanitation District #14 ("District 14") that would have given the Dairy access to additional low-cost feed to support the Dairy operations. District 14 solicited public bids to allow a local farmer to apply District 14 recycled water on District 14 property to produce feed for local use. Gary Van Dam had done all the work necessary for the Dairy to be the successful bidder and expected

Steven Derryberry, then legal counsel to the Dairy, to complete the contract between the Dairy and District 14.

Without Gary's knowledge, Derryberry and Craig Van Dam created a competing LLC, incorporated as "High Desert Dairy – Van Dam, LLC," with Craig Van Dam as its owner. (See California Secretary of State information page for High Desert Dairy – Van Dam, LLC, attached to this letter.) Then Derryberry and Craig Van Dam then submitted the completed contract so that this new LLC was the contracting entity with District 14. As a part of the contracting process, the Dairy purchased certain equipment from District 14; Craig Van Dam took control of that equipment from the Dairy to farm the District 14 property. To this day, Craig Van Dam continues to farm the District 14 property, selling the feed both within and outside the Antelope Valley. The Dairy is forced to purchase feed grown on the District 14 property at full market price; not the arrangement the Dairy contemplated in the bid package Gary Van Dam submitted to District 14.

### **The 2020 Dairy Property Distribution Breach of Fiduciary Duty**

The attempt to take groundwater rights from the Dairy is a part of a larger attempt by Craig and Dean Van Dam to pull critical assets from the Dairy for their own personal benefit. As Craig Van Dam attorney notes in his water rights transfer submission, the members of the Dairy did meet on February 4, 2020 at the offices of Genske & Mulder (accountants). That letter does not fully describe the meeting.

Craig and Dean Van Dam had clearly prepared for the meeting well in advance without any discussion with Gary. Gary was given notice of the meeting the afternoon of February 3, 2020, and was simply told to show up at the accountant's offices the next day. He was told the brothers needed to discuss the Dairy; there was no mention of any transfer of assets or capital distributions.

At the meeting, Gary was shown a comprehensive spreadsheet with all the assets, accounts receivables and accounts payable for the Dairy. Again, Gary had never seen these materials before the meeting. After a somewhat heated discussion, Gary was shown several property transfer documents, clearly prepared before the meeting. Craig and Dean Van Dam then proceeded to sign documents that transferred several large Dairy assets to themselves individually. The accountant's notary was conveniently present to witness the asset transfers.

To be clear, there was no agreement among all the LLC members to any asset or capital distribution from the Dairy. Craig and Dean Van Dam did not consider in any way the impact of their actions on the Dairy; they simply bullied their way into taking personal advantage to the extreme detriment of the Dairy. Gary Van Dam was left to manage his way through the other brothers' pillage of the Dairy assets.



### **Watermaster Has No Authority to Seek Indemnification from Gary Van Dam**

Setting aside the propriety of asking Gary Van Dam, the injured party, to indemnify Watermaster with respect to this proposed water right transfer, Watermaster has no authority to request indemnification from Gary Van Dam as a party opposing the proposed transfer. Watermaster may only act in accordance with its grant of authority under the water rights judgment and Watermaster Rules and Regulations. That authority only allows Watermaster to seek indemnification from the party requesting the transfer.

In particular, Watermaster Rules and Regulations (dated 6/20/20), section 13.f.(b) provides that “Watermaster may require a **person, Party or Parties requesting a transfer** to indemnify the Watermaster, as a condition for approving the transfer, for any costs and legal fees incurred by the Watermaster resulting from a challenge to that person, Party or Parties’ legal authority to entered into such transfer, or to a person’s authority to execute a Transfer Request Form on behalf of a Party thereto.”

The indemnification provision is intended to protect Watermaster from the exact circumstance presented with this transfer; that is, the legal liability associated with approving a transfer that is improperly presented to Watermaster.

Obviously, Gary Van Dam is opposing the transfer, not requesting it.

### **Watermaster Should Preserve the Status Quo and Deny the Transfer**

Watermaster is not in a position to judge or litigate the complex business issues surrounding this proposed transfer; these matters will either be resolved privately or in a separate, proper legal forum. However, Watermaster must make a threshold decision to either: a) deny the transfer, thus preserving the status quo, or b) approve the transfer and likely push the Dairy into insolvency.

Much like a hearing on a restraining order or preliminary injunction, Watermaster should consider the information provided to it and a) consider the likelihood that Gary Van Dam will prevail on the merits of his claim that Craig Van Dam’s transfer request constitutes a breach of fiduciary duty, and b) the harm the Dairy is likely to suffer if the transfer is approved. (*Church of Christ in Hollywood v. Superior Court* 99 Cal.App.4<sup>th</sup> 1244, 1257 (2002).) (If Watermaster needs more information, it can postpone its decision and request the parties provide more complete briefing on these issues.)

Craig Van Dam’s request strips critical assets from the Dairy without regard to the financial impacts to the Dairy. His request is part of a larger selfish effort to accumulate personal wealth at the expense of the Dairy. The transferred water right will either be sold to a third-party for some new use, or Craig Van Dam will exercise the water right for his personal benefit – all prospective uses.

Craig A. Parton, Esq.

June 27, 2023

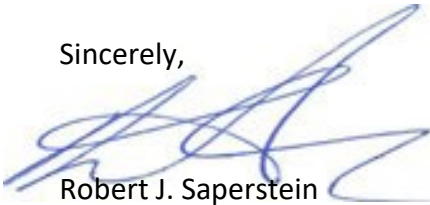
Page 6

In contrast, the Dairy is using the groundwater now for its essential business purposes. Loss of this lower-cost water supply, generating affordable feed for the Dairy business, will likely destroy the business.

The choice is clear – the status quo should be preserved.

Mr. Gary Van Dam appreciates Watermaster's consideration of these materials and respectfully requests Watermaster deny Craig Van Dam's transfer request.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Saperstein", with a stylized flourish at the end.

Robert J. Saperstein

Enclosures

**DECLARATION OF GERTRUDE J. VAN DAM**

I, Gertrude J. Van Dam, declare and state:

1. I have personal knowledge of the facts stated herein and, if called and sworn as a witness, could and would testify competently hereto.
2. I submit this declaration in opposition to the request to transfer 500 acre-feet of Overlying Production Right from the Dairy to Craig Van Dam.
3. My sons are Craig, Dean and Gary Van Dam. For many years prior and following my husband's death, I was the trustee of the Delmar D. and Gertrude J. Van Dam Trust – 1996.
4. My husband and I owned and operated what is now the High Desert Dairy, LLC ("Dairy LLC"), previously under a family partnership and associated entities. Those business operations were in existence decades prior to the creation of the Dairy LLC.
5. Following my husband's death, the Dairy LLC was created to facilitate the distribution of certain trust assets.
6. When the Dairy LLC was first established as a business entity in 2016, I was its sole member.
7. Subsequently and as part of further distribution of trust assets, I had the Dairy LLC amended to include as its members, my sons, Craig and Dean Van Dam.
8. The Dairy LLC operating agreement made clear that I was the everyday manager of Dairy LLC.
9. In recognition of the actual personal investment in the Dairy LLC operations, on January 1, 2019, I assigned all my rights, title and interest to the Dairy LLC to my son Gary Van Dam. Upon that assignment, Gary Van Dam became the everyday manager of the Dairy LLC.
10. My expectation was that the Dairy LLC would remain the successful business my husband and I created, and Gary Van Dam would continue to operate as the important business it

is to the community.

11. I understand the importance of the ongoing access to use groundwater to grow feed for the Dairy LLC cattle.

12. The Dairy LLC has relied on local groundwater for decades, as is demonstrated by its 9,931.5 acre-feet Pre-Rampdown Production history. The Dairy LLC initially was scheduled to receive a 68% reduction in its groundwater right as a result of the basin water rights judgment. However that initial post-judgment right for the Dairy LLC was further reduced in 2020 because of the distribution of certain additional trust assets, leaving the Dairy LLC with only 1,817 acre-feet annual rights to pump groundwater. In that 2020 transfer, each of my three sons received 466 acre-feet of Overlying Production Rights.

13. I expected the entire remaining 1,817 acre-feet of rights to remain with the Dairy LLC. The access to local groundwater is crucial for the Dairy LLC to remain in-business.

14. When I transferred some of my membership interest in the Dairy LLC to Craig and Dean, I did so expecting the water rights would remain with the Dairy LLC. Also, at that same time when I transferred some of my membership interest in the Dairy LLC, I had instructed our legal counsel to provide Dean and Craig each with a 25% interest in the Dairy LLC. I was to retain a 50% interest in the Dairy LLC for subsequent transfer to Gary Van Dam. Dean and Craig Van Dam were given other assets, unrelated to the Dairy LLC, to balance the overall distribution of certain trust assets.

15. Our attorney did not follow my instructions, and instead granted Craig and Dean Van Dam each 33% interests in the Dairy LLC. Unfortunately, I did not catch this distribution error timely. Dean and Craig Van Dam were provided other family assets, along with an unintended larger interest in the Dairy LLC.

16. Again, it was not my intention that Dean and Craig Van Dam would each control 33% of the Dairy LLC membership interests. It certainly was not my intention that any further water rights would be transferred away from the Dairy LLC.

17. I understand that Craig Van Dam is now attempting to take groundwater rights away from the Dairy LLC. Doing so is not in the best interests of the Dairy LLC – no one should be allowed to take water away from the operations of the Dairy LLC, unless the intention is to terminate the business.

I declare under a penalty of perjury under the laws of the State of California that the  
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forgoing is true and correct, and that is declaration is executed this \_\_\_\_ day of June, 2023, at  
Brookings  
\_\_\_\_\_, Oregon.

DocuSigned by:  
*Gertrude Van Dam*  
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Gertrude J. Van Dam

## **DECLARATION OF GARY VAN DAM**

I, Gary Van Dam, declare and state:

1. I have personal knowledge of the facts stated herein and, if called and sworn as a witness, could and would testify competently hereto.

2. I submit this declaration in opposition to the request to transfer 500 acre-feet of Overlying Production Right from the Dairy to Craig Van Dam.

### **Background**

3. My family has been in the dairy business for three generations. We have owned and operated several dairies and related businesses in California over the past century. Our family has owned and operated dairy businesses in the Antelope Valley since the early 1900's.

4. The High Desert Dairy, LLC ("Dairy LLC") was established as a business entity in September 2016 to facilitate the distribution of a portion of the assets of the Delmar D. and Gertrude J. Van Dam Trust – 1996, after my father, Delmar's, death.

5. The Dairy LLC business operations had been ongoing for almost 100 years, as a family business, prior to the formation of the Dairy LLC.

6. Once established, the original sole member of the Dairy LLC was my mother, Gertrude Van Dam. Shortly after its creation, the Dairy LLC was modified so that the members were my two brothers, Craig Van Dam and Dean Van Dam, and my mother, Gertrude Van Dam.

7. On January 1, 2019, my mother assigned to me all her right, title and interest to the Dairy LLC.

8. Irrespective of my ownership interest, I have been the day-to-day manager and operator of the Dairy property for almost 10 years and I continue in that role today.

9. For over ten years, neither of my brothers have taken any responsibility for the ongoing operations of the Dairy LLC.

10. My brother Dean Van Dam lives out of California and has taken no responsibility for the operations of the Dairy LLC since about 10 years.

11. My brother Craig Van Dam operates several other dairy related businesses in California, including some that compete with the Dairy LLC. Craig has not participated in any meaningful way in the Dairy LLC operations for about 10 years.

### **Dairy LLC Water Resources**

12. The Dairy LLC operations (including the predecessor business entity(ies)) rely on groundwater produced from the Antelope Valley groundwater basin ("Basin") to irrigate land that generates the feed for the cattle. The Pre-Rampdown Production Right associated with the Dairy LLC operations was 9,931.5 acre-feet. To accommodate the required reduction in use associated with the Basin water rights judgment, the Dairy was assigned an Overlying Production Right of 3,215 acre-feet -- an almost 70% reduction in water availability.

13. Shortly after entry of the Basin water rights judgment, another 1,398 acre-feet of rights was transferred from the Dairy LLC, leaving the Dairy LLC with only 1,817 acre-feet to support its operations.

14. Needless to say, we have had to make major adjustments to the Dairy LLC operations to accommodate this reduction in water availability. For example, to the extent the Dairy LLC can no longer irrigate some of its land to grow feed for the cattle, we must purchase replacement feed from a third party. Ton for ton, purchasing feed is 10 times more costly to the Dairy LLC than growing it on our property.

15. Every drop of the 1,817 acre-feet of Overly Production Right, plus the use of the groundwater right I hold individually, is essential to the economic sustainability of the Dairy LLC. A loss of access to another 500 acre-feet will be devastating to the economics of the Dairy LLC, likely leading to insolvency.

### **Prior Conduct of Craig Van Dam Harmful to the Dairy LLC**

16. To mitigate the negative impacts of the reduced access to water resulting from the Basin water rights judgment, on behalf of the Dairy LLC, I arranged for a bid to be submitted to

the Los Angeles County Sanitation District #14 (“District #14”) to use recycled water to farm certain District #14 property. That contract would have allowed use of the resulting hay grown on the District #14 property for use in the Dairy LLC operations.

17. In 2017, I personally made a presentation to the District #14 Board of Directors on behalf of the Dairy LLC in support of the Dairy LLC obtaining this contract. I was informed that the District #14 would grant the Dairy LLC this contract based on my presentation and our bid package.

18. At that time, Mr. Steven Derryberry was serving as legal counsel to the Dairy LLC. I was unaware at the time of my presentation to District #14, but Mr. Derryberry, on behalf of my brother Craig Van Dam, created a competing entity to the Dairy LLC, called “High Desert Dairy – Van Dam LLC.” I believe this new LLC was created to intentionally confuse third parties with the pre-existing Dairy LLC.

19. I later discovered that either or both Craig Van Dam and Mr. Derryberry took advantage of my bid presented to District #14, made on behalf of the Dairy LLC, and replaced High Desert Dairy – Van Dam LLC as the contracting entity with District #14.

20. The Dairy LLC has received no benefit from this District #14 contract. Instead, my brother Craig Van Dam has farmed the property through the High Desert Dairy – Van Dam LLC and sold the hay to other entities within and outside the Antelope Valley.

21. Loss of access for the Dairy LLC to the hay produced on District #14 property has harmed the Dairy LLC operations.

### **Prior Conduct of Both Craig and Dean Van Dam Harmful to Dairy LLC**

22. On or about February 3, 2020, with less than 24-hours notice, my brothers Craig and Dean Van Dam, notified me that they arranged for a meeting of the members of the Dairy LLC, for the following day, February 4, 2020. The meeting was held at the offices of the Dairy LLC accountants, Genske, Mulder & Company, LLP, in Ontario, California. I was given no advance agenda or materials regarding the meeting. I was simply told to show up.

23. At the meeting, I was given a spreadsheet with a proposed distribution of assets of




the Dairy LLC. The meeting was contentious. I made clear to Dean and Craig that I did not agree to the proposed distribution in any way. Their capital distribution plan included provision for both Craig Van Dam to receive 500 acre-feet and Dean Van Dam to receive 300 acre-feet of groundwater rights held by the Dairy LLC. Among other objections, I made clear that the transfer of 800 acre-feet would devastate the Dairy LLC economic stability. Loss of that water supply would likely guarantee the bankruptcy of the Dairy LLC. I explained to both of them that they were not acting in the best interests of the Dairy LLC.

24. Over my objections, Dean and Craig voted to approve their pre-prepared allocation distribution plan.

25. If Watermaster approves Craig Van Dam's transfer request of 500 acre-feet, I expect Dean Van Dam will use the same argument – it is simply a distribution of capital – to pull another 300 acre-feet from the Dairy LLC. Neither Craig or Dean have any interest in the financial integrity of the Dairy LLC; they simply want whatever assets they can pull from the business despite the financial consequences on the business. The Dairy LLC would be left with 1,017 acre-feet – only 10% of its Pre-Rampdown Production.

26. I oppose the transfer of groundwater rights from the Dairy LLC to Craig Van Dam because of the substantial negative impacts on the Dairy LLC business. Craig appears to have no concern that this groundwater transfer from the Dairy LLC may destroy the dairy operations.

I declare under a penalty of perjury under the laws of the State of California that the forgoing is true and correct, and that is declaration is executed this 27<sup>th</sup> day of June, 2023, at Lancaster, California.

DocuSigned by:  
  
 CE862BCCEA804A6...  
 Gary Van Dam



The Open Database Of The Corporate World

Company name or numb

☒ Companies ☐ Officers

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## HIGH DESERT DAIRY- VAN DAM, LLC

Company Number

201721510124

Status

Active

Incorporation Date

28 July 2017 (almost 6 years ago)

Company Type

Limited Liability Company - CA

Jurisdiction

[California \(US\)](#)

Registered Address

- 7316 WEST AVENUE D-8
- LANCASTER
- 93536
- United States

Agent Name

CRAIG VAN DAM

Agent Address

7316 WEST AVENUE D-8, LANCASTER, CA, 93536

[Directors / Officers](#)

- [CRAIG VAN DAM](#), agent

Registry Page

<https://bizfileonline.sos.ca.gov/sear...>



### [Recent filings for HIGH DESERT DAIRY- VAN DAM, LLC](#)

17 Apr 2020

[SI-COMplete view](#)

10 Aug 2017

[SI-COMplete view](#)

28 Jul 2017

[REGISTRATION view](#)

**Source** California Secretary of State, <https://bizfileonline.sos.ca.gov/sear...>, 31 Oct 2022

update from registry

## Company Addresses

### [Mailing Address](#)

7316 WEST AVENUE D-8, LANCASTER, CA, 93536

## Latest Events

2017-07-28 - 2019-02-12

[Addition of officer R. STEVEN DERRYBERRY, agent](#)

2017-07-28 - 2020-09-21

[Addition of officer CRAIG VAN DAM, agent](#)

2020-09-21 - 2021-03-09

[Removal of officer R. STEVEN DERRYBERRY, agent](#)

[See all events](#)

## Corporate Grouping [User Contributed](#)

None known. [Add one now?](#)

[See all corporate groupings](#)

\* While we strive to keep this information correct and up-to-date, it is not the primary source, and the company registry ([see source](#), above) should always be referred to for definitive information

Data on this page last changed January 7 2023

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# **EXHIBIT 2**

1                   **6.4       Injunction Against Transportation From Basin.** Except upon further  
2 order of the Court, each and every Party, its officers, agents, employees, successors and assigns,  
3 is ENJOINED AND RESTRAINED from transporting Groundwater hereafter Produced from the  
4 Basin to areas outside the Basin except as provided for by the following. The United States may  
5 transport water Produced pursuant to its Federal Reserved Water Right to any portion of Edwards  
6 Air Force Base, whether or not the location of use is within the Basin. This injunction does not  
7 prevent Saint Andrew's Abbey, Inc., U.S. Borax and Tejon Ranchcorp/Tejon Ranch Company  
8 from conducting business operations on lands both inside and outside the Basin boundary, and  
9 transporting Groundwater Produced consistent with this Judgment for those operations and for  
10 use on those lands outside the Basin and within the watershed of the Basin as shown in Exhibit 9.  
11 This injunction also does not apply to any California Aqueduct protection dewatering Produced  
12 by the California Department of Water Resources. This injunction does not apply to the recovery  
13 and use of stored Imported Water by any Party that stores Imported Water in the Basin pursuant  
14 to Paragraph 14 of this Judgment.

15                   **6.4.1       Export by Boron and Phelan Piñon Hills Community Services**  
16 **Districts.**

17                   **6.4.1.1**       The injunction does not prevent Boron Community Services  
18 District from transporting Groundwater Produced consistent with this Judgment for use outside  
19 the Basin, provided such water is delivered within its service area.

20                   **6.4.1.2**       The injunction does not apply to any Groundwater Produced  
21 within the Basin by Phelan Piñon Hills Community Services District and delivered to its service  
22 areas, so long as the total Production does not exceed 1,200 acre-feet per Year, such water is  
23 available for Production without causing Material Injury, and the District pays a Replacement  
24 Water Assessment pursuant to Paragraph 9.2, together with any other costs deemed necessary to  
25 protect Production Rights decreed herein, on all water Produced and exported in this manner.

26                   **6.5       Continuing Jurisdiction.** The Court retains and reserves full jurisdiction,  
27 power and authority for the purpose of enabling the Court, upon a motion of a Party or Parties  
28

1 noticed in accordance with the notice procedures of Paragraph 20.6 hereof, to make such further  
2 or supplemental order or directions as may be necessary or appropriate to interpret, enforce,  
3 administer or carry out this Judgment and to provide for such other matters as are not  
4 contemplated by this Judgment and which might occur in the future, and which if not provided for  
5 would defeat the purpose of this Judgment.

### 6 **III. PHYSICAL SOLUTION**

#### 7 **7. GENERAL**

8 **7.1 Purpose and Objective.** The Court finds that the Physical Solution  
9 incorporated as part of this Judgment: (1) is a fair and equitable basis for satisfaction of all water  
10 rights in the Basin; (2) is in furtherance of the State Constitution mandate and the State water  
11 policy; and (3) takes into account water rights priorities, applicable public trust interests and the  
12 Federal Reserved Water Right. The Court finds that the Physical Solution establishes a legal and  
13 practical means for making the maximum reasonable and beneficial use of the waters of the Basin  
14 by providing for the long-term Conjunctive Use of all available water in order to meet the  
15 reasonable and beneficial use requirements of water users in the Basin. Therefore, the Court  
16 adopts, and orders the Parties to comply with this Physical Solution.

17 **7.2 Need For Flexibility.** This Physical Solution must provide flexibility and  
18 adaptability to allow the Court to use existing and future technological, social, institutional, and  
19 economic options in order to maximize reasonable and beneficial water use in the Basin.

20 **7.3 General Pattern of Operations.** A fundamental premise of the Physical  
21 Solution is that all Parties may Produce sufficient water to meet their reasonable and beneficial  
22 use requirements in accordance with the terms of this Judgment. To the extent that Production by  
23 a Producer exceeds such Producer's right to Produce a portion of the Total Safe Yield as provided  
24 in this Judgment, the Producer will pay a Replacement Water Assessment to the Watermaster and  
25 the Watermaster will provide Replacement Water to replace such excess production according to  
26 the methods set forth in this Judgment.

1                   **18.4           Powers and Duties of the Watermaster.** Subject to the continuing  
2 supervision and control of the Court, the Watermaster shall have and may exercise the following  
3 express powers and duties, together with any specific powers and duties set forth elsewhere in  
4 this Judgment or ordered by the Court:

5                   **18.4.1           Selection of the Watermaster Engineer.** The Watermaster shall  
6 select the Watermaster Engineer with the advice of the Advisory Committee described in  
7 Paragraph 19.

8                   **18.4.2           Adoption of Rules and Regulations.** The Court may adopt  
9 appropriate rules and regulations prepared by the Watermaster Engineer and proposed by the  
10 Watermaster for conduct pursuant to this Judgment. Before proposing rules and regulations, the  
11 Watermaster shall hold a public hearing. Thirty (30) days prior to the date of the hearing, the  
12 Watermaster shall send to all Parties notice of the hearing and a copy of the proposed rules and  
13 regulations or amendments thereto. All Watermaster rules and regulations, and any amendments  
14 to the Watermaster rules and regulations, shall be consistent with this Judgment and are subject to  
15 approval by the Court, for cause shown, after consideration of the objections of any Party.

16                   **18.4.3           Employment of Experts and Agents.** The Watermaster may  
17 employ such administrative personnel, engineering, legal, accounting, or other specialty services,  
18 and consulting assistants as appropriate in carrying out the terms of this Judgment.

19                   **18.4.4           Notice List.** The Watermaster shall maintain a current list of  
20 Parties to receive notice. The Parties have an affirmative obligation to provide the Watermaster  
21 with their current contact information. For Small Pumper Class Members, the Watermaster shall  
22 initially use the contact information contained in the list of Small Pumper Class members filed  
23 with the Court by class counsel.

24                   **18.4.5           Annual Administrative Budget.** The Watermaster shall prepare a  
25 proposed administrative budget for each Year. The Watermaster shall hold a public hearing  
26 regarding the proposed administrative budget and adopt an administrative budget. The  
27 administrative budget shall set forth budgeted items and Administrative Assessments in sufficient  
28



study, review and make recommendations on all discretionary determinations made or to be made hereunder by Watermaster Engineer which may affect that subarea.

**20. MISCELLANEOUS PROVISIONS.**

**20.1 Water Quality.** Nothing in this Judgment shall be interpreted as relieving any Party of its responsibilities to comply with State or Federal laws for the protection of water quality or the provisions of any permits, standards, requirements, or orders promulgated thereunder.

**20.2 Actions Not Subject to CEQA Regulation.** Nothing in this Judgment or the Physical Solution, or in the implementation thereof, or the decisions of the Watermaster acting under the authority of this Judgment shall be deemed a "project" subject to the California Environmental Quality Act (CEQA). See e.g., *California American Water v. City of Seaside* (2010) 183 Cal.App.4th 471, and *Hillside Memorial Park & Mortuary v. Golden State Water Co.* (2011) 205 Cal.App.4th 534. Neither the Watermaster, the Watermaster Engineer, the Advisory Committee, any Subarea Management Committee, nor any other Board or committee formed pursuant to the Physical Solution and under the authority of this Judgment shall be deemed a "public agency" subject to CEQA. (See Public Resources Code section 21063.)

**20.3 Court Review of Watermaster Actions.** Any action, decision, rule, regulation, or procedure of Watermaster or the Watermaster Engineer pursuant to this Judgment shall be subject to review by the Court on its own motion or on timely motion by any Party as follows:

**20.3.1 Effective Date of Watermaster Action.** Any order, decision or action of Watermaster or Watermaster Engineer pursuant to this Judgment on noticed specific agenda items shall be deemed to have occurred on the date of the order, decision or action.

**20.3.2 Notice of Motion.** Any Party may move the Court for review of an action or decision pursuant to this Judgment by way of a noticed motion. The motion shall be served pursuant to Paragraph 20.7 of this Judgment. The moving Party shall ensure that the Watermaster is served with the motion under that Paragraph 20.7 or, if electronic service of the

1 Watermaster is not possible, by overnight mail with prepaid next-day delivery. Unless ordered by  
2 the Court, any such petition shall not operate to stay the effect of any action or decision which is  
3 challenged.

4 **20.3.3 Time for Motion.** A Party shall file a motion to review any action  
5 or decision within ninety (90) days after such action or decision, except that motions to review  
6 assessments hereunder shall be filed within thirty (30) days of Watermaster mailing notice of the  
7 assessment.

8 **20.3.4 De Novo Nature of Proceeding.** Upon filing of a motion to review  
9 a decision or action, the Watermaster shall notify the Parties of a date for a hearing at which time  
10 the Court shall take evidence and hear argument. The Court's review shall be *de novo* and the  
11 Watermaster's decision or action shall have no evidentiary weight in such proceeding.

12 **20.3.5 Decision.** The decision of the Court in such proceeding shall be an  
13 appealable supplemental order in this case. When the Court's decision is final, it shall be binding  
14 upon Watermaster and the Parties.

15 **20.4 Multiple Production Rights.** A Party simultaneously may be a member  
16 of the Small Pumper Class and hold an Overlying Production Right by virtue of owning land  
17 other than the parcel(s) meeting the Small Pumper Class definition. The Small Pumper Class  
18 definition shall be construed in accordance with Paragraph 3.5.44 and 3.5.45.

19 **20.5 Payment of Assessments.** Payment of assessments levied by Watermaster  
20 hereunder shall be made pursuant to the time schedule developed by the Watermaster,  
21 notwithstanding any motion for review of Watermaster actions, decisions, rules or procedures,  
22 including review of assessments implemented by the Watermaster.

23 **20.6 Designation of Address for Notice and Service.** Each Party shall  
24 designate a name and address to be used for purposes of all subsequent notices and service herein,  
25 either by its endorsement on this Judgment or by a separate designation to be filed within thirty  
26 (30) days after judgment has been entered. A Party may change its designation by filing a written  
27 notice of such change with Watermaster. A Party that desires to be relieved of receiving notices  
28

Producer Name	Pre-Rampdown Production	Overlying Production Rights	Percentage Share of Adjusted Native Safe Yield
Richard Nelson, Willow Springs Co.	180.65	135.00	0.191%
Northrop Grumman Systems Corporation	2.00	2.00	0.003%
NRG Solar Alpine, LLC	64.21	38.00	0.054%
R AND M RANCH, INC.	1458.00	686.00	0.970%
John and Adrienne Reca	501.45	251.00	0.355%
Suzanne J. Richter	1.00	1.00	0.001%
Rosamond High School	586.40	202.23	0.286%
Rosamond Ranch, LP	598.00	598.00	0.846%
Rose Villa Apartments	22.72	7.62	0.011%
Sahara Nursery and Farm	22.18	22.00	0.031%
Saint Andrew's Abbey, Inc.	175.00	102.00	0.144%
Lawrence J. Schilling and Mary P. Schilling, Trustees of the L&M Schilling 1992 Family Trust	4.00	4.00	0.006%
Lilia Mabel Selak, TTEE; Barbara Aznarez Decd Trust and Selak, Mabel Trust	150.00	150.00	0.212%
Service Rock Products, L.P.	503.00	267.00	0.378%
SGS Antelope Valley Development, LLC	57.00	57.00	0.081%
Shadow Acres Mutual Water Company	52.60	51.74	0.073%
Sheep Creek Water Co.	0.00	0.00	0.000%
Jeffrey and Nancee Siebert	200.00	106.00	0.150%
Sonrise Ranch, LLC	662.00	0.00	0.000%
Southern California Edison Company	17.75	8.00	0.011%
Sundale Mutual Water Company	472.23	472.23	0.668%
Sunnyside Farms Mutual Water Company, Inc.	75.40	74.26	0.105%
Tejon Ranchcorp and Tejon Ranch Co.	3414.00	1634.00	2.312%
Tierra Bonita Mutual Water Company	40.75	40.32	0.057%
Tierra Bonita Ranch	505.00	430.00	0.608%
Triple M Property Co.	15.00	15.00	0.021%
Turk Trust dated December 16, 1998	1.00	1.00	0.001%
Marie A. Unini and Robert J. LeClair	1.00	1.00	0.001%
U.S. Borax	1905.00	1905.00	2.695%
Craig Van Dam, Marta Van Dam, Nick Van Dam, Janet Van Dam	1037.00	640.00	0.905%
Gary Van Dam, Gertrude Van Dam, Delmar Van Dam, Delmar D. Van Dam and Gertrude J. Van Dam, as Trustees of the Delmar D. and Gertrude J. Van Dam Family Trust – 1996, Craig Van Dam, Marta Van Dam, High Desert Dairy Partnership, High Desert Dairy	9931.50	3215.00	4.548%
Vulcan Materials Co., Vulcan Lands Inc., Consolidated Rock Products Co., Calmat Land Co., and allied Concrete & Materials	519.10	260.00	0.368%
WAGAS Land Company LLC	984.15	580.00	0.821%
WDS California II, LLC	2397.00	1159.00	1.640%
Michael and Dolores A. Weatherbie	1.00	1.00	0.001%

# **EXHIBIT 3**

**Antelope Valley Watermaster Board**  
**Meeting Minutes**  
**Wednesday, June 28, 2023 – 10:00 a.m.**  
**Location: Antelope Valley – East Kern Water Agency**  
**6450 West Avenue N, Palmdale, CA 93551**

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**1) Call to Order at 10:00 a.m.**

**2) Roll Call**

**BOARD OF DIRECTORS**

Robert Parris, AVEK Representative – Chairperson  
Kathy MacLaren, Public Water Supplier Representative – Vice-Chairperson  
Russ Bryden, Los Angeles County Waterworks District 40 Representative  
Brandon Calandri, Landowner Representative  
Derek Yurosek, Landowner Representative  
Matthew Knudson, AVEK Representative Alternate  
Angelica Martin, Landowner Representative Alternate  
Adrienne Lewis Reca, Landowner Representative Alternate

Jim Beck, Hallmark Group – Watermaster Administrator  
Jacqueline Harris, Hallmark Group – Watermaster Administrator  
Joshua Montoya, Hallmark Group – Watermaster Administrator  
Phyllis Stanin, Todd Groundwater – Watermaster Engineer  
Arden Wells, Todd Groundwater – Watermaster Engineer  
Craig Parton, Price, Postel & Parma LLP – General Counsel  
Cameron Goodman, Price, Postel & Parma LLP – General Counsel

**3) Adoption of the Agenda**

- A motion was made by Director Calandri, seconded by Director Bryden, and unanimously carried to adopt the agenda with the modification of removing agenda item 19.

**4) Public comments for non-agenda items**

**5) Consent Agenda**

Item Description

a.	Financial Report and Payment of bills through April 30, 2023
b.	Minutes of April 26, 2023, Regular Meeting

A motion was made by Director Calandri, seconded by Director MacLaren, and unanimously carried to adopt the Consent Agenda.

**6) Advisory Committee Report**

Item Description

a.	Advisory Committee Written Report
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**7) Administrative Committee Report**

Item Description

a.	Administrative Committee Report
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**8) Public Hearing to consider 2023 Supplemental Administrative Assessment**

## Item Description

a.	Opening of the Public Hearing at 10:16 a.m.
	(i) Present Amendments to Rules and Regulations
	(ii) Public Comments
b.	Closing of Public Hearing at 11:14 a.m.

**9) Consideration and Possible Action to Approve 2023 Supplemental Administrative Assessment**

## Item Description

a.	R-23-41	<p>2023 Supplemental Administrative Assessment</p> <p>A motion was made by Director Bryden, seconded by Director MacLaren, to move the agenda item to the July Board meeting to continue discussion and LA County Water District 40 pay their 2024 Fixed Assessment now and other large water providers consider paying now as well. This motion did not pass.</p> <p>Roll Call Vote Yes: Parris, MacLaren, Bryden. No: Calandri, Yurosek.</p> <p>A motion was made by Director Yurosek, seconded by Director Calandri to approve the \$5 supplemental fee as presented by staff. This motion did not pass.</p> <p>Roll Call Vote Yes: Parris, Calandri, Yurosek. No: MacLaren, Bryden.</p> <p>The Board directed staff to have a public hearing at the July 26, 2023 Board meeting to adopt the 2023 supplemental administrative assessment.</p>
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**10) Consideration and Possible Action on Hallmark Group's Amendment No. 4**

## Item Description

a.	Amendment No. 4 to Administer the 2023 Supplemental Administrative Assessment
	The Board tabled this agenda item to the July 23, 2023 Board meeting.

Director Yurosek left the meeting at 12:15 p.m. and Alternate Adrienne Lewis Rea took Director Yurosek's place.

#### **11) Public Hearing to Consider 2023 Replacement Water Assessment**

Item	Description
a.	Opening of the Public Hearing at 12:15 p.m.
	(i) Present 2023 Replacement Water Assessment
	(ii) Public Comments
b.	Closing of Public Hearing at 12:23 p.m.

#### **12) Consideration and Possible Action on Adopting Replacement Water Assessment for Year 2023**

Item	Description
a.	<div><div>R-23-42</div><div>Replacement Water Assessment for Year 2023</div><div>A motion was made by Director Calandri, seconded by Director MacLaren, to move the agenda item to the July Board meeting. This motion did not pass. Yes: None. No: Parris, MacLaren, Bryden, Calandri, Yurosek.</div><div>A motion was made by Director MacLaren, seconded by Director Calandri and unanimously carried to approve R-23-42 Replacement Water Assessment for Year 2023.</div></div>

#### **13) Consideration and Possible Action on 2022 Annual Audit**

Item	Description
a.	<div><div>Consideration and Possible Action on Accepting and Filing the Annual Financial Report for Year Ended December 31, 2022.</div><div>Jonathan Abadesco from C.J. Brown &amp; Company CPAs provided an overview of the 2022 Annual Audit.</div><div>A motion was made by Director MacLaren, seconded by Director Calandri and unanimously carried to accept and file the Annual Financial Report for Year Ended December 31, 2022.</div></div>

#### **14) Consideration and Possible Action on Accepting Revised Replacement Water Payment Plan for Joshua Acres Mutual Water Company**

Item	Description
a.	<div><div>Revised Replacement Water Payment Plan for Joshua Acres Mutual Water Company</div><div>A motion was made by Director MacLaren, seconded by Director Calandri and unanimously carried to accept the revised replacement water payment plan for Joshua Acres Mutual Water Company.</div></div>

**15) Update on Amendment to Rules and Regulations for Delinquent Annual Production Reports****Item Description**

a.	Update on Amendment to Rules and Regulations for Delinquent Annual Production Reports  Legal counsel provided an update on the Amendment to Rules and Regulations for Delinquent Annual Production Reports and informed the Board this item would be presented as a public hearing at the July 26, 2023 Board meeting.
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**16) Consideration and Possible Action on Transfer application****Item Resolution No. Description**

a.	R-23-37	AVEK to LACW District 40  A motion was made by Director Bryden, seconded by Director Calandri, and unanimously carried to approve Resolution No. R-23-37 Transfer Application for AVEK to LACW District 40.
b.	R-23-43	Pamela Godde to Robertson's Ready Mix  A motion was made by Director Calandri, seconded by Director MacLaren, and unanimously carried to approve Resolution No. R-23-43 Transfer Application for Pamela Godde to Robertson's Ready Mix.
c.	R-23-44	Steven and Denise Godde to Robertson's Ready Mix  A motion was made by Director Calandri, seconded by Director Bryden, and unanimously carried to approve Resolution No. R-23-44 Transfer Application for Steven and Denise Godde to Robertson's Ready Mix.
d.	R-23-45	Pamela Godde to WVCWD  A motion was made by Director MacLaren, seconded by Director Calandri, and unanimously carried to approve Resolution No. R-23-45 Transfer Application for Pamela Godde to WVCWD.
e.	R-23-46	R&M to RTS (Permanent)  A motion was made by Director MacLaren, seconded by Director Calandri, and unanimously carried to approve Resolution No. R-23-46 Transfer Application for R&M to RTS.
f.	R-23-47	R&M to RTS (Temporary)  A motion was made by Director MacLaren, seconded by Director Calandri, and unanimously carried to approve Resolution No. R-23-47 Transfer Application for R&M to RTS.
g.	R-23-48	Steven and Richard Selak to 40 <sup>th</sup> St. E  A motion was made by Director MacLaren, seconded by Director Calandri, and unanimously carried to approve Resolution No. R-23-48 Transfer Application for Steven and Richard Selak to 40 <sup>th</sup> St. E.



h.	R-23-49	<p>Tierra Bonita to Bolthouse</p> <p>Director Calandri recused himself and exited the room for the vote and discussion. Alternate Director Rea participated in his stead.</p> <p>A motion was made by Director Martin, seconded by Director MacLaren, and unanimously carried to approve Resolution No. R-23-49 Transfer Application for Tierra Bonita to Bolthouse.</p>
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#### 17) Consideration and Possible Action on New Production application

Item	Resolution No.	Description
a.	R-23-04	<p>Barrel Springs</p> <p>Director Calandri rejoined the meeting.</p> <p>No action was taken.</p>
b.	R-23-50	<p>Banuk</p> <p>A motion was made by Director MacLaren, seconded by Director Calandri, and unanimously carried to approve Resolution No. R-23-50 New production application for Banuk.</p>
c.	R-23-51	<p>Camilleri</p> <p>A motion was made by Director MacLaren, seconded by Director Calandri, and unanimously carried to approve Resolution No. R-23-51 New production application for Camilleri.</p>

#### 18) Consideration and Possible Action on New Point of Extraction

Item	Resolution No.	Description
a.	R-23-52	<p>Gailen and Julie Kyle</p> <p>A motion was made by Director MacLaren, seconded by Director Calandri, and unanimously carried to approve Resolution No. R-23-52 New Point of Extraction application for Gailen and Julie Kyle.</p>

#### 19) Consideration and Possible Action on Groundwater Banking and Recovery Storage

Item	Resolution No.	Description
a.	R-23-55	<p>Antelope Valley-East Kern Agency</p> <p>This item was removed from the agenda.</p>

**20) Consideration and possible action on Well application**

a.	R-23-53	Keith Mettler – Replacement Well Application  A motion was made by Director Calandri, seconded by Director Bryden, and unanimously carried to approve Resolution No. R-23-53 Keith Mettler Replacement of Existing Well Application.
b.	R-23-54	Keith Mettler – Replacement Well Application  A motion was made by Director Bryden, seconded by Director Calandri, and unanimously carried to approve Resolution No. R-23-54 Keith Mettler Replacement of Existing Well Application.

**21) Administrator's Report**

Item	Description
a.	Update on Administration Activities  Nothing to report.

**22) Watermaster Engineer's Report**

Item	Description
a.	Summary of New Production and Qualified Small Pumpers
b.	Model Update
c.	Annual Report Update

**23) General Counsel's Report**

Item	Description
a.	Update on Court Proceedings
b.	Update on Watermaster Authority to Gather Delinquent Annual Reports

**24) Board Members Request for Future Agenda Items**

The Board requested to revisit the unanimous vote and see if this can be changed.

**25) Closed Session, Conference with Legal Counsel General Counsel's Report**

A motion was made by Director Calandri, seconded by Director Bryden, and unanimously carried enter closed session.

Item	Description
a.	CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Government Code Section 54956.9(d)(1)] Watermaster Motion against Zamrzla Parties
b.	CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Government Code Section 54956.9(d)(1)] Watermaster Motion against Rancho Sierra Properties, LLC

c.	CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Government Code Section 54956.9(d)(1)] Watermaster Motion against Antelope Valley Resource Conservation District
d.	CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): Gary Van Dam.
e.	CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): Barrel Springs Properties LLC.
f.	CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION Initiation of litigation pursuant to Government Code Section 54956.9(d)(4): one potential case

A motion was made by Director Calandri, seconded by Director MacLaren, and unanimously carried exit closed session.

**26) Closed Session Report**

No reportable action

**27) Consideration and Possible Action on Transfer Application**

Item	Resolution No.	Description
a.	R-23-27	<p>High Desert Dairy to Craig Van Dam</p> <p>Director Parris recused himself and exited the room for the vote and discussion. Alternate Director Knudson participated in his stead.</p> <p>A motion was made by Director Calandri, seconded by Director Martin, to approve Resolution No. R-23-27 Transfer Application High Desert Dairy to Craig Van Dam and the application was not approved.</p> <p>Roll Call Vote:  Kathy MacLaren – Abstain  Matt Knudson – Recuse  Russ Bryden - Yes  Angelica Martin - Yes  Brandon Calandri - Yes</p>

**28) Adjournment**

Wednesday, June 28, 2023 at 2:57 p.m.

  
Jessica Alwan, Secretary

 7/26/2023  
Kathy MacLaren, Vice-Chairperson Date

# **EXHIBIT 4**

b. Amendment

(a) These R&Rs, once approved by the Court, shall be deemed to supersede and replace all prior adopted and Court-approved Watermaster rules and regulations. These R&Rs may be amended by the Watermaster only upon Unanimous Vote. All future amendments shall be consistent with the Judgment and are subject to approval by the Court after consideration of the objections of any Party. All future amendments approved by the Court shall be incorporated in these R&Rs, and all such future amendments to these R&Rs shall be attached hereto as part of Appendix B to this document. At least annually, the General Counsel, Watermaster Engineer, and Watermaster Staff shall revise this document to incorporate any Court-approved amendments to these R&Rs.

c. Definitions

(a) Except as otherwise specifically set forth in these R&Rs, capitalized term(s) and phrase(s) shall have the same meanings as in the Judgment. Additional definitions are in the Judgment Paragraph 3.5.

(1) **Advisory Committee** shall mean the Advisory Committee specified in Paragraph 19 of the Judgment. [¶ 19]

(2) **Annual Report** shall mean the report the Watermaster is to prepare pursuant to Paragraph 18.5.18 of the Judgment.

(3) **AWWA** shall mean the American Water Works Association.

(4) **Board** shall mean the Watermaster Board or the Watermaster.

(5) **Board Chairperson** shall mean the presiding officer of the Board.

(6) **Board Secretary** shall mean an administrative assistant appointed by the Watermaster Board.

(7) **Brown Act** shall mean the Ralph M. Brown Act, Government Code Sections 54950, et seq. as may be amended from time to time.

(8) **DOD** shall mean the United States Department of Defense.

(9) **DWR** shall mean the California Department of Water Resources.

(10) **Judgment** shall mean the Judgment entered by the Court on December 28, 2015 in the “Antelope Valley Groundwater Cases” (Judicial Council Coordination Proceeding No. 4408, Santa Clara County Superior Court Case No. 1-05-CV-049053) as amended.

(11) **Member** shall mean each of the five (5) member Board representatives or alternates serving on behalf of an absent Board Member.

(12) **Physical Solution** shall mean the court-adopted physical solution that is attached to the Judgment as Exhibit A. A copy of the Judgment and Physical Solution is available on the Watermaster website ([www.avwatermaster.net](http://www.avwatermaster.net)).

(13) **Rules and Regulations (“R&Rs”)** or “Antelope Valley Watermaster Rules and Regulations” shall mean this document as amended and supplemented.

(14) **Small Pumper Class Member(s)** shall have the meaning specified in paragraph 3.5.45 of the Judgment. [¶ 3.5.45]

(15) **State of California** shall mean the State of California acting by and through the following State agencies, departments and associations: (1) The California Department of Water Resources; (2) The California Department of Parks and Recreation; (3) The California Department of Transportation; (4) The California State Lands Commission; (5) The California Department of Corrections and Rehabilitation; (6) The 50th District Agricultural Association; (7) The California Department of Veteran Affairs; (8) The California Highway Patrol; and, (9) The California Department of Military.

(16) **Storage Agreement** shall mean the Storage Agreement(s) specified in the Judgment.

(17) **Subarea Management Advisory Committee** or Subarea Management Advisory Committees shall mean the committee(s) specified in Paragraph 19.5 of the Judgment.

(18) **Unanimous Vote** shall mean the vote of five out of five Members of the Watermaster Board.

(19) **Watermaster Staff** shall mean the administrative personnel appointed by the Board to assist in implementing the Judgment.

d. Construction

(a) Unless the context clearly requires otherwise:

(1) The plural and singular forms include the other;

(2) "Shall," "will," and "must" are each mandatory;

(3) "May" is permissive;

(4) "Or" is not exclusive; and

(5) "Includes" and "including" are not limiting.

(6) the masculine gender shall include the feminine and neutral genders and vice versa.

(7) Reference to any agreement, document, instrument, or report means such agreement, document, instrument or report as amended or modified and in effect from time to time in accordance with the terms thereof.

(8) Except as specifically provided herein, reference to any law, statute, ordinance, regulation, or the like means such law as amended, modified, codified, or reenacted, in whole or part and in effect from time to time, including any rules or regulations promulgated thereunder.

(9) These R&Rs shall be construed consistent with the Judgment. In the event of a conflict between these R&Rs and the Judgment, the Judgment shall prevail.

3. ADJUDICATION AREA

a. Location

(a) The Adjudication Area boundaries are defined in Paragraph 3.5.8 of the Judgment and generally are depicted on Figure 1 hereof.

b. Parcels Straddling the Boundary

- (i) Action Items
- (j) Administrator Report
- (k) Engineer Report
- (l) Attorney Report
- (m) Board Members Request for Future Agenda Items
- (n) Adjournment

4.9.5.2 Roll Call. Before proceeding with business, the Board Secretary shall enter in the minutes the names of all Members present. If any Member arrives after the roll call or needs to leave prior to the adjournment of a meeting, the Board Secretary shall enter in the minutes the time at which such Member arrived or left and, if applicable, enter the name of the alternate that replaces the departing Member.

4.9.5.3 Adoption of Agenda. After Roll Call, the Board shall review and approve the order of the items on the Agenda. At this time, any Member may move to reorder the items on the Agenda and the Board Chairperson shall re-order the items on the Agenda if approved by a vote pursuant to Section 4.9.6 of these R&Rs.

4.9.5.4 Consent Agenda. The Consent Agenda shall consist of routine items for which Watermaster Staff anticipates no significant discussion by the Board. A Consent Agenda item may be removed for discussion at the request of any Member. A removed Consent Agenda item will be considered after the Board acts upon the remainder of the Consent Agenda.

4.9.5.5 Special Presentations. Special presentations may be conducted at any meeting at the Board's discretion.

4.9.5.6 Public Comments for Non-Agenda Items. During Public Comment for non-Agenda items, the public is invited to comment on items within the jurisdiction of the Watermaster but not on the Agenda. See Section 4.9.11 below.

4.9.5.7 Advisory Committee Report. The Advisory Committee shall have an opportunity to submit a written report and/or address the Board to make advisory recommendations on items reviewed and discussed by the Advisory Committee.

4.9.5.8 Watermaster Board Reports. Reports by Members shall be limited to five minutes per Member, unless additional time is granted by the Board Chairperson which shall not be unreasonably denied.

## vi. Voting

### 4.9.6.1 Voting Procedures.

- (a) Each Member of the Watermaster Board shall have one (1) vote.

(b) All Watermaster decisions shall be by Unanimous Vote, except as otherwise determined by Unanimous Vote of the Watermaster.

(c) All recommendations of the Watermaster Engineer must be approved by Unanimous Vote of the Watermaster. If there is not Unanimous Vote among Watermaster Members, Watermaster Engineer recommendations must be presented to the Court for action and implementation. [¶ 18.6]

4.9.6.2 Duty to Vote. When present, all Members have a duty to vote unless prohibited by law.

4.9.6.3 Roll Call Vote. A roll call vote may be taken and recorded as necessary for any action taken, and such roll call vote shall be entered in the minutes of the meeting showing those Members voting aye, those voting no and those not voting or absent.

4.9.6.4 Vote Required for Watermaster Decision. All decisions of the Board shall be by Unanimous Vote of all five Members, unless the Watermaster has by Unanimous Vote determined that such decision requires only a simple majority vote. The Watermaster has decided by Unanimous Vote to require a simple majority vote for approval of the minutes (Resolution No. 17-04). Additionally, the Watermaster has determined that when there is no quorum, any Member may adjourn a Board meeting or, if no Member is present, the Board Secretary shall adjourn the meeting.

#### vii. The Minutes

4.9.7.1 Content. The minutes will be a clear and concise statement of the actions taken at the Board meeting, including the motions made and the votes thereon. The minutes shall include the date, hour and place of the meeting; whether it is a regular, adjourned regular or special meeting; the names of the Members and staff present and absent; and any action taken by the Board. If any Member arrives late or departs before the adjournment, the minutes shall reflect his or her arrival or departure time.

4.9.7.2 Preparation. Minutes shall be prepared by the Board Secretary and presented to the Board for approval. The Board may then, by motion, make such corrections as conform to fact and formally adopt the minutes. Members are not required to have attended the meeting that is the subject of the minutes as a condition to vote on approval.

4.9.7.3 Recording of Watermaster Meetings. Audio from the Watermaster meetings may be recorded. Any such recordings are not the official record.

#### viii. Actions

4.9.8.1 Process for Action Items. Consideration of Action Items shall be as follows:

(a) Announcement by the Board Chairperson. The Board Chairperson shall announce the item under consideration by reference to its listing on the Agenda.

(b) Staff Report. Responsible staff members shall present a report of staff regarding the action item.

(c) Questions of Staff. Members may ask questions of staff to clarify the report.



# **EXHIBIT 5**

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**From:** Joshua Montoya <[jmontoya@hgcpm.com](mailto:jmontoya@hgcpm.com)>

**Sent:** Thursday, August 24, 2023 4:07 PM

**Subject:** Notice of Public Hearing - Antelope Valley Watermaster Amendment to Rules and Regulation for Unanimous Voting Requirements

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## ANTELOPE VALLEY WATERMASTER PUBLIC HEARING

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### Antelope Valley Watermaster Amendment to Rules and Regulation for Unanimous Voting Requirements

#### TO: ANTELOPE VALLEY GROUNDWATER PRODUCERS

The ANTELOPE VALLEY WATERMASTER set 10:00 a.m. on Wednesday, September 27, 2023, at Antelope Valley-East Kern Water Agency, 6450 W Avenue N, Palmdale, CA 93551, as the time and place for a Public Hearing on the proposed Amendment to the Antelope Valley Watermaster's Rules and Regulations regarding unanimous voting requirements. A copy of the proposed amendment is set forth in the attached memorandum and will be available at [www.avwatermaster.net](http://www.avwatermaster.net).

At that hearing, the Watermaster will consider public comments on the proposed Amendment to the Antelope Valley Watermaster's Rules and Regulations regarding unanimous voting requirements. Written comments may be made in advance of the public hearing to the Watermaster Administrator; Jim Beck at [info@avwatermaster.net](mailto:info@avwatermaster.net) or by mail at Antelope Valley Watermaster, 500 Capitol Mall Suite 2350, Sacramento, CA 95814.

Thank you,  
**Joshua Montoya**  
Project Coordinator  
(661) 316-9340



Persistence | Proficiency | Performance

Corporate (916) 923-1500  
[www.hgcpm.com](http://www.hgcpm.com)



## MEMORANDUM

TO: Antelope Valley Watermaster Board      DATE: August 23, 2023  
FROM: Craig A. Parton      FILE NO.: 23641-1  
General Counsel to the Watermaster  
SUBJECT: Changing Unanimous Voting Requirements Under the Rules and Regulations

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The Judgment requires that all decisions of the Watermaster be made by unanimous vote unless specifically designated as being subject to a simple majority vote. (Paragraph 18.1.2.3.) Moreover, all Watermaster Board members must be present to make any decision requiring a unanimous vote. (Paragraph 18.1.2.4.) However, the Watermaster may determine by unanimous vote, after consultation with the Watermaster Engineer, the types of decisions that shall require only a simple majority vote. (Paragraph 18.1.2.2.) Although the Judgment explicitly requires that the Watermaster make decisions by unanimous vote for the purpose of selecting or dismissing the Watermaster Engineer (Paragraph 18.2.2.1), the Judgment largely leaves up to the Watermaster and the Watermaster Engineer the determination as to what other decisions may be subject to simple majority vote, as set forth in the Rules and Regulations.

The Rules and Regulations explicitly require the unanimous vote of the Watermaster Board for the following actions: (1) any amendments to the Rules and Regulations (Section 2.b); (2) retention of legal counsel (Section 4.d); (3) changing unanimous voting requirements for any Watermaster decision to simple majority vote (Section 4.h.vi(1)(b)); (4) approval of any recommendations of the Watermaster Engineer (Section 4.h.vi(1)(c)); (5) selection of the Watermaster Engineer (Section 7.a); and (6) adoption of the Annual Report (Section 7.b.xv).

The Watermaster Board has decided (by unanimous vote) that only a simple majority vote shall be required for approval of the minutes. (Section 4.h.vi(4).) To date, the Watermaster Board has not changed the unanimous voting requirement for any other decisions.

This framework has largely functioned without incident since the date of entry of Judgment, however the Watermaster Board has recently encountered certain procedural hurdles that may require an amendment to the Rules and Regulations (by unanimous vote) to allow for certain decisions to be made without the vote of all five Board members. This stems from the fact that the Rules and Regulations, as required by the Judgment, define “Unanimous Vote” as “the vote of five out of five Members of the Watermaster Board.” (Section 2.c.) As a result, the Watermaster Board cannot take any action on a decision requiring a unanimous vote if one or more Board members abstains or recuses themselves, and their alternate likewise abstains or recuses themselves.

In a previous memorandum, Watermaster General Counsel recommended amending the Rules and Regulations to allow for decisions to be made by a simple majority vote in the event of any deadlocks created by recusal or abstention by both a primary and alternate Board member.

Memo to: Antelope Valley Watermaster Board  
Re: Changing Unanimous Voting Requirements Under the Rules and Regulations  
August 23, 2023  
Page 2

Comments from various Parties and their representatives in response to this suggestion indicated that eliminating the unanimous voting requirement under these circumstances would not be in line with the Parties' original intent when stipulating to the Judgment. In light of these comments, Watermaster General Counsel now recommends amending the Rules and Regulations by adding new Section 4.h.vi(1)(d) as follows:

*“(d) Unless such decision explicitly requires the Unanimous Vote of five out of five Board Members as set forth in these Rules and Regulations or in the Judgment, in the event both a primary Board Member and their alternate Board Member abstains or recuses themselves from voting on a particular decision, thereby eliminating the possibility of five out of five Members of the Watermaster Board casting a vote, such decision may thereafter be made by the unanimous vote of all remaining Board Members present and able to vote, so long as a quorum remains after all such abstentions or recusals.”*

The Watermaster General Counsel requests that the Board review and provide comments on the above proposed addition to the Rules and Regulations. Once the language, as the same may be revised, is acceptable, the Board should direct the Watermaster Administrator to post this proposed addition to the Rules and Regulations online for a 30-day public review period ahead of a hearing on adoption at the next regular Board meeting.

**PROOF OF SERVICE**

**[Code Civ. Proc. §§ 1011, 1013, 1013(a)(3) & 2015.5]**

**ANTELOPE VALLEY GROUNDWATER CASES  
Case No. 1-05-CV-049053 (For filing purposes only)  
JCCP 4408**

(STATE OF CALIFORNIA, COUNTY OF SACRAMENTO)

I am a resident of the United States and employed in Santa Barbara County. I am over the age of eighteen years and not a party to the within entitled action. My business address is 1021 Anacapa Street, Second Floor, Santa Barbara, CA 93101. My electronic service address is [cmalone@bhfs.com](mailto:cmalone@bhfs.com).

On August 25, 2023, I served the following documents on the parties in this action described as follows:

**DECLARATION OF ROBERT J. SAPERSTEIN IN SUPPORT OF GARY VAN DAM'S OPPOSITION TO MOTION TO APPROVE TRANSFER OF WATER RIGHTS TO CRAIG VAN DAM**

**[X] BY ELECTRONIC SERVICE:** by posting the document(s) listed above to the Antelope Valley Groundwater Cases to all parties listed on the Santa Clara Superior Court Service List as maintained via Glotrans. Electronic service completed through <http://www.avwatermaster.org>.

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

Executed on this 25<sup>th</sup> day of August, 2023, at Santa Barbara, California.

  
Caitlin K. Malone