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 VAN DAM and ANTELOPE VALLEY WATER STORAGE LLC

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

Coordination Proceeding
 Special Title (Rule 1550(b))

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 254348

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 353840, RIC 344436, RIC
 344668

Judicial Council Coordination Proceeding
 No. 4408

SC Case No. 105CV 049053
 Assigned to the Honorable Jack Komar

VAN DAM PARTIES AND ANTELOPE
 VALLEY WATER STORAGE LLC
 NOTICE AND OBJECTION TO
 FAILURE TO JOIN AN
 INDISPENSABLE PARTY

Date: March 24, 2010
 Dept.: LA County Superior Court, Dept. 1
 Judge: Honorable Jack Komar

1 Cross-Defendants GERTRUDE VAN DAM, DELBERT VAN DAM, GARY VAN
2 DAM, and CRAIG VAN DAM ("VAN DAM PARTIES") and ANTELOPE VALLEY WATER
3 STORAGE LLC ("AVWS") file this Notice And Objection To Failure to Join an Indispensable
4 Party as recommended by the Court during the March 22, 2010 Case Management Conference.

5 1. The February 19, 2010 "Order Transferring and Consolidating Actions for All
6 Purposes," states in part:

7 The Complaints and Cross-Complaints all include, in one form or other, declaratory relief
8 causes of action seeking determinations of the right to draw ground water from the
9 Antelope Valley basin. . . in a single aquifer, all rights are said to be correlative to all
10 other water rights in the aquifer. A determination of an individual party's water rights
11 (whether by action to quiet title or one for declaratory relief) cannot be decided in the
12 abstract but must also take into consideration all other water rights with a single aquifer.
13 All actions pending, therefore, of necessity involve common issues of law and fact
14 relating to the determination of the relative rights to water from the [Basin] . . . and all
15 parties to the litigation claiming water rights are necessary parties to the Court
16 adjudicating a binding determination of those rights." (Page 2, lines 16-26.) (emphasis
17 added.)

18 . . .

19 If the basin is in overdraft (a fact still to be established), the Court in each declaratory
20 relief proceeding would of necessity have to look at the totality of pumping of all parties,
21 evaluate the rights of all parties who are producing water from the aquifer, determine
22 whether injunctive relief was required, and determine what solution equity and statutory
23 law required (including a potential physical solution)." (Page 3, 7-11). (emphasis added.)
24 . . .

25 The McCarran Amendment provides a limited waiver of immunity for joinder in
26 *comprehensive* adjudications of all rights to a given water source. In order for there to be
27 a *comprehensive* adjudication all parties who have a water rights claim must be joined in
28 the action and the judgment must bind all the parties." (Page 3, lines 24-27). (emphasis
added, italics original.)

2. Plaintiffs and Cross-Complainants, and each of them, are by this notice advised that
the below listed person(s) appear, based upon the public records of both the Kern and Los
Angeles County Records Office(s), to be record owners of certain real property overlying the
ground water existing within the jurisdictional boundaries of the Antelope Valley Ground Water
Basin ("Basin") the subject of this comprehensive adjudication as described in the documents

attached hereto and incorporated herein:

- a. SGS Antelope Valley Development, LLC, Exhibit "A";
- b. Gaskell SunTower LLC, Exhibit "B-1 to B-19"; and
- c. WDS California II LLC, Exhibit "C-1 to C-3".

The above-listed persons are only examples which illustrate that all water right claimants are not currently joined in this comprehensive adjudication.


3. The Van Dam Parties and AVWS, and each of them, object to Plaintiff and Cross-Complainant's contention that service of process in this comprehensive ground water adjudication is "complete" on the grounds that the persons identified in Paragraph 2 above are believed to be water right claimants to the ground water existing in the Basin and therefore all such persons are required to be joined as they are indispensable parties (Code of Civil Procedure section 389) to this comprehensive ground water adjudication. (See, McCarren Amendment and related case law.) Further, objection is made because these water right claimants, and each of them, have not been named by Plaintiffs and Cross-Complainants as parties to this action; have not been served with the Complainant(s) and/or Cross-Complaint(s) in this action; have made no appearance before this Court in this action; have filed no pleading or other filing with this Court in this action; and are not subject to the jurisdiction of this Court. The above-listed persons and all such persons having a water right claim to ground water in the Basin must be joined before these proceedings continue so that any judgment in this matter is binding on all the parties.

4. The Van Dam Parties and AVWS, and each of them, object to the trial of any issue in this comprehensive ground water adjudication absent Plaintiffs and Cross-Complainants, and each of them, first filing competent evidence with the Court proving that they have properly joined all persons who have a water right claim to ground water in the Basin.

Dated: March 24, 2010

THE LAW OFFICES OF YOUNG WOOLDRIDGE, LLP

By:


SCOTT K. KUNEY, Esq., Attorneys for Van Dam
Parties and Antelope Valley Water Storage, LLC

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF KERN


I, LEANN BANDUCCI, declare: I am and was at the times of the service hereunder mentioned, over the age of eighteen (18) years, and not a party to the within cause. My business address is The Law Offices of Young Wooldridge LLP, 1800 30th Street, Fourth Floor, Bakersfield, CA 93301.

On March 24, 2010, I caused the foregoing document(s) entitled as: VAN DAM PARTIES AND ANTELOPE VALLEY WATER STORAGE LLC NOTICE AND OBJECTION TO FAILURE TO JOIN AN INDISPENSABLE PARTY to be served on the parties via the following service:

X By Posting: I posted the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter pursuant to the Court's Clarification Order. Electronic service and electronic posting completed through www.sccfiling.org.

Executed on March 24, 2010, at Bakersfield, California.

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


LEANN BANDUCCI