

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Daniel P. Brunton (SB#218615) Latham & Watkins LLP 600 W. Broadway, Suite 1800 San Diego, CA 92101 TELEPHONE NO.: 619-237-8910 FAX NO.: 619-696-7419 ATTORNEY FOR (Name): High Desert Investments, LLC	FOR COURT USE ONLY
NAME OF COURT: Superior Court of California, County of Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District	
CASE NAME: Antelope Valley Groundwater Cases (JCCP 4408)	CASE NUMBER: 1-05-CV-049053 (Santa Clara)
DECLARATION IN SUPPORT OF ATTORNEY'S MOTION TO BE RELIEVED AS COUNSEL—CIVIL	HEARING DATE: May 13, 2013 DEPT.: TBD TIME: 9:00 a.m. BEFORE HON.: Jack Komar DATE ACTION FILED: TRIAL DATE: May 28, 2013

1. **Attorney and Represented Party.** Attorney (name): **Latham & Watkins (Daniel Brunton)** is presently counsel of record for (name of party): **High Desert Investments, LLC** in the above-captioned action or proceeding.
2. **Reasons for Motion.** Attorney makes this motion to be relieved as counsel under Code of Civil Procedure section 284(2) instead of filing a consent under section 284(1) for the following reasons (describe):

As described further in Attachment 2, High Desert Investments, LLC ("High Desert") appears to have been dissolved as a corporate entity. I am not in contact with High Desert and have no way to contact them, and the attorney client relationship has broken down. High Desert sold the land it owned that is the subject of this litigation to AV Solar Ranch 1, LLC ("AV Solar"). Alston & Bird is representing AV Solar in this case. In other words, the property interest that High Desert used to claim in this case is adequately represented by its successor-in-interest, AV Solar. Therefore, allowing Latham & Watkins to be relieved of counsel is appropriate and will not cause delay or prejudice to any party, including to High Desert, which no longer exists as a corporate entity and no longer owns property that is the subject of this litigation.

☒ Continued on Attachment 2.

3. **Service**

a. Attorney has

- (1) ☐ personally served the client with copies of the motion papers filed with this declaration. A copy of the proof of service will be filed with the court at least 5 days before the hearing.
- (2) ☒ served the client by mail at the client's last known address with copies of the motion papers served with this declaration.

b. If the client has been served by mail at the client's last known address, attorney has

- (1) ☐ confirmed within the past 30 days that the address is current
- (a) ☐ by mail, return receipt requested.
- (b) ☐ by telephone.
- (c) ☐ by conversation.
- (d) ☐ by other means (specify):

(Continued on reverse)

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3. b. (2) ☒ been unable to confirm that the address is current or to locate a more current address for the client after making the following efforts:
- (a) ☒ mailing the motion papers to the client's last known address, return receipt requested.
 - (b) ☒ calling the client's last known telephone number or numbers.
 - (c) ☐ contacting persons familiar with the client (*specify*):
 - (d) ☒ conducting a search (*describe*):
Internet search to identify current address or # for High Desert Investments.
 - (e) ☒ other (*specify*):
mailing motion papers to prior agent for service of process, return receipt requested.
- c. Even if attorney has been unable to serve the client with the moving papers, the court should grant attorney's motion to be relieved as counsel of record (*explain*):
High Desert no longer exists as a corporate entity and I have no way to contact them. AV Solar Ranch 1, LLC, which is represented, is the successor-in-interest to High Desert Investments, LLC's property.
4. The next hearing scheduled in this action or proceeding
- a. ☐ is not yet set.
 - b. ☒ is set as follows (*specify the date, time, and place*):
May 13, 2013, 9:00 a.m., Los Angeles County Superior Court, Dept. TBD
 - c. ☐ concerns (*describe the subject matter of the hearing*):
Ex parte communications; motions in limine
- ☐ Continued on Attachment 4.
5. The following additional hearings and other proceedings (including discovery matters) are presently scheduled in this case (*for each, describe the date, time, place, and subject matter*):
April 30, 2013, 9:00 a.m., Status Conference, CourtCall
- ☐ Continued on Attachment 5.
6. Trial in this action or proceeding
- a. ☐ is not yet set.
 - b. ☒ is set as follows (*specify the date, time, and place*):
May 28, 2013, 9:00 a.m., location TBD
7. **Other.** Other matters that the court should consider in determining whether to grant this motion are the following (*explain*):

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

Date: April 18, 2013

Daniel P. Brunton

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

8. Number of pages attached: 35

Attachment 2

On August 18, 2008, High Desert Investments, LLC (“High Desert”) transferred its land in the Antelope Valley that is the subject of this litigation to AV Solar Ranch 1, LLC (“AV Solar”). See Exhibit 1 attached hereto (grant deed). On September 15, 2008, at AV Solar’s request, Latham & Watkins substituted in as counsel under High Desert’s name to represent AV Solar’s interest as High Desert’s successor-in-interest pursuant to California Code of Civil Procedure section 368.5. See Exhibit 2 attached hereto (substitution of attorney).

Later, AV Solar was named as a party in this case under its own name. It claimed the same property interest as High Desert. Compare Exhibit 3 (High Desert’s answer) with Exhibit 4 (AV Solar’s answer, claiming all of the same parcels High Desert had earlier claimed). In other words, AV Solar is High Desert’s successor-in-interest with respect to the property High Desert previously claimed in this case. The precise parcel numbers AV Solar is claiming have subsequently changed somewhat, due to a tentative map that renumbered some of the parcels. See Exhibit 5 (tentative map, consolidating a number of the parcels).

After AV Solar answered, it was sold as a corporate entity to another owner. Alston & Bird now represents AV Solar in this litigation. High Desert appears to have been dissolved as a corporate entity after it sold its property to AV Solar. See Exhibit 6 (printout from Delaware Division of Corporations showing High Desert’s status as “canceled-voided”).

Thus, High Desert no longer exists as a corporate entity. Its previous interest in this case is completely represented by the successor-in-interest to the property High Desert previously owned, AV Solar.

I have conducted an internet research to try to locate a current address or telephone number for High Desert, but have been unable to locate a current address or number. I have also called High Desert’s last known number and mailed these motion papers, return receipt requested, to its last known address and to its previous registered agent. I have no contact with High Desert. The attorney-client relationship has broken down completely, as High Desert is apparently no longer a corporate entity and no longer owns property that is the subject of this litigation.

I have also coordinated with AV Solar on this motion. Through its counsel, AV Solar has informed me that they do not object to this motion.

1 **PROOF OF SERVICE**

2 I am employed in the County of San Diego, State of California. I am over the age
3 of 18 years and not a party to this action. My business address is Latham & Watkins LLP, 600
West Broadway, Suite 1800, San Diego, CA 92101-3375.

4 On April 18, 2013, I served the following documents described as:

5 **Declaration in Support of Attorney's Motion to be Relieved as Counsel – Civil**

6 by serving a true copy of the above-described document in the following manner:

- 7
- 8 ☐ VIA MAIL: I am readily familiar with the Firm's practice of collection and
9 processing correspondence for mailing. Under that practice it would be
10 deposited with the U.S. Postal Service on that same day with postage thereon
fully prepaid in the ordinary course of business, addressed to the following
parties in this matter:
- 11 ☒ VIA ELECTRONIC MAIL: By posting the document listed above to the Santa
12 Clara Superior Court website: www.scefiling.org regarding the ANTELOPE
13 VALLEY GROUNDWATER matter.
- 14 ☒ VIA OVERNIGHT DELIVERY: I provided for delivery by courier or driver
15 with delivery fees fully provided and return receipt requested to the offices
16 addressed as follows:

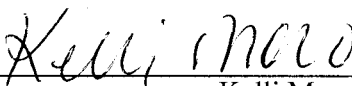
17 High Desert Investments, LLC
18 1270 West 1130 South, Suite 145
19 Orem, UT 84058

High Desert Investments, LLC
Via: Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

20

21 I declare that I am employed in the office of a member of the Bar of, or permitted
22 to practice before, this Court at whose direction the service was made and declare under penalty
of perjury under the laws of the State of California that the foregoing is true and correct.

23 Executed on April 18, 2013, at San Diego, California.

24 
25 _____
Kelli Moro