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WV 9/30/1

FILED
Superior Court of California
County of Los Angeles

APR 24 2014

Sherri R. Carter, Executive Officer/Clerk
By Shaunya Bolden Deputy

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SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

BC 543637

11 FRANK BONVINO,
12 Plaintiff,
13 v.
14 LAS VIRGINES MUNICIPAL WATER
15 DISTRICT, PACIFIC HYDROTECH, and
16 AECOM, and DOES 1 through 100,
17 Inclusive,
18 Defendant(s).

Case No.:
**VERIFIED COMPLAINT FOR
DECLARATORY RELIEF; INJUNCTIVE
RELIEF; AND NUISANCE**

(Pub. Res. Code §21000, *et seq.* (CEQA))

DEPT.: _____

NOTE TO COURT CLERK: THIS
PETITION INCLUDES A CALIFORNIA
ENVIRONMENTAL QUALITY ACT
(CEQA) CAUSE OF ACTION TO BE
ASSIGNED TO A SUPERIOR COURT
JUDGE DESIGNATED IN ACCORDANCE
WITH PUBLIC RESOURCES CODE §
21167.1(B) WHO HAS EXPERTISE IN
CEQA

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ORIGINAL

05/24/14

Petitioner/ Plaintiff Frank Bonvino ("Plaintiff") is informed and believes and on that basis alleges as follows in this Verified Petition for Writ of Mandate under the California Environmental Quality Act ("CEQA") and Other Laws:

RECEIVED: 04/24/14 02:08 PM
DATE PAID: 04/24/14 02:08 PM
PAYMENT: \$435.00
RECEIVED: 310
CC0465980052
LEA/DEF#: BC543637
CASE: \$435.00
CASE: \$0.00
CASE: \$0.00
CASE: \$0.00

54/25/14

INTRODUCTION

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2 1. In this action Petitioner /Plaintiff, Frank Bonvino, (“Petitioner”) challenges
3 the approval of Respondents/Defendants, Las Virgenes Municipal Water District, Pacific
4 Hydrotech, and Aecom, (collectively, “Respondents”) and all those others similarly
5 situated or as subcontractors of Respondents concerning, the project initiated by
6 Respondents to expand the water storage capacities in the Las Virgenes Municipal Water
7 District—Specifically called, Las Virgenes Municipal Water District Backbone
8 Improvement Program (“Tank Project”) —a project which includes without limitation:

- 9 • Installation of two 30-inch pipelines across the ‘dam’ upstream face which if
- 10 they fail could compromise the dam holding back 3 billion gallons of water.
- 11 • Five-million gallon storage tank which now requires blasting; and
- 12 • Modifications to the Westlake Filtration Plant and pump station-adjacent to
- 13 the Westlake Reservoir.

14 As noted below, implementation of the Tank Project will have numerous and
15 substantial impacts on the environment.

16 2. Petitioner requests that the Court vacate, set aside, rescind and void all
17 actions, resolutions, approvals, and findings related to the Project’s Mitigated Negative
18 Declaration approval, Findings of Fact, Statement of Overriding Consideration, Mitigation
19 Monitoring and Reporting Program, including rescinding any authorizations to proceed
20 with construction. Said Projects approvals and any certifications, Findings of Fact,
21 Mitigated Negative Declaration first approved in October 2009. On November 4, 2009,
22 Notice of Determination filed. Further approvals occurred on January 14, 2014.
23 Petitioner requests that the Court vacate the approvals because Respondents failed to
24 comply with the provisions set forth under the California Environmental Quality Act,
25 Public Resources Code section 21000, et seq. (“CEQA”).

26 3. Petitioner seeks a writ to mandate under California Code of Civil Procedure
27 sections 1085 and 1094.5, directing Respondents to vacate, rescind and set aside all
28 approvals associated with the construction of the tank project.

PARTIES

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2 4. Petitioner/Plaintiff, Frank Bonvino, is a natural person who resides
3 approximately 300 feet away from the proposed tank construction site in the Three
4 Springs community in the City of Westlake Valley, California, and has a direct interest in
5 protecting the region's air quality, his personal health and his real property, and
6 promoting environment-related-quality-quality of life.

7 5. Respondents/Defendants, Las Virgenes Municipal Water District
8 ("LVMWD") is and at all relevant times herein was, a California water district located in
9 the County of Los Angeles. The water district is a public agency under Section 21063 of
10 the Public Resources Code. The LVMW's Board is authorized and required by law to
11 hold public hearings, to determine the adequacy of documents prepared pursuant to
12 CEQA, and to take other actions in connection with the approval of projects within its
13 jurisdiction.

14 6. Respondents/ Defendants, Pacific Hydrotech, and Aecom, (collectively,
15 "Other Respondents") are the contractors and subcontractors for the construction of the
16 tank site.

17 7. Respondents/Defendants, DOES 1 through 100, inclusive, and individuals,
18 corporations, associations, public agencies, quasi-public agencies, or otherwise related
19 to Respondents/Defendants. Petitioner does not know the true names and capacities
20 and therefore sues such Respondents/Defendants by those fictitious names pursuant to
21 California Code of Civil Procedure section 474. Petitioner is informed and believes and
22 thereon alleges that each fictitious Respondent/Defendant is responsible for, participated
23 in, or contributed to the matters and things of which Petitioner complains herein and in
24 some fashion has legal responsibility thereof. When identity of such fictitious
25 Respondents/Defendants and the extent and nature of and their responsibility for,
26 participation in, and contribution to matters and things herein alleged have been
27 ascertained by Petitioner, Petitioner will seek leave of this Court to amend this
28 Petition/Complaint to show true names and capacities.

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8. Petitioner is informed and believes and thereon alleges that at all times material hereto, each DOE Respondent/Defendant names in this Petitioner /Complaint was the agent and employee of each of the other Respondents/Defendants herein, and was at all times material thereto, acting within the course and scope of the agencies and the employment and with the permission and consent of respondents/defendants.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to Sections 1085, 1094.5 and 187 of the California Code of Civil Procedure, and Sections 21168 and 21168.5 of the California Public Resources Code.

10. Venue is proper in this County under Sections 394 and 395 of the California Code of Civil Procedure as the County which the real property in dispute is located and as a County in which some or all of Respondents/Defendants reside.

11. Petitioner has complied with requirements of California Public Resources Code section 21167.5 and California Code of Civil Procedure section 388 by mailing a copy of the Petition/Complaint to the State Attorney General. A true and correct copy of such Notice is attached as Exhibit "A" and incorporated by this reference.

12. Petitioner has satisfied each and every exhaustion-of-remedies requirement that must be satisfied in order to maintain this proceeding.

13. Petitioner has complied with the requirements of California Public Resources Code section 21167.5 by sending a Notice of Commencement of this Action to Respondents prior to filing this Petition/Complaint. A true and correct copy of such notice is attached hereto as Exhibit "B" and incorporated herein by this reference.

14. Petitioner has standing as a party beneficially interested in the issuance of the requested writ of mandate because the tank project, and alleged more specifically herein, will have significant environmental impacts on Plaintiff individually and on the contiguous community members as a whole.

04/24/14

GENERAL ALLEGATIONS

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2 15. The "Las Virgenes Reservoir" as it is identified in LVMWD's notice as
3 published in The Daily News on Wednesday, August 26, 2009 does not in fact exist as
4 identified. Instead, the Reservoir/ dam which LVMWD refers to as the location of tank's
5 construction and blasting are identified by the State of California as "Westlake
6 Reservoir"¹. Westlake Reservoir has existed since 1972 and has provided water storage
7 for LVMWD customers in several cities for that time. LVMWD's Mitigated Negative
8 Declaration, dated October 2009, proposed to alter the [Westlake] Reservoir site to
9 introduce a 5 million gallon storage reservoir ("tank"), upgrades to the Westlake Filtration
10 Plant and pump station, and 16 inch pipeline that starts in the City of Westlake Village, at
11 least some of LVMWD's operations require six weeks of blasting and soil upheaval.

12 16. On or about 2007, the LVMWD conducted an initial evaluation of the
13 Backbone Improvement Program identified in the master plan of 2007. In 2009,
14 alternative study was completed outlining various alignments and options for the
15 improvements, see LVMWD's Regular Board Meeting Minutes of June 26, 2012; Notice
16 of Intent ("NOI") to Adopt a Mitigated Negative Declaration ("MND") was posted in/on
17 August 25, 2009 thru September 23, 2009.² However, on August 26, 2009, LVMWD's
18 Daily News ad labeled "Public Notice For Draft Initial Mitigated Negative Declaration,"
19 stated that public's comment period expired on September 30, 2009. In October 2009,
20 the board approved the Alternative Study and certified the MND for the program. On or
21 about November 4, 2009, Notice of Determination ("NOD") was filed with the Registrar
22 Records Office/County Clerk. On or about December 5, 2011, Dr. Richard F. Hector
23 provided comments and recommendations regarding environmental concerns identified,

24
25 ¹ State of California lists the reservoir's name as "Westlake Reservoir" owned by Las Virgenes Municipal
26 Water District, Dam No. 1073-000, National ID No. CA00904 Common public name for reservoir is also
"Westlake Reservoir".

27 ² All supporting declarations and documents are incorporated herein by reference as though fully set forth
28 hereat as set forth in the concurrently filed ex parte TRO and request for Injunction, Appendix of
Authorities and Appendix of Declarations which are attached hereto as Exhibits C-E.

1 yet his comments fail to adequately addressed points raised. Thus, the MND was not
2 updated accordingly.

3 17. As of the filing of this action significant changes to plan outlined in MND
4 were as follows: blasting period expanded from four (4) to six (6) weeks. Currently, the
5 tank construction is projected to last now for eighteen (18) months, contrary to the
6 originally defined project duration of 5 months, attached as MND, Page 29, Paragraph 1,
7 b-c, ("Project construction is anticipated to occur for approximately five months.")

8 18. In or around 2011, the Board acknowledged that The Daily News was a
9 newspaper based outside the Water District service area and that it was not generally
10 read by the people living in the District, therefore the Board switched all public notice
11 articles to "The Acorn" newspaper.

12 19. Leading up to and prior to the Board's vote on January 14, 2014, to approve
13 commencement of the tank construction and blasting aspect of the project, Board
14 member Barry Steinhardt repeatedly attempted to include items to the agenda for public
15 discussion regarding Environmental Impact, concerns about blasting, dam safety, animal
16 safety, traffic safety, noise and air pollution, dust, and exposure to "Valley Fever" spores.

17 20. More recently, on March 17, 2014, at 6:22 a.m., a 4.4 magnitude
18 earthquake occurred in the Santa Monica Mountains, near the location of the proposed
19 tank site.

20 21. The Los Angeles Times reported that Mr. Thomas Heaton, director of
21 Caltech earthquake engineering division was quoted stating 'this earthquake was located
22 in an area not previously known to have faults and subject to ground movement. In sum,
23 despite numerous concerns communicated by Three Springs residents, members of the
24 Westlake Village City Council and even member of the LVMWD Board, the LVMWD has
25 refused to amend the MND so that it incorporates a more thorough and reliable study into
26 risk of "Valley Fever" and its proposed mitigation measures to prevent such an outbreak,
27 as well as a re-examination of the effects and/or dangers of faults or earthquakes in the
28 location of the tank's construction.

1 22. Defendants failed to give proper notice required under CEQA Public
2 Resource Code Sections 21080.3 and 21092 as well as CEQA Guidelines Sections
3 15072, 15072(f) and 15074, prior to Board approval of the Las Virgenes Municipal Water
4 District Backbone Improvement Program ("Backbone Improvement Program") and as
5 such Defendants' continuing effort to develop a five million gallon water storage tank
6 ("Storage Tank") is unlawful. LVMWD's actions represent a colossal failure to comply
7 with California's public notice, and public participation statutes, very possibly intentionally.
8 Specifically, Defendant Las Virgenes Municipal Water District's public notification ("Public
9 Notice") was invalid and/or deficient in the following ways:

10 23. Public Notice used a name that describes a site at a different location
11 approximately 11+ miles from actual site,

12 24. Public Notice failed to provide an accurate description of the tank site by
13 using the wrong name for the reservoir, one that contradicts the name used and cited by
14 State of California safety agencies, without mention of neighborhood nor even city,

15 25. Public Notice was placed in The Daily News—a newspaper which does not
16 meet the CEQA requirements for a "newspaper of general circulation".

17 26. Water District recognized this deficiency in 2011, and subsequently
18 changed its normal practice to a different publication.

19 27. Public Notice provides a filing period which contradicts the filing period
20 provided in Notice of Intent to Adopt a Mitigated Negative Declaration.

21 28. Defendant provided only 29 days for public comment, when they were
22 required to provide 30 days.

23 29. Evidence of the failure in Public Notice is that the Water District did not
24 receive even a single comment from residents on this major project.

25 30. Defendant mislead the public, and violated public process, likely increasing
26 its chances to obtain Board approval of its project, when it incorrectly stated in its Initial
27 Study/Mitigated Negative Declaration ("MND") submitted for approval that it had in fact
28 "...directly mailed [Notice of Intent to Adopt a Mitigated Negative Declaration] to owners
contiguous to the project."

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31. Defendant failed to file the Notice of Determination in the required period of time under CEQA Guidelines Sections 15075(d).

32. As a result of an improperly filed Notice of Determination, "the statute of limitations is 180 days from the date the decision to carry out or approve the project is made". The project's final approval was January 14, 2014.

33. Under CEQA Guidelines Sections 15162, and confirmed in writing by the Water District's own District Counsel, a subsequent or supplemental Environmental Impact Report ("EIR") is required if there are substantial changes for the project, substantial changes occur in circumstances, or new information becomes available relevant to the EIR or MND for the project. The Defendants have incorrectly assessed the need for a subsequent or supplemental Environmental Impact Report for the following reasons:

- a. New information since the MND approval including:
- b. Announcement of California's Declaration of Drought,
- c. Locally, lack of rain at new extreme (driest year on record)
- d. New earthquake fault found in the same mountain range as project, and much closer than previously known active faults.
- e. Substantial changes in circumstances since the MND approval including:
 - i. Fever testing is no longer valid due to Drought conditions which significantly increase risk of cocci exposure.
- f. Substantial changes to the project since the MND approval including:
 - i. Project duration increased by more than 300% from 5 months, as stated in the MND when talking about environmental impact , to an estimated 18 months.
 - ii. Blasting period increased by 50% from four weeks to six weeks of daily blasting.

34. These changes have a significant impact requiring a supplemental EIR.

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35. MND does not address the risk of "Valley Fever", and it should have been addressed in a supplemental EIR. "Valley Fever is a serious disease. Symptoms and manifestations predominantly involve the respiratory system but can include painful lesions in the skull, spine or other bones; meningitis; painful, swollen joints; nodules, ulcers and skin lesions; as well as more serious issues such as strokes, or even death."

36. "There is significant risk that multiple residents or workers will be exposed to cocci spores which could subsequently result in a localized cocci epidemic." Defendants' Storage Tank project has caused dust to fly and expose residents living in the adjacent development to the risk of inhaling "Valley Fever" spores. Blasting and future stages will create an even greater exposure.

37. Newly revealed information recently confirmed by the Water District, has shown that while the Water District did test for Valley Fever after the MND was approved, their testing was inadequate. Because testing was performed during a wet period, and the area has now experienced years of drought, the tests are no longer adequate, as well as the samples taken while raining, as reported, may have been tainted. "We are in a situation now where longstanding drought conditions will impact germination of hyphae spores and increase their ability to be aerosolized. Any samples taken during a rainy period are only partially relevant to the current time period as the conditions then differ greatly from those in a multi-year drought: the conditions we are now in."

38. LVMWD's safeguards of Valley Fever are wholly inadequate in the following ways:

- a. LVMWD's solution of placing tarps on dirt fails to resolve the times when "as the tarps are lifted and dirt is shoveled crudely into trucks" ;
- b. LVMWD fails to provide details of their ability as well as the feasibility of keeping the soil adequately watered during a drought;
- c. there is no monitoring and accuracy of LVMWD's testing ;
- d. LVMWD has not instituted recommendations by County of Los Angeles Department of Public Health to raise awareness, and educate the

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community on the disease, symptoms, and what to do if residents suspect infection.

- e. There is no evacuation or emergency plan in the event of dam compromise or blasting accident. The impacted Three Springs neighborhood of 481 homes has only one two-lane road of egress.

39. Association of Dam Safety Officials classifies this dam as “High Hazard” because of how close the dam is to people. A dam is considered “high hazard” when if it fails, it probably means loss of life (as is the case with this dam). LVMWD’s oversight—in not providing detailed emergency exit procedures—has huge ramifications especially because there is only one entrance and exit to the affected community and one disaster could result in irreparable human and real property losses.

40. MND identifies the closest active earthquake fault to the two dams of the Westlake Reservoir as the “Northridge Fault”, and that “Neither tank site would be located within proximity to an active or potentially active fault, and therefore neither would be subject to significant ground shaking potential.” However, following the recent earthquake on March 17, 2014 at 6:22a.m. located in the same mountain range as the project, as quoted by Thomas Heaton, director at Caltech’s Earthquake Engineering Research Laboratory that ‘this earthquake was located in an area not previously known to have faults and subject to ground movement’. The recent earthquake has serious implications not previously identified prior to Board’s approval of Backbone Improvement Project which includes repetitive blasting in close proximity to two dams holding back approximately 3 billion gallons of water in close proximity to thousands of residents.

41. Defendants have failed to comply with their own stipulated project safety guidelines in that Defendants have promised, yet failed to deliver on the following:

- a. Defendants obtained approval by stating that it would mitigate issues regarding ‘Geology, Soils and Seismicity,’ by consulting the California Division of Safety of Dams.
- b. Defendants obtained approval for its project by making at minimum an implied promise to comply with the City of Westlake Village’s laws and

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regulations, yet Defendant's start construction as early as 7:00 a.m. on weekdays and the noise emanating from the construction site has been measured as exceeding greater than 95 decibels, which is approximately 20 decibels higher than permitted in Westlake Village;

42. Pecuniary compensation will not afford adequate relief.

43. It would be extremely difficult to ascertain the amount of compensation which would, if even possible at all, provide adequate relief.

44. The requested restraint is necessary to prevent a multitude of judicial proceedings and to avoid a multitude of suits against Defendants initiated by residents of the 481 homes in the Three Springs community, an estimated 1500 residents in 481 homes, seventy of which have signed declarations in support of Plaintiff's TRO and Preliminary Injunction.

45. Moreover, the testing blasting stage of the Backbone Improvement Project began Monday, April 21, 2014, despite repeated requests for administrative relief to prevent this action based on the above facts. Such requests however have been ignored.

46. Petitioner has a beneficial right and interest in Respondents' fulfillment of all of their legal duties, as alleged in this pleading.

47. If Respondents are not enjoined from implementing and undertaking acts in furtherance of the tank project, Petitioner and others in the community will suffer irreparable harm from which there is no adequate remedy at law.

FIRST CAUSE OF ACTION

Violation of CEQA;

Failure to Notice Public

(Against all Respondents/ Defendants)

48. Petitioner hereby incorporates by reference each and every allegation contained in Paragraphs 1 through 45 as set forth above.

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49. CEQA mandates that unless project is deemed exempt the public must be notified lead agency's intent to adopt Mitigated Negative Declaration and Notice of Determination.

50. CEQA Guidelines section 15072, provides in pertinent part: "The lead agency shall mail a notice of intent to adopt a negative declaration or mitigated negative declaration to the last known name and address of all organizations and individuals who have previously requested such notice...and shall give notice...by at least one of the following procedures to allow the public the review period provided under Section 15105:

- a. Publication at least one time by the lead agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of the largest circulation from among the newspaper of largest circulation in those areas.
- b. Posting of notice by the lead agency on and off site in the area where the project is to be located.
- c. Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll."

51. Water District's Mitigated Negative Declaration ("MND") incorrectly states that "A Notice of Intent to Adopt a Mitigated Negative Declaration was filed with the State Clearinghouse along with the required number of copies of the document for circulation to various state agencies, published in a newspaper of general circulation in the area affected by the project, and directly mailed to owners of property contiguous to the project". see MND, Summary, pg. 1, paragraph 2. The public notice portion of this statement is simply untrue.

52. More than seventy (70) Westlake Village residents, who live contiguous to the tank project site never received any such notice by mail. Appendix of exhibits attached hereto. Furthermore, LVMWD is unable to produce proof of mailing of Notice of Intent to any owners of property contiguous to the project. Thus, LVMWD's statement that is mailed notice is more than misleading it is untrue.

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53. While the LVMWD did publish an ad in the Daily News purportedly providing notice to the public, this also fails to meet CEQA requirements.

54. California Government Code sections 6008, 6008(b), 6008(d), provides in pertinent part:

“Notwithstanding any provision of the law to the contrary, a newspaper is a ‘newspaper of general circulation’ if it meets the following criteria”:

55. 6008(b):

“It has a substantial distribution to paid subscribers in the city, district, or judicial district in which it is seeking adjudication”

56. 6008(d):

“It has only one principal office of publication and that office is in the city, district, or judicial district for which it is seeking adjudication”

57. Daily News fails to meet the general circulation criteria listed above. First, the Daily News did not have a substantial distribution to paid subscribers in the area affected by the tank construction and blasting project. In or around 2011, and after publishing notice of the tank project in the Daily News, LVMWD recognized that the Daily News was not a local paper with widespread distribution across the LVMWD’s region.

58. To increase the likelihood of getting notice to the residents, LVMWD switched to “The Acorn” newspaper, a local paper with widespread distribution across the LVMWD’s region. Thus, more than seventy (70) residents of the affected community did not subscribe to or regularly see the Daily News sold in their community; the Board decided to change from the Daily News to The Acorn because they recognized—albeit late—that Daily News did not constitute a ‘newspaper of general circulation’. CEQA § 15072(b)(1); Cal. Gov Code § 6008(b). Moreover, Plaintiff did not actually learn of the Mitigated Negative Declaration until February 2014.

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59. Second, the Daily News' principal office of publication is outside the area of residents affected by the tank project. In fact, the Daily News' principal office of publication is located at 21860 Burbank Blvd., Suite 200, Woodland Hills, CA 91367. 3

60. Third, CEQA Guidelines section 15072(g), provides in pertinent part:

"A notice of intent to adopt a negative declaration or mitigated negative declaration shall specify the following:

A brief description of the proposed project and its location.

....

The date, time, and place of any scheduled public meetings or hearings to be held by the lead agency on the proposed project...

The address or addresses where copies of the proposed...mitigated negative declaration including revisions developed under 15070(b) and all documents referenced in the proposed...mitigated negative declaration are available for review. This location or locations shall be readily accessible to the public during the lead agency's normal working hours.

...

Other information specifically required by statute or regulation for a particular project or type of project."

61. Again, LVMWD failed to comply with CEQA's because it incorrectly identifies the tank site location. LVMWD's ad in the Daily News states "A five gallon storage reservoir adjacent to Las Virgenes Reservoir."

62. According to State of California, it identifies the reservoir referred to in LVMWD's ad as the Westlake Reservoir as such Defendant's ad fails to notify the public of the location of the project site. As such the "storage reservoir" is ambiguous and does not provide proper notice to the public that a 5 million gallon tank will be constructed. The probable confusion caused by LVMWD's ad using the word "reservoir", instead of

³ <http://www.dailynews.com/contact-us>

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“tank” becomes more evident when one considers the fact that residents in the area would have known that a “reservoir” holding 3 billion gallons of water already existed in the location of the project site; therefore, many residents likely would assume that the ad did not apply to the location of the Westlake Reservoir.

63. CEQA Guidelines section 15072(g)(2), provides in pertinent part:

(2) The starting and ending dates for the review period which the lead agency will receive comments on the proposed...mitigated negative declaration. This shall include the start and end dates for the review period. If the review period has been shortened pursuant to 15105, the notice shall include a statement to that effect.

64. CEQA Guidelines section 15105(b), provides in pertinent part:

“...When a proposed...mitigated declaration is submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 30 days, unless a shorter period, not less than 20 days, is approved by the State Clearinghouse.”

65. Because LVMWD submitted a MND to the State Clearinghouse and failed to obtain approval for a shorter public review period, the review period should have been no less than 30 days.

66. Yet again, the public notice period was insufficient and failed to comply with CEQA’s requirements in that a MND was posted on August 25, 2009 and it was removed on September 23, 2009.

67. Not only did the Notice of Intent to Adopt MND fail to effectuate public notice, but the Notice of Determination also failed to meet CEQA notice requirements. Pursuant to CEQA Guidelines section 15075, LVMWD was required to file NOD within five calendar days of project approval. CEQA Guidelines §15075. Here, the LVMWD did not file there NOD for at least six days after receiving approval. Decl. of Steinhardt at 6-7 pargs. 15(a)-(d).

68. The California Court of Appeals, in *Latinos Unidos De Napa v. City of Napa*, 196 Cal.App.4th 1154 (2011), held that the “30-day” period—as outlined in CEQA—

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excludes the first day of posting and includes the last day. The Court also held that the NOD notice must be posted "...for the entire last (30th day) to satisfy the 30-day posting requirement." 196 Cal.App.4th 1154, at 1157-1158; see also, Cal. Civ. Proc. Code § 12.

69. The language in CEQA definitively states that the **review period shall not be less** than 30 days. CEQA Guidelines section 15105(b), *emphasis added*. Since public notice of proposed MND was posted for no more than twenty-nine (29) days, not the thirty (30) days required under CEQA, notice was improper.

70. For the foregoing reasons, notice of the proposed MND was defective and improper as such the statute of limitations did not accrue. Furthermore, the time period for the public to comment only begins after notice as required by CEQA is accomplished, the public review period, period to comment, and period to attend hearings has not expired. Moreover, Plaintiff was prejudiced by LVMWD's failure to notice the public because he was unable to have any of his comments / recommendations published, his objections to the tank project were not taken seriously and the project has resulted in constant dust (possibly cocci) settling on his and inside his home, and noise above the City's limits going unchecked and without regard to his health and safety.

71. In or around January 2014, LVMWD's Board approved the commencement of the tank project, yet LVMWD failed to provide proper notice and they failed to file Notice of Determination as required under CEQA Guidelines section 15075. Therefore, the statute of limitations has not yet run.

SECOND CAUSE OF ACTION

Violation of CEQA;

Failure to Thoroughly Study and Mitigate the Project's Significant Impacts in an Environmental Impact Report.

(Against all Respondents/ Defendants)

72. Petitioner hereby incorporates by reference each and every allegation contained in Paragraphs 1 through 71 as set forth above.

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73. Plaintiff contends that not only did the LVMWD fail to meet CEQA's notice requirements, but LVMWD also misclassified its tank project as meeting the standards to draft a Mitigated Negative Declaration, and thereby avoided drafting an Environmental Impact Report.

Expert Opinion Supports a "fair argument" That the Project Has Significant Environmental Impacts.

74. An EIR is required, whenever substantial evidence in the record supports a "fair argument" that a project "may have any significant environmental impact." Pub. Res. Code § 21080(c); Citizens Action v. Thornley, (1990) 222 Cal. App.3d 748, 754.) The fair argument standard creates a "low threshold" favoring preparation of an EIR. If substantial evidence supports a fair argument that a project may have a significant environmental effect, the lead agency must prepare an EIR even if it is also presented with other substantial evidence indicating that the project will have no significant effect. (Stanislaus Audubon v. Stanislaus, (1995), 33 Cal.App.4th 144, 150-151.)

75. The "fair argument" standard is virtually the opposite of the typical deferential standard afforded to agencies. Whereas agency decisions are generally upheld if any substantial evidence supports its decision, once the "fair argument" standard is applied, an agency's decision to avoid preparation of an EIR must be reversed if any evidence contradicts the agency's decision. (Quail Botanical Gardens v. City of Encinitas, (1994), 29 Cal.App.4th 1597, 1602) (EIR required for 40-home residential development).

76. As a matter of law, "expert opinion" constitutes "substantial evidence" within the meaning of CEQA. (Pub. Res.Code § 21080(e)(1); Guidelines § 15064(f)(5)). Expert testimony is sufficient to create a fair argument, even if other evidence contradicts the expert's conclusions. (Guidelines § 15064(g); Brentwood ass'n v. City of Los Angeles, (1982) 134 Cal.App.3d 491, 504-05; Sierra Club v. Sonoma, (1992) 6 Cal.App.4th, 1307, 1317).

Expert Opinion Demonstrates the Project's Significant Impacts

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2 77. In addition to Dr. Ajay Nirula's many credentials, he has worked on studies
3 which are germane the current issue of the case. 4 As a trained Molecular Biologist, Dr.
4 Nirula completed extensive early work PCR (assay used by consultant to detect cocci)
5 soon after its discovery). While working at the National Institute of Health, Dr. Nirula went
6 on to develop a new version of PCR which in 1990 was published in a scientific journal
7 called "Gene". Dr. Nirula's declaration indicates that the LVMWD tank project has a
8 number of significant environmental impacts that must be disclosed, studied, and
9 mitigated. To be clear, LVMWD's expert Dr. Richard Hector's recognizes that there is a
10 localized risk of valley fever (cocci) epidemic relating to the to the constructing of the
11 water tank. Additionally, the documents relied on by Dr. Hector confirms that cocci
12 infection is a serious concern as it relates to the tank's construction due to the geographic
13 location, and historical precedents of analogous situations. As explained in Dr. Nirula's
14 declaration, the testing to identify risks of a Valley Fever is cursory at best and misleading
15 at worst due to the following: first, the samples that Dr. Hector relied on were extracted
16 from the proposed tank construction location in 2011 and during a rainy season. Dr.
17 Hector comments on numerous studies including a study done by a Dr. Smith and relied
18 on by Dr. Hector which demonstrated that during seasons of sufficiently heavy rains
19 reported of coccidioidal disease are decreased in the area endemic for Coccidioides.
20 Following this line of reasoning, if a locality endemic for Coccidioides experienced a
21 drought, incidents of cocci disease would increase. As Dr. Nirula points out, the area of

22
23 ⁴Dr. Nirula has background in immunology, molecular biology, internal medicine, and
24 direct experience with the clinical manifestations of "Valley Fever." he has an MD, Board
25 certified in Internal Medicine(2000-2010), Rheumatology, very familiar with clinical course
26 of cocci, having treated several patients with the disease, Ph.D. in Molecular
27 Immunology; Former Faculty member at UCSF, Department of Medicine; Worked in
28 Biotechnology for many years, and very familiar with technical aspects of diagnostic
testing; Trained Molecular Biologist. Did extensive early work with PCR (assay used by
consultant to detect cocci) soon after its discovery. Developed new version of PCR while
working at National Institute of Health, which was published in journal Gene in 1990.

1 the proposed tank construction as well as other regions in California are currently
2 experiencing drought conditions. As such, Dr. Hector's conclusions cannot be relied
3 upon because they do not encompass the current weather conditions that Dr. Hector
4 admits influence the outcome of his analysis regarding the risk of Valley Fever infection
5 at the site of the proposed tank.

6 78. The mitigation measures for dust control, mainly covering soil with tarps
7 during blasting, lack effective deterrence because it fails to take into account the time
8 periods when the tarps are lifted and "dirt is shoveled crudely into trucks.". It is at this
9 time and others that the dust can travel and carry airborne cocci particles straight to
10 multiple residents in affected areas as well as workers—thereby exposing others to a
11 localized cocci epidemic. LVMWD's water the soil proposal lacks detailed planned
12 measures to address this current season of drought that we face and there have been
13 reports of inadequate watering. The dust from the construction site flies directly over to
14 my property. Third, the sensitivity and accuracy of the PCR assay used by LVMWD's
15 experts are questionable. As Dr. Nirula's declaration states "LVMWD's review claims that
16 polymerase chain reaction (PCR) testing has not detected cocci in the soil by the
17 reservoir. The claim lacks some important details and appears to be supported by
18 assumptions that raise further questions. Specifically:

- 19 a. According to LVMWD, soil was sampled at depths of 4-10 inches. This
20 may not truly rule out cocci at the varying depths where blasting will
21 occur, estimated by LVMWD at a depth of 10-24 feet.
- 22 b. LVMWD's expert claims the depth is representative without referencing
23 supportive data. LVMWD's expert accurately notes that 'soil studies can
24 prove the presence of the fungus but negative studies cannot prove the
25 absence.' The PCR assay is highly sensitive and is an appropriate tool.
26 As someone that worked on the development of PCR, it is somewhat
27 puzzling he was unable to detect any cocci DNA with soil samples from
28 an endemic area. The sensitivity of the assay is theoretically at the level
of a single copy of a gene. A more reassuring result would have been

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- detection of cocci DNA at low amounts relative to multiple positive control soil samples, PCR primer pairs, and indication of sensitivity.
- c. LVMWD's expert did not demonstrate that there were appropriate internal positive controls used for the reservoir soil sample.
 - d. LVMWD's expert did not demonstrate that the samples and testing were taken with the appropriate rigor.
 - e. It is not clear if positive controls with soil from cocci-endemic regions were used. Use of purified cocci DNA would not be an adequate positive control."

79. Based on the foregoing, LVMWD's expert's testing and expert's comments fail to provide a reliable analysis of the risks of Valley Fever and the likelihood of exposure if the proposed tank construction is allowed to proceed because of the following: Dr. Hector's assessments relies on the tests conducted during a raining season and we are currently experiencing a drought; the diagnostic testing for cocci near the reservoir is no longer valid, incomplete, or potentially flawed; testing spores used and data retrieved are out-of-date, and major change in environment. As such, to threaten the safety of the neighboring residents under these circumstances is unconscionable.

THIRD CAUSE OF ACTION

Violation of CEQA;

Failure to Supplement MND and / or Draft and Supplement an Environmental Impact Report.

(Against all Respondents/ Defendants)

New Information and Substantial Change in Circumstances Requires That LVMWD Draft a Supplemental MND and/or Environmental Impact Report.

80. Petitioner hereby incorporates by reference each and every allegation contained in Paragraphs 1 through 79 as set forth above

81. Pursuant to Pub. Res. Code §21166, a supplemental environmental impact report is required if:

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“21166(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report. (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report. (c) New information, which was not known and could not have been known at the time of the environmental impact report was certified as complete, becomes available.”

82. New information previously unknown to both Plaintiff and Defendant is now available. Since LVMWD's MND and NOD fails to address these current health and safety issues, LVMWD's tank project should not be allowed to proceed any further until any and all health and safety issues raised by new information is fully researched, analyzed, and mitigated.

a. March 17, 2014 Earth Quake Near The Location of Proposed Five-Million Gallon Tank Site.

83. As Plaintiff declares in his declaration, on or about March 17, 2014, at approximately 6:22a.m., a 4.4 magnitude earth quake erupted in the Santa Monica Mountains, near the location of the proposed tank site. In his comments, the LVMWD's expert, Dr. Richard F. Hector points out that “ Even though the spores of the Coccidioides fungus have the ability to travel great distances, as the cases resulting from the Northridge Earthquake demonstrated, [he does not believe that the same health risks are present in the instant project site because he] is unaware of reports that the movement of comparatively small amounts of soil results in infection in persons some distance from the site of disruption, suggesting that the risk of infection in residents near the Law Virgenes Reservoir is low...”Dr. Hector's Letter, dated Dec. 5, 2011. Dr. Hector's comments clearly point out that earthquakes in the tank site can cause dust and even cocci to travel great distances and result in cases of human valley fever infection.

84. Dr. Hector comments refer to an earthquake which occurred in 1994, approximately fifteen (15) years prior to the LVMWD's research, and Dr. Hector's

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comments. Moreover, as Plaintiff declares, a director Cal Tech was quoted saying that "this earthquake was located in an area not previously known to have faults and subject to ground movement. " This new event is both relevant and substantial and must be thoroughly reviewed for any environmental and/ health and safety effects that it may have on the residents of Three Springs. Subsequent to his LVMWD's research and Dr. Hector's comments, however, the same general geographic area sustained a 4.4 magnitude earthquake.

a. Recent California State Recognition that We Are Experiencing A Drought.

85. Our State is currently experiencing a drought⁶, yet the soil studies conducted by and relied upon by LVMWD were completed in 2011 "after the area experienced heavy rainfall totaling over .0.8"... " Dr. Hector's Letter at paragraph 1. As Dr. Nirula explains in his attached declaration, any samples taken during a rainy period are only partially relevant and do not reflect the soil present during the current drought conditions. Furthermore, the LVMWD's plan to water the soil does not detail the plans for watering during drought conditions. Moreover, I have already experienced dust possibly carrying the cocci / valley fever flying directly unto my property.

86. Since the 2011 soil samples were taken, more than two years have elapse, a 4.4 magnitude earthquake sent a stiff jolt to the area near the proposed tank site, and alas we are experiencing drought conditions. It is indisputable that these new events have occurred and it is clear from Dr. Hector's comments that these events were not analyzed in his comments. Moreover, Dr. Hector's analysis makes it clear that earthquakes and drought conditions are most certainly substantial factors in contributing to the spread of the cocci and possibly valley fever infection.

⁶

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FOURTH CAUSE OF ACTION

For Injunctive Relief

(Against all Respondents/ Defendants)

The Risk of Valley Fever is a Real and is Likely to Harm People and the Environment

87. Petitioner hereby incorporates by reference each and every allegation contained in Paragraphs 1 through 86 as set forth above

88. Plaintiff, the environment, and human health are at risk of suffering irreparable harm should LVMWD's tank construction be allowed to continue without adequate environmental analysis and without feasible mitigation measures to protect the environment and public health. "It is undisputed that 'environmental injury, by its nature, can seldom be remedied by money damages and is often permanent or at least of long duration, i.e., irreparable.'" (CBE v. Cenco, 179 F. Supp.2d 1128, 1148 (C.D.Cal. 2001), quoting Amoco Prod. Co v. Village of Gambell, 480 U.S. 531, 545 (1987); Save the Yaak Comm. V. Block, 840 F.2d 714, 722 (9thCir. 1988) ("when the environmental injury is sufficiently likely, the valance of harms will usually favor the issuance of an injunction to protect the environment")). CEQA, like its federal counterpart the National Environmental Policy Act ("NEPA"), has procedural requirements in place to provide the opportunity for public involvement and to facilitate sound environmental decision. Failure to comply with CEQA's requirements caused harm itself, specifically the risk that "real environmental harm will occur through inadequate foresight and deliberation." (Sierra Club v. Marsh, 872 F.2d 497, 504 (1st Cir.1989)); see also, Sierra Club v. U.S. Army Corps of Eng'rs, 446 F.3d 808, 816 (8th Cir. 2006) (injury under NEPA includes "failing to issue a required impact statement"))).

89. The Water District's failure to provide adequate testing and mitigation measures and their failure to notice the public as required by CEQA inflicts substantial and irreparable informational harm upon Plaintiff and the general public. CEQA confers a right of an informed decision making process and an opportunity for meaningful public participation prior to project construction. See e.g. Pub. Res. Code §21092; Save Our

1 Ecosystems v. Clark, 747 F.2d 1240, 1250 (9thCir. 1984) (strong presumption of
2 irreparable harm when “agency fails to evaluate thoroughly the environmental impact of a
3 proposed action”). (emphasis added.)

4 90. “Valley Fever is a serious disease. Symptoms and manifestations
5 predominantly involve the respiratory system but can include painful lesions in the skull,
6 spine or other bones; meningitis; painful, swollen joints; nodules, ulcers and skin lesions;
7 as well as more serious issues such as strokes, or even death.” Generally, largely
8 unpopulated rural communities have reported cases of Valley Fever; however, the tank
9 construction site is “reportedly in close proximity to residents who are pregnant, suffer
10 from asthma, have respiratory issues, and are recovering from illness. All of these
11 residents are at increased risk of the cocci infection, and some are within very close
12 proximity to the project.”

13 Recent Cases

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15 91. “Independent from Dr. Hector’s review, it is worth noting that numerous
16 recent examples of cocci outbreaks related to construction of similar scope can be
17 provided. Examples include:

- 18 a. In May 2013, 28 workers were sickened by cocci infection related to
19 construction at Topaz Solar Farm and California Valley Solar Ranch.
- 20 b. In August 2013, the California Department of Public health reported that
21 ten members of a 12-person construction crew excavating a trench
22 developed Valley Fever.
- 23 c. In September 2013, U.S. Centers for Disease Control Director Dr.
24 Thomas Frieden called valley fever “a big and growing problem” that
25 presents “substantial” economic and health costs for Californians.”
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FIFTH CAUSE OF ACTION

For Declaratory Relief

(Against all Respondents/ Defendants)

92. Petitioner hereby incorporates by reference each and every allegation contained in Paragraphs 1 through 91 as set forth above.

93. An actual controversy has arisen between Petitioner and Respondents, in that Petitioner contends that Respondents' approval of tank project and construction of tank did/ does not comply with CEQA and the provisions of the CEQA Guidelines.

94. Petitioner is informed and believes and on that basis alleges that Respondents dispute that contention of Petitioner as described in the proceeding paragraphs.

95. The parties at the time require a judicial determination of their respective rights and duties with respect to Respondents' compliance with CEQA and the provisions of CEQA Guidelines regarding the tank project.

SIX CAUSE OF ACTION

For Nuisance

(Against all Respondents/ Defendants)

96. Petitioner hereby incorporates by reference each and every allegation contained in Paragraphs 1 through 95 as set forth above.

97. Defendants know that the noise level at the construction site is above what's allowed by the City.

98. Defendants know that dust is flies from the construction site onto surrounding residential properties.

99. Defendants know that their construction vehicles emit heavy gas fumes and these fumes travel to surrounding residential properties.

100. Plaintiff has suffered special harm.

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101. Plaintiff's residential property Plaintiff has personally suffered harm caused by extremely loud noises, encountering construction site dust—even while on his own residential property, and inhaling vehicle fumes.

102. As such, Plaintiff seeks to enjoin tank project.

103. Plaintiff further requests declaratory relief stating that Defendants and each of them are legally liable for all future damage to Plaintiff's person and property caused by Defendants actions.

PRAYER FOR RELIEF

Whereas, Petitioner respectfully prays for the following relief against Respondents (and any and all other parties who may oppose Petitioner in this proceeding):

1. That this Court issue an Alternative and Preemptory Writ of Mandate commanding Respondents, Plaintiff seeks this preliminary injunction to suspend LVMWD's approval of tank construction and all development and construction operations authorized while a complete and proper EIR process is completed, or mediated negotiations regarding steps necessary with Plaintiff and group representatives of all parties impacted, including a selection of residents, City of Westlake Village, LA County Health Department, geotech engineers and emergency response representatives and shall enjoin, all Defendants, and each of them, their agents, servants, and employees, and all persons acting under, or in concert with, or for them:
 - a. From starting or initiating and / or continuing any constructing, building, or blasting related to and /or associated with the of the project known as Las Virgenes Municipal Water District Backbone Improvement Program;
 - b. The preliminary injunction also seeks an order requiring, during the pendency of the instant litigation, all Defendants, and each of them, and their agents, servants, and employees, and all persons acting under, or in concert with, or for them:

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- c. To post a copy of the Temporary Restraining Order and Order to Show Cause re.: Preliminary Injunction, and/or permit Plaintiffs to immediately do so, at all locations, including without limitation, on the entrance point of the Three Springs Community of Westlake Village, in and outside of the project location(s), and to mail notice to all residents who are contiguous and/or adjacent to the Las Virgenes Municipal Water District Backbone Improvement Program site—specifically the area affected by tank project;
- d. To identify with yellow caution tape visible to contractors, subcontractors, agents, and all on-lookers that construction blasting as well as any other activities above-mentioned is to cease immediately and without delay.


2. That pending the resolution of the issues presented herein, the Court issue a Preliminary Injunction restraining Respondent from taking further action to implement or proceed with the proposed tank project during the pendency of the litigation;

3. That this Court issue a Preliminary Injunction restraining Respondent/Defendant from taking further action to implement or proceed with the proposed project prior to satisfying this Court or a higher tribunal, that Respondents have fully complied with CEQA with respect to this tank project by, among other things, preparing a EIR that truly and accurately addresses the environmental impact set forth above; and

4. That the Court allow for costs of this lawsuit herein and reasonable attorney's fees and other such relief as the Court deems proper and allowed .

DATED: 4/23/14

Respectfully submitted,
Tamborelli Law Group
A Professional-Law Corporation



John V. Tamborelli, Esq.
Tamborelli Law Group
Attorney for Plaintiff Frank Bonvino

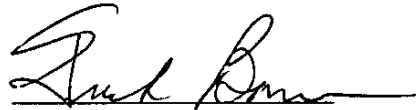
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VERIFICATION

I, FRANK BONVINO, am the Plaintiff in the above-captioned action. I have read the foregoing Verified Complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters that are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 23rd Day of April 2014 in Westlake California

DATED: April 23, 2014



Frank Bonvino

EXHIBIT A

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NOTICE OF PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES
BONVINO V. LAS VIRGENES MUNICIPAL WATER DISTRICT, ET AL.

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 21700 Oxnard Street, Suite 1590, Woodland Hills, California.

On April 24, 2014, I served the foregoing document described as:

VERIFIED COMPLAINT FOR DECLARATORY RELIEF; INJUNCTIVE RELIEF; AND NUISIANCE (Pub. Res. Code §21000, *et seq.* (CEQA))

on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Attorney General Kamala Harris
Office of The Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

(BY EXPRESS MAIL, CCP 1013(c,d) I caused such envelope or package designated by Federal Express, airbill number 798640867170, with delivery fees paid or provided for, to be deposited in a box or other facility maintained by Federal Express in Woodland Hills, California. I am "readily familiar" with the firm's practice of collection and processing outgoing correspondence. Under that practice, it would be deposited with the Federal Express on that same day in the ordinary course of business.

Executed on the April 24, 2014 at Woodland Hills, California.

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

(FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.



Mary J. Henrie



EXHIBIT B

TAMBORELLI LAW GROUP

A PROFESSIONAL LAW CORPORATION

John V. Tamborelli, Esq. | Director

JTamborelli@lawtlg.com

February 27, 2014

David Lippman
Director, Facilities & Operations
Las Virgenes Municipal Water District
4232 Las Virgenes Road
Calabasas, CA 91302

NOTICE OF COMMENCEMENT OF LEGAL ACTION

Re: Frank Bonvino v Las Virgenes Municipal Water District et. al.

Dear David Lippman:

My office has been retained to represent Mr. Frank Bonvino in the above-referenced matter. Please be advised that my client intends to bring a Verified Complaint for Declaratory Relief, Injunctive Relief; and Nuisance civil lawsuit for CEQA violations and a motion to enjoin. In addition to civil complaint, Plaintiff will seek a preliminary injunction to suspend LVMWD's approval of tank construction and all development and construction operations authorized while a complete and proper EIR process is completed, or mediated negotiations regarding steps necessary with Plaintiff and group representatives of all parties impacted, including a selection of residents, City of Westlake Village, Los Angeles County Health Department, geotech engineers and emergency response representatives—this injunction shall be in effect during the pendency of the instant litigation and shall enjoin, all Defendants, and each of them, their agents, servants, and employees, and all persons acting under, or in concert with, or for them.

/s/

John V. Tamborelli, Esq.

Enclosure: copy of draft civil complaint.



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John V. Tamborelli, Esq. | Director

JTamborelli@lawtlg.com

April 23, 2014

David Lippman
Director, Facilities & Operations
Las Virgenes Municipal Water District
4232 Las Virgenes Road
Calabasas, CA 91302

**REQUEST FOR CERTIFIED RECORD OF PROCEEDINGS RELATING TO
LAS VIRGENES MUNICIPAL WATER DISTRICT BACKBONE IMPROVEMENT
SYSTEM PROJECT**

Re: Frank Bonvino v. Las Virgenes Municipal Water District et. al.

Dear David Lippman:

Pursuant to Public Resource Code section 21167.6(a)-(b), Plaintiff hereby requests that Defendant Las Virgenes Municipal Water District prepare a certified record of any and all proceedings relating to the subject matter of the above-referenced civil action.

/s/

John V. Tamborelli, Esq.

Enclosure: copy of Plaintiff's Civil Complaint.



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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 John V. Tamborelli (SBN: 134027)
 Tamborelli Law Group
 21700 Oxnard Street, Suite 1590
 Woodland Hills, CA 91367

TELEPHONE NO: (818) 710-3696 FAX NO: (818) 710-3695

ATTORNEY FOR (Name): Plaintiff, Frank Bonvino

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 - STANLEY MOSK COURTHOUSE

FOR COURT USE ONLY

FILED
 Superior Court of California
 County of Los Angeles

APR 24 2014

Sherry R. Carter, Executive Officer/Clerk
 By Shaunya Bolden Deputy

CASE NAME: FRANK BONVINO v. LAS VIRGENES MUNICIPAL WATER DISTRICT, PACIFIC HYDROTECH, AECOM and DOES 1 THROUGH 100

CASE NUMBER: **BC 543637**

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation

Counter Joinder

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

JUDGE:
 DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|--|--|
| <p>Auto Tort</p> <p><input type="checkbox"/> Auto (22)</p> <p><input type="checkbox"/> Uninsured motorist (46)</p> <p>Other P/DP/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <p><input type="checkbox"/> Asbestos (04)</p> <p><input type="checkbox"/> Product liability (24)</p> <p><input type="checkbox"/> Medical malpractice (45)</p> <p><input type="checkbox"/> Other P/DP/WD (23)</p> <p>Non-P/DP/WD (Other) Tort</p> <p><input type="checkbox"/> Business tort/unfair business practice (07)</p> <p><input type="checkbox"/> Civil rights (08)</p> <p><input type="checkbox"/> Defamation (13)</p> <p><input type="checkbox"/> Fraud (16)</p> <p><input type="checkbox"/> Intellectual property (19)</p> <p><input type="checkbox"/> Professional negligence (25)</p> <p><input type="checkbox"/> Other non-P/DP/WD tort (35)</p> <p>Employment</p> <p><input type="checkbox"/> Wrongful termination (36)</p> <p><input type="checkbox"/> Other employment (15)</p> | <p>Contract</p> <p><input type="checkbox"/> Breach of contract/warranty (06)</p> <p><input type="checkbox"/> Rule 3.740 collections (09)</p> <p><input type="checkbox"/> Other collections (09)</p> <p><input type="checkbox"/> Insurance coverage (18)</p> <p><input type="checkbox"/> Other contract (37)</p> <p>Real Property</p> <p><input type="checkbox"/> Eminent domain/inverse condemnation (14)</p> <p><input type="checkbox"/> Wrongful eviction (33)</p> <p><input checked="" type="checkbox"/> Other real property (26)</p> <p>Unlawful Detainer</p> <p><input type="checkbox"/> Commercial (31)</p> <p><input type="checkbox"/> Residential (32)</p> <p><input type="checkbox"/> Drugs (38)</p> <p>Judicial Review</p> <p><input type="checkbox"/> Asset forfeiture (05)</p> <p><input type="checkbox"/> Petition re: arbitration award (11)</p> <p><input type="checkbox"/> Writ of mandate (02)</p> <p><input type="checkbox"/> Other judicial review (39)</p> | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <p><input type="checkbox"/> Antitrust/Trade regulation (03)</p> <p><input type="checkbox"/> Construction defect (10)</p> <p><input type="checkbox"/> Mass tort (40)</p> <p><input type="checkbox"/> Securities litigation (28)</p> <p><input type="checkbox"/> Environmental/Toxic tort (30)</p> <p><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)</p> <p>Enforcement of Judgment</p> <p><input type="checkbox"/> Enforcement of judgment (20)</p> <p>Miscellaneous Civil Complaint</p> <p><input type="checkbox"/> RICO (27)</p> <p><input type="checkbox"/> Other complaint (not specified above) (42)</p> <p>Miscellaneous Civil Petition</p> <p><input type="checkbox"/> Partnership and corporate governance (21)</p> <p><input checked="" type="checkbox"/> Other petition (not specified above) (43)</p> |
|---|--|--|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. Large number of separately represented parties d. Large number of witnesses
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): 6
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
- Date: April 24, 2014
- John V. Tamborelli (SBN: 134027)

[Signature]
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SHORT TITLE: BONVINO V. LAS VIRGENES MUNICIPAL WATER DISTRICT, ET AL.	CASE NUMBER
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BC 543637

**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:
 JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL _____ HOURS/ 7 DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

- Step 1:** After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.
- Step 2:** Check one Superior Court type of action in Column **B** below which best describes the nature of this case.
- Step 3:** In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in central (other county, or no bodily injury/property damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/ Property Damage/ Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	2.
		<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4.
Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 4.	
	<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 4.	
	<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1., 3.	
	<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4.	

SHORT TITLE: BONVINO V. LAS VIRGENES MUNICIPAL WATER DISTRICT, ET AL.

CASE NUMBER

Non-Personal Injury/ Property Damage/ Wrongful Death Tort

Employment

Contract

Real Property

Unlawful Detainer

A Civil Case Cover Sheet Category No	B Type of Action (Check only one)	C Applicable Reasons See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input checked="" type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE: BONVINO V. LAS VIRGENES MUNICIPAL WATER DISTRICT, ET AL.

CASE NUMBER

A Civil Case Cover Sheet Category No.		B Type of Action (Check only one)	C Applicable Reasons See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Miscellaneous Civil Complaints	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input checked="" type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE: BONVINO V. LAS VIRGENES MUNICIPAL WATER DISTRICT, ET AL.	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input checked="" type="checkbox"/> 6. <input type="checkbox"/> 7. <input checked="" type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.			ADDRESS: LVMWD Westlake Filtration Plant & Reservoir 32601 Torchwood Place
CITY: Westlake Village	STATE: CA	ZIP CODE: 91361	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk Courthouse courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: April 24, 2014


 (SIGNATURE OF ATTORNEY/FILING PARTY)
 John V. Tamborelli

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.