

Santa Clara Valley Water District

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cc: CEO  
COB  
counsel  
Risk

**Claim Against the  
Santa Clara Valley Water District  
California Government Code  
Sections 900 and following.**

General Counsel form updated July, 2003

For Office Use Only:

Date Received 09/20/17

By: hand to mailroom

**Serve or mail this form to: Clerk of the Board  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, California 95118**

1. Name(s) and Address(es) of the person or persons making the claim	Name(s): Great Oaks Water Company Address: 20 Great Oaks Blvd., Ste. 120, San Jose, CA 95119 Phone number (optional): (408)227-9540
2. Is this claim filed on behalf of a minor? Yes ___ No ___	If so, please indicate minor's date of birth: Relationship of claim filer to minor:
3. Name and address of the person to who notices are to be sent, if different than Number 1.	Name: Timothy S. Guster, General Counsel Great Oaks Water Company Address: PO Box 23490 San Jose, CA 95153
4. Date, place and other circumstances of the occurrence, incident, injury or transaction.  <i>Attach additional sheets for more space, if needed.</i>	Date: See attached. Location (address and or nearest intersection):  Other circumstances, including time, if known:
5. Describe the debt, obligation, injury, damage or loss suffered so far as they are known. Include a description of the facts giving rise to the claim and why you believe the Santa Clara Valley Water District is responsible.  <i>Attach additional sheets for more space, if needed, and photos, if available.</i>	Description: See attached.
6. Name of the District employee who caused the injury, if known.	Name: Board of Directors, Santa Clara Valley Water District; all staff of Santa Clara Valley Water District involved in groundwater charge process; Office of District Counsel
7. Is the amount of this claim now:	Under \$10,000? Yes ___ No <u>X</u> Over \$10,000? Yes <u>X</u> No ___
8. If the amount is now over \$10,000, is this:	A Limited Civil Case? (Less than \$25,000) Yes ___ No <u>X</u> An Unlimited Civil Case? (Greater than \$25,000) Yes <u>X</u> No ___
Signature: <u>[Signature]</u> Jared Ajlouny, Vice President Date: <u>Sept. 20, 2017</u>	Additional Signature(s): _____ Date(s): _____

**VERIFIED CLAIM BY GREAT OAKS WATER COMPANY  
AGAINST SANTA CLARA VALLEY WATER DISTRICT**

Great Oaks Water Co. ("Great Oaks") hereby asserts the following claims against and requests the following relief from the Santa Clara Valley Water District ("SCVWD"):

1. SCVWD, pursuant to its Resolution 16-31, has levied and collected groundwater charges in the amount of \$5,568,893.05 from Great Oaks in violation of the Santa Clara Valley Water District Act (the "District Act"), and Great Oaks is entitled to a full refund of all groundwater charges levied and collected by SCVWD from Great Oaks, plus interest, for water produced from July 1, 2016 through June 30, 2017.
2. SCVWD, pursuant to its Resolution 17-20, has levied and collected, and will levy and collect, groundwater charges from Great Oaks in violation of the District Act, and Great Oaks is entitled to a full refund of all groundwater charges levied and collected under the authority of Resolution 17-20, for water produced from July 1, 2017 through June 30, 2018.
3. All payments by Great Oaks of the groundwater charges have been and will be made "under protest."
4. Great Oaks also claims that it is entitled to a refund of all groundwater charges levied and collected by the District from Great Oaks under the Resolutions referenced in item 1 and 2 above, plus interest, for the reason and on the grounds that such groundwater charges violate the California Constitution, Article XIID. The District has failed to comply with applicable procedural and substantive requirements of Article XIID in levying and collecting such groundwater charges, including but not limited to the procedural and substantive requirements of Article XIID, Sections 6a, 6b, and 6c.
5. To the extent any or all of the groundwater charges levied and collected by the District from Great Oaks under the Resolutions referenced in item 1 and 2 above are considered assessments on real property, Great Oaks claims it is entitled to a refund of any such groundwater charges, plus interest, for the reason and on the grounds that the District has failed to comply with Constitutional procedural and substantive requirements governing assessments.
6. To the extent any or all of the groundwater charges levied and collected by the District from Great Oaks under the Resolutions referenced in item 1 and 2 above are considered taxes, Great Oaks claims it is entitled to a refund of any such groundwater charges, plus interest, for the reason and on the grounds that the District has failed to comply with Constitutional procedural and substantive requirements governing taxes.
7. Any or all of the groundwater charges levied and collected by the District from Great Oaks under the Resolutions referenced in item 1 and 2 above are governed by Proposition 26 [Article XIIC] adopted by the voters of the State of California on November 2, 2010, and Great Oaks is entitled to a refund of such groundwater charges, plus interest, for the reason and on the grounds that the District has failed to comply with the procedural and substantive requirements of Proposition 26.

Article XIIC, as amended by Proposition 26, defines a "tax" as any levy, charge, or exaction of any kind imposed by a local government, unless specifically excluded. No local

government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of Article XIII C, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition. No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. The groundwater charge is a tax within the meaning of Article XIII C. The District did not obtain voter approval and/or otherwise comply with the procedural and/or substantive provisions of Proposition 26/Article XIII C in enacting a resolution to levy groundwater charges, levying groundwater charges, and/or collecting groundwater charges.


8. Section 26.3 of the District Act restricts SCVWD's expenditures of groundwater charge revenues to those purposes specifically designated therein. SCVWD, by virtue of its policies and accounting practices, has caused groundwater charge revenues to be expended for purposes other than those specifically designated in Section 26.3 of the District Act. Great Oaks is entitled to a refund of its proportional share of all groundwater charges levied and collected, and to be levied and collected, under the Resolutions referenced in item 1 above, that have been and will be expended on purposes not specifically designated in Section 26.3 of the District Act, plus interest.
9. For each water year (July 1 – June 30), SCVWD establishes, by board resolution(s) groundwater charges to be levied and collected in Zone W-2 and Zone W-5. The groundwater charges so levied and collected are not based upon SCVWD's costs of providing services to those who rely directly or indirectly upon the groundwater supplies in those Zones, but are instead based upon broader revenue requirements of SCVWD's Water Utility Enterprise. Such a method of establishing groundwater charges is illegal and in violation of the District Act and requirements of the California Constitution, and Great Oaks is entitled to a refund of all groundwater charges levied and collected by such illegal method under the Resolutions referenced in item 1 above, plus interest.
10. At the time SCVWD adopted groundwater charges in the Resolutions referenced in item 1 and 2 above, SCVWD knew or should have known that it would not be providing managed groundwater recharge in either the amount represented in such Resolutions, or in locations that would serve or benefit Great Oaks to the extent represented by SCVWD when adopting such groundwater charges, or both. As a result, the groundwater charges levied upon Great Oaks' production of groundwater are not based upon cost of service to Great Oaks' water producing properties. As a result, for the period of time covered by this claim, excessive groundwater charges have been and are being levied against Great Oaks' production of groundwater in violation of the District Act and the California Constitution.
11. Great Oaks claims it is entitled to recover from the District any and all interest and penalties assessed by the District against Great Oaks for non-payment or late payment of groundwater charges for any time period covered by the Resolutions referenced in item 1 and 2 above, as such groundwater charges were not levied and collected in compliance with the Constitutional and statutory provisions applicable to such groundwater charges, rendering any interest and/or penalties based upon non-payment or late payment equally illegal and fully refundable, with interest.

12. To the extent that the District invoiced Great Oaks and made attempts to collect interest and/or penalties from Great Oaks for non-payment or late payment of groundwater charges for the time period referenced in item 1 above, such attempts were unlawful and Great Oaks is entitled to recover from the District applicable penalties and fines for such unlawful attempts to collect illegal interest and penalties.

I declare under penalty of perjury that foregoing is true and correct. Executed at San Jose, California on September 20, 2017.

Date: September 20, 2017

Great Oaks Water Company

  
By Jared Ajlouny  
Vice President