

05/23/2023

RULINGS/ORDERS RE: APPLICATION TO SERVE BY PUBLICATION

By: R. Arraiga Deputy

Bolthouse Land Co., LLC et al. v. All Persons Claiming a Right to Extract or Store Groundwater in the Cuyama Valley Groundwater Basin et al., Case No: BCV-21-101927

Plaintiffs Bolthouse Land Company, LLC, Wm. Bellhouse Farms, Inc. and Grimmway Enterprises et al.'s Application to Serve by Publication is **DENIED**, without prejudice.

I.
INTRODUCTION

This is a groundwater rights adjudication. Plaintiffs Bolthouse Land Co., LLC; Wm. Bolthouse Farms, Inc.; Grimmway Enterprises, Inc.; Diamond Farming Co.; Lapis Land Co., LLC; and Ruby Property Holdings, LLC seek a comprehensive adjudication of groundwater rights in the Cuyama Valley Groundwater Basin (Basin) under Code of Civil Procedure §§ 830 et seq.

On August 17, 2021, Plaintiffs filed their complaint in Kern County Superior Court. On November 22, 2021, this action was assigned and transferred to this Court.

On March 8, 2022, Plaintiffs filed their First Amended Complaint (FAC). In the FAC, Plaintiffs assert the following causes of action: (1) comprehensive adjudication and physical solution re: groundwater rights; and (2) quiet title. Plaintiffs also seek a preliminary injunction to provide for management of the Basin.

On May 18, 2023, Plaintiffs applied to serve various landowners in San Luis Obispo County, Kern County, Santa Barbara County, and Ventura County by publication.

II.
DISCUSSION

Code of Civil Procedure section 836 states:

(c) Once the court approves the draft notice, service of that notice in accordance with this section shall substitute for the summons otherwise provided for in civil actions pursuant to Section 412.20.

(d) (1) Following a court order approving the notice and form answer and authorizing service of landowners pursuant to this section, the plaintiff shall do all of the following:

(A) Identify the assessor parcel numbers and physical addresses of all real property in the basin and the names and addresses of all holders of fee title to real property in the basin using the records of the assessor or assessors of the county or counties in which the basin to be adjudicated lies. The plaintiff shall provide the court and all parties with notice of its acquisition of, or sufficient access to, this information.

(B) Mail, by registered mail or certified mail, return receipt requested, the notice, complaint, and form answer to all holders of fee title to real property in the basin. If the physical address of the real property differs from the address of the holder of fee title, the notice, complaint, and form answer shall be mailed by registered or certified mail, return receipt requested, to the physical address of the real property and the address of the holder of fee title.

(C) If return receipt is not received for a parcel of real property, the plaintiff shall post a copy of the notice, complaint, and form answer in a conspicuous place on the real property.

(D) Within 20 days of the court order, publish the notice at least once per week for four consecutive weeks in one or more newspapers of general circulation in each county overlying the basin in whole or in part.

Additionally, it states that "[t]he court may authorize any other procedures it finds appropriate and necessary to provide notice to persons who may hold groundwater rights in the basin." CCP § 836(i).

Plaintiffs submit the declaration of Robert G. Kuhs, attorney for Grimmway Enterprises, Inc., Diamond Farming Company, Lapis Land Company, LLC, and Ruby Land Company, LLC. Mr. Kuhs attests that at the status conference, Plaintiffs' attorneys advised the Court that the only additional method to

complete service on the unserved defendants would be to post a copy of the service documents on the property of the remaining unserved defendants, and Plaintiffs' attorneys explained this would not be practical and not likely to give notice.

However, Mr. Kuhs does not explain why posting a copy of the service documents on the property of the remaining unserved defendants would not be practical and would not likely give notice.

Further, the Court notes that pursuant to subdivision (d) (1) (D) of Code of Civil Procedure section 836, Plaintiffs have already served by publication in Kern County, San Luis Obispo County, Ventura County, and Santa Barbara County. (Decl. Kuhs ¶ 10.) These are the same counties Plaintiffs seek to serve the remaining defendants by publication. (Id. at 20.)

III.
CONCLUSION

Based upon the foregoing, Plaintiffs Bolthouse Land Company, LLC, Wm. Bellhouse Farms, Inc. and Grimmway Enterprises et al.'s Application to Serve by Publication is DENIED, without prejudice.

CLERK TO GIVE NOTICE TO PLAINTIFF. PLAINTIFF TO GIVE NOTICE TO ALL OTHER PARTIES.

IT IS SO ORDERED.

DATED: May 23, 2023



Yvette M. Palazuelos
YVETTE M. PALAZUELOS
JUDGE OF THE SUPERIOR COURT
Yvette M. Palazuelos / Judge