

# SCOPE

**Santa Clarita Organization for Planning and the Environment**

TO PROMOTE, PROTECT AND PRESERVE THE ENVIRONMENT, ECOLOGY  
AND QUALITY OF LIFE IN THE SANTA CLARITA VALLEY

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**FOR IMMEDIATE RELEASE**

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## **SCOPE Appeals Court Judgment Allowing the Illegal Acquisition of Valencia Water Company and the related Contract that promises the community's water supply to serve the massive Newhall Ranch and other Lennar Homes projects**

In its April judgment, the California Superior Court made several unusual rulings including limiting the administrative record to not admit relevant facts, an incorrect finding that a Public Utilities Commission Decision was not final and ignoring State laws that say Castaic Lake Water Agency may not serve water at retail or own stock in another corporation.

"Our community is now left to deal with a water company that does not exist in state law and therefore has no public oversight or checks and balances," said Lynne Plambeck, President of SCOPE, as she discussed the Board's reasons for the appeal.

In a decision made final on Feb. 27<sup>th</sup> 2014<sup>1</sup>, the Public Utilities Commission (PUC) revoked Valencia Water Company's certificate of public convenience and necessity, declaring it a public company. Yet, Valencia representatives continue to claim they are private, refuse to respond to public records act requests, fail to notice or hold public meetings, and its Board of Directors is not publicly elected, but instead appointed, by CLWA. Valencia rate payers are also charged for stock dividends of some \$200,000 a year which are paid to CLWA, and their rates were increased by 14.32% earlier this year without approval of the PUC.

"This decision is especially disturbing in this time of drought when residents are being asked to cut back 25%. It is important that water supplies are distributed fairly and efficiently. But Valencia's rate payers are locked out of the public decision making process by CLWA's illegal acquisition," said Lynne Plambeck. "SCOPE believes the Court must order divestment of CLWA's illegal acquisition of Valencia Water Company in order to allow a restructuring of the water company that is in conformance with California law."

### **Background**

In a lightning swift series of short notice special meetings and ex parte court motions over the 2012 winter holiday season, Castaic Water Agency and Newhall Land and Development Company, owner of the Valencia Water Company moved quickly before the holidays to seal a sweetheart deal between the Agency and the developer for the \$73.8 million dollar acquisition of the Valencia Water Company.<sup>2</sup>

<sup>1</sup> <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M088/K715/88715367.PDF>

<sup>2</sup> Valencia Water Company was formally the wholly owned subsidiary of the parent development company, Newhall Land and Development, in turn owned by Lennar Corporation, a fact that has long raised

On December 17, 2012 Castaic Lake Water Agency entered into a contract to purchase Valencia Water Agency that contained a plethora of other promises favorable to Newhall Land. Among the deal points were promises to ensure water to the massive 21,000 unit Newhall Ranch project and other Newhall developments would be provided. In one section, the Contract states:

*“Notwithstanding any contrary rule, regulation, policy, resolution, or ordinance of the Agency, the Company, the PUC or LAFCO, upon assignment or conveyance by Newhall, the Agency shall hold in trust for Newhall or its designee, all rights and water supplies described in this section 6.8 that are needed to provide water service to the Newhall Ranch Specific Plan, and all associated rights thereto, until such rights or water supplies are required to meet the actual demands for the Newhall Ranch Specific Plan”* (Condemnation Contract, page 25, provided upon request)

Other deal points ensured that Valencia and Newhall Land would retain control over how water supply assessments for future Newhall projects were evaluated and written.

“In other circumstances everyone would applaud the move of a private water company to public status, but in this case, the transaction appears structured to benefit the parent development company at the public’s expense,” said Lynne Plambeck after the consummation of the deal. “Moving nearly \$74 million into the pockets of the Newhall’s hedge fund owners while illegally committing future water supplies is not in the public’s interest, especially in light increasing water well closures in Valencia due to ground water pollution in this area. The lack of transparency and secret back room deals that assures these huge Newhall developments a water supply while attempting to avoid a fair and thorough public review is a clear attempt to skirt state law. It is not only poor planning, it is just plain illegal.”

The contract included an unusually liberal Indemnification clause that puts the public at risk, giving the broadest form of release possible in the Contract, CLWA bought Valencia Water Company "as is", with little or no representation as to how much of the ground water near Valencia's wells is contaminated with toxic substances including ammonium perchlorate and the Volatile Organic Compounds, TCE and PCE. Under California law the release would eliminate all claims against Valencia Water Company, Newhall Land and their owners and affiliates on any and all topics where CLWA or the taxpayers might seek recourse against them. CLWA promised that, using taxpayer money, it will indemnify, defend and hold harmless Valencia Water Company, Newhall Land, their owners and affiliates for all past and future claims and lawsuits brought by anyone. See the Contract “Indemnification”, beginning at page 28). To date, this clause has cost our community hundreds of thousands of dollars in attorneys’ fees as the Agency now pays for not only its own legal defense for this illegal action but also for Newhall Land’s fees.

The Contract may be accessed on line at:

<http://scope.org/new%20site/PlanningQualityLifeLegal/CLWA%20-%20Newhall%20Agreement%2012-12--12.pdf>

The file stamped notice of appeal is attached to this press release.