

EXHIBIT 7

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 COUNTY OF SANTA CLARA

3

4 COORDINATION PROCEEDINGS JUDICIAL COUNCIL
SPECIAL TITLE (RULE 1550(B)) PROCEEDING NO. 4408

5

6 ANTELOPE VALLEY GROUNDWATER ASSIGNED FOR ALL
CASES PURPOSES TO JUDGE:
7 HONORABLE JACK KOMAR

8 INCLUDED ACTIONS:

9 LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40 V.

10 DIAMOND FARMING CO.
SUPERIOR COURT OF CALIFORNIA,
11 COUNTY OF LOS ANGELES,
CASE NO. BC 325 201

12 LOS ANGELES COUNTY WATERWORKS

13 DISTRICT NO. 40 V.
DIAMOND FARMING CO.

14 SUPERIOR COURT OF CALIFORNIA,
COUNTY OF KERN,

15 CASE NO. S-1500-CV-254-348.

16 WM. BOLTHOUSE FARMS, INC. V.

CITY OF LANCASTER

17 DIAMOND FARMING CO. V.

CITY OF LANCASTER

18 DIAMOND FARMING CO. V.

PALMDALE WATER DISTRICT

19 SUPERIOR COURT OF CALIFORNIA,

COUNTY OF RIVERSIDE,

20 CONSOLIDATED ACTIONS,

CASE NOS. RIC 353 840,

21 RIC 344 436, RIC 344 668.

_____ /

22

23 REPORTER'S TRANSCRIPT OF PROCEEDINGS

24 BEFORE THE HONORABLE JACK KOMAR

25 JUDGE OF THE SUPERIOR COURT

26 NOVEMBER 4, 2015

27 COURT TRIAL

28 (CLOSING ARGUMENTS AND STATEMENT OF DECISION)

‡

2

1

APPEARANCES:

24

25

26

27

28

♀

6

1 SAN JOSE, CALIFORNIA

NOVEMBER 4, 2015

2 MORNING SESSION

3 P R O C E E D I N G S

4 THE COURT: GOOD MORNING.

5 ALL COUNSEL: GOOD MORNING.

6 THE COURT: ALL RIGHT. YOU ARE READY TO

7 RESUME?

8 CLOSING ARGUMENT FOR RICHARD WOOD,

9 SMALL PUMPER CLASS

11-04-2015 antelope-e

3 COURT ONE IMPORTANT TIMING ISSUE. AND THAT IS THE
4 STRUCTURE OF THE STIPULATION AND JUDGMENT PROVIDES THAT
5 IT BECOMES EFFECTIVE ON JANUARY 1ST OF THE FIRST
6 CALENDAR YEAR FOLLOWING ENTRY OF JUDGMENT. AND I OFFER
7 THAT FOR THE COURT'S CONSIDERATION SO THAT IF WE CAN
8 GET A JUDGMENT IN PLACE BEFORE THE END OF THIS YEAR, WE
9 GET ONE MORE YEAR OF MANAGED BASIN AS OPPOSED TO ANY
10 DELAYS THAT WOULD TAKE US BEYOND JANUARY 1ST.

11 THE COURT: ALL RIGHT.

12 MR. KUHS: THE ANTELOPE VALLEY GROUNDWATER

13 BASIN IS SHORT ON WATER AND LONG ON STORAGE. IT HAS

14 BEEN A BASIN OF SPENDING AND NOT OF SAVINGS.

15 THE CARRYOVER PROVISION WAS DESIGNED TO REVERSE

16 THAT SCENARIO. IT WAS DESIGNED TO INCENTIVIZE PEOPLE

17 TO TAKE AND PURCHASE STATE WATER SUPPLIES IN LIEU OF

18 PUMPING GROUNDWATER.

19 IN YEARS PAST AVEK'S ALLOCATION AS WELL AS OTHER
20 STATE WATER CONTRACTOR ALLOCATIONS HAVE GONE UNUSED
21 BECAUSE IT WAS CHEAPER ECONOMICALLY FOR FOLKS TO PUMP
22 THAN IT WAS TO PAY.

23 SO ONE OF THE PRIMARY PURPOSES OF THE CARRY-OVER
24 PROVISION WAS TO MAXIMIZE THIS NEWLY CREATED RESOURCE
25 WE CALL STORAGE SPACE IN THE BASIN, INCREASE WATER
26 LEVELS WHICH BENEFIT EVERY USER IN THE BASIN AND ALSO
27 PROVIDE A RESERVOIR OF WATER IN TIMES OF DROUGHT AND
28 OTHER SHORTAGES.

♀

19

1 I WANTED TO PRESENT THE COURT WITH A COUPLE OF
2 EXAMPLES ABOUT HOW THAT PROVISION MIGHT WORK AND WHY
3 IT'S IMPORTANT.

4 IN THE FIRST EXAMPLE I WOULD GIVE THE COURT IS MY

5 CLIENT GRANITE CONSTRUCTION. THEY ARE IN THE BUSINESS
6 OF SELLING AGGREGATE PRODUCTS. THEIR BUSINESS DOES
7 WELL WHEN THE ECONOMY DOES WELL.

8 IT WAS PERHAPS UNFORTUITOUS THAT THE BASE YEAR
9 USED IN THIS PROCEEDING FOR THE CALCULATION OF
10 PRODUCTION RIGHTS AND SO FORTH WAS 2000 TO 2004 WHICH
11 WAS NOT A ROBUST TIME IN THE ECONOMY.

12 AND SO AS A RESULT OF THAT, GRANITE PROBABLY TOOK
13 A LOWER PERCENTAGE ALLOCATION THAN IT MIGHT HAVE IF THE
14 BASE YEARS HAD BEEN IN ROBUST ECONOMIC TIMES SUCH AS
15 2007 AND '08.

16 BUT THEY HAVE A BUSINESS MODEL THAT REFLECTS A 7-
17 TO 10-YEAR PERIOD. SO THERE ARE UPS AND DOWNS IN THAT
18 CYCLE, SO THE CARRYOVER PROVISION WAS PARTICULARLY
19 IMPORTANT FOR MY CLIENT GRANITE SO THEY COULD SAVE
20 WATER IN TIMES OF WHAT I'LL CALL A DOWNTURN IN ECONOMIC

21 TIMES AND HAVE AVAILABLE SUPPLIES TO THEM DURING BETTER
22 ECONOMIC TIMES.

23 A SIMILAR ANALYSIS MIGHT BE MADE WITH RESPECT TO
24 THE AGRICULTURAL USER OR FARMER. IT'S NOT UNCOMMON FOR
25 FARMERS TO USE HALF OF THEIR FIELD ONE YEAR AND FALLOW
26 THE FIELD THE NEXT. THEY MIGHT OWN 500 ACRES BUT AT
27 ANY ONE TIME BE FARMING HALF OF THAT OR 250.

28 AND IN PRIOR YEARS THEY HAD AN ADEQUATE WATER

♀

20

1 SUPPLY TO DO THAT.

2 UNDER THE PHYSICAL SOLUTION, WATER SUPPLIES HAVE
3 BEEN CUT ROUGHLY IN HALF AND SO THAT FARMER NOW HAS AN
4 ECONOMIC DECISION. HE EITHER FARMS ONE QUARTER OF HIS
5 LAND INSTEAD OF ONE HALF, OR HE FARMS IN ALTERNATE
6 PERIODS WHERE HE DECIDES HE IS GOING TO PURCHASE STATE

7 WATER AND CONTINUE OPERATION AS USUAL.

8 AT ANY RATE, IT GIVES THE USER, THE CARRYOVER

9 PROVISION GIVES THAT USER THE FLEXIBILITY TO MANAGE HIS

10 BUSINESS AND HIS WATER RESOURCES ON A GOING-FORWARD

11 BASIS.

12 ONE OF THE COMMENTS I HEARD THE COURT MENTIONED

13 WAS WHETHER OR NOT THIS PROVISION HARMS OTHER WATER

14 USERS IN THE BASIN AND WHAT BALANCES AND CHECKS THERE

15 MIGHT BE IN THE PHYSICAL SOLUTION TO PREVENT THAT.

16 FIRST AND FOREMOST, YOU HAVE THE CONSTITUTIONAL

17 OVERLAY WHICH IS ARTICLE 10, SECTION 2, WHICH PREVENTS

18 ANYBODY FROM USING THEIR WATER RESOURCES IN A WAY WHICH

19 HARMS THEIR NEIGHBORS.

20 ON TOP OF THAT, YOU HAVE THE MATERIAL INJURY

21 RULE. AND SO IF, FOR EXAMPLE, SOMEBODY DID STORE WATER

22 FOR AN EXTENDED PERIOD OF TIME, FIVE YEARS, 10 YEARS,

23 AND DECIDED TO EXTRACT THAT, THEY WOULD BE LIMITED BY A
24 COUPLE OF THINGS. ONE, THEY WOULD BE LIMITED BY THE
25 PHYSICAL ASPECTS OF THEIR PLUMBING WHICH IS YOU CAN
26 ONLY GET SO MUCH WATER OUT OF A PUMP AT ANY PARTICULAR
27 TIME. AND YOU WOULD ALSO BE LIMITED BY THE NO HARM
28 RULES WHICH MEANS YOU CAN'T EXTRACT THAT WATER AT SUCH

♀

21

1 A RATE YOU CAUSE IMPACTS TO YOUR NEIGHBORS IN TERMS OF
2 WELL DRAWDOWN, WATER QUALITY ISSUES OR OTHER THINGS.

3 AND, LASTLY, I WILL SAY I THINK ON BALANCE ANY --

4 ANY PROVISION IN THIS STIPULATION WHICH ENCOURAGES

5 FOLKS TO KEEP WATER IN THE BASIN IS A GOOD THING. IT'S

6 GOING TO ARREST SUBSIDENCE. IT'S GOING TO INCREASE

7 WATER LEVELS. AND I CAN'T SEE ANY UNDESIRABLE EFFECTS

8 TO ANY OTHER WATER USER WITHIN THE BASIN.

24 SUFFICIENT DUE DILIGENCE.

25 AND I WOULD RESPECTFULLY SUBMIT THAT THE

26 PROVISIONS THAT ARE LISTED THERE, ALL OF WHICH WERE --

27 ARE STRUCK IN THEIR ENTIRETY IN THIS PROPOSED

28 ALTERNATIVE PHYSICAL SOLUTION, ARE NEEDED, THEY ARE

♀

124

1 NECESSARY, AND REASONABLE IN A BASIN THIS -- OF THIS

2 SIZE AND MAGNITUDE WITH THE PROBLEM THAT WE'VE

3 EXPERIENCED AND WITH THE TYPE OF REDUCTIONS THAT ARE

4 GOING TO BE IN PLACE.

5 NOW, I THOUGHT MR. KUHS EXPLAINED CARRYOVER THIS

6 MORNING MUCH BETTER THAN I DID YESTERDAY AFTERNOON IN

7 RESPONSE TO THE COURT'S QUESTION.

8 BUT I WILL SIMPLY SAY THIS.

9 IF WE LOOK INSIDE THE PHYSICAL SOLUTION DOCUMENT

10 THAT WE PRESENTED TO THE COURT, THERE IS A DEFINITION
11 SECTION. AND ONE OF THE DEFINITIONS THAT'S LISTED,
12 THEY ARE ALL IN ALPHABETICAL ORDER, IT TALKS ABOUT
13 CONJUNCTIVE USE. AND I DO WANT TO COMMENT ABOUT THAT
14 IN REGARDS TO CARRYOVER BECAUSE CARRYOVER WAS RAISED BY
15 THE WILLIS CLASS COUNSEL.
16 CARRYOVER AND CONJUNCTIVE USE. CONJUNCTIVE USE
17 IN THE PHYSICAL SOLUTION IS THE CONCEPT THAT WHEN WE'RE
18 GOING TO USE SUPPLEMENTAL SUPPLIES OF WATER FROM THE
19 STATE WATER PROJECT WHEN THEY ARE AVAILABLE, AND WHEN
20 THEY'RE NOT AVAILABLE WE'RE GOING TO USE GROUNDWATER.
21 THERE'S A MANAGEMENT CONCEPT IN PLACE.
22 NOW, WHY IS THIS IMPORTANT? IT'S IMPORTANT --
23 IT'S MORE THAN IMPORTANT. IT'S CRITICAL. IT IS VITAL
24 TO THIS BASIN FOR SEVERAL REASONS.
25 NUMBER ONE. THE TESTIMONY OR EVIDENCE THAT CAME

12 EXAMPLE BECAUSE WE ARE GOING TO BUY STATE PROJECT WATER

13 UNDER THIS PHYSICAL SOLUTION.

14 LET'S USE ANY ONE OF THE LANDOWNERS AS AN

15 EXAMPLE. IF THEY WERE TO DECIDE TO BUY STATE PROJECT

16 WATER IN THE FUTURE WITHOUT THE CARRY-OVER PROVISION,

17 THEY RUN THE RISK THAT THAT DECISION TO BUY STATE

18 PROJECT WATER COULD COST THEM THE LOSS OF USE OF

19 GROUNDWATER.

20 IN OTHER WORDS, WE DO NOT WANT A PHYSICAL

21 SOLUTION FOR THIS BASIN THAT DISCOURAGES THE USE OF A

22 SUPPLEMENTAL SUPPLY OF WATER.

23 WE WANT TO MAKE SURE THAT WHETHER IT'S A PUBLIC

24 LANDOWNER, A PRIVATE LANDOWNER OR PUBLIC WATER

25 SUPPLIER, THAT THEY HAVE THE ABILITY TO PURCHASE STATE

26 PROJECT WATER WHEN IT'S AVAILABLE, PARTICULARLY WHEN

27 IT'S PLENTIFUL AND LESS COSTLY, AND USE THAT AND

28 THEREBY REDUCE THE DEMAND ON THE BASIN.

♀

126

1 AND THEN WE WANT THE OPPOSITE SITUATION TO BE IN
2 PLAY. AND WE HEARD THIS FROM COUNSEL. THAT IN THE
3 EVENT THAT WE HAVE ANOTHER DROUGHT -- AND THERE WILL BE
4 FUTURE DROUGHTS -- THAT WE WANT TO MAKE SURE THAT WHAT
5 WE HAVE CARRIED OVER, AND SHOULD STATE PROJECT WATER
6 NOT BE AVAILABLE OR NOT BE AVAILABLE IN AMOUNTS, OR IF
7 IT IS AVAILABLE AT PRICES THAT ARE TOO EXPENSIVE FOR
8 PARTIES TO PURCHASE IN SUFFICIENT AMOUNTS, WE WANT TO
9 MAKE SURE THAT THE WATER THAT CAN BE CARRIED OVER FROM
10 THE WET YEARS IS AVAILABLE TO USE IN THE DRY YEARS.

11 AND IN SUMMARY, THIS IS A CRITICAL, NEEDED
12 COMPONENT OF THE MANAGEMENT OF THIS BASIN. WE WANT TO
13 HAVE CONJUNCTIVE USE. AND THE STATEMENT I MAKE IS

14 THERE IS NO CONJUNCTIVE USE WITHOUT CARRYOVER.

15 CARRYOVER REQUIRES CONJUNCTIVE USE SO I WANTED TO

16 EMPHASIZE AGAIN TRANSFERABILITY AND CARRYOVER.

17 I WANTED TO EMPHASIZE THE FACT THAT THIS BASIN IS

18 GOING TO BE MANAGED, AND THE COST OF THAT MANAGEMENT

19 WILL BE BORNE BY THE PARTIES WHO PAY THE ADMINISTRATIVE

20 ASSESSMENT, AND THAT WILL NOT BE A DORMANT USER.

21 I THINK IT'S ALSO HELPFUL TO NOTE THAT WHEN WE

22 LOOK AT WHAT WILL HAPPEN IN THE BASIN ON A GO-FORWARD

23 BASIS THAT IT WILL -- IT WILL LIKELY RECOVER. AND

24 THAT'S GOING TO BENEFIT, I THINK AS MR. KUHS POINTED

25 OUT, RISING WATER LEVELS EITHER FROM THE IMPORTATION OF

26 STATE PROJECT WATER OR FROM THE CONJUNCTIVE USE AND THE

27 CONCEPT OF CARRYOVER WILL BENEFIT ALL BASIN USERS, NOT

28 THE LEAST OF WHICH WILL BE THAT IN THE FUTURE, IF

11-04-2015 antelope-e

9 NOT REQUIRED TO. IT HAS OTHER TOOLS INCLUDING THE FACT
10 THAT IT CAN PURCHASE LOCAL WATER THAT'S AVAILABLE TO
11 IT.

12 THAT'S ANOTHER REASON WHY THE TRANSFERABILITY AND

13 CARRY-OVER PROVISIONS ARE SO IMPORTANT.

14 THE WATERMASTER AND AVEK AS WELL HAVE THE ABILITY

15 TO PURCHASE WATER WITHIN THE BASIN, AND THESE

16 TRANSFERABILITY AND CARRY-OVER PROVISIONS FACILITATE.

17 AND THAT JUST PROVIDES AN ADDITIONAL IMPORTANT TOOL TO
18 THE WATERMASTER TO BE ABLE TO MANAGE THE BASIN AND TO
19 DEAL WITH THOSE SITUATIONS WHEN NEW PRODUCERS COME
20 ONLINE.

21 YOU WILL RECALL THAT MR. BINDER SPOKE RATHER
22 DEFINITELY THAT HIS OPINION WAS THAT THE CARRY-OVER
23 PROVISIONS AND TRANSFERABILITY PROVISIONS WERE VERY
24 IMPORTANT IN THE MANAGEMENT, SUCCESSFUL MANAGEMENT OF

6 RESOLVE THEIR DIFFERENCES THEY WILL BE SEEKING A

7 SEVERANCE.

8 AND WE'LL SET A DATE FOR THEM TO REPORT BACK TO

9 THE COURT AS TO WHETHER THEY ARE GOING TO BE A

10 STIPULATING PARTY OR WISH TO HAVE AN INDEPENDENT TRIAL

11 BASED ON THEIR OWN CLAIMS OR RIGHTS THAT HAVE BEEN

12 PLACED AGAINST THEM. SO WE'LL TALK ABOUT THAT DATE IN

13 A COUPLE OF MINUTES.

14 AGAIN, THE COURT ADOPTS THE PHASE FOUR -- I'M

15 SORRY -- THE PHASE FIVE FINDING AS TO THE PHELAN PINON

16 HILLS WATER DISTRICT, OR COMMUNITY SERVICE DISTRICT.

17 THEY ARE APPROPRIATOR WITHOUT A PRIORITY.

18 THERE'S NO SURPLUS. THEY ARE, THEREFORE, SUBJECT

19 TO THE ACQUISITION OF FEES TO REPLACE ANY WATER THAT

20 THEY MAY PUMP.

21 AND, OF COURSE, THE WILLIS CLASS -- I'M SORRY --
22 THE PHELAN PARTIES WILL APPLY TO THE WATERMASTER. THEY
23 ARE NOT ENJOINED FROM PUMPING.

24 THE COURT -- I THINK I SAID THIS ALREADY -- FINDS
25 THAT THE WILLIS CLASS JUDGMENT IS NOT INCONSISTENT WITH
26 THE COURT'S FINDINGS AT THIS POINT. IN AS MUCH AS THE
27 WILLIS CLASS SETTLEMENT CONTEMPLATED THAT THE COURT
28 WOULD MAKE A DETERMINATION OF RIGHTS WITH REGARD TO THE

♀ 170

1 PHYSICAL SOLUTION AND THE WILLIS CLASS HAS AGREED IN
2 ITS STIPULATION TO BE PARTIES TO THAT.

3 THE PUBLIC WATER SUPPLIERS HAD A RIGHT AND A DUTY
4 ONCE THE COURT MADE ITS FINDINGS OF OVERDRAFT AND THE
5 SERIOUS CONDITION OF THE AQUIFER TO NEGOTIATE WITH
6 NONSTIPULATING PARTIES ALL THE -- THE LANDOWNER
7 PARTIES, TO TRY TO REACH AN AGREEMENT TO PRESERVE THE

20 THAT ISSUE.

21 THE COURT: THAT'S FINE. OKAY. ALL RIGHT.

22 THANK YOU VERY MUCH, EVERYBODY.

23 ALL COUNSEL: THANK YOU, YOUR HONOR.

24 (EVENING RECESS)

25

26

27

28

♀

177

1

2

3

4 I, HEATHER J. GORLEY, DO HEREBY CERTIFY THAT

5 SAID MATTER WAS TAKEN DOWN BY ME AT THE TIME AND PLACE

6 THEREIN NAMED AND WAS THEREAFTER TRANSCRIBED BY MEANS
7 OF COMPUTER-AIDED TRANSCRIPTION; AND THE SAME IS A
8 TRUE, CORRECT AND COMPLETE TRANSCRIPT OF THE SAID
9 PROCEEDINGS.

10 I FURTHER CERTIFY THAT I AM NOT OF COUNSEL OR
11 ATTORNEY FOR ANY OF THE PARTIES HERETO, OR IN ANY WAY
12 INTERESTED IN THE EVENTS OF THIS CASE, AND THAT I AM
13 NOT RELATED TO ANY PARTY HERETO,

14 I FURTHER CERTIFY THAT I HAVE COMPLIED WITH
15 CCP 237 (A)(2) IN THAT ALL PERSONAL JUROR IDENTIFYING
16 INFORMATION HAS BEEN REDACTED IF APPLICABLE,

17

18

19 DATED, THIS 9TH DAY OF NOVEMBER, 2015.

20

21