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8 COUNTY COUNSEL

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Attorneys for Cross-Complainant

12 LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

15 ANTELOPE VALLEY GROUNDWATER
16 CASES

Included Actions:

17 *Los Angeles County Waterworks District No. 40 v.*
18 *Diamond Farming Co.*, Superior Court of
California, County of Los Angeles, Case No. BC
325201;

19 *Los Angeles County Waterworks District No. 40 v.*
20 *Diamond Farming Co.*, Superior Court of
California, County of Kern, Case No. S-1500-CV-
254-348;

21 *Wm. Bolthouse Farms, Inc. v. City of Lancaster,*
22 *Diamond Farming Co. v. City of Lancaster,*
23 *Diamond Farming Co. v. Palmdale Water Dist.*,
Superior Court of California, County of Riverside,
Case Nos. RIC 353 840, RIC 344 436, RIC 344
668

24 *Rebecca Lee Willis v. Los Angeles County*
25 *Waterworks District No. 40, et al.*, Superior Court
of California, County of Los Angeles, Case No.
BC364533

26 *Richard Wood v. Los Angeles County Waterworks*
27 *District No. 40, et al.*, Superior Court of
California, County of Los Angeles, Case No.
BC391869

**EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103**

Judicial Council Coordination
Proceeding No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar

**DECLARATION OF WARREN R.
WELLEN IN SUPPORT OF
DISTRICT NO. 40'S EX PARTE
APPLICATION**

*[Filed Concurrently with Notice and Ex
Parte Application; Declarations of
Jeffrey V. Dunn and Timothy Coates;
and [Proposed] Order]*

Date: September 22, 2016
Time: 9:00 a.m.
Dept.: Via CourtCall

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DECLARATION OF WARREN R. WELLEN

I, Warren R. Wellen, declare as follows:

1. I have personal knowledge of the facts stated herein and, if called upon to do so, I could testify to these facts.

2. I am an attorney licensed to practice law in the State of California. I am a Principal Deputy County Counsel with the Office of County Counsel for the County of Los Angeles. I am an attorney of record for Los Angeles County Waterworks District No. 40 (“District No. 40”).

3. In my capacity as counsel for District No. 40, I have had multiple conversations and email exchanges with James Banks, counsel Antelope Valley-East Kern Water Agency (“AVEK”), and Robert A. Parris, a lawyer and AVEK director, regarding AVEK’s motion to disqualify District No. 40’s long-time counsel of record, Best Best & Krieger LLP.

4. On August 26, 2016, I communicated with Mr. Parris and AVEK lawyers Bill Brunick and Lee McElhaney and requested that AVEK immediately dismiss its motion on the grounds that it completely lacks merit. I received no response from them. Later on the same day, I spoke with Mr. Parris and informed him that District No. 40 would need to retain additional outside counsel to oppose the Motion if AVEK did not withdraw the Motion as I had requested; and new counsel would require time to familiarize himself/herself on the matter. I requested that the hearing for the motion be continued for a short time. Mr. Parris rejected my request.

5. On August 30, 2016, I raised, again, the issue of District No. 40’s need to retain additional counsel and the timing of the hearing with Messrs. Parris, Burnick, and McElhaney. At that time, they refused to take the Motion off calendar or to continue the hearing.

6. On August 31, 2016, I participated in a conference call with Messrs. Parris, Burnick, McElhaney, and Banks. During the call, I requested that AVEK take its Motion off calendar or to continue the hearing. I informed the group that the process of retaining an additional outside counsel for the Motion would take some time because such retention requires

1 the approval of the County Council. AVEK's representatives refused to take the Motion off
2 calendar or to continue the hearing.

3 7. On September 9, 2016, I repeated my request to Mr. Parris that the Motion be
4 taken off calendar or continued. I also informed him that I was scheduled to meet with higher
5 level management at the Office of County Counsel on September 12, 2016 and expected to obtain
6 County Counsel's approval to retain additional outside counsel at that time. Mr. Parris refused to
7 take the Motion off calendar or continue it.

8 8. On or about September 12, 2016, the County Counsel authorized retaining
9 Timothy T. Coates of Greines, Martin, Stein & Richland LLP to represent District No. 40 in its
10 opposition to the Motion.

11 9. On September 13, 2016, I learned that Mr. Coates has oral arguments before the
12 California Supreme Court and the Ninth Circuit of Appeal around the same time as the hearing
13 for the Motion and that his busy calendar would make it extremely burdensome, if not impossible,
14 for him to get up to speed on the extensive history relative to AVEK's Motion.

15 10. As such, immediately after learning of Mr. Coates' scheduling issues, I emailed
16 Messrs. Parris, Brunick, McElhaney, and Banks. In my email, I informed them that District No.
17 40 had retained Mr. Coates and requested that AVEK accommodate Mr. Coates' scheduling
18 conflicts by agreeing to continue the hearing to the week of November 7 or 14, 2016. Attached as
19 Exhibit "A" is a true and correct copy of my September 13, 2016, email.

20 11. On September 14, 2016, not having heard back from AVEK, I wrote another email
21 to Messrs. Parris, Brunick, McElhaney, and Banks, requesting that AVEK agree to continue the
22 hearing for "a few weeks." Attached as Exhibit "B" is a true and correct copy of my September
23 14, 2016, email.


24 12. On the evening of September 14, 2016, I received an email from Mr. Banks,
25 informing me that AVEK was refusing to continue the hearing on its Motion. Attached as Exhibit
26 "C" is a true and correct copy of Mr. Banks' September 14, 2016, email.

LAW OFFICES OF
BEST BEST & KRIEGER LLP
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IRVINE, CALIFORNIA 92612

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13. Unless District No. 40's *ex parte* application is granted, District No. 40 will suffer prejudicial harm in that its newly retained counsel will not have sufficient time to prepare for the opposition and the hearing, and its counsel will not have sufficient pages to address the numerous legal and factual reasons and arguments against the Motion.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 20th day of September, 2016, at Los Angeles, California.



Warren R. Wellen
Principal Deputy County Counsel

EXHIBIT A

Warren Wellen

From: Warren Wellen
Sent: Tuesday, September 13, 2016 5:36 PM
To: Robert Parris (rparris@avek.org)
Cc: jbanks@bw-firm.com; Bill Brunick (bbrunick@bmklawplc.com);
Imcelhaney@bmklawplc.com; Adam Arika; 'Timothy T. Coates'
Subject: AV Groundwater Cases - AVEK motion to disqualify

Rob,

District 40 has retained attorney Tim Coates with Greines, Martin, Stein & Richland as co-counsel with respect to opposing AVEK's motion to disqualify BBK.

Tim has oral argument set in other matters before both the California Supreme Court and the Ninth Circuit during the same time frame as the current opposition and hearing dates for AVEK's motion. In order to accommodate Tim's calendar, District 40 requests that AVEK stipulate to continue the hearing on AVEK's motion to the week of November 7 or 14 and the opposition/reply due dates per code relative to the new hearing date.

If AVEK is willing to stipulate as such and provides us with good dates for its counsel, we would be happy to contact the Court regarding dates that work for Judge Komar as well as prepare a stipulation and proposed order if required.

Please let me know if you have any questions. I look forward to hearing back from you. Thanks.

Warren R. Wellen
Principal Deputy County Counsel
Office of the County Counsel
County of Los Angeles
500 West Temple Street
Los Angeles, CA 90012
Tel: (213) 974-9668
Fax: (213) 687-7337

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Please consider the environment before printing this e-mail.

EXHIBIT B

Warren Wellen

From: Warren Wellen
Sent: Wednesday, September 14, 2016 11:59 AM
To: Robert Parris (rparris@avek.org); jbanks@bw-firm.com; Bill Brunick (bbrunick@bmklawplc.com); lmcclhaney@bmklawplc.com
Cc: Adam Arika; 'Timothy T. Coates'
Subject: RE: AV Groundwater Cases - AVEK motion to disqualify

Please let us know as soon as possible if AVEK will stipulate to a continuance as we requested yesterday.

As I indicated, District 40 makes this request to accommodate Mr. Coates' schedule, which includes oral argument before the California Supreme Court and the 9th Circuit of the United States Court of Appeal in the same time frame as AVEK's motion. We would appreciate it if AVEK could extend the professional courtesy to move the opposition/reply and hearing dates a few weeks.

Thanks.

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From: Warren Wellen
Sent: Tuesday, September 13, 2016 5:36 PM
To: Robert Parris (rparris@avek.org)
Cc: jbanks@bw-firm.com; Bill Brunick (bbrunick@bmklawplc.com); lmcclhaney@bmklawplc.com; Adam Arika; 'Timothy T. Coates'
Subject: AV Groundwater Cases - AVEK motion to disqualify

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If AVEK is willing to stipulate as such and provides us with good dates for its counsel, we would be happy to contact the Court regarding dates that work for Judge Komar as well as prepare a stipulation and proposed order if required.

Please let me know if you have any questions. I look forward to hearing back from you. Thanks.

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EXHIBIT C

From: James J. Banks <jbanks@bw-firm.com>
Sent: Wednesday, September 14, 2016 9:25 PM
To: Warren Wellen
Cc: Robert Parris (rparris@avek.org); Bill Brunick (bbrunick@bmklawplc.com);
Imcelhaney@bmklawplc.com; Adam Arik; Timothy T. Coates
Subject: RE: AV Groundwater Cases - AVEK motion to disqualify

REDACTED

On the second issue about which you made inquiry—moving the hearing date to November 7 or 14-- neither works with my schedule. I start the second phase of the trial I presently am in on November 12 and will be busy with trial preparation on the 7th. I am also advised that Lee McElhaney will be out of the country on both dates. I am sorry we are unable, in this instance, to accommodate D-40's recently selected counsel. I should add that the motion is directed at BB&K and I presume its counsel will take the lead at the hearing. I am dark Friday if you would like to discuss. Best, jjb

From: Warren Wellen [mailto:wwellen@counsel.lacounty.gov]
Sent: Wednesday, September 14, 2016 12:45 PM
To: James J. Banks
Cc: Robert Parris (rparris@avek.org); Bill Brunick (bbrunick@bmklawplc.com); Imcelhaney@bmklawplc.com; Adam Arik; Timothy T. Coates
Subject: RE: AV Groundwater Cases - AVEK motion to disqualify

Thanks Jim. Good luck with trial.

Warren R. Wellen
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From: James J. Banks [mailto:jbanks@bw-firm.com]
Sent: Wednesday, September 14, 2016 12:37 PM
To: Warren Wellen
Cc: Robert Parris (rparris@avek.org); Bill Brunick (bbrunick@bmklawplc.com); Imcelhaney@bmklawplc.com; Adam Arik; Timothy T. Coates
Subject: Re: AV Groundwater Cases - AVEK motion to disqualify

Warren, I am in trial this week. I will discuss your request and other issues with the client this evening and advise. Best, jjb

Sent from my iPad

On Sep 14, 2016, at 11:58 AM, "Warren Wellen" <wwellen@counsel.lacounty.gov> wrote:

Please let us know as soon as possible if AVEK will stipulate to a continuance as we requested yesterday.

As I indicated, District 40 makes this request to accommodate Mr. Coates' schedule, which includes oral argument before the California Supreme Court and the 9th Circuit of the United States Court of Appeal in the same time frame as AVEK's motion. We would appreciate it if AVEK could extend the professional courtesy to move the opposition/reply and hearing dates a few weeks.

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PROOF OF SERVICE

I, Rosanna R. Pérez, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 300 S. Grand Avenue, 25th Floor, Los Angeles, California 90071. On September 21, 2016, I served the following document(s):

**DECLARATION OF WARREN R. WELLEN IN SUPPORT OF DISTRICT NO. 40'S
EX PARTE APPLICATION**



BY ELECTRONIC TRANSMISSION. I caused such document(s) to be electronically served, via One Legal, to all parties appearing on the electronic service list for the Antelope Valley Groundwater Cases; proof of electronic-filing through One Legal is then printed and maintained with the original documents in our office. Electronic service is complete at the time of transmission. My electronic notification email address is Rosanna.perez@bbklaw.com.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 21, 2016, at Los Angeles, California.


Rosanna R. Pérez