

1 ERIC N. ROBINSON, State Bar No. 191781
erobinson@kmtg.com
2 STANLEY C. POWELL, State Bar No. 254057
spowell@kmtg.com

3 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation
4 400 Capitol Mall, 27th Floor
Sacramento, California 95814
5 Telephone: (916) 321-4500
Facsimile: (916) 321-4555

6 MICHAEL N. FEUER, State Bar No. 111529
Los Angeles City Attorney
7 RICHARD M. BROWN, General Counsel, Water and Power
8 RAYMOND ILGUNAS, General Counsel, Los Angeles World Airports
Attorneys for Defendant CITY OF LOS ANGELES and
9 LOS ANGELES WORLD AIRPORTS

10 Attorneys for Cross-Defendants City of Los
Angeles and Los Angeles World Airports

11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF LOS ANGELES**

14
15 Coordination Proceeding

16 ANTELOPE VALLEY GROUNDWATER
17 CASES,

18 Los Angeles County Waterworks District No.
40 v. Diamond Farming Co.

19 Los Angeles County Waterworks District No.
20 40 v. Diamond Farming Co.

21 Wm. Bolthouse Farms, Inc. v. City of
Lancaster

22 Diamond Farming Co. v. City of Lancaster

23 Diamond Farming Co. v. Palmdale Water
24 District,

25 AND RELATED ACTIONS
26
27
28

Judicial Council Coordination
Proceeding No. 4408

~~NOTICE OF ORDER~~ AFTER HEARING ON 12/7/16

Date: December 7, 2016
Time: 9:00 a.m.
Dept.: 222

The Hon. Jack Komar, Dept. 17
Santa Clara Case No. 105 CV 049053

Riverside County Superior Court
Lead Case No. RIC 344436
Case No. RIC 344668
Case No. RIC 353840

Los Angeles Superior Court Case
No. BC 325201

Kern County Superior Court Case
No. S-1500-CV-254348

1 **[PROPOSED] ORDER**

2 At 9 a.m. on December 7, 2016, in Department 222 of the Los Angeles County Superior
3 Court, located at 111 North Hill Street, Los Angeles, California, the Hon. Jack Komar conducted a
4 continued hearing on the Motion by Private and Public Landowners for Order Approving Rules
5 and Regulations for Appointment and Election of Watermaster Board Members (“Motion”).

6 The hearing was continued from an October 18, 2016, hearing that was continued from a
7 September 8, 2016, hearing during which the Court ruled: “The court approves the rules and
8 procedures for the Watermaster with the exception of 5.A, which will be further addressed at the
9 October 18, 2016 hearing.” The Court on September 8, 2016, further ruled that the Watermaster
10 Board members are no longer “interim,” and that the Watermaster Board is authorized to
11 implement the Judgment and Physical Solution without any limitations resulting from its former
12 “interim” status.

13 The moving parties were Cross-Defendants the Antelope Valley-East Kern Water Agency,
14 the City of Los Angeles, by and through its Department of Airports, Los Angeles World Airports,
15 the County Sanitation Districts of Los Angeles County Nos. 14 and 20, Antelope Valley
16 Groundwater Agreement Association, Bolthouse Properties, LLC, and WM. Bolthouse Farms,
17 Inc., Diamond Farming Company, Grimmway Enterprises, Inc., Crystal Organic Farms, LLC,
18 Lapis Land Company, LLC, Tejon Ranchcorp, Tejon Ranch Company, Granite Construction
19 Company, Craig Van Dam, Delmar D. Van Dam, Gary Van Dam, Gertrude J. Van Dam
20 (collectively “Moving Parties”).

21 The parties opposing the Motion were Los Angeles County Waterworks District No. 40,
22 California Water Service Company, Littlerock Creek Irrigation District, Palm Ranch Irrigation
23 District, Desert Lake Community Services District, North Edwards Water District, Llano Del Rio
24 Water Company, Llano Mutual Water Company, Big Rock Mutual Water Company and Quartz
25 Hill Water District. Although Rosamond Community Services District and Palmdale Water
26 District initially opposed the Motion, they each withdrew their opposition prior to the hearing.

27 IT IS HEREBY ORDERED as follows:

28 Section 5.A of the Rules and Regulations for Appointment and Election of Watermaster

1 Board Members ("Rules"), attached hereto as Exhibit 1, is approved, so that the entirety of Exhibit
2 1 is now fully approved.

3 DATED: *March 6, 2017*

4
5 
6 The Honorable Jack Komar

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

EXHIBIT 1 ELECTION RULES AND PROCEDURES

DRAFT ELECTION RULES AND PROCEDURES FOR ANTELOPE VALLEY GROUNDWATER ADJUDICATION WATERMASTER REPRESENTATIVES

The judgment for the Antelope Valley Groundwater Cases calls for a Watermaster to implement the judgment. The appointment and composition of the Watermaster is addressed in Section 18.1.1 of the Judgment:

18.1.1 Appointment and Composition: The Court hereby appoints a Watermaster. The Watermaster shall be a five (5) member board composed of one representative each from AVEK and District No. 40, a second Public Water Supplier representative selected by District No. 40, Palmdale Water District, Quartz Hill Water District, Littlerock Creek Irrigation District, California Water Service Company, Desert Lake Community Services District, North Edwards Water District, City of Palmdale, City of Lancaster, Palm Ranch Irrigation District, and Rosamond Community Services District, and two (2) landowner Parties, exclusive of public agencies and members of the Non-Pumper and Small Pumper Classes, selected by majority vote of the landowners identified on Exhibit 4 (or their successors in interest) based on their proportionate share of the total Production Rights identified in Exhibit 4. The United States may also appoint a non-voting Department of Defense (DoD) Liaison to the Watermaster committee to represent DoD interests. Participation by the DoD Liaison shall be governed by Joint Ethics Regulation 3-201. The opinions or actions of the DoD liaison in participating in or contributing to Watermaster proceedings cannot bind DoD or any of its components.

This provision places the selection of the five Watermaster representatives into the hands of four distinct constituencies: (1) AVEK; (2) District No. 40; (3) Public Water Suppliers; and (4) landowner Parties exclusive of the Non-Pumper and Small Pumper Classes. Each constituency selects one of the Watermaster representatives, except for the landowner Parties which select two of the Watermaster representatives.

Each of the constituencies has selected their initial Watermaster representatives, and the Court has seated them as an interim Watermaster Board. The Court has also directed the parties to prepare a document to describe the rules and procedures to be followed going forward to select subsequent Watermaster representatives, where the Court will lift the interim status of the Watermaster Board upon its approval of the rules and procedures.

This document provides the written rules and procedures for the Court's review. It begins with a section with provisions of general applicability for all of the Watermaster representatives (Section 1). That is followed by rules and procedures which apply to the Watermaster representatives to be selected by each constituency as follows:

EXHIBIT 1 ELECTION RULES AND PROCEDURES

- Section 2 – Rules and Procedures for AVEK Watermaster Representative;
- Section 3 – Rules and Procedures for District No. 40 Watermaster Representative;
- Section 4 – Rules and Procedures for Election of Public Water Supplier Representative to Watermaster; and
- Section 5 – Rules and Procedures for Landowner Watermaster Representatives.

The rules and procedures presented in each section were prepared by the constituency to be represented.

SECTION 1 – GENERAL PROVISIONS

A detailed statement of qualifications shall be prepared for each selected Watermaster representative, and will be provided to the Court for its review and approval.

SECTION 2 – RULES AND PROCEDURES FOR AVEK WATERMASTER REPRESENTATIVE

AVEK’s Board of Directors will appoint its representative to serve as a member of the Watermaster Board. AVEK’s Board of Directors has appointed Director Robert A. Parris to serve as its representative on the Watermaster Board. In the event Mr. Parris is unable to attend a Watermaster Board meeting, AVEK’s Board of Directors also has appointed AVEK’s General Manager (currently Dwayne Chisam) as its alternate representative to the Watermaster Board. The initial term for each shall expire on January 1, 2019. Thereafter, the AVEK’s representative and alternate representative shall each serve two year terms, unless otherwise determined by AVEK’s Board of Directors.

SECTION 3 – RULES AND PROCEDURES FOR DISTRICT NO. 40 WATERMASTER REPRESENTATIVE

[RULES NOT YET RECEIVED FROM DISTRICT NO. 40]

SECTION 4 – RULES AND PROCEDURES FOR ELECTION OF PUBLIC WATER SUPPLIER REPRESENTATIVE TO WATERMASTER

4.A. Composition of Steering Committee

Los Angeles County Waterworks No. 40, Palmdale Water District, Littlerock Creek Irrigation District, Quartz Hill Water District, Rosamond Community Services District, Palm Ranch Irrigation District, Desert Lakes Community Services District, California Water Service Company, North Edwards Water District, the City of Palmdale, and the City of Lancaster shall form the Antelope Valley Watermaster Public Water Suppliers Steering Committee (“Steering Committee”).

The Steering Committee shall establish its own rules and procedures for the conduct of meetings.

4.B. Public Water Supplier Representative

EXHIBIT 1 ELECTION RULES AND PROCEDURES

The term of the Public Water Supplier Representative shall be two years. The term of the first Watermaster representative shall commence on August 18, 2016, the date of the first Watermaster meeting, and shall continue until August 17, 2018.

The Public Water Suppliers will also select one alternate Public Water Supplier Representative for the Watermaster Board. The term of the alternate representative will be coterminous with the primary representative.

The Public Water Supplier Representative may be removed at any time by a majority vote of the Public Water Supplier Steering Committee. In the event that a representative is removed, the replacement representative shall serve the balance of the former representative's term.

4.C. Appoint of Representative

The Public Water Supplier Representative and alternate representative shall be elected by a majority vote of the parties identified in Section 8.1.1 of the Judgment. This vote shall be conducted at a meeting of the Steering Committee pursuant to the rules and procedures adopted by the Steering Committee.

Upon any change in representation, the Steering Committee shall supply the Watermaster and the court with notice of the change in representation along with a certification signed by the chair of the Steering Committee that the action was undertaken pursuant to the rules of the Steering Committee.

SECTION 5 – RULES AND PROCEDURES FOR LANDOWNER WATERMASTER REPRESENTATIVES

5.A. Introduction

All capitalized terms have the same meaning as defined in the Judgment and Physical Solution ("Judgment") for the Antelope Valley Groundwater Cases. "Exhibit 4" refers to Exhibit 4 to the Judgment. Section 18.1.1 of the Judgment provides for the composition of the Watermaster Board, which is to include:

[T]wo (2) landowner Parties, exclusive of public agencies and members of the Non-Pumper and Small Pumper Classes, selected by majority vote of the landowners identified on Exhibit 4 (or their successors in interest)¹ based on their proportionate share of the total Production Rights identified in Exhibit 4.

¹ In order to maintain voting balance in the Antelope Valley in accordance with the stipulation and judgment, public water producers who acquire water rights from Exhibit 4 landowners shall not vote for landowner representatives to the Watermaster board without further order of the Court upon proof in equity of good cause.

EXHIBIT 1 ELECTION RULES AND PROCEDURES

This document sets forth the rules and procedures for electing the two landowner Party Watermaster representatives.

The two (2) initial landowner Watermaster representatives have been elected pursuant to election rules and procedures which were distributed previously to Exhibit 4 Parties. The election rules and procedures herein shall apply to all subsequent elections of landowner Watermaster representatives.

These rules also include provisions for the selection of two (2) alternates for the two landowner Watermaster representatives, which helps to ensure the Watermaster can act on decisions requiring unanimous votes. The election rules and procedures herein shall apply to the initial and all subsequent elections of two (2) landowner alternates.

5.B. Notices

All election-related notices (such as notice of opening of nominations, transmittal of ballots, and announcement of results) shall be transmitted by email to the email addresses of the landowner Parties' designated representatives and their attorneys of record, and by posting on the Watermaster's website. The Watermaster shall maintain a service list of all Exhibit 4 Parties or their successors in interest, and it shall be the responsibility of those parties to maintain a current email address for the purposes of notice under these procedures. Notice shall not be transmitted to non-Parties or Parties not entitled to participate in the election of landowner Parties' Watermaster representatives under Section 18.1.1 of the Judgment, or the election of their alternates. All notices shall be transmitted and posted at the earliest practical time, and at least three (3) business days in advance of any event or deadline for action.

5.C. Inspector of Elections

The Watermaster shall select a neutral third party to serve as the Inspector of Elections prior to each election. The subject line of emails directed to the Inspector of Elections should begin with the words "Inspector of Elections."

5.D. Landowner Watermaster Representative and Alternate Terms

The term for each of the landowner Watermaster representatives shall be four (4) years, which will be staggered so that one of the landowner Watermaster representatives is elected every two (2) years. The terms shall commence on the date following the election when the Watermaster Board holds its first meeting and shall terminate at 5:00 p.m. PST on the fourth anniversary of the commencement date for each Watermaster representative, except that one of the initial landowner Watermaster representatives shall serve a two-year term, in order to establish the staggered terms. Consistent with the rules and procedures in effect for the election of the initial landowner Watermaster representatives, Mr. Atkinson shall serve the initial four-year term, and Mr. Calandri shall serve the initial two-year term.

The Exhibit 4 Parties or their successors in interest shall also select two (2) alternate landowner Watermaster representatives ("landowner Alternates") by election, who shall serve as the Watermaster representative if one or both of the elected landowner Watermaster representatives

EXHIBIT 1 ELECTION RULES AND PROCEDURES

is unable to attend a Watermaster Board meeting. The term for both of the landowner Alternates shall be two (2) years. The terms of the two (2) initial landowner Alternates shall commence retroactively to the date that the initial landowner Watermaster representative terms commenced, so that the terms for the landowner Alternates will coincide with the terms of the Watermaster representatives.

One of the landowner Alternates shall serve as the “Primary Alternate” and the other shall serve as the “Secondary Alternate.” In the event that one of the landowner Watermaster representatives is unable to attend a Watermaster Board meeting, the Primary Alternate shall attend and serve as a landowner Watermaster representative for that meeting. In the event that either both of the landowner Watermaster representatives are unable to attend a Watermaster Board meeting or one of the Watermaster representatives and the Primary Alternate are unable to attend a Watermaster Board meeting, the Secondary Alternate will attend and serve as a landowner Watermaster representative for that meeting.

If a landowner Watermaster representative is unable to complete his or her term, the Primary Alternate shall serve as the landowner Watermaster representative for the remainder of the term, and the Secondary Alternate shall become the Primary Alternate. A special election shall be held using the election procedures herein to select a new Secondary Alternate to serve the remainder of the landowner Alternate term.

5.E. Nominations

Any Exhibit 4 Party or its successor in interest shall be entitled to nominate one (1) individual to serve as the Watermaster representative, one (1) individual to serve as the Primary Alternate, and one (1) individual to serve as the Secondary Alternate. Each nominee must be a natural person and either be a Party listed on Exhibit 4, or be an officer, director, shareholder, managing member, general partner, limited partner, general manager, operations officer or managing agent of a Party listed on Exhibit 4 or its successor in interest. Nominations shall be made by delivering such nomination to the Inspector of Elections who shall provide notice to all Exhibit 4 parties or their successors in interest. The nomination shall include the following information for each position (i.e., Watermaster representative, Primary Alternate, and Secondary Alternate):

1. Name of Nominating Party as listed on Exhibit 4;
2. Name of natural person representing the Nominating Party as listed on Exhibit 4;
3. Name of person being nominated;
4. Address of person being nominated;
5. Name of Party on Exhibit 4 that the nominee represents;
6. Detailed statement of qualifications (“Statement of Qualifications”), and a disclosure of the nominee’s official capacity with an Exhibit 4 Party;
7. Representation that the Nominating Party has personally confirmed that the nominee is willing to serve; and
8. Verification by the nominating Party under penalty of perjury.

The Inspector of Elections shall provide Notice to all Exhibit 4 parties or their successor in interest of the opening of the nomination period, a copy of these rules which govern the election

EXHIBIT 1 ELECTION RULES AND PROCEDURES

process, and the date on which the nomination period will close. A sample nomination form is provided as Appendix A.

5.F. Ballots

Within three (3) business days after the close of nominations, the Inspector of Elections shall transmit the Ballot by email to the Parties identified on Exhibit 4 or their successor in interest and/or their attorneys. The Ballot shall state the deadline for receipt of the cast Ballot by the Inspector of Elections that will provide at least a ten (10) day voting period, and shall be accompanied by a Statement of Qualifications (from the nomination form) for each nominee. Ballots shall be cast confidentially, and transmitted by email to the Inspector of Elections.

Information to be provided on the Ballot includes:

1. Name of Party as listed in Exhibit 4, or the successor in interest;
2. Name of person representing the Party listed on Exhibit 4;
3. Name of the nominee for which the Party casts its votes for each position (i.e., Watermaster representative, Primary Alternate, and Secondary Alternate);
4. Date and signature of person representing the Party casting the Ballot.

5.G. Voting Rights

Each Party on Exhibit 4 to the Judgment, or its successor in interest, shall have one (1) vote for each acre foot of water set forth in the Overlying Production Rights column, and each such Party may cast all of its votes for each of the three positions (i.e., Watermaster representative, Primary Alternate, and Secondary Alternate). Commonly held Exhibit 4 rights such as that held by "Diamond Farming Co. LLC/Crystal Organic LLC/Grimmway/Lapis" shall be deemed a single Overlying Production Right exercisable by the common ownership. The voting right shall be exactly as reflected on Exhibit 4, rounded up or down to the nearest acre foot. Only those Overlying Parties on Exhibit 4, or their successors in interest, shall be entitled to cast votes.

5.H. Vote Count and Results

The Inspector of Elections shall count the votes for each position based on each voting Party's proportionate share of the total Production Rights identified in Exhibit 4, as discussed in the "Voting Rights" section above. The Inspector of Elections shall provide the results to the Court upon completion, with a report of any irregularities.