

ANTELOPE VALLEY GROUNDWATER CASES JCCP 4408

FEBRUARY 10, 2014 and February 11, 2014

APPEARANCES:

James Dubois and Lee Leininger for U.S. Department of Justice

Robert G. Kuhs, Wesley A. Miliband, Rich Zimmer, Thomas S. Bunn III, Andrew K. Sheffield,
Jeffrey V. Dunn, Michael T. Fife, William M. Sloan, Bradley J. Herrema for defendants.

ANTELOPE VALLEY GROUNDWATER CASES

DATE/TIME: Monday, February 10, 2014

9:00 a.m.

LOCATION: Old Dept. 1A, Mosk Courthouse

Present: Hon. Jack Komar, Judge

Jeannine Lorenz, Judicial Assistant

Rhona Reddix, CSR#10807, pro tempore

MINUTE ORDER:

Request for Judicial Notice by Tejon Ranchcorp and Tejon Ranch Company

- (1) Transcript 429, dated February 12, 1857, in the matter of Jose Maria Flores v. United States, Land Case No. 170 in the District Court of the United States for the Southern District of California;
- (2) Field Notes of the Survey of the Rancho La Liebre and Plat of the Rancho La Liebre

Request for Judicial Notice by Los Angeles County Waterworks District No. 40:

- (1) Phase 3 Trial testimonies and exhibits

The motion is heard and argued. GRANTED.

Motion to Quash or, alternatively, Motion for Protective Order regarding the Civil Subpoena dated January 17, 2014 by The Metropolitan Water District of Southern California

The motion is heard and argued. The Motion to Quash the subpoena is granted.

An Order Granting The Metropolitan Water District of California's Motion to Quash is signed and filed this date.

Motion in Limine by Los Angeles County Waterworks District No. 40:

- (1) For an order precluding parties from offering any testimony, documents or other evidence related to issues decided in prior phases of this action, including the safe yield and the amount and/or percentage of return flows; Joinder to same by City of Lancaster and Rosamond Community Services District

The motion is heard and argued . DENIED.

Motion in Limine by Antelope Valley Groundwater Agreement Association (AGWA):

- (1) to establish United States' burden of proof for any reserved water rights
- (2) for order excluding evidence of modeling by designated expert Dennis Williams

The motion is heard, argued and taken under submission.

Motions in Limine by Bolthouse Properties, LLC and Wm. Bolthouse Farms, Inc:

- (1) to prevent experts from testifying to hearsay opinions of other experts
- (2) objecting to introduction of evidence on unsupported legal theory

The motions are heard and argued.

The motion to prevent experts from testifying to hearsay opinions of other experts is deferred.

The motion objecting to introduction of evidence on unsupported legal theory is denied.

Motions in limine by Antelope Valley-East Kern Water Agency (AVEK):

- (1) Joinder to AGWA's motion in limine to exclude modeling evidence, Phase 5 of Trial

The motion is heard and argued . DENIED.

TRIAL:

Cause called for trial.

The Plaintiff and Defendant present their opening statements to the court.

Rand Frank Herbert is sworn and testifies on behalf of the plaintiff.

Exhibit US-1 (Curriculum Vitae for Rand F. Herbert), US-11 (Executive Order No. 6588-Withdrawal of Public Lands for War Department Use), US-95 (Muroc Army Air Field/Edwards Air Force Base (Sheet 1-1934); Geographical Information System Layered Map), US-34 (Aerial Photographs, Muroc Bombing and Gunnery Range), US-10 (Letters ranging in date from July, 1935 to December, 1935 requesting funds to install water pumps on Muroc Bombing and Gunnery Range), US-15 (Federal Register EO 7707), US-96 (Muroc Army Air Field/Edwards Air Force Base (Sheet 2- September 11, 1937):Geographical Information System Layered Map), US-16 (Federal Register EO – 7740), US-97 (Muroc Army Air Field/Edwards Air Force Base (Sheet 3 – November 15, 1937): Geographical Information System Layered Map), US-38 (Letter from Brig. General, Air Corps, Delos C. Emmons to Commanding General, GHQ Air Force re

Extension of Muroc Bombing and Gunnery Range), US-17 (Deed No. 4204-R So. Pac. Land Company: Purchase and conveyance of 59,419 acres “and all appurtenances”), US-98 (Muroc Army Air Field/Edwards Air Force Base (Sheet 4-1938):Geographical Information System Layered Map), US-42 (Letter from Secretary of War to Attorney General re condemnation proceedings noting that it is necessary “for military purposes” to immediately possess certain parcels of land), US-47 (USA v. 423.33 Acres of Land in the County of Kern..., Amendment to Complaint, 1147-ND Civil), US-18 (Federal Register EO 8450), US-99 (Muroc Army Air Field/Edwards Air Force Base (Sheet 5-1940): Geographical Information System Layered Map), US-56 (Correspondence between USAAC and QMG, others including discussion of plans for establishing a permanent camp at Muroc; date reference first item), US-43 (Correspondence with John K. Northrop re permission to test experimental aircraft at Muroc), US-19 (Construction Program No.4 Muroc Bombing Range), US-29 (Various letters dated 4/16/1943 to 5/28/1945 between the Secretary of War Henry L. Stimson and Governor Earl Warren, State of California), US-102 (Muroc Army Air Field/Edwards Air Force Base (Sheet 8-Exclusive Jurisdiction, US Army Core Map), US-257 (EAFB Exclusive Jurisdiction Map), US-63 (Planning for expansion of Muroc AAF to consolidate remaining inholdings and expand to the west to take in Rosamond Dry Lake bed area; correspondence included through endorsements to August 1947. Describes need for expansion, for “orderly development of Muroc Air Field as a permanent flight test base in accordance with the Preliminary Master Plan.), US-101(Muroc Army Air Field/Edwards Air Force Base (Sheet 7-Exclusive Jurisdiction): Geographical Information System Layered Map), US-21 (Public Land Order 480: withdrawal 489.76 acres for “military purposes”), US-103 (Muroc Army Air Field/Edwards Air Force Base (Sheet 9-1948): Geographical Information System Layered Map), US-22 (Public Land Order 613: withdrawal 564.46 acres “in connection with and air force base”), US-104 (Muroc Army Air Field/Edwards Air Force Base (Sheet 10-1949) Geographical Information System Layered Map), US-23 (Public Land Order 646: withdrawal 20, 901.82 acres “as an air force base”, US- 105 (Muroc Army Air Field/Edwards Air Force Base (Sheet 11-1950): Geographical Information System Layered Map), US -106 (Muroc Army Air Field/Edwards Air Force Base (Sheet 12 – 1947-1952); Geographical Information System Layered Map), US-24 (Public Land Order 1126: withdrawal 120 acres for “military purposes), US-107 (Muroc Army Air Field/Edwards Air Force Base (Sheet 13-1955):Geographical Information System Layered Map), US-27 (Declaration of Taking Civil 16661-WB, USA v. 2183.44 acres of land...), US-108 (Muroc Army Air Field/Edwards Air Force Base (Sheet 14-1953-1958):Geographical Information Systems Layered Map), US-25 (Public Land Order 2270: withdrawal 230 acres for “military purposes”), US-109 (Muroc Army Air Field/Edwards Air Force Base (Sheet 15-1961):Geographical Information Systems Layered Map), US-26 (Public Land Order

2727:revoking approximately 268 acres withdrawn under PLO646), US-110 (Muroc Army Air Field/Edwards Air Force Base (Sheet 16-1962):Geographical Information System Layered Map), US-258 (EAFB map of historic wells), US-259 (Spreadsheet with well and population date), US-83 (F.W. Glessner and J.A. Westphal, Ground-Water Inventory for 1965, Edwards Air Force Base, California, 1966.), US-82 (F.W. Glessner and S.G. Robson, Ground Water Inventory for 1964, Edwards Air Force Base, California, 1965), US – 84 (S.J. Tyley, Ground-Water Inventory for 1966, Edwards Air Force Base, California, 1967), US-142 (Location Map for AFP 42), US-86 (Proposition to Acquire Palmdale Airport), US-92 (Basis for establishing USAF Plant 42 at Palmdale), US-111 (Air Force Plant 42 (Sheet 1-Patents):Geographical Information System Layered Map), US-112 (Air Force Plant 42 (Sheet 2-1953-1958):Geographical Information System Layered Map), US-113 (Air Force Plant 42 (Sheet 3 – February 2, 1954): Geographical Information System Layered Map), US-114 (Air Force Plant 42 (Sheet 4 -1956-1958): Geographical Information System Layered Map), US-115 (Air Force Plant 42 (Sheet 5 – by 1958):Geographical Information System Layered Map), and 116 (Air Force Plant 42 (Sheet 6 – 1958-1963): Geographical Information System Layered Map)

Are marked for identification only.

The court recesses. The trial is continued to February 11, 2014 at 9:00 a.m. in Room 222, Stanley Mosk Courthouse.