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Rosamond Community Services District
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10 ANTELOPE VALLEY GROUNDWATER
11 CASES

12 Included Actions:

13 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
14 Superior Court of California, County of
Los Angeles, Case No. BC325201;

15 Los Angeles County Waterworks District
16 No. 40 v. Diamond Farming Co.
Superior Court of California, County of Kern,
17 Case No. S-1500-CV-254-348

18 Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
19 Lancaster, Diamond Farming Co. v. Palmdale
Water Dist., Superior Court of California
20 County of Riverside, consolidated actions; Case
Nos. RIC 353 840, RIC 344 436, RIC 344 668.

LASC Case No. BC 325201

Judicial Council Coordination
Proceeding No. 4408

CLASS ACTION

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

**PUBLIC WATER SUPPLIERS'
EVIDENTIARY OBJECTIONS TO THE
DECLARATION OF KATHLEEN
KUNYSZ IN SUPPORT OF ANTELOPE
VALLEY - EAST KERN WATER
AGENCY'S SUPPLEMENTAL BRIEF IN
SUPPORT OF ITS MOTION FOR
SUMMARY ADJUDICATION;
[PROPOSED] ORDER**

Date: January 27, 2014
Time: 9:00 a.m.
Dept.: TBD

Trial Date: February 10, 2014 (Phase V)

EVIDENTIARY OBJECTIONS TO DECLARATION OF KATHY KUNYSZ

The Public Water Suppliers¹ hereby submit their Objections to the Declaration of Kathleen Kunysz (“Kunysz”) submitted by Antelope Valley-East Kern Water Agency (“AVEK”) in support of its Supplemental Brief in Support of its Motion for Summary Adjudication.

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
1.	Page 1, ¶ 2, Sentence 1: “MWD was organized for the purpose of providing imported water supplies to its member agencies located in the counties of San Diego, Orange, Los Angeles, Riverside, San Bernardino, and Ventura, in southern California.”	<u>Irrelevant</u> Kunysz’ statement is inadmissible because it is not relevant to the issues before the Court. MWD is not a party to this action and its organization is irrelevant to this action. Any facts concerning MWD that are alleged in Kunysz’ statement, but are not contained in <i>City of Los Angeles v. City of San Fernando, et al.</i> (1975) 14 Cal.3d 199, are irrelevant and inadmissible. (Evid. Code, § 350 [“Only relevant evidence is admissible.”]; <i>Donlen v. Ford Motor Company</i> (2013) 217 Cal.App.4th 138, 148 [158 Cal.Rptr.3d 180] [“The trial court has broad discretion in determining the relevance of evidence [citation], but lacks discretion to admit irrelevant evidence. [Citations.]’.”])	Sustained: _____ Overruled: _____
2.	Page 1, ¶ 2, Sentence 2: MWD imports water to its service area from the Colorado River and from the State Water Project.”	<u>Irrelevant</u> Kunysz’ statement is inadmissible because it is not relevant to the issues before the Court. MWD is not a party to this action and the location from which it imports water is irrelevant to this action. Any facts concerning MWD that are alleged in Kunysz’ statement, but are not contained in <i>City of Los Angeles v. City of San Fernando, et al.</i> (1975) 14 Cal.3d 199, are irrelevant and inadmissible. (Evid. Code, § 350 [“Only relevant evidence is admissible.”]; <i>Donlen v. Ford Motor Company</i> (2013) 217 Cal.App.4th 138, 148 [158 Cal.Rptr.3d 180] [“The trial court has broad discretion in determining the relevance of evidence [citation], but lacks discretion to admit	Sustained: _____ Overruled: _____

¹ The Public Water Suppliers, for the purposes of these objections, consist of City of Lancaster, Rosamond Community Services District, Los Angeles County Waterworks District No. 40, Quartz Hill Water District, California Water Service Company, Palm Ranch Irrigation District, Palmdale Water District, North Edwards Water District and Desert Lakes Community Services District.

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
		irrelevant evidence. [Citations.]’.”)	
3.	Page 2, ¶ 3, Sentence 1: In response to a Public Record Act request and a deposition notice, both attached as Exhibit A, MWD staff, including myself, diligently searched MWD’s records for any responsive public records.”	<p><u>Irrelevant</u></p> <p>Kunysz’ statement is inadmissible because it is not relevant to the issues before the Court. MWD is not a party to this action and its search for records in response to a Public Record Act request and deposition notice is irrelevant to this action. Any facts concerning MWD that are alleged in Kunysz’ statement, but are not contained in <i>City of Los Angeles v. City of San Fernando, et al.</i> (1975) 14 Cal.3d 199 are irrelevant and inadmissible.</p> <p>(Evid. Code, § 350 [“Only relevant evidence is admissible.”]; <i>Donlen v. Ford Motor Company</i> (2013) 217 Cal.App.4th 138, 148 [158 Cal.Rptr.3d 180] [““The trial court has broad discretion in determining the relevance of evidence [citation], but lacks discretion to admit irrelevant evidence. [Citations.]’.”)</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>
4.	Page 2, ¶ 3, Sentence 2: “In the regular course of its business, MWD maintains records of its property holdings and operations.”	<p><u>Lacks personal knowledge</u></p> <p>Kunysz’ statement lacks personal knowledge as to how Kunysz knows that MWD maintains records of its property holdings and operations.</p> <p>(Evid. Code, § 350, 403, subd. (a)(2), [“The relevance of the proffered evidence depends on the existence of the preliminary fact.”], 702, subd. (a), 1200, subs. (a), (b); see <i>Tri-State Mfg. Co. v. Super. Ct.</i> (1964) 224 Cal.App.2d 442, 445 [36 Cal.Rptr. 750] [“In an affidavit facts must be positively set forth, and an affidavit which merely states conclusions or opinions of the affiant is insufficient.”]; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the court.”]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)</p> <p><u>Irrelevant</u></p> <p>Kunysz’ statement is inadmissible because it is not relevant to the issues before the Court. MWD is not a party to this action and its maintenance of records is irrelevant to this action. Any facts</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>


	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
		<p>concerning MWD that are alleged in Kunysz’ statement, but are not contained in <i>City of Los Angeles v. City of San Fernando, et al.</i> (1975) 14 Cal.3d 199, are irrelevant and inadmissible.</p> <p>(Evid. Code, §§ 350 [“Only relevant evidence is admissible.”]; <i>Donlen v. Ford Motor Company</i> (2013) 217 Cal.App.4th 138, 148 [158 Cal.Rptr.3d 180] [“The trial court has broad discretion in determining the relevance of evidence [citation], but lacks discretion to admit irrelevant evidence. [Citations.]’.”])</p>	
5.	<p>Page 1, ¶ 4, Sentence 1: “Based on a diligent search of MWD’s records, MWD did not find any records evidencing that MWD owned or operated any groundwater wells within its service boundaries for the purpose of recovering the return flows from its imported water in the Upper Los Angeles River Area groundwater basins between 1950 and 1968.”</p>	<p><u>Irrelevant</u></p> <p>Kunysz’ statement is inadmissible because it is not relevant to the issues before the Court. MWD is not a party to this action and its possession of records concerning MWD’s ownership or operation of groundwater wells between 1950 and 1968 is irrelevant to this action. Any facts concerning MWD that are alleged in Kunysz’ statement, but are not contained in <i>City of Los Angeles v. City of San Fernando, et al.</i> (1975) 14 Cal.3d 199 are irrelevant and inadmissible.</p> <p>(Evid. Code, § 350 [“Only relevant evidence is admissible.”]; <i>Donlen v. Ford Motor Company</i> (2013) 217 Cal.App.4th 138, 148 [158 Cal.Rptr.3d 180] [“The trial court has broad discretion in determining the relevance of evidence [citation], but lacks discretion to admit irrelevant evidence. [Citations.]’.”])</p> <p><u>Vague</u></p> <p>Kunysz’ statement is vague and uncertain as to whether such documents existed at any time.</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>
6.	<p>Page 1, ¶ 4, Sentence 2: “I am informed and believe that the groundwater rights in the Upper Los Angeles River Area groundwater basins (‘ULRA’) were adjudicated in the case of <i>City of Los Angeles v.</i></p>	<p><u>Irrelevant</u></p> <p>Kunysz’ statement is inadmissible because it is not relevant to the issues before the Court. MWD is not a party to this action and Kunysz’ belief concerning the adjudication in the referenced case is irrelevant to this action. Any facts concerning MWD that are alleged in Kunysz’ statement, but are not contained in <i>City of Los Angeles v. City of San Fernando, et al.</i> (1975) 14 Cal.3d 199, are irrelevant and inadmissible.</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p><i>City of San Fernando, et al.</i>, originally filed in 1955 and finally decided on appeal in 1975 (opinion published at 14 Cal.3d 199 (1975)).”</p>	<p>(Evid. Code, § 350 [“Only relevant evidence is admissible.”]; <i>Donlen v. Ford Motor Company</i> (2013) 217 Cal.App.4th 138, 148 [158 Cal.Rptr.3d 180] [“The trial court has broad discretion in determining the relevance of evidence [citation], but lacks discretion to admit irrelevant evidence. [Citations.]’.”])</p> <p><u>Speculative</u></p> <p>To the extent that Kunysz’ statement implies that the Court in <i>City of Los Angeles v. City of San Fernando, et al.</i> did or did not consider facts alleged in Kunysz’ Declaration concerning MWD, it is pure speculation and thus, improper. Kunysz’ and AVEK’s speculations as to what facts that Court did or did not consider are inadmissible.</p> <p>(Evid. Code, § 803; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the court.”]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>Kunysz’ statement amounts to improper testimony to prove the content of a writing - - a California Court of Appeals case - - where Kunysz and/or AVEK are in possession and control of the writing. A copy of the writing should have been attached and properly authenticated to prove its content.</p> <p>(Evid. Code, §§ 1521, subd. (b), 1523.)</p>	
<p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>7. Page 2, ¶ 5, Sentence 1: “Based on a diligent search of MWD’s records, MWD did not find any records evidencing that MWD spread or banked its imported water within the ULARA during the</p>	<p><u>Irrelevant</u></p> <p>Kunysz’ statement is inadmissible because it is not relevant to the issues before the Court. MWD is not a party to this action and its possession of records concerning its imported water between 1950 and 1968 is irrelevant to this action. Any facts concerning MWD that are alleged in Kunysz’ statement, but are not contained in <i>City of Los Angeles v. City of San Fernando, et al.</i> (1975) 14 Cal.3d 199, are irrelevant and</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
	period from 1950 through 1968.”	<p>inadmissible.</p> <p>(Evid. Code, § 350 [“Only relevant evidence is admissible.”]; <i>Donlen v. Ford Motor Company</i> (2013) 217 Cal.App.4th 138, 148 [158 Cal.Rptr.3d 180] [“The trial court has broad discretion in determining the relevance of evidence [citation], but lacks discretion to admit irrelevant evidence. [Citations.]’.”])</p> <p><u>Speculative</u></p> <p>To the extent that Kunysz’ statement implies that the Court in <i>City of Los Angeles v. City of San Fernando, et al.</i> did or did not consider facts alleged in Kunysz’ Declaration concerning MWD, it is pure speculation and thus, improper. Kunysz’ and AVEK’s speculations as to what facts that Court did or did not consider are inadmissible.</p> <p>(Evid. Code, § 803; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the court.”]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)</p> <p><u>Vague</u></p> <p>Kunysz’ statement is vague and uncertain as to whether such documents existed at any time.</p>	
8.	Page 2, ¶ 6, Sentence 1: “Based on a diligent search of MWD’s records, MWD did not find any records evidencing that MWD adopted or held a position on whether it had rights to recapture or use return flows resulting from water it delivered to its member agencies in the ULARA from 1950	<p><u>Irrelevant</u></p> <p>Kunysz’ statement is inadmissible because it is not relevant to the issues before the Court. MWD is not a party to this action and its possession of records concerning its imported water between 1950 and 1968 is irrelevant to this action. Any facts concerning MWD that are alleged in Kunysz’ statement, but are not contained in <i>City of Los Angeles v. City of San Fernando, et al.</i> (1975) 14 Cal.3d 199, are irrelevant and inadmissible.</p> <p>(Evid. Code, § 350 [“Only relevant evidence is admissible.”]; <i>Donlen v. Ford Motor Company</i> (2013) 217 Cal.App.4th 138, 148 [158 Cal.Rptr.3d 180] [“The trial court has broad</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
	through 1968.”	<p>discretion in determining the relevance of evidence [citation], but lacks discretion to admit irrelevant evidence. [Citations.]’.”)</p> <p><u>Speculative</u></p> <p>To the extent that Kunysz’ statement implies that the Court in <i>City of Los Angeles v. City of San Fernando, et al.</i> did or did not consider facts alleged in Kunysz’ Declaration concerning MWD, it is pure speculation and thus, improper. Kunysz’ and AVEK’s speculations as to what facts that Court did or did not consider are inadmissible.</p> <p>(Evid. Code, § 803; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the court.”]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)</p> <p><u>Vague</u></p> <p>Kunysz’ statement is vague and uncertain as to whether such documents existed at any time.</p>	

DATED: December 27, 2013 MURPHY & EVERTZ LLP

By: 
 Douglas J. Evertz, Attorney for City of Lancaster
 and Rosamond Community Services District

ORDER

IT IS SO ORDERED.

Dated: _____

 JUDGE OF THE SUPERIOR COURT

1 **PROOF OF SERVICE**

2 **ANTELOPE VALLEY GROUNDWATER CASES**

Judicial Council Coordination, Proceeding No. 4408

3 Santa Clara Case No. 1-05-CV 049053

4 Assigned to the Honorable Jack Komar

5 Los Angeles County Superior Court, Central, Dept. 1

6 I am a resident of the State of California, over 18 years of age and not a party to this action. I
7 am employed in the County of Orange, State of California. My business address is 650 Town Center
8 Drive, Suite 550, Costa Mesa, California 92626.

9 On December 21, 2013, I served the within document(s):

10 **PUBLIC WATER SUPPLIERS' EVIDENTIARY OBJECTIONS TO THE
11 DECLARATION OF KATHLEEN KUNYSZ IN SUPPORT OF ANTELOPE VALLEY-
12 EAST KERN WATER AGENCY'S SUPPLEMENTAL BRIEF IN SUPPORT OF ITS
13 MOTION FOR SUMMARY ADJUDICATION; [PROPOSED] ORDER**

14 by posting the document(s) listed above to the website <http://www.scefiling.org>, a
15 dedicated link to the Antelope Valley Groundwater Cases; Santa Clara Case
16 No. 1-05-CV 049053, Assigned to the Honorable Jack Komar, said document(s) is
17 electronically served/distributed therewith.

18 By transmitting via e-mail the document(s) listed above to the e-mail address(es) and/or
19 fax number(s) set forth below on this date.

20 by placing the document(s) listed above in a sealed Overnight Express envelope/package for
21 overnight delivery at Costa Mesa, California addressed as set forth below.

22 by causing personal delivery by Nationwide Legal of the document(s) listed above, to the
23 person(s) at the address(es) set forth below.

24 I am readily familiar with Murphy & Evertz, LLP's practice for collecting and processing
25 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service
26 on the same day that the correspondence is placed for collection and mailing, it is deposited in the
27 ordinary course of business with the United States Postal Service, in a sealed envelope with postage
28 fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 21, 2013, at Costa Mesa, California.


Stephanie Patis