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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES – CENTRAL DISTRICT
16

17 **ANTELOPE VALLEY**
18 **GROUNDWATER CASES**

19 Included Actions:
20 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Superior
21 Court of California, County of Los
Angeles, Case No. BC 325201;

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

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

Judicial Council Coordination No. 4408

CLASS ACTION

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

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 AND
ROSAMOND COMMUNITY SERVICES
DISTRICT'S CASE MANAGEMENT
STATEMENT

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1 CASE MANAGEMENT STATEMENT

2
3 The Basin Needs a Physical Solution As Soon As Possible

4 Los Angeles County Waterworks District No. 40 and Rosamond Community Services
5 District, together with other parties, seek to have this case progress efficiently towards a final
6 resolution as fast as possible. With water supplies throughout California facing the risk of a
7 prolonged drought, and a recent Federal Court decision severely curtailing deliveries of State
8 Water Project water, it is vital to the public health and safety security of the arid Antelope Valley
9 that this court implement a physical solution to overdraft conditions as soon as practicable. As
10 the court has recognized, a timely physical solution requires the cases to be at issue as soon as
11 possible.

12 Certifying a plaintiffs' landowner class was a significant step towards getting the
13 consolidated cases at issue. There may be several thousand additional small landowners who
14 pump less than 25 acre feet annually ("small pumpers") from the Antelope Valley Groundwater
15 Basin ("Basin"). Small pumpers are *not* included in the recent certified landowner class and thus,
16 the court will decide how to obtain jurisdiction over the small pumpers.

17 Because of the urgent nature of moving the cases forward, Los Angeles County
18 waterworks District No. 40 and Rosamond Community Services request that the court exclude the
19 small pumpers or reconsider the use of the class mechanism. The alternative is to attempt
20 personal service, which will take too long and cost too much.

21
22 There Is No Timely Way to Individually Identify and Personally Serve Small Pumpers

23 There are no public records that readily identify small pumpers in the Basin,
24 encompassing approximately 1,000 square miles. Estimates are that it would take at least several
25 months to analyze the Basin to divide small pumper parcels from the other landowners parcels,
26 and an additional year to estimate the amount of water used by each small pumper on a parcel-by-
27 parcel basis. Even if the small pumpers could be readily identified, personal service will take too
28 long and cost too much.

1 There are at Least Two Options for the Small Pumpers

2 1. *De Minimus* User Exclusion.

3 On an individual basis, no small pumper materially impacts the groundwater supply.
4 Collectively, however, they may materially impact the supply. Until there is a determination of
5 the available Basin's natural yield, and a comparison of the yield with the total estimated small
6 pumper demand, the parties and the court cannot make an informed decision on whether to
7 exclude or exclude small pumpers.

8 Presently, the small pumpers could be excluded entirely from the case. Instead, the
9 physical solution and final judgment would provide an amount of water that accounts for the
10 overall small pumper demand. Changes to that demand can be managed by a court-appointed
11 water master under the court's on-going jurisdiction. If the small pumpers are not excluded as de
12 minimus users, they should be included within a class.

13
14 2. Certification of a Small Pumper Class.

15 The court recognized the need to implement the class mechanism for the large number of
16 landowner parties. Initially, the Public Water Suppliers sought to certify a defendant class but no
17 landowner volunteered to represent the class. Absent a volunteer representative, the court should
18 consider using its power to select a defendant class representative and class counsel:

19 "Commentators have frequently criticized the potential for
20 inadequate representation of defendant classes. Because the named
21 defendant generally does not seek his representative status and
22 often vehemently opposes it, a court may fear that an unwilling
23 representative will necessarily be a poor one. [Citation omitted].
24 Related to this concern is the fear that the plaintiff will exercise his
25 power of selection to appoint a weak, ineffective opponent as class
26 representative. 'It is a strange situation where one side picks out the
27 generals for the enemy's army.'" [Citation omitted.]

28 "Upon closer examination, however, these concerns appear less
justified than some others. Ironically, the best defendant class
representative may well be the one who most vigorously and
persuasively opposes certification since he is the one most likely to
guarantee an adversary presentation of the issues. [Citation
omitted.] In fact, a court should be suspicious of a willing
defendant class representative because of the likelihood of collusion
with the plaintiff." Thus, the focus upon the defendant's desire to
represent his class is misplaced. The real concern with an unwilling

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class representative should be his ability to carry the inevitable added expense of class defense and the fairness of placing that burden upon him."

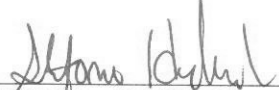
(In re the Gap Securities Litigation (1978) 79 F.R.D. 283, 290 [citations omitted].)

The recent certification of the Willis class-action complaint with its plaintiffs' class was unforeseen at the time the parties, and the court first discussed the use of the class mechanism. It is possible that one or more small pumpers could volunteer to represent the group as another plaintiffs' class. If there is no volunteer, one or more existing parties could be ordered to represent the small pumpers. This additional class will facilitate jurisdiction over remaining parties and move the cases towards a final judgment.

Because of the urgent nature of these cases and the importance of moving the cases forward, Los Angeles County Waterworks District No. 40 and Rosamond Community Services request that the court to exclude small pumpers as de minimus users or consider the use of the class mechanism for the small pumpers.

Dated: October 15, 2007

BEST BEST & KRIEGER LLP

By 
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ROSAMOND COMMUNITY SERVICES
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NO. 40

PROOF OF SERVICE

I, Kerry V. Keefe, 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, 5 Park Plaza, Suite 1500, Irvine, California 92614. On October 15, 2007, I served the within document(s):


LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 AND ROSAMOND COMMUNITY SERVICES DISTRICT'S CASE MANAGEMENT STATEMENT

- by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on October 15, 2007, at Irvine, California.



 Kerry V. Keefe

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