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7

**EXEMPT FROM FILING FEES
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SECTION 6103**

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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 COUNTY OF LOS ANGELES – CENTRAL DISTRICT
17

18 **ANTELOPE VALLEY
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
28

Judicial Council Coordination No. 4408

CLASS ACTION

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

CASE MANAGEMENT STATEMENT

Date: January 9, 2009
Time: 1:30 p.m.
Dept.: 1

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NEXT PHASE OF TRIAL

1
2
3 The Public Water Suppliers propose the next phase of trial be a determination of safe yield
4 and overdraft (past or present). The proposal has been discussed with other attorneys, and they
5 too agree the next phase of trial take place as soon as possible to minimize further delay, avoid
6 potentially unnecessary litigation expense, and to facilitate the earliest possible negotiated
7 resolution of case issues.

8
9 The Court cannot make a determination of whether a party acquired prescriptive rights
10 until the Court first determines the nature and extent of the Basin's safe yield, and whether
11 groundwater withdrawals have exceeded safe yield. Once the Court makes a safe yield
12 determination and decides whether a prescriptive period has resulted from overproduction, the
13 parties will be able assess the strength of their claims of priority to Basin water while
14 understanding the total amount available for all users. Regardless of the prescriptive rights
15 claims, the Court will need to determine the safe yield to protect the Basin from overdraft
16 conditions.

17
18 There is no need to further delay the determination of safe yield and overdraft. As the
19 Court is aware, parties' experts have participated in an informal Technical Committee that spent
20 years collecting and analyzing data concerning groundwater recharge including precipitation and
21 return flows from imported water. They are ready to testify on safe yield and overdraft claims.

22
23 Trial should start between April 27 and May 11, 2009, with the following pre-trial
24 deadlines:

25
26 March 27, 2009 as the deadline for completing expert witness depositions and all
27 other discovery related to the next phase of trial
28

1 January 23, 2009 as the deadline for a party to designate its expert witness(es), if
2 any.

3
4 Each party's expert witness designation shall comply with Code of Civil Procedure
5 Section 2034.260 and shall include a written summary of all opinions. Each expert must provide
6 his or her opinion, if any, on the natural yield of the Basin (past and/or present), yield from
7 imported water deliveries, and whether groundwater extractions exceeded either or both yields for
8 any time period. No party will be allowed to provide an expert witness opinion at trial unless the
9 opinion was fully and timely disclosed in writing with the designation.

10
11 There should be a pre-trial conference scheduled as soon as possible following the
12 deadline for completing expert witness depositions. The purpose of the pre-trial conference is to
13 have the Court determine the order of the presentation of trial testimony including the number of
14 expert witnesses testifying. ("The trial court is vested with discretion to limit the number of
15 expert witnesses. . . [and] the trial court has discretion to refuse to admit cumulative evidence."
16 (*Horn v. General Motors* (1976) 17 Cal.3d 359, 371.)

17
18 At the pre-trial conference, the Court may inquire as to what testimony is expected from
19 each party's witness. If it appears that testimony will be redundant or cumulative, the Court may
20 ask the attorneys to limit the number of witnesses to be called to testify at trial. With the Court's
21 pre-trial assistance, trial is expected to last about 10 to 15 court days.

22
23 FUTURE TRIAL PHASES

24
25 After determination of safe yield and overdraft, the next phase of trial should be a
26 determination of the prescriptive rights claims. Trial is expected to last about 10 to 15 court days;
27 and should start between November 9 and 23, 2009, with the following pre-trial deadlines:
28

1 October 9, 2009 as the deadline for completing expert witness depositions and all
2 other discovery related to the next phase of trial

3
4 September 8, 2009 as the deadline for a party to designate its expert witness(es), if
5 any.

6
7 As suggested for the next phase of trial, each party's expert witness designation shall
8 comply with Code of Civil Procedure Section 2034.260 and shall include a written summary of
9 all opinions. Each expert must provide his or her opinion, if any, on the natural yield of the Basin
10 (past and/or present), yield from imported water deliveries, and whether groundwater extractions
11 exceeded either or both yields for any time period. No party will be allowed to provide an expert
12 witness opinion at trial unless the opinion was fully and timely disclosed in writing with the
13 designation.

14
15 STATUS OF TECHNICAL COMMITTEE WORK

16
17 The Technical Committee, a group of experts retained by various landowner parties,
18 public water suppliers, State of California, and the United States, respectively, has completed its
19 work on Basin characteristics including yield from natural and imported water supplies, as
20 groundwater production determinations. Pursuant to the direction of the Court, the Technical
21 Committee report has been made available to all parties requesting a copy of the Report.¹

22 _____
23 ¹ The following parties participated in the Technical Committee: Bolthouse Properties,
24 Diamond Farming, Nebeker landowner group ("AGWA"), US Borax, Tejon, United States, City
25 of Los Angeles, City of Palmdale, Los Angeles County Sanitation Districts, Antelope Valley East
26 Kern Water Agency ("AVEK"), Palmdale Water District and the Public Water Suppliers. A few
27 landowner parties have falsely claimed the Technical Committee is "dominated" by Public Water.
28 Out of the 14 experts participating in the Technical Committee meetings (some parties have more

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STATUS OF WILLIS CLASS NOTICE SERVICE

Pursuant to Court order, Los Angeles County Water Works District No. 40 and Rosamond Community Services District mailed the Court-approved Willis Class Notice to property owners within the Adjudication Area (except public water supplier customers). Over 63,000 mailed Notices were sent by first class mail on or before December 31, 2008.

Newspaper publication of the class notice will take place in early January as previously directed the Court.

DISCOVERY

Most parties recognize that judicial management facilitates the litigation process for all counsel and reduces the expense for the litigants. The Court, with the assistance of counsel, should create a case management plan to efficiently complete discovery and prepare for an orderly presentation of evidence for the next trial phases.

There is no party-coordinated or Court-directed discovery plan for discovery. Although the Court has put in place an informal procedure for resolving discovery disputes, there is no comprehensive plan to conduct discovery in a timely and efficient manner. Already, there has

than 1 expert participating): Six (6) experts represent overlying private landowners (Bolthouse, Diamond Farming, Nebeker landowner group, and Tejon); one (1) expert represents the United States (not a public water supplier); two experts (2) represent AVEK (not a public water supplier but a water wholesaler of water to private landowners and public entities); one (1) expert represents the City of Los Angeles (not a public water supplier but a recycled water user); one (1) expert represents the Los Angeles County Sanitation Districts (not a public water supplier); one (1) expert represents a city which is *not* a public water supplier; and two (2) experts represent the Public Water Suppliers.

1 been and continues a confusing and disorganized barrage of discovery requests and demands
2 upon the Public Water Suppliers from some of the landowner parties. At a minimum, they should
3 coordinate their discovery requests and respective expert witness designations to avoid
4 cumulative and wasteful pre-trial and trial conduct and proceedings.

5 With Court assistance and supervision, the parties can complete discovery including
6 expert witness depositions with minimum expense and delay. The Public Water Suppliers and
7 other parties respectfully request that the Court consider immediately implementing a case
8 management plan for the next trial phase that includes court-approved discovery for all landowner
9 parties based on trial phase issues identified by the Court. These issues include an examination of
10 the Basin's geology, recharge from natural and imported water, land use, historical water use,
11 groundwater levels, safe yield, and land subsidence.

12 LIAISON COUNSEL

13
14
15 There are numerous landowner parties with common or similar interests but separate legal
16 counsel. The number of counsel has become so large that it is necessary to organize counsel for
17 the different sides represented in these proceedings. Without Court-assisted coordination of the
18 numerous landowner parties and attorneys, there will be wasted time and money on duplicated
19 efforts including discovery, pre-trial and trial preparation.

20 In earlier early stages of the proceedings, the Court suggested or directed the use of liaison
21 counsel. Since that time, the number of landowner parties and attorneys has only grown larger
22 with increased need for additional Court-directed or assisted case management.

23 Liaison Counsel or Lead Counsel can assist the Court in coordinating discovery, pre-trial
24 and trial activities and positions. In order for the Court to determine or designate Liaison and/or
25 Lead Counsel, the parties' various interests can be generally described as follows:

26
27 Landowners with dormant, non-exercised correlative overlying rights (non-pumping
28 landowners). This is the largest group of landowners and the vast majority are members

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of the Willis Class represented by Mr. Kalfyan and Mr. Zlotnick.

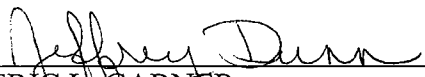
Public landowners. The United States is the largest single landowner in the Basin and is represented by Mr. Leininger. There are at least two other public entity property owners, City of Los Angeles and Los Angeles County Sanitation Districts, but they do not provide water service to the public.

The Antelope-Valley East Kern Water Agency (“AVEK”). It is the Basin’s largest wholesaler of State Water Project water to various public entities and private property owners. AVEK is represented by Mr. Brunick.

Large numbers of private property owners who pump groundwater. This group includes Bolthouse Farms, Diamond Farming, the Nebeker property owner group, the Wood Class of private landowners using groundwater, and many others. This group needs organization and structure to avoid continued confusion amongst the large number of separately represented parties. They should be organized into a committee with only a few attorneys designated to serve as Liaison and/or Lead Counsel.

Dated: December 31, 2008

BEST BEST & KRIEGER LLP

By 
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