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Exempt from Filing Fee Pursuant to Government Code Section 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding

ANTELOPE VALLEY GROUNDWATER CASES

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

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

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

Diamond Farming Co. v. City of Lancaster

Diamond Farming Co. v. Palmdale Water District

Case No. 105 CV 049053

Judicial Council Coordination Proceeding No. 4408

Hon. Jack Komar

CITY OF LOS ANGELES' OPPOSITION TO ANAVERDE LLC'S MOTION IN *LIMINE* NO. 1 REGARDING EXCLUSING PROSPECTIVE WITNESSES FROM THE COURTROOM DURING TESTIMONY

Trial: October 6, 2008
Time: 9:a.m. – Dept.: 1

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

The City of Los Angeles opposes the motion made by Anaverde LLC ("Anaverde") for an order excluding non-testifying witnesses from the courtroom. The reason advanced by Anaverde for its proposal is the "risk that prospective witnesses who have not yet been called to testify will be unfairly educated and informed as to matters on which said witnesses will be interrogated." (Anaverde Memorandum of Points and Authorities, at 3:115-16.) Anaverde's concern about the fairness of expert education is especially ironic in light of the fact that its own expert's report was not filed until September 30, 2008, only one day prior to his scheduled deposition, less than a week before trial, and a full two weeks after Anaverde and its expert had access to the reports of the other expert witnesses in this case.

The motion should be denied for another, more compelling reason. In this complex and technical case, the Court is highly dependent on the opinions of experts in the field of geology, hydrology and hydrogeology. Virtually all of the parties to the Phase 2 trial recognized that the soundest determination of the legal issues in the case will be founded on the best science, and authorized their experts to consult in an attempt to agree on the technical facts concerning the Antelope Valley Groundwater Basin. While the effort has not culminated in a settlement, to date, the entire thrust of the effort was one of mutual education, discussion and, hopefully agreement on the technical aspects of the case.

Unless there is a concern that experts will provide false testimony as a result of hearing the testimony of other experts (with whom they have largely shared data and opinions), there is no reason to exclude them from the courtroom. Further, to the extent that hearing the testimony of other experts causes them to reconsider their own opinions, the result should benefit the Court in arriving at a correct determination.

Evidence Code section 777, on which Anaverde relies for its requested order of exclusion gives the Court *discretion* to exclude; it is not a mandate. The City of Los Angeles urges the

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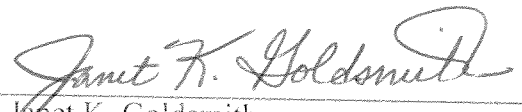
Court to deny Anaverde's motion.

Dated: October 2, 2008

ROCKARD J. DELGADILLO, City Attorney
Richard M. Brown, Senior Assistant City Attorney for Water and Power

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation

By 
Janet K. Goldsmith
Attorneys for Defendant CITY OF LOS ANGELES

PROOF OF SERVICE

I DECLARE THAT:

I am employed in the County of Sacramento, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 400 Capitol Mall, Suite 2700, Sacramento, California 95814.

On October 2, 1008, I served the

CITY OF LOS ANGELES' OPPOSITION TO ANAVERDE LLC'S MOTION IN *LIMINE* NO. 1 REGARDING EXCLUSING PROSPECTIVE WITNESSES FROM THE COURTROOM DURING TESTIMONY

posting the document to the Santa Clara Superior Court website in regard to the Antelope Valley Groundwater matter.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct, executed on October 2, 2008.

Lorraine Lippolis