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Agricultural Association

12 SUPERIOR COURT OF CALIFORNIA

13 COUNTY OF LOS ANGELES

14  
15 Coordination Proceeding Special title (Rule 1550(b))

Judicial Council Coordination  
Proceeding No.: 4408

16 **ANTELOPE VALLEY GROUNDWATER CASES:**

Case No.: 1-05-CV-049053

17 Included Actions:

18 Los Angeles County Waterworks District No. 40 v.  
Diamond Farming Co.  
Superior Court of California, County of Los Angeles,  
19 Case No.: BC 325 201

**TRIAL BRIEF IN SUPPORT  
OF STATE OF  
CALIFORNIA'S POSITION  
ON ANTELOPE VALLEY  
GROUNDWATER BASIN  
BOUNDARIES**

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

Dept: 1

Judge: Hon. Jack Komar  
(By Judicial Council  
Assignment)

22 Wm. Bolthouse Farms, Inc. v. City of Lancaster  
23 Diamond Farming Co. v. City of Lancaster  
Diamond Farming Co. v. Palmdale Water District  
24 Superior Court of California, County of Riverside,  
consolidated actions, Case Nos. RIC 353 840, RIC 344  
25 436, RIC 344 668

Trial: July 24, 2006

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1           The Court has asked the parties to recommend the appropriate area to be included in  
2 this Antelope Valley adjudication. The law is not clear on whether the appropriate area is the  
3 area vertically over the groundwater basin, the entire watershed that drains into the basin, or  
4 something in between based in part on other than strictly hydrogeologic considerations. (See,  
5 Schneider, *Groundwater Rights in California, Governor's Commission to Review California*  
6 *Water Rights Law, Staff Paper No. 2* (1977), pp. 7 and 101; see also Slater, *California Water*  
7 *Law and Policy* (LexisNexis 1999), vol.2, § 11.04.1, pp.11-14 to 11-16, citing Schneider.) The  
8 area chosen should meet at least two criteria, however.

9           First, because the United States is a major landowner overlying the Antelope Valley,  
10 the boundary should include all water sources needed to constitute an “adjudication of rights to  
11 the use of water of a river system or other source” for purposes of the McCarran Amendment, 43  
12 U.S.C. § 666, the Congressional waiver of sovereign immunity that permits the United States to  
13 be joined as a defendant in water rights adjudications in state court. (See, *City of Chino v.*  
14 *Superior Court of Orange County* (1967) 255 Cal.App.2d 747, 757.) Federal courts have  
15 interpreted the waiver to require that “the adjudication must include the undetermined claims of  
16 all parties with an interest in the relevant water source.” (*United States v Oregon* (9<sup>th</sup> Cir. 1994)  
17 44 F.3d 758, 769.)<sup>1</sup>

18           Second, the area should be sufficient to protect the court’s ultimate judgment. That  
19 may require that streams that are significant sources of inflow (whether on the surface or by  
20 subsurface flow) be included, so that the recharge that is determined to exist, and that will form  
21 part of the calculations of the safe yield of the basin, will not be reduced, after judgement in this  
22 case, by actions of upstream riparians or appropriators who were not made part of this action.  
23 This may involve the inclusion of certain watershed areas that are the sources of significant  
24 streams. (See Water Code, § 79170 [“The Legislature finds and declares that the conjunctive  
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26           1. In *United States v. Oregon*, the Ninth Circuit suggested that groundwater may be included  
27 as an “other source” within the meaning of that term in the McCarran Amendment, although the  
28 Court rejected a claim that the statute’s requirement of comprehensiveness mandated that  
adjudication *must* include both a river system and hydrologically-related groundwater. (44 F.3d at  
769, emphasis added.)

1 management of surface water and groundwater is an effective way to improve the reliability of  
2 water supply for all sectors in California.”].

3           The State of California takes no position on a particular jurisdictional boundary for  
4 purposes of this adjudication. One of the State Agency parties, however, the Department of  
5 Water Resources (DWR), investigates and reports on groundwater basins pursuant to California  
6 Water Code section 12924.<sup>2/</sup> DWR has prepared several versions of Bulletin 118, *California’s*  
7 *Groundwater*. Bulletin 118 sets forth boundaries of the various groundwater basins in the state,  
8 and was last updated in 2003. DWR thus has expertise with regard to groundwater basins. To  
9 assist the court, the State is filing a declaration of Robert L. Pierotti, Supervising Engineering  
10 Geologist with DWR, Southern District, and four maps prepared by DWR staff, under the  
11 supervision of Mr. Pierotti, as exhibits to his declaration. Exhibit 1 shows the hydrogeologic  
12 boundaries of the Antelope Valley Groundwater basin as delineated by DWR in its 2003 update  
13 to Bulletin 118. If the court decides that the adjudication boundary should be coextensive with  
14 the boundary of the groundwater basin, this map can serve as the adjudication boundary. Exhibit  
15 4 is a map showing the significant sources of surface water inflow to the basin, to assist in  
16 identifying streams that might be included, if required to retain jurisdiction over the United  
17 States, or to facilitate a judgment that will offer complete relief between all necessary parties.

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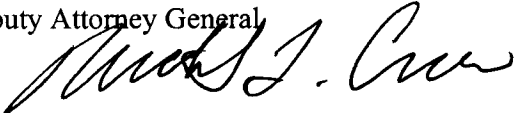
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26           2. Water Code section 12924 provides in part: “The department shall, in conjunction with  
27 other public agencies, conduct an investigation of the state’s groundwater basins. The department  
28 shall identify the state’s groundwater basins on the basis of geological and hydrological conditions  
and consideration of political boundary lines whenever practical.”

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Dated: June 29, 2006

Respectfully submitted,  
BILL LOCKYER  
Attorney General of the State of California  
TOM GREENE  
Chief Assistant Attorney General  
J. MATTHEW RODRIQUEZ  
Senior Assistant Deputy Attorney General  
VIRGINIA CAHILL  
Deputy Attorney General



MICHAEL L. CROW  
Deputy Attorney General  
Attorneys for Defendants State of California;  
Santa Monica Mountains Conservancy; 50<sup>th</sup>  
District Agricultural Association

DECLARATION OF SERVICE

I, declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, P.O. Box 944255, Sacramento, California 94244-2550.

On June 29, 2006, I served the **TRIAL BRIEF IN SUPPORT OF STATE OF CALIFORNIA'S POSITION ON ANTELOPE VALLEY GROUNDWATER BASIN BOUNDARIES** by:

- Posting the document(s) listed above to the Santa Clara County Superior Court web site in regard to the Antelope Valley Groundwater matter on June 29, 2006.
- by placing a true copy of the document(s) listed above in a sealed envelope with postage thereon fully prepaid using the overnight courier, Golden State Overnight Courier Service, addressed as follows:

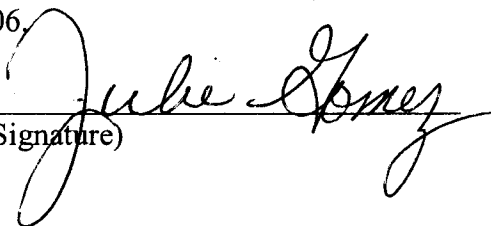
Presiding Judge of the Superior Court of California, County of Los Angeles  
County Courthouse  
111 North Hill Street  
Los Angeles, CA 90012-3014

Chair, Judicial Council of California  
Administrative office of the Courts  
Attn: Appellate and Trial Court Judicial Services (Civil Case Coordination)  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688

Honorable Jack Kumar  
Santa Clara County Superior Court  
191 North First Street, Department 17C  
San Jose, Ca 95113

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 29, 2006.

Declarant  
\_\_\_\_\_  
Julie Gomez

  
\_\_\_\_\_  
(Signature)