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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF LOS ANGELES

15
16 Coordination Proceeding
Special Title (Rule 1550(b))

17 **ANTELOPE VALLEY GROUNDWATER CASES**

18 Included Actions:

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

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

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

Judicial Council Coordination
Proceeding No. 4408

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

Assigned to
The Honorable Jack Komar

**SUPPLEMENTAL REPLY IN
RESPONSE TO THE WOOD
AND WILLIS CLASS
SUBMISSIONS REGARDING
DEFENDANTS' MOTION TO
DISMISS**

Date: June 19, 2009
Time: 10:00 a.m.
Dept: 17C

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 The moving Cross-Defendants respectfully submit this brief supplemental reply in response to
3 the submissions this week that have been filed by the Wood and Willis classes. The Wood Class, in
4 response, has indicated in no uncertain terms:

5 In the case of *Richard Wood v. Los Angeles Waterworks District No. 40*
6 *et al.*, the Court certified a Plaintiff class based on a defined set of legal
7 claims asserted in the complaint. The Court ***did not certify a defendant***
class.

8 Richard Wood’s Response re Mot. to Dismiss (“Wood Response”) at 2:9-12 (emphasis added).
9 Similarly, the Willis Class has responded that it is:

10 actively participating in these coordinated proceedings, albeit ***as***
11 ***Plaintiffs*** challenging the Public Water Suppliers (the “Suppliers”)
12 prescription claims, and ***not as defendants*** to any claims seeking a
Basin-wide allocation of water rights.

13 Rebecca Willis’ and the Class’ MPA with Respect to the Landowners’ Mot. to Dismiss (“Willis
14 Response”) at 2:2-4 (emphasis added). It is plainly evident from these submissions that the class
15 members ***are not parties and are not being represented in defense*** against the totality of claims
16 alleged by the Public Water Suppliers in their operative pleadings. But, hundreds of other
17 landowners in the valley, and the United States, have been named and must defend themselves
18 against those claims. The law governing indispensable parties exists precisely to avoid these
19 inequitable circumstances.

20 At one stage (several years ago), all parties recognized that a defendant class had to be formed
21 to achieve a comprehensive adjudication. Indeed, the Public Water Suppliers filed a motion to certify
22 such a defendant class on January 10, 2007. (*See* Public Water Suppliers’ Mot. for Class Cert. at
23 5:20-21.) And this Court *granted* the Public Water Suppliers’ motion for certification of a defendant
24 class on March 12, 2007, subject to the creations of subclasses for dormant pumpers and small or “de
25 minimis” pumpers. (*See* Minute Order from March 12, 2007; March 12, 2007 Hearing Transcript at
26 39:1-13.) Moreover, counsel for the Willis class even recognized that certification of a broad
27 defendant class was necessary “in order to achieve a comprehensive resolution to the ground water
28 claims in the Antelope Valley Basin” and proposed that Willis could serve as class representative for

1 a subclass of dormant pumpers. (Putative Class Pl. Willis' Response to Public Water Suppliers'
2 Proposed Class Definitions and Notice at 2:5-6, 3:5-7.)

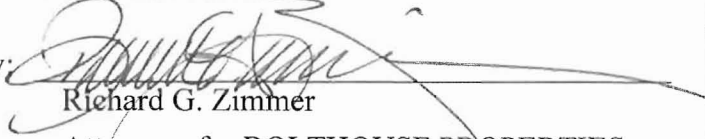
3 The intervening appearance of these non-pumper and small pumper plaintiff class actions did
4 not eliminate the need to join all of those class members as defendants. Rather, these submissions by
5 the classes—affirmatively insisting that they *are not defendants*—only further confirm that this
6 adjudication still suffers from a jurisdictional flaw. Unless all indispensable parties are brought in as
7 defendants to the comprehensive adjudication that the Public Water Suppliers have alleged, the
8 adjudication should be dismissed.

9 Dated: June 18, 2009

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1 a subclass of dormant pumpers. (Putative Class Pl. Willis' Response to Public Water Suppliers'
2 Proposed Class Definitions and Notice at 2:5-6, 3:5-7.)

3 The intervening appearance of these non-pumper and small pumper plaintiff class actions did
4 not eliminate the need to join all of those class members as defendants. Rather, these submissions by
5 the classes—affirmatively insisting that they *are not defendants*—only further confirm that this
6 adjudication still suffers from a jurisdictional flaw. Unless all indispensable parties are brought in as
7 defendants to the comprehensive adjudication that the Public Water Suppliers have alleged, the
8 adjudication should be dismissed.

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15 ASSOCIATION ("AGWA")
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1 **PROOF OF SERVICE**

2 I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is
3 425 Market Street, San Francisco, California 94105-2482. I am not a party to the within cause, and I
4 am over the age of eighteen years.

5 I further declare that on June 18, 2009, I served a copy of the attached SUPPLEMENTAL
6 REPLY IN RESPONSE TO THE WOOD AND WILLIS CLASS SUBMISSIONS REGARDING
7 DEFENDANTS' MOTION TO DISMISS by electronically posting a true copy thereof to Santa Clara
8 County Superior Court's electronic filing website for complex civil litigation cases (Judge Jack
9 Komar, Dept. 17C — <http://www.scefiling.org>) with respect to Judicial Council Coordination
10 Proceeding No. 4408 (Antelope Valley Groundwater matter).

11 I declare under penalty of perjury under the laws of the State of California that the foregoing
12 is true and correct and that this document was executed at San Francisco, California, on June 18,
13 2009.

14
15
16 Catherine L. Berté
17 (typed)


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(signature)