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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding)	Judicial Council Coordination
Special Title (Rule 1550(b))	)	Proceeding No. 4408
)	
ANTELOPE VALLEY GROUNDWATER CASES)	
	)	FEDERAL DEFENDANTS'
Included actions:	)	RESPONSE TO SHEEP CREEK'S
	)	OBJECTIONS TO THE
<u>Los Angeles County Waterworks District No. 40 v.</u>	)	DECLARATION OF DR. JUNE
<u>Diamond Farming Co., et al.</u>	)	OBERDORFER IN OPPOSITION TO
Los Angeles County Superior Court, Case No. BC 325	)	SHEEP CREEK WATER
201	)	COMPANY'S MOTION TO BE
	)	EXCLUDED FROM THE
<u>Los Angeles County Waterworks District No. 40 v.</u>	)	ANTELOPE VALLEY
<u>Diamond Farming Co., et al.</u>	)	GROUNDWATER ADJUDICATION,
Kern County Superior Court, Case No. S-1500-CV-	)	OR IN THE ALTERNATIVE, FOR
254-348	)	RECOGNITION OF ITS PRIOR
	)	RIGHTS TO THE WATERS OF
<u>Wm. Bolthouse Farms, Inc. v. City of Lancaster</u>	)	SHEEP CREEK
<u>Diamond Farming Co. v. City of Lancaster</u>)	
<u>Diamond Farming Co. v. Palmdale Water District</u>)	
Riverside County Superior Court, Consolidated Action,)	
Case nos. RIC 353 840, RIC 344 436, RIC 344 668)	
)	
AND RELATED CROSS ACTIONS)	
_____)	

1 Cross-Defendant United States of America hereby responds to the objections
2 Sheep Creek Water Company (SCWC) raised to the Declaration of Dr. June Oberdorfer
3 filed in support of the United States' opposition to SCWC's *Notice of Motion and Motion*
4 *to be Excluded from the Antelope Valley Groundwater Adjudication Area or, in the*
5 *Alternative, for Recognition of Its Prior Rights to the Waters of Sheep Creek*. SCWC
6 raises evidentiary objections based upon allegations of lack of foundation, speculation,
7 hearsay, and lack of authenticity. *See Sheep Creek's Objections to the Decl. of Dr. June*
8 *Oberdorfer in Opp'n to Sheep Creek Water Company's Mot. to be Excluded From the*
9 *Antelope Valley Groundwater Adjudication, or in the Alternative, for Recognition of Its*
10 *Prior Rights to the Waters of Sheep Creek* (hereinafter "SCWC's Objections"), dated May
11 20, 2009. These are not valid objections to Dr. Oberdorfer's expert opinion.

12 First, Dr. Oberdorfer is an expert in hydrogeology qualified to express the opinion
13 in question: whether ground water beneath the 1.09 acre SCWC well site is actually or
14 potentially hydraulically connected to the rest of the Antelope Valley aquifer. Her
15 qualifications are listed in paragraph 1 of her Declaration. In addition, she has testified as
16 an expert in hydrogeology in both previous phases of litigation in this proceeding. *See*
17 *Phase I trial Reporter's Daily Transcript of Proceedings, Thursday, October 12, 2006, at*
18 *56 (Statement of Presiding Judge Komar: "The witness [Dr. Oberdorfer] certainly is*
19 *qualified to testify.")*, attached as Exhibit 1; *Phase II trial Reporter's Transcript of*
20 *Proceedings, Tuesday, October 7, 2008, at 163 (Statement of Presiding Judge Komar:*
21 *"She [Dr. Oberdorfer] is qualified. The Court has previously so found. She's been*
22 *previously qualified. She may testify.")*, attached as Exhibit 2.

23 Second, there is no merit to the claim that Dr. Oberdorfer's statements lack
24 foundation. Dr. Oberdorfer's declaration describes clearly the bases for her opinion. She
25 reviewed published reports from the United States Geological Survey (USGS), the
26 California Department of Water Resources (DWR), and the Watermaster in the Mojave
27 Basin Area. *See Decl. of Dr. June Oberdorfer in Opp'n to Sheep Creek Water Company's*
28 *Mot. to be Excluded from the Antelope Valley Groundwater Adjudication, or in the*

1 *Alternative, for Recognition of its Prior Rights to the Waters of Sheep Creek*, Exhibit A, at
2 p 5 (hereinafter the “*Oberdorfer Decl.*”). With the exception of the Watermaster’s report,
3 SCWC’s expert, Dr. Arora, also relied upon these documents in reaching his opinions.
4 *See Decl. of Dr. Ram Arora, Hydrogeologist, in Supp. of Sheep Creek Water Co.’s Mot.*
5 *to be Excluded from the Antelope Valley Groundwater Adjudication Area or, in the*
6 *Alternative, for Recognition of its Prior Rights to the Waters of Sheep Creek*, at ¶¶ 3, 4
7 (hereinafter “*Arora Decl.*”).

8 Moreover, unlike Dr. Arora, Dr. Oberdorfer also examined the 215 available well
9 logs in the area near the SCWC well site. *Oberdorfer Decl.*, Exhibit A, at 2. Her
10 conclusions are all derived from, and supported by, direct examination of the well log
11 data. These conclusions relate to the Antelope Valley basin aquifer’s properties,
12 including: (i) the thickness of water-bearing sediments (the aquifer reservoir); (ii) the
13 uninterrupted lateral extent of the aquifer across the area; and (iii) the consistency of water
14 levels indicating no fault barriers near the well site. *Id.* Indeed, her review of available
15 physical information in this part of the Antelope Valley appears to exceed Dr. Arora’s
16 factual investigation of the aquifer’s properties. Dr. Arora relies only on published reports
17 of others and the aquifer test at the SCWC well site. He did not examine data from other
18 wells in the vicinity from which conclusions of hydraulic connectivity may be drawn.

19 Third, SCWC’s objections based upon hearsay and lack of authenticity are
20 unfounded. It is well established that expert opinion may be based on inadmissible
21 material so long as the material provides a reasonable basis for the opinion. *Lockheed*
22 *Litigation Cases*, 10 Cal. Rptr. 3d 34, 37-38 (Ct. App. 2004); *see also Hanson v. Grode*,
23 90 Cal. Rptr. 2d 396, 401 n.6 (Ct. App. 1999)(declining to apply standard requiring factual
24 bases of an expert’s opinion to be set forth in “excruciating detail”), *rev’d on other*
25 *grounds Hanson v. Grode*, No. BC159656, 2002 WL 11545481 (Cal. App.). Dr.
26 Oberdorfer’s review of over 200 well logs in the vicinity of the SCWC well site, as well as
27 the contents of USGS reports and other relevant publications, provides a reasonable basis
28 for Dr. Oberdorfer to form her opinion. Further, the material need not be admissible

1 evidence so long as it is material of a type that is reasonably relied upon by experts in the
2 particular field in forming their opinions. *See People v. Gardeley*, 14 Cal. 4th 605, 618
3 (1996). Well logs are one type of material upon which experts in hydrogeology rely
4 frequently. Publications of hydrogeological investigations are another. *See e.g., Arora*
5 *Decl.* ¶¶ 3,4.

6 Finally, SCWC’s assertion that Dr. Oberdorfer is engaged in “speculation” is
7 incorrect. Having examined actual well log data in the vicinity of the SCWC well site, as
8 well as the detailed USGS, DWR, and Watermaster reports, neither Dr. Oberdorfer’s
9 opinion regarding the extent of the aquifer, nor her conclusion that pumping at the SCWC
10 well site will almost certainly draw water from the continuous aquifer underlying the
11 Antelope Valley basin, are speculative.

12 Accordingly, because SCWC has not asserted grounds sufficient to exclude the
13 statements contained in Dr. Oberdorfer’s declaration, and because those statements are
14 proper and admissible, the Court should overrule SCWC’s objections and accept Dr.
15 Oberdorfer’s declaration in its entirety.

16 Respectfully submitted this 27th day of May, 2009.

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18 JOHN C. CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources Division

19
20 s/
R. LEE LEININGER
JAMES J. DUBOIS
United States Department of Justice
Environment and Natural Resources Division

PROOF OF SERVICE

I, Linda Shumard, declare:

I am a resident of the State of Colorado and over the age of 18 years, and not a party to the within action. My business address is U.S. Department of Justice, Environmental and Natural Resources Section, 1961 Stout Street, 8th Floor, Denver, Colorado 80294.

On May 27, 2009, I caused the foregoing documents described as; **FEDERAL DEFENDANTS' RESPONSE TO SHEEP CREEK'S OBJECTIONS TO THE DECLARATION OF DR. JUNE OBERDORFER IN OPPOSITION TO SHEEP CREEK WATER COMPANY'S MOTION TO BE EXCLUDED FROM THE ANTELOPE VALLEY GROUNDWATER ADJUDICATION, OR IN THE ALTERNATIVE, FOR RECOGNITION OF ITS PRIOR RIGHTS TO THE WATERS OF SHEEP CREEK**, to be served on the parties via the following service:

BY ELECTRONIC SERVICE AS FOLLOWS by posting the documents(s) listed above to the Santa Clara website in regard to the Antelope Valley Groundwater matter.

BY MAIL AS FOLLOWS (to parties so indicated on attached service list): By placing true copies thereof enclosed in sealed envelopes addressed as indicated on the attached service list.

BY OVERNIGHT COURIER: I caused the above-referenced document(s) be delivered to FEDERAL EXPRESS for delivery to the above address(es).

Executed on May 27, 2009, at Denver, Colorado.

/s/ Linda Shumard _____
Linda Shumard
Legal Support Assistant