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GOVERNMENT CODE SECTION 6103

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

12 Coordination Proceeding
Special Title (Rule 1550(b))

) Judicial Council Coordination
) Proceeding No. 4408

13 **ANTELOPE VALLEY GROUNDWATER**
14 **CASES**

) **FEDERAL DEFENDANTS' CASE**
) **MANAGEMENT STATEMENT**

15 Included actions:

16 Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., et al.
17 Los Angeles County Superior Court, Case No. BC
325 201

18 Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., et al.
19 Kern County Superior Court, Case No. S-1500-CV-
20 254-348

21 Wm. Bolthouse Farms, Inc. v. City of Lancaster
Diamond Farming Co. v. City of Lancaster
22 Diamond Farming Co. v. Palmdale Water District
Riverside County Superior Court, Consolidated
23 Action, Case nos. RIC 353 840, RIC 344 436, RIC
344 668

24 **AND RELATED CROSS ACTIONS**
25 _____
26

27 Cross-Defendant United States of America, respectfully submits this narrative case
28 management statement in advance of the March 8, 2010 Case Management Conference. The

1 Court asked parties to address the setting for trial of the remaining phases of the trial. *See* Order
2 Setting Hearing Date for Further Case Management Conference (“Order”), filed February 19,
3 2010. Order at 2.

4 A. The next phase of trial should cover the issues of safe yield and overdraft.

5 The next logical phase of this case is to further define the status of the aquifer by
6 determining the safe yield of the basin aquifer and whether it is/was overdrafted. Safe yield and
7 overdraft are necessary precursors to issues such as prescription, appropriation, and other issues.
8 Accordingly, the following issues are appropriate for litigation in the Phase III trial:

- 9 1. What constitutes (or defines) safe yield in the Antelope Valley Groundwater
10 Basin? What is the amount of the safe yield in acre-feet per annum of the
11 Antelope Valley Groundwater Basin?
- 12 2. Is the Antelope Valley Groundwater Basin in a state of overdraft today? If yes,
13 how long has this condition existed? If not, was the basin ever in overdraft, and
14 when?

15 B. Proposed Phase III trial schedule.

16 The following proposed trial schedule is based on the Court’s request that the parties
17 attempt to agree on a Phase III trial schedule with the trial commencing “in mid or late July 2010
18 or early August 2010.” Order at 2. After discussions with counsel, there does not appear to be a
19 consensus on the trial date. The United States understands that a key expert witness, Mr.
20 Scalmanini, may not be available for most of August and therefore the Public Water Suppliers
21 prefer a July trial. The United States also understands that certain landowners and pumpers will
22 argue for an October trial date due to extensive preparation and expert witness development.
23 The United States agrees that the Phase III trial is likely to be longer and more fact-intensive
24 than the earlier two phases of trial and therefore does not object to a Fall 2010 trial. However,
25 consistent with the Court’s request, the United States suggests the following schedule for
26 litigation in Phase III:

1. Immediate: Commence written discovery for the purpose of disclosing facts related to the Phase III trial issues.
 2. April 26, 2010: Deadline for the filing of experts' reports on the issues identified for litigation in the Phase III trial. All parties intending to present expert testimony at trial shall be required to file written expert reports. The report must contain a complete statement of all opinions the witness will express and the basis and reasons for the opinions, and the data or other information the witness considered in forming the opinions, and the witnesses' qualifications. The submission of expert reports will assist in minimizing discovery costs and increasing judicial efficiency by reducing discovery disputes.
 3. May 26, 2010: Deadline for the filing of expert rebuttals to initial reports of experts. All parties intending to present rebuttal expert testimony at trial shall be required to file written rebuttal expert reports. The report must contain a complete statement of all opinions the witness will express and the basis and reasons for the opinions, the data or other information the witness considered in forming the opinions, and the witnesses' qualifications.
 4. June 1 to June 25, 2010: Oral or written depositions of experts.
 5. July 1, 2010: Opening trial briefs due.
 6. July 1, 2010: Exchange of exhibits to be used at trial.
 7. July 12, 2010: Trial commences.
- Estimated trial time is 10 - 12 days.

C. The trial setting for the remaining phases should be addressed after determination of the Phase III issues.

Remaining phases of litigation may include a determination of prescriptive rights and other issues. The scheduling and trial setting for subsequent phases, however, should be deferred until after completion and ruling on Phase III issues.

1 Respectfully submitted this 2nd day of March, 2010.

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4 /s/
R. LEE LEININGER
JAMES J. DUBOIS
5 United States Department of Justice
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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 March 2, 2010, I caused the foregoing documents described as; **FEDERAL DEFENDANTS' CASE MANAGEMENT STATEMENT**, 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 March 2, 2010, at Denver, Colorado.

/s/ Linda Shumard
Linda Shumard
Legal Support Assistant