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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

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

17 **ANTELOPE VALLEY**
18 **GROUNDWATER CASES**

19 **Included Actions:**

20 Los Angeles County Waterworks District
21 No. 40 vs. Diamond Farming Company, a
22 corporation, Superior Court of California,
23 County of Los Angeles, Case No.
24 BC325201;

25 Los Angeles County Waterworks District
26 No. 40 vs. Diamond Farming Company, a
27 corporation., Superior Court of California,
28 County of Kern, Case No. S-1500-CV-254-
348;

Wm. Bolthouse Farms, Inc. vs. City of
Lancaster, Diamond Farming Company, a
corporation, vs. City of Lancaster, Diamond
Farming Company, a corporation vs.
Palmdale Water District, Superior Court of
California, County of Riverside, Case Nos.
RIC 353840, RIC 344436, RIC 344668.

Judicial Council Coordination Proceeding
No. 4408

Santa Clara Case No.
1-05-CV-049053
The Honorable Jack Komar, Dept.17

**ANTELOPE VALLEY-EAST KERN
WATER AGENCY'S OPPOSITION TO
LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40's
BRIEF RE EQUITABLE
APPORTIONMENT OF WILLIS CLASS
FEE AWARD**

Date: March 22, 2011
Time: 10:00 a.m.
Dept.: 1
Hon. Judge Jack Komar Presiding

*Exempt from filing fee pursuant to
Gov't. Code Section 6103*

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1 I.

2 Antelope Valley-East Kern Water Agency (AVEK) is a wholesale water agency which
3 has a contract with the State of California to import 141,400 acre feet of supplemental water
4 through the California Water Project. This water is for the benefit of all lands within its
5 governmental boundaries which includes the adjudicated basin area. AVEK has also purchased
6 large farms approximating 3,000 acres for use as banking and storage facilities. Combined with
7 AVEK's current overlying pumping and the ability by AVEK to spread supplemental water, this
8 acreage will be used to provide additional water flexibility for the Valley area to implement a
9 physical solution.

10 II.

11 Waterworks 40 has requested the Court to apportion fees associated with the *Willis Class*
12 action among parties not involved in that action. AVEK was not named as a defendant by the
13 *Willis Class* and has not participated in any settlement discussions with the *Willis Class*. It is
14 difficult to determine whether this is a motion or merely a pleading which attempts to function
15 as a motion for attorney fees. It is not stated as to which other public entities not involved in the
16 *Willis Class* action are meant to be included. It is unknown whether this is solely the request
17 of Los Angeles County Waterworks District No. 40 or whether the public purveyor group who
18 has been requested to pay the *Willis Class* fees has joined in this pleading.

19 III.

20 The *Willis Class* settlement is a detriment to AVEK as to its terms and the monetary
21 request for contribution.

22 At all times during the proceeding the Court has made clear that any settlement in the
23 *Willis Class* would not be binding on other parties who were not parties to the *Willis* settlement.
24 The pleading filed by Waterworks 40 now states:

25 ". . . the *Willis Class* action Judgment will be incorporated into the final
26 Judgment and physical solution in this comprehensive adjudication."

27 Waterworks 40 has attempted in the guise of settlement to claim 15% of the overlying
28 rights to which AVEK has a claim. Waterworks 40 now intends to incorporate this settlement

1 into final Judgment. In addition, based upon Waterworks 40's request, AVEK will be exposed
2 to thousands of dollars in attorney fees based on its current pumping. Surely this can not be the
3 intended result envisioned by the Court. The class settlement is an impediment to an effective
4 physical solution in the Valley which must result from this adjudication. Waterworks 40 is
5 asking AVEK to contribute an undetermined amount to finance a stipulation which was not
6 requested and is a detriment to a fair and equitable physical solution.

7 **IV.**

8 As justification for its request, Waterworks 40 states a benefit has been obtained, and
9 parties not identified have attempted to delay resolution of the case. This is not true. In fact,
10 AVEK has circulated among a variety of parties, both landowners and public suppliers,
11 including Waterworks 40, a draft physical solution accepting the safe yield determination which
12 will be made by this Court. AVEK has participated in developing this draft over the past two
13 years with many other parties, and has attempted to discuss any approach which may lead to an
14 acceptable outcome to this adjudication. Certainly AVEK wishes to avoid any delay in effective
15 groundwater management in the basin. AVEK will continue to attempt to achieve agreement
16 and resolution between all parties to the adjudication.

17 **V.**

18 Due to the above, and other briefs filed in opposition pointing out the deficiencies in
19 Waterworks 40's legal argument, the Court should deny Waterworks 40's request as to AVEK's
20 requirement to pay any portion of the *Willis Class* attorney fees.

21 Dated: March 18, 2011

**BRUNICK, McELHANEY, BECKETT, DOLEN
& KENNEDY, PLC**

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24 By: W. J. Brunick
25 WILLIAM J. BRUNICK
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27 ANTELOPE VALLEY-EAST KERN
28 WATER AGENCY

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PROOF OF SERVICE

**STATE OF CALIFORNIA }
COUNTY OF SAN BERNARDINO }**

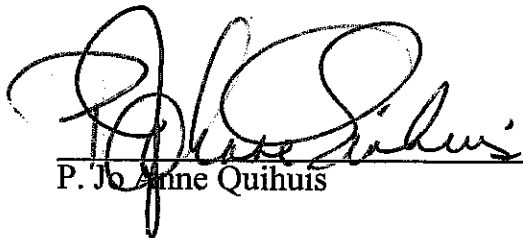
I am employed in the County of the San Bernardino, State of California. I am over the age of 18 and not a party to the within action; my business address is 1839 Commercenter West, San Bernardino, California.

On March 18, 2011, I served the foregoing document(s) described as: **ANTELOPE VALLEY-EAST KERN WATER AGENCY'S OPPOSITION TO LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40's BRIEF RE EQUITABLE APPORTIONMENT OF WILLIS CLASS FEE AWARD** on the interested parties in this action served in the following manner:

XX BY ELECTRONIC SERVICE AS FOLLOWS by **POSTING** the document(s) listed above to the Santa Clara website in the action of the *Antelope Valley Groundwater Litigation*, Judicial Council Coordination Proceeding No. 4408, Santa Clara Case No. 1-05-CV-049053.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 18, 2011, at San Bernardino, California.



P. Jo Anne Quihuis