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6 DISTRICT NO. 40

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

15 ANTELOPE VALLEY GROUNDWATER  
16 CASES

Judicial Council Coordination Proceeding  
No. 4408

17 Included Actions:  
18 Los Angeles County Waterworks District No.  
40 v. Diamond Farming Co., Superior Court of  
19 California, County of Los Angeles, Case No.  
BC 325201;

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053  
Assigned to the Honorable Jack Komar

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

PUBLIC WATER SUPPLIERS' CASE  
MANAGEMENT CONFERENCE  
STATEMENT

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

26 RICHARD WOOD, on behalf of himself and  
27 all other similarly situated v. A.V. Materials,  
Inc., et al., Superior Court of California,  
28 County of Los Angeles, Case No. BC509546

1 In compliance with the Court's July 18, 2014 minute order, Los Angeles County  
2 Waterworks District No. 40 ("District No. 40") hereby submits the following Case Management  
3 Conference Statement on behalf of the Public Water Suppliers:

4 **I. SETTLEMENT DISCUSSION**

5 Except for parties identified below, the parties ("Settling Parties") have negotiated a  
6 comprehensive Interlocutory Judgment and Physical Solution and Stipulation ("Settlement  
7 Agreement") that resolves *all* claims to groundwater within the Adjudication Area ("Basin") and  
8 provides basin-wide groundwater management that implements a physical solution to the Basin's  
9 overdraft conditions.

10 The Settlement Agreement necessarily remains contingent on all the Settling Parties final  
11 approval of all its terms as negotiated, the Court's preliminary approval of a Wood Class  
12 settlement, and a resolution of the Woods Class attorney fees claims. The Settling Parties are  
13 prepared to present the proposed Settlement Agreement to the parties' respective decision makers  
14 for their approval. The Settling Parties anticipate that they can have all approvals by Friday,  
15 October 10, 2014. Once these steps are completed, the Settling Parties anticipate submitting the  
16 stipulated Settlement Agreement to the Court by October 10, 2014. The Settling Parties and their  
17 legal counsel who will present the Settlement Agreement to their respective clients for approval  
18 and the Non-Settling Parties and their counsel are identified as follows.

19 **A. Settling Parties**

20 All Public Water Suppliers including Los Angeles County Waterworks District No. 40  
21 (Mr. Dunn, Mr. Garner and Mr. Wellen), Palmdale Water District (Mr. Bunn), City of Lancaster  
22 and Rosamond Community Services District (Mr. Evertz), City of Palmdale (Mr. Markman),  
23 Little Rock Creek Irrigation District (Mr. Lemieux), Quartz Hill Water District (Mr. Weeks),  
24 California Water Service Company (Mr. Tootle) and Boron Community Services District  
25 (Mr. Worth).

26 All other governmental entities including the United States (Mr. Leininger and Mr.  
27 DuBois), State of California (Ms. Levin and Mr. Golden-Krasner), City of Los Angeles (Ms.  
28 Goldsmith), Los Angeles County Sanitation Districts (Mr. Sanders), and Antelope-Valley East

1 Kern Water Agency (Mr. Brunick).

2 Bolthouse Properties (Mr. Zimmer), Tejon Ranch Corp and Granite Construction  
3 Company (Mr. Kuhs), the self-designated “Antelope Valley United Mutuals Group” (Mr. Davis  
4 and Mr. Hoffman), Adams Bennett Investments, LLC (Mr. Davis and Mr. Hoffman), Miracle  
5 Improvement Corporation dba Golden Sands Mobile Home Park dba Golden Sands Trailer Parker  
6 (Mr. Davis and Mr. Hoffman), Sheep Creek Water Company (Mr. Davis and Mr. Hoffman),  
7 Service Rock Products, LP (Mr. Davis and Mr. Hoffman), Saint Andrew’s Abbey, Inc. (Mr.  
8 Davis and Mr. Hoffman), Van Dam parties and WDS California II, LLC (Mr. Kuney),  
9 Grimmway and Diamond Farming entities (Mr. Joyce), Landin V (Mr. Chester), solar power  
10 entities (Mr. Casey), Wood Class (Mr. McLachlan and Mr. O’Leary), Rosamond Ranch (Mr.  
11 Satalino), U.S. Borax (Mr. Sloan), Wagas Land Company (Mr. Renwick), Antelope Valley Water  
12 Storage LLC (Mr. Carlson), Copa De Oro Land Company (Mr. Bezerra and Mr. Ramos), A.V.  
13 Materials, A.C. Warnack, Holliday Rock Co., Little Rock Sand and Gravel, Littlerock Aggregate,  
14 Monte Vista Building Sites, and George and Charlene Lane Family Trust (Mr. Lewis), H&N  
15 Farms (Mr. Hughes), and AGWA (Mr. Fife).

16 **B. Non-Settling Parties**

17 The following parties are not expected to enter into the Settlement Agreement:

- 18 1. Phelan Piñon Hills Community Services District (Mr. Miliband);
- 19 2. Sheldon Blum, as trustee to the Blum Trust (Mr. Blum);
- 20 3. Roes 2302 through 2309 (seven landowners who recently opted-out of the Wood  
21 Class);
- 22 4. Roes 2310 through 2318 (recently discovered small private water service providers  
23 within the Basin) (no counsel of record);<sup>1</sup>
- 24 5. Recently-named West Valley County Water District (no counsel of record);
- 25 6. Various individual parties that have not participated in the court proceedings; and

26  
27 <sup>1</sup> Roes 2319 through 2328 are recently discovered mutual water company and other entities that will be annexed into  
28 Rosamond Community Service District. The most recent indications are that they will be parties to the Settlement Agreement.

1 7. Willis Class (Mr. Kalfayan).

2 **II. MATTERS TO BE DETERMINED ON AUGUST 11, 2014**

3 The Settling Parties submit that all remaining water rights and claimed priorities of the  
4 Non-Settling parties should be tried by the Court as soon as possible after the Settlement  
5 Agreement submission on or before October 10, with the exception of three matters that require  
6 immediate court supervision and order: (1) a court-ordered schedule for early resolution of Non-  
7 Settling Parties' claims to groundwater; (2) a court-ordered schedule for court approval of a  
8 Wood Class settlement; and (3) and a court-ordered schedule for resolution of the Wood Class  
9 attorney fees issues.

10 **A. Court Determination of Non-Settling Parties' Claims To Groundwater**

11 A comprehensive determination of the Non-Settling Parties' water rights is necessary for  
12 many reasons. First, the McCarran Amendment mandates a comprehensive adjudication of water  
13 rights in a case not initiated by the United States. (43 U.S.C. §666.) Second, the Court cannot  
14 approve a final physical solution without considering the reasonableness of all parties' water  
15 rights. (*City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224, 1250 ["In ordering a  
16 physical solution, a court may neither change priorities among the water rights holders nor  
17 eliminate vested rights in applying the solution without first considering them in relation to the  
18 reasonable use doctrine."])

19 It is critical to the Settlement Agreement and its proposed groundwater management  
20 (physical solution) that the unresolved claims of Non-Settling Parties be determined as soon as  
21 possible and before court approval of the Settlement Agreement. Until such time as the court  
22 determines the groundwater claims raised by the Non-Settling Parties, the Settling Parties may be  
23 unable to have a comprehensive physical solution to the overdraft conditions. The reason is that  
24 the Non-Settling Parties have not agreed to the physical solution and the Court will need to  
25 determine their respective water rights before the court can determine how the proposed physical  
26 solution impacts Non-Settling Parties.

27 **1. Court Determination of Phelan Claims To Groundwater**

28 Legal counsel for the Settling Parties have met and conferred with legal counsel for

1 Phelan regarding resolution of Phelan's groundwater claims. Phelan has already designated its  
2 expert witness and its expert witness deposition was completed last year. The Settling Parties  
3 submit there are few factual disputes arising out of Phelan's claimed right to produce and export  
4 groundwater from the Basin. Any additional need for discovery can be readily accommodated by  
5 a case management order providing for discovery completion within the next several weeks.  
6 Stated simply, Phelan was ready to put on its case for water rights over a year ago and there is no  
7 reasonable basis to delay the resolution of Phelan's claimed right to produce and export  
8 groundwater from the Basin.

9 The Settling Parties propose a three (3) day court trial in San Jose for starting on Tuesday,  
10 October 7, 2014 to determine whether Phelan Piñon Hills Community Services District has a right  
11 to produce and export groundwater from the Basin to the Phelan service area outside of the Basin.  
12 With the assistance of the Court, the parties can fashion a case management conference order that  
13 has any additional discovery identified by the parties at the court hearing and that the court order  
14 the parties to complete the discovery on or before September 12, 2014.

15 **2. Court Determination Of Blum Trust Claims To Groundwater**

16 As for the Blum Trust represented by Mr. Blum, the Settling Parties propose that the  
17 Court consider a one-day trial in September, 2014. The Settling Parties have met and conferred  
18 with Mr. Blum and it appears that the parties can stipulate to facts needed for a resolution of the  
19 Blum Trust claims. The parties can then brief the issues for the Court to determine at a one-day  
20 hearing in September.

21 **3. Court Determination Of Remaining Claims To Groundwater**

22 The remaining parties are, for the most part, collection of individual persons opting out of  
23 the Wood Class and small private water companies. Most of the latter appear to be no longer  
24 functioning or are no longer active corporations. There are also a group of parties against whom  
25 a default has been entered or who have not participated in the proceedings. The Settling Parties  
26 suggest that the Court hold a further status conference on September 5, 2014 to decide the status  
27 of these various parties and to what extent a court trial will be needed.  
28

**B. Proposed Case Management Schedule For Non-Settling Parties**

PHASE 6 SCHEDULE	
DATE	EVENT
September 5, 2014	Further telephonic case management conference re Non-Settling Parties other than Phelan Piñon Hills Community Services District and Blum Trust
September 12, 2014	Deadline to complete all discovery re Non-Settling Parties Phelan Piñon Hills Community Services District and Blum Trust
September 30, 2014	Deadline to for parties to submit trial briefs for court trial on Non-Settling Party Phelan Piñon Hills Community Services District claims to groundwater
October 7, 2014	Three (3) day court trial on party Phelan Piñon Hills Community Services District claims to groundwater
October 10, 2014	Deadline for Settling Parties to notify the Court and all parties of approval of Settlement Agreement
To Be Determined	Hearing dates on Wood Class preliminary settlement approval and fees issues

**C. Court-Ordered Schedule For Court Approval Of A Wood Class Settlement And Resolution Of Wood Class Attorney Fee Claims**

The Settling Parties include the Wood Class but the Wood Class attorney fee claim against the Public Water Suppliers is unresolved and is the only remaining settlement obstacle. While contemporaneous negotiation of fees and settlement terms are not strictly prohibited, courts have considered it as a factor in evaluating the adequacy of a class settlement. (*7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1158-59 [citing *In re GMC Pick-Up Truck Fuel Tank Prods. Liab. Litig.* (3d Cir. Pa. 1995) 55 F.3d 768, 804].)

While Wood Class Counsel has been conscientious about not letting a fee claim become an obstacle to a settlement of the case, other parties insist that the Wood Class attorney fees be

1 resolved as a precondition or a necessary part of the Settlement Agreement. But simultaneous  
2 negotiation of class counsel fees and the case settlement must be avoided here because it can  
3 create a fundamental conflict of interest between the class counsel and the class. (*Acosta v. Trans*  
4 *Union, LLC* (C.D. Cal. 2007) 243 F.R.D. 377, 398; see also, *In re GMC Pick-Up Truck Fuel Tank*  
5 *Prods. Liab. Litig.*, *supra*, 55 F.3d at 804 [“the likelihood that the parties did negotiate the fees  
6 concurrently with the settlement in this case increases our concern about the adequacy of  
7 representation”].)

8 To avoid the high risk of not having the Settlement Agreement presented to the Court for  
9 its approval, the Public Water Suppliers respectfully submit that the Wood Class attorney fee  
10 claims must be resolved by the Court after its approval of the Settlement Agreement; and that the  
11 Court can order the parties to have the Wood Class attorney fees claim submitted to the Court for  
12 its resolution and thereby avoid having the Settling Parties not being able to have the Settlement  
13 Agreement approved by the Court. The Court should set the hearing dates for potential court  
14 preliminary and final class approvals.

15 **III. THE IMPROPER WILLIS CLASS CASE MANAGEMENT CONFERENCE**  
16 **STATEMENT**

17 The Settling Parties hereby object to the case management conference statement filed by  
18 attorneys for the Willis Class on or about August 4, 2014. The Settling Parties object to any  
19 discussion by the Willis Class of the terms of the Settlement Agreement because it is not yet  
20 presented to the Court for its approval. Until such time as the Settlement Agreement is presented  
21 to the Court for its approval, the Settling Parties object to the Willis Class attempts to convince  
22 the Court to stop or not approve the Settlement Agreement.

23 The Settlement Agreement reflects years of negotiation and compromise by the Settling  
24 Parties. The Willis Class is attempting to convince the Court that the Settlement Agreement is  
25 invalid or otherwise objectionable before the Court has even had an opportunity to review the  
26 Settlement Agreement. Once the Settlement Agreement has been presented to the Court and the  
27 Court has set a date and time for Court approval of the Settlement Agreement, the Willis Class  
28 will have an opportunity to present any objections it has to the Settlement Agreement. Until such



1 time, the Willis Class should not be allowed to address the Court on its specific objections to the  
2 confidential proposed Settlement Agreement.

3  
4 Dated: August 8, 2014

BEST BEST & KRIEGER LLP

5  
6 By 

ERIC J. GARNER  
JEFFREY V. DUNN  
WENDY Y. WANG  
Attorneys for Cross-Complainant  
LOS ANGELES COUNTY WATERWORKS  
DISTRICT NO. 40

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**PROOF OF SERVICE**

I, Kerry V. Keefe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 18101 Von Karman Avenue, Suite 1000, Irvine, California, 92612. On August 8, 2014, I served the within document(s):

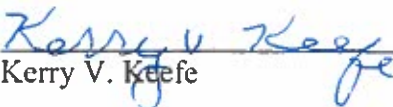
**PUBLIC WATER SUPPLIERS' CASE MANAGEMENT CONFERENCE STATEMENT**

- by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on August 8, 2014, at Irvine, California.

  
Kerry V. Keefe