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Defendant Tejon Ranchcorp

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DISTRICT

ANTELOPE VALLEY GROUNDWATER	)	Judicial Council Coordination No.
CASES	)	4408
)	
Included Actions:	)	Santa Clara Case No. 1-05-CV-
Los Angeles County Waterworks District	)	049053
No. 40 v. Diamond Farming Co., Superior	)	Assigned to Hon. Jack Komar
Court of California, County of Los Angeles,)	
Case No. BC 325201;	)	CASE MANAGEMENT
	)	CONFERENCE STATEMENT
Los Angeles County Waterworks District	)	OF TEJON RANCHCORP
No. 40 v. Diamond Farming Co., Superior)	
Court of California, County of Kern, Case No.)	
S-1500-CV-254-348;	)	Date: November 25, 2008
	)	Time: 10:30 a.m.
Wm. Bolthouse Farms, Inc. v. City of	)	Dept: 17C
Lancaster, Diamond Farming Co. v.)	
Lancaster, Diamond Farming Co. v.)	
Palmdale Water Dist., Superior Court of)	
California, County of Riverside, Case No.	)	JURY TRIAL DEMANDED
RIC 353 840, RIC 344 436, RIC 344 668)	
_____)	

Tejon Ranchcorp ("Tejon") submits the following Case Management
Conference Statement.

I. INTRODUCTION

In the Phase 1 trial this court defined the exterior boundary of the Antelope Valley Area of Adjudication (AVAA). In the Phase 2 trial this court determined that all areas within the AVAA are hydraulically connected but did not determine whether the AVAA consists of more than one “basin” for adjudication purposes. The Phase 2 trial demonstrated that piecemeal “issue” litigation is not efficient and results in confusion among the parties and the experts as to what issue or issues are actually before the court. Accordingly, Tejon submits that the Phase 3 trial should include all remaining issues exclusive of inverse condemnation liability. Preparing for the Phase 3 trial will require firm and realistic time lines and a comprehensive case management order (CMO).

II. AT-ISSUE STATUS - JURISDICTION

A. **Service.** These coordinated proceedings are not currently at-issue. The court should not decide further substantive issues until all parties who claim any right to extract groundwater from any basin within the AVAA are before the court. The parties should complete service and achieve at-issue status.

B. **McCarran Amendment.** Sovereign immunity cannot be waived by actions of federal officers. (See *United States v. Shaw* (1940) 309 U.S. 495, 501; *City of Chino v. Superior Court* (1967) 255 Cal.App.2d 747, 756-57.) Thus, participation by the United States in future proceedings does not guarantee continued jurisdiction over the United States. Before the next trial phase, the United States, and any other concerned party, should review the status of service and promptly advise the court of any defects in service. Once the PWS and class counsel certify that service is

complete, the court should make a finding that the proceeding is a comprehensive adjudication of the rights to the groundwater with the AVAA as outlined in the court's March 12, 2007 Order After Hearing on Jurisdictional Boundaries.

III. PHASE 3 TRIAL

A. Scope. The Phase 3 trial should include all issues exclusive of inverse condemnation liability.

B. Jury Trial Demanded. Tejon demands a jury trial on all prescription claims and any other legal issue or claim for damages. (*Frahm v. Briggs* (1970) 12 Cal.App.3d 441 [trial court committed reversible error by denying defendant jury trial on claim of prescriptive easement].)

IV. PLEADINGS

A. Comprehensive Pleading Spreadsheet. As the court recognized in the Phase 2 trial, the burden of proof is driven by the pleadings. Numerous complaints, amended-complaints, cross-complaints, and answers have been filed since 2002. It would be helpful for each party to designate its operative pleadings (e.g., Second Amended Complaint dated xx/xx/07) and for the PWS to prepare a comprehensive pleading spreadsheet listing each party and the date and title of each operative pleading.

V. DISCOVERY

A. Discovery Schedule. The court should establish a discovery schedule which includes time frames for conducting written discovery, percipient witness depositions, and expert discovery.

B. Document Depository within AVAA. A document depository should be

located within the AVAA, preferably with one of the PWS, such as Antelope Valley-East Kern Water Agency (AVEK). Documents produced during discovery could then be delivered to the depository, scanned, and posted electronically.

C. Discovery Referee. A Discovery Referee should be appointed to promptly and efficiently resolve discovery disputes.

D. General Protective Order. The court should enter a general protective order allowing parties to designate and produce confidential information without the need of filing a motion.

E. Pattern Discovery Regarding Prescription. The single most fact intensive inquiry concerns the claims of prescription. Any party asserting a prescriptive right should be required to respond to pattern discovery identifying by year, the facts, witnesses and documents supporting the claim, and produce the supporting documents.

F. Pattern Discovery Regarding Pumping History. Some of the most useful information relating to the issues of safe yield, self help and prescription is pumping history. Each party asserting a pumping history should be required to list by year, the location and designation of each well, the quantity of water pumped from each well, the lands on which the water was applied, the purpose for which the water was used, and all records evidencing such facts.

Dated: November 21, 2008

KUHS & PARKER

By _____ /s/
Robert G. Kuhs, Attorney for
Tejon Ranchcorp

PROOF OF SERVICE

I, Lidia E. Luna, declare:

I am employed in the County of Kern, State of California. I am over the age of 18 and am not a party to the within action; my business address is Kuhs & Parker, 1200 Truxtun Avenue, Suite 200, Bakersfield, California 93301.

On November 21, 2008, I caused the foregoing document(s) described as: **CASE MANAGEMENT CONFERENCE STATEMENT OF TEJON RANCHCORP** to be served on the parties in this action, as follows:

- (X) (BY ELECTRONIC SERVICE) by posting the document(s) listed above to the Santa Clara County Superior Court website: www.scefiling.org regarding the Antelope Valley Groundwater matter.
- () (BY U.S. MAIL) I am readily familiar with the firm's practice of collection and processing of documents for mailing. Under that practice, the above-referenced document(s) were placed in seal envelope(s) addressed to the parties as noted above, with postage thereon fully prepaid and deposited such envelope(s) with the United States Postal Service on the same date at Bakersfield, California, addressed to:
- () (BY FEDERAL EXPRESS) I served a true and correct copy by Federal Express or other overnight delivery service, for delivery on the next business day. Each copy was enclosed in an envelope or package designated by the express service carrier; deposited in a facility regularly maintained by the express service carrier or delivered to a courier or driver authorized to receive documents on its behalf; with delivery fees paid or provided for; addressed as shown on the accompanying service list.
- () (BY FACSIMILE TRANSMISSION) I am "readily familiar" with the firm's practice of facsimile transmission of documents. It is transmitted to the recipient on the same day in the ordinary course of business.
- (X) (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- () (FEDERAL) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/
Lidia E. Luna

