

ROBERT G. KUHS
BERNARD C. BARMANN, JR.
KERI L. BLAND

OF COUNSEL

JAMES R. PARKER, JR.

KUHS & PARKER

ATTORNEYS AT LAW
P. O. BOX 2205
BAKERSFIELD, CALIFORNIA 93303
(661) 322-4004

1200 TRUXTON AVENUE, SUITE 200
BAKERSFIELD, CALIFORNIA 93301

TELECOPIER NO.
(661) 322-2906

OUR FILE NO.

1291.01

March 20, 2013

Via Posting on Court Website and Email (brad@charltonweeks.com)

Bradley Weeks
Charlton Weeks LLP
1031 West Avenue M-14, Suite A
Palmdale, CA 93551-1457

Re: Antelope Valley Groundwater Cases
Judicial Council Proceeding No. 4408
Santa Clara County Superior Court Case No. 1-05-CV 049053
Meet and Confer on Deposition of Quartz Hill Water District

Dear Mr. Weeks:

This letter is sent in follow up to the March 18, 2013 deposition of Quartz Hill Water District's (District) General Manager Chad Reed. The purpose of this letter is to fulfill our obligation under the Civil Discovery Act to make a reasonable and good faith effort to resolve the District's objections to several questions and flat refusal to produce documents responsive to our notice.

At your request, we served a notice of deposition of the District's manager, Chad Reed, with a request for production of 14 categories of documents, scheduled for March 18, 2013. Mr. Reed produced only two documents, namely a tabulation of the District's groundwater production for years 2008 through 2012, and a map of the District's service area. Mr. Reed testified that he made no effort whatsoever to search for or produce any of the documents requested although numerous responsive documents existed, including the following:

1. Maps showing the location of the District wells. (Request 1.)
2. Monthly well meter readings. (Request 3.)
3. Excel spreadsheets prepared by Mr. Reed showing the amount of groundwater pumped by the District for at least the last six years. (Request 3.)
4. Annual Southern California Edison pump efficiency test results and Mr. Reed's excel spreadsheet correlation. (Request 3.)

5. Notices of groundwater extraction filed with the State Water Resources Control Board. (Request 4.)

6. Annual reports to the Department of Water Resources detailing the District's groundwater and surface water use. (Request 3.)

7. The District's accounts payable ledgers, cancelled checks, and check ledgers evidencing payment of filing fees associated with the filing of notices with the SWRCB. (Requests 6, 9.)

8. Excel spreadsheets and monthly invoices showing the amount of imported water purchased by the District. (Request 10.)

Over the past several years the Public Water Suppliers have argued to the court that they were acting to *protect* the aquifer from over pumping. Thus, I was appalled to learn during Mr. Reed's deposition the District, which claims no overlying right, nearly doubled its historic groundwater production between 2008 and 2010, drilled several new wells and has immediate plans to drill two additional wells and further mine the Basin's water supply. We also were surprised that you instructed Mr. Reed not to answer the following questions:

1. Can you tell me your present residence address? (P. 12.)

2. Are you aware of any records that would show how much the water the District has pumped beginning with the year 2000? (P. 55.)

3. What quantity of return flows have been put to reasonable and beneficial use within the District's service area? (P. 119, 120.)

4. Who prepared Exhibit D to the District's Response to Discovery Order for Phase 4 Trial? (P. 128.)

Your refusal to allow the witness to respond to question 4 is particularly disconcerting. You will recall that Mr. Reed verified the District's response to the Discovery Order Phase 4 Trial. Request I.1(E) asked the District to state the amount of groundwater produced for calendar years 2000 through 2004, 2011 and 2012. The District's response states: "See Exhibit D, attached hereto....." Request I.3(A) requested that the District identify "all material constituting [the District's] *prima facie* showing of the amount of groundwater produced...." The District responded: "Meter records are summarized in Exhibit D. . ." The District further relied on Exhibit D in response to Requests I.1(K), II.1(C), II.1(D). Remarkably, however, when I asked Mr. Reed who prepared Exhibit D, you objected on the basis of attorney-client privilege and instructed him not to answer the question.

Your objection is not well-taken, not only because Mr. Reed verified the District's response, but also because Mr. Reed later testified that Exhibit D was created from Excel spreadsheets prepared and maintained by Mr. Reed, but not produced. (Draft P. 129.) Mr. Reed further testified that his Excel spreadsheets were prepared from written monthly meter readings, but that the monthly meter readings had been destroyed. (P. 41) Finally, Mr. Reed testified that

KUHS & PARKER

Bradley Weeks

March 20, 2013

Page 3

the District's meters were not calibrated, but checked annually against Southern California Edison's pumping efficiency tests, but such tests were likewise not produced. (Pp. 43-44.) The Excel spreadsheets as well as the documentation used to prepare those spreadsheets should have been produced in response to the court ordered discovery, in conjunction with Mr. Reed's declaration, and at his deposition. The District's intentional efforts to destroy and conceal this information has prejudiced the landowners.

Please advise my office in writing by 4:00 p.m. on March 21, 2013 as to whether the District will: (1) make a reasonable and good faith effort to search the District's records for documents responsive to our document request, (2) produce the documents identified above, as well as additional documents located during its search for responsive documents, and (3) produce Mr. Reed for additional examination regarding the unanswered questions identified above, and additional documents to be produced. If we have not received an agreeable response by such time, we will arrange a conference call with Judge Komar to discuss these issues further and move *in limine* for an order precluding the District from offering any evidence of pumping at trial.

Very truly yours,



Robert G. Kuhs

RGK/lel