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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES - CENTRAL DISTRICT

**ANTELOPE VALLEY GROUNDWATER
CASES**

Included Actions:

Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., Superior Court of California, County of Los Angeles, Case No. BC 325201;

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

Wm. Bolthouse Farms, Inc. v. City of Lancaster, Diamond Farming Co. v. Lancaster, Diamond Farming Co. v. Palmdale Water Dist., Superior Court of California, County of Riverside, Case No. RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

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

**[Proposed] DISCOVERY ORDER
FOR PHASE 5 TRIAL**

Hearing Date(s):
Time:
Location:

Judge: Honorable Jack Komar

All parties claiming prescriptive rights in the Antelope Valley Adjudication Area (AVAA) are hereby ordered to provide the following information and materials on or before November __, 2013, by posting the same to the Court's website (www.scefilings.org).

I. DEFINITIONS

- A. "DOCUMENT" has the same meaning as the word "writing" as defined in Evidence Code section 250.
- B. "PERSON" means "person as defined in Evidence Code section 175.
- C. "YOU" or "YOUR" means the responding party, its representatives, directors, officers, agents and employees or any other PERSON acting on its behalf.
- D. "AVAA" means the Antelope Valley Area of Adjudication as defined by court ordered dated March 12, 2007.

1 E. "BOUNDARY" means jurisdictional boundary in the case of a public agency, and
2 service area in the case of a non-public or quasi-public agency.

3 **II. GENERAL**

4 A. State the total number of acres of real property currently within YOUR
5 BOUNDARY.

6 B. State the total number of acres of real property currently within YOUR
7 BOUNDARY that are within the AVAA.

8 C. State the total number of legal parcels currently within YOUR BOUNDARY.

9 D. State the number of active groundwater wells currently within YOUR
10 BOUNDARY within the AVAA.

11 E. Produce the most current map or maps of YOUR BOUNDARY on file with the
12 Local Agency Formation Commission, or the Public Utilities Commission, as the
13 case may be.

14 F. State the total quantity of water that YOU contend has been pumped from within
15 YOUR BOUNDARY and within the AVAA for each year commencing with
16 1946.

17 1. Identify all DOCUMENTS that support YOUR response to the preceding
18 interrogatory.

19 2. Produce all DOCUMENTS that YOU identified in response to the
20 preceding interrogatory.

21 G. Identify, by name, address, telephone number and Assessor Parcel Number (APN)
22 each PERSON that has operated a well within YOUR BOUNDARY since 1946.

23 H. Identify by name, address, telephone number and Assessor Parcel Number (APN)
24 each PERSON operating a well within YOUR BOUNDARY that has not filed an
25 appearance as a cross-defendant to YOUR cross-complaint.

26 1. For each PERSON identified in the preceding interrogatory, state the year
27 that the well began production, and the quantity of water produced from
28 each well each year during YOUR claimed prescriptive period.

2. Identify all DOCUMENTS that mention, discuss or refer to each well
within YOUR BOUNDARY.

3. Produce all DOCUMENTS that YOU identified in response to the
preceding interrogatory.

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I. State what YOU contend to be the safe yield of the AVAA for each year YOU claim the right to pump and use water from the AVAA.

J. State the total quantity of water that YOU contend has been pumped from the AVAA in exercise of overlying groundwater rights for each year since 1946.

III. PRESCRIPTION

A. State the date that YOU first began pumping groundwater within the AVAA.

B. State the quantity of water that YOU contend YOU pumped from within the AVAA for each year since YOU began pumping.

1. Identify all DOCUMENTS that evidence the quantity of water that YOU contend YOU pumped from within the AVAA for each year since YOU began pumping.

2. Produce all DOCUMENTS identified in response to the preceding interrogatory.

C. Do YOU contend that YOU have joined as a cross-defendant each party that YOU contend YOU have prescribed against?

D. Do YOU contend that YOU have joined as a cross-defendant each party that currently owns real property in the AVAA?

E. Identify each party that YOU contend that YOU have prescribed against.

F. State the quantity of water that YOU contend YOU have prescribed against each party.

G. State the date that YOU contend overdraft first commenced in the AVAA.

1. Identify all DOCUMENTS that support YOUR contention as to the date overdraft first commenced in the AVAA.

2. Produce all DOCUMENTS identified in response to the preceding interrogatory.

H. State each year that YOU contend overdraft occurred in the AVAA since overdraft first commenced.

1. For each year that YOU contend overdraft occurred in the AVAA, identify all DOCUMENTS that support YOUR contention.

2. Produce all DOCUMENTS identified in response to the preceding interrogatory.

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- I. State each year that YOU contend there was surplus groundwater in the AVAA.
 - 1. For each year that YOU contend there was surplus groundwater in the AVAA, identify all DOCUMENTS that support YOUR contention.
 - 2. Produce all DOCUMENTS identified in response to the preceding interrogatory.
- J. State the date that YOU contend that YOU first began pumping groundwater adversely within the AVAA.
- K. State the date that YOU contend YOU first acquired a prescriptive right to pump groundwater within the AVAA.
- L. State the last five year prescriptive period that YOU claim.
- M. State the quantity of the prescriptive right claimed by YOU for each year that YOU are claiming prescription.
- N. State the quantity of water that YOU contend YOU have a right to pump from the AVAA annually based on YOUR claim of prescription.
- O. Do YOU contend that YOUR claim of prescription is based in whole or in part on the principle of tacking (i.e., conduct of YOUR predecessor in interest)?
 - 1. If YOU contend that YOUR claim of prescription is based in whole or in part on the principle of tacking, state all facts supporting such contention.
 - 2. If YOU contend that YOUR claim of prescription is based in whole or in part on the principle of tacking, identify all DOCUMENTS supporting such contention.
 - 3. Produce all DOCUMENTS identified in response to the preceding interrogatory.
- P. Do YOU contend that any PERSON had actual notice of YOUR adverse use of the groundwater supply of the AVAA?
 - 1. If YOU contend that any PERSON had actual notice of YOUR adverse use of the groundwater supply of the AVAA, identify the PERSON and state the date and manner of actual notice.
 - 2. If YOU contend that any PERSON had actual notice of YOUR adverse use of the groundwater supply of the AVAA, identify each PERSON and then state all facts supporting YOUR contention.

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3. If YOU contend that any PERSON had actual notice of YOUR adverse use of the groundwater supply of the AVAA, identify all DOCUMENTS that evidence such actual notice to each PERSON.

4. Produce all DOCUMENTS identified in response to the preceding interrogatory.

Q. Do YOU contend that any PERSON had constructive notice of YOUR adverse use of the groundwater supply of the AVAA?

1. If YOU contend that any PERSON had constructive notice of YOUR adverse use of the groundwater supply of the AVAA, identify the PERSON and state the date and manner of such notice.

2. If YOU contend that any PERSON had constructive notice of YOUR adverse use of the groundwater supply of the AVAA, identify each PERSON and then state all facts supporting YOUR contention.

3. If YOU contend that any PERSON had constructive notice of YOUR adverse use of the groundwater supply of the AVAA, identify all DOCUMENTS that YOU contend evidence of such constructive notice to each PERSON.

4. Produce all DOCUMENTS identified in response to the preceding interrogatory.

R. Have YOU waived all or any portion of YOUR prescriptive claim to the groundwater supply of the AVAA as to any PERSON?

1. If YOU have waived all or any portion of YOUR prescriptive claims to the groundwater supply of the AVAA as to any PERSON, identify each PERSON and state the date of the waiver.

2. If YOU have waived all or any portion of YOUR prescriptive claims to the groundwater supply of the AVAA as to any PERSON or entity, identify all DOCUMENTS evidencing such waiver.

3. Produce all DOCUMENTS identified in response to the preceding interrogatory.

S. Have YOU settled or agreed to settle all or any portion of YOUR prescriptive claims to the groundwater supply of the AVAA with any PERSON?

1. If YOU have settled or agreed to settle all or any portion of YOUR prescriptive claims to the groundwater supply of the AVAA with any PERSON or entity, identify each PERSON and state the date of the agreement.

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2. If YOU have settled or agreed to settle all or any portion of YOUR prescriptive claims to the groundwater supply of the AVAA with any PERSON or entity, identify all DOCUMENTS that evidence such agreement.
 3. Produce all DOCUMENTS identified in response to the preceding interrogatory.
- T. Do YOU contend that YOU have not acquired prescriptive rights against any party to this coordinated proceeding?
1. If YOU contend that YOU have not acquired prescriptive rights against any party to this coordinated proceeding, identify the party and state the basis upon which you contend YOU have not acquired prescriptive rights.
 2. If YOU contend that YOU have not acquired prescriptive rights against any party to this coordinated proceeding, identify all DOCUMENTS that support such contention.
 3. Produce all DOCUMENTS identified in response to the preceding interrogatory.
- U. Do YOU contend that the extraction of groundwater that is not surplus to the AVAA has caused any undesirable results?
1. If YOU contend that the extraction of groundwater that is not surplus to the AVAA has caused an undesirable result, then for each year that YOU contend there was overdraft, state in detail each undesirable results that occurred.
 2. If YOU contend that the extraction of groundwater that is not surplus to the AVAA has caused an undesirable result, then for each year that YOU contend there was overdraft, identify all DOCUMENTS that support YOUR contention.
 3. Produce all DOCUMENTS identified in response to the preceding interrogatory.
- V. Do YOU contend that YOU pumped surplus water from the AVAA in any year?
1. If YOU contend that YOU pumped surplus water from the AVAA, then for each year that YOU contend YOU pumped surplus water, identify the year and state the quantity of surplus water that YOU contend YOU pumped.

1 2. If YOU contend that YOU pumped surplus water from the AVAA, then
2 for each year that YOU contend YOU pumped surplus water, identify all
3 DOCUMENTS that support such contention.

3 3. Produce all DOCUMENTS identified in response to the preceding
4 interrogatory.

5 W. Do YOU contend that YOU pumped groundwater from the AVAA in any year
6 that was not surplus water?

7 1. If YOU contend that YOU pumped groundwater from the AVAA in any
8 year that was not surplus water, then for each such year identify the
9 quantify of non-surplus groundwater that YOU pumped.

9 2. If YOU contend that YOU pumped groundwater from the AVAA in any
10 year that was not surplus water, then for each such year identify all
11 DOCUMENTS supporting your contention.

11 3. Produce all DOCUMENTS identified in response to the preceding
12 interrogatory.

13 4. For each year that YOU contend YOU pumped groundwater from the
14 AVAA that was not surplus groundwater, state what YOU contend was
15 the safe yield of the AVAA for that year.

15 5. For each year that YOU contend YOU pumped groundwater from the
16 AVAA that was not surplus groundwater, identify each PERSON that
17 YOU contend pumped groundwater from the AVAA, and the quantity of
18 water that YOU contend that PERSON pumped.

19 **IV. NON-PRESCRIPTIVE RIGHTS**

20 A. Do YOU contend that YOU have an overlying right to pump groundwater from
21 the AVAA?

22 1. If YOU contend that YOU have an overlying right to pump groundwater
23 from the AVAA, state the quantity of water that YOU contend YOU have
24 a right to pump annually based on YOUR overlying right.

24 2. If YOU contend that YOU have an overlying right to pump groundwater
25 from the AVAA, state the quantity of water that YOU contend YOU have
26 pumped annually in exercise of YOUR claimed overlying right.

26 3. If YOU contend that YOU have an overlying right to pump groundwater
27 from the AVAA, identify by Assessor Parcel Number and acreage each
28 parcel of land that YOU own, occupy or control within the AVAA.

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4. If YOU contend that YOU have an overlying right to pump groundwater from the AVAA, identify all DOCUMENTS that YOU contend support such contention.

5. Produce all DOCUMENTS identified in response to the preceding interrogatory.

B. Do YOU contend that YOU have an appropriative right to pump groundwater from the AVAA?

1. If YOU contend that YOU have an appropriative right to pump groundwater from the AVAA, state all facts supporting such contention.

2. If YOU contend that YOU have an appropriative right to pump groundwater from the AVAA, state the quantity of water that YOU contend YOU have pumped annually in exercise of such right.

3. If YOU contend that YOU have an appropriative right to pump groundwater from within the AVAA, identify all DOCUMENTS supporting such contention.

4. Produce all DOCUMENTS identified in response to the preceding interrogatory.

C. Do YOU contend that YOU have a riparian right to pump water within the AVAA?

1. If YOU contend that YOU have a riparian right to pump water within the AVAA, state all facts supporting such contention.

2. If YOU contend that YOU have a riparian right to pump water within the AVAA, state the quantity of water that YOU contend YOU have pumped annually in exercise of such right.

3. If YOU contend that YOU have a riparian right to pump water within the AVAA, state the quantity of water that YOU contend YOU have pumped annually in exercise of such right.

4. If YOU contend that YOU have a riparian right to pump water within the AVAA, identify all DOCUMENTS supporting such contention.

5. Produce all DOCUMENTS identified in response to the preceding interrogatory.

D. Do YOU contend that YOU have exercised, or purported to exercise, the right of any other PERSON to extract groundwater from within the AVAA?

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1. If YOU contend that YOU have exercised, or purported to exercise, the right of any PERSON (other than YOURSELF) to extract groundwater from within the AVAA, identify each such PERSON, and for each PERSON state by year the quantify of water extracted and how such water was used.
2. If YOU contend that YOU have exercised, or purported to exercise, the right of any PERSON (other than YOURSELF) to extract groundwater from within the AVAA, identify all DOCUMENTS supporting such contention.
3. Produce all DOCUMENTS identified in response to the preceding interrogatory.

E. Has any PERSON assigned or transferred, or purported to assign or transfer, to YOU the right to extract groundwater from the AVAA?

1. If any PERSON has assigned or transferred, or purported to assign or transfer, to YOU the right to extract groundwater from the AVAA, identify each PERSON and the date of assignment or transfer.
2. If any PERSON has assigned or transferred, or purported to assign or transfer, to YOU the right to extract groundwater from the AVAA, identify all DOCUMENTS evidencing the assignment or transfer or purported assignment or transfer.
3. Produce all DOCUMENTS identified in response to the preceding interrogatory.

F. Do YOU contend that YOU have a right to capture return flows from water imported into the AVAA?

1. If YOU contend that YOU have a right to capture return flows from water imported into the AVAA, then state the quantity of water that YOU contend YOU imported into the AVAA annually.
2. If YOU contend that YOU have a right to capture return flows from water imported into the AVAA, identify all DOCUMENTS supporting such contention.
3. Produce all DOCUMENTS identified in response to the preceding interrogatory.
4. If YOU contend that YOU have a right to capture return flows from water imported into the AVAA, state the annual quantity of water YOU imported that was applied to M&I uses.

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5. Identify all DOCUMENTS evidencing the annual quantity of water YOU imported that was applied to M&I uses.
6. Produce all DOCUMENTS identified in response to the preceding interrogatory.
7. If YOU contend that YOU have a right to capture return flows from water imported into the AVAA, state the annual quantity of water that YOU imported that was applied to Agricultural uses.
8. If YOU contend that YOU have a right to capture return flows from water imported into the AVAA, state the quantity of return flows that you contend YOU have pumped from within the AVAA for each year YOU contend YOU pumped return flows.
9. Identify all DOCUMENTS evidencing the annual quantity of water that YOU imported that was applied to Agricultural uses.
10. Produce all DOCUMENTS identified in response to the preceding interrogatory.
11. For each year that YOU imported water into the AVAA, state the quantity of such imported water that actually augmented the AVAA groundwater supply.
12. Identify all DOCUMENTS supporting YOUR contention regarding the quantity of water imported by YOU that actually augmented the AVAA groundwater supply.
13. Produce all DOCUMENTS identified in response to the preceding interrogatory.
14. Produce a map or maps showing the location and designation of each well YOU have operated in the AVAA.
15. For each well YOU have operated, state the amount of water produced for each year of operation.

DATED: _____, 2013

Hon. Jack Komar
Judge of the Superior Court