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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF LOS ANGELES

11 ANTELOPE VALLEY GROUNDWATER
12 CASES

13 Included Actions:

14 Los Angeles County Waterworks District No.
15 40 v. Diamond Farming Co.
16 Superior Court of California, County of Los
17 Angeles, Case No. BC325201;

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

23 Wm. Bolthouse Farms, Inc. v. City of
24 Lancaster
25 Diamond Farming Co. v. City of Lancaster
26 Diamond Farming Co. v. Palmdale Water Dist.
27 Superior Court of California
28 County of Riverside, consolidated actions
Case Nos. RIC 353840, RIC 344436,
RIC 344668.

**Judicial Council Coordination Proceeding
No. 4408**

QUARTZ HILL WATER DISTRICT
OPPOSITION TO MOTION IN LIMINE BY
ANTELOPE VALLEY EAST KERN
WATER DISTRICT

Date: May 13, 2013
Time: 9:00 a.m.
Department: 1
Hon. Jack Komar

25 Quartz Hill Water District opposes the motion for order in limine by the Antelope Valley
26 East Kern Water District

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1 **I. INTRODUCTION**

2 Quartz Hill Water District joins the concurrently filed opposition to the Antelope Valley
3 East Kern Water Agency (“AVEK”) motion in limine. Quartz Hill Water District files this
4 separate opposition to further highlight why this court ought to deny AVEK’s motion.

5 The concurrently filed opposition discusses and provides the court with the contract
6 between AVEK and Los Angeles County Waterworks Districts numbers 4 and 34. Quartz Hill
7 Water District also has a contract with AVEK. Quartz Hill’s contract with AVEK and the contract
8 attached and discussed in the opposition are identical. Any decision by this court based upon the
9 AVEK – LA County Waterworks contract would have equal applicability to Quartz Hill.

10
11 **II. THIS COURT HAS RECEIVED NO EVIDENCE REGARDING THE**
12 **TAXPAYERS OF AVEK**

13 In its motion, AVEK states that the taxpayers in Kern, Los Angeles, and Ventura have
14 contributed to construction of State Water Project facilities. No evidence has been admitted as to
15 these facts, nor has a request for judicial notice been made regarding these facts.

16 While some of the residents of these counties may have paid some taxes, there is no
17 evidence regarding the amounts various persons may have paid. Nor is there any evidence of the
18 purpose those payments.

19 For example, customers of Quartz Hill who construct homes pay AVEK directly for the
20 cost of building future capacity. This is a cost that few persons who are not customers of Quartz
21 Hill, or other Public Water Suppliers, will incur.

22 AVEK, in its motion, has not provided this court with any evidence regarding how much
23 money the customers of Quartz Hill, and other Public Water Suppliers, have paid. It is quite likely
24 that since the customers of Quartz Hill, and other Public Water Suppliers, are located in the
25 improved areas of the Antelope Valley, their property taxes are considerably higher than the land
26 located outside the jurisdiction of the Public Water Suppliers since the land located outside is
27 mostly unimproved, and thus of lower assessed value.

1 Quartz Hill and others have argued that the right to recover return flows is a legal issue.
2 This is the case because the Public Water Suppliers are importers and thus entitled to all return
3 flows from that water.

4 In contract, AVEK's claim that it is entitled to recover the imported water return flows is
5 based upon the bald assertion that some AVEK taxpayers are not Public Water Supplier
6 customers. As such, its motion ought to be denied.

7
8 **III. AVEK'S MOTION ADMITS THAT TAXPAYERS DO NOT PAY TO**
9 **IMPORT WATER**

10 AVEK argues in its motion that Kern, Los Angeles, and Ventura taxpayers have
11 contributed to construction of State Water Project facilities. AVEK does not claim that these
12 taxpayers have paid to import any water. Indeed, these taxpayers have not. These taxpayers have
13 only paid for facilities.

14 The only parties who have paid to import water are the Public Water Suppliers¹.

15
16 **IV. AVEK'S MOTION PROVIDES THIS COURT WITH NO EVIDENCE**
17 **WHAT SERVICES ARE PROVIDED TO TAX PAYERS OUTSIDE OF**
18 **THE JURISDICTION OF PUBLIC WATER SUPPLIERS**

19 In its motion AVEK claims to serve land area of 2,400 square miles. This appears to be the
20 jurisdictional boundaries of AVEK. There is no evidence what services, if any AVEK provides to
21 this area and much (perhaps most) of this land is undeveloped desert, land in its raw state.
22 Specifically, no evidence has been provided to this court regarding what services AVEK provides
23 land within its jurisdiction that is located outside the jurisdiction of Public Water Suppliers.

24 It is quite likely that the vast majority of services provided by AVEK are provided to, and
25 paid for, by the Public Water Suppliers.

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28 ¹ AVEK does sell a relatively small amount of water to others who are not Public Water Suppliers and who are not
addressed by AVEK's motion.

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V. NO EVIDENCE HAS BEEN SUBMITTED THAT IF AVEK IS GIVEN THE RIGHT TO RECAPTURE THE RETURN FLOWS ANY OF THAT WATER WILL DELIVERED TO PERSONS OTHER THAN PUBLIC WATER SUPPLIERS

AVEK, in its motion, argues it will bank return flows from imported water for the purpose of reselling it in times of water shortage. No evidence is provided regarding who this water will be sold to, but almost certainly, since it is the Public Water Suppliers who purchase most of the treated water from AVEK, Quartz Hill and other Public Water Suppliers will then in turn be sold the water again.

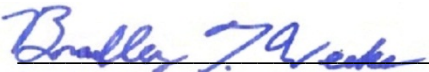
AVEK thus seeks to sell to Quartz Hill and other Public Water Suppliers, the same water twice: once to import the water, and then again, to buy the return flows from that same water. This is inequitable and unfair. This fundamental unfairness is one of the many reasons why case law does not support AVEK’s claim that it is entitled to recapture the return flow of the water imported by Quartz Hill.

VI. CONCLUSION

He who pays the piper calls the tune. Quartz Hill and other Public Water Suppliers pay for the water to be imported. The public who paid for it have the right to recapture it, not AVEK.

Dated: April 19, 2013

CHARLTON WEEKS LLP



Bradley T. Weeks
Attorney for Quartz Hill Water District

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PROOF OF SERVICE

I am employed in the aforesaid county, State of California; I am over eighteen years of age and not a party to the within action; my business address is 1031 West Avenue M-14, Suite A, Palmdale, California, 93551.

On April 19, 2013, at my place of business at Palmdale, California, a copy of the following DOCUMENT(s):

QUARTZ HILL WATER DISTRICT OPPOSITION TO MOTION IN LIMINE BY ANTELOPE VALLEY EAST KERN WATER DISTRICT

By posting the DOCUMENT listed above to the Santa Clara Superior Court website in regard to the Antelope Valley Groundwater Matter:

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

Executed on April 19, 2013


Bradley T. Weeks