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EXEMPT FROM FILING FEES
[Gov. Code, § 6103]

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9
10 COUNTY OF LOS ANGELES

11
12 **Coordination Proceeding**
13 **Special Title (Rule 3.550(c))**

14 **ANTELOPE VALLEY GROUNDWATER**
15 **CASES**

16 **Included Actions:**

17 **Los Angeles County Waterworks District**
No. 40 v. Diamond Farming Co.
Superior Court of California County of Los
Angeles, Case No. BC 325 201

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

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

25 **AND RELATED ACTIONS.**
26
27
28

Judicial Council Coordination
Proceeding No. 4408

Santa Clara Case No. 1-05-CV-049053

MOTION IN LIMINE OF STATE OF
CALIFORNIA FOR ADMISSION INTO
EVIDENCE OF UNDISPUTED FACTS
AND TO LIMIT TRIAL TESTIMONY
FOR PHASE IV TRIAL

[Assigned for All Purposes to the Honorable
Jack Komar]

Trial Date: May 28, 2013
Time: 1:00 p.m.
Dept: 322

Action Filed: October 26, 2005

1 Defendants and Cross Defendants, the State of California and its agencies owning land
2 overlying the Antelope Valley Adjudication Area including the State of California 50th District
3 Agricultural Association (50th DAA), the California Department of Military (Military), the
4 California Department of Corrections and Rehabilitation (CDCR), the California Department of
5 Veterans Affairs (Veterans Affairs), the California Highway Patrol (CHP), the California State
6 Lands Commission (State Lands), the California Department of Parks and Recreation (Parks), the
7 California Department of Transportation (Caltrans), and the California Department of Water
8 Resources (DWR) (collectively, State of California), hereby move for an order admitting into
9 evidence undisputed facts , as set forth below, and thereby limiting testimony of their witnesses at
10 the Phase IV Trial.

11 The State of California filed the following evidence that establishes its prima facie case for
12 the Phase IV trial of groundwater pumping in 2011 and 2012:

- 13 1. Eleven Declarations on January 31, 2013;
- 14 2. Joint Stipulation of Facts with Cross Defendants City of Los Angeles, Los Angeles
15 World Airports, Antelope Valley-East Kern Water Agency, County Sanitation District of Los
16 Angeles County Nos. 14 and 20. (Joint Stipulation) on February 27, 2013.

17 Specifically, the Declarations filed by the State of California on January 31, 2013 include
18 the following:

- 19 1. Declaration of Major Lorren T. Deakin, Construction and Facilities management
20 Officer for the Military (Deakin Dec.);
 - 21 2. Declaration of Daniel Robbins, Water and Sewer Plant Supervisory for CDCR
22 (Robbins Dec.);
 - 23 3. Declaration of David Gerard, Assistant Deputy Secretary for the Capital Assets and
24 Facilities Management of the Veterans Affairs (Gerard Dec.);
 - 25 4. Declaration of Daniel Jacobs, Chief Executive Officer of the 50th DAA (Jacobs
26 Dec.);
 - 27 5. Declaration of Captain Andria D. Witmer, Captain of the CHP (Witmer Dec.);
- 28

1 6. Declaration of Brian Bugsch, Chief of the Land Management Division of State Lands
2 (Bugsch Dec.);

3 7. Declaration of Blaine Laumbach, Hydroelectric Plant Operations Superintendant of
4 DWR (Laumbach Dec.);

5 8. Declaration of Russ Dingman, Staff Environmental Planner for the Techachapi
6 District of Parks (Dingman Dec.);

7 9. Declaration of Jerome R. Marcotte, Senior Sanitary Engineer for Caltrans (Marcotte
8 Dec.);

9 10. Declaration of Nancy Escallier, Senior Right of Way Agent for Caltrans (Escallier
10 Dec.).

11 On April 30, 2013, the Court signed the Fourth Amendment to the Case Management Order
12 for the Phase IV Trial (Fourth Amendment). This Order stated that all declarations and
13 stipulations filed by the parties pursuant to the Fourth Amendment were to be treated as evidence
14 properly presented in open court at trial, unless a party specifically objected to the Stipulation and
15 related declaration. This would, in essence, comprise a party's prima facie case at trial, proving
16 ownership, current water use and claimed beneficial use. On May 17, 2013, the Court provided
17 further guidance and limitations for the upcoming Phase IV trial, specifically limiting the
18 evidence to be presented to groundwater pumping for the calendar years of 2011 and 2012. The
19 Court signed a Fifth Amendment to the Case Management Order to that effect on May 20, 2013.

20 The State of California received one minor objection to the Caltrans Declaration from five
21 landowners to its filed declarations. This one objection was filed to the Marcotte Dec., Paragraph
22 4 "on the grounds that the Declaration vaguely states that Caltrans 'owns, occupies or controls'
23 significant land holdings in the Antelope Valley Adjudication Area' yet does not fully set out the
24 extent of ownership vs. 'control.'" In fact, however, all the property listed for Caltrans is owned
25 in fee and the ownership documents are attached as Exhibits R-1 through R-20 to the Escallier
26 Dec. filed on January 31, 2013. Two other minor objections were filed to the Robbins Dec. and
27 the Gerard Dec., agencies that did not extract groundwater in 2011 and 2012.
28

1 No objections have been filed with respect to six state agencies, including the 50th DAA,
2 Military, CHP, DWR, and Parks. Pursuant to the Fourth Amendment, except for the minor
3 objections to facts related to water rights claimed in the declarations of Caltrans, Veterans and
4 CDCR from the five landowners, all the facts in these declarations may be admitted into evidence
5 for the purpose of establishing the prima facie cases for ownership by the State of California and
6 groundwater pumping for the Phase IV trial.

7 Collectively, this evidence includes percipient and expert testimony, deeds and other
8 documentation of evidence of ownership of real property by the State of California and its
9 agencies, evidence of beneficial water use, and evidence of the amount of water used on state
10 lands overlying the AV Area of Adjudication, including extraction from the AV Area of
11 Adjudication and importation of water for use on lands overlying the AV Area of Adjudication.

12 Not required to be included in this Phase IV Trial is evidence or argument with respect to
13 the existence, nature and extent of the beneficiaries and overlying water rights to extract water
14 from the AV Area of Adjudication, whether or not such overlying rights have been exercised to
15 date by the State of California or by any particular state agency. Additionally not included is the
16 issue of the legal effect of importing water in lieu of pumping.

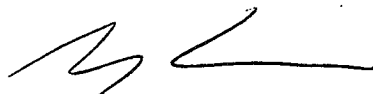
17 The State of California presented in its filed declarations all the necessary evidence
18 required to prove ownership of land in the Antelope Valley Adjudication Area and groundwater
19 pumping by the State of California in the years 2011 and 2012. These are the sole remaining
20 issues for the Phase IV Trial. State of California witnesses were not requested to appear at trial,
21 no State of California witnesses were deposed and as stated above there were only three minor
22 objections to the eleven State of California declarations, none of which are relevant to this phase
23 of trial.

1 Therefore, the State of California requests an order that the State of California's above
2 listed declarations and Joint Stipulation of Facts (page 3, lines 18-28; pages 4-12; page 13, lines
3 1-22) be treated as evidence of ownership and groundwater pumping properly presented in open
4 court at the Phase IV Trial and that no party be permitted to contest that evidence at trial.

5
6 Dated: May 28, 2013

Respectfully Submitted,

7 KAMALA D. HARRIS
8 Attorney General of California

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10 
11 NOAH GOLDEN-KRASNER
12 MARILYN H. LEVIN
13 Deputy Attorneys General
14 *Attorneys for Defendants*
15 *State of California, Santa Monica*
16 *Mountains Conservancy, and State of*
17 *California 50th District Agricultural*
18 *Association*

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CERTIFICATE OF SERVICE

Case Name: **Antelope Valley Groundwater
Cases**

No. **JCCP 4408**

I hereby certify that on May 28, 2013, I electronically served the following document(s)

**MOTION IN LIMINE OF STATE OF CALIFORNIA FOR ADMISSION INTO
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PHASE IV TRIAL**

on the interested parties in this action, by posting the document(s) listed above to the Santa Clara County Superior Court e-filing website (<http://www.scefiling.org>) under the Antelope Valley Groundwater matter pursuant to the Court's Order dated October 27, 2005.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 28, 2013, at Los Angeles, California.

Blanca Cabrera
Declarant



Signature