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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
COUNTY OF SANTA CLARA

9 **ANTELOPE VALLEY GROUNDWATER**
CASES:

11 Included Actions:

12 Los Angeles County Waterworks District No.
 40 v. Diamond Farming Co.
 13 Superior Court of California
 County of Los Angeles, Case No. BC325201

15 Los Angeles County Waterworks District No.
 40 v. Diamond Farming Co.
 16 Superior Court of California
 County of Kern, Case No. S-1500-CV-254-
 17 348

18 Wm. Bolthouse Farms, Inc. v. City of
 Lancaster
 19 Diamond Farming Co. v. City of Lancaster
 20 Diamond Farming Co. v. Palmdale Water Dist.
 Superior Court of California
 21 County of Riverside, consolidated actions
 Case Nos. RIC 353840, RIC 344436,
 22 RIC 344668

Judicial Council Coordination
 Proceeding No. 4408

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

**DECLARATION OF KIMBERLY A.
 HUANGFU IN SUPPORT OF CROSS-
 DEFENDANT EX PARTE MOTION TO:**

**(1) COMPEL RESPONSES TO
 OUTSTANDING DISCOVERY
 REQUESTS AGAINST LACWW;**

**(2) REQUEST CONTINUANCE OF
 DEPOSITION OF JOHN LAMBIE; AND**

**(3) REQUEST DATE CERTAIN FOR
 ANAVERDE TRIAL BRIEFING AND
 PRESENTATION**

DATE: September 23, 2008
TIME: 8:15 a.m.
DEPT: 17C

Telephonic Hearing
Conference call-in: (866) 844-4955
Passcode: 9554462#

*[Filed concurrently herewith Ex Parte
 Motion and [Proposed] Order]*

DECLARATION OF KIMBERLY A. HUANGFU

I, Kimberly A. Huangfu, declare and state as follows:

1. I am an attorney at law, duly licensed to practice before the courts of the State of California. I am a member of the law firm of Lewis Brisbois Bisgaard & Smith, LLP, attorneys for Anaverde LLC ("Anaverde"). I am an associate responsible for the handling this matter, and I present this declaration in support of Anaverde's ex parte motion to compel responses to outstanding discovery requests against Los Angeles Waterworks District No. 40's ("LACWW"), and to request an expert deposition continuance, as well as to request a date for Anaverde's trial briefing and presentation. I have personal knowledge of the matters set forth below, and if called upon to do so, I could and would competently testify to the following:

2. Anaverde is an overlying landowner and residential developer owning approximately 1,500 acres of property in the City of Palmdale.

3. Anaverde was served with a Notice of Acknowledgement and Cross-Complaint on May 16, 2007. (Exhibit A.)

4. From the date of service of the Cross-Complaint, a discovery stay was in place for eleven months. This stay precluded Anaverde from serving any discovery other than class certification.

5. At the Case Management Conference on May 22, 2008, at which I was present, the discovery stay was finally lifted.

6. In an attempt to gather technical data on the Phase 2 adjudication basin issues, Anaverde propounded two sets of discovery. The first set was propounded on Aug. 5, 2008 to all public water purveyors ("the Purveyors"), Exhibit B attached hereto. A second set was served on the Purveyors on Aug. 8, 2008. (Exhibit C, pgs. 1-3 attached.)

7. Purveyor discovery responses were due on Sept. 8, 2008 and Sept. 9, 2008, respectively.

1 8. LACWW provided responses to Request for Production of Documents ("RFP"), Set One on
2 Sept. 8, 2008. Yet, the actual documents were not made available for inspection until three days
3 ago (two weeks prior to trial). That production, problems therein notwithstanding, was merely
4 fifteen days before the scheduled deposition of Anaverde's expert, Mr. John Lambie.

5 9. Although LACWW's production was noticed for Sept. 15, 2008 at 9 a.m., and despite the
6 fact that Anaverde's counsel notified LACWW that Mr. Salazar, lead-counsel for Anaverde was
7 flying in to be present for the noticed inspection to review the LACWW's documents, counsel for
8 LACWW failed to notify their client of the noticed inspection date and time. (Exhibit D.)

9 10. Upon arrival, LACWW staff apprised Anaverde's counsel, myself included, that our
10 inspection was "unexpected." LACWW staff only produced the documents approximately two
11 hours after the noticed time. This delay adversely impacted Mr. Salazar's ability to thoroughly
12 review documents prior to his return flight to Sacramento.

13 11. Despite that LACWW provided for inspection a number of boxes containing voluminous
14 documents, LACWW failed to provide well reading data and data reflecting the quantities of water
15 pumped for July and August 2008, even though Anaverde's discovery requested this data in its
16 RFP.

17 12. LACWW agreed to provide this critical data "once it is available." (Exhibit E, e-mail dated
18 Sept. 17, 2008 at 9:08 a.m.) We are one week away from Expert Lambie's deposition, shortly
19 over one week before which Anaverde must serve its trial brief, witnesses list, exhibit list, and
20 *motions in limine*, yet, I have not received critical data necessary to even commence preparation of
21 these many trial documents.

22 13. Further, LACWW omitted accurate well locations for approximately twenty-five key
23 LACWW wells. (Exhibit F.) To facilitate the timely production of this information, Anaverde
24 prepared a chart outlining all of the missing well data. (Exhibit F.) The chart was attached and
25

1 sent via e-mail on Sept. 18, 2008 to counsel for LACWW. (Exhibit F, e-mail dated Sept. 18, 2008
2 at 11:43 a.m.) To date, this data has not been provided.

3 14. Anaverde's RFP, Set One, Nos. 1-3, 5-6, 8-9, 13-15, 17-20, 23-25, Exhibit. 2; and RFP, Set
4 Two, Nos. 1-3, and 7, Exhibit 3, when coupled with the Preliminary Statement to those RFPs,
5 asked for data to be provided in its native database format. Absent production in that format,
6 Anaverde's expert cannot read, review, nor manipulate the data in an understandable manner.
7

8 15. Instead of providing data in database format, LACWW merely printed portions of data,
9 page-by-page, rather than as regularly utilized and maintained – in its native database format.

10 16. LACWW's non-responsive production resulted in extensive delays in Mr. Lambie's ability
11 to utilize, digest, comprehend, and analyze the data. This delay further delayed Mr. Lambie's
12 ability to render conclusions and expert opinions on material issues in this case. This delay
13 continues given that, to date, LACWW still has not provided critical data in a usable database
14 format.

15 17. Anaverde's RFP, Set One, No. 23 sought the quantity of water extracted for the past fifty
16 years (1968 – 2008), on an annualized basis. (Exhibit B, pg. 9, lln. 20-23.)

17 18. LACWW provided meter readings for years 1990 to 2001.

18 19. From LACWW's production, it appeared that critical data had been omitted: years 2002
19 through 2008. Closer inspection by Anaverde counsel revealed that perhaps the data chart was
20 mislabeled. Several annual readings appeared to be dated in the years of 2002 to 2008, but the
21 label on the dated document was "2001."

22 20. In response to inquiry, LACWW asserted that all the data, including well readings through
23 June 2008, was present but was mislabeled. LACWW summarily refused to re-produce accurately
24 labeled data: "we are not going to modify the document, nor are we going to create a new
25 document." (Exhibit E, e-mail dated Sept. 17, 2008 at 9:08 a.m.) It remains unclear to Anaverde
26 whether the data for all years 1990 to 2008 are included in the document or whether the document
27 is complete.
28

1 21. On Sept. 16, 2008, LACWW provided an Excel spreadsheet of the meter readings.

2 Unfortunately, even the spreadsheet had inaccurate, omitted 2002-2008 data, or was mislabeled.

3 (Exhibit E, e-mail dated Sept. 16, 2008 at 10:12 p.m.)

4 22. On Aug. 28, 2008, I properly noticed LACWW, Palmdale Water District ("PWD"), and

5 Quartz Hill Water District ("QHWD") Person Most Knowledgeable ("PMK") depositions for

6 Sept. 17, 2008. (Exhibit G.)

7 23. During a conference call with all counsel to discuss and arrange the expert witness

8 deposition schedule on Sept. 5, 2008, counsel for LACWW indicated that they would be filing

9 objections to Anaverde's properly noticed PMK deposition.

10 24. In response, I requested that prior to the filing an objection, LACWW contact me to discuss

11 their issues. (Exhibit H, e-mail dated Sept. 10, 2008 at 10:29 a.m.)

12 25. LACWW responded that they would "be able to meet and confer after [they] respond to

13 [Anaverde's] notice." (Exhibit H, e-mail dated Sept. 11, 2008 at 2:31 p.m.)

14 26. LACWW advised on Sept. 12, 2008, that "there will not be a deposition of [his] client on

15 Wednesday," though no Motion to Quash nor Protective Order had been obtained. (Exhibit I, e-

16 mail dated Sept. 12, 2008 at 12:40 p.m.) Later that day, LACWW filed its objection. (Exhibit J.)

17 27. In light of LACWW's objection, though not legally required to postpone the properly

18 noticed deposition, Anaverde's counsel continued the PMK deposition of LACWW for two days,

19 in hopes of being able to resolve the discovery issues absent a motion to compel. (Exhibit K.)

20 28. In response to Anaverde's notice of continuance, LACCW filed further objections on Sept.

21 17, 2008, Exhibit L, and circulated an e-mail stating: "no depo tomorrow." (Exhibit M, e-mail

22 dated Sept. 18, 2008 at 2:40 p.m.)

23 29. The Court's Case Management Order for Phase 2 trial provides that any party intending to

24 call a non-expert witness shall post the name(s) of such witness(es) on the Court's website on

25 Sept. 15, 2008, which shall include a statement as to availability for deposition. (Exhibit N, Case

26 Management Order, pg. 2, para. 4, lln. 6-8.)

1 30. In LACWW's second objection, it objected to Anaverde's PMK deposition notice and
2 accompanying RFP, on the basis of "attorney-client, work-product, or deliberative process
3 privilege." (Exhibit L, pg. 2, para. 3, lln. 17-19.)

4 31. LACWW failed to produce a privilege log to support the alleged "privileges".

5 32. LACWW further objected to Anaverde's notice of continuance on the grounds that terms
6 including, but not limited to, "capacity of each groundwater well" are vague and ambiguous.
7 (Exhibit L, pg. 2, para. 3, lln. 20-21.)

8 33. LACWW produced two maps relating to the location of active and existing wells. (Exhibit
9 O.) Map 1, shows Active Wells for Regions, 24, 27, 33, 35, 38 and 39. Map No. 2, illustrates
10 New and Existing Wells for Region 4. The maps are unreliable and contain the following
11 disclaimers: this map is intended for use only as a water operations map by the Los Angeles
12 County Waterworks Districts and is based upon information available from public records. The
13 Los Angeles County Waterworks Districts expressly disclaim any liability for any inaccuracies
14 which may be present in this map.

15 34. The Technical Committee issued the Problem Statement Report ("PSR") on June 26, 2008.
16 The PSR was not made available to other parties, including Anaverde, until July 22, 2008. Upon
17 receipt of the login information required to obtain online access to the PSR, I was informed that
18 counsel for LACWW possessed the underlying technical data used by the Technical Committee to
19 compile the PSR. I immediately contacted counsel for LACWW and requested the supporting
20 data on July 23, 2008. (Exhibit P, Correspondence from Anaverde's counsel to LACWW's
21 counsel.)

22 35. In response to my request, a week later, I received a flash drive with 16-gigabytes of data
23 ("Flashdrive"). However, certain information was missing from the data provided on the
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Flashdrive, including static water elevations, screened intervals, data pertaining to gauging stations, and water production data from identified extraction wells.

36. On Aug. 6, 2008, I sent Mr. Dunn, counsel for LACWW, a letter inquiring about the missing data and enumerated five specific categories of data. (Exhibit Q.) LACWW failed to acknowledge or respond to this request.

37. On Aug. 14, 2008, I again sent a follow-up letter in an effort to clarify the location of the missing data. (Exhibit R.) I sent a follow-up e-mail to counsel for LACWW and reiterated the same five categories of missing data. (Exhibit S, e-mail dated August 19 sent at 8:40 a.m.)

38. On Aug. 19, 2008, LACWW informed all parties that the Luhdorff and Scalmanini, Consulting Engineers ("LCSE") database, maintained by LACWW, Rosamond Community Services District, PWD, QHWD, City of Lancaster, and California Water Service Company, was accessible after obtaining log-in information from LACWW.


39. Anaverde was under the impression that the missing data was included in the LSCE database. (Exhibit S, e-mail sent Aug. 18 at 6:50 p.m.) On Aug. 23, 2008, Stefanie Hedlund, co-counsel for LACWW, informed me that the LSCE database contains the same information provided on the Flashdrive. (Exh. T, e-mail dated Sept. 23, 2008 at 5:27 p.m.)

40. To date, the LSCE database remains incomplete. Water production information for forty-nine LACWW wells and construction information for twenty-five wells is missing. According to the Summary of Content attached to a letter posted by LACWW on the Court's website on August 20, 2008, attached hereto as Exhibit U, certain data, namely municipal wells and records is "pending". (Exhibit V at pg. 2.)

41. On September 16, 2008, Anaverde's expert accessed the LSCE database in an attempt to extract additional data relevant to water levels. The most recent data provided on the LSCE database is dated April 27, 2006.

1 42. I prepared and properly provided notice to all parties and their attorneys of record of
2 Anaverde's ex parte application on September 22, 2008 at 9:34 a.m.

3 43. I declare under penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct and that this Declaration was executed on September 19, 2008, at Los Angeles,
5 California.
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9 Kimberly A. Huangfu
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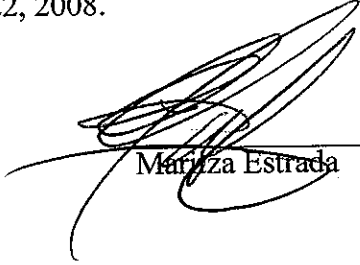
PROOF OF SERVICE

I declare that:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 221 North Figueroa Street, Suite 1200, Los Angeles, California 90012.

On September 22, 2008, I served **DECLARATION OF KIMBERLY A. HUANGFU IN SUPPORT OF CROSS-DEFENDANT EX PARTE MOTION TO: (1) COMPEL RESPONSES TO OUTSTANDING DISCOVERY REQUESTS AGAINST LACWW; (2) REQUEST CONTINUANCE OF DEPOSITION OF JOHN LAMBIE; AND (3) REQUEST DATE CERTAIN FOR ANAVERDE TRIAL BRIEFING AND PRESENTATION** by posting 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 above is true and correct, executed on September 22, 2008.


Mariza Estrada