

1
2
3
4
5
6 SUPERIOR COURT OF CALIFORNIA
7 COUNTY OF LOS ANGELES
8

9 **ANTELOPE VALLEY GROUNDWATER**
10 **CASES**

Judicial Council Coordination
Proceeding No. 4408

11 Included Consolidated Actions:

Lead Case No. BC 325 201

12 Los Angeles County Waterworks District No.
13 40 v. Diamond Farming Co.
14 Superior Court of California
15 County of Los Angeles, Case No. BC 325 201

ORDER AFTER HEARING
on October 18, 2023

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

Evidentiary Hearing related to
Motion by The People Concern, Inc.,
as Agent for Small Pumper Class
Member Barrel Springs Properties,
LLC for Action and Implementation
of Watermaster Engineer
Recommendation of Approval Barrel
Springs Properties, LLC's September
30, 2022 New Production Application

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

Judge: Honorable Jack Komar, Ret.

26 Rebecca Lee Willis v. Los Angeles County
27 Waterworks District No. 40
28 Superior Court of California, County of Los
Angeles, Case No. BC 364 553

Richard A. Wood v. Los Angeles County
Waterworks District No. 40
Superior Court of California, County of Los
Angeles, Case No. BC 391 869

1 **This Document Pertains to Add-On Case:**

2 Little Rock Sand and Gravel, Inc., a California
3 corporation v. Granite Construction Company
4 Superior Court of California
5 County of Los Angeles, Case No. MC026932

6
7 This matter came on before the Honorable Jack Komar (Retired), sitting by
8 assignment, for an evidentiary hearing on October 18, 2023, in Department 3 of the Superior
9 Court, County of Santa Clara, pursuant to notice and scheduling agreement of the parties. The
10 parties appeared through their attorneys of record.

11 The court considered the briefs of the parties, both pre and post hearing, and
12 considered the testimony and evidence presented at the hearing.

13
14 1. Facts

15 Barrell Springs, LLC, owns real property in the Antelope Valley comprised of
16 approximately 125 unimproved acres. The People Concern, Inc., a Public Benefit Corporation,
17 desires to purchase the said property, for purposes of creating a planned development thereon,
18 with plans to make improvements on the land consisting of a working farm with irrigation and
19 related functioning buildings and farm worker housing (144 separate dwelling units) and other
20 buildings for farm workers.

21 To accomplish this construction, the applicant will require the ability to provide a water
22 supply to the property for both agriculture and human habitability. The only current immediate
23 source of such supply is a proposed well or wells on the property with specified limited
24 requirements. There is no existing water supply on or to the property.

25 Applicants on behalf of Barrell Springs sought and were denied water service for the
26 property from public water providers. Following that failure, applicants, on behalf of Barrell
27 Springs, applied for a water production permit from the Antelope Valley Watermaster to produce
28 water from the groundwater aquifer as a prospective overlying owner.

1 The Watermaster engineer reviewed the permit application and recommended that the
2 permit be granted. The Watermaster Board denied the permit and sought further information
3 from the applicant.

4 2. The Parties

5 A) Barrell Springs, LLC, is the owner of the subject property. The People Concern, Inc.,
6 wants to acquire the property for development and brings this motion as agent for
7 Barrell Springs seeking to obtain the water production rights for the property in the
8 Barrell Springs name so when it obtains ownership of the property it will have water
9 rights.

10 B) The Antelope Valley Watermaster is a creation under the judgment in the underlying
11 coordinated case with the responsibility to manage the physical solution which was
12 ordered in the Judgment entered on December 23, 2015.

13 3. The Motion

14 The People Concern, Inc., have filed a motion requesting an order to require that that the
15 Watermaster issue a permit for water production for the property as reflected in the watermaster
16 engineer (a contract employee) report to the Watermaster.

17 **THE JUDGMENT**

18 The underlying litigation which resulted in the judgment in December 2015, ordered and
19 established a physical solution to a chronic water shortage in the Antelope Valley Adjudication
20 area aquifer. The purpose of the judgment and the physical solution is to ensure the integrity of
21 the valley aquifer and the health and balance of the water supply in the antelope valley
22 adjudication area. The physical solution in the judgment provided for a watermaster to manage
23 the physical solution and to oversee the implementation of the physical solution. The court
24 retained jurisdiction in equity to enforce the terms of the judgment.

25 The judgment is binding on all parties to the adjudication as well as those who
26 subsequently acquired property subject to the judgment in the adjudication area.

27 The physical solution in effect created various classes of parties, comprised of those: 1)
28 who supported the judgment by stipulation and who stipulated to reduced pumping on their land

1 (most of the overlying owners who produced water); 2) the entire class of property owners with
2 overlying rights who did not pump and had never pumped ground water (designated as the Willis
3 Class); 3) those property owners who were small pumpers who pumped less than 20 acre feet a
4 year (designated as the Wood Class); 4) the future acquirers of property with entitlements in any
5 of the other three categories which are subject to the judgment.
6

7 **WATER PRODUCTION ENTITLEMENTS AMONG THE PARTIES AND PROPERTY**
8 **SUBJECT TO THE JUDGMENT:**

- 9 1. **STIPULATING PARTIES.** Those who stipulated and agreed to certain limits on the
10 amount of water each could produce each year and to pay a water replacement
11 assessment for any water produced above the allotment in the judgment.
12 2. **THE WILLIS CLASS.** Parties with no water pumping history were entitled to apply
13 for applications to produce water and required to pay a water replacement fee for any
14 water pumped.
15 3. **The Wood Class.** Those whose pumping history of small quantities was granted
16 limited rights to produce water under the judgment as specified and agreed and were
17 required to pay a water replacement assessment for any water produced above their
18 allotment.

19 All replacement water assessments were to be based on the actual cost of replacement
20 water.
21

22 Pursuant to the judgment, the court approved the establishment of a watermaster which
23 was comprised of a board which was required to follow the mandate in the judgment to ensure
24 proper management of the physical solution. The board established management and water
25 production governance rules which were approved by the court. The watermaster contracted with
26 Todd Groundwater, Inc., hydrological and civil engineers, to evaluate and make
27 recommendations to it in connection with the management of hydrology and engineering related
28 functions pertaining to the physical solution, and to perform an analysis and make
recommendations to the board regarding water production applications. The Board did not
delegate its policy making or its decision-making authority granted to it in the judgement to the
watermaster engineer. Board decisions were subject to the Court's retained equitable powers.

1 Barrell Springs Properties, LLC., seeks to acquire real property from a seller upon which
2 there was no previous water production. Based on its previous ownership of unrelated real
3 property, Barrell Springs, LLC., was formerly a member of the “small pumper class”, subject to
4 the judgment as a member of the Wood Class, pumping a small amount of water each year on
5 property it then owned. Barrell springs subsequently sold that property to a third party,
6 transferring its water rights to the buyer thereof, and now seeks to sell the current real property
7 (with no existing water pumping rights) upon which its buyer desires to create a well or wells to
8 pump water on the property. Because Barrel Springs has no pumping rights under the judgment
9 as a nonproducer, the new the owner of the land has no greater rights than Barrell Springs (it
10 having sold its “small pumper class land”), its water entitlement is now essentially as a member
11 of the non-pumper class, (the Willis Class).¹ New pumping in the aquifer requires that the
12 watermaster find that the new pumping would not cause material injury to the aquifer and would
13 not affect other wells.

14 **APPLICATION ACTION BY BOARD**

15 The watermaster engineer at the direction of the Watermaster Board reviewed the
16 application on behalf of Barrell Springs and recommended approval. The Watermaster Board
17 met at a formal meeting on April 26, 2023 and declined to approve the application. The board
18 voted three to approve, a single “no”, and 5 members abstained. The board vote by its rules must
19 be unanimous and is always subject to de novo court review in equity.

20 This motion now seeks the court order finding that the water master engineer
21 recommendation must be followed and that the court should order the Watermaster to approve
22 the requested water production permit. The motion seeks a finding that the new pumping
23 application was complete, reasonable, and would cause no injury to the aquifer.

24
25
26
27
28

¹ As a non-vested overlying property owner, it must establish that its pumping will not damage or impair the balance in the aquifer and pay replacement water assessments as a new pumper so that the taken water may be replaced.

1 The motion and opposition were supported by briefs. An evidentiary hearing was held on
2 the motion on October 18, 2023. The parties were represented by their respective counsel of
3 record and witnesses testified under oath subject to cross examination.

4 **FINDINGS AND ORDER**

5 **The Motion is denied.**

6 The request by the watermaster for judicial notice is granted.

7 Moving parties' objections to evidence is overruled.

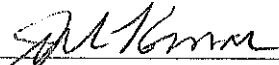
8 The motion is denied for the following reasons:

- 9
- 10 1. The Watermaster Board did not abuse its discretion and based its denial of the
- 11 permit on the fact it required more information to ascertain the effect of issuing
- 12 the permit on the aquifer and the water supply.
- 13 2. The recommendation of the watermaster engineer was equivocal and conditional
- 14 at best and reflected that there was an absence of geological and other hydrologic
- 15 data upon which to determine the ultimate effect of the proposed water
- 16 production on the aquifer, including whether replacement water brought in to
- 17 replenish the aquifer could effectively replenish the area in view of its location
- 18 in a fault zone as well as the fact that the location of other wells which could be
- 19 affected by the proposed pumping was unknown;
- 20 3. The Watermaster is responsible for enforcing the court established rules and
- 21 policies established by the judgment subject to court review.
- 22 4. The watermaster engineer has no independent authority to make rulings on
- 23 applications and may only make recommendations to the Watermaster Board,
- 24 which is the governing authority subject to court review;
- 25 5. The testimony of the board members, orally and by declaration, established that
- 26 the failure to approve the new water production was justified and consistent with
- 27 the standards of the Judgment and the physical solution which is to ensure that
- 28 further pumping in the aquifer would not endanger the aquifer or cause it damage
- and would not have a negative impact other water users or the water balance in
- the aquifer.
6. The failure to respond by the applicant to Watermaster requests for further
- information justified the Watermaster refusal to approve the application.
7. If the additional information previously requested by the Watermaster is provided,
- by the applicant, the watermaster must reconsider the application and assist the
- applicant in presenting an application, if possible, that would comply with the
- standards established by the judgment and the physical solution.

1 ACCORDINGLY, the motion is denied but the parties are ordered to meet and confer to
2 address the deficiencies which could result in a different determination by the Watermaster
3 Board upon resubmission of the application. If the watermaster obtains the information it needs
4 to determine ultimately whether the application should be approved, it is ordered to engage in the
5 reconsideration process and make a decision of approval or disapproval based on all the available
6 information.

7 SO ORDERED

8
9 Dated: 11-14-2023


10 Hon. Jack Komar (Ret.)
11 Judge of the Superior Court
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28