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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

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
325 201 Los Angeles County Waterworks
District No. 40 v. Diamond Farming Co.
Superior Court of California, County of Kern,
Case No. S-1500-CV-254-348Wm. Bolthouse
Farms, Inc. v. City of Lancaster Diamond
Farming Co. v. City of Lancaster Diamond
Farming Co. v. Palmdale Water Dist. Superior
Court of California, County of Riverside,
consolidated actions, Case No. RIC 353 840,
RIC 344 436, RIC 344 668

Judicial Council Coordination Proceeding
No. 4408

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

REPLY TO PUBLIC WATER SUPPLIERS'
OPPOSITION TO MOTION TO CERTIFY
CLASS ACTION COMPLAINT

DATE: August 11, 2008
TIME: 9:00 am
DEPT: 1

REPLY TO OPPOSITION TO MOTION TO CERTIFY CLASS ACTION COMPLAINT

1 **I. THE CURRENT PROPOSED DEFINITION OF THE WOOD CLASS IS**
2 **APPROPRIATE IN SCOPE**

3 The Wood Class is intended to target small pumpers. Counsel for the proposed Wood Class
4 distinguishes small pumpers from large pumpers by excluding from the class landowners who pump
5 more than 25 acre-feet per year. The 25 acre-foot distinction is an appropriate and reasonable
6 dividing line, because it is the same dividing line drawn in the Water Code in order to monitor
7 pumping in counties of concern. (Wat. Code, §§ 4999-5002.) Pursuant to Water Code section 4999
8 et seq., any person extracting in excess of 25 acre feet of groundwater per year in Los Angeles, San
9 Bernardino, Ventura and Riverside Counties is required to file notice of the amount of extraction
10 with the State. Thus, the proposed class definition is not based on an arbitrary dividing line, but
11 rather follows the same dividing line accepted by the legislature as a rational line between small
12 pumpers who are not required to report their pumping and more significant pumpers who are
13 required to report.
14

15 This dividing line is also similar to that used in other adjudications, which commonly
16 distinguish minimal producers from pumpers who are required to be individually named and served
17 based on a lower dividing line of 10 acre-feet of pumping per year. (See e.g., *Chino Basin*
18 *Municipal Water District v. City of Chino*, San Bernardino Superior Court Case No. RCV 51010
19 (minimal producers are those pumping 10 acre-feet or less per year); *City of Barstow, et al v. City of*
20 *Adelanto, et al*, Riverside County Superior Court Case No. 208568 (minimal producers are those
21 pumping 10 acre-feet or less per year).)
22
23

24 **II. THE WOOD CLASS DEFINITION AS CURRENTLY PROPOSED WILL NOT**
25 **CAUSE UNNECESSARY DELAY**

26 The Public Water Suppliers oppose the exclusion of landowners pumping in excess of 25
27 acre-feet per year from the definition of the Wood Class in favor of amending the class definition to
28

1 exclude those who report their pumping to the State pursuant to Water Code section 5001. Their
2 opposition is based in part on an assertion that the exclusion of landowners pumping over 25 acre
3 feet per year will cause unnecessary delay of “. . . months or even years at enormous costs”
4 (Public Water Suppliers’ Opposition to Motion to Certify Class Action Complaint, 6:15.) This
5 contention is not supported by fact or law in the Public Water Suppliers’ Opposition to Motion to
6 Certify Class Action Complaint. They provide no evidence to support the factual assertion that the
7 Wood Class as defined would create an undue burden, nor do they even provide an estimate of how
8 many people will be excluded under the class definition as proposed.
9

10 Additionally, the contention that the class definition as currently proposed will cause
11 unnecessary delay is contradicted by statements made by Counsel for Public Water Suppliers’ at the
12 July 21, 2008 Case Management Conference:
13

14 The Court: “So for the most part if someone owns land and they
15 pump more than 25-acres per feet a year, they have been served?”

16 Mr. Dunn: “Yes, in LA County.”

17 (Case Management Conference Transcript 46:10-13.) Thus, from representations made by the
18 Public Water Suppliers, every landowner in Los Angeles County pumping in excess of 25 acre-feet
19 per year has been served. It is unclear from this statement how additionally serving those who pump
20 more than 25 acre-feet per year in Kern County will result in an undue burden resulting in “years” of
21 delay, and no evidence has been presented that would support such an assertion.
22

23 It is the responsibility of the Public Water Suppliers to serve overlying landowners against
24 whom they are asserting a claim of prescription. The amendment to the class definition that they
25 propose would force the proposed small pumper class to include large pumpers who do not share a
26 community of interest with the small pumpers. The Public Water Suppliers have proposed a
27 dividing line based on their own convenience in identifying and serving the landowners whose
28

property rights they wish to prescript – a dividing line that has little or no bearing on a community of interest within the class. The Court should not allow the Public Water Suppliers to hide behind a convenient class description to avoid their obligation to complete service upon the necessary parties.

III. CONCLUSION

The proposed Wood Class definition should remain as proposed insofar as it distinguishes between large and small pumpers using 25 acre-feet of pumping per year as the dividing line.

Dated: August 6, 2008

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

By: 

MICHAEL T. FIFE
BRADLEY J. HERREMA
ATTORNEYS FOR AGWA

PROOF OF SERVICE

**STATE OF CALIFORNIA,
COUNTY OF SANTA BARBARA**

I am employed in the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action; my business address is: 21 E. Carrillo Street, Santa Barbara, California 93101.

On August 6 2008, I served the foregoing document described as:

**REPLY TO PUBLIC WATER SUPPLIERS' OPPOSITION TO MOTION TO CERTIFY
CLASS ACTION COMPLAINT**

on the interested parties in this action.

By posting it on the website at 10:30 p.m./a.m. on August 6, 2008. This posting was reported as complete and without error.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed in Santa Barbara, California, on August 6, 2008.

Rachel Robles

TYPE OR PRINT NAME

Rachel Robles

SIGNATURE