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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

RESPONSE TO DECLARATION OF
JEFFREY V. DUNN RE STATUS OF
SERVICE OF PROCESS

Phase 2 Trial

Date: October 6, 2008
Time: 9:00 am
Dept: 1

1 The Antelope Valley Groundwater Agreement Association ("AGWA") hereby responds to
2 the Declaration of Jeffrey V. Dunn re Status of Service of Process, filed September 12, 2008
3 ("Declaration"). AGWA is concerned that, due to the present deficient service of process on parties
4 to this matter, as well as the lack of notice to members of the certified classes, the due process rights
5 of many landowners within the Antelope Valley Area of Adjudication ("Basin") are in jeopardy.

6 As described in the Declaration, service to parties in this case has been deficient. There are
7 many identified landowners that remain unserved. Additionally, the purveyors are misinterpreting
8 the order certifying the Small Pumpers Class. The Order limits the Class to all private persons and
9 entities that own real property within the Basin, as adjudicated, and that have been pumping less than
10 25 acre-feet per year on their property during any year from 1946 to the present (Order Certifying
11 Small Pumpers Class Action, September 2, 2008). However, the Declaration evidences that the
12 purveyors are not serving those landowners, and it appears they have attempted service only on those
13 parties that *report* such pumping. (Declaration, ¶ 13.) Since the reporting requirement is not
14 applicable in Kern County (Wat. Code, § 4999, et seq.) and many parties pumping more than 25
15 acre-feet per year may fail to report their pumping, there is a group of landowners that the purveyors
16 have not even attempted to serve.

17 More importantly, a Notice of Class Action has not been issued for either of the certified
18 classes. Members of each of the classes – as well as those who may wish to opt out of the classes
19 and retain their own counsel – have not been informed of the pendency of this action, nor have they
20 been made aware of the impending Phase 2 Trial date. Since the class members are spread out
21 across the entire Basin, it is likely that there will be some within the areas that are to be considered
22 as separate sub-basins in the Phase 2 Trial. These parties may have an interest in the outcome of the
23 Phase 2 Trial.

24 At this time, there is no indication from the counsel for the two classes or from the purveyors
25 that they are close to even initiating such notice. Mr. Dunn's Declaration was silent on this subject
26 even though prior to the certification of the Small Pumpers Class there were representations that
27 Notice to the Class would quickly follow class certification:

1 MR. DUNN: "But in anticipation that there will be another class of
2 small pumpers, . . . we would want to be prepared as soon as possible
3 in order to mail the class notice out." (Reporter's Transcript July 21,
4 2008 Hearing 39:25-28.)

5 In fact, at the time of the class certification it was represented that this process was to be
6 underway by August 15:

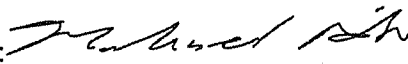
7 MR. DUNN: "We're going to have to sit down with class counsel and
8 talk to them. I think the August 15th date is -- it might still be doable,
9 but it would be pretty aggressive." (Reporter's Transcript August 11,
10 2008 Hearing 51:26 - 52:1.)

11 This hearing was nearly two months ago, and there is no indication whatsoever that either the
12 purveyors or the class representatives intend to provide notice of the lawsuit to the class members. It
13 seems that with the class certification process completed, the idea of providing notice fallen by the
14 wayside.

15 Because of these deficiencies in service and notice, AGWA believes that the due process
16 rights of many landowners within the Valley are in jeopardy.

17 Dated: October 1, 2008

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

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19 By: 
20 MICHAEL T. FIFE
21 BRADLEY J. HERREMA
22 ATTORNEYS FOR AGWA
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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 October 1, 2008, I served the foregoing document described as:


**RESPONSE TO DECLARATION OF JEFFREY V. DUNN
RE STATUS OF SERVICE OF PROCESS**

on the interested parties in this action.

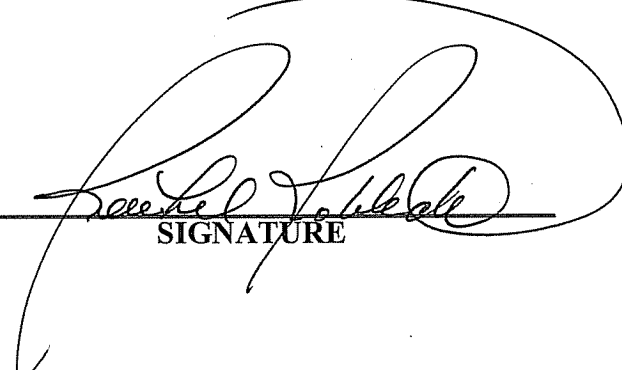
By posting it on the website at 12:15 p.m./a.m. on October 1, 2008.
This posting was reported as complete and without error.

(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 October 1, 2008.



TYPE OR PRINT NAME



SIGNATURE