

MICHAEL T. FIFE (State Bar No: 203025)
STEPHANIE OSLER HASTINGS (State Bar No: 186716)
BRADLEY J. HERREMA (State Bar No: 228976)
HATCH & PARENT, A LAW CORPORATION
21 East Carrillo Street
Santa Barbara, California 93101
Telephone No: (805) 963-7000
Facsimile No: (805) 965-4333

Attorneys for: B.J. Calandri, John Calandri, John Calandri as Trustee of the John and B.J. Calandri 2001 Trust, Forrest G. Godde, Forrest G. Godde as Trustee of the Forrest G. Godde Trust, Lawrence A. Godde, Lawrence A. Godde and Godde Trust, Kootenai Properties, Inc., Gailen Kyle, Gailen Kyle as Trustee of the Kyle Trust, James W. Kyle, James W. Kyle as Trustee of the Kyle Family Trust, Julia Kyle, Wanda E. Kyle, Eugene B. Nebeker, R and M Ranch, Inc., Edgar C. Ritter Paula E. Ritter, Paula E. Ritter as Trustee of the Ritter Family Trust, Trust, Hines Family Trust, Malloy Family Partners, Consolidated Rock Products, Calmat Land Company, Marygrace H. Santoro as Trustee for the Marygrace H. Santoro Rev Trust, Marygrace H. Santoro, Helen Stathatos, Savas Stathatos, Savas Stathatos as Trustee for the Stathatos Family Trust, Dennis L. & Marjorie E. Groven Trust, Scott S. & Kay B. Harter, Habod Javadi, Eugene V., Beverly A., & Paul S. Kindig, Paul S. & Sharon R. Kindig, Jose Maritorena Living Trust, Richard H. Miner, Jeffrey L. & Nancee J. Siebert, Barry S. Munz, Terry A. Munz and Kathleen M. Munz, Beverly Tobias, Leo L. Simi, White Fence Farms Mutual Water Co. No. 3., William R. Barnes & Eldora M. Barnes Family Trust of 1989 collectively known as the Antelope Valley Ground Water Agreement Association ("AGWA")

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-254-348 Wm. 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 Nos. 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

STATEMENT OF CLARIFICATION;
STATEMENT OF SUPPORT FOR
PLAINTIFF WILLIS' WITHDRAWAL OF
MOTION FOR CLASS CERTIFICATION;
JOINDER IN OBJECTIONS BY DIAMOND
FARMING COMPANY

Date: August 20, 2007
Time: 9:00 AM
Dept: 1

1 **I. Statement of Clarification**

2 On July 23, 2007, plaintiff Willis filed her Motion for Class Certification. On August 9,
3 2007, the purveyors filed an untimely "response" to this Motion which recommended modification
4 of the class proposed by Willis to conform the class to earlier proposals made by the purveyors.
5 These were the only two operative proposals before the Court for the August 20, 2007 hearing. The
6 Antelope Valley Groundwater Agreement Association ("AGWA") was prepared to file a response
7 to the purveyor filing when, on August 14, 2007, plaintiff Willis withdrew her Motion. This
8 withdrawal rendered the purveyor "response" moot, and thereby rendered any further filings also
9 moot since there are currently no operative pleadings before the Court on the subject of class
10 certification.

11 **II. Statement of Support for Plaintiff Willis' Withdrawal of**
12 **Motion for Class Certification**

13 AGWA supports plaintiff Willis' withdrawal of her Motion for Class Certification for all the
14 reasons articulated in the withdrawal. In particular, the withdrawal of the Motion describes the
15 arguments made by the purveyors to the effect that there is no practical way to distinguish pumpers
16 from non-pumpers. Both plaintiff Willis and the purveyors also acknowledge the inherent legal
17 conflict that exists between pumpers and non-pumpers. AGWA believes this conflict is a present
18 conflict that will manifest itself as soon as the parties enter into settlement negotiations, which Los
19 Angeles County Waterworks has requested be made mandatory for all parties. If the purveyors are
20 correct that there is no ascertainable way to distinguish pumpers from non-pumpers, then class
21 certification creates an immediate ethical conflict for plaintiff Willis' attorneys.

22 AGWA also agrees with plaintiff Willis that the various landowners lack a well defined
23 community of interest. LA County argues that all landowners share certain common interests. These
24 interests include: the use of the same groundwater supply (LA County Filing 3:12-23); the amount of
25 the yield¹ of the Basin (LA County Filing 3:25-4:17); the prevention of further subsidence (LA
26 County Filing 4:19-5:1); and the reliance on imported water (LA County Filing 5:3-5:12).

27 ¹ LA County uses the pretext of its filing to attempt to present "evidence" of the yield of the Basin.
28 The filing actually constitutes a misrepresentation of the technical work of the LA County expert Mr.

1 The reality is that these are the interests of every single party in this litigation, and in fact are
2 the interests of every single person in the Antelope Valley. They are meaningless generalities that do
3 not support the argument that a well defined community of interest exists.

4 The one issue which LA County mentions in its introduction, but then does not attempt to
5 articulate in any kind of detail is the, "... predominate common issue of whether public water
6 suppliers acquired prescriptive rights to basin water." (LA County Filing, 1:13-14.) The reason this
7 issue does not receive any further description other than in the introduction is that, while it is a
8 common issue to both pumpers and non-pumpers, the interest that both groups have in the issue are
9 fundamentally in conflict because of the application of the self-help doctrine.

10 **III. Joinder in Objections by Diamond Farming Company**

11 AGWA also joins in the objections filed by Diamond Farming Company to the untimely
12 filing of the municipal purveyors "response" to plaintiff Willis' Motion and to the Declaration of
13 Joseph Scalmanini.

14
15
16 Dated: August 15, 2007

HATCH & PARENT, A LAW CORPORATION

17
18
19 BY: 

MICHAEL T. FIFE
BRADLEY J. HERREMA
ATTORNEYS FOR AGWA

20
21
22
23
24 Scalmanini. The filing says that, "... the average natural yield for the Antelope Valley is between
25 40,000 acre feet annually ("afy") and 75,000 afy." The filing cites to paragraph 11 of the Scalmanini
26 Declaration in support of this assertion. But in paragraph 11 of the Declaration, Mr. Scalmanini
27 identifies the 40,000 to 75,000 afy range as the range of the, "... total average runoff" (Declaration 5:23.) Paragraph 11 goes on to specifically say that, "... **those numbers should not be**
28 **interpreted as the yield of the basin**" (Declaration 5:24.) In fact, at least one estimate under
consideration by the technical committee identifies the yield of the Basin at well over 100,000 afy –
a much more reasonable estimate given the sheer size of the Basin.

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 East Carrillo Street, Santa Barbara, California 93101.

On August 15, 2007, I served the foregoing document described as:

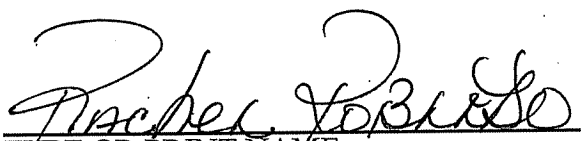
STATEMENT OF CLARIFICATION; STATEMENT OF SUPPORT FOR PLAINTIFF WILLIS' WITHDRAWAL OF MOTION FOR CLASS CERTIFICATION; JOINDER IN OBJECTIONS BY DIAMOND FARMING COMPANY

on the interested parties in this action.

X By sending an electronic copy to the court to be filed. The filing will be posted to the courts website. All parties will receive an electronic copy via e-mail from the court. The electronic filing was transmitted at 2:45 p.m. a.m. on August 15, 2007. The electronic transmission was reported as complete and without error.

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

Executed at Santa Barbara, California, on August 15, 2007.


TYPE OR PRINT NAME


SIGNATURE