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Attorneys for Cross-complainants

LITTLEROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT, and
Defendants NORTH EDWARDS WATER DISTRICT, DESERT LAKE COMMUNITY SERVICES
DISTRICT, LLANO DEL RIO WATER CO., LLANO MUTUAL WATER CO., BIG ROCK MUTUAL
WATER CO.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

Coordinated Proceeding
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER
CASES

Included Actions:

Los Angeles County Waterworks District No. 40
v. Diamond Farming Co. Los Angeles County
Superior Court Case No. BC 325201;

Los Angeles County Waterworks District No. 40
v. Diamond Farming Co., Kern County Superior
Court, Case No. S-1500-CV-234348;

Wm. Bolthouse Farms, Inc. v. City of Lancaster
Diamond Farming Co. v. City of Lancaster v.
Palmdale Water District, Riverside County
Superior Court, Consolidated Actions, Case Nos.
RIC 353840, RIC 344436, RIC 344668

AND RELATED CROSS-ACTIONS

Judicial Council Coordination No. 4408

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar – Dept. 12

**EX PARTE APPLICATION FOR
CONTINUANCE OF HEARING ON MOTION
FOR ATTORNEYS' FEES AND COSTS AND
THE DEADLINE ON THE OPPOSITION
THERETO; MEMORANDUM OF POINTS
AND AUTHORITIES; DECLARATION OF
CHRISTINE CARSON**

[Filed With [Proposed] Order]

DATE: Feb. 24, 2016
TIME: 9:00 a.m.
DEPT.: Telephonic Only (Dept. 12)

1 TO: All parties and their counsel of record:

2 **PLEASE TAKE NOTICE** that LITTLE ROCK CREEK IRRIGATION DISTRICT, PALM RANCH
3 IRRIGATION DISTRICT, NORTH EDWARDS WATER DISTRICT, and DESERT LAKE
4 COMMUNITY SERVICES DISTRICT (“Small Districts”) will appear ex parte on February 24, 2016 at
5 9:00 a.m. for a continuance of the hearing on the Wood Class motion for attorneys’ fees and a continuance
6 of the Opposition to the Wood Class motion for attorneys’ fees. Such appearance will be telephonic, and
7 parties planning to attend should arrange telephonic appearance through courtcall.com. The appearance
8 will be before Judge Komar assigned to Department 12 of the above referenced court at 191 North First
9 Street San Jose, CA 95113. However, all appearances for the ex parte shall be telephonic.

10 Small Districts’ ex parte application seeks a 60 day continuance of the March 21, 2016 hearing on
11 the Wood Class’ motion for attorneys’ fees and costs, and a 60 day continuance of the March 1, 2016
12 deadline on filing an Opposition to such motion, or such other continuance as the court deems appropriate.

13 Small Districts seek a continuance on the grounds the moving papers are voluminous
14 (approximately 484 pages of moving papers), and additional time is needed to prepare an Opposition. In
15 addition, the Motion for Attorneys’ Fees has been filed against eight parties, and additional time is needed
16 to coordinate party declarations and counsel Oppositions in order to prepare a meaningful response. This
17 ex parte application is based on this application, the Declaration of Christine Carson, the [Proposed] Order,
18 and the memorandum of points and authorities, Cal. Rules of Court, Rule 3.1200, et seq.

19 Before 10 am the day before the ex parte appearance, counsel for LITTLE ROCK CREEK
20 IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT, NORTH EDWARDS WATER
21 DISTRICT, DESERT LAKE COMMUNITY SERVICES DISTRICT, LLANO DEL RIO WATER CO.,
22 LLANO MUTUAL WATER CO., and BIG ROCK MUTUAL WATER COMPANY gave notice of the
23 ex parte, time, date, location, and relief sought to all counsel in this case by posting the ex parte notice to
24 the website <http://www.scefiling.org>, a dedicated link to the Antelope Valley Groundwater Cases, and
25 upon which the parties have agreed this posting constitutes service. By electronically serving through
26 <http://www.scefiling.org>, and addressed to all parties appearing on the <http://www.scefiling.org> electronic
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27 **EX PARTE APPLICATION FOR CONTINUANCE OF HEARING ON MOTION FOR ATTORNEYS’ FEES AND**
28 **COSTS AND THE DEADLINE ON THE OPPOSITION THERETO; MEMORANDUM OF POINTS AND**
AUTHORITIES; DECLARATION OF CHRISTINE CARSON

1 service list, the file transmission was reported as complete and a copy of the <http://www.scefiling.org>
2 Filing/Service Receipt will be maintained with a copy of the document in our office. A true and correct
3 copy of the ex parte notice is attached to the Declaration of Christine Carson as Exhibit "A" and
4 incorporated herein as if set forth in full.

5 The request must be heard on shortened notice because the court-ordered opposition deadline is
6 March 1, 2016.

7 As of the time of execution of this document, we were only contacted by the following individuals:
8 Mr. McLachlan stated he opposes the relief requested. Mr. Dunn and Mr. Bunn indicated they do not
9 oppose the relief requested, and Mr. Dunn is making a similar request. Mr. Bunn said he will appear
10 telephonically. Mr. Weeks and Mr. Tootle stated they do not oppose the relief requested and will join in
11 the request.

12 The website for this case contains a list of parties; a true and correct copy of that document is
13 attached to the Declaration of Christine Carson as Exhibit "B."

14 DATED: February 23, 2016

Respectfully submitted,

15
16 LEMIEUX & O'NEILL

17 By: */s/ W Keith Lemieux*

18 W. KEITH LEMIEUX
CHRISTINE CARSON
19 Attorneys for LITTLE ROCK CREEK IRRIGATION
DISTRICT, PALM RANCH IRRIGATION DISTRICT,
20 and NORTH EDWARDS WATER DISTRICT, DESERT
LAKE COMMUNITY SERVICES DISTRICT, LLANO
21 DEL RIO WATER CO., LLANO MUTUAL WATER
CO., BIG ROCK MUTUAL WATER CO
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. A CONTINUANCE MAY BE GRANTED ON A PROPER SHOWING OF GOOD**
3 **CAUSE**

4 Continuances may be granted in the court's discretion on a proper showing of good cause. The
5 Court may consider whether the interests of justice are best served by a continuance, and may consider
6 any other fact or circumstance relevant to a fair determination of the motion. "The trial judge must exercise
7 his discretion with due regard to all interests involved, and the refusal of a continuance which has the
8 practical effect of denying the applicant a fair hearing is reversible error." (*In re Marriage of Hoffmeister*
9 (1984) 161 Cal. App.3d 1163, 1169.) Trial courts are encouraged to "accommodate" counsel in granting
10 continuances whenever it is not "impractical" to do so. (*Pham v. Thi Nguven* (1997) 54 Cal.App.4th 11,
11 16.)

12 A continuance should be granted if failure to allow the continuance would probably or possibly
13 prejudice the party seeking the continuance by depriving that party of the opportunity to fully and fairly
14 present its case. (*Cadle Co. v. WorldWide Hospitality Furniture* (2006) 144 Cal.App.4th 504, 513-515; *In*
15 *re: Dolly A.* (1986) 177 Cal.App.3d 195, 199, 201; *Cohen v. Herbert* (1960) 186 Cal.App.2d 488, 494.)

16 On or about January 27, 2016, attorneys for the Wood Class filed a motion for attorneys' fees and
17 costs against California Water Service Company, Desert Lake Community Services District, Littlerock
18 Creek Irrigation District, Los Angeles Waterworks District No. 40, North Edwards Water District, Palm
19 Ranch Irrigation District, Quartz Hill Water District, and the City of Palmdale. The hearing on the motion
20 is set for March 21, 2016, and the deadline for Oppositions was set by the court for March 1, 2016. The
21 Wood Class motion requests \$3,348,160 plus a 2.5 multiplier, a \$25,000 monetary payment and costs of
22 \$75,242.06. (Carson Declaration ¶¶ 3-4.)

23 Additional time is needed to respond to the voluminous Motion for Attorneys' Fees and the
24 declarations of Michael D. McLachlan, Daniel M. O'Leary, Richard M. Pearl, Richard A. Wood, and
25 David B. Zlotnick. The Wood Class filed approximately 484 pages of moving papers. In addition, the

1 Opposition papers must be coordinated between the attorneys for eight (8) water purveyors and each of
2 their respective clients. It is crucial that the Small Districts have adequate time to prepare their
3 oppositions, as the amount of attorneys' fees and costs requested in the motion greatly exceeds the
4 combined operating budgets of the Small Districts. (Carson Declaration ¶ 5.)

5 Initially, Mr. McLachlan, counsel for the Wood Class, had told another PWS counsel he was open
6 to a continuance of the hearing and Opposition deadlines. However, on February 19, 2016, he indicated
7 he was reluctant to stipulate to a continuance, but would respond to the request by the morning of February
8 22, 106. On February 22, 2016, he responded with the email attached to the Declaration of Christine
9 Carson as Exhibit "C" indicating he would not stipulate to any continuance. Accordingly, ex parte notice
10 was given before 10 a.m. the day before the ex parte appearance to all parties. (Exh. A to the Carson
11 Declaration.)

12 The request must be heard on shortened notice because the court-ordered opposition deadline is
13 March 1, 2016. (Carson Declaration ¶ 8.)

14 II. CONCLUSION

15 Based on the above, it is respectfully requested the ex parte application and continuance of the
16 hearing date and Opposition deadline be granted.

17 DATED: February 23, 2016

LEMIEUX & O'NEILL

19 /s/ W Keith Lemieux

By: _____

20 W. KEITH LEMIEUX

21 CHRISTINE CARSON

22 Attorneys for LITTLEROCK CREEK IRRIGATION
23 DISTRICT, PALM RANCH IRRIGATION DISTRICT, and
24 NORTH EDWARDS WATER DISTRICT, DESERT LAKE
25 COMMUNITY SERVICES DISTRICT, LLANO DEL RIO
26 WATER CO., LLANO MUTUAL WATER CO., BIG
27 ROCK MUTUAL WATER CO.

1 **DECLARATION OF CHRISTINE CARSON RE: NOTICE AND IN SUPPORT OF**
2 **EX PARTE APPLICATION FOR A CONTINUANCE OF THE HEARING ON**
3 **THE WOOD CLASS' MOTION FOR ATTORNEYS' FEES AND COSTS, AND THE**
4 **DEADLINE ON THE OPPOSITION THERETO**

I, Christine Carson, hereby declare:

5 1. I am an attorney at law duly licensed to practice before all of the courts of the State of
6 California, and an attorney with the firm of Lemieux & O'Neill, District counsel for LITTLE ROCK
7 CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT, NORTH EDWARDS
8 WATER DISTRICT, and DESERT LAKE COMMUNITY SERVICES DISTRICT (hereafter "Small
9 Districts"), and LLANO DEL RIO WATER CO., LLANO MUTUAL WATER CO., BIG ROCK
10 MUTUAL WATER CO in the above-entitled action. I have personal knowledge of the following facts,
11 and if called as a witness, I could and would competently testify to the following.

12 2. Attached hereto as **Exhibit "A"** is a true and correct copy of ex parte notice I gave on
13 February 23, 2016 before 10:00 a.m. concerning the fact that the ex parte relief described herein would be
14 sought on February 24, 2016 at 9:00 a.m. via telephonic ex parte appearance in the above-referenced court.
15 I indicated parties could arrange appearances via court call. At the time of execution of this declaration,
16 I did not yet know whether any parties would appear at the hearing to oppose the ex parte request except
17 the following individuals contacted me: Mr. McLachlan stated he opposes the relief requested. Mr. Dunn
18 and Mr. Bunn indicated they do not oppose the relief requested. Mr. Bunn said he will appear
19 telephonically. Mr. Weeks and Mr. Tootle stated they do not oppose the relief requested and join in the
20 request.

21 3. On or about January 27, 2016, attorneys' for the Wood Class filed a motion for attorneys'
22 fees and costs against California Water Service Company, Desert Lake Community Services District,
23 Littlerock Creek Irrigation District, Los Angeles Waterworks District No. 40, North Edwards Water
24 District, Palm Ranch Irrigation District, Quartz Hill Water District, and the City of Palmdale.

1 4. The hearing on the motion is set for March 21, 2016, and the deadline for Oppositions was
2 set by the court for March 1, 2016. The Wood Class motion states the Wood Class requests \$3,348,160
3 plus a 2.5 multiplier, a \$25,000 monetary payment and costs of \$75,242.06.

4 5. Additional time is needed to respond to the voluminous Motion for Attorneys' Fees and
5 the declarations of Michael D. McLachlan, Daniel M. O'Leary, Richard M. Pearl, Richard A. Wood, and
6 David B. Zlotnick with exhibits. The Wood Class filed approximately 484 pages of moving papers which
7 includes declarations and exhibits. In addition, the Opposition papers must be coordinated between the
8 attorneys for eight (8) water purveyors and each of their respective clients. It is crucial that the Small
9 Districts have adequate time to prepare their oppositions, as the amount of attorneys' fees and costs
10 requested in the motion exceeds the combined operating budgets of the Small Districts. In addition, a
11 party witness is unavailable, necessitating a continuance. If the responding parties do not have the
12 additional time to coordinate and prepare an Opposition, this will have the practical effect of denying an
13 adequate opportunity to respond and prejudicing the responding parties.

14 6. The designated website for this case lists the parties. I downloaded a true and correct copy
15 of such pages, a true and correct copy of such pages are attached hereto as **Exhibit "B."**

16 7. I spoke to Mr. McLachlan on February 19, 2016 to ascertain whether he would stipulate to
17 a continuance of the hearing and Opposition deadlines. On February 19, 2016, Mr. McLachlan indicated
18 he was reluctant to stipulate to a continuance, but would respond to the request for a stipulation by the
19 morning of February 22, 106. On February 22, 2016, he responded with the email, a true and correct
20 copy of which is attached as **Exhibit "C."**

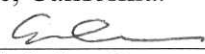
21 8. The request must be heard on shortened notice because the court-ordered opposition
22 deadline is March 1, 2016.

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

25 Executed this 23rd day of February, 2016, in Westlake Village, California.

26 exparteContinuanceFeeHearing

- 7 -


Christine Carson

1 STATE OF CALIFORNIA,)
2) ss.
3 COUNTY OF VENTURA)

4 I am employed in the County of Ventura, State of California. I am over the age of 18 and not a
5 party to the within action. My business address is 4165 E. Thousand Oaks Blvd., Suite 350, Westlake
6 Village, California 91362.

7 On **February 23, 2016**, I posted the attached document(s) to the website <http://www.scefiling.org>,
8 a dedicated link to the Antelope Valley Groundwater Cases, and upon which the parties have agreed this
9 posting constitutes service.

10 By electronically serving through <http://www.scefiling.org>, and addressed to all parties appearing
11 on the <http://www.scefiling.org> electronic service list, the file transmission was reported as complete and
12 a copy of the <http://www.scefiling.org> Filing/Service Receipt will be maintained with a copy of the
13 document in our office.

14 I am readily familiar with the business practice for collection and processing of pleadings and
15 discovery for electronic service with <http://www.scefiling.org>, and that the pleadings and discovery shall
16 be electronically served this same day in the ordinary course of business.

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

19 Executed on February 23, 2016, in Westlake Village, California.

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Kathi Miers