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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

**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

ASSIGNED FOR ALL PURPOSES TO:
Judge: Honorable Jack Komar

**CASE MANAGEMENT CONFERENCE
STATEMENT**

General Civil Case
Date: February 17, 2005
Time: 9:00 a.m.
Dept.: 1, Room, 534

1 Pursuant to the Court’s Order issued following the December 2, 2005 Case Management
2 Conference and Hearing, County Sanitation Districts Nos. 14 and 20 of Los Angeles County (the
3 “Districts”), respectfully submit this memorandum outlining the Districts’ issues and providing a
4 methodology to address those issues. This action seeks a judicial determination of all rights to
5 groundwater within the Antelope Valley Groundwater Basin (“Basin”), and has been coordinated
6 with several other actions as Judicial Council Coordination Proceeding No. 4408.

7 This case presents a unique set of issues that have not previously been addressed by
8 California courts. The Districts operate wastewater treatment facilities in the Antelope Valley
9 and on behalf of their rate-paying customers seek to protect the Districts’ rights to retain control
10 over the disposition of their reclaimed water and to ensure protection of their rights to pump
11 groundwater for use on their overlying property. Unlike most of the other public entities in this
12 case, the Districts are overlying property owners and are not appropriators. Districts 14 and 20
13 have acquired or are in the process of acquiring approximately 10,000 acres for agricultural
14 operations. For that reason the Districts are also aligned with other overlying property owners in
15 the Basin. As public agencies, the Districts are concerned not only with the ultimate costs to its
16 ratepayers, but are also concerned with ensuring a permanent and sustainable resolution to the
17 problems of the Basin. To reach such a resolution, the Districts have met with several parties in
18 an effort to develop an efficient process in this case.

19 The Districts currently contribute approximately 21 million gallons per day (“mgd”)
20 (23,000 acre-feet per year) to the water supply of the Basin. District 20 primarily sells its
21 reclaimed water for direct reuse for irrigation purposes, and District 14 currently applies much of
22 its reclaimed water to habitat and wetlands maintenance. District 20 intends to pump a portion
23 of the reclaimed water that has reached the Basin as part of a water quality remediation program
24 pursuant to orders from the Regional Water Quality Control Board – Lahontan Region
25 (“RWQCB”).

26 The Districts have funded and continue to fund valuable and costly capital improvements
27 and treatment processes beyond those required by the regulations in order to increase capacity
28 and to make higher quality recycled water available to users in the arid Antelope Valley. The

Districts expect to charge reasonable rates for the sale of this reclaimed water in order to offset a portion of their costs. The Districts have also funded initial groundwater extraction and treatment efforts, under orders from the RWQCB, to remediate problems from past reclaimed water management activities.

With this background in mind, the Districts believe the following factual and legal issues should be addressed first by the court in order to ensure an efficient determination of groundwater rights to the Antelope Valley Basin.

I. Factual Issues

A Description of the Groundwater Basin

The determination of the groundwater Basin should be the first step the court takes in this adjudication process in order to identify and properly serve all parties necessary for a proper Basin adjudication. It is the Districts' understanding that most, if not all, of the work to determine the definition of the Basin may have been completed in the preceding Riverside action. The parties to this coordination proceeding should be given the opportunity to review the existing material and apply it to this proceeding, if applicable.

B. Safe Yield of the Basin and Historical Pumping Records

After a determination of the Basin's boundaries and all parties claiming an interest in or to the Basin are joined, the court should make a ruling recognizing the doctrine of self help. The court should then determine the safe yield of the Basin. During the determination of safe yield, the historical pumping records should be evaluated so that the Court may determine whether there is any surplus water subject to appropriation and whether there is any water subject to prescription.

II Legal Issues

A. California Water Code Section 1210 Gives the Districts Exclusive Rights to its Reclaimed Water

California Water Code section 1210 makes clear on its face that exclusive rights to the reclaimed water belongs to the treatment plant owner, regardless of the source of the water.

Recognition of this issue at an early stage would help pave the way for settlement discussion to proceed in earnest.

B. Self Help

The doctrine of self help allows overlying pumpers to protect their water rights and priorities and to prevent prescription by continuing to pump. Recognition of the doctrine of self help will allow the overlying owners to protect their water rights and priorities by continuing to pump during any conditions of overdraft, thus preventing the acquisition of prescriptive rights by the appropriators. It is the understanding of the Districts that evidence presented in the preceding Riverside action showed that the entire safe yield of the basin has been protected by the use of self help by the overlying entities, making the issue of prescription moot because there are no rights to prescribe against.

C. Prescription

Should the court decide that the possibility of prescription exists, the court must address the legal standards necessary for prescription.

D. California Civil Code Section 1007 Precludes Prescription Against a Public Entity

Such as the Districts

Should the court determine that the potential for prescription exists, the Districts wish to ensure that no claims for prescription exist against properties of the Districts.

III. Methodology and Process

The Districts believe that the methodology to handle this case should begin with the factual issue of Basin boundaries, followed by legal determinations including the recognition of self help, followed by a determination of safe yield and historical pumping amounts.

IV. Common Interest Groups

As noted above, the Districts are in the unique position of having overlying water rights while also being public entities with issues similar to the public entity appropriators. Because of this, the Districts have met with numerous parties to discuss the areas of common interest and

1 ways in which resolution may be achieved. The Districts have yet to formally align themselves
2 with any of the common interest groups, but the Districts will endeavor to continue the efforts to
3 seek common ground with all other parties to efficiently proceed with this litigation.
4

5 Dated: January 17, 2005

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I declare that:

On January 17, 2006, I served the County Sanitation Districts' *Case Management Conference Statement* by electronic posting to the Santa Clara Superior Court E-Filing website, <http://www.scefiling.org/cases/casehome.jsp?caseId=19>, and by electronic mail to the parties' email addresses shown below.

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