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Government Code § 6103

Attorneys for Defendant/Cross-Complainant and
Cross-Defendant CITY OF LANCASTER

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11 **ANTELOPE VALLEY GROUNDWATER
12 CASES**

13 Included Actions:

14 Los Angeles County Waterworks District
15 No. 40 v. Diamond Farming Co.
Superior Court of California, County of
Los Angeles, Case No. BC325201;

16 Los Angeles County Waterworks District
17 No. 40 v. Diamond Farming Co.
Superior Court of California, County of Kern,
Case No. S-1500-CV-254-348

18 Wm. Bolthouse Farms, Inc. v. City of
19 Lancaster, Diamond Farming Co. v. City of
20 Lancaster, Diamond Farming Co. v. Palmdale
Water Dist., Superior Court of California
21 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

**CASE MANAGEMENT PROPOSAL
OF THE CITY OF LANCASTER,
PALMDALE WATER DISTRICT AND
QUARTZ HILL WATER DISTRICT**

DATE: May 5, 2008
TIME: 9:00 a.m.
DEPT: 1

1 The Defendant, Cross-Complainant and Cross-Defendant City of Lancaster (“Lancaster”)
2 makes the following Case Management Proposal, which is joined by Palmdale Water District and
3 Quartz Hill Water District:
4

5 **I. THE COURT SHOULD SCHEDULE THE NEXT PHASE OF TRIAL.**

6 The current economic downturn has significantly impacted new housing and commercial
7 development in the Antelope Valley. Before this downturn, however, lack of a reliable water supply
8 impacted the viability of a number of proposed new developments, both residential and commercial.
9 That lack of certainty concerning water supply will continue to negatively impact development and
10 the economy in the Antelope Valley regardless of overall economic conditions until the adjudication is
11 resolved, either by way of a Court imposed judgment and/or negotiated settlement.
12

13 While the Court has been reluctant to schedule subsequent phases of the trial until the “class”
14 issues are resolved and the case is “at-issue,” certain phases of the trial can be litigated now even
15 though certain small pumpers are not represented in the proceeding at this time. For example, as
16 stated in the Case Management Statement filed by Plaintiff Rebecca Willis: “Given the fact that a
17 number of pumpers are already vigorously litigating their rights, the Court could proceed without the
18 small pumper group, with a reasonable degree of certainty that their interests will effectively be
19 decided by the resolution of the claims asserted by other pumpers. The practical reality is that the
20 small pumper group can be brought into the litigation at a later stage and their exclusion at this point
21 should not preclude the adjudication from moving forward.” (Willis CMC 3:18-23.) Lancaster
22 agrees.
23

24 **A. Proposed Trial Phasing.**

25 1. A trial to determine the yield of the Basin, overdraft, and other information
26 about the hydrogeological “character” of the Basin should be calendared. There is almost full
27 agreement among the parties that these issues need to be tried now, as a determination of the Basin
28 yield, overdraft and related issues is critical to both any final judgment, as well as the cornerstone of

1 any negotiated settlement. Lancaster proposes to try issues related to the Basin yield within the next
2 three to six months, as the experts for the parties have thoroughly investigated these issues and, with
3 the exception of expert depositions, no further discovery will be required to litigate these issues.
4

5 2. Some of the parties, and a particular, certain overlying owners, request the
6 next phase of the trial also include resolution of all claims of prescription. As opposed to trying
7 issues regarding Basin yield, more extensive discovery will be required before issues relating to
8 prescription can be tried. Lancaster therefore proposes that the Court set a date certain approximately
9 six months after the date set for the trial of Basin yield related issues to try all elements of prescription
10 (notice, adversity, etc.), excluding the defense of self-help. The reason for excluding the defense of
11 self-help from this next phase of the trial is threefold. First and foremost, the existing parties to this
12 litigation can adequately represent the interests of non-party small pumpers at this time as to issues
13 regarding the yield of the Basin and general elements of prescription. The defense of self-help,
14 however, is unique as to each party and therefore the interests of the small pumpers must be
15 represented when that issue is ultimately tried, if at all. Second, it would be a waste of judicial
16 resources and attorney time to conduct discovery in and present evidence regarding self-help unless
17 the purveyors prevail and establish prescriptive rights for specified years against the identified
18 landowners. Third and finally, given the enormous number of Antelope Valley landowners, proof of
19 self-help could add months of percipient witness testimony to the trial.
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1 **II. CONCLUSION**

2 For the reasons set forth above, Lancaster, Palmdale Water District and Quartz Hill Water
3 District respectfully requests the Court bifurcate prescription - related issues, with the yield of the
4 Basin and other information about its character set for trial in approximately three to six months,
5 followed by a trial on all elements of prescription, excluding self-help, approximately six months
6 thereafter. This proposal gives all parties sufficient time to conduct discovery and prepare for trial.
7 This proposal protects all small pumpers who are not parties to the litigation at this time.

8
9 DATED: May 1, 2008

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

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11 By: 

12 Douglas J. Evertz, Attorneys for Defendant/
13 Cross-Complainant and Cross-Defendant
14 CITY OF LANCASTER
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1 **PROOF OF SERVICE**

2 **ANTELOPE VALLEY GROUNDWATER CASES**
3 Judicial Council Coordination, Proceeding No. 4408

4 Santa Clara Case No. 1-05-CV 049053
5 Assigned to the Honorable Jack Komar
6 Los Angeles County Superior Court, Central, Dept. 1

7 I am a resident of the State of California, over 18 years of age and not a party to this action. I
8 am employed in the County of Orange, State of California. My business address is 2050 Main Street,
9 Suite 600, Irvine, California 92614. On May 1, 2008, I served the within document(s):

10 **CASE MANAGEMENT PROPOSAL OF THE**
11 **CITY OF LANCASTER, PALMDALE WATER DISTRICT**
12 **AND QUARTZ HILL WATER DISTRICT**

13 ☒ by posting the document(s) listed above to the website <http://www.scefiling.org>, a
14 dedicated link to the Antelope Valley Groundwater Cases; Santa Clara Case
15 No. 1-05-CV 049053, Assigned to the Honorable Jack Komar, said document(s) is
16 electronically served/distributed therewith.

17 ☐ By transmitting via e-mail the document(s) listed above to the e-mail address(es) and/or
18 fax number(s) set forth below on this date.

19 ☐ by placing the document(s) listed above in a sealed Overnight Express envelope/package for
20 overnight delivery at Irvine, California addressed as set forth below.

21 ☐ by causing personal delivery by Nationwide Legal of the document(s) listed above, to the
22 person(s) at the address(es) set forth below.

23 I am readily familiar with Luce, Forward, Hamilton & Scripps LLP's practice for collecting and
24 processing correspondence for mailing. Under that practice it would be deposited with the U.S.
25 Postal Service on the same day that the correspondence is placed for collection and mailing, it is
26 deposited in the ordinary course of business with the United States Postal Service, in a sealed
27 envelope with postage fully prepaid.

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

Executed on May 1, 2008, at Irvine, California.


LORIN MORENO