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COUNTY WATERWORKS DISTRICT NO. 40

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

**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 325201;

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, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

**CLASS ACTION**

Santa Clara Case No. 1-05-CV-049053  
Assigned to The Honorable Jack Komar

**PUBLIC WATER SUPPLIERS'  
OPPOSITION TO MOTION TO CERTIFY  
CLASS ACTION COMPLAINT**

Date: August 11, 2008

Time: 9:00 a.m.

Dept: 1

1 White Fence Farms Mutual Water Co.,  
2 Inc., El Dorado Mutual Water Co., West  
3 Side park Mutual Water Co., Shadow  
4 Acres Mutual Water Co., Antelope Park  
5 Mutual Water Co., Averydale Mutual  
6 Water Co., Sundale Mutual Water Co.,  
7 Evergreen Mutual Water Co., Aqua J  
8 Mutual Water Co., Bleigh Flat Mutual  
9 Water Co., Colorado Mutual Water Co.,  
10 Sunnyside Farms Mutual Water Co., Land  
11 Projects Mutual Water Co., and Tierra  
12 Bonita Mutual Water Co.; collectively  
13 known as A.V. United Mutual Group,

14 Cross-Complainants,

15 v.

16 California Water Service Company; City of  
17 Lancaster; City of Palmdale; Littlerock  
18 Creek Irrigation District; Los Angeles  
19 County Water Works District No. 40;  
20 Palmdale Water District; Rosamond  
21 Community Services District; Palm Ranch  
22 Irrigation District; and Quartz Hill Water  
23 District; and ZOES 1-200, inclusive,

24 Cross-Defendants.

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I. INTRODUCTION

The Public Water Suppliers do not oppose the certification of the proposed Wood Class. The proposed class definition, however, creates a comprehensiveness issue with the existing Willis Class Certification. One or both of the class definitions should be modified as proposed in the accompanying Public Water Suppliers' Motion to Amend Class Certification Order.

II. PROCEDURAL FACTS

On September 11, 2007, the Court issued its Order Certifying Plaintiff Class for a plaintiffs' class action with Rebecca Lee Willis as the representative of the Class and the law firm of Krause, Kalfayan, Benink & Slavens LLP as counsel for the Class. On May 22, 2008, the Court issued its Order Modifying Class Definition And Allowing Parties To Opt In To The Plaintiff Class ('Order').

On or about June 20, 2008, plaintiff Richard A. Wood filed his "Motion To For Class Certification" for certification of a class of all persons and entities that own real property in the Court's previously-determined Adjudication Area ("Basin") that "have been pumping [groundwater] within the five year period preceding the filing of this action" subject to certain exclusions. Wood filed his class action complaint on June 2, 2008.

III. THE EXISTING WILLIS CLASS DEFINITION, TOGETHER WITH THE PROPOSED WOOD CLASS DEFINITION, OMIT LANDOWNERS FROM EITHER CLASS

As presently certified, the Willis Class generally includes all persons and entities that own real property in the Court's previously-determined Adjudication Area ("Basin") that do not pump groundwater and have not pumped groundwater within the five years preceding January 18, 2006, and generally excludes municipal water customers.

As presently proposed, the Wood Class generally includes all persons and entities that own real property in the Court's previously-determined Adjudication Area ("Basin") that have pumped groundwater within the five years preceding the filing of the action on June 2, 2008.

1 An example may help illustrate the lack of comprehensiveness in the two class definitions.  
2 Assume a landowner does not presently pump groundwater but pumped groundwater at some  
3 time between January 18, 2001, and June 1, 2003. The landowner would not be a member of the  
4 Willis Class because it excludes any landowner that does not pump groundwater and did not  
5 pump at any time from January 18, 2001 to January 18, 2006. The landowner would not be a  
6 member of the Wood Class because it excludes landowners who have not pumped groundwater  
7 from June 2, 2003 to June 2, 2008.

8  
9 III. POTENTIAL MODIFICATION OF THE CLASS DEFINITIONS

10 There are at least two solutions to the comprehensiveness issue created by the two existing  
11 class definitions. One solution is to modify the class definitions for both the Willis and the Wood  
12 Classes as suggested by Bolthouse Properties and Wm Bolthouse Farms (collectively,  
13 “Bolthouse”) in their July 10, 2008 “Objection” to the Wood Class Certification Motion: The  
14 Willis Class to include landowners who have never pumped groundwater; and the Wood Class to  
15 include landowners who have pumped groundwater. As noted by Bolthouse, the approach  
16 achieves comprehensiveness while providing a simple solution to the existing class definition  
17 comprehensiveness issue.

18 Another solution is to retain the existing class definition in the Willis Class Certification  
19 Order but modify certain language in the proposed Wood Class definition as follows: All private  
20 (*i.e.*, non-governmental) persons and entities that own real property within the Basin, as  
21 adjudicated, and that have been pumping on their property within the five year period preceding  
22 *January 18, 2006*. (Emphasis added.) Either solution may be acceptable but the Bolthouse  
23 proposal is preferred for its simplicity.

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1           IV.     THE PROPOSED CLASS DEFINITION SHOULD BE MODIFIED TO  
2                   TO EXCLUDE PERSONS OR ENTITIES THAT FILED PUMPING  
3                   REPORTS WITH THE CALIFORNIA DEPARTMENT OF WATER  
4                   RESOURCES  
5

6           The proposed Wood Class definition “excludes all persons and entities . . . [that own]  
7           property pumping 25 acre-feet per year or more on an average annual basis during the class  
8           period.” The class definition language should be modified to exclude persons and entities that  
9           report pumping of more than 25 acre-feet to the California Department of Water Resources  
10          (“DWR”). As discussed in several hearings before the Court over the last two years, the Water  
11          Code requires certain landowners to report pumping to DWR and they are subject to personal  
12          service as they can be identified in DRW records. To exclude all landowners pumping more than  
13          25 acre-feet per year on an average annual basis during the class period, would create a  
14          comprehensiveness issue and would unnecessarily delay the adjudication proceedings for many  
15          months or even years at enormous costs in order to identify smaller pumpers.

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18        //

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1 IV. CONCLUSION

2 For the all reasons above, the Public Water Suppliers respectfully request that the Court  
3 grant their motion to amend and modify the Willis Class Certification Order as requested herein  
4 and to also modify the proposed definition in the Wood Class Certification motion to generally  
5 include landowners who have pumped.

6  
7  
8 Dated: July 11, 2008

BEST BEST & KRIEGER LLP

9  
10 By 

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DISTRICT and LOS ANGELES  
COUNTY WATERWORKS DISTRICT  
NO. 40

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LAW OFFICES OF  
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**PROOF OF SERVICE**

I, Kerry V. Keefe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 5 Park Plaza, Suite 1500, Irvine, California 92614. On July 11, 2008, I served the within document(s):

**PUBLIC WATER SUPPLIERS' OPPOSITION TO MOTION TO CERTIFY CLASS ACTION COMPLAINT**

- ☒ by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- ☐ by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on July 11, 2008, at Irvine, California.

  
Kerry V. Keefe