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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

**EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103**

Judicial Council Coordination No. 4408

CLASS ACTION

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

CASE MANAGEMENT STATEMENT

Date: January 15, 2010

Time: 9:00 a.m.

Dept.: 1

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1 1. There Has Never Been An *In Rem* Groundwater Adjudication And There Is No
2 Authority To Require One

3 In a joint case management conference statement consisting of approximately nine pages
4 and not one reference to supporting authority, Bolthouse Properties, Diamond Farming Company,
5 AGWA and a few others erroneously claim that this groundwater adjudication cannot be
6 concluded through a case consolidation order in order to manage the resources of the Antelope
7 Valley Basin unless (a) all parties file new pleadings so that each party seeks to establish its water
8 rights priority specifically against every other named party and (b) the case proceed as an in rem
9 case, meaning that every party's involved real estate parcels would need to be specifically
10 described to allow for recording and the binding of successors in interest. Of course what this
11 really would mean is that the litigants who wish to move this case forward and achieve resource
12 protect and preservation, Basin management and certainty concerning water production rights
13 would not be able to do so. A few select overlying parties simply wish to destroy this process so
14 their free and unlimited production of water may continue indefinitely without regard to harming
15 the natural resource vital to hundreds of thousands of persons. The reason why they cite no
16 authority supporting their claim that an in rem action with each litigant directly suing each other
17 litigant is necessary *is because no such authority exists*. Rather, the seminal case *City of*
18 *Pasadena v. City of Alhambra* (1949) 33 Cal. 2d 908 establishes the converse principles that (a) a
19 groundwater basin adjudication may proceed *in personam*, (b) that the Court may enter an order
20 (such as a consolidation order) which establishes that the water rights may be adjudicated *inter se*
21 with the rights of each party established as against all other parties whether or not each party filed
22 charging pleadings against all other parties and (c) that even producers of the groundwater may be
23 omitted from the proceedings if the amount which they produce is not material to establishing
24 effective management of the resource. Specifically, the California Supreme Court made the
25 following pertinent statement in *Pasadena v. Alhambra, supra*, at pages 919-920:

26
27 "Appellant claims that the trial court improperly enlarged the scope of the
28 proceedings. In response to a request of the referee for instructions, the court,

1 after a hearing, ruled that the issues should 'embrace an adjudication of rights of
2 the defendants inter se and the rights of each and every party as against each and
3 every other party.' Although the answers of the respective defendants did not
4 present claims against the other defendants and were not served on them, the
5 action was tried on the theory that these matters were at issue, and the ensuing
6 judgment limiting the amount of water that each could pump was also based on
7 this theory. The trial court has authority, under section 24, to include, in the
8 matters which are to be submitted to the referee and determined by the judgment,
9 any issues necessary to a proper determination of the controversy. (citation
10 omitted) It was within the discretion of the trial court to determine whether it
11 was necessary to adjudicate inter se the amount of water to which each party was
12 entitled, and the record indicates that it would have been impracticable to decide
13 the matter solely between plaintiff and each defendant. Moreover, appellant had
14 ample time to prepare its case after notice of the scope of the proceedings, and
15 there is no basis for any claim that it was misled to its prejudice or that it was
16 denied due process of law.

17 . . .

18 The objection is also made that the court erred in allocating water without the
19 joinder of a number of private users who pumped comparatively small amounts.
20 The referee filed a preliminary report which stated that it would be impracticable
21 to attempt to include all such parties. It recommended, however, that certain
22 named parties who used fairly substantial amount be joined in the action, and the
23 court ordered them brought in over the objections of appellant. No request was
24 made by appellant for the inclusion of any party who had not been joined, and
25 there is no showing that its interest was injuriously affected by the failure to
26 require the joinder of all possible claimants. (citation omitted) The line must be
27 drawn somewhere in order to bring the proceeding within practical bounds, and it
28 would have been impossible to reach a solution of the problems involved and to

1 render a valid judgment if jurisdiction to make an allocation depended upon the
2 joinder of every person having some actual or potential right to the water in the
3 basin and its sources of supply. The persons not made parties are, of course, not
4 bound by the judgment, nor are they injured by the injunction."

5 In this proceeding, the McCarran Amendment and the presence of the United States has
6 led to two plaintiffs' classes that, in effect, include all persons who could claim water rights in the
7 adjudication area. Their rights, as well as those of all the other parties, may be adjudicated and,
8 in fact, must be adjudicated inter se through the use of a consolidation order or other court order
9 to facilitate basin management, all in accordance with the instructive Supreme Court language
10 cited above.

11 There have been over 20 groundwater adjudications in California. None of those prior
12 adjudications was structured as an *in rem* proceeding. To do so now would only further delay
13 these unnecessarily protracted proceedings and cause the groundwater basin further irreparable
14 harm.

15 2. Proposed Case Consolidation Order

16 A proposed case consolidation order has now been posted on the court's website. Parties
17 are invited to submit their comments to legal counsel for the City of Palmdale. In addition, a
18 conference call has been scheduled for January 14. Counsel will report on that conference call at
19 the case management conference. It is expected that a final version of the order will be filed for
20 the court's consideration prior to the next hearing on February 5.

21 3. Remaining Service of Process Upon "Opt outs"

22 Over the last several months, Los Angeles County Waterworks District No. 40 and
23 Rosamond Community Services District have been completing service of process upon all
24 persons "opting out" of the Willis or Wood Classes. The service of process is nearly finished
25 except for service by publication for those persons who could not be personally served. Service
26 by publication should be completed before the end of February 2010.

27 4. Class Settlements

28 As reported in the case management conference statements of both classes, finalizing the

1 settlements has taken longer than anticipated. The parties are working through some final issues
2 and are hopeful that a motion for preliminary approval of the settlement with one or both classes
3 will be on file by the court's next scheduled hearing date on February 5.

4
5
6 Dated: January 13, 2010

BEST BEST & KRIEGER LLP

7
8 By 

9 ERIC L. GARNER
10 JEFFREY V. DUNN
11 STEFANIE D. HEDLUND
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13 ROSAMOND COMMUNITY SERVICES
14 DISTRICT and LOS ANGELES
15 COUNTY WATERWORKS DISTRICT
16 NO. 40
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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 January 13, 2010, I served the within document(s):

CASE MANAGEMENT STATEMENT

- ☒ 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 January 13, 2010, at Irvine, California.


Kerry V. Keefe