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COUNTY WATERWORKS DISTRICT NO. 40

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

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

**CASE MANAGEMENT STATEMENT BY
LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40**

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I. INTRODUCTION

There are two vastly different settlement proposals.

The first is an approved settlement agreement (the "Robie Settlement") with over 73,000 property owners, over 165,000 homeowners and businesses, and it is consistent with stated objectives of the United States who own more than 460 square miles in the Basin. The Los Angeles County Board of Supervisors, the governing body for Los Angeles County Waterworks District No. 40, has approved the Robie Settlement.

Stated simply, there is a settlement that encompasses the vast majority of the private landowners, the public who depend upon a long-term viable water supply, and it is based upon the best available scientific evidence and is thus, acceptable to the federal government operating Edwards Air Force Base, providing a critical economic foundation in the Antelope Valley. Moreover, the Robie Settlement has been approved by other public water suppliers appears and appears acceptable to other parties including the City of Los Angeles.

The second is a proposal, reported by the City of Lancaster, by a relatively few large agricultural property owners and a few local governmental entities who may or may not actually ultimately support such a proposal. Lancaster, and those who filed "joinders," would have the Court erroneously believe they have achieved a comprehensive resolution of the Basin's overdraft conditions.

The settlements could not be more different. The Robie Settlement is based on years of hydrologic study and analysis by leading California groundwater experts. The Lancaster proposal is not. Instead, it is a proposed agreement to continue overdraft pumping and maybe, possibly more than 10 years from now, consider potential solutions to the overdraft. Such a proposal is not and cannot be acceptable to the County of Los Angeles Waterworks District No. 40 who has a legal duty to insure an adequate water supply for the public. For this reason, the Robie Settlement acknowledges the overdraft conditions, allocates water to both public and private parties, and protects all parties from continued depletion of the groundwater supply.

1 **II. MEDIATION WITH JUSTICE ROBIE AND MEDIATION WITH THE PRIVATE**
2 **MEDIATOR**

3 Over the last 10 years, there have been repeated attempts to achieve an overall settlement.
4 None have been successful. There is no question that the largest settlement obstacle is the
5 absence of a court-determined sustainable yield for the Basin.

6 Without the determination of the Basin's yield, all parties do not know how much
7 groundwater is available to safely pump from the Basin, nor can they know how much additional
8 imported water is needed from the State Water Project. Of greater concern and significance to the
9 public, there will be no court protections against continual overdraft pumping because, until the
10 Court first determines how much groundwater can be pumped on a sustainable basis, the Court
11 cannot protect the public by limiting overall groundwater pumping or requiring the replenishment
12 of the Basin with imported water.

13 The Court has made clear on repeated occasions that there should be no further delay, and
14 there will be no further delay of the Phase 3 proceeding to determine yield and overdraft, if any.
15 Continued delay will not lead to a resolution of the Basin's sustainable yield.

16 Los Angeles County Waterworks District No. 40 and many others have participated in
17 numerous protracted settlement attempts since this litigation. For example, years of earlier
18 settlement discussions between public water suppliers and Bolthouse and Diamond Farming,
19 ended with a multi-day day mediation before retired Superior Court Judge LeRoy Simmons. The
20 mediation was unsuccessful and Judge Simmons stated he believed that the Antelope Valley
21 Groundwater Basin would need a basin-wide adjudication of water rights.

22 Once groundwater adjudication proceedings were initiated by public water suppliers,
23 settlement discussions resumed and continued; this time, including large agricultural interests,
24 class representatives, and public water suppliers. The discussions took place over the course of
25 years and included a mediator, Bill Dendy, a respected water engineer. The County of Los
26 Angeles Waterworks District No. 40 paid more than \$100,000 to Mr. Dendy to mediate; no other
27 party contributed, as they had promised, to the mediator costs.

28 During that time, the mediating parties agreed to have their expert witnesses meet and

1 form the "Technical Committee." It met over the course of approximately two years in which
2 parties' experts exchanged data, discussed their analysis and ultimately issued a voluminous
3 report, the "Technical Committee Report," to provide the parties with the necessary information
4 on the Basin's sustainable yield to allow the parties to reach a meaningful settlement that would
5 protect the public's interests.

6 Unfortunately, almost from the moment the Technical Committee Report was made
7 available to the mediating parties, certain parties abandoned the mediation because they would
8 not accept the Technical Committee's findings on the Basin's sustainable yield. They then
9 embarked upon an apparent strategy to delay as long as possible a court determination of the
10 Basin's sustainable yield.

11 Once the Court set the safe yield trial for September and authorized mediation before
12 Court of Appeal Justice Ron Robie, some landowner parties decided to hire their own mediator to
13 achieve a compromise agreement without a sustainable yield number based on scientific
14 evidence. Instead of using best available scientific data, they met and discussed how much longer
15 could they might continue to pump groundwater while reducing as little as possible their pumping
16 over a long period of time.

17 Mediation efforts with Justice Robie proved successful. In 2009, participating parties
18 reached an agreement on key issues and put their settlement on the record at the Court of Appeal,
19 and in June 2010, legal counsel for Los Angeles County Waterworks District No. 40 invited all
20 parties to participate in mediation with Justice Robie. Only one landowner party attended the
21 mediation, while large landowner parties continued their mediation with their private mediator
22 and some public entities.

23 Today, the mediation efforts with Justice Robie have led to an agreement (the Robie
24 Agreement) between the 73,000-member Willis Class, Los Angeles County Waterworks District
25 No. 40 who provides public water to over 165,000 homeowners and business in the Antelope
26 Valley, and other public water suppliers. Already, other parties have acknowledged their
27 approval, acceptance or their support for the Robie Settlement.

28 As for the Waldo process, the County of Los Angeles Waterworks District No. 40

1 informed Mr. Waldo and participating parties that their “kick the can down the road” approach to
2 ignoring or solving the Basin’s overdraft conditions, could never be acceptable because of the
3 duty to provide a long-term viable supply of water to the public. Currently, confidential
4 settlement discussions continue between Los Angeles County Waterworks District No. 40 and
5 other parties.

6
7 **III. NO PARTY HAS FILED A MOTION TO CONTINUE THE TRIAL DATE AND**
8 **THERE IS NO PROPER SHOWING OF GOOD CAUSE TO CONTINUE THE**
9 **TRIAL DATE**

10 “To ensure the prompt disposition of civil cases, the dates assigned for trial are firm. All
11 parties and their counsel must regard the date set for trial as certain.” (C.R.C. 3.1332(c)
12 [“continuances of trial are disfavored.”] Moreover, an affirmative showing of good cause in a
13 noticed motion is required for a trial continuance. (C.R.C. 3.1332.) Lancaster and its joinders do
14 not establish acceptable good cause for a trial continuance. Their settlement process has no
15 bearing on the parties ability to go trial, and the Court has repeatedly and unequivocally indicated
16 that the trial will take place in September, 2010. Indeed, the Court indicated that a potential
17 settlement with the Waldo process would not impact the trial date:

18 “The Court: Okay. I’m assuming that these discussions and these
19 potential settlement if they come to pass will then flow right into
20 the necessity of adjudication?”

21 Mr. Lemieux: Your Honor, this is Keith Lemieux. To my
22 knowledge, the County is not participating. I don’t believe the
23 federal government is participating. So I don’t think anything with
24 this Waldo procedure is going to have any bearing on the trial date.

25 The Court: Well, that’s what I meant. We would then proceed with
26 the trial because that’s going to be an important finding of fact that
27 needs to be made by the court.”

28 (June 14, 2010 CMC at pg. 14:10-21.)

At the last Case Management Conference in Los Angeles, the Court made clear the parties
are to adhere to the court’s scheduled trial date:

“Mr. Lemieux: Good morning, your Honor. My objection is not to
the two-week delay, but to the next one. I’m fairly certain that this

1 is a story that is going to be played out over and over again. And
2 while we all expect some delay in these proceedings, we should
also anticipate this is an endless cycle, and I will object to that.

3 "The Court: I think that's an anticipatory objection. We had our
4 share of delays in this case. You are entitled, more than entitled to.
I'm going to grant this specific request, but bearing in mind that
5 cases that don't have set, firm dates rarely get resolved. I'm going
to admonish counsel to do what you need to do to get this matter in
6 position to either settle or to be tried. I do not want to reset that
trial date."

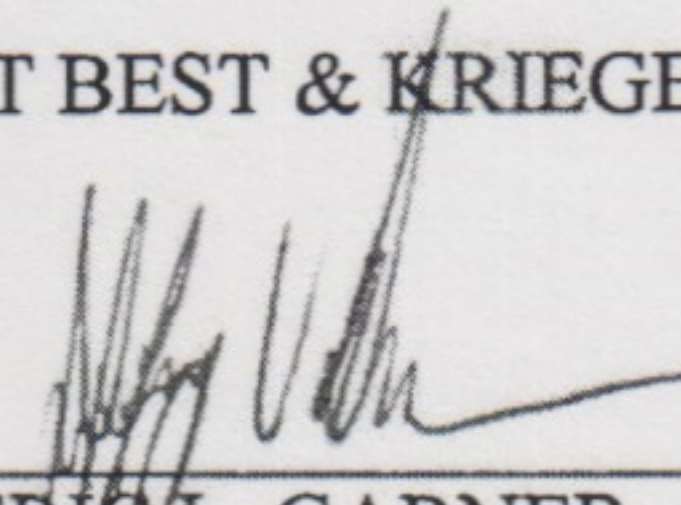
7 (Transcript of May 6, 2010 Hearing at pg. 5:3-17.)
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10 **IV. CONCLUSION**

11 The parties can continue to pursue mediation either with Mr. Waldo or with Justice Robie.
12 As the Court indicated years ago with the previous mediation with Mr. Dendy, the parties cannot
13 be ordered to participate in either mediation. In any event, there is no good cause to delay again
14 the Phase 3 trial proceeding and no reason why mediation cannot continue in the interim.
15

16
17 Dated: July 13, 2010

BEST BEST & KRIEGER LLP

18
19 By 

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JEFFREY V. DUNN
STEFANIE D. HEDLUND
Attorneys for Cross-Complainants
21 ROSAMOND COMMUNITY SERVICES
DISTRICT and LOS ANGELES
22 COUNTY WATERWORKS DISTRICT
23 NO. 40
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DECLARATION OF JEFFREY V. DUNN

I, Jeffrey V. Dunn, declare as follows:

1. I am a California licensed attorney and a partner with Best Best & Krieger LLP, attorneys of record for Rosamond Community Services District and Los Angeles County Waterworks District No. 40. I have personal knowledge of each of fact stated in this declaration.

2. Attached as Exhibit "A" is a true and correct copy of the Reporter's Transcript of Proceedings dated June 14, 2010.

3. Attached as Exhibit "B" is a true and correct copy of the Reporter's Transcript of Proceedings dated May 6, 2010.

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

Dated this 13th day of July, 2010, at Irvine, California.

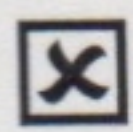
Jeffrey V. Dunn

PROOF OF SERVICE

I, Stefanie D. Hedlund, 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, 400 Capitol Mall, Suite 1650, Sacramento, California 95814. On July 13, 2010, I served the within document(s):

**CASE MANAGEMENT STATEMENT BY LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 AND DECLARATION OF JEFFREY V. DUNN**



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.

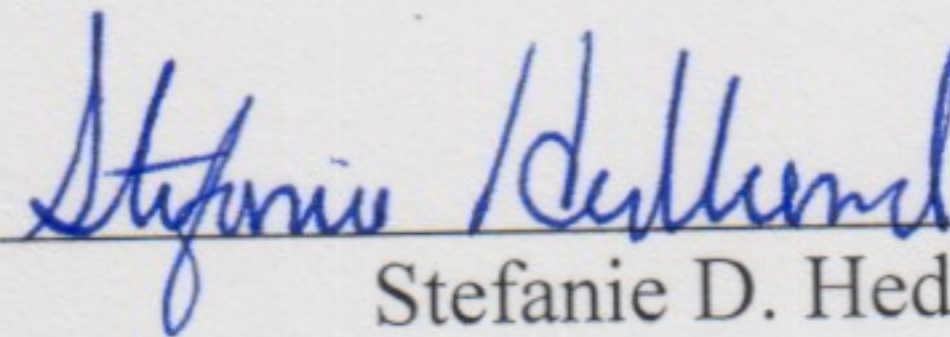


I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.

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 13, 2010, at Truckee, California.



Stefanie D. Hedlund