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LOS ANGELES COUNTY WATERWORKS
6 DISTRICT NO. 40

EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103

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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES – CENTRAL DISTRICT
16

17 **ANTELOPE VALLEY**
18 **GROUNDWATER CASES**

19 Included Actions:
20 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Superior
21 Court of California, County of Los
Angeles, Case No. BC 325201;

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

24 Wm. Bolthouse Farms, Inc. v. City of
25 Lancaster, Diamond Farming Co. v. City of
Lancaster, Diamond Farming Co. v.
26 Palmdale Water Dist., Superior Court of
California, County of Riverside, Case Nos.
27 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' CASE
MANAGEMENT STATEMENT**

Date: January 16, 2013
Time: 9:00 a.m.
Dept.: 1

CASE MANAGEMENT STATEMENT

I. INTRODUCTION

In response to the Court's comments at the last Case Management Conference, the Public Water Suppliers ("PWS") prepared and circulated to all parties a proposed stipulation and declaration. (See attached Exhibit A.) The declaration would be in lieu of the declarant's deposition testimony and eliminate the need to depose the declarant.

On Friday afternoon, the PWS notified the parties to this case that they would be drafting a proposed declaration and stipulation that would obviate the need for depositions. On Monday afternoon, the PWS distributed the stipulation and declaration to all parties to this case.

The declaration asks for basic information regarding the limited scope of issues at the phase 4 trial such as ownership, amount of water pumped, how the party determined the amount pumped, and how it was used. Most parties should be able to quickly and easily complete the declaration. This should obviate the need to take a large number of depositions. Moreover, the declarations will lay the foundation for stipulations as to facts at trial. This process will streamline and simplify the phase 4 trial.

Parties only need to fill out the portions of the declaration that apply to their particular situation. The declaration enables the PWS to obtain additional information that they could normally obtain through depositions, in order to verify claimed pumping amounts.

While the responses to the Court-ordered discovery provide useful information, they do not connect the dots between parties claimed pumping and actual water. For example, the Court-ordered discovery does not address the relationship between irrigated acres and groundwater pumping. It is also important to determine the parcels upon which the water was used versus where the water was pumped, because the water rights belong to the owner of the property where the water was used absent contractual agreement. If this is not taken into account, there is a danger of double-counting. This information is essential to be able to analyze and verify the claimed groundwater use and current pumping.

Once the PWS obtain the information contained in the declarations, they can analyze the water use claimed by the parties and determine if they can enter into a stipulation of facts for

trial. Again, this process will facilitate completing discovery and streamlining the trial.

II. DEPOSITIONS

On January 4, 2013, the landowner parties designated 116 non-expert witnesses and 20 expert witnesses that would testify at the Phase 4 trial. On January 7, the parties met and conferred as ordered by the Court for the purpose of scheduling these depositions which the Court ordered to start three days later on January 10, 2013.

The PWS took the laboring oar to prepare and organize a schedule depositions within the time frame set by the Court. Based upon discovery responses, the PWS decided not to depose all witnesses – that left 100 non-expert witnesses and 20 experts to be deposed in a tight time frame. The PWS also set times for the depositions of the twelve witnesses the PWS designated -- as a convenience for the other parties who were expected to notice these depositions.

The PWS issued deposition notices with a matrix showing the date and time of each deposition. For the convenience of all parties, the depositions were all set at the same location, and with a court reporting service that could accommodate remote video and audio participation in the depositions.

At the January 7 meet and confer, counsel agreed upon a deposition schedule at dates and times. The PWS agreed to modify to schedule to accommodate all scheduling requests made by the landowner parties. Counsel agreed to set the more significant depositions earlier in the schedule.

From the beginning of this process, the PWS have spoken with a number of parties regarding stipulations that would obviate the need to take depositions. The PWS have bent over backward to cooperate with all parties with respect to these depositions and accommodate everyone's calendar. No other party has proposed an alternative deposition schedule or another way to complete discovery. No other party has even noticed any depositions.

III. CONCLUSION

The PWS seek to proceed to trial as soon as possible. The Basin is severely overdrafted

1 and a physical solution is badly needed. Many of the landowners, who pump groundwater for
2 free, have engaged in delay tactics for years and they continue to do so now. The Court should
3 not reward their dilatory and obstructive behavior by continuing the trial. The PWS have
4 suggested an easy way for parties to complete discovery and proceed to the next phase trial on a
5 limited scope of issues on February 11.

6 Dated: January 15, 2013

BEST BEST & KRIEGER LLP

By 

ERIC L. GARNER
JEFFREY V. DUNN
STEFANIE D. HEDLUND
Attorneys for Cross-Complainant
LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40

EXHIBIT “A”

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COUNTY OF LOS ANGELES

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**STIPULATION IN LIEU OF DEPOSITION
TESTIMONY FOR PHASE 4 TRIAL**

STIPULATION

Los Angeles Waterworks District No. 40, City of Palmdale, City of Lancaster, Littlerock Creek Irrigation District, Palm Ranch Irrigation District, Palmdale Water District, Quartz Hill Water District, Rosamond Community Services District, and California Water Service Company (collectively, the "Public Water Suppliers"), and _____ hereby enter into the following stipulation with _____.

Whereas, for purposes of the Phase 4 trial the above parties wish to enter into the following stipulation in lieu of taking depositions;

Whereas, _____ has signed the attached Declaration of _____ under penalty of perjury;

NOW, THEREFORE, in consideration and on the basis of the foregoing recitals, the Public Water Suppliers and _____, enter into the following stipulation:

1. Based on the attached Declaration of _____, the Public Water Suppliers will forego taking the deposition of _____ during discovery for the Phase 4 trial set for February 11, 2013;

2. The attached Declaration may be used in the same manner at trial as a deposition transcript executed under penalty of perjury by _____.

3. The Public Water Suppliers reserve the right to depose _____ during discovery for subsequent trial phases or in the event the Court continues the Phase 4 trial to a date other than February 11, 2013; and

4. The Public Water Suppliers reserve their right to challenge the testimony of _____ at trial.

1 Dated: January __, 2013

BEST BEST & KRIEGER LLP

2
3 By

4 ERIC L. GARNER
5 JEFFREY V. DUNN
6 STEFANIE D. HEDLUND
7 Attorneys for Cross-Complainant
8 LOS ANGELES COUNTY
9 WATERWORKS DISTRICT NO. 40

10 Dated: January __, 2013

11 By

12 JAMES L. MARKMAN
13 STEVEN ORR
14 Attorneys for Cross-Defendant
15 CITY OF PALMDALE

16 Dated: January __, 2013

17 By

18 DOUGLAS J. EVERTZ
19 Attorneys for Cross-Defendant
20 CITY OF LANCASTER AND
21 ROSAMOND COMMUNITY SERVICES
22 DISTRICT

23 Dated: January __, 2013

24 By

25 WAYNE LEMIEUX
26 Attorneys for Cross-Defendant
27 LITTLEROCK CREEK IRRIGATION
28 DISTRICT AND PALM RANCH
IRRIGATION DISTRICT

1 Dated: January __, 2013

2
3 By _____
4 THOMAS BUNN III
5 Attorneys for Cross-Defendant
6 PALMDALE WATER DISTRICT

7
8 Dated: January __, 2013

9
10 By _____
11 BRADLEY T. WEEKS
12 Attorneys for Cross-Defendant
13 QUARTZ HILL WATER DISTRICT

14
15 Dated: January __, 2013

16
17 By _____
18 JOHN TOOTLE
19 Attorneys for Cross-Defendant
20 CALIFORNIA WATER SERVICE
21 COMPANY

22
23 Dated: January __, 2013

24
25 By _____
26
27
28

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CLASS ACTION

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

**DECLARATION OF _____ IN
LIEU OF DEPOSITION TESTIMONY FOR
PHASE 4 TRIAL**

DECLARATION

I, _____, declare:

1. I am _____ for _____, a party to this action. In lieu of deposition testimony for the Phase 4 trial, I am providing this declaration. This declaration applies only to the categories I have filled in. The items left blank or crossed out do not apply to me. I have personal knowledge of each fact herein and would testify competently thereto under oath.

Property Ownership and Parcel Size

2. _____ owns property that overlies the Antelope Valley Area of Adjudication as decided by this Court. The land is in _____ County and is identified by the following APN/APNs:

[If additional room is needed, please identify the APN/APNs in Exhibit A.] A true and correct copy of Exhibit A is attached hereto and incorporated herein.

3. _____ claims groundwater rights only as to the properties listed in Paragraph 2 and Exhibit A.

4. For each APN/APNs identified above, the total acreage by parcel is as follows:

[If additional room is needed, please identify the APN/APNs and parcel size in Exhibit B.] A true and correct copy of Exhibit B is attached hereto and incorporated herein.

5. For each APN/APNs identified above _____ owned the property during the following timer period:

6. The following are all individuals/entities appearing on the title for the above identified APN/APNS from Jan 1, 2000 to the present:

7. For each individual/entity identified in paragraph 6 that individual/entity appeared on the title during the following time :

_____.

Leases

8. _____ (declarant or party affiliated with declarant) leases property that _____ own and that overlies the Antelope Valley Area of Adjudication as decided by this court and identified by the following APNS:

_____.

9. The total acreage by parcel is:

_____.

10. The property is currently leased to:

_____.

11. The property was leased on the following dates:

_____.

12. The lease provides that _____ may claim groundwater rights from the use of water on the leased property. Attached to this declaration is a true and correct copy of the lease.

[If additional room is needed, please list APN/APNs, acreage by APN, Lessee by APN and dates for each Lessee by APN for each parcel in Exhibit C.] A true and correct copy of Exhibit C is attached hereto and incorporated herein.

13. _____ leases property from _____ which overlies the Antelope Valley Area of Adjudication as decided by this court and is identified by the following APNS:

_____.

14. The total acreage by parcel is:

_____.

15. The Lease provides that _____ may claim groundwater rights from use of water on leased property. Attached to this declaration is a true and correct copy of the lease.

[If additional room is needed, please attach APN/APNs, Name of the Lessor and acreage by APN for each parcel list in Exhibit D to this declaration.] A true and correct copy of Exhibit D is attached hereto and incorporated herein.

16. _____ claims groundwater rights only as to the leasehold interests listed in Paragraph 15 and Exhibit D.

17. _____ claims groundwater rights only as to the properties listed in Paragraph 2 and Exhibit A and as to the leasehold interests listed in Paragraph 8 and Exhibit C.

18. To the best of my knowledge, only _____ claims groundwater rights as to the leased parcel(s) identified in paragraph 15 and Exhibit D.

Water Meter Records

19. _____ measures the groundwater production on the above referenced properties by water meters. Exhibit E contains the records for these water meters for the following years:

_____.

A true and correct copy of Exhibit E is attached hereto and incorporated herein.

20. Exhibit F sets forth the total yearly production amounts by metered water well on the above referenced properties for the years 2000-2004, 2011, and 2012. A true and correct copy of Exhibit F is attached hereto and incorporated herein.

State Water Project Purchases

21. _____ purchases State Water Project water from a State Water Contractor for use by _____ on the properties referenced above. Exhibit G contains true and correct copies of the invoices for delivery of State Water Project Water to the properties referenced above.

22. Exhibit H sets forth the total yearly State Water Project water deliveries to the properties referenced above for the years 2000-2004, 2011, and 2012. A true and correct copy of Exhibit H is attached hereto and incorporated herein.

Pump Tests/ Electric Records

23. In order to calculate groundwater pumped and used on the properties referenced above, _____ relied on pump tests and electric records. Exhibit I contains true and correct copies of the pump test records and electrical records for wells on the properties referenced above. The electric records attached to this declaration as Exhibit I do not include electric use on the properties referenced above for anything other than pumping groundwater.

24. Exhibit J sets forth the amount of total yearly groundwater that _____ estimates was pumped and used on the properties referenced above for the years 2000-2004, 2011, and 2012 based on the attached pump test records and electrical records for the wells on the properties referenced above. A true and correct copy of Exhibit J is attached hereto and incorporated herein.

25. Pump tests were performed on the following dates:

26. _____ is not producing pump test records for the following dates _____ because:

27. I am not aware of any other pump tests having been performed on the properties referenced above.

Pump Tests/Diesel Records

28. In order to calculate groundwater pumped and used on the properties referenced above, _____ relied on pump tests and diesel fuel records. Exhibit K contains true and correct copies of the records pertaining to pump tests and diesel fuel purchases for the properties referenced above. The diesel fuel records attached to this declaration as Exhibit K do not include diesel fuel used on the properties referenced above for anything other than pumping

1 groundwater.

2 29. Exhibit L sets forth the amounts of total yearly groundwater pumped and used on the
3 properties referenced above for the years 2000-2004, 2011, and 2012. A true and correct copy of
4 Exhibit L is attached hereto and incorporated herein.

5 30. Pump tests were performed on the following dates:

6 _____.

7 31. _____ is not producing pump test records for the following
8 dates _____ because:

9 _____.

10 32. I am not aware of any other pump tests having been performed on the properties
11 referenced above.

12 **Crop Duties and Irrigated Acres**

13 33. In order to calculate water use on the properties referenced above, _____
14 relies on the amount of acres in irrigation on the properties referenced above multiplied by the
15 crop duty identified in the Summary Expert Report, Appendix D-3: Table 4, a true and correct
16 copy of which is attached to this declaration as Exhibit M.

17 34. The total amount of irrigated acres and type of crops on the properties referenced above
18 by APN for the years 2000-2004, 2011 and 2012 are described in Exhibit N. A true and correct
19 copy of Exhibit N is attached hereto and incorporated herein.

20 **Other Sources of Water**

21 35. On the properties referenced above, _____ received water from sources
22 other than groundwater pumped within the Basin or State Water Project Water. Exhibit O sets
23 forth the source of the water and the amounts received for the years 2000-2004, 2011, and 2012.

24 **Use of Water** *(Complete for each APN. If water for used for multiple purposes, identify*
25 *the amount of water for each use.)*

26 36. _____ used _____ acre feet of water on APN# _____ in 2000.

27 The water was used for the following:

28 _____.

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use.
In lieu of answering this question, a crop map may be attached that shows the date, crop type,
irrigated acreage and parcels.]

37. _____ used _____ acre feet of water on APN# _____ in 2001. The
water was used for the following:

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use.
In lieu of answering this question, a crop map may be attached that shows the date, crop type,
irrigated acreage and parcels.]

38. _____ used _____ acre feet of water on APN# _____ in 2002. The
water was used for the following:

39. _____ used _____ acre feet of water on APN# _____ in 2003. The
water was used for the following:

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use.
In lieu of answering this question, a crop map may be attached that shows the date, crop type,
irrigated acreage and parcels.]

40. _____ used _____ acre feet of water on APN# _____ in 2004. The
water was used for the following:

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use.
In lieu of answering this question, a crop map may be attached that shows the date, crop type,
irrigated acreage and parcels.]

41. _____ used _____ acre feet of water on APN# _____ in 2011. The
water was used for the following:

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use.

1 In lieu of answering this question, a crop map may be attached that shows the date, crop type,
2 irrigated acreage and parcels.]

3 42. _____ used _____ acre feet of water on APN# _____ in 2012. The
4 water was used for the following:

5 _____
6 [State the crop type and number of acres of that crop. If not used for irrigation, describe the use.

7 In lieu of answering this question, a crop map may be attached that shows the date, crop type,
8 irrigated acreage and parcels.]

9 43. Other than what is declared hereinabove, _____ did not produce or use water
10 within the Antelope Valley Area of Adjudication for 2000-2004, 2011, and 2012.

11
12 I declare under penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct. Executed this ____ day of January 2013, at _____,
14 California.

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EXHIBIT "M"

Appendix D-3: Table 4
Applied Crop Water Duties and Irrigation Efficiency Values
(DU = 80%)
Antelope Valley Area of Adjudication

Crop	ET _c ¹ (in)	P _e ² (in)	ET _{AW} ³ (in)	DU ⁴ (%)	AW _c ⁵ (in)	AW _{er} ⁶ (in)	AW _{pr} ⁷ (in)	AW _T ⁸ (in)	E _{ir} ⁹ (%)
Alfalfa	62.10	1.77	60.33	80	75.42	0	2.0	77.42	81
Carrots	27.47	0.00	27.47	80	34.33	6	6.5	46.83	85
Grain	22.94	1.42	21.52	80	26.90	0	4.0	30.90	83
Melons/Squash	23.91	0.00	23.91	80	29.88	0	4.0	33.88	82
Onions	37.57	0.00	37.57	80	46.96	3	4.0	53.96	83
Orchard (Deciduous)	47.38	0.00	47.38	80	59.22	0	0.0	59.22	80
Pasture	66.19	1.77	64.42	80	80.53	0	0.0	80.53	80
Potatoes	24.02	0.00	24.02	80	30.03	0	4.0	34.03	82
Silage	27.31	0.00	27.31	80	34.14	0	4.0	38.14	82
Sugar Beets	40.55	0.00	40.55	80	50.68	0	4.0	54.68	81
Vineyard (Grapes)	35.33	0.00	35.33	80	44.16	0	0.0	44.16	80

¹ ET_c = K_c * ET_o, where ET_o = average ET_o for specified periods, based on data from Victorville CIMIS Station, 1994-2003; K_c values from Univ. California Cooperative Extension

² P_e = effective precipitation offsetting ET_c, up to 1/2 of the average precipitation, in Dec. - Feb., inclusive

³ ET_{AW} = evapotranspiration of applied water = ET_c - P_e

⁴ DU = irrigation distribution uniformity

⁵ AW_c = applied water for crop requirement = ET_{AW} / DU

⁶ AW_{er} = applied water for erosion control

⁷ AW_{pr} = applied water for field preparation and pre-irrigation

⁸ AW_T = applied crop water duty = AW_c + AW_{er} + AW_{pr}

⁹ E_{ir} = overall irrigation efficiency for beneficial uses = (ET_{AW} + AW_{er} + AW_{pr}) / AW_T

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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 15, 2013, I served the within document(s):

PUBLIC WATER SUPPLIERS' 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 15, 2013, at Irvine, California.


Kerry V. Keefe