

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

Judicial Council Coordination
Proceeding No. 4408

**ANTELOPE VALLEY GROUNDWATER
CASES**

**[PROPOSED] CASE
MANAGEMENT ORDER FOR
PHASES 5 AND 6 TRIALS**

Included Actions:

Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co.
Superior Court of California, County of Los Angeles,
Case No. BC 325 201

DATE: February 10, 2014
TIME: 9:00 A.M.
PLACE: 111 N. Hill Street
Los Angeles, CA
DEPT.: Room 222

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

JUDGE: Honorable Jack Komar

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,
consolidated actions, Case Nos. RIC 353 840,
RIC 344 436, RIC 344 668;

RICHARD WOOD, on behalf of himself and all
other similarly situated v. A.V. Materials, Inc., et al.,
Superior Court of California, County of Los Angeles,
Case No. BC509546

IT IS HEREBY ORDERED:

1. The Phase 5 Trial will commence at 9:00 a.m., on February 10, 2014, in Room 222 of the Superior Court of the County of Los Angeles, located at 111 North Hill Street, Los Angeles, California or such other location as ordered by the court. The trial will continue for one week. The trial will determine [see alternative language]:

1. The scope of trial for phase 5:

Alternative 1

- i. The Phase 5 Trial will determine claims to a federal reserved water right and to return flows from imported water. The return flow percentages were a necessary component of the safe yield already determined by the court.

Alternative 2

- ii. The Phase 5 Trial will determine the claims to a federal reserved water right and to return flows from imported water. As to return flows from imported water, the trial will determine who has the right to recapture and use return flows that result from water imported into the area of adjudication, as well as the amount or percentage of return flows that augment the groundwater basin due to the imported water.

2. The Phase 6 trial will commence on August 4, 2014 and will continue for two weeks. The Phase 6 trial will determine [see alternative language]:

Alternative 1

- iii. The Phase 6 trial will commence on August 4, 2014 and will continue for two weeks. The Phase 6 trial will determine claims to a prescriptive right and all remaining claims to groundwater.

Alternative 2

- iv. The Phase 6 Trial will commence on August 4, 2014 and will continue for two weeks. The Phase 6 trial will determine claims to prescriptive rights and defenses thereto.

3. The Court sets the following schedule for the Phases 5 and 6 trials.¹ [see alternative timeline proposals]:

Alternative 1

PHASE 5 SCHEDULE	
DATE	EVENT
10/15/2013	Deadline to file Notice of Intention to Participate in Phase 5 Trial

¹ The parties recognize that the proposed deadlines comply with the Code of Civil Procedure but at least one of the members of the liaison committee would like the court to consider a compressed time schedule for the hearing (e.g. change the hearing date for the summary judgment motions to January 31, 2014, which would then alter the corresponding deadlines to file the motions).

10/18/2013	Summary judgment motion filing deadline
12/27/2013	Opposition to summary judgment deadline
01/03/2014	Reply in support of summary judgment deadline
01/10/2014	Hearing on summary judgment motion
12/6/2013	Discovery cut-off (expert witness deposition excepted)
01/17/2014	Expert witness deposition completion deadline
01/23/2014	Witness and exhibit lists posted
01/24/2014	Motions in limine deadline
01/31/2014	Trial brief deadline
01/31/2014	Opposition to motions in limine deadline
02/03/2014	Parties exchange trial exhibits
02/10/2014	TRIAL²

Alternative 2

PHASE 5 SCHEDULE	
DATE	EVENT
10/15/2013	Deadline to file Notice of Intention to Participate in Phase 5 Trial
11/13/2013	Summary judgment motion filing deadline
12/13/2013	Opposition to summary judgment deadline
01/03/2014	Reply in support of summary judgment deadline
01/27/2014	Hearing on summary judgment motion
12/20/2013	Discovery cut-off (expert witness depositions excepted)
01/17/2014	Expert witness deposition completion deadline
01/23/2014	Witness and exhibit lists posted
01/24/2014	Motions in limine deadline

² The Parties recognize that the first set of timelines for phase 5 complies with the California Code of Civil Procedure but at least one of the members of the liaison committee would like the court to consider a compressed time schedule for the hearing (e.g. change the hearing date for the summary judgment motions to January 27, 2014, which would then alter the corresponding deadlines to file the motions.)

01/31/2014	Trial Brief deadline
01/31/2014	Opposition to motions in limine deadline
02/03/2014	Parties exchange trial exhibits
02/10/2014	TRIAL

PHASE 6 SCHEDULE	
DATE	EVENT
02/01/2014 through 2014	Discovery hiatus for Phase 6 discovery due to Phase 5 trial
04/11/2014	
04/18/2014	Summary judgment motion deadline
04/30/2014	Deadline to file Notice of Intention to Participate in Phase 6 Trial
06/19/2014	Opposition to summary judgment motion deadline
06/27/2014	Replies in support of summary judgment motion deadline
07/03/2014	Hearing on summary judgment motion
07/03/2014	Discovery cut-off (expert depositions excepted)
07/21/2014	Expert witness deposition completion deadline
07/17/2014	Witness and exhibit lists deadline
07/18/2014	Motions in limine filing deadline
07/25/2014	Trial brief deadline
07/25/2014	Opposition to motion in limine deadline
07/28/2014	Parties exchange trial exhibits
08/04/2014	TRIAL

4. The United States, in preparation for trial in Phase IV, identified the expert and percipient witnesses the government intended to have testify in support of its claim to a federal reserved water right. Depositions were held of all of the United States' identified witnesses in Spring, 2013. Therefore, no additional depositions of the federal witnesses are permitted, *provided*, the United States identifies no new witnesses and the previously identified witnesses have nothing new to declare in addition to their Phase IV declarations and revisions thereto.

1 5. All other expert witness designations shall comply with all Code of Civil
2 Procedure requirements and include a statement as to the expert witness's deposition availability.
3 The expert witness designation shall include a copy of any report prepared concurrently with his
4 or her designation.

5 6. A party intending to call a non-expert witness shall include a statement as to
6 the witness's deposition availability.

7 7. All parties designating expert or non-expert witnesses for the Phase 5 trial are
8 directed to meet and confer in person and/or by telephone by December 1, 2013, to develop a
9 schedule for the taking of depositions of all designated witnesses. Counsel for the Los
10 Angeles County Waterworks District No. 40 is directed to provide telephone conference
11 information to the parties by posting the same to the Court's website by October 4, 2013.

12 8. All parties designating expert or non-expert witnesses for the Phase 6 trial are
13 directed to meet and confer in person and/or by telephone by June 15, 2014, to develop a
14 schedule for the taking of depositions of all designated witnesses for the Phase 6 trial.
15 Counsel for the Los Angeles County Waterworks District No. 40 is directed to provide
16 telephone conference information to the parties by posting the same to the Court's website by
17 June 1, 2014. Similar telephone conference(s) shall take place in the same manner for the
18 supplemental expert witnesses, if necessary. The telephone conferences are to develop
19 schedules to complete depositions before the deposition deadlines

20 9. A party failing to participate in the telephone scheduling conferences or who
21 refuses to schedule its witnesses for deposition shall be deemed to have waived the right to
22 coordinate scheduling, and may thereafter have their witness' deposition set at the
23 convenience of participating scheduling parties on 15 days notice pursuant to the Court's
24 Electronic Filing and Service Order. To the extent that parties are unable to reach agreement
25 as to any deposition, the Court will conduct a telephonic meet and confer to be scheduled at
26 the earliest time convenient to the Court.

27 10. The parties are directed to utilize the assistance of a liaison committee as a
28 means of attempting to resolve issues quickly and informally, and to streamline the

1 presentations at trial. The existence of this committee, however, shall not deprive any other
2 party from raising issues or concerns to the other parties.

3 11. All designated witnesses shall be available and prepared to provide deposition
4 testimony, absent other agreement, as noted in the above schedules, and excluding federal
5 witnesses as described above. The parties shall make every effort to complete the depositions
6 of the initially designated expert witnesses fore depositions of the supplemental experts to
7 take place and before the discovery cut-off deadline. More than one deposition may be
8 scheduled to take place on the same day but only if such depositions will not occur
9 simultaneously.

10 12. Any witness who is not prepared to testify on the date agreed or noticed for
11 deposition is subject to exclusion at the time of trial.

12 13. All expert witness deponents are directed to produce their file on this matter,
13 and any other requested materials for inspection at least three business days before the date
14 set for the deposition at the expert's place of business or such location as the parties may
15 agree. Such materials may be produced in electronic format.

16 14. Written discovery, including requests for admission, form interrogatories,
17 document production requests, etc., may commence immediately for both Phase 5 and Phase
18 6. Parties are directed to coordinate these efforts with similarly situated parties.

19 15. The parties are directed to meet and confer concerning any discovery dispute
20 before contacting the Court and before filing any discovery motion. If such attempts prove
21 unsuccessful, the Court will conduct a further meet and confer, either by telephone or in
22 person as the Court may direct. The parties will provide the Court with a letter in advance
23 setting forth the text of any written discovery requests and responses thereto that are in
24 dispute, or other information that will assist the Court in conducting the meet and confer.
25 The parties should contact the Court's clerk to schedule any such meet and confer. The Court
26 expects that all discovery disputes will be resolved through the meet and confer process.
27 Any party may thereafter apply *ex parte* for an order shortening time and specially setting a
28 motion to compel for hearing by providing notice thereof pursuant to the Electronic Filing

1 and Service Order.

2 16. Any party intending to participate in the Phase 5 and/or Phase 6 trials must
3 post a Notice of Intention to Participate by October 15, 2013 and April 30, 2014,
4 respectively. Excuse from this requirement may be given upon a showing of good cause.

5 17. The parties, when posting witness and exhibit lists, shall provide the name of
6 each witness, a short summary of testimony expected to be elicited, and a testimony time
7 estimate. The exhibit list shall be sufficiently specific as to enable the other parties to
8 identify the exhibit prior to trial. Exhibits shall be sequentially numbered for each party,
9 starting with the Arabic number 1. The parties shall continue with the numbering system
10 utilized in Phase 4.

11 18. The parties shall coordinate with one another to determine the actual date and
12 time of the witnesses' testimony at trial. The parties shall make their best efforts to produce
13 all documents relevant to that witnesses' testimony prior to the witness' deposition. Any
14 other documents not previously produced, but which are intended to be used at trial, shall be
15 made available as soon as practicable.

16 19. Allied parties are encouraged to file joint briefs.

17 20. Any motion to exclude witnesses or exhibits, or other motions *in limine*, will
18 be heard at the commencement of the trial for each respective part of Phases 5 and 6. Any
19 such moving papers, opposition papers, including evidentiary objections, or evidentiary
20 objections to evidence submitted in opposition, shall be filed and posted as noted in the
21 timeline, above. No other reply papers are allowed.

22 21. Should any party elect to use a third party provider to assist in the projection
23 or presentation of evidence, that party shall permit said third party provider to contract with
24 any other party for the use the same services provided. Third party providers, in any event,
25 shall work together to coordinate the use of equipment.

26 22. Any party desiring to monitor the Phase 5 or 6 trials by telephone may do so
27 through CourtCall, but will not be allowed to question witnesses or participate in oral
28 argument absent prior arrangement with the Court.

1 23. The Court shall be provided with courtesy copies of all exhibits, except those
2 pertaining to impeachment, preferably in three-ring notebooks with numbered dividers, as
3 noted in the timeline, above. Counsel are directed to coordinate this project with one another.

4 24. Prior to the commencement of each day of trial, counsel shall confer as to the
5 order of the next day's witnesses, and shall advise the Court of the same at the
6 commencement of that day of trial.

7 25. The Court will consider whether to request closing trial briefs as the Phase 5
8 and 6 trials proceed.

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10 Dated: _____

Hon. Jack Komar
Judge of the Superior Court

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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 September 27, 2013, I served the within document(s):

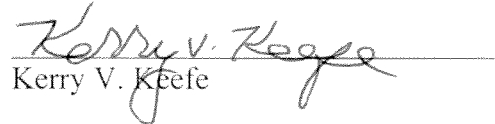
[PROPOSED] CASE MANAGEMENT ORDER FOR PHASES 5 AND 6 TRIALS

- ☒ 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 September 27, 2013, at Irvine, California.


Kerry V. Keefe