

BEST BEST & KRIEGER LLP
ERIC L. GARNER, Bar No. 130665
JEFFREY V. DUNN, Bar No. 131926
WENDY Y. WANG, Bar No. 228923
18101 VON KARMAN AVENUE, SUITE 1000
IRVINE, CALIFORNIA 92612
TELEPHONE: (949) 263-2600
TELECOPIER: (949) 260-0972
Attorneys for Cross-Complainant
LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40

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SECTION 6103

OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES
JOHN F. KRATTLI, Bar No. 82149
COUNTY COUNSEL
WARREN WELLEN, Bar No. 139152
PRINCIPAL DEPUTY COUNTY COUNSEL

500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012
TELEPHONE: (213) 974-8407
TELECOPIER: (213) 687-7337

Attorneys for Cross-Complainant LOS ANGELES
COUNTY WATERWORKS DISTRICT NO. 40

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;

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. BC 509546

Judicial Council Coordination Proceeding
No. 4408

CLASS ACTION

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

DECLARATION OF WENDY Y. WANG

*[Filed concurrently with Opposition to
Motion For Final Approval of Partial Class
Settlement]*

Hearing

Date: December 11, 2013

Time: 9:00 a.m.

Dept.: Santa Clara Superior Court, Dept.
TBD

1
2
3 **DECLARATION OF WENDY Y. WANG**

4 I, Wendy Y. Wang, declare as follows:

5 1. I have personal knowledge of the facts below, and if called upon to do so, I could
6 testify competently thereto in a court of law.

7 2. I am licensed to practice law in the State of California and am an attorney of Best,
8 Best & Krieger LLP, attorneys of record for the Los Angeles County Waterworks District No. 40
9 ("District No. 40").

10 3. Attached as Exhibit "A" are true and correct excerpts of transcript for the October
11 25, 2013 hearing before Honorable Judge Jack Komar for the Antelope Valley Groundwater
12 Cases, Judicial Council Coordination Proceeding No. 4408.

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

15 Executed this 1st day of December, 2013, at Los Angeles, California.

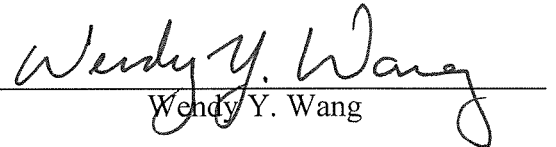
16 
Wendy Y. Wang

EXHIBIT A

COUNTY OF LOS ANGELES

IN RE:)
)
 ANTELOPE VALLEY GROUNDWATER) JUDICIAL COUNCIL
 CASES.) COORDINATION NO. 4408
)
) SANTA CLARA COUNTY CASE
) NO. 1-05-CV-049053
) (For Court Use Only)
)

BEFORE THE HONORABLE JACK KOMAR

OCTOBER 25, 2013

STEPHANIE ESTES, CSR #12452
OFFICIAL REPORTER

APPEARANCES:

MICHAEL MC LACHLAN

THOMAS BUNN

STEVEN ORR

WESLEY MILIBAND

DOUGLAS EVERTZ

WARREN WELLEN

WILLIAM SLOAN

JEFFREY DUNN

NOAH GOLDEN-KRASNER

WILLIAM BRUNICK

SHELDON BLUM

KEITH LEMIEUX

TELEPHONIC APPEARANCES:

HERUM CRABTREE

MARILYN LEVIN

R. LEE LEININGER

JOHN TOOTLE

WALTER RUSINEK

BRADLEY WEEKS

ROBERT KUHS

BOB JOYCE

SCOTT KUNEY

JOSEPH HUGHES

RYAN DRAKE

LELAND MC ELHANEY

JANET GOLDSMITH

ANDREW RAMOS

JOHN UKKESTAD

MICHAEL DAVIS

BRUCE NELSON

WENDY WANG

THEODORE CHESTER JR.

RICHARD ZIMMER

RICHARD WOOD

NEAL MAGUIRE

BRADLEY HERREMA

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1 exactly what you did with the Willis settlement. They
2 settled, finished things and their water rights have not
3 been determined. I mean this is really essentially the
4 same situation minus the fact of a few defendants.

5 THE COURT: Well, of course it's impossible to
6 determine the water rights of a non producing party.

7 MR. MC LACHLAN: Well, you're going to be called
8 on to do the impossible.

9 THE COURT: It wouldn't be the first time. The
10 other thing that I would just point out to you is that the
11 Willis Class settled with all of the water producers not
12 just some of them.

13 MR. MC LACHLAN: But -- But there are plenty of
14 cases out there where there were partial class
15 settlements. I've done it once before in my career.
16 There's law that supports it, that's not a problem
17 legally.

18 THE COURT: All right. Mr. Bunn.

19 MR. BUNN: Good morning, Your Honor. Thomas Bunn.
20 I came up here prepared to talk primarily about the
21 McCarran Amendment. It was my understanding from what Mr.
22 Leininger said that based on the Court's comments he now
23 views the settlement as not being a problem under the
24 McCarran Amendment. I'm happy to talk further to the
25 Court if you have any -- because I think the McCarran
26 Amendment is a -- an important issue and these objections
27 need to be taken seriously. No one wants more than I,
28 that the final judgment in this case comply with the

1 McCarran Amendment, that's essential to keep the United
2 States in the case. So, I think that if -- if the Court
3 has or Mr. Leininger has remaining concerns we need to
4 discuss those and address those. But absent that -- I can
5 go on.

6 Mr. -- Mr. Leininger did talk about the notice to
7 the class and how it should reflect that the reasonable
8 and beneficial use in the water rights would be determined
9 later. I believe that the existing notice form does that.
10 It says here: The settling defendants are agreeing not to
11 challenge the class' assertion of the right of class
12 members to pump up to three acres feet of water per year
13 for domestic purposes without having to pay a fee for
14 doing so. Other parties remain free to challenge that
15 water right, which will be determined in the future. And
16 then there's another question, this is in the frequently
17 asked questions format: Does this settlement give me a
18 water right? And the answer is, I'm quoting here: No,
19 this settlement does not provide you with Court determined
20 water rights. The Court has not yet determined the water
21 rights of any party. But those determinations are
22 expected to be made in the future phases of the
23 proceeding.

24 I believe that covers it, Your Honor. The class
25 members are being adequately advised that they're not
26 getting a water right out of this and that the Court will
27 be making that determination in the future.

28 THE COURT: I'm just trying to locate that notice.

1 you're paying them less than they're entitled to or more
2 than they're entitled to.

3 MR. EVERTZ: Agreed, Your Honor. I just want to
4 make sure that we have the opportunity to thoroughly brief
5 this issue.

6 THE COURT: Well obviously you will. I wouldn't
7 do anything without giving you an opportunity to brief it.
8 Okay.

9 MR. EVERTZ: Thank you.

10 THE COURT: All right.

11 MR. BUNN: Thank you.

12 MR. MC LACHLAN: So then -- then, Your Honor, all
13 that remains would be getting a date to put in the class
14 notice for the fairness hearing and we were proposing
15 December the 13th if --

16 THE COURT: I can't do it between the 12th and the
17 19th.

18 MR. MC LACHLAN: Then what about December
19 the 11th, which is a Wednesday?

20 THE COURT: Can we do that up here?

21 MR. MC LACHLAN: I don't have a problem with that.

22 MR. BUNN: Sure.

23 THE COURT: Okay. We'll do it up here. The 11th
24 at 9:00. Is that too early?

25 MR. MC LACHLAN: No, 9:00 is -- is fine. Yes,
26 that's fine, Your Honor.

27 MR. KUHS: Your Honor, Robert Kuhs. Before we
28 leave that issue --

1 THE COURT: Well, before we do that, I want to
2 know if -- if that's a sufficient period of time for you
3 to -- to get evidence together to support the settlement?

4 MR. MC LACHLAN: I'm not sure exactly what Your
5 Honor's alluding to.

6 THE COURT: Well, I'm concerned with technical
7 evidence.

8 MR. MC LACHLAN: Well, we anticipate, I believe,
9 that the Court appointed expert -- well, technical
10 evidence -- I'm having -- I'm struggling with what you
11 mean by technical evidence.

12 THE COURT: Well, you're -- you're asking the
13 Court to approve a number, an allocation number, of -- of
14 three acre feet a year per person as being reasonable,
15 aren't you?

16 MR. MC LACHLAN: No, we're not.

17 THE COURT: You're not?

18 MR. MC LACHLAN: All we're asking -- all we're
19 saying is that these four settling parties in the future
20 can't contest that; that's the issue of the class' water
21 rights not being determined. And so -- and the Court
22 appointed expert's report won't even address that question
23 because that's not phase four.

24 THE COURT: What do you intend to present at that
25 hearing?

26 MR. MC LACHLAN: I intend to present the
27 settlement agreement. And we intend to file a joint
28 motion for approval of the attorney's fees with the back

1 up and information for that. But obviously as Mr. Bunn
2 read, the class is very clearly on notice that it's not
3 getting water rights so we're not going --

4 THE COURT: Yeah, that's true.

5 MR. MC LACHLAN: I'm not going to try phase six in
6 December because that's not part of the settlement.

7 THE COURT: Right. Okay. I just want to look at
8 my calendar and make sure the 11th works.

9 MR. MC LACHLAN: We plan to give notice on or
10 before next Friday. So, I've calculated out the
11 timetables and that does work in terms of the periods for
12 objections and so forth.

13 THE COURT: Yeah. Yeah. Okay. Mr. Dunn?

14 MR. DUNN: I understand that the Court's available
15 on the 11th. The concern we have is that we have
16 sufficient time to review what we expect to be the back up
17 on the attorney's fees. It's going to require more than
18 just the typical noticed motion time period or the statute
19 given the length of time of these proceedings. So, it may
20 make some sense for the Court to set the date by which the
21 motion would need to be filed and then an opportunity -- a
22 date by which we would respond. We're going to need
23 obviously more than two weeks or so under the code. We're
24 going to need some time to sift through all of this.

25 THE COURT: Can you respond to that?

26 MR. MC LACHLAN: Yeah. I don't see that as the
27 case. We have CCP provisions that supply ample time. Why
28 does District 40, who's not a settling party, need two

1 extra weeks or three extra weeks or whatever it is? We
2 plan to file all this paperwork, which will be
3 considerable, on statutory notice.

4 THE COURT: When do you expect to file it?

5 MR. MC LACHLAN: Well, whatever would be 16 court
6 days before -- you know, we could file a couple days
7 before that. But I didn't do the calculation off of the
8 11th. I think that puts us somewhere shortly before
9 Thanksgiving and that week of the 18th, I guess.

10 MR. DUNN: Your Honor, is probably familiar that
11 with these types of motions on fees that there is an
12 opportunity if a party needs to do so, requests to do so,
13 we can do discovery. I'm not saying that's what we're
14 going to do here. But I think it is fair to say that
15 given what we all know today about what is probably coming
16 in this rather large fee motion. I think it requires some
17 fairness to the parties who are subject to it either
18 directly or indirectly.

19 THE COURT: Well, let me ask you this, can you
20 file it -- can you file your papers by the 14th of
21 November?

22 MR. MC LACHLAN: That proposes -- that is
23 essentially possible. I start trial on the 12th in
24 Riverside, which is going to take about anywhere between
25 four and seven court days. So, I'm in the middle of trial
26 at that point in time. And I'm in an arbitration
27 proceeding the prior week so it's very difficult to do
28 that. And Mr. O'Leary is in trial I think in Novato.

1 THE COURT: When can you file it?

2 MR. MC LACHLAN: I could file it -- just give me a
3 moment, Your Honor, to look at the calendar.

4 THE COURT: The -- the --

5 MR. MC LACHLAN: So, you know, I could file it --
6 I guess --

7 THE COURT: Well, the code has you filing it on
8 the 15th of November.

9 MR. MC LACHLAN: Right. So Your Honor just
10 previously asked me about the 14th?

11 THE COURT: Yes.

12 MR. MC LACHLAN: Right. So, I'm going to have to
13 get it -- so, I could have it filed by -- I could have it
14 filed by the 14th. I'll just have to do it. I'll have to
15 work a night shift.

16 THE COURT: It's one day early.

17 MR. MC LACHLAN: Right. So, I guess we'll make it
18 happen on the 14th, that's fine. That gives three full
19 weeks.

20 THE COURT: Let me ask you this, Mr. Dunn, does
21 that help you if it has to be filed early?

22 MR. DUNN: No, that's not early.

23 THE COURT: File it on the 15th, okay. File it
24 per the code on the 15th; that means the opposition is due
25 on the 26th and the reply on the 4th of December.

26 MR. MC LACHLAN: That's fine. That's fine, Your
27 Honor.

28 THE COURT: All right.

1 STATE OF CALIFORNIA)
2) Ss.
3 COUNTY OF SANTA CLARA)
4
5

6 I, STEPHANIE ESTES, CSR, HEREBY CERTIFY: THAT
7 I WAS THE DULY APPOINTED, QUALIFIED SHORTHAND REPORTER OF
8 SAID COURT IN THE ABOVE-ENTITLED ACTION TAKEN ON THE
9 ABOVE-ENTITLED DATE; THAT I REPORTED THE SAME IN MACHINE
10 SHORTHAND AND THEREAFTER HAD THE SAME TRANSCRIBED THROUGH
11 COMPUTER-AIDED TRANSCRIPTION AS HEREIN APPEARS; AND THAT
12 THE FORGOING TYPEWRITTEN PAGES CONTAIN A TRUE AND CORRECT
13 TRANSCRIPT OF THE PROCEEDINGS HAD IN SAID MATTER AT SAID
14 TIME AND PLACE TO THE BEST OF MY ABILITY.

15 I FURTHER CERTIFY THAT I HAVE COMPLIED WITH
16 CCP 237(A)(2) IN THAT ALL PERSONAL JUROR IDENTIFYING
17 INFORMATION HAS BEEN REDACTED IF APPLICABLE.

18 DATED: November 18, 2013.

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STEPHANIE ESTES
CSR No. 12452

ATTENTION:

CALIFORNIA GOVERNMENT CODE
SECTION 69954(D) STATES:

"ANY COURT, PARTY, OR PERSON WHO HAS PURCHASED A
TRANSCRIPT MAY, WITHOUT PAYING A FURTHER FEE TO THE
REPORTER, REPRODUCE A COPY OR PORTION THEREOF AS AN
EXHIBIT PURSUANT TO COURT ORDER OR RULE, OR FOR INTERNAL
USE, BUT SHALL NOT OTHERWISE PROVIDE OR SELL A COPY OR
COPIES TO ANY OTHER PARTY OR PERSON."

PROOF OF SERVICE

I, Wendy Y. Wang, 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, 300 South Grand Avenue, 25th Floor, Los Angeles, CA 90071. On December 1, 2013, I served the within document(s):

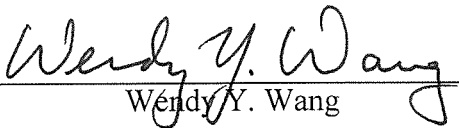
DECLARATION OF WENDY Y. WANG

- ☒ 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 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 December 1, 2013, at Los Angeles, California.


Wendy Y. Wang

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