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DISTRICT NO. 40

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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. BC509546

Judicial Council Coordination Proceeding  
No. 4408

CLASS ACTION

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

LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40'S  
OPPOSITION TO RICHARD WOOD'S *EX*  
*PARTE* APPLICATION TO CONTINUE  
RETURN FLOW QUANTITY PORTION  
OF PHASE 5 TRIAL

*[Filed concurrently with Declaration of  
Jeffrey V. Dunn]*

Date: January 30, 2014  
Time: 8:30 a.m.  
Dept.: Department 1 (via CourtCall)

Trial Date: February 10, 2014 (Phase V)

1 **I. INTRODUCTION**

2 Defendant Los Angeles County Waterworks District No. 40 (“District No. 40”) opposes  
3 Plaintiff’s *ex parte* application to continue the return flow quantification portion of trial because  
4 Plaintiff has not shown good cause to justify a trial continuance. Plaintiff seeks to continue trial  
5 on the issue of return flow quantification, to some undetermined date, due to a three business day  
6 delay in the availability of Dr. Dennis Williams’ modeling data. Plaintiff has alternative means  
7 to address the problem that gave rise to the application for continuance. Further, this Court has  
8 already granted the Plaintiff’s requested relief when it ruled that the return flow portion of trial  
9 would not begin until February 18, 2014. Continued delay of the Phase V trial is against the  
10 public interest of expeditiously resolving this more than a decade old litigation and will prejudice  
11 District No. 40. The resolution of this groundwater adjudication is even more compelling in light  
12 of Governor Brown’s declaration of a drought state of emergency.

13 **II. RELEVANT FACTS**

14 Dr. Williams, one of the public water suppliers’ Phase V designated experts, was deposed  
15 on January 16, 2014 for nearly seven hours and produced voluminous reliance materials at that  
16 time, pursuant to Plaintiff’s notice. (Declaration of Jeffrey V. Dunn, ¶¶ 3-13, 27.) Plaintiff  
17 demanded the production of documents on the day of Dr. Williams’ deposition. (See Plaintiff’s  
18 Notice of Deposition of Dennis Williams, attached as Exhibit 3 to Plaintiff’s *ex parte*  
19 application.) Dr. Williams testified about modeling data, and Plaintiff demanded the production  
20 of such modeling data. (Dunn Declaration, ¶ 15.) The files comprise an estimated seventeen  
21 (17) gigabytes of data, and the data is so extensive that it requires special processing for making  
22 computer disk copies (Dunn Declaration, ¶ 14.)

23 On January 22, 2014, or three business days after Dr. Williams’ deposition, District No.  
24 40 indicated that it was making Dr. Williams’ modeling data available upon request. (Dunn  
25 Declaration ¶¶ 17-18.) On January 24, 2014, District No. 40 served correspondence indicating  
26 that it had not received a request for Dr. Williams’ digital files. (Dunn Declaration ¶ 20.) District  
27 No. 40 also indicated that it would make Dr. Williams and/or his staff available for further  
28 deposition regarding the digital files. (*Id.*) District No. 40 did not receive a request for the digital

1 files from Plaintiff until Monday January 27, 2014. (Dunn Declaration ¶ 21.)

2 On January 27, 2014, this Court ruled that motions *in limine* and trial on the issue of the  
3 federal reserved rights would proceed on February 10, and 11, 2014 and that trial on the return  
4 flow issue would not commence until February 18, 2014. (Dunn Declaration ¶ 28.) On January  
5 29, 2014, District No. 40 sent Dr. Williams’ digital input and output files to Plaintiff’s counsel.  
6 (Dunn Declaration ¶ 22.) Plaintiff thus has nearly three weeks to review the digital files and  
7 further depose Dr. Williams, if necessary, prior to the start of trial on the return flow issue.  
8 (Dunn Declaration ¶¶ 22-28.)

9 **III. ARGUMENT**

10 **A. Trial Continuances are Disfavored**

11 “To ensure the prompt disposition of civil cases, the dates assigned for trial are firm. All  
12 parties and their counsel must regard the date set for trial as certain.” (Cal. Rules of Ct., R.  
13 3.1332, subd. (a).) Continuances of trial are disfavored. (Cal. Rules of Ct., R. 3.1332, subd. (c).)  
14 Moreover, an affirmative showing of good cause in an *ex parte* application, with supporting  
15 declarations, is required for a trial continuance. (Cal. Rules of Ct., R. 3.1332.) Plaintiff has made  
16 no such showing here. The trial judge must assert his power and vigorously insist upon cases  
17 being heard and determined with as great promptness as the exigencies of the case will permit.  
18 (*County of San Bernardino v. Doria Mining & Engineering Corp.* (1977), 72 Cal. App. 3d 776,  
19 781.) Unnecessary continuances are wasteful, nonproductive, time-consuming, and a fertile  
20 ground for criticism by the public of the courts. (*Id.*)

21 **B. Alternative Means Exist to Address Plaintiff’s Issue**

22 In deciding whether to grant a continuance, the Court should consider the “availability of  
23 alternative means to address the problem that gave rise to the motion or application for a  
24 continuance.” (Cal. Rules of Ct., R. 3.1332, subd., (d)(4).) Here, Plaintiff complains of a delay  
25 in the production of expert witness materials. District No. 40 indicated that it would provide  
26 digital files, upon request, on January 22, 2014. However, as of January 24, 2014, District No. 40  
27 had not received a request from anyone for Dr. Williams’ digital files. (Dunn Declaration ¶ 20.)  
28 On January 29, 2014, District No. 40 sent Dr. Williams’ digital input and output files to

1 Plaintiff's counsel. (Dunn Declaration ¶ 22.) District No. 40 further indicated that it would  
2 produce Dr. Williams and/or his staff for further deposition regarding the modeling data. (Dunn  
3 Declaration ¶ 20.) Plaintiff thus has nineteen (19) days prior to trial on the return flow issue to  
4 review these additional expert materials and further depose Dr. Williams, if necessary.

5 **C. District No. 40 Will be Prejudiced if a Continuance is Granted**

6 In deciding whether to grant a continuance, the Court should consider the "the prejudice  
7 that parties or witnesses will suffer as a result of the continuance." (Cal. Rules of Ct., R. 3.1332,  
8 subd., (d)(5). Trial is imminent, and District No. 40 and the other public agencies are prepared to  
9 move forward. A continuance will further increase the expenses to public agencies in this matter.  
10 District No. 40's trial counsel is prepared to try this case as scheduled but not necessarily at some  
11 undetermined future date as requested by Plaintiff. Absent a showing of good cause by Plaintiff,  
12 trial of the return flow issue should commence on February 18, 2014 as scheduled by this Court.

13 **IV. CONCLUSION**

14 For the foregoing reasons, District No. 40 respectfully requests that the Court deny  
15 Plaintiff's *ex parte* application to continue the return flow quantity portion of trial.

16 Dated: January 29, 2014

BEST BEST & KRIEGER LLP

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18  
19 By 

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**PROOF OF SERVICE**

I, Sandra K. Sandoval, 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 January 29, 2014, I served the within document(s):

**LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40'S OPPOSITION TO RICHARD WOOD'S EX PARTE APPLICATION TO CONTINUE RETURN FLOW QUANTITY PORTION OF PHASE 5 TRIAL**



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.



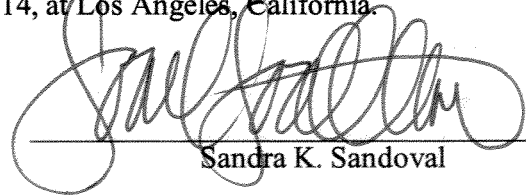
by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.



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 January 29, 2014, at Los Angeles, California.

  
Sandra K. Sandoval