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LOS ANGELES COUNTY WATERWORKS

13 DISTRICT NO. 40

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

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

19 Included Actions:

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

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

24 Wm. Bolthouse Farms, Inc. v. City of  
Lancaster, Diamond Farming Co. v. City of  
25 Lancaster, Diamond Farming Co. v.  
Palmdale Water Dist., Superior Court of  
26 California, County of Riverside, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

Santa Clara Case No. 1-05-CV-049053

Assigned to The Honorable Jack Komar

**CASE MANAGEMENT STATEMENT BY**  
**COUNTY OF LOS ANGELES**  
**WATERWORKS DISTRICT NO. 40 AND**  
**ROSAMOND COMMUNITY SERVICES**  
**DISTRICT**

Date: September 21, 2006

Time: 10:00 a.m.

Dept: Los Angeles County Superior Court,  
Central District, Department 1, Room  
534

1                                    THE NEED FOR GROUNDWATER BANKING

2            The parties agree there is a need for additional water in the Antelope Valley. One of the  
3    driest locations in Southern California, the Antelope Valley is also home to large increases in  
4    residential tract development in California. The same has been true for agriculture; in recent  
5    years farming operations have increased irrigable acreage at a dramatic pace.

6            The parties recognize the current residential and agricultural demand exceeds the Basin's  
7    native supply. The current legal proceedings are a response to the public's need to manage the  
8    Basin's water supply to solve the water shortage conditions and to provide additional water for  
9    increased demands.

10           The State Water Project provides supplemental water for purchase and delivery in the  
11    Antelope Valley. This supplemental water can be used by both municipal and agricultural users.  
12    Although some supplemental water will eventually end up in the Basin as "return flows," they are  
13    not enough to meet existing demands let alone projected demands. For these reasons, the parties  
14    recognize the need to implement a groundwater storage and recovery program; and to do so  
15    without waiting for the final judgment.

16           Several parties wish to engage in water banking and other forms of conjunctive use that  
17    will maximize the Basin's resources, assist in the utilization of supplemental supplies, and  
18    increase reasonable and beneficial uses within the Basin. The parties expect that these programs  
19    will be a vital component in the overall ongoing management of the Basin. In order to effectively  
20    establish and maintain these programs, the parties and the Court must be aware of the  
21    hydrogeologic characteristics of the Basin and the physical ability of the Basin to accommodate  
22    banked water supplies.

23           It is important to hold a separate hearing on this issue soon because the parties currently  
24    have no way to actively recharge and bank available State Water Project water and other  
25    supplemental supplies. Water banking is an important, if not crucial, component of any Basin  
26    management plan. Water banking will allow the parties to fully utilize State Water Project  
27    supplies and other supplemental water sources and may also enable the parties to engage in a  
28    variety of storage and recovery programs and other forms of conjunctive use. It is in the best

1 interest of all parties to the Adjudication to develop a procedure that allows the parties to begin  
2 banking water as quickly as possible. Each year that this process is delayed the parties are unable  
3 to recharge significant amounts of water that is essential to efficient management of the Basin.

4 Until the Court determines that water banking is a viable option in the Basin, the parties  
5 cannot effectively establish and operate these programs. Until a judicial determination is made  
6 regarding the Basin's ability to hold banked water no party has committed to spend the large  
7 amounts of money necessary to both import and store water. Currently, there is no legal certainty  
8 that stored water would be available for future needs as there are no pumping limitations of any  
9 kind in the Basin. Without court protection, stored water could be pumped by someone else in  
10 shortage conditions.

11 The need to have formal court determination of the parties' ability to store and recover  
12 supplemental water is essential to ending the litigation. In the event the court approves  
13 implementation of a groundwater banking program, such program will provide needed  
14 supplemental water to settle the case. On the other hand, if parties are not able to reach an early  
15 negotiated settlement, groundwater banking could be the central component of a court-ordered  
16 physical solution. In any event, the consensus of the parties is that there should be additional  
17 importation of State Project water for groundwater banking and that this program should be court-  
18 protected. This consensus exists regardless of the parties' existing positions on overdraft or the  
19 McCarran Amendment.

20 In complex litigation, judges have the power to evaluate the litigation and to formulate  
21 management decisions to efficiently manage the case, including "the power to fashion new  
22 procedure ... to manage and control the case before them." *Fire Ins. Exchange v. Superior Court*  
23 (2004) 116 Cal.App.4<sup>th</sup> 446, 452. In doing so "courts should consider the totality of the  
24 circumstances of the particular case." *Cottle v. Superior Court* (1992) 3 Cal.App.4<sup>th</sup> 1367, 1380.

25 Although there has been some discussion in court concerning the next phase of the legal  
26 proceedings and such next phase could include a determination of the Basin's characteristics,  
27 many parties recognize the need to have a court order setting a hearing on the Basin's  
28 characteristics including it's ability to bank supplemental water. For these reasons, Los Angeles

1 County Water Works District No. 40 and the Rosamond Community Services District request that  
2 the Court set a hearing date no later than December 15, 2006 for the parties to present evidence  
3 on the hydrogeologic characteristics of the Antelope Valley Groundwater Basin. Specifically, the  
4 Court should hear from various parties' experts regarding the feasibility of banking and otherwise  
5 storing water in the Basin.

6 Determining the characteristics of the Basin at this time is the most efficient way to  
7 manage the adjudication proceedings. Accordingly, the parties agree the court has broad powers  
8 to determine the order of the proceedings and manage this complex litigation in a way that is  
9 equitable and that promotes expedient resolution of this matter.

10 MOTION FOR DEFENDANT CLASS CERTIFICATION

11 Pending the outcome of court findings on the McCarran Amendment issues, County of  
12 Los Angeles Water Works District No. 40 can file a motion for the creation of a defendant  
13 landowner class or classes consisting of relatively small parcel owners who: (1) have a common  
14 interest in a physical solution to groundwater overdraft conditions in the Antelope Valley; (2) do  
15 not seek individual quantification of an overlying right; and (3) wish to avoid the expense of their  
16 individual participation in the groundwater adjudication proceedings. Until the parties know the  
17 scope of the adjudicated area, the scope of a potential defendant class or classes cannot be fully  
18 ascertained. For this reason, the County of Los Angeles Water Works District No. 40 respectfully  
19 requests that the Court set a hearing and briefing schedule on a class motion at least 45 days  
20 following the court's determination of the area of adjudication.

21 Dated: September 20, 2006

BEST BEST & KRIEGER LLP

22  
23  
24 By: 

ERIC L. GARNER

JEFFREY V. DUNN

Attorneys for Los Angeles County  
Waterworks District No. 40 and Rosamond  
Community Services District

**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 20, 2006, I served the within document(s):

**CASE MANAGEMENT STATEMENT BY COUNTY OF LOS ANGELES  
WATERWORKS DISTRICT NO. 40 AND ROSAMOND COMMUNITY SERVICES  
DISTRICT**

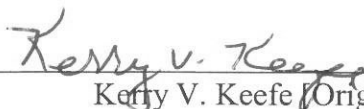
- ☒ by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed 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.

(SEE ATTACHED SERVICE LIST)

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 20, 2006, at Irvine, California.



Kerry V. Keefe [Original Signed]

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