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11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

14 ANTELOPE VALLEY
15 GROUNDWATER CASES

16 Included Actions:

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

21 Los Angeles County Waterworks District
22 No. 40 v. Diamond Farming Co., Superior
23 Court of California, County of Kern, Case
24 No. S-1500-CV-254348

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

Judicial Council Coordination No. 4408

CLASS ACTION

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

**OBJECTIONS BY CHARLES TAPIA AND
THE NELLIE TAPIA FAMILY TRUST
TO STATEMENT OF DECISION**

Date: December 23, 2015

Time: 10:00 a.m.

**Place: Mosk Courthouse, 111 N. Hill Street,
Room 222, Los Angeles, California**

29 COMES NOW Charles Tapia and the Nellie Tapia Family Trust ("Tapia") who submits
30 the following Objections to the Statement of Decision filed December 4, 2015 by Jeffrey Dunn,
31 which bears Document # 10973 on the Court's electronic docket:

32 1. During the presentation of closing arguments on November 4, 2015 by Tapia's
33 counsel, it was noted that Tapia had shown amounts of water usage that could be quantified and
34 awarded to Tapia in this case. Tapia's counsel specifically pointed to the following items of
35 evidence:

- 1 a. Expert testimony presented by Mr. Dunn and Ms. Wang showed that Tapia farmed
2 between 70 to 80 acres per year, and that the crop duty would be between 2.2 acre-
3 feet to 2.7 acre-feet per year. Therefore, by admission of Mr. Dunn's client, Tapia
4 would be entitled to pump between 154 acre-feet per year to 216 acre-feet per
5 year. This admission against interest should result in the Court holding that Tapia
6 is at least entitled to 154 acre-feet per year if not 216 acre-feet per year.
- 7 b. Water usage documentation from AVEK showed that in the years Tapia only
8 farmed the Rosamond Farm, which would be the years 2006 through 2008 (and
9 prior to the time Tapia started pumping from his own well in 2009), the water
10 usage averaged 260 acre-feet per year. This argument was based upon the
11 declaration of AVEK, through Mr. Tom Barnes, filed with the court on October
12 14, 2015, as Document # 10824. This declaration was submitted by agreement of
13 counsel and without objection to its use as evidence at trial.
- 14 c. In addition, there were two years in particular that the pump test results would
15 indicate that water was being pumped solely for agricultural uses on the Rosamond
16 Farm. Those years were 2010 and 2012, which showed that 391 acre-feet and 437
17 acre-feet, respectively, were pumped. Two declarations from SCE, through Mr.
18 Rick Koch, filed on October 14, 2015 as Document #'s 10822 and 10827 showed
19 this to be true. These declarations were also submitted by agreement of counsel
20 and without objection to its use as evidence at trial.
- 21 d. Accordingly, very clear evidence presented in this case shows that Tapia would be
22 entitled to a minimum 154 acre-feet per year and possibly as high as 437 acre-feet
23 per year. Based upon those clear items of evidence, Tapia's counsel requested an
24 award of 300 acre-feet per year as a fair allocation being that that was an
25 approximate midpoint between the aforementioned calculations.

26 2. At the conclusion of closing arguments on November 4, 2015, the Court issued its
27 tentative ruling. As it relates to Tapia, the Court stated that Tapia had shown that he was
28 pumping, that Tapia had a right to pump, but that the amount of water Tapia had a right to pump

1 in the future would be determined by application from Tapia to the designated Water Master
2 pursuant to the terms of the Physical Solution. In the Statement of Decision, it states that as to
3 Tapia, Tapia has "...failed to establish rights to groundwater pumping based on the evidence and
4 there is no statutory or equitable basis to give them an allocation of water under the physical
5 solution. The Tapia Parties will be subject to the provisions of the Physical Solution." See,
6 Statement of Decision, Section IX, page 13. This language in the Statement of Decision is
7 contrary to the Court's tentative ruling and is also quite unclear as to how Tapia's use will be
8 determined on a going forward basis. The reasons for this are, at a minimum, the following:

- 9 a. The provisions of the Physical Solution as to the Water Master solely relate to new
10 uses. By virtue of the courts tentative ruling, Tapia's use is not a new use. It is
11 therefore unclear how the Physical Solution and the Water Master procedure
12 relates to Tapia.
- 13 b. The Physical Solution and Statement of Decision will accordingly have to be
14 revised to deal with the Court ordered existing use of Tapia and address how Tapia
15 is to apply for his ongoing pumping of water.
- 16 c. Accordingly, Tapia objects to the provisions of the Statement of Decision which
17 are wholly inconsistent with the courts tentative ruling.

18 3. In addition, the Statement of Decision should address the water usage evidence
19 cited by Tapia's counsel in closing argument as set forth in paragraph 1, above. Tapia objects to
20 that lack of inclusion of the evidence (or at least a summary thereof) and also submits that it
21 should be explained why testimony that is tantamount to admissions of adverse parties is not
22 persuasive to award Tapia a minimum water usage based upon expert testimony.

23 Tapia therefore objects to the Statement of Decision and request that the Statement of
24 Decision address the matters set forth hereinabove.

25 Dated: December 10, 2015

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26 By: 

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