

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

**ANTELOPE VALLEY GROUNDWATER
CASES**

Judicial Council Coordination
Proceeding No. 4408

**[PROPOSED] ORDER
TRANSFERRING AND
CONSOLIDATING ACTIONS FOR
ALL PURPOSES**

(Hon. Jack Komar)

The motion to consolidate brought by the City of Palmdale, Rosamond Community Services District, Los Angeles County Waterworks District No. 40, Littlerock Creek Irrigation District, Palm Ranch Irrigation District, California Water Service Company, Quartz Hill Water District, City of Lancaster, and Palmdale Water District (collectively "Public Water Suppliers") came on for hearing on August 17, 2009, and October 13, 2009. The Court, having considered the written submissions of the parties and arguments of counsel thereon, finds and determines as follows:

1. The complaints and cross-complaints involve common issues of law and fact relating to the determination of the relative rights to withdraw water from the Antelope Valley Groundwater Basin in the Antelope Valley.

2. Consolidation will allow for the entry of single statements of decision in subsequent phases and a single judgment resulting in a comprehensive adjudication of

1 rights to water from the Antelope Valley Groundwater Basin which, among other things,
2 is intended to satisfy the requirements of the McCarran Amendment, 43 U.S.C. § 666.

3 3. There is jurisdiction over the United States only to the extent authorized by
4 Congress. The McCarran Amendment provides a limited waiver of immunity for joinder
5 in comprehensive adjudications of all rights to a water source. Consolidation of claims
6 beyond the comprehensive adjudication of the respective rights of all parties to withdraw
7 groundwater from the Antelope Valley Groundwater Basin does not extend jurisdiction
8 over the United States beyond the narrow waiver of immunity of the McCarran
9 Amendment as provided by Congress, and shall not bind or otherwise adversely affect the
10 rights of the United States.

11 4. Complete consolidation will permit these matters to proceed as an *inter se*
12 adjudication of the rights of all of the parties to these consolidated cases to withdraw
13 groundwater from the Antelope Valley Groundwater Basin.

14 5. This order of consolidation shall not preclude any parties from settling any
15 or all claims between or among them, as long as any such settlement expressly provides
16 for the Court to retain jurisdiction over the settling parties for purposes of entering a
17 physical solution resolving all claims to the rights to withdraw groundwater from the
18 Antelope Valley Groundwater Basin. Upon appropriate motion and the opportunity for
19 all parties in interest to be heard, the Court may enter a final judgment approving any
20 settlements, including the *Willis* and *Wood* class settlements, that finally determine all
21 cognizable claims for relief among the settling parties, but any such judgment must
22 expressly retain jurisdiction over the settling parties for purposes of incorporating and
23 merging the settlement into a comprehensive single judgment containing such a physical
24 solution. Complete consolidation shall not prejudice or impair any class' right to seek the
25 entry of a final judgment after settlement.

26 The Court hereby orders as follows:

27 1. The motion to transfer and to consolidate for all purposes is granted.
28

2. To the to the extent not previously transferred as a result of the Judicial Council’s order of coordination, all matters presently pending under Judicial Council Coordination Proceeding No. 4408 are ordered transferred from the Riverside County Superior Court and Kern County Superior Court to the Los Angeles County Superior Court, the Honorable Jack Komar, judge presiding by special assignment.

3. The following actions are consolidated completely for all purposes: *Wm. Bolthouse Farms, Inc. vs. City of Lancaster, et al.*, Riverside County Superior Court Case No. RIC 353840; *Diamond Farming Co., et al. vs. City of Lancaster, et al.*, Riverside County Superior Court Case No. RIC 344436; *Diamond Farming Co. vs. Palmdale Water District, et al.*, Riverside County Superior Court Case No. RIC 344668; *Los Angeles County Waterworks District No. 40 vs. Diamond Farming Co., et al.*, Kern County Superior Court Case No. S-1500-CV 254-348; *Los Angeles County Waterworks District No. 40 vs. Diamond Farming Co., et al.*, Los Angeles County Superior Court Case No. BC 325201; *Rebecca Lee Willis, etc. vs. Los Angeles County Waterworks District No. 40, et al.*, Los Angeles County Superior Court Case No. BC 364553; *Richard A. Wood, etc. vs. Los Angeles County Waterworks District No. 40, et al.*, Los Angeles County Superior Court Case No. BC 391869; and, all cross-complaints filed in any of the above-referenced actions.

4. The action entitled *Sheldon R. Blum, Trustee for the Sheldon R. Blum Trust v. Wm. Bolthouse Farms, Inc.*, Los Angeles County Superior Court, Case No. 1-05-CV-049053, is not consolidated, but shall remain related and coordinated with the actions and cross-actions referenced in paragraph 3 above.

5. The Court will proceed first with the following described claims or issues relating to declaratory relief for the determination of rights to water within the Antelope Valley Groundwater Basin:

- a) Determination of overall condition of groundwater basin:
 1. Safe Yield
 2. Overdraft

- b) Determination of correlative rights to withdraw groundwater, including claims to:
 1. Prescription
 2. Appropriation
 3. Municipal/Domestic Priority
 4. Rights to Imported Water/Storage Rights
 5. Return Flow Rights
 6. Reasonable and Beneficial Use of Water
 7. Recycled Water
 8. Quiet Title
- c) Determination of federal reserved right to water
- d) Physical Solution

6. The following claims for declaratory relief do not involve a determination of rights to withdraw groundwater, and will proceed after the determination of the issues identified in paragraph 5 above. Any waiver of immunity by the United States under the McCarran Amendment does not extend to these claims; jurisdiction over the United States does not attach to these claims or causes of action alleging these claims, and any determination on these claims shall not bind or otherwise adversely affect the rights of the United States:

- a) Conversion
- b) Nuisance
- c) 42 U.S.C. § 1983
- d) Takings/Inverse Condemnation
- e) Trespass
- f) Compliance with CEQA (California Environmental Quality Act (Public Resources Code sections 21000-21177))
- g) Any other claim or cause not relating to declaratory relief for the determination of rights to water

7. The following described causes of action for damages will proceed after the determination of the issues identified in paragraphs 5 and 6 above. Any waiver of immunity by the United States under the McCarran Amendment does not extend to these claims; jurisdiction over the United States does not attach to these claims or causes of action alleging these claims, and any determination on these claims shall not bind or otherwise adversely affect the rights of the United States:

- a) Conversion
- b) Nuisance
- c) 42 U.S.C. § 1983
- d) Takings/Inverse Condemnation
- e) Trespass

8. Any claim to declaratory relief regarding basin boundaries has been determined by the Court by order dated November 6, 2008. To the extent any current party was not a party at the time of the determination of this issue, that party may seek to reopen or, consistent with the order, move to amend the basin boundary.

DATED: _____
Judge of the Superior Court