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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding

Case No. 105 CV 049053

**ANTELOPE VALLEY
GROUNDWATER CASES**

Judicial Council Coordination Proceeding
No. 4408

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.

The Honorable Jack Komar
Santa Clara Case No. Case No. 105 CV 049053

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.

**CITY OF LOS ANGELES' PROPOSAL
CONCERNING FORM DISCOVERY**

Wm. Bolthouse Farms, Inc. v. City of
Lancaster

Riverside County Superior Court
Lead Case No. RIC 344436
Case No. RIC 344668
Case No. RIC 353840

Diamond Farming Co. v. City of
Lancaster

Los Angeles Superior Court
Case No. BC 325201

Diamond Farming Co. v. Palmdale Water
District

Kern County Superior Court
Case No. S-1500-CV-254348

Date: December 11, 2012
Time: 9:00 a.m.
Room: Dept. 1

The City of Los Angeles has reviewed the Proposed Court Orders for Discovery for the
Phase 4 Trial submitted by the Public Water Suppliers ("PWS") through the law firm of Richards,
Watson & Gershon (Doc. No. 5335), and by Copa De Oro through the law firm of Bartkiewicz

1 and Shanahan (Doc. No. 5339) and submits the following comment for the Court's consideration
2 in connection with those proposals.

3 While Assessor's Parcel Numbers ("APNs") are a convenient way to identify land owned
4 by a specific party, they are irrelevant to the determination of whether water being applied to the
5 land is a valid exercise of overlying groundwater rights. So long as the parcel overlies the
6 groundwater basin, it is irrelevant whether the groundwater being applied to it is pumped from the
7 same parcel. As California's courts have long recognized, the analogy between riparian and
8 overlying groundwater rights is a very close one. (*See* W. A. Hutchins, The California Law of
9 Water Rights (Calif. 1956) at 452-53; *Hudson v. Dailey* (1909) 156 Cal. 617, 628; *Peabody v.*
10 *Vallejo* (1935) 2 Cal.2d 351, 372, 383 ["the California Supreme Court 'accorded to the
11 underlying and percolating water right a status analogous to the riparian right.'"]). Just as a water
12 diverted from a surface stream pursuant to a riparian right need not be diverted on the riparian
13 parcel itself (*see Pabst v. Finmand* (1922) 190 Cal. 124, 137-38; Hutchins, *supra*, at 248 – 49),
14 water may be pumped from a groundwater basin for use on a different parcel so long as the parcel
15 of use overlies the basin.

16 For this reason, the focus of the PWS proposal on the specific Assessor's Parcel ("AP") as
17 the basis of extraction and use is too narrow. Some landowners, such as the City of Los Angeles,
18 own multiple contiguous parcels as identified by APNs, and may extract water from a well on one
19 AP for use on an adjoining or nearby AP. The proper scope of inquiry is the extent and nature of
20 water use on property owned by a party, and on the description of the property on which the water
21 is used. The Copa De Oro proposed discovery order more validly reflects this reality by requiring
22 both identification of "the property or properties where pumping or water use occurred for each
23 year reported" as well as "the . . . Assessor's Parcel Numbers of the parcels where the reported
24 pumping or water use occurred". The flexibility of this description allows owners of property
25 with multiple APNs to most accurately describe their pumping and water use.

26 Should the Court prefer the more detailed discovery order proposed by the PWS, the City
27 of Los Angeles suggests that the term "parcel" as used in the interrogatories be defined as "a
28 parcel identified by an Assessor's Parcel Number or multiple contiguous parcels so identified that

1 are operated and farmed as a unit.” Such a definition would allow farmers and water users who
2 operate property identified by several APNs but which is contiguous and operated or farmed as a
3 unit to properly characterize their water extraction and use.

4
5 Dated: November 20, 2012.

6 CARMEN A. TRUTANICH, City Attorney
7 Richard M. Brown, General Counsel, Water and Power
8 Raymond Ilgunas, General Counsel, Los Angeles World
9 Airports

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14 Attorneys for Defendant CITY OF LOS ANGELES
15 and LOS ANGELES WORLD AIRPORTS
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PROOF OF SERVICE

I DECLARE THAT:

I am employed in the County of Sacramento, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 400 Capitol Mall, 27th Floor, Sacramento, California 95814.

On November 20, 2012, I served the attached CITY OF LOS ANGELES' Court Call Confirmation by posting the document to the Santa Clara Superior Court website www.scefiling.org. in regard to the Antelope Valley Groundwater matter.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this document was executed on November 20, 2012.


Lorraine Lippolis

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