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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.

**JOINT CASE MANAGEMENT
STATEMENT OF CITY OF LOS
ANGELES, STATE OF CALIFORNIA,
ANTELOPE VALLEY-EAST KERN
WATER AGENCY AND LOS ANGELES
COUNTY SANITATION DISTRICT NOS.
14 AND 20**

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

Diamond Farming Co. v. City of
Lancaster

Diamond Farming Co. v. Palmdale Water
District

Riverside County Superior Court
Lead Case No. RIC 344436
Case No. RIC 344668
Case No. RIC 353840
Los Angeles Superior Court
Case No. BC 325201
Kern County Superior Court
Case No. S-1500-CV-254348

Date: January 16, 2013

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COUNTY SANITATION DISTRICTS OF LOS ANGELES NOS. 14 AND 20

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1 City of Los Angeles, by and through its Department of Airports, Los Angeles World
2 Airports (“LAWA”), the State of California, on behalf of Santa Monica Mountains Conservancy,
3 State of California 50th District Agricultural Association, and all other state agencies owning land
4 within the antelope valley adjudication area (“State of California”), the County Sanitation
5 Districts of Los Angeles Nos. 14 and 20, and Antelope Valley-East Kern Water Agency
6 (“AVEK”), (collectively “Public Overliers” herein) file this Case Management Statement to assist
7 the Court and the parties in establishing a feasible and efficient process for management of the
8 next phase of trial.

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10 **A. ORDER OF ISSUES TO BE PRESENTED.**

11 In an adjudication such as this one, where the Court has already found there to be a Basin
12 overdraft, and therefore substantial reductions in allowable pumping are likely, all parties are
13 vitally interested in each other party’s evidence of its groundwater extraction. This is not a case
14 with two or even three distinct “sides” – all parties are adverse to all other parties in what is,
15 essentially, a zero-sum game.

16 Reliable estimates from other Parties indicate that the Court will be facing testimony from
17 at least one hundred percipient and expert witnesses in the Phase 4 Trial (“Trial”). Furthermore,
18 the Court has indicated in its Case Management Order that the issues to be tried include not just a
19 determination of the amount of existing uses, but also vigorously disputed questions related to
20 claims of return flows and of Federal reserved rights. This will undoubtedly require more than
21 the nine court days the Court has scheduled for the Trial.

22 The Public Overliers appreciate that the Court has indicated that it will schedule additional
23 days for testimony if the Trial cannot be concluded in the currently scheduled nine court days.
24 However, unless the scheduling of witnesses and issues is not carefully managed, parties
25 presenting testimony of use early in the Trial may be at a disadvantage relative to parties that will
26 have a longer time to prepare witnesses and exhibits.

27 Furthermore, even with the best efforts of all the parties, it is questionable whether
28 depositions of the designated witnesses can be completed by February 1, the discovery cut-off

1 date. As an example, on January 10, the deposition of a single percipient witness -- concerning
2 existing water use and supporting records --- took more than six hours to complete. Additionally,
3 the Public Water Suppliers have indicated that they will rely on documents submitted in the Phase
4 3 Trial, documents that have not yet been posted to the Court's website, and are therefore
5 currently unavailable to many of the parties that will participate in the Phase 4 Trial.

6 Finally, while stipulations may be possible among certain parties, it is unlikely that any
7 stipulation that can be agreed to among fewer than all parties would forestall the necessity of
8 presenting testimony concerning the subject of the stipulation at trial. And, with the number of
9 parties to this action, the Public Overliers believe it is not likely that such universal stipulations
10 can be achieved, at least in the time available.

11 For the foregoing reasons, the Public Overliers suggest the following order of presentation
12 of testimony, consistent with the Court's Case Management Order setting forth the issues to be
13 determined in the Phase 4 Trial:

- 14 1. Testimony concerning the establishment and extent of the Federal reserved
15 right. Although the United States has designated multiple witnesses,
16 including expert witnesses, to testify concerning this issue, depositions on this
17 limited issue could be completed within the time available. Furthermore, the
18 United States has provided and posted extensive documentation of its claim
19 on the Court's website, which should expedite discovery and trial preparation.
- 20 2. The other relatively limited issue concerns claims to the return flow from
21 imported water. There should be little controversy concerning the amount of
22 water imported into the Basin, the party that imported the water, and the
23 distribution of imported water to other parties within the Basin. Furthermore,
24 considerable evidence was offered at the last trial phase concerning the
25 amount of return flow from imported water, much of which evidence will be
26 relied on by parties at this Trial. The critical issue appears to be the
27 determination of which party or parties is entitled to claim and pump those
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1 return flows – the importing wholesaler or the retailer of the water. This issue
2 may be more of a legal, rather than factual, issue for the Court’s
3 determination. In any event, the parties involved in the disputes concerning
4 the return flow issue are more limited – not all 100 parties to the case are
5 involved.

- 6 3. The issue concerning amount of existing water use, by contrast, affects all of
7 the parties to the adjudication, scores of witnesses, and voluminous records.
8 Because of this, discovery and trial preparation, and trial itself, will require
9 more time. For that reason, LAWA, AVEK suggest that the February trial
10 schedule be limited to the first two issues described above, and presentation of
11 evidence of existing usage by the parties be deferred for ninety days.

12 The Public Overliers suggest that a new Case Management Order be prepared limiting
13 depositions prior to February 11, 2013 to discovery related to the issues of Federal Reserved
14 Right and/or claims of entitlement to Return Flows.

15 With such sequencing of the issues -- deferring presentation of the “existing use” evidence
16 -- the parties also will have the opportunity to reevaluate the strength of each others’ claims now
17 that the supporting evidence has been posted on the Court’s website. The additional ninety days
18 would allow them to reconsider the potential for settlement in light of the newly revealed
19 evidence, and to prepare a structured settlement proposal to the Court. This would not be
20 possible if the existing use testimony were to be heard beginning February 11, 2013.

21 22 **B. CLARIFICATION OF CASE MANAGEMENT ORDER**

23 The parties have shown some confusion concerning the Court’s direction that evidence of
24 “reasonable beneficial use” be presented in this phase of Trial. This may be due to the two
25 distinct and different aspects of “reasonableness.” (1) a “macro” and societal consideration that
26 can roughly be expressed as “is it reasonable to grow X crop in a desert environment,” and (2) a
27 “micro” consideration of whether a water user is applying water in a reasonably efficient manner
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1 for the crops he or she is undertaking to grow, or is using water efficiently for the municipal,
2 domestic or industrial purpose for which he or she is using water. It is the understanding of the
3 Public Overliers that the Court has indicated it is interested only in the “micro” aspect of
4 reasonableness in this Trial. If this understanding is correct, the following language should be
5 added to Paragraph 2 of the Court’s Case Management Order, regardless of whether the Trial is
6 sequenced as suggested above:

7 The determination of reasonableness in this Phase 4 Trial is limited to whether the
8 manner and method of application of water is reasonably efficient under the
9 circumstances.

11 C. STREAMLINED STIPULATION PROCESS

12 Although the Court has encouraged the parties to enter into stipulations, the Court has not
13 provided a mechanism to ensure such stipulations are effective in streamlining the Trial. The
14 Court has asked the Public Water Suppliers to see what they believe can be stipulated to, but as
15 stated above, a stipulation that does not include every party that intends to appear at trial will not
16 obviate the need for testimony on all issues, including ownership and meter readings. Therefore,
17 LAWA and the State of California ask the Court to set forth a streamlined process for stipulations
18 as follows:

19 Any stipulation agreed to by the Liaison Committee will be filed and posted for
20 all Parties to see. Such stipulations will be deemed to be agreed to by all Parties,
21 unless a Party or Parties post a document within a certain time period stating that
22 such Party or Parties intend to contest the issue at Trial.

23 A stipulation process such as this is crucial unless the Court intends each Party to call
24 witnesses related to ownership, authentication and other issues that would typically be stipulated
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1 to in such a Trial.


2 Respectfully submitted.

3 Dated: January 14, 2013.

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6 Power
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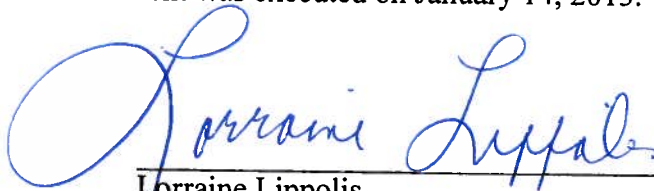
PROOF OF SERVICE

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 January 14, 2013, I served the attached **JOINT CASE MANAGEMENT STATEMENT OF CITY OF LOS ANGELES, STATE OF CALIFORNIA, ANTELOPE VALLEY-EAST KERN WATER AGENCY and LOS ANGELES COUNTY SANITATION DISTRICT NOS. 14 AND 20** 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 January 14, 2013.



Lorraine Lippolis