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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.

**[Proposed] FOURTH AMENDMENT TO
CASE MANAGEMENT ORDER FOR
PHASE FOUR TRIAL**

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

Diamond Farming Co. v. Palmdale Water
District

Many parties have filed a Notice of Intent to Participate in the Phase Four Trial (“Trial”),
and well over one hundred potential witnesses have been designated to testify concerning land
ownership and water use during the Trial. Pursuant to its authority under Code of Civil Procedure
sections 187 and 404.7, California Rules of Court, rule 3.504(c), and the Court’s fundamental

1 inherent equity, supervisory, and administrative powers, as well as its inherent power to control
2 litigation, the Court seeks to provide for the efficient presentation of evidence at Trial by
3 identifying those factual issues on which there is no evidentiary dispute among parties and, where
4 there is such a dispute, to identify the parties involved in that dispute, the evidence relevant to it
5 and an estimate of trial time the dispute may consume.

6 To that end, the Court previously entered Discovery Order No. 1 on December 12, 2012,
7 requiring all parties to provide detailed and specific information concerning ownership of
8 property, groundwater use, well locations, crop types, imported water claims, return flow claims
9 and federal reserved right claims and to post the information on the Court's website by December
10 21, 2012. The Court further ordered that the parties' responses be accompanied by an executed
11 verification by an individual authorized to respond on behalf of the responding party. With
12 certain exceptions, responses ("Discovery Response(s)") were timely posted by the parties.

13 At the request of the parties, on January 17, 2013 the Court entered its First Amendment
14 to Case Management Order for Phase Four Trial, requiring the parties to set forth in a prescribed
15 form of declaration ("Declaration") the information that had been produced in the response to the
16 Discovery Order and to do so by January 31, 2013. The Declarations were to organize the
17 information contained in the Discovery Responses to enable the parties to more efficiently review
18 the information to ascertain whether it is subject to dispute. Numerous parties served
19 Declarations in compliance with the First Amendment to Case Management Order for Phase Four
20 Trial. The Court set February 28, 2013 as the date by which stipulations or objections to
21 information in the parties' Declarations were to be filed, and later extended it to March 15, 2013.

22 In order to prepare for a more efficient Trial, the Court and the parties need to know what
23 facts are disputed and require testimony. It is necessary to identify, based on the information
24 provided by the parties under the Court's above-referenced orders, what evidentiary disputes may
25 exist to be resolved during the Trial, the parties involved in those disputes and the evidence that
26 may be presented to the Court without dispute. The Court notes that information the parties have
27 provided to one another pursuant to the Court's earlier Phase Four orders has been available to
28 the parties for approximately months and for at least six weeks in the Declaration format

1 approved by the Court. The parties were required to respond to this proposed order in writing
2 within five (5) days of its posting on the Court's website. All written comments have been
3 considered by the Court. Pursuant to the Court's authority under Code of Civil Procedure sections
4 187 and 404.7 and California Rules of Court, rule 3.504(c), and GOOD CAUSE APPEARING,

5 **IT IS THEREFORE ORDERED THAT:**

6 1. The Court intends for this Order to establish, consistent with the unique
7 circumstances of these coordinated cases, a process for narrowing the factual disputes to be
8 determined at the Trial and to eliminate, to the extent possible, the necessity of presenting
9 evidence through witnesses at Trial. The Court finds that the parties have had adequate time to
10 review the substantial amounts of information disclosed pursuant to the Court's prior orders for
11 Phase Four of this matter, and that April 15, 2013 is an appropriate date by which to require
12 parties to indicate whether they dispute information provided by other parties in response to those
13 orders.

14 2. Certain parties' witnesses were deposed before March 15, and such parties may
15 have filed a Stipulation of Facts ("Stipulation") in lieu of providing a Declaration. If no objection
16 or dispute is filed as to facts stated in a Stipulation, those facts will be treated in the same manner
17 as facts stated in a Declaration, as set forth in paragraph 5 of this order. If a party objects to or
18 disputes a fact stated in a Stipulation, the objecting party must also object to or dispute the facts
19 stated in any related Declaration, as set forth in paragraph 3 of this order.

20 3. On or before 5:00 p.m. on April 15, 2013, all parties shall serve, by posting to the
21 Court's website, a statement of any objections or disputes they have to any or all facts stated in
22 any Stipulation or Declaration. The statement of objection and/or dispute shall indicate by party
23 and paragraph the statement of fact being disputed, the basis of the objection and/or dispute to the
24 , and shall identify documents and witnesses known to the disputing and/or objecting party that
25 disputes, contradict or is inconsistent with the disputed fact. If the evidence on which the
26 objecting party relies consists in whole or in part of documents, the objecting party shall either
27 identify the documents in its objection or serve copies of those documents with the objection.
28

4. Objections must be specific; a broad or general statement of objection or dispute without a specifically stated basis will be ineffective for satisfying paragraph 3 of this order.

5. Any portion of a Stipulation or Declaration to which no objection has been made by the time set forth in paragraph 3 hereof will be accepted by the Court in the Trial as competent evidence of the facts stated therein, without the necessity to call a witness to establish the fact.

6. If a party did not, by April 15, 2013, object to or dispute a fact stated in a Stipulation or Declaration and provide the information required by this Order but later seeks to dispute that fact during the Trial, that party shall file an application on no less than five (5) days' notice for leave to present evidence disputing the fact at Trial. The application shall be supported by a sworn declaration establishing good cause. If the Court approves such an application, it may impose conditions on its approval, including allowing additional discovery related to the objection or dispute, and requiring that the costs be borne, in whole or in part, by the party filing the application.

7. This Fourth Amendment to the Case Management Order shall not affect the burden of proof of any party as to any fact required for its case; it affects only the burden of going forward with the evidence.

IT IS SO ORDERED.

Date:_____

Hon. Jack Komar
Judge of the Superior Court

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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 March 28, 2013, I served the attached **PROPOSED FOURTH AMENDMENT TO CASE MANAGEMENT ORDER FOR PHASE FOUR TRIAL** 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 March 26, 2013.

/s/ _____
Lorraine Lippolis