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SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER
CASES

Included Actions:

Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co.
Superior Court of California County of Los Angeles,
Case No. BC 325 201

Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co.
Superior Court of California, County of Kern,
Case No. S-1500-CV-254-348

Wm. Bolthouse Farms, Inc. v. City of Lancaster
Diamond Farming Co. v. City of Lancaster
Diamond Farming Co. v. Palmdale Water Dist.
Superior Court of California, County of Riverside,
consolidated Actions, Case Nos. RIC 353 840, RIC 344
436, RIC 344 668

AND RELATED ACTIONS.

Judicial Council Coordination
Proceeding No. 4408

Assigned to The Honorable
Jack Komar

**STATE OF CALIFORNIA'S
OBJECTION TO REQUEST
FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION FOR
CLASS CERTIFICATION
AND STATE'S REQUEST
FOR JUDICIAL NOTICE**

Defendants State of California, Santa Monica Mountains Conservancy, and the State of
California 50th District Agricultural Association ("State defendants") hereby object to the
Request for Judicial Notice in support of Motion for Class Certification filed by Rosamond

1 Community Services District and Los Angeles County Waterworks District No. 40 on March 12,
2 2007. The requesting parties ask for judicial notice of a motion and two memoranda of points
3 and authorities in a federal case from the State of Nevada. The request is both procedurally and
4 substantively defective. If, however, the Court is inclined to grant the request, the State
5 defendants request that the Court also grant judicial notice of the ruling and order in that case, in
6 which the motion for class certification was denied.

7 **I. THE DOCUMENTS ARE NOT JUDICIALLY NOTICEABLE**

8 **A. The Copies of the Documents are Neither Certified Nor File-stamped.**

9 The copies of the documents for which judicial notice is requested are not certified copies of
10 the records of the federal court, nor do they show any file stamps to indicate that they are copies
11 of the actual documents in the federal court files. The Declaration of Stefanie Hedlund re
12 Request for Judicial Notice does not recite how she obtained the documents and does not indicate
13 that she obtained them from the court's records. Thus, the documents have not been established
14 to be authentic "records of . . . any court of record of the United States" as required by Evidence
15 Code section 452 (d). (*Ross v. Creel Printing & Publishing Co.* (2002) 100 Cal.App.4th 736, 743
16 [appellate court declined to take judicial notice of a complaint filed in Nevada court, where it
17 was not certified or provided under subpoena and thus there was no assurance of its
18 authenticity].)

19 **B. The Documents Do Not Contain Judicially Noticeable Facts, nor Facts**
20 **Relevant to the Present Proceeding.**

21 The parties requesting judicial notice have failed to furnish the court "with sufficient
22 information to enable it to take judicial notice of the matter." (Evid. Code § 453 (b); see 1
23 Witkin, *California Evidence* (4th Ed. 2000) Judicial Notice § 36, p. 132.) The bare request for
24 judicial notice filed by Rosamond and County Waterworks does not identify which portions of
25 the offered documents they seek to have judicially noticed, nor do they explain the relevance of
26 the documents to this case.

27 The documents consist of a motion for certification of defendant classes, a supporting
28 memorandum, and a reply. These documents thus constitute argument, not judicially noticeable

1 facts. "A court may take judicial notice of the *existence* of each document in a court file, but can
2 only take judicial notice of the *truth* of facts asserted in such documents as orders, findings of
3 fact and conclusions of law, and judgments." (6 Witkin, *California Procedure*, (4th Edition,
4 2000) *Proceedings Without Trial*, § 210, p. 622.) Indeed, some cases hold that even a judge's
5 factual findings are not a proper subject of judicial notice. (*Kilroy v. California* (2004) 119
6 Cal.App.4th 140, 148.)

7 Moreover, the requesting parties have failed to show the relevance of those documents to
8 this case. (Evid. Code, § 350 [only relevant evidence is admissible]; *People v. Shamrock Foods*
9 *Co.* (2000) 24 Cal.4th 415, 422, footnote 2 [matter to be noticed must be relevant to material
10 issue].) To the extent that the documents were submitted to support the Municipal Water
11 Suppliers' proposal in their original motion papers that the State of California represent a
12 defendant class, they are not relevant now that the Suppliers propose to exclude all public entities
13 from the class. (Public Water Suppliers' Proposals for Class Definitions and Method of Notice,
14 Filed March 16, 2007, p. 3.) In any event, Requesters do not explain the relevance of *arguments*
15 in another case, on different facts, to the issues in this case, particularly where the arguments
16 were unsuccessful. (See below.)

17 II. STATE'S REQUEST FOR JUDICIAL NOTICE

18 Should the court be inclined to take judicial notice of the documents offered by Rosamond
19 and the County Waterworks District, State defendants request that the court also take judicial
20 notice of the following:

21 1. The Minutes of the Court in *United States of America, v. Walker River Irrigation*
22 *District*, United States District Court for the District of Nevada, Case No. C-125-ECR and Sub-
23 File No. C-125-B, entered March 29, 2002, attached to Declaration of Keri Spaulding as Exhibit
24 A, and

25 2. Order in *United States of America v. Walker River Irrigation District*, entered on April
26 29, 2002, attached to Declaration of Keri Spaulding as Exhibit B.

27 The Minutes show that the United States' and the Walker River Paiute Tribe's joint motion
28 for certification of defendant classes was denied. The Order demonstrates that the court

1 determined that the State of Nevada was not an appropriate representative for a class of domestic
2 well users because its claims and defenses were not typical of the class. (Order, pages 10-11.)

3 **III. CONCLUSION**

4 The State defendants request that the Court deny the Request for Judicial Notice filed by
5 Rosamond Community Services District and Los Angeles County Waterworks District No. 40.
6 In the alternative, should the Court grant judicial notice of the documents presented by those
7 parties, the State defendants request that the Court also grant judicial notice of the Minutes and
8 Order in the *United States v. Walker Irrigation District case*.


9 Dated: April 5, 2007

Respectfully submitted,

10 BILL LOCKYER
11 Attorney General of the State of California

12 DANIEL L. SIEGEL
13 Supervising Deputy Attorney General

14 MICHAEL CROW
15 Deputy Attorney General

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17 VIRGINIA A. CAHILL
18 Deputy Attorney General

19 Attorneys for State of California, Santa
20 Monica Mountains Conservancy, and State of
21 California 50th District Agricultural
22 Association.
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DECLARATION OF SERVICE

CASE: **ANTELOPE VALLEY GROUNDWATER CASES,
LOS ANGELES COUNTY SUPERIOR COURT
JUDICIAL COUNCIL COORDINATED PROCEEDINGS NO. 4408**

I, declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, P.O. Box 944255, Sacramento, California 94244-2550.

On April 5, 2005, I served the
**STATE OF CALIFORNIA'S OBJECTION TO REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION FOR SUPPORT OF MOTION FOR CLASS CERTIFICATION
AND STATE'S REQUEST FOR JUDICIAL NOTICE.**

- X Posting the document(s) listed above to the Santa Clara County Superior Court web site in regard to the Antelope Valley Groundwater matter on April 5, 2007.
- X by placing a true copy of the document(s) listed above in a sealed envelope with postage thereon fully prepaid using the overnight courier, Golden State Overnight Courier Service, addressed as follows:

(served original via over night courier to Presiding Judge on April 5, 2007)

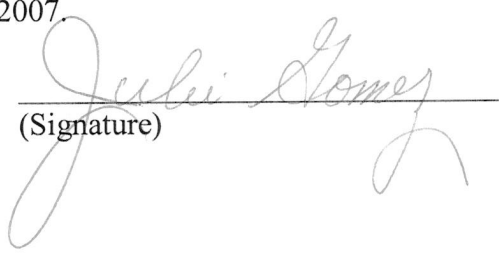
Presiding Judge of the Superior Court of California, County of Los Angeles
County Courthouse
111 North Hill Street
Los Angeles, CA 90012-3014

Chair, Judicial Council of California
Administrative office of the Courts
Attn: Appellate and Trial Court Judicial Services (Civil Case Coordination)
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Honorable Jack Komar
Santa Clara County Superior Court
191 North First Street, Department 17C
San Jose, Ca 95113

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 5, 2007.

Declarant
Julie Gomez



(Signature)