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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**
10

11 ANTELOPE VALLEY
GROUNDWATER CASES
12

13 **INCLUDED ACTIONS:**

14 LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 v.
DIAMOND FARMING COMPANY, et
15 al., Los Angeles Superior Court Case No.
BC325201;
16

17 LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 v.
DIAMOND FARMING COMPANY, et
18 al., Kern County Superior Court Case
No. S-1500-CV-254-348;
19

20 DIAMOND FARMING COMPANY,
and W.M. BOLTHOUSE FARMS, INC.,
v. CITY OF LANCASTER, et al.,
21 Riverside Superior Court Case No. RIC
344436 [c/w case no. RIC 344668 and
22 355840]
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Judicial Council Coordination No. 4408

**RESPONSE TO DECEMBER 12, 2012
DISCOVERY ORDER FOR PHASE 4 TRIAL**

Case No. 1-05-CV-049053
Assigned to The Honorable Jack Komar

Trial Date: February 11, 2013
Time: 9:00 a.m.

1 Cross-Defendant Southern California Edison ("Edison") responds to the Court's
2 December 12, 2012 Discovery Order for Phase 4 Trial ("Discovery Order") as follows.

3 **I. Reservation of Rights**

4 Edison objects to the Discovery Order's abbreviated discovery period. Until the
5 December 11, 2012 Case Management Conference before the Court, there was no determination
6 as to the scope of the Phase 4 trial. Prior to the December 11th Case Management Conference,
7 parties submitted various proposals regarding the scope of the Phase 4 trial, some of which
8 proposed a trial on discrete issues such as return flows or prescription and would not have
9 included a "prove-up" of parties' water rights claims. While Edison responds to its utmost ability
10 here based its investigation to date, Edison is continuing its investigation and reserves the right to
11 further supplement this response as additional information becomes available. Edison further
12 notes that it has reviewed its prior water rights claim submitted in December 2011 and the basis
13 for that claim, and has engaged in subsequent investigation since the filing of the initial claim,
14 which has resulted in a more accurate claim at this time.

15 **II. Responses Regarding Edison's Antelope Substation**

16 **1. Response to Section I.1 of the Discovery Order**

17 A. Edison owns, occupies, or otherwise controls property in Los Angeles
18 County identified by the following Assessor Identification Number(s): APN 3203034806,
19 3203034811, 3203034810, 3203034815, 3203034814, 3203034809, 3203034813, 3203034808,
20 3203034816, 3203034812, 3203034807 (collectively, all eleven parcels referred to as the
21 "Edison Antelope Substation Property").

22 B. Edison is the record title owner for all of the Edison Antelope Substation
23 Property. Edison has owned APN 3203034806 since 1952. As stated below, this is the parcel on
24 which a groundwater well is located to serve the Edison Antelope Substation Property. Edison
25 has owned APN 3203034807 since 2007. Edison has owned APNs 3203034811, 3203034810,
26 3203034815, 3203034814, 3203034809, 3203034813, 3203034808, 3203034816, and
27 3203034812 since 2008. Edison is inquiring into prior ownership from 2000 forward of the
28 parcels other than APN 3203034806 that comprise the Edison Antelope Substation Property.

1 C. A groundwater well existed on the Edison Antelope Substation Property,
2 on parcel APN 3203034806, from 2000-04 and 2011-12.

3 D. A groundwater well was operated on the Edison Antelope Substation
4 Property, on parcel APN 3203034806, from 2000-04 and 2011-12.

5 E. Edison estimates, based on information currently and reasonably available
6 to it, that the quantity of water, measured in acre feet per year ("AFY"), that is pumped from the
7 well(s) described above in Section II.1.C-D is:

Year	AFY
2000	2
2001	2
2002	2
2003	2
2004	2
2010	10
2011	6
2012	2

17 F. The water described above in Section II.1.E was utilized in 2000-04 and
18 2012 for substation employee usage (i.e., restrooms, faucets) and landscaping at the Substation.
19 Water usage in 2010 and 2011 was also utilized for construction activities associated with the
20 expansion of the Antelope Substation. Construction activities at Edison substations are required
21 over time to maintain and expand the capacity of Edison's existing infrastructure in order to meet
22 service demands.

23 G. Edison does not pump groundwater off-site.

24 H. The Edison Antelope Substation Property was and is used as a 500 kV
25 electrical substation in 2011 and 2012.

26 I. The Edison Antelope Substation Property is not utilized for agricultural
27 purposes.

28 K. Edison claims 2 AFY as the reasonable and beneficial use for its property

1 during operations of the Antelope Substation, and 14 AFY during periodic construction periods
2 at the Substation.

3 **2. Response to Section I.2 of the Discovery Order**

4 A. Edison does not lease the Edison Antelope Substation Property.

5 **3. Response to Section I.3 of the Discovery Order**

6 Edison's water rights claim during construction periods is based on available water meter
7 records from July 2010 to June 2011. Edison can also provide documentation regarding pump
8 test results and well permit information and documents concerning the construction of the
9 expanded Substation. Regarding Edison's operational water rights claim, Edison can provide
10 documents and witness testimony describing Edison operations. Edison can provide
11 documentation, such as grant deeds, regarding ownership of the property.

12 **4. Response to Section V of the Discovery Order**

13 The following Edison representatives are most qualified to testify to the above facts:
14 Jorge Rosa, Land Services Agent; Eric Hodder, Project Manager, Corporate Environmental
15 Services; Michael Beliveau, Operations Supervisor Vincent Substation; Rodney Preijers, Project
16 Manager, Tehachapi Renewable Transmission Project; Jacob Sertich, Facilities Manager,
17 Facilities Operations North; and Terry Haas, SC&M Project Manager, Tehachapi Renewable
18 Transmission Project Antelope/Vincent Substations. Edison reserves the right to identify
19 additional witnesses if necessary.

20 **III. Responses Regarding Edison's Whirlwind Substation**

21 **1. Response to Section I.1 of the Discovery Order**

22 A. Edison owns, occupies, or otherwise controls property in Kern County
23 identified by the following Assessor Identification Numbers: APN 26113204, 26113417,
24 26113203, 26113202, 26113201, 26113205, 26113216, 26113215, 26113214, 26113209,
25 26113210, 26113211, 26113109, 26113321, 26113401, 26113403, 26113407, 26113404,
26 26113405, 26113420, 26113416, 26113417, 26113412, 26113413, 26113408, 26113409,
27 26113410, 26113414, 26113415, 26113418, 26113419, 26135022, 26135015 (collectively all 33
28 parcels referred to as the "Edison Whirlwind Substation Property").

1 B. Edison is the record title owner for APN 26113204 since 2009. Prior to
2 2009, and starting prior to the year 2000, Sally A. Delong owned that portion of the Edison
3 Whirlwind Substation Property. Edison acquired APN 26113417 in 2009. The Bac Hoai Bui and
4 Tammy P. Bui 2006 Revocable Living Trust; an individual named Duc Tien Phu; the N.R.L.L.,
5 Inc.; and the Kern County Tax Collector owned APN 26113417 prior to Edison and since 2000.
6 Edison is inquiring into prior ownership of the remaining parcels comprising the Edison
7 Whirlwind Substation Property.

8 C. Edison is informed and believes that a groundwater well existed on the
9 Edison Whirlwind Substation Property on APN 26113417 from 2002-11. Edison constructed its
10 own well on APN 26113204 in 2011.

11 D. Edison is informed and believes that a groundwater well operated on the
12 Edison Whirlwind Substation Property on APN 26113417 from 2002-11. A second groundwater
13 well was also operated on the Edison Whirlwind Substation Property on APN 26113204 by
14 Edison in 2011 and 2012.

15 E. Edison estimates, based on information currently and reasonably available
16 to it, that the amount of water pumped from the wells described above in Section III.1.C-D is:

17	Year	AFY
18	2000	Not applicable ("n/a")
19	2001	n/a
20	2002	To be determined ("TBD")
21	2003	TBD
22	2004	TBD
23	2011	11
24	2012	5

25 F. Based on information currently available to Edison, the use of the water
26 pumped by other persons or entities in 2002-11 is unknown. Edison utilized the well that already
27 had been built on APN 26113417 for approximately three months in 2011 before converting it to
28 an electrical grounding well (a non-water-producing well) in approximately June 2011. Edison

1 used its own well on APN 26113204 in 2011 and 2012. The water used in 2011-12 was utilized
2 for the construction, development, and operation of the Whirlwind Substation. The majority of
3 the construction of the Whirlwind Substation was completed at the end of March 2012.
4 Construction activities at Edison substations are required over time to maintain and expand the
5 capacity of Edison's existing infrastructure in order to meet service demands.

6 G. Edison does not pump groundwater off-site.

7 H. The Edison Whirlwind Substation Property was and is used as a 500 kV
8 electrical substation in 2011 and 2012.

9 I. The Edison Whirlwind Substation Property is not utilized for agricultural
10 purposes.

11 K. Edison claims 1 AFY as the reasonable and beneficial use for its property
12 during operations of the Whirlwind Substation, and 14 AFY during periodic construction periods
13 at the Substation.

14 **2. Response to Section I.2 of the Discovery Order**

15 A. Edison does not lease the Edison Whirlwind Substation Property.

16 **3. Response to Section I.3 of the Discovery Order**

17 Edison's water rights claim during construction periods is estimated based on records
18 and information from Edison contractors regarding (1) the total number of gallons of water used
19 from the groundwater well at the Edison Whirlwind Substation Property for grading and dust
20 control purposes during construction of the Whirlwind Substation, and (2) the available water
21 meter records for construction at a similar substation from July 2010 to June 2011. Edison can
22 also provide documentation of the well installation at the Whirlwind Substation. Edison's
23 operational water rights claim is based on estimates of water use based on employee operations
24 at the Substation. Regarding Edison's operational water rights claim, Edison can provide
25 documents and witness testimony describing Edison operations. Edison can provide
26 documentation, such as grant deeds, regarding ownership of the property.

27 **4. Response to Section V of the Discovery Order**

28 The following Edison representatives are most qualified to testify to the above facts:

1 Jorge Rosa, Land Services Agent 3; Craig Reiter, Senior Project Manager, Kern and Tulare
2 County Transmission and Substation Major Project Organization; Rodney Preijers, Project
3 Manager, Tehachapi Renewable Transmission Project; Jacob Sertich, Facilities Manager,
4 Facilities Operations North; and Terry Haas, Substation Construction & Maintenance Project
5 Manager, TRTP Antelope/Vincent Substations. Edison reserves the right to identify additional
6 witnesses if necessary.

7 **IV. Responses Regarding Other Edison Property**

8 In addition to rights associated with past and current pumping, as outlined above, and
9 because Edison owns 28 other substations and transmission corridors in the Antelope Valley
10 Adjudication Area that do not currently have groundwater wells,¹ Edison reserves its right to
11 assert its “unexercised overlying rights” associated with prospective overlying uses that are
12 reasonable and beneficial. As held in *City of Los Angeles v. City of San Fernando* (1975) 14
13 Cal.3d 199, 293, fn. 100, “prescriptive rights would not necessarily impair the private
14 defendants’ rights to ground water for new overlying uses for which the need had not yet come
15 into existence during the prescriptive period.” (See also *City of Barstow v. Mojave Water Agency*
16 (2000) 23 Cal.4th 1224, 1247-49; 1-11 California Water Law and Policy § 11.12 [Bender 2011].)

17
18
19 Dated: December 21, 2012

ALSTON & BIRD LLP

20
21 By:


NEAL P. MAGUIRE

Attorneys for Cross-Defendant Southern California
Edison

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27 ¹ Other than the Edison Antelope Substation Property and the Edison Whirlwind
28 Substation Property, Edison owns an additional 149 parcels of land in the Antelope Valley
Adjudication Area, comprising 584.87 acres, none of which have groundwater wells.

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VERIFICATION

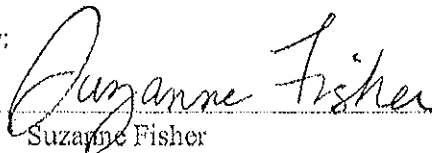
I, Suzanne Fisher, declare as follows:

I am an Agent of Southern California Edison Company, a company organized and existing under the laws of the State of California, which is a Cross-Defendant in the above-entitled action, and I am authorized to make this verification on its behalf.

Based on information supplied by responding party's agents and employees, I declare under penalty of perjury that the enclosed Southern California Edison Company response entitled **RESPONSE TO DECEMBER 12, 2012 DISCOVERY ORDER FOR PHASE 4 TRIAL** is true and correct.

Executed this 21 day of December, 2012 at Rosemead, California.

By:



Suzanne Fisher
Agent and Senior Paralegal
Southern California Edison

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PROOF OF SERVICE

I, Yolanda S. Ramos, declare:

I am employed in the County of Los Angeles, State of California. My business address is Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, CA 90071. I am over the age of eighteen years and not a party to the action in which this service is made.

On December 21, 2012, I served the document(s) described as **RESPONSE TO DECEMBER 12, 2012 DISCOVERY ORDER FOR PHASE 4 TRIAL** on the interested parties in this action as follows:

☐ BY MAIL: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California 90071.

☒ BY ELECTRONIC MAIL: By posting the document listed above to the Santa Clara Superior Court website: www.sceffiling.org regarding the ANTELOPE VALLEY GROUNDWATER matter.

☐ BY FEDERAL EXPRESS ☐ UPS NEXT DAY AIR ☐ OVERNIGHT DELIVERY: I deposited such envelope in a facility regularly maintained by ☐ FEDERAL EXPRESS ☐ UPS ☐ Overnight Delivery [specify name of service:] with delivery fees fully provided for or delivered the envelope to a courier or driver of ☐ FEDERAL EXPRESS ☐ UPS ☐ OVERNIGHT DELIVERY [specify name of service:] authorized to receive documents at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California 90071 with delivery fees fully provided for.

☐ BY FACSIMILE: I telecopied a copy of said document(s) to the following addressee(s) at the following number(s) in accordance with the written confirmation of counsel in this action.

☒ [State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ [Federal] I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 21, 2012, at Los Angeles, California.


YOLANDA S. RAMOS