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8 ANTELOPE VALLEY WATER COMPANY

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **IN AND FOR THE COUNTY OF LOS ANGELES**

11 Coordinated Proceeding) **Judicial Council Coordination**
12 Special Title (Rule 1550 (b))) **Proceeding No. 4408**
13 ANTELOPE VALLEY GROUNDWATER CASES)
14 Included Actions:) Santa Clara Case No. 1-05-CV-049053
15) [Assigned to the Honorable Jack Komar]
16 Los Angeles County Waterworks)
17 District No. 40 v. Diamond Farming) **CASE MANAGEMENT STATEMENT (CMS) BY**
18 Co. Los Angeles County Superior Court) **CALIFORNIA WATER SERVICE COMPANY AND**
19 Case No. BC 325201;) **OPPOSITION TO DELAY PHASE III HEARING**
20) **DATE**
21 Los Angeles County Waterworks)
22 District No. 40 v. Diamond Farming)
23 Co., Kern County Superior Court, Case)
24 No. S-1500-CV-234348;)
25 Wm. Bolthouse Farms, Inc. v. City of)
Lancaster Diamond Farming Co. v. City)
of Lancaster v. Palmdale Water)
District, Riverside County Superior)
Court, Consolidated Actions, Case)
Nos. RIC 353840, RIC 344436, RIC)
344668)

21 California Water Service Company (herein "Cal Water") opposes a delay
22 or postponement of the Phase III trial date. The Phase III trial is
23 scheduled to begin September 27, 2010 and will address the condition of the
24 Antelope Valley groundwater basin. All parties received proper and adequate
25 notice of the trial date (see Order after Case Management Conference On March

1 22, 2010). Even though various parties have negotiated settlements on Phase
2 III issues, there is no overall settlement of Phase III trial issues.

3 Since the litigation commenced, Cal Water has participate in numerous
4 settlement groups and discussions. Unfortunately, these settlements efforts
5 have failed due to the inability of the parties to agree on the condition of
6 the groundwater basin, including native and safe yield, groundwater demands
7 and usage and the physical impact on the groundwater basin itself. Based on
8 Cal Water's previous settlement efforts, it is unlikely that any current
9 settlement efforts will resolve all Phase III issues with all parties.

10 Cal Water has not participated in the "Waldo Group" settlement
11 discussions. Cal Water has an obligation to provide reliable safe water at a
12 reasonable cost to all customers within its Public Utilities Commission
13 approved certificated service area. As such, Cal Water can not in good
14 consciousness agree to a safe yield that is not sustainable and therefore
15 based on scientific studies.

16 Finally, Cal Water is unaware of any circumstances under which a Phase
17 III trial is not needed. No parties have raised good causes for a delay or
18 postponement of Phase III trial; whereas, further delay will simply increase
19 costs. It is Cal Water's understanding from articles and discussions before
20 the Court that the accord is not a legally binding settlement agreement upon
21 the parties (See Friday July, 23, 2010 Antelope Valley Press article "Valley
22 water accord now in judge's hands" previously filed with the Court). As
23 such, Phase III trial issues must still be addressed. Any delay will
24 continue to accrue attorney and expert fees.

1 Once Phase III trial issues have been resolved, Cal Water is optimistic
2 meaningful settlement discussions may resolve all remaining issues between
3 all parties.
4

5 DATED: July 26, 2010

CALIFORNIA WATER SERVICE COMPANY

6
7 By: John S. Tootle
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JOHN S. TOOTLE, ESQ.
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Valley water accord now in judge's hands

by ALISHA SEMCHUCK
Antelope Valley Staff Writer

PALMDALE — A judge will decide whether an accord recommended by the Antelope Valley Water Agency pumping agreement is reasonable enough for a lawsuit to be settled out of court.

At issue: the maximum amount of water users can pump from the ground every year without depleting the aquifer.

The users participating in a current mediation process meant to resolve the lawsuit pumping rights groundwater suit had agreed off on their confidentiality agreement last week in order to let Santa Clara County Superior Court Judge Jack Kumar review the accord — all except the Antelope Valley East Kern Water Agency board.

Without AVEK's approval, the other

public water suppliers, mutual water companies, farmers and city governments were held to the confidentiality clause, so their efforts came to a standstill.

In closed session during a special meeting Wednesday night, AVEK board members waived their mediation privilege of confidentiality, agency attorney Bill Brunnick announced when the directors returned from closed session.

"That means the accord can be made available to the court and the document can be made public," Brunnick said.

Board members also decided to join Lancaster's motion to continue the trial for 60 days "if all parties to the mediation

agreement sign on the request for the continuance," Brunnick said.

In a third action, the board directed Brunnick to submit a case management conference statement to the judge, indicating that many of the terms in the accord need to be modified, amended or changed prior to AVEK's approval.

"There's many items (in the proposed accord) that the board is going to be reviewing," Vice President George Lane said. "We in no way agree with all the verbiage in there," Lane said Thursday. "There's numerous items the board disagrees with. Some of the large items (include) sale yield and the water management district."

Lane said the draft version of the accord suggests forming a water management district "established by the legislature and not by the people. AVEK wants the voters

to have a say, so the electorate would vote on it."

"AVEK would like the board members (of that district) elected by public vote. Transferability, that was another issue," Lane said.

"It was explained we needed to OK (the draft accord) in order to release it, so we could start discussing (a settlement)."

Lane speculated another 60 days would elapse before the entities begin negotiations if the judge gives it the nod.

"The judge could decide not to mediate and go straight to trial," Lane said.

A group of Antelope Valley farmers, at least 15 strong, attended the AVEK meeting along with a representative from Sustainable Mutual Water company and another from Edwards Air Force Base.

Onion grower John Calandri addressed

the AVEK board during the public comment portion of the meeting, before the directors went into closed session.

"There's a large group of farmers from our AGWAA group," Calandri said, referring to the Antelope Valley Groundwater Agreement Association. "We believe you're well-versed in the issues."

He said the farmers knew the board would discuss signing the agreement to show the accord to the judge when they met behind closed doors. He also told the directors that 87% of the water users in the Antelope Valley are in agreement with the draft accord.

"For decades, people have been at opposition ends," he said. "We know this is a work in progress. AVEK will have input. We welcome that. Help us (bring it) to the judge."

See WATER on A8



WATER: AVEK board disagrees with some items in agreement

From A3

We urge (AVEK) to do that."

Palmdale resident Julie Barnes, co-owner of farming land on the east side of the Valley, also made her pitch to the board.

"I'm just appealing," Barnes said. "To me, this lawsuit against your own community and the money going to all the lawyers is unconscionable."

"I'm begging you, as people from our community, to end this. It's neighbor against neighbor. It's not right. Is it worth going on?"

"I'm just asking, when you're thinking this through tonight, think about your community."

Particularly in the current economy, with people losing their jobs, their homes and their farms, she said they can't afford the attorneys' bills that have mounted over the years.

"The board would like nothing better than to resolve this adjudication. The county and Rosamond are in charge," Brunnick said, referring to Los Angeles County Waterworks District 40 and Rosamond Community Services District. "If you really want to see this case resolved, I would suggest you talk to L.A. County and Rosamond."

While the AVEK board met in closed session, the farmers waited in the agency lobby.

Robert Jones, 78, is a partial owner of the ranch co-owned by Barnes — a roughly 500-acre parcel that Valley residents Gailin and Julie Kyle lease for growing their alfalfa crop.

Jones said the farmers have spent more than \$100,000 on lawyers in six years for the lawsuit.

"It's taken all my retirement (funds)," Jones said. "The county started the settlement process, and then they pulled out."

"I think we put (the accord) together in good faith," Gailen Kyle said.

Kyle said Thursday he was pleased with the AVEK board's unanimous vote to show the document to Komar, who had requested it by July 26 in order to review it before the next court hearing, set for July 29.

"I would like people to call Supervisor Antonovich's office and implore (the county) to come to the table," Kyle said, referring to L.A. County 5th District Supervisor Michael D. Antonovich.

"A huge part of the Valley has put together this outline that we think will work. We have to flesh out the details a little and L.A. County has to get with it, with the majority."

"Our group that's been meeting with Jim Waldo represents the majority of pumpers and water users in this Valley," he said of the participants involved in sessions since March with mediator James Waldo, a Seattle-based attorney.

Some discrepancy still exists regarding the safe yield.

A settlement recently reached between Waterworks District 40 and the Rebecca Willis Class, a group of nonpumping landowners in the Valley, agreed that pumping up to 82,300 acre-feet of water per year Valleywide would not drain the aquifer — the safe yield for native groundwater. An acre-foot equals 325,851 gallons, the amount used in the average single-family home each year.

They said a total of 110,500 acre-feet per year could safely be pumped from the ground with return flows added to the supply, court records indicated. Return flows refer to water used for agriculture or other needs that seeps back into the basin. Waterworks District 40 and the Willis Class attorneys based their decision on numbers released by a technical committee of geologists and hydrologists in a study conducted several years ago.

No one has yet revealed the num-

ber for safe yield cited in the draft accord, but some have estimated it runs between 140,000 and 180,000 acre-feet per year. If that number is accurate, enough water exists in the Antelope Valley groundwater basin to meet all the needs of residents, businesses and the farmers. If that number is too high, the groundwater will eventually run dry.

Getting that number right is important, he said.

"Something like that should be done scientifically, based on hard evidence," Lane said.

"Right now, we do have different engineers coming up, but the numbers are all over," he said.

"We should have an independent person listening to the evidence, a nonstakeholder, an impartial person, not people who have something to gain or lose. Hopefully, there's enough room to negotiate."

"We may be so far off — there's so many differences — that it would not be possible to negotiate something in the best interests of the Antelope Valley."

"There's large differences in philosophy," Lane said. "We'll probably know fairly soon if the judge will grant the extension or just say, 'go to trial.'"

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1 **PROOF OF SERVICE (C.C.P. §1013a, 2015.5)**
2 **Antelope Valley Groundwater Cases**
3 **Judicial Counsel Proceeding No. 4408**
4 **Santa Clara County Superior Court Case No. 1-05-CV-049053**

5 I am employed in the County of Los Angeles, State of California. I am
6 over the age of 18 and not a party to the within action; my business address
7 is 2632 West 237th Street, Torrance, CA 90505.

8 On July 26, 2010, I served the foregoing document(s) entitled:

9 **CASE MANAGEMENT STATEMENT (CMS) BY CALIFORNIA WATER SERVICE COMPANY AND**
10 **OPPOSITION TO DELAY PAHSE III HEARING DATE**

11 — by placing the true copies thereof enclosed in sealed
12 envelopes addressed as stated on the attached mailing
13 list.

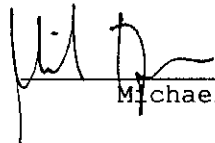
14 — by placing _ the original, _ a true copy thereof,
15 enclosed in a sealed enveloped addressed as follows:

16 X **BY SANTA CLARA SUPERIOR COURT E-FILEING IN COMPLEX LITIGATION**
17 **PURSUANT TO CLARIFICATION ORDER DATED OCTOBER 27, 2005.**

18 Executed on July 26, 2010, at Torrance, California

19 X (State) I declare under penalty of perjury under the laws of
20 the State of California that the above is true and
21 correct.

22 — (Federal) I declare that I am employed in the office of a
23 member of the Bar of this Court at whose direction
24 the service was made.

25 
 Michael Duque