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**SUPERIOR COURT OF THE STATE 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
 325201

Los Angeles County Waterworks District
 No. 40 v. Diamond Farming Co.
 Superior Court of California, County of
 Kern, Case No. S-1500-CV 254348

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 353840, RIC 344436, RIC
 344668

Judicial Council Coordination Proceeding
 No. 4408

SC Case No. 105CV 049053

**INFORMED ISSUES STATEMENT OF
 GERTRUDE J. VAN DAM and DELMAR
 D. VAN DAM**

Informed Issues Conference
 Date: March 24, 2006
 Time: 10:00 a.m.
 Dept: 17
 Honorable Jack Komar

INTRODUCTION

This issues statement is prepared pursuant to the Court's request during the Case Management Conference held on February 17, 2006. Specifically, this statement is filed on behalf of Gertrude J. Van Dam, Delmar D. Van Dam, and Western Development and Storage¹ to assist the Court in identifying the principal issues and formulating an approach to this groundwater adjudication at the March 24, 2006 Informed Issues Conference.

As this Court, in particular is keenly aware, a groundwater adjudication is a very complicated and protracted form of civil litigation that all too often spans over several years. This case itself, has its origins in complaints filed in 1999 and has only recently been reconfigured as a groundwater adjudication. Unfortunately, it is likely, despite the best efforts and intentions of all parties and this Court, to continue on for several years.

Therefore, it is very encouraging that the Court appreciates the circumstance presented by this case and has provided the parties with an early opportunity to work proactively with the Court to develop an approach to the adjudication, which hopefully, will expeditiously and cost effectively conclude this matter.

DISCUSSION

The single most important ingredient to an effective and timely resolution of this adjudication will be the importation and storage of additional water in the Antelope Valley. The need for increased imported water is three-fold: 1. it is essential to preserve and protect the Basin from suffering adverse affects (subsidence, persistent groundwater decline, water quality degradation, etc.); 2. it ensures continued reasonable and beneficial use of water by existing agricultural, municipal, industrial users; and 3. it provides the necessary water supply to the region for future reasonable and beneficial uses to the extent the community desires to develop.

It is equally critical that the legal rights of importers, and imported water supplies, be confirmed by the Court at the earliest time possible for several reasons. First, because there is significant lead time associated with the detailed planning, design, construction and

¹ At this stage in the proceedings, Mr. and Mrs. Van Dam have been named in this suit but Western Development and Storage has not. Western Development and Storage makes this special appearance for purposes of assisting the discussion of the important issues raised by this adjudication.

implementation of groundwater banking and storage facilities it may take an extended period of time before increases in imported water can be fully developed and operational. Second, the confirmation of the basic legal rights to import, store, and use water in the groundwater basin must be confirmed prior to the commitment of substantial capital funds (in the millions of dollars) which will be necessary to provide the water system infrastructure. For example, existing surplus water from the State Water Project, could be fully utilized with additional local groundwater storage facilities. Third, the longer there is a delay in the operation of groundwater storage and banking facilities in the Antelope Valley the greater the expense will be due to the inevitable escalation of the cost of capital. Fourth, it is likely that the existence of increased imported water and ground water banking and storage facilities will significantly alter the “litigation landscape” and may encourage the parties to reach a settlement of this matter. Lastly, unlike nearly all of the other significant issues that must be determined in this adjudication (See, Exhibit “A” attached hereto)², the issues regarding the legal rights to import, store, extract and use non-native water for reasonable and beneficial purposes in the Antelope Valley are principally legal questions that are capable of determination without the need for extensive expert investigation, reports and testimony or other substantial fact finding.

The right of an importer to recharge, bank and store non-native water into a groundwater aquifer for subsequent extraction, and reasonable and beneficial uses is well recognized in California. California Constitution (Article X, Section 2); *City of Los Angeles v. City of Glendale* (1943) 23 Cal. 2d 68,76-77; *Niles Sand and Gravel Co. v. Alameda County Water District*, (1974) 37 Cal. App. 3d 924, 932-936 cert. denied, 419 U.S. 869 (1975); *City of Los Angeles v. City of San Fernando* (1975) 14 Cal. 3d 199, 286-287; *Central and West Basin Water Replenishment Dist. V. Southern Cal. Water Co.* (2003) 109 Cal. App.4th 891, 904-905, 916; See also, Governor’s Commission to Review California Water Rights Law, Groundwater Rights in California, Background And Issues, Anne J. Schneider (1977), pg. 65. Nonetheless, providing clear confirmation of these basic rights, specifically with regard to Antelope Valley, is necessary in light of this adjudication so that there is certainty as to the legal rights of ground water

² Undoubtedly, other parties will have suggested additional issues and ordering for resolution which should be discussed at the Issues Conference on March 24, 2006.

banking and storage facilities in the Antelope Valley.

The specific legal issues that should be confirmed by the Court are:

1. The right of an importer to claim, own, and protect the imported water which augments the Antelope Valley;
2. The right of an importer to bank and/or store imported water in the Antelope Valley;
3. The right of an importer to recapture and extract (by pumping wells) the banked/stored water from beneath the Antelope Valley;
4. The right of an importer to exchange, transfer or sell the banked/stored water when it is needed for future reasonable and beneficial uses.

It is recommended that these primary legal principles not be determined with regard to any specific groundwater banking and storage facility in the Antelope Valley. Rather, the issues that need to be confirmed by this Court should be directed at the basic legal rights of importing water to Antelope Valley and the recharge, banking/storing of the supply for future reasonable and beneficial uses. The specifics of any project will have to be addressed outside the adjudication by responsible governmental agencies authorized to issue any required permits, as well as in any applicable environmental documentation (e.g., California Environmental Quality Act (Public Resources Code Section 21000, et. seq.)), and other legal requirements that are not at issue in this adjudication.

Regardless of how this Court finally rules on the other important issues listed in Exhibit "A" and as suggested by other parties -- providing increased imported water and ground water banking and storage in Antelope Valley -- is an imperative to the long-term health of the Basin.

Therefore, we respectfully request that the Court consider ordering hearings, or other procedures, for the resolution of these threshold legal issues at the earliest time practicable.

Dated: March 17, 2006

THE LAW OFFICES OF YOUNG WOOLDRIDGE, LLP

By:

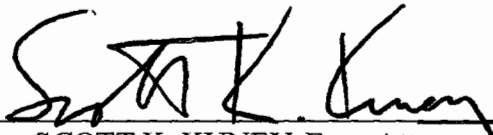

SCOTT K. KUNEY, Esq., Attorneys for
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EXHIBIT "A"

1. Confirmation of importers right to: (1) claim, own, and protect the imported water which augments the Antelope Valley; (2) bank and/or store imported water in the Antelope Valley; (3) recapture and extract (by pumping wells) the banked/stored water from beneath the Antelope Valley; and (4) exchange, transfer or sell the banked/stored water when it is needed for future reasonable and beneficial uses.
2. Identification of necessary parties for an adjudication (addressing McCarren Act requirements); Service of all necessary parties
3. Determination of necessary pleading requirements (form answers, otherwise)
4. Determination of Basin boundary
5. Determination of sub-basin management areas
6. Determination of native water supplies
7. Determination of the existence of overdraft (historically and present)
8. Determination of claims of prescriptive rights (all elements)
9. Determination of Basin safe yield
10. Determination of whether existing uses (Overlying and appropriative) are reasonable and beneficial under the constitution (Article X, Section 2)
11. Determination of dormant overlying rights
12. Determination of the order of priority of all overlying and appropriative claimants
13. Determination of management areas and a Basin management system
14. Formulation of a comprehensive physical solution