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Attorneys for Cross-Defendants,
County Sanitation Districts of Los Angeles
County Nos. 14 and 20

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

Judicial Council Coordination Proceeding
No. 4408

**ANTELOPE VALLEY GROUNDWATER
CASES**

ASSIGNED FOR ALL PURPOSES TO:
Judge: Honorable Jack Komar

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

**TRIAL BRIEF OF COUNTY
SANITATION DISTRICTS OF LOS
ANGELES COUNTY NOS. 14 AND 20
FOR PHASE 4 TRIAL**

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

Trial Date

May 28, 2013
Time: 9:00 a.m.
Dept.: Los Angeles Superior Court (TBD)

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.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

The County Sanitation Districts of Los Angeles County Nos. 14 (Lancaster) and 20
(Palmdale) (collectively "Districts") respectfully submit this Trial Brief for the Phase 4 Trial

1 scheduled to begin May 28, 2013. In this phase, the Districts will present evidence to
2 demonstrate their land ownership in the Antelope Valley Area of Adjudication ("AVAA"), and
3 the recent use of water on those lands within the AVAA as have previously been documented in
4 the Declaration of Raymond Tremblay In Lieu of Deposition Testimony for Phase 4 Trial. Mr.
5 Tremblay's declaration was filed under penalty of perjury and electronically filed with the court
6 on January 31, 2013.

7 The Districts own in excess of 9000 acres within the area of adjudication. These lands
8 have been and continue to be used by the Districts for the treatment of municipal wastewater, for
9 the storage of treated wastewater, and for the reuse of treated wastewater primarily for
10 agricultural purposes. The Districts claim overlying groundwater rights for the properties they
11 own and there have been no claims of prescription alleged against the Districts. To the extent
12 these groundwater rights in the area of adjudication are quantified, the Districts believe the
13 reasonable and beneficial use of water on these properties could exceed 10,000 af/yr since the
14 Districts own more than 9000 acres. The assessment of actual use during the period of 2000-
15 2004 quantified the maximum annual production amount during this five year period that was
16 put to reasonable and beneficial use at 7631 acre-feet while the average annual amount put to
17 reasonable and beneficial use during this five year period was approximately 6700 af/yr. The
18 Districts will present this evidence in the Phase 4 trial.

19 The Districts have performed extensive investigation to determine the amount of water
20 that has been used on their properties. In preparation for trial, the Districts assessed land records
21 and historical aerial photographs for the years 2000-2004 to determine which parcels of land
22 were in production. Once the land under production had been assessed, the Districts used a
23 geographic information system ("GIS") to outline the exact lands under production and the GIS
24 program calculated the area. To document this assessment, the Districts have prepared maps
25 using aerial photographs that outline the properties owned by the Districts while highlighting the
26 amount of active farmland during the period of 2000-2004. These maps will be presented as
27 evidence in the Phase 4 trial.

28 The Districts also assessed pesticide use reports filed with the Department of Public

1 Health ("DPH") for each of these lands under production to determine the types of crops grown
2 and the acreage under production for this particular crop in each of the sections where land was
3 owned by the Districts. Each pesticide use report documents the use of a particular pesticide, the
4 date of application, the number of acres receiving application, and the Township, Range and
5 section number from the Public Land Survey System where the application was applied. Both
6 the pesticide use reports from DPH and the assessment of crops under production based on
7 pesticide use reports will be presented as evidence in the Phase 4 trial.

8 Finally, the Districts used average water duties for each of the crops under production to
9 determine the quantity of water being used on the properties. The Districts used the crop duties
10 identified in the Summary Expert Report, Appendix D-3: Table 4. These crop duties were
11 multiplied by the acreage under production as determined by the pesticide use reports to
12 determine the total water duties. For the additional acreages for which no pesticide use report
13 was available, the Districts used the crop duty of alfalfa based on information the Districts have
14 on some of the parcels, based on assessment of the aerial photos and since alfalfa is the
15 predominant crop in the valley and the most common crop grown without the use of pesticides.

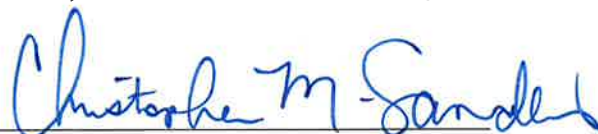
16 For the period of 2011-2012, the Districts will present evidence of its use of water, which
17 includes the use of tertiary recycled water for both industrial purposes and reclamation, and
18 pumped groundwater for irrigation. The Districts used 1043 AF and 2531 AF of recycled water
19 in calendar years 2011 and 2012, respectively. The Districts pumped 575 AF of groundwater in
20 2011 and 551 AF of groundwater in 2012.

21
22 May 28, 2013

Respectfully submitted,

ELLISON, SCHNEIDER & HARRIS, LLP

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25 By:



26 Christopher M. Sanders
27 Attorneys for Cross-Defendants,
28 County Sanitation Districts of Los
Angeles County Nos. 14 and 20

1 I declare that:

2 I am employed in the County of Sacramento, State of California. I am over the age of
3 eighteen years and am not a party to the within action. My business address is ELLISON,
4 SCHNEIDER & HARRIS; 2600 Capitol Avenue, Suite 400; Sacramento, California 95816;
5 telephone (916) 447-2166.

6 On May 28, 2013, I served the County Sanitation Districts' *Trial Brief of County*
7 *Sanitation Districts of Los Angeles County Nos. 14 and 20 for Phase 4 Trial* by electronic
8 posting to the Santa Clara Superior Court E-Filing website,
9 <http://www.scefiling.org/cases/casehome.jsp?caseId=19>.

10 I declare under penalty of perjury that the foregoing is true and correct and that this
11 declaration was executed on May 28, 2013, at Sacramento, California.

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Patty Slomski