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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:
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 6 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

September 28, 2015
Time: 9:00 a.m.
Dept.: 1, Los Angeles Superior Court

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 6 Trial
scheduled to begin September 28, 2015.

I.

INTRODUCTION

The Districts are independent special districts that serve, among other things, the wastewater treatment and reclamation needs of Los Angeles County. The Districts were formed under the authority provided by the County Sanitation District Act of 1923, Cal. Health & Safety Code §§4700-4857.

The Districts operate wastewater treatment facilities in the Antelope Valley and on behalf of their rate paying customers are actively participating in this adjudication to protect the Districts' rights to retain control over the disposition of their recycled water and to ensure protection of their rights to pump groundwater for use on their overlying property. The Districts currently contribute approximately 23 million gallons per day ("mgd") (25,000 acre-feet per year "AFY") to the water supply of the Basin, primarily through sale for direct reuse for irrigation purposes and for habitat maintenance.

II.

**WATER CODE SECTION 1210 PROVIDES THE DISTRICTS AN EXCLUSIVE RIGHT
TO THE TREATED RECYCLED WATER**

California Water Code section 1210 recognizes that the owner of a wastewater treatment plant operated for the purpose of treating wastes from a sanitary sewer system shall hold the exclusive right to the treated waste water as against anyone who has supplied the water discharged into the waste water collection and treatment system, including a person using water under a water service contract, unless otherwise provided by agreement. The Districts have no agreements that authorize anyone to claim any of the recycled water. Therefore, the Districts request the court to recognize their exclusive rights to all the recycled water produced by the Districts.

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1 **III.**

2 **WATER CODE SECTION 1010 PROTECTS THE DISTRICTS' GROUNDWATER**
3 **RIGHT DUE TO USE OF RECYCLED WATER**

4 Water Code section 1010 provides that to the extent that groundwater production is
5 curtailed due to the use of substitute supplies such as recycled water, the use of recycled water
6 shall be construed to constitute a reasonable beneficial use of water of groundwater. The
7 Districts put significant amounts of recycled water to use in lieu of pumped groundwater.

8 **IV.**

9 **PROVE-UP OF WATER USE BY DISTRICTS**

10 The Districts own in excess of 9000 acres within the area of adjudication. These lands
11 have been and continue to be used by the Districts for the treatment of municipal wastewater, for
12 the storage of treated wastewater, and for the reuse of treated wastewater primarily for
13 agricultural purposes. The Districts claim overlying groundwater rights for the properties they
14 own and there have been no claims of prescription alleged against the Districts. To the extent
15 these groundwater rights in the area of adjudication are quantified, the Districts believe the
16 reasonable and beneficial use of water on these properties could exceed 20,000 AFY since the
17 Districts own more than 9000 acres. The assessment of actual use during the period of 2000-
18 2004 quantified the maximum annual groundwater production amount during this five year
19 period that was put to reasonable and beneficial use at 7631 acre-feet while the average annual
20 amount put to reasonable and beneficial use during this five year period was approximately 6700
21 AFY. This use, coupled with the use of recycled water as an in-lieu source, puts the use by the
22 Districts in excess of 10,000 AFY.

23 In the Phase IV trial, the Court found that the Districts pumped groundwater in the
24 amount of 575 AFY in 2011 and 551 AFY in 2012 (see AMENDED STATEMENT OF
25 PARTIAL DECISION FOR PHASE IV TRIAL WITH PARTY NAME CORRECTIONS, filed
26 July 19, 2013).

27 The Tremblay declaration (4-LACSD-1) and the related stipulation (4-LACSD-2), all of
28 which were received into evidence during the Phase 4 Trial, demonstrate that (a) the Districts

1 also used an additional 1043 AFY in 2011 and 2531 AFY in 2012 for irrigation and industrial
2 use. This water, plus the environmental use of 8945 AFY in 2011 and 6343 AFY in 2012, noted
3 in the Tremblay supplemental declaration (LACSD-16), provides a total water use by the
4 Districts of more than 9000 AFY in both 2011 and 2012.

5 The referenced declarations and exhibits (4-LACSD-1 and 4-LACSD-2) also demonstrate
6 groundwater pumping and water use on owned properties of the Districts during the years 2000
7 through 2004. Because these declarations and exhibits have already been received into evidence
8 in these proceedings, and to avoid duplication of evidence and an unnecessary expenditure of
9 trial time to establish these undisputed facts, the Districts will rely thereon for this phase of the
10 trial, absent other direction from the Court.

11 V.

12 PROPOSED PHYSICAL SOLUTION SHOULD BE APPROVED

13 At trial, the Districts will offer and submit testimony from expert witnesses to
14 demonstrate that the proposed Physical Solution will benefit the Basin and, over time, succeed in
15 bringing the Basin into balance.

16 VI.

17 BASED ON THE PARTIES' STIPULATION, THE DISTRICTS WILL NOT PRESENT 18 AT THIS PHASE OF TRIAL DEFENSES IT WOULD OTHERWISE PRESENT

19 As noted in the JOINT CASE MANAGEMENT STATEMENT OF UNDERSIGNED
20 OVERLYING PUBLIC AND PRIVATE LANDOWNER PARTIES, filed on July 7, 2015, many
21 of the stipulating parties, including the Districts, will not assert defenses otherwise available to
22 them during this phase of the trial, including without limitation, defenses to the PWS'
23 prescription claim, the claimed federal reserve right, etc. Because of the agreements
24 memorialized in the parties' stipulation for entry of the proposed Judgment and Physical
25 Solution, such defenses are not advanced at this time. However, should the Court determine not
26 to enter the proposed Judgment and Physical Solution as a final judgment in this action, the
27 Districts request an opportunity, and reserve the right, to submit evidence in support of such
28 defenses.

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VII.


CONCLUSION

For the foregoing reasons, the Districts respectfully request that the Court should determine and hold that: (1) "the owner of a waste water treatment plant operated for the purpose of treating wastes from a sanitary sewer system shall hold the exclusive right to the recycled water as against anyone who has supplied the water discharged into the waste water collection and treatment system" as set forth in the proposed Judgment and Physical Solution; (2) the proposed Physical Solution will benefit the Basin and, over time, should succeed in bringing the Basin into balance; (3) the correlative rights of the members of the Willis Class are appropriately confirmed, conditioned and protected under the terms of the proposed Judgment and Physical Solution; and (4) the Districts have submitted adequate evidence of their groundwater pumping and use of in lieu water to establish and prove its entitlement to the groundwater allocation assigned to the Districts under the proposed Judgment and Physical Solution.

September 22, 2015

Respectfully submitted,

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By: 

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Angeles County Nos. 14 and 20