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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

13 **ANTELOPE VALLEY GROUNDWATER**
14 **CASES**

15 **Included Actions:**

16 **Los Angeles County Waterworks District No.**
17 **40 v. Diamond Farming Co., Superior Court of**
18 **California, County of Los Angeles, Case No.**
19 **BC 325201;**

20 **Los Angeles County Waterworks District No.**
21 **40 v. Diamond Farming Co., Superior Court of**
22 **California, County of Kern, Case No. S-1500-**
23 **CV-254-348;**

24 **Wm. Bolthouse Farms, Inc. v. City of**
25 **Lancaster, Diamond Farming Co. v.**
26 **Lancaster, Diamond Farming Co. v. Palmdale**
27 **Water Dist., Superior Court of California,**
28 **County of Riverside, Case Nos. RIC 353 840,**
RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

Santa Clara Case No. 1-05-CV-049053
Assigned to Hon. Jack Komar

CASE MANAGEMENT STATEMENT
OF CROSS-DEFENDANT COPA DE
ORO LAND COMPANY

Date: May 22, 2008
Time: 9 a.m.
Dept. 1

Cross-defendant Copa de Oro Land Company (“Copa de Oro”) proposes that the Court order the following:

- (1) A date certain for the Public Water Suppliers to complete service of their currently effective complaint; and
- (2) A date for a phase trial to define sub-basin boundaries at least nine months after the Public Water Suppliers complete service of their currently-effective complaint.

- 1 (3) In order to streamline expert discovery, that the Public Water Suppliers produce
2 expert reports for the next phase of trial akin to those required under Federal
3 Rules of Civil Procedure, rule 26(a)(2)(B), within 30 days after they complete
4 service of their currently-effective complaint.

5
6 **DISCUSSION**

7 **1. The Court Should Order The Public Water Suppliers To Complete
Service By A Date Certain And Before Any Phase Trial**

8 This matter has become massive litigation because the Public Water Suppliers have
9 chosen to seek to adjudicate all groundwater rights in the Antelope Valley. Parties that file
10 complaints or cross-complaints normally are expected to promptly serve the adverse parties.
11 (See Cal. Rules of Ct., rule 3.110(b)(60 days after filing complaint).) Despite deciding to sue
12 thousands of landowners in the Antelope Valley, the Public Water Suppliers have not sought to
13 serve most, if not the vast majority, of those landowners. According to Diamond Farming's
14 case management statement, it has been over 3½ years since the Public Water Suppliers filed
15 their complaint. (Diamond Farming's Case Management Statement, pp. 2-3.)

16 The Public Water Suppliers' burden of serving the parties that they are suing has been
17 lightened somewhat by Rebecca Willis's decision to step forward as a plaintiff class
18 representative for a class of non-pumping landowners. This fortuitous occurrence, however,
19 has resulted in months of proceedings during which the Public Water Suppliers have sought to
20 expand the Willis class to include all currently unserved landowners, an effort that the Court
21 has rejected.

22 The Public Water Suppliers thus face a choice about how or whether to proceed with
23 this action. They may individually serve all of the landowners named as unknown parties. If
24 they decide not to do that, then they may dismiss their complaint. Alternatively, given that the
25 Antelope Valley probably contains multiple sub-basins, they may seek to limit the scope of
26 their complaint to those sub-basins with which they are particularly concerned.

27 What the Court must not allow the Public Water Suppliers to do is to proceed to any
28 further trial before they serve all of the parties who they are suing. If the Court were to try key

1 issues – such as the existence of sub-basins and the safe yield of any such sub-basin – before
2 the Public Water Suppliers complete service, then after-named landowners would have to be
3 afforded the right to retry those issues before their rights are impacted by any judgment. Such a
4 scenario would, at best, be chaotic and waste the Court’s resources. At worst, such a scenario
5 could create procedural problems akin to those that led the Supreme Court to reverse a Superior
6 Court’s adjudication decision in *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th
7 1224.

8
9 **2. The Court Should Order That The Next Phase Of Trial Will
Determine Whether The Antelope Valley Contains Sub-Basins**

10 The case management statement of Diamond Farming expresses an understandable
11 desire to schedule a potentially dispositive trial in effort to advance the parties’ negotiations.
12 Copa de Oro, however, respectfully submits that scheduling a trial strictly concerning the
13 existence and effect of sub-basins may be more effective in achieving this purpose.

14 The courts have relied on the existence of sub-basins to segregate rights of groundwater
15 pumpers in broader basins. (See *City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d
16 199, 247-252; *Wright v. Goleta Water Dist.* (1985) 174 Cal.App.3d 74, 79, 89-90.) The
17 Department of Water Resources bulletin that the Court cited in its November 3, 2006 Order
18 After Hearing on Jurisdictional Boundaries states that the Antelope Valley may contain such
19 sub-basins. (See Bulletin 118-2003, description of Antelope Valley Groundwater Basin, pp. 1-
20 2 (on-line: www.dpla2.water.ca.gov/publications/groundwater/bulletin118/basins/pdfs_desc/6-44.pdf.) Reports by the United States Geological Survey have made similar statements. (See
21 Sneed and Galloway, “Aquifer-System Compaction: Analyses and Simulations-the Holly Site,
22 Edwards Air Force Base, Antelope Valley, California,” U.S. Geological Survey Water-
23 Resources Investigations Report 00-4015, p. 3 (basin map with sub-basins – attached).) Two
24 points follow from this information.
25

26 First, if there are sub-basins and prescription is to be adjudicated only within certain
27 sub-basins, then the case may become simpler as only subsets of the existing parties are
28 required to litigate their claims. If there are sub-basins that limit prescription claims in this

1 case, then it would make little sense for the parties and the Court to expend enormous amounts
2 of resources litigating the condition of the entire basin when that information may be largely
3 irrelevant to many parties. Once any sub-basins are defined, the parties who share a sub-basin
4 would be able to negotiate settlement terms only among themselves and a massive basin-wide
5 negotiation would not be necessary.

6 Second, in order to prepare for and litigate any trial that would proceed before sub-
7 basins are delineated, the parties would have to prepare significant amounts of testimony that
8 would be contingent on the Court either finding or not finding that sub-basins exist. For
9 example, if there were to be a trial to determine either all elements of prescription or only the
10 basin's safe yield, the parties and their experts would have to prepare at least two sets of
11 testimony: one set that would assume that the Court would hold that there are sub-basins and
12 one set that would assume that there are not. Moreover, in such a scenario, there presumably
13 would be some disagreement among the parties about which sub-basins should limit
14 prescription claims and the geographical extent of any sub-basins. The parties would be
15 required to prepare their witnesses, and cross-examine other parties' witnesses, using a forest of
16 complicated hypothetical assumptions concerning sub-basins that the witnesses' direct
17 testimony may not have addressed. Evidentiary objections concerning alleged incomplete
18 hypotheticals could easily proliferate. The Court then would be forced to sort through
19 testimony with conflicting fundamental premises, which would make it impossible to compare
20 such testimony effectively. The cost to the parties and the Court in terms of duplicative and
21 potentially irrelevant work would be enormous.

22 The Court therefore should order that, after the Public Water Suppliers complete
23 service, the next phase of trial will define sub-basins.

24
25 **3. In Order To Give All Parties An Adequate Opportunity To Protect**
26 **Their Interests In A Sub-Basin Trial, The Court Should Schedule**
That Trial For No Less Than Nine Months After The Public Water
Suppliers Complete Service

27 Parties that can rely on their own government-funded experts or who have the ability to
28 charge the costs of this litigation to their ratepayers have suggested the Court set the first phase

1 of trial for the fall of 2008. In particular, the Public Water Suppliers have suggested that
2 because 14 of the hundreds of parties in this case have employed experts to participate in a
3 Technical Committee for a year, technical issues about the basin should be ready to go to trial
4 almost immediately. The Public Water Suppliers also have suggested that, as for the
5 unfortunate remainder of the parties, their experts should be ready with their complete trial
6 testimony by July 7, 2008 – 46 days from this Case Management Conference and that the Court
7 order that “[n]o party will be allowed to provide an expert witness opinion at trial unless the
8 opinion was fully and timely disclosed in writing *with the designation*.” (Public Water
9 Suppliers’ Case Management Statement, pp. 4:23- 5:2 (emphasis added).)

10 These parties have chosen to ignore the fact that this case involves hundreds of
11 landowners who do not have the ability to continuously fund extensive expert work through
12 governmental budgets or monthly water-rate charges and who therefore have been required to
13 husband their resources much more carefully in anticipation of the prospect that full litigation
14 of as-yet-undefined issues will occur before this Court. As Diamond Farming’s discussion of
15 the financial burden of this litigation demonstrates, it is extremely difficult for landowners –
16 and essentially impossible for many landowners – to fund extensive expert work without
17 knowing what specific issues are to be litigated in what specific order in this litigation.

18 The Court therefore should not base its trial schedule on the faulty assumption that only
19 a short amount of time will be necessary for the parties to prepare for the next phase of trial.
20 The Court instead should schedule such a trial so that all parties have a sufficient amount of
21 time to prepare their expert testimony after the Court defines the issues to be addressed in that
22 trial. Copa de Oro submits that nine months following the Public Water Suppliers’ completion
23 of service would be a sufficient amount of time.

24 **4. The Best Way To Expedite This Case Would Be To Require The**
25 **Public Water Suppliers To Produce Early Written Expert Reports**
26 **For The Next Phase Of Trial So That Other Parties Can Determine**
Without Lengthy Discovery And Depositions Whether There Are
Substantial Disagreements About Technical Issues

27 The Public Water Suppliers’ case management statement states that the members of the
28 Technical Committee are “ready to testify on basin characteristics.” (Public Water Suppliers’

1 Case Management Statement, p. 4:19-20.) If those Suppliers' experts are ready to testify, then
2 they also should be ready to produce written reports that state their opinions. Federal Rules of
3 Civil Procedure, rule 26(a)(2)(B), require that, in federal court, experts produce "a complete
4 statement of all opinions the witness will express and the basis and reasons for them." If the
5 Public Water Suppliers' experts were to produce such reports early during the preparation
6 period before the next phase of trial, then the other parties would be able to determine to what
7 extent they may disagree with those conclusions. Given that both the Department of Water
8 Resources and the U.S. Geological Survey have indicated that the Antelope Valley basin
9 contains sub-basins, it is possible that the production of the Public Water Suppliers' expert
10 reports will dramatically simplify the next phase of trial, which would expedite the litigation of
11 this case. Accordingly, Copa de Oro respectfully requests that the Court order the Public Water
12 Suppliers to produce expert reports that comply with Federal Rules of Civil Procedure, rule
13 26(a)(2)(B), on the issues to be tried in the next phase of trial within 30 days of those
14 Suppliers' completion of service of their currently-effective complaint.

15 Dated: May 21, 2008

Respectfully submitted,

16 BARTKIEWICZ, KRONICK & SHANAHAN
17 A Professional Corporation

18 By: [ORIGINAL SIGNED]
19 Ryan S. Bezerra

20 Attorneys for cross-defendant Copa de Oro Land
21 Company



Aquifer-System Compaction: Analyses and Simulations-the Holly Site, Edwards Air Force Base, Antelope Valley, California

By Michelle Sneed and Devin L. Galloway

U.S. Geological Survey Water-Resources Investigations Report 00-4015

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1-4. Maps showing:

1. Location of Antelope Valley and the Holly site (8N/10W-1Q)	2
2. General surficial geology and location of ground-water subbasins and geologic section, Antelope Valley, California	3
3. Location of selected well fields, observation wells, and bench marks near the Holly site (8N/10W-1Q) in the south-central part of Edwards Air Force Base, Antelope Valley, California	4
4. Ground-water levels in the Lancaster subbasin, Antelope Valley, California, 1915	6

crops and to satisfy water demands at Edwards Air Force Base (EAFB). This extensive pumping contributed significantly to the more than 6 ft of subsidence that occurred at Lancaster and the 4 ft of subsidence that occurred at EAFB between 1926 and 1992 (Ikehara and Phillips, 1994). Since 1990, nearly 0.4 ft of aquifer-system compaction, a reduction in aquifer-system thickness, has been measured at the Holly site, EAFB (fig. 1).

In 1988, ground failures of the dry lakebed surface, or playa, of Rogers Lake at EAFB (figs. 2 and 3) prompted an investigation by the U.S. Geological Survey and the U.S. Department of the Air Force to determine the causes of sinklike depressions, earth fissures, and accelerated erosion of the lakebed, which were adversely affecting runways used by the Air Force Flight Test Center for landing aircraft such as the space shuttles. Early in the investigation, differential land

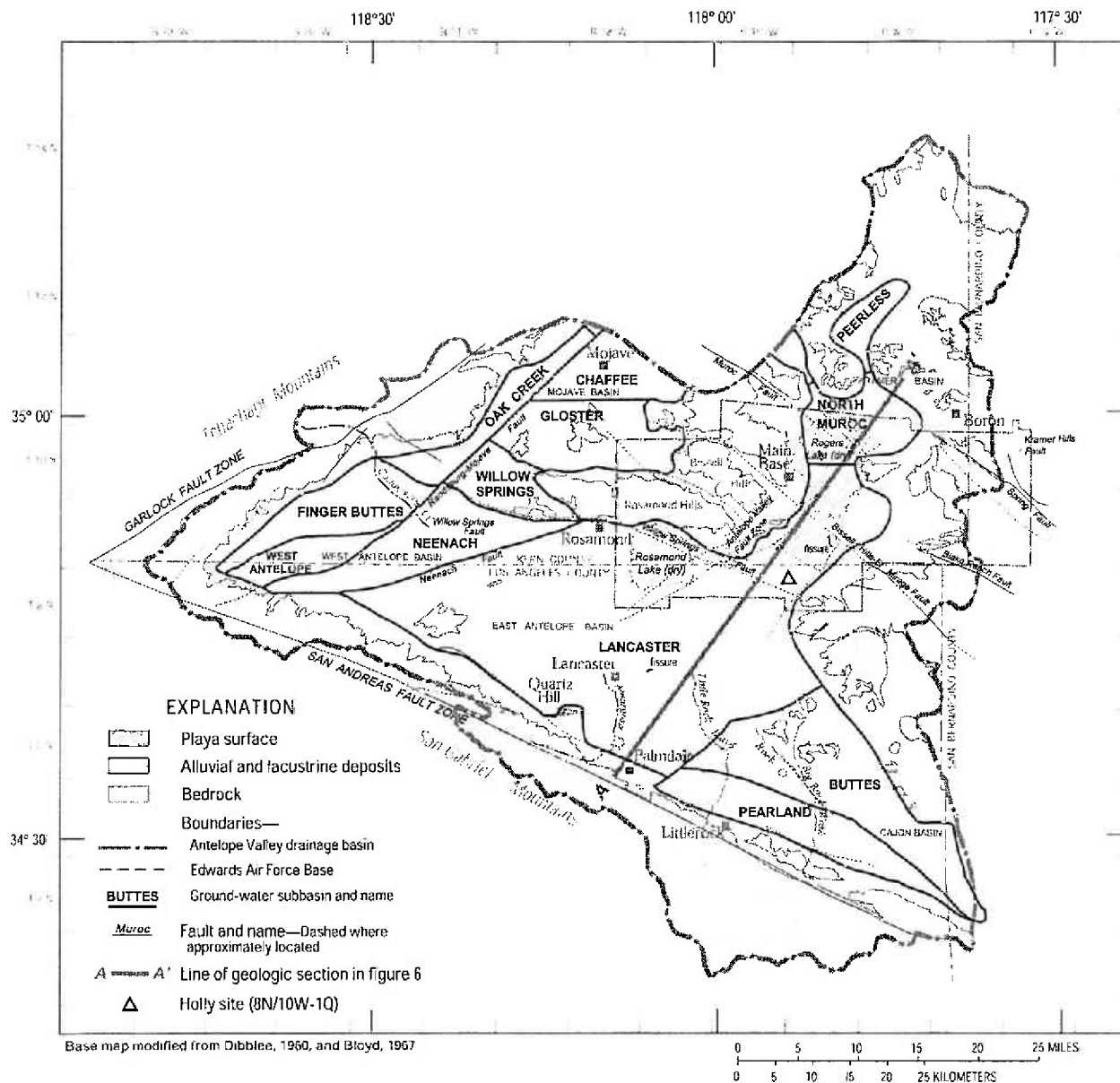


Figure 2. General surficial geology and location of ground-water subbasins and geologic section, Antelope Valley, California.

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I am a citizen of the United States and a resident of Sacramento County. I am over the age of 18, not a party to this action and am employed at Bartkiewicz, Kronick & Shanahan, 1011 Twenty-Second Street, Sacramento, California 95816. On May 21, 2008, I served, in the manner described below, the attached

I posted that document to the Court's World Wide Web site located at www.scefilings.org and also sent a copy to the trial judge and the Chair of the Judicial Council via U.S. mail at following addresses:

Chair, Judicial Council of California
Administrative Office of the Courts
Attn: Appellate & Trial Judicial Council Services
(Civil Case Coordinator)
Carlotta Tillman
455 Golden Gate Avenue
San Francisco, CA 94102-3688.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage fully prepaid at Sacramento, California 95618 in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Sacramento, California on May 21, 2008

[ORIGINAL SIGNED]
Terry Olson