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7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES, CENTRAL COURT

10 Coordination Proceeding
11 Special Title (Rule 1550(b))
12 ANTELOPE VALLEY GROUNDWATER
13 CASES
14 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.,
15 Wm. Bolthouse Farms, Inc., v. City of
16 Lancaster,
17 Diamond Farming Co. V City of Lancaster,
18 Diamond Farming Co. V. Palmdale Water
District,
19 and Related Actions and Cross-Actions
20

Judicial Council Coordination Proceeding
Case No. 4408
Santa Clara Case No. 1-05-CV-049053
Assigned to The Honorable Jack Komar,
Dept. 17

**CASE MANAGEMENT
CONFERENCE STATEMENT OF
ANTELOPE VALLEY-EAST KERN
WATER AGENCY**

DATE: 12/18/2007
TIME: 9:00 a.m.
DEPT: LASC Dept. 1

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22
23 Antelope Valley-East Kern Water Agency (AVEK) hereby submits the following Case
24 Conference Statement:

25 1. The issues surrounding Class Action Certification should hopefully be resolved
26 following the December 18, 2007 motion by plaintiff Willis. This would seem an opportune
27 time for AVEK to offer the following report as to their current efforts of increasing the
28 reliability and availability of water through maximizing it's State Water Contract and securing

1 supplemental water in excess of its State entitlement. AVEK provides this information in the
2 interest of obtaining a physical solution in this adjudication.

3 AVEKs interest in the instant litigation is to see that overdraft of groundwater is
4 curtailed, and that safe yield is equitably distributed among the water interests in the Basin.
5 Public water supply must be safeguarded, and sufficient water banking facilities and storage
6 must be constructed such that supplemental water can be imported to the Basin to provide
7 reliability and flexibility in the future.

8 2. AVEK, one of three State Water Contractors for the Basin, imports supplemental
9 water from Northern California by way of the California Delta. AVEK has a Table A allocation
10 from the State Water Project (SWP) in the amount of 141,400 acre feet. Littlerock Creek
11 Irrigation District has an allocation of 2300 acre feet. Palmdale Water District has an allocation
12 of 21,300 acre feet. All three entities are members of a Joint Powers Authority, the Antelope
13 Valley State Water Contractors Association (AVSWCA). The three state contractors are all
14 parties to this adjudication. AVSWCA was created in 1999 and shares a common responsibility
15 with the State Water Contractors: to optimize the uses of water resources in the Basin and
16 protect surface water and groundwater storage within the Antelope Valley.

17 AVEK held a special meeting on August 7, 2007, for the express purpose of making the
18 public aware, to the extent possible, the expectations for the 2008 water year and beyond.
19 AVEK was advised by the Department of Water Resources (DWR) that it could expect to
20 receive anywhere from 8% of its annual SWP allocation in a dry year to 70% in a wet year. At
21 most, AVEK can anticipate receiving 100,000 acre feet for 2008. A more realistic figure is
22 40% of Table A entitlement, or about 55,000 acre feet. Littlerock and Palmdale combined
23 might anticipate another 10,000 acre feet. Current estimates of demand for water in an average
24 are about 274,000 acre feet by 2010 and 447,000 acre feet by 2035. Safe yield estimates range
25 from about 30,000 acre feet to 120,000 acre feet. Even the most optimistic estimates show that
26 the Basin is in overdraft. Population projections forecast growth of 150% by the year 2030.
27 In the absence of an Adjudication and the establishment of a physical solution there is no
28 limitation on groundwater pumping and no management of existing resources.

1 Judge Oliver Wanger of the Federal District Court in Fresno decided the Delta smelt case
2 in August. The decision has not been made final. The court is weighing a variety of options,
3 all of which appear to involve significant reductions of the flows from the SWP.

4 The Association of California Water Agencies (ACWA) is promoting public education
5 on water issues. A copy of a recent presentation is attached as Exhibit A. ACWA highlights
6 the problems facing SWP: increasing demand, exponential growths, severe drought, aging
7 levees, lack of physical improvements, environmental concerns, climate change and the
8 inadequacy of voluntary conservation efforts. All of these issues threaten to disrupt the water
9 supply and adversely affect water quality. The convergence of issues (the "crisis" to use
10 ACWA's term) makes it imperative that entities in the Antelope Valley reach a solution in the
11 Adjudication and begin efforts immediately to secure additional supplies. One such method is
12 by way of water banking or storage to import both unused State entitlement and supplemental
13 water.

14 The Basin lacks currently significant banking and storage facilities. Banking is essential
15 to promote long term water supply stability. Given the likelihood of inconsistent supplemental
16 water availability and the overdraft of the Basin's groundwater, banking represents a viable
17 means of storing water during wet periods for use during dry periods. AVEK and AVSWCA
18 must move forward with banking plans.

19 3. The Los Angeles County Planning Department has contacted AVEK regarding
20 reliability of future water supplies and the likely impact on current and proposed development
21 in the Basin (see AVEK's November 5, 2007 letter to the Los Angeles County Department of
22 Regional Planning, attached hereto as Exhibit B).

23 4. *Water Code Appendix, 98-61* enumerates the statutory authority of AVEK to "acquire,
24 control, distribute, store, spread. . . .any water,. . . .for the beneficial uses of the agency. . . or
25 the lands within the agency or its inhabitants." (see Exhibit C, sub-paragraph 13).

26 AVEK has recently purchased acreage in the Rosamond area of Kern County. The
27 Environmental Impact Report for a banking operation has been circulated for public comment.
28 AVEK is considering the purchase of real property in the Lancaster area to provide flexibility

1 for additional facilities. Feasibility studies by the engineers are currently underway and
2 additional CEQA work is anticipated.

3 Further, AVEK is involved in discussions which will lead to agreements with Tejon
4 Ranch. Any written agreements would envision additional supplies being brought into the
5 Basin at Tejon's expense and could include an exchange and storage of water for Tejon's needs.
6 AVEK would provide banking for Tejon's water acquisition for use in the Antelope Valley.

7 5. AVEK wishes to proceed with water banking efforts now, with any partners
8 involved in the Adjudication, and not wait for the case to be resolved. AVEK, or the AVSWCA
9 will provide banking opportunities and keep proper records that can ultimately be administered
10 by the Court and/or any appointed Watermaster for purchase of unused entitlement or
11 supplemental water. This will additionally permit AVEK to take advantage of the availability
12 of supplemental water outside the boundaries of the Adjudication and allow AVEK to store
13 unused State entitlement if such water may exist in the future. AVSWCA as a Joint Powers
14 entity has agreed as principle to act as an independent monitor.

15 6. Suggested terms of AVEKs proposed storage agreements may be summarized as
16 follows:

17 a. no banking charges to parties involved in the Adjudication for water stored
18 and used in the Basin;

19 b. a shrinkage factor for water banked, as determined by the engineers for the
20 Watermaster and/or Court (initially this would be set at 10%);

21 c. agreements will provide for the construction of facilities to pump water and
22 deliver to individual customers for use.

23 7. AVEK, either alone or through the AVSWCA desires to facilitate banking if and
24 when any entity desires to bank for their future needs. AVEK cannot stress enough the
25 importance of creating banking and storage potential. AVEK wants the Court to be aware of
26 its banking and storage plans in advance so that the Court can take them into account in
27 fashioning a physical solution.

28 8. Any banking agreement will need to be monitored by a court-appointed Watermaster

1 in light of any physical solution resulting from the Adjudication. AVEK, either individually,
2 or the AVSWCA, will assume the responsibility now. Water banking and storage efforts
3 approved and monitored by the Court and/or the Watermaster should be aimed to serve the
4 interests of the public, provide for stabilization of public water supplies within the Basin, and
5 should be in the control of parties committed to meeting those public needs.

6 Dated: December 7, 2007

BRUNICK, McELHANEY & BECKETT

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8 By: 

9 WILLIAM J. BRUNICK
10 TIMOTHY A. DE WALT,
11 Attorneys for Defendant and
12 Cross-Complainant
13 Antelope Valley-East Kern Water Agency
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1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA** }
3 **COUNTY OF SAN BERNARDINO** }

4 I am employed in the County of the San Bernardino, State of California. I am over
5 the age of 18 and not a party to the within action; my business address is 1839 Commercenter
6 West, San Bernardino, California.

7 On December 10, 2007, I served the foregoing document(s) described as: **CASE**
8 **MANAGEMENT CONFERENCE STATEMENT OF ANTELOPE VALLEY-EAST**
9 **KERN WATER AGENCY** on the interested parties in this action served in the following
10 manner:

11 **XX** **BY ELECTRONIC SERVICE AS FOLLOWS** by posting the document(s) listed
12 above to the Santa Clara website in the action of the *Antelope Valley Groundwater*
13 *Litigation*, Judicial Council Coordination Proceeding No. 4408, Santa Clara Case No.
14 1-05-CV-049053.

15 **X** (STATE) I declare under penalty of perjury under the laws of the State of
16 California that the above is true and correct.

17 Executed on December 10, 2007, at San Bernardino, California.

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19 _____
20 P. Jo Anne Quihuis
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