

ANTELOPE VALLEY GROUNDWATER
ADJUDICATION TIMELINE

(Los Angeles County Superior Court
Judicial Council Coordination
Proceeding No. 4408)

Briefing Materials to Accompany the Remarks
of
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November 20, 2014
Sacramento, California

WHERE WILL THE CASE BE DECIDED AND WHO WILL DECIDE IT?

(1999-2005)

- October 29, 1999** Diamond Farming Company (“Diamond Farming”) files a complaint in Riverside County Superior Court. Diamond Farming's complaint names as defendants the City of Lancaster, Palmdale Water District, Antelope Valley Water Company, Palm Ranch Irrigation District, Quartz Hill Water District, Rosamond Community Services District, and Mojave Public Utility District.
- February 22, 2000** Diamond Farming files another complaint in the Riverside County Superior Court (Case No. RIC 344468). The two Diamond Farming actions were subsequently consolidated.
- January 25, 2001** Wm. Bolthouse Farms, Inc. (“Bolthouse”) files a complaint in Riverside County Superior Court against the same entities, as well as Littlerock Creek Irrigation District and Los Angeles Waterworks Districts Nos. 37 and 40 (Case No. RIC 353840).
- The Diamond Farming and Bolthouse complaints allege that unregulated pumping by these named public agencies (collectively the Public Water Suppliers) has irreparably harmed Diamond Farming and Bolthouse's rights to produce Groundwater from the Antelope Valley Groundwater Basin, and interfered with their rights to put that Groundwater to reasonable and beneficial uses on property they own or lease. Diamond Farming and Bolthouse's complaints seek a determination of their water rights and to quiet title.
- 2001** The Diamond Farming and Bolthouse actions are consolidated in the Riverside County Superior Court.
- August 2002** Phase 1 trial commences in the Riverside County Superior Court in front of Commissioner Ettinger to determine the geographic boundary of the area to be adjudicated. That Phase 1 trial was not concluded.
- March 4, 2003** Commissioner Ettinger signs a stipulation to continue the Final Status Conference to October 3, 2003 to allow the parties to mediate by September 15, 2003. The Stipulation provides for a trial continuance from April 14, 2003 to January 5, 2004.
- July 22 - 24, 2003** The parties participated in mediation in front of retired Judge Simmons.
- October 3, 2003** The parties attended a Post-Mediation/Status Conference. The Court set a Trial Management Conference for November 14, 2003, and a trial date of February 17, 2004.

- November 14, 2003** The Court grants Bolthouse's request to file a Second Amended Complaint.
- February 12, 2004** Counsel and principals met for settlement discussions and to discuss case status. The Court continued the Trial Management Conference from February 23, 2004 to May 14, 2004 and reassigned the case to Judge Cunnison because of the Commissioner's reassignment to Probate.
- March 2004** Counsel for District No. 40 files 170.6 challenge to Judge Cunnison. The case was reassigned to Judge Holmes who recused himself for a conflict of interest. The case was assigned to Judge Tranbarger who held status conferences throughout 2004.
- November 29 and December 2004** District No. 40 ("District No. 40") files identical complaints in Los Angeles and Kern County to begin a general Groundwater adjudication for the Basin. District No. 40's complaints sought a judicial determination of the respective rights of the parties to produce Groundwater from the Basin.
- December 30, 2004** District No. 40 petitions the Judicial Council of California for coordination of the actions.
- June 17, 2005** The Judicial Council of California grants the petition and assigns the "Antelope Valley Groundwater Cases" (Judicial Council Coordination Proceeding No. 4408) to the Santa Clara County Superior Court Case No. 1-05-CV-049053 (Hon. Jack Komar).

WHAT WILL BE DECIDED, WHO WILL BE IN THE CASE, AND SERVICE

(2005 – 2009)

- 2005-2006** The Court requests that District No. 40 refile its complaint as a first amended cross-complaint in the coordinated proceedings. In response numerous parties filed cross-complaints seeking various forms of relief.
- August 30, 2006** Antelope Valley-East Kern Water Agency (“AVEK”) files a cross-complaint seeking declaratory and injunctive relief and claiming overlying rights and rights to pump the supplemental yield attributable to return flows from State Water Project water imported to the Basin.
- January 11, 2007** Rebecca Lee Willis files a class action complaint in the Los Angeles County Superior Court on behalf of non-pumping overlying property owners. The Willis Class now consists of approximately 70,000 property owners who have not pumped groundwater.
- June 20, 2007** The Court orders District No. 40 to finalize service of these parties and to serve newly-identified owners of 100 acres or more.
- June 2, 2008** Richard A. Wood files a class action complaint on behalf of a class of small property owners. The Wood Class was certified on September 2, 2008. The Wood Class consists of approximately 3,800 property owners who pump less than 25 acre feet a year.
- October 6, 2008** The Court conducted a Phase 2 trial to decide claims of sub-basins or separate basins within the Basin. The Phase 2 trial began on October 6, 2008 and ended on November 7, 2008. The court held that all parties and areas should remain in the action.
- End of 2008 - 2009** Court-ordered class notice for the non-pumper Willis Class was mailed to over 73,000 property owners.
- The Court-ordered class notice sent to an estimated 10,000 members of the Wood Class and personal service completed on landowners owning 100 acres or more of land or who report groundwater use of at least 25 acre-feet of water, and on 25 mutual water companies that operate in the Basin.

DETERMINATION OF RIGHTS IN THE BASIN

(2010 – 2014)

- 2010 - 2011** Preparation for and completion of Phase 3 trial on whether the Basin was in overdraft.
- July 13, 2011** Court's Phase 3 trial decision determines the Basin is in a current state of overdraft and the safe yield is 110,000 acre feet per year.
- May 28, 2013** The Court begins Phase 4 trial on pumping for calendar years 2011 and 2012. The limited duration of the Phase 4 trial was due to the successful efforts of the parties to reach stipulations.
- February 10, 2014** Phase 5 [partial due to settlement talks] (2 days) included claims to return flows from imported State Water Project and the United States Government's claim to a federal reserve right for water uses on its properties in the Antelope Valley.

KEY POINTS

One reason adjudications take so long is that at the end there will be certainty and the Basin will be managed. Delaying that management benefits some parties because paying lawyers is cheaper than paying more for water.

Nothing moves a case towards settlement faster than a trial date where all parties have to prove up their water rights.

KEY TERMS

Adjudication – Litigation that involves everyone in a groundwater basin or watershed with a claim to water rights.

Overdraft – Deficit between the amount of water pumped from a groundwater basin and long-term recharge.

Safe Yield – The maximum quantity of water that can be withdrawn from a groundwater basin without causing an undesirable result. An “undesirable result” is generally considered to be a gradual lowering of groundwater levels that eventually results in a depletion of the supply. Sustainable Yield in the new legislation is generally based on this definition.

McCarran Amendment – Federal law allowing the water rights of the United States to be determined in State Court if an adjudication of water rights is “comprehensive.”