

## Judge Sustains Nearly Two-Thirds Of Criminal Charges In Colonies Case

Prosecutors this week made a major stride in their efforts to send a developer and three former public officials he is accused of bribing to prison when after an exhaustive round of motions for dismissal by the defense the Superior Court judge hearing the case left standing eighteen of the original 29 counts contained in the



**Jeff Burum**

May 2011 indictment of the four defendants. Wednesday, August 6

was the seventh day of hearings since July 23 on five motions brought by the defense on a comprehensive set of motions seeking dismissal of all of the charges in the indictment and a single motion by the prosecution seeking to disqualify the law firm representing the central defendant in the case.

While over the course



**Bill Postmus**

of the previous six days of hearings the indications of and rulings by

Superior Court Judge Michael A. Smith augured well for the defense and kindled hope in the defendants that the case in its entirety might be thrown out, the tenor of Smith's rulings sharply changed this week and he left standing key components of the prosecution's case intact. In his statements from the bench **See P 6**

## SB, Riverside Counties Form Regional Pact With UCR, LA Harbor



**Kelly Reenders**

San Bernardino and Riverside counties this week declared their intention to utilize their respective economic development agencies to coordinate an effort involving the University of California at Riverside and the Los Angeles Harbor Department to stimulate regional employment development.

The San Bernardino County Board of Supervisors this week approved a memorandum of understanding creating an economic development and innovation partnership with Riverside County and its economic development agency, the University of California, Riverside and its Center for Economic Development & Innovation, and the city of Los Angeles, Harbor Department, to promote successful economic development, enhance international investment, stimulate job creation and increase job retention.

According to Kelly Reenders, the administrator of the San Bernardino County Economic Development Agency, the memorandum of understanding signed this week is intended to "cooperatively promote successful economic development, enhance international investment, stimulate job creation, and increase job retention, **See P 6**

## Solvent & Napalm Contamination At Chino Airport Threaten Regional H<sub>2</sub>O Supply

County taxpayers will pay another \$565,170 toward redressing contamination that is spreading from beneath Chino Airport and threatening the regional water supply.

A host of chemicals and substances used and cavalierly handled in the past have resulted in soil contamination below and around the airfield, located at 7000 Merrill

Avenue in Chino.

On October 31, 1990, the Regional Water Quality Board issued Clean-up and Abatement Order No. 90-134 to the county of San Bernardino for suspected contamination of groundwater beneath Chino Airport. At that time, it was suspected that the groundwater had been contaminated due to past

usage of Perchloroethylene/Trichloroethene.

Perchloroethylene/Trichloroethene were solvents that were commonly used in the aeronautic industry from the 1930s until the 1990s.

The county complied with the order by conducting activities at the Chino Airport to identify all potential sources of contamina-

tion, characterizing identified source areas, remediating discovered soil contamination; characterizing groundwater contamination; monitoring groundwater contamination; and mitigating identified groundwater contamination within the confines of Chino Airport.

On October 17, 2006, the San Bernardino

County Board of Supervisors approved a \$200,000 contract with Tetra Tech, Inc. to conduct a groundwater assessment of the water table at the Chino Airport and investigate possible sources of contamination from the airport property. On September 11, 2007, the board approved a \$200,000 amendment to extend the **See P 2**

## Proposed County Sale Of Dairy Property Hastening Ag Demise

The degree to which agricultural production and in particular the dairy industry in San Bernardino is in decline was given further indication this week when the county board of supervisors declared approximately 74.57 acres of county-owned dairy property in the former Chino Agricultural Preserve surplus and no longer necessary for the uses and purposes of the

county.

Since the county appears intent on selling the property to a commercial developer, it is highly unlikely the property will revert to agricultural use for generations, if at all.

According to Terry W. Thompson, the director of the San Bernardino County Real Estate Services Department, "Throughout the 1990s, the county **See P 5**

## Volaris Adding Third Flight From Ontario Airport To Guadalajara In September



Volaris (NYSE: VLRS and BMV: VOLAR), the ultra-low-cost airline serving Mexico and the United States, will add a third flight between LA/Ontario International Airport (ONT)

and Guadalajara starting September 1, 2014.

"We're very pleased that Volaris flights have been successful at Ontario since they began twice-weekly service to Guadalajara in April,"

said Ontario International's manager Jess Romo. "The additional flight will offer our international travelers more options."

The third flight departs from Guadalajara on Mondays at 9:55 p.m., arriving at ONT at 11 p.m., then departing from ONT at 12:40 a.m. and arriving at Guadalajara at 5:35 a.m. Existing flights will continue Sunday and **See P 7**

## State Provides Helicopter And Plane To Sheriff's Department Gratis

The California Emergency Management Agency this week donated two aircraft to the sheriff's department.

The board of supervisors on Tuesday approved the sheriff's department's request to participate in the California Emergency Management Agency 1033 Excess Property Program. In this case, the state is making avail-

able one Bell UH-1H Huey helicopter and one Beechcraft C-12 King Air fixed-wing aircraft.

According to sheriff's captain Dale Gregory, "The department is requesting approval to accept two military surplus aircraft from the California Emergency Management Agency 1033 Excess Property Program. Both aircraft are airworthy. The UH-1H Huey

helicopter (Serial No. 69-15588) would be used for training and for medical and personnel transportation. The King Air fixed-wing aircraft (Serial No. N783MC/BC02) would be used for staff and prisoner transportation and would replace the department's existing Commander fixed-wing aircraft."

Gregory continued, "The cost to put these

two aircraft into service is estimated at \$700,000, \$200,000 for the fixed-wing and \$500,000 for the helicopter. This cost will be fully offset by proceeds from the sale of the existing Commander fixed-wing aircraft. Once the King Air is put into service, the department will request approval for the surplus sale of the Commander, which has an appraised

value of \$1.3 million."

Under Section 1033 of the National Defense Authorization Act of 1996, the U.S. Secretary of Defense is authorized to transfer excess Department of Defense personal property to local law enforcement purposes.

On April 14, 2009, the board of supervisors approved the sher-**See P 4**

**Solvent & Napalm Contamination At Chino Airport** *from front page*

assessment services, including investigation, characterization, testing and quarterly report preparation required to identify and mitigate soil and water contamination together with preparing bid documents for an additional 24 months. On September 22, 2009, the board approved a \$185,000 amendment to extend the assessment services an additional 12 months to continue the same efforts.

The county received a new clean-up and abatement order from the water board in June 2008. That order required the county to conduct investigation, containment and mitigation of volatile organic compounds (VOC) down gradient of the Chino Airport.

In 2008, the county installed nine monitoring wells on and adja-

cent to Chino Airport to assist in the vertical characterization of the suspected contamination plume. In 2010, the county installed 10 additional monitoring wells on and adjacent to the Chino Airport to assist in the horizontal characterization of the VOC impacted groundwater plume.

The game changed when on the afternoon of July 22, 2010, during trenching for installation of a storm drain pipeline for a new Southern California Edison facility the first three of what turned out to be 51 drums of what is believed to have been napalm were discovered to have been buried at the airport. The county of San Bernardino Department of Airports was notified and it contacted the county fire department's hazardous materials division and Tetra Tech. Tetra Tech retained Double Barrel, a commercial hazardous materials emergency responder, to assess the

situation.

Additional drums were discovered that day and by sunset on July 22, 2010, eight buried drums had been removed from the excavation. The drums did not have lids and contained soil on top of a tan resinous material. The contents of the drums were field tested using a chemical identification kit and determined to be a non-explosive, flammable, non-corrosive, organic resin-type material.

Soil samples were delivered to Microbac Laboratory in Riverside for analysis. Microlab determined the drums contained high concentrations of benzene together with lesser amounts of toluene, ethylbenzene, xylene, styrene, 1,2,4-trimethylbenzene, and naphthalene, leading to the conclusion that the tan resinous material was a jellied fuel mixture, most likely napalm. In all, 51 barrels were unearthed.

In 2013, the county

increased its contract with Tetra Tech, Inc. to \$1,695,880 and extended it through April 30, 2015.

This week, upon the recommendation of Carl Alban, the director of the county's architecture and engineering department, and James Jenkins, the director of the county's department of airports, the board of supervisors approved a contract with Yellow Jacket Drilling Services, LLC of Gilbert, Arizona in the amount of \$565,170 for the installation of thirty-two groundwater monitoring wells as part of the ongoing groundwater assessment required at Chino Airport.

According to a report to the board of supervisors by Alban and Jenkins dated August 5,

"The installation of the wells will provide for the health of county residents by providing the county with additional resources to monitor and investigate suspected contamination of groundwater beneath

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Chino Airport. In 2012, the county installed 14 additional monitoring wells on and adjacent to Chino Airport as the county continued to comply with the water board approved work plan and complete the delineation of the off-site VOC plume. Since delineation of the offsite VOC plume is complete, the county is installing additional wells on and adjacent to the airport to complete the characterization of the on-air-

port portion of the VOC plume and the suspected source area(s)."

Alban and Jenkins' report continued, "The monitoring wells are being installed to: (1) characterize the existing nature and extent of contamination in groundwater beneath the airport, and (2) provide long-term monitoring locations to track the progress of future plume mitigation measures implemented to comply with the clean-up and abatement order issued by the water board."

On June 3, 2014 the board of supervisors authorized the architecture and engineering department to advertise for competitive bids. Architecture and engineering advertised for bids in a local newspaper on June 6, 2014, and on the county website. On June 17, 2014, nine contractors attended a mandatory job walk. On July 3, 2014, three bids were received. Yellow Jacket bid \$565,170 on the project; Cascade Drilling, L.P. of Upland offered to do the work for \$787,200. BEKS Acquisition, Inc. doing business as BC2 Environmental of Orange, said it wanted \$848,076 to complete the project.

On July 8, 2014, the architecture & engineering department received a bid protest from Cascade Drilling, L.P. alleging that Yellow Jacket did not have the required equipment to perform the work.

According to Alban and Jenkins, "A response to the protest

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*Continued on Page 4*

## Glimpse Of SBC's Past

## James Waters: Fur Trapper, Trailblazer, County Supervisor

By Mark Gutglueck

One of the most colorful of San Bernardino County's early historical figures was James Waters, who served as the county administrator, and both Second District and Third District county supervisor in the 1850s, 1860s, 1870s and 1880s.

Born at Brainerd's Bridge in Rensselaer County, New York on June 20, 1813, James W. Waters left home in 1835, intent on trying his fortune as a hunter, trapper and mountain man. With his trusty rifle in hand, he headed west, falling in with the likes of Kit Carson, the Subletts, Major Fitzpatrick, Bill Williams, John Brown, Sr., the Rubidoux brothers and other mountain men famous in frontier life during young America's adolescence, when the exploration of the land obtained in the Louisiana Purchase was yet being fully explored and settled.

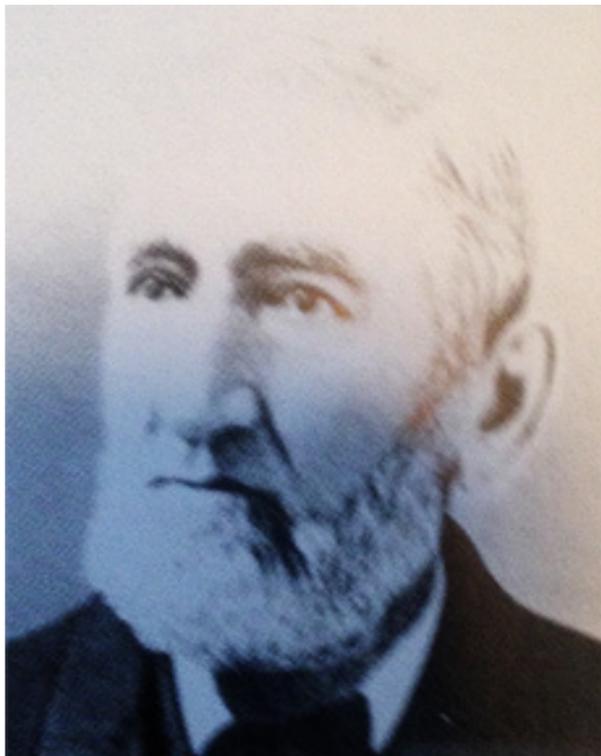
He became a hunter, trapper and mountain man in his own right and of some renown, and performed deeds of val-

or, while blazing trails in the unknown West.

He hunted and

hair-raising and thrilling escapades.

Once, while he and



James Waters

trapped with the earliest of the western pioneers, plying his trade from the headwaters of the Yellowstone and Columbia Rivers to as far south as Texas and intrepidly through the lands of the Arapahoe, Sioux, Ute, Comanche, Crow, Cheyenne, Blackfoot and Apache, and lived to tell about his many

"Old Bill" Williams were hunting near the Ria de Las Animas, they were bushwhacked by a band of Apaches. They were under siege for three days and nights. Waters was badly wounded in the side by a rifle shot. Williams had to cut the bullet out of the other side of his body with his hunting knife. Low on provisions, on the third day Waters and Williams escaped by taking their horses over a ten-foot bluff and galloping forty miles before stopping for the night.

Williams tied Waters, who was under severe distress from his wound, to his saddle. They rode until they reached Bent's Fort after a five day journey. At Bent's Fort, Waters was able to recover.

On another occasion, Waters and a party of sixteen other mountain men were attacked by a horde of Utes and Apaches. Though three of them perished in the battle, the remaining fourteen were able to hold off the their assailants and escape.

When the fur trade began to decline in the 1840s, Waters became a pack train guide, leading other adventurers from St. Louis to Southern California by way of the old Santa Fe Trail and the Cajon Pass.

After the discovery of gold at Sutter's Mill, Waters set up a horse exchange near the Green River, where, at the end of the exhausting crossing of the Great Plains, he traded fresh mounts for those ridden by Forty-niners or the horses pulling their wagons.

In September 1849 he again came to California via the southern route to avoid the snows of the Sierra Nevadas, a more direct route to the newly discovered gold fields, but by far the most hazardous. He served as a guide for a party of some 140 sojourning from New York to seek their fortunes out west. At Mission San Juan Bautista, near the present city of Salinas, he met with some old companions, John Brown and Alexander Godey, and with them established the St. John's Hotel and Livery Stables.

By that point, John Brown had converted to Mormonism and he had been ordered by Brigham Young to move to the new San Bernardino Colony in 1853. Waters, who himself converted to become a member of the Church of Jesus Christ of Latter Day Saints, elected to join Brown. In 1856, he settled in Yucaipa. Waters took up with a Hispanic woman, Condalario, shacking up with her to the point where she was considered by many to be his common law wife. But sometime thereafter, he abandoned Condalario to marry the comely young widow,

Louisa Margetson, some 24 years his junior, born on October 5, 1837 in London, England, the daughter of Thomas and Martha Margetson. John Brown, being a Justice of the Peace, performed the marriage ceremony.

Waters remained in Yucaipa for the rest of his life.

In 1857, after James Buchanan became president, the United States



Kit Carson

moved to the brink of war against the Mormons in Utah.

Perhaps because they were recent converts to the church, Waters and the other one-time mountain men fervently resisted Mormon authorities when Brigham Young made the call for all of the faithful to pull up stakes and return to Salt Lake City to defend the Mormon way of life at the end of 1857 and the beginning of 1858.

Waters remained in California, refusing to depart. With the great exodus back to Utah, many of the public offices in San Bernardino County were thrown vacant. In the county elections of 1858, Waters was elected public administrator. Five years later, in 1863, he was elected Third District supervi-

sor. In October 1865, he was elected Second District supervisor, serving until November 1869. He was again elected Second District supervisor in November 1874, serving until September 1875 and again was elected in October 1877, serving until January 1880. He was elected chairman of the board of supervisors in 1880. He was one of three elected Third District supervisors from January 1880 to June 1881, prior to the reorganization and creation of districts Four and Five in 1884.

According to the publication San Bernardino County Supervisors 1855 - 2006, "From the day of his settlement in this county, J.W. Waters was loyal to its best interests and exerted much influence in its affairs by his active energy and public spirit. The monuments he left behind to perpetuate his memory were the large brick building on the northeast corner of Third Street and Arrowhead Avenue, the brick building on Third Street formerly used for the Court House, a fine residence at Second and F Streets and finally, a magnificent Opera House on D Street in the care of his daughter, Mrs. Martha Waters Kiplinger, for many years."

James Waters died on September 20, 1889. Surviving him were his daughters Martha Waters Kiplinger, Mrs. Nettie Waters Cole and his two sons, Frederick and James W. Waters.

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# County Gets \$2 Million State Grant To Lessen Children's Lead Exposure

San Bernardino County will soon utilize more than \$2 million in funding provided by the state of California to ensure that children are not exposed to lead.

Since 1991, the state has allocated Childhood Lead Poisoning Prevention Program funds to

local health departments, including the San Bernardino County Department of Public Health, to eliminate childhood lead poisoning. The San Bernardino County Department of Public Health will use this grant award to continue providing Childhood Lead Poisoning Prevention Program case management activities, environmental investigations within homes to identify lead hazards



**Trudy Raymundo**

and unsafe lead-work practices, and outreach and education strategies that target parents and health care providers to increase blood lead screening of children at high risk for elevated blood lead levels.

According to Trudy Raymundo, the director of the San Bernardino County Department of Public Health, "On August 5, 2013, the San Bernardino County

Department of Public Health received Childhood Lead Poisoning Prevention Program application instructions from the state, which included the San Bernardino County Department of Public Health's total basic allocation amount of \$2,680,543 for the four-year period of July 1, 2014 through June 30, 2018. The application was due by October 8, 2013."

On October 3, 2013, San Bernardino County Chief Executive Officer Greg Devereux approved the submission of the Childhood Lead Poisoning Prevention Program grant application, in the amount of \$2,680,543, for the period of July 1, 2014 through June 30, 2018. On March 19, 2014,

the state notified the San Bernardino County Department of Public Health that grant awards for jurisdictions receiving Childhood Lead Poisoning Prevention Program funds would be for three years instead of the four-year period stated in the grant application process. After applications were received, the state determined that use of a four-year award would eliminate flexibility for local jurisdictions to adjust budget line items over the grant period.

"On July 7, 2014, the San Bernardino County Department of Public Health received the grant award from the state, in the amount of \$2,004,766, for the three-year period of July 1, 2014 through June 30,

2017," Raymundo told the board of supervisors in a report dated August 5. "The state requires a resolution from the board of supervisors indicating the person authorized by the board to execute the grant award documents."

Raymundo said the resolution for acceptance of the \$2,004,766 grant that was presented to the board this week because Tuesday's board of supervisors meeting was "the first date available following the required operational, fiscal, and legal reviews. Approval of this award by the board after the July 1, 2014 start date will have no impact on the San Bernardino County Department of Public Health's Childhood Lead Poisoning Prevention

Program services and activities."

This week, the county board of supervisors accepted the grant award from the California Department of Public Health for continued support of the Department of Public Health's Childhood Lead Poisoning Prevention Program services and activities, in the amount of \$2,004,766, for the period of July 1, 2014 through June 30, 2017.

In doing so the board authorized board chairwoman Janice Rutherford to execute all documents in relation to the grant award for the period of July 1, 2014 through June 30, 2017, as required by the California Department of Public Health.

## Sheriff Getting Two Surplus Aircraft From State from front page

iff's department's request to submit its intent to obtain up to five flyable UH-1H helicopters through the 1033 Program when they became available. The County currently has two UH-1H helicopters that are used primarily for rescue, drug interdiction, fire-fighting, rapid response for SWAT, evacuations, and mass casualty incidents. The Department had a third UH-1H helicopter that it had received on loan from the State of California, Department of Forestry and Fire Protection in 1992. This aircraft was used for firefighting activities and was returned to the State in 2013.

According to Gregory, "The loss of this aircraft has significantly impacted the department's ability to respond to fire, search and rescue and law enforcement missions. On March 11, 2014, the board accepted two UH-1H Huey helicopters through the 1033 Program. The department's intent is to put one aircraft into service and use the other for spare parts to service its fleet. The acquisition

will restore the department's helicopter fleet of UH-1H helicopters."

Additionally, the sheriff's department was recently advised that a King Air fixed-wing aircraft is available that is surplus to the needs of the Department of Homeland Security in San Antonio Texas. The sheriff's department currently utilizes one King Air and one Commander as its primary transportation aircraft. Pending available funding, the department's aircraft replacement plan includes selling the Commander aircraft and acquiring a second King Air, thereby standardizing its primary transportation aircraft. The Commander, which was purchased in 2001 for \$2 million is costly to maintain, with only three authorized service centers on the west coast. That aircraft also requires specialized pilot licensing which is also cost prohibitive. The Commander was recently appraised for \$1.3 million.

According to Gregory, "Receiving a surplus King Air would accelerate the aircraft replacement plan by providing an aircraft at no cost. Once the surplus King Air is put into service, the Department would

return to the board to authorize the surplus sale of the Commander."

Under the terms of the 1033 Program, once an aircraft is no longer needed by the recipient agency, yet remains airworthy, the agency must return the aircraft to the Department of Defense so that it can be made available to other 1033 recipients.

## Napalm & Solvent Contamination At Chino Airport from page 2

was received from Yellow Jacket on July 14, 2014, and was reviewed by Tetra Tech, the project consultant, and the basis for protest was determined to be without merit. Therefore, department staff recommends that the board award this

contract to Yellow Jacket Drilling Services, LLC., the lowest responsive and responsible bidder."

The overall budget on the project is \$675,000, funded by the Airport Capital Improvement Budget as approved by the board of supervisors as part of the 2014-15 Capital Improvement Program budget. Subsequent reimbursement is anticipated by the coun-

ty's risk management division through general liability insurance policies. The project budget of \$675,000 is comprised of permit fees of \$12,000; project management and inspection costs of \$3,000; construction costs of \$565,170; and a construction contingency of \$94,830.



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## County Springs \$300,000 Toward Parent Child Therapy Program

The county this week provided \$300,000 in funding to pay for so-called parent child interactive therapy services.

According to Randall Schulz, the director of the county's children and family services department, "Children and family services provides services to help biological and adoptive families stay together in order to avoid having children removed from their homes. To accomplish this goal, it is often necessary for the entire family unit to participate in programs and services that include strength-based and holistic family-based intervention strategies that will improve the emotional and psychosocial well-being of the child and family unit and prevent future individual

and family crisis/abuse. One of the services provided is parent child interactive therapy."

Schulz continued, "Parent child interactive therapy provides intensive, interactive training, involving live coaching, and incorporates both parent and child within the treatment sessions which are conducted by certified providers. It is anticipated under these three contracts children and family services will provide services for approximately 200 children and families. Each year, the county investigates allegations of abuse and neglect to more than 33,000 children. Children and family services operates under the Child Welfare Services system. The major goal of the Child Welfare

Services system is to protect and promote the welfare of all children by preventing and/or remedying neglect, abuse, or exploitation of children and young adults unable to protect their own interest and/or preserving, rehabilitating, or reuniting families. Parent child interactive therapy allows parental training while interacting with the child in a controlled environment."

According to Schulz, "Children Welfare Services has seen an increase in need and court orders for parent child interactive therapy services over the past year."

Nearly a year ago, on August 20, 2013, County Chief Executive Officer Greg Devereux approved and authorized the release of a request for

qualifications, which is essentially a solicitation of bids to seek agencies to provide child abuse prevention and treatment services for the period of January 1, 2014 through December 31, 2016.

Parent child interactive therapy services were included in the scope of work for this request for qualifications. A template contract was formed as a result of the request for qualifications for the services requested, but it was determined that only three agencies were qualified to provide parent child interactive therapy services, resulting in greater than anticipated use of those contractors. For that reason, this week contracts specifically for parent child interactive therapy services were presented



**Randall Schulz**

to the board of supervisors for approval.

Each contract was written in an amount not to exceed an aggregate of \$300,000 for the contract period. The contracts do not include a guaranteed minimum or maximum number of referrals, and contractors are to be paid on a fee-for-service basis. The contracts may be terminated by the county with 30-days written notice to

the contractor. County staff will monitor contractor invoices at both the individual and aggregate levels to ensure total payments do not exceed the authorized amounts.

Contractor performance will be measured by review of monthly reports and an annual site visit by county staff to monitor compliance with the administrative, program, and fiscal terms and conditions of the contract.

The three contractors selected to provide the parent child interactive therapy are the Center for Healing Childhood Trauma, Christian Counseling of East Valley, Inc. and Family Services Association.



### County to Auction Off Dairy Property from front page

purchased ten dairy properties consisting of approximately 441 acres in the cities of Chino and Ontario for the purpose of preserving agricultural land in the area. The properties are situated within the Chino Agricultural Preserve that encompasses approximately 14,000 acres. Nine of the dairy properties consisting of 366.55 acres were purchased with state grant funds. This 74.57-acre dairy property (known as the Wiersema Dairy) was purchased by the county with county general funds. After the properties were acquired, they were leased back to the operators of the dairies and the real estate services department has since been actively managing the leases.

Since that time, a number of dairy operations have left the area due to encroaching development and a decline in the dairy and agricultural related industries. The surrounding development and departure of local dairies is changing the needs and plans for

this area. The real estate services department began selling the county's dairy land and recommends that the county hold a public auction to sell the Wiersema Dairy property."

Thompson continued, "The real estate services department consulted with Lee and Associates, a local commercial real estate broker, to obtain a detailed analysis of the market in this area. They recommended a listing price of \$32,800,000 for this land. The property is not currently entitled; therefore, to maximize the value, the real estate services department recommends an extended escrow period to allow the buyer additional time to secure the entitlements necessary to make the property developable and thereby reducing the buyer's perceived investment risk. The real estate services division reviewed the information provided by the consultant from an appraisal perspective and concurs that the land value established for the auction is reasonable."

Thompson said he intends to stipulate conditions for the sale of the land that will include a

minimum bid of \$32.8 million, the provision of a \$3,280,000 deposit, the requirement that the buyer enter into a purchase and sale agreement provided by the county following the auction, a 60-day due diligence period commencing upon the approval and execution of the purchase and sale agreement by both parties, that the \$3.28 million deposit be rendered non-refundable upon expiration of the due diligence period, and a maximum of a twelve month escrow/entitlement period from the day escrow is opened."

Thompson said the county would be amenable a one-time option to extend the escrow an additional six months upon payment of a non-refundable \$300,000 that would be applied to the purchase price.

The property, located at 8315 Merrill Avenue, east of the Chino Airport, in the city of Chino, has an existing lease with J&D Star Dairy that will be assumed by the buyer.

The auction is to take place at the County Government Center, located at 385 N. Arrowhead Avenue in San Bernardino on Tuesday, October 14,

2014 at 10:00 a.m. In the meantime, the county will hear responses from other public agencies or authorized non-profit agencies with regard to the proposed sale, as set forth in Section 54222 of the Government Code.

The once-vaunted Chino Agricultural Preserve was formerly the most intensive milk-producing area in the world. Within its 17,000 acre confines were just under 400 dairies and 400,000 cows. With \$800 million in annual dairy production in 1976, the relatively compact Chino Valley region alone was within the entire state of California a close third in milk output behind the much more expansive Tulare and Merced counties.

In the late 1950s, the Chino Valley had become a haven to dairy farmers, many of them of Dutch or Portuguese descent, who were displaced by the urbanization of southeast Los Angeles County. The preserve was formed in 1968 under the auspices of California's Williamson Act — a 1965 law that was intended to preserve California farmland and to serve as a hedge against urban

sprawl. The law granted substantial tax breaks to property owners agreeing to restrict their land to agricultural uses for at least 10 years. By 1970, the Chino Valley was the source for most of Southern California's milk as well as a major supplier of the cheese for a much larger geographical area.

By the mid-1980s, growing numbers of dairy farmers in the preserve wanted out, as the local industry was itself being subjected to the same pressures that had been brought to bear on dairyman who had been forced to pull up the stakes of their Los Angeles County operations two decades before. Land speculators and developers eyeing the property and envisioning it as residential subdivisions supported politicians at the municipal and county levels to create a dairy-busting agenda that in time spelled the end of the preserve as a lasting entity.

In the late 1980s and into the 1990s, the county's land use professionals were seeking to examine the desirability of maintaining the preserve's dairies as a hedge against the burgeoning urbanization and to

determine if the dairy industry had a reasonable prospect of sustaining itself in the changing environment. At the same time, the county's elected leadership was heavily influenced by developmental interests, the major providers of political contributions. With a few exceptions, the supervisors leaned in favor of breaking up the preserve.

In 1986, the county took the first step toward deconstructing the Williamson Act's applicability in the Chino Valley. By 1997, half of the dairies that had been operating in the preserve at its peak had left. The jousting between Ontario and Chino over annexation of the preserve had begun.

In 1999, while there were still 140 dairies operating in Chino Valley, the city of Ontario annexed nearly 8,200 acres of the 15,200 remaining acres in the preserve. Chino laid claim to the other 7,000. The county, for the most part, alternately passively and actively accepted the inevitability of the pending urbanization. Ontario drew up master plans for

*Continued on Page 7*

**Colonies Case Hearings**

*from page 4*

explaining the rationale for his decisions, Smith, who was a prosecutor before he was elevated to a judgeship, countered many of the defense's assertions of innocence in ruling that the grand jury that indicted the quartet had been provided with adequate and even abundant evidence indicating their guilt on the 18 surviving charges in the indictment.

In that indictment, Rancho Cucamonga-based developer Jeff Burum stands accused of employing one-time sheriff's deputies union president Jim Erwin and Mark Kirk, the former chief of staff to San Bernardino County Fourth

District Supervisor Gary Ovitt as his agents in persuading former supervisors Bill Postmus



**Paul Biane**

and Paul Biane to accept bribes and improperly influence Ovitt.

According to the prosecution, Burum professed bribes to Postmus, Biane and Kirk as part of an effort to obtain a favorable settlement of a lawsuit brought by one of Burum's companies, the Colonies Partners,

against the county and its flood control division over drainage issues at the Colonies at San Antonio residential and Colonies Crossroads commercial subdivisions in northeast Upland.

Burum and Dan Richards were the two managing principals in the Colonies Partners, a consortium of 21 investors who had successfully completed the Colonies projects on 440 acres of property formerly owned by the San Antonio Water Company.

Burum hired public relations consultant/communications professional Patrick O'Reilly to prepare in 2006 mailers which revealed that Bill Postmus, who was then the chairman of the county board of supervisors and the chairman

of the San Bernardino County Republican Central Committee, was a homosexual and drug addict and that Biane was insolvent and on the brink of bankruptcy. That year Postmus was running for county assessor. Biane was sponsoring a countywide initiative, Measure P, which called for increasing the annual salary of each county supervisor from \$99,000 to \$151,000.

Ultimately, Burum never posted those mailers to county voters, and Postmus in November 2006 was elected assessor and Measure P passed. Three weeks after that election, with Postmus, Biane and Ovitt in the majority and supervisor Josie Gonzales and then-supervisor Dennis Hansberger dis-

sending, the board of supervisors voted 3-2 to settle the Colonies lawsuit with a \$102 million



**Jim Erwin**

payout to the Colonies Partners.

Between February 2007 and the end of June 2007, Burum and Richards made separate \$100,000 donations to political action committees set up and controlled by Erwin, Biane and Kirk and two \$50,000 donations to each of two political action commit-

tees set up and controlled by Postmus.

In January 2010, a secret grand jury was impaneled. After prosecutors with the San Bernardino County District Attorney's Office and the California Attorney General's Office presented evidence to it, that grand jury handed down an indictment naming Postmus and Erwin on extortion and bribery charges and describing, though not naming, Burum, Richards, Biane, Kirk and O'Reilly as unindicted coconspirators.

Both Postmus and Erwin entered not guilty pleas to the charges in that indictment. In March 2011, however, Postmus pleaded guilty to all 14 charges against

*Continued on Page 8*

**Economic Development Cooperative** *from front page*

supporting the county goals and objectives. The partners are entering into this economic development and innovation partnership to maximize opportunities within the transportation corridor linking the Los Angeles Port and the Inland Southern California region, the Inland SoCal Link."

Reenders said, "In March 2010, the state of

California began designating innovation hubs (iHubs) in regionalized areas of California with the intent to harness the creative and entrepreneurial spirit. These designated iHubs provide a platform for research clusters, startup companies, government entities, business groups and venture capitalists by leveraging assets such as research parks, technology incubators, universities, and federal laboratories to foster innovation and job creation

statewide. Currently, California iHubs support economic sectors such as agriculture, life science and medical technology.

On August 21, 2013, Assembly Bill 250 was amended by a majority vote to codify and expand the California Innovation Hub Program at the Governor's Office of Business and

Economic Development for the purpose of stimulating economic development and job creation through the coordination of federal,

state and local innovation-support resources.

Subsequently, the Governor's Office of Business and Economic Development asked for applications to add three new hubs to enhance the existing structure. The newly designated hubs would support the healthcare, manufacturing and aerospace sectors."

The county of Riverside applied for an iHub designation which included information supporting a collaborative

with the San Bernardino County Economic Development Agency's departments of Workforce Development and Economic Development.

In October 2013, the Governor's Office of Business and Economic Development announced the designation of the "Inland SoCal Link" – a collaborative with the city of Los Angeles' Port of Los Angeles, along with Riverside and San Bernardino Counties and with the support of the

University of California, Riverside. The goals of the partnership are to promote collaboration in the manufacturing and logistics sectors; expand the volume of exports that are manufactured or produced from both San Bernardino and Riverside counties; increase educational awareness about important transportation issues; encourage foreign direct investment as a mechanism for regional job creation; foster better communication between partners; create a sustainable platform to support federal, state, and local legislative matters that are mutually aligned between partners; and for the partnership to provide information, expertise and assistance with respect to key industries that the partners seek to attract, develop and retain.

The partners have agreed to collaboratively brand the region as a globally competitive destination for trade, investment and economic development. The partners are encouraged to cross-promote and support one another in marketing materials and in mutually relevant trade-shows and other marketing events.

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**Volaris Adding Flight From Ontario International To Guadalajara from front page**

Thursday of each week. Volaris Chief Executive Officer, Enrique Beltranena, spoke of the importance of arriving in Ontario as a significant step in stimulating the market of those who visit family and friends between Mexico and the U.S. "This market is the largest of its kind in the world, which is why we are committed to covering its connectivity requirements, offering flights at affordable fares that allow us to compete with ground transportation fares, while fostering cultural, commercial, and financial exchange with the United States." Tickets are available through [www.volaris.com](http://www.volaris.com).

com, Volaris' Call Center at (866) 988 3527, as well as through authorized travel agencies.

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**Molycorp Releases Report On Second Quarter Performance**

Molycorp, Inc. (NYSE: MCP) today announced financial and operating results for the second quarter 2014, reporting product sales volume of 2,996 metric tons (mt), a 15% decrease over the first quarter 2014, at an average selling price ("ASP") of \$39.02/kg, a 16% increase over the preceding quarter's ASP of \$33.69/kg. Net revenues for the second quarter were \$116.9 million, a 1%

decrease from the first quarter 2014. The company reported a net loss of \$0.37 per share for the quarter. The company reported a net loss of \$0.29 per share for the quarter on an adjusted non-GAAP basis.

Molycorp's Resources segment, comprised of its Mountain Pass, California rare earth mine and processing facility, sold 974 mt of rare earth oxide equivalent products for \$10.0 million in revenues. ASP for the

**Colton Police Chief's Letter Of Resignation As City Manager**



**Colton Police Department**

650 North La Cadena Drive. Colton. California 92324  
Steve Ward, Chief of Police

July 21, 2014

Madam Mayor and Council Members,

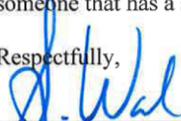
This memo is to inform you that I relinquish the duties of Acting City Manager effective immediately. The 2014/2015 budget has been approved. The City Manager investigation is nearly completed with the final interview expected this week. Merit steps that were past due and acting pay have been completed for the City Manager's Executive Assistant, Finance Manager, Fire Chief, Chief Deputy City Clerk and Executive Assistant/Office Manager to the Council Office. The City Clerk vacancy has been filled. Crystal Ridge is moving forward. Every contract and provisional employee that you requested has been given to your office. I have also initiated an investigation with the City Attorney in reference to a complaint filed last week by Colton First.

During the past six weeks, I have been to IT meetings, water meetings, disposal meetings and SANBAG just to name a few. I have met with the cities of Riverside and Grand Terrace with our Directors. All the while, I have tried to keep my Police commitments and appointments. The large majority of our City employees are hard working, friendly, team players that are committed to doing the very best for our City. But there are directors, managers and council members that do not belong in our organization. I am not used to the childish, selfish, lie to my face drama and games that I've witnessed...and it never stops!

We do our best when we put our heart and soul into whatever we do. When I told you that I would "help out" during this time, I answered as a "Colton Employee." I believe there was a misunderstanding as you saw me as the City Manager and I never stopped being Colton's Police Chief. What I now know is that my Heart and Soul is with the Colton Police Department. This experience has made me truly appreciate the people I get to work with on a daily basis. I do not want to take it (or anyone) for granted.

I want to THANK ALL of the men and women of the Police Department for being the most understanding, kind, considerate, hard working, team players.....Every Day and Night! We did not receive any additional compensation for the many extra duties and much longer hours we put in to "help out." But now it is time for me to continue the goal of making the Colton Police Department the BEST in the Inland Empire...a place people want work for (not leave from).

There are many qualified employees within our City that are great assets and would love the opportunity to be the City Manager. While it will be a challenge with great rewards, it must be someone that has a stake in Colton....and wants it!

Respectfully,  
  
Steve Ward  
Chief of Police

quarter was \$10.30/kg. Production volume for the quarter was 1,639 mt, a 48% increase over first quarter production of 1,111 mt. Cash cost for production dropped to \$16.54/kg, a 39% de-

crease over production cash costs of \$27/kg in the previous quarter. The company's chemicals and oxides segment sold 1,582 mt and reported \$48.6 million in revenues. The slight

decrease in volume was offset by higher ASP due to a favorable increase of Nd and Pr in the product mix. Its magnetic materials and alloys segment sold 1,383 mt of mag-

netic powders. Revenues for the segment were \$54.4 million on ASP of \$39.31/kg.

Finally, Molycorp's rare metals segment reported sales volume of 79 mt on revenues of \$15.9 million. ASP for the segment was \$201.81/kg.

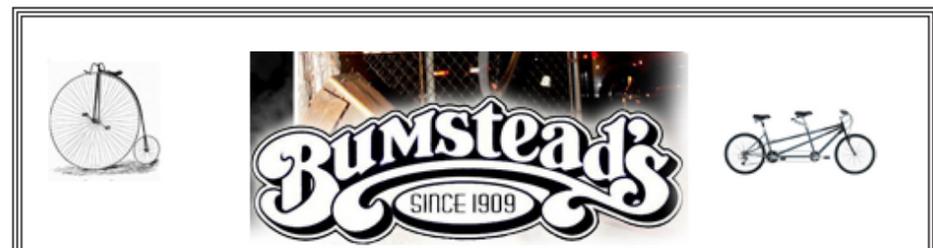
**County To Sell Dairy from page 5**

homes, 5 million square feet of retail space and 5 million square feet of industrial space. Chino designated over 400 acres for industrial development and earmarked 2,000 acres for new residences, with complementary plans for commercial development.

But that anticipated development came only in fits and starts. By 2005, the number of dairies had dwindled to 70. The eventual transformation of the land away from its agricultural heyday was under way in earnest. Nevertheless, the development community's reach exceeded its grasp and the expected building boom within the preserve in the early 2000s failed to material-

ize. With the economic downturn of 2007, building in the area slowed to a crawl. The county, which had acquired some property in the area under the auspices of sustaining agricultural operations as well as under the assumption the land could be sold in relatively short order at a profit, became a landlord to several dairy operations the county's political leadership and its political supporters wanted to see shelved.

Today, there are about 60 dairies operating in the Chino Valley.



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**Judge Upholds  
18 Of 29 Colonies  
Case Charges**  
*from page 6*

him in that indictment and agreed to turn state's evidence. He was then called before a newly impaneled grand jury as the star witness among more than 40 witnesses who testified in April 2011. In May 2011 that grand jury handed down a superseding indictment, consisting of 29 charges naming Burum, Erwin, Biane and Kirk.

In short order, defense attorneys filed demurrer motions challenging the case against their clients on the sufficiency of the evidence and applicability of the law. In August 2011, Judge Brian McCarville granted several of the defendants' demurrers, ruling that prosecutors erred in simultaneously charging Burum with conspiracy to engage in a bribing scheme while also charging him with aiding and abetting the receipt of bribes. McCarville also

ruled that Burum could not be charged with misappropriation of public funds since he was not



**Mark Kirk**

a public official, leaving only two of the original seven charges against Burum, the figure at the center of the case, intact. McCarville further dismissed one felony count of misappropriation of public funds for each of the other defendants. The prosecution appealed McCarville's ruling to the Fourth District Court of Appeal in Riverside, which in October 2012 upheld McCarville with regard to the four bribery counts against Burum that had been tossed, and also threw out a conflict-of-interest count McCarville had let stand. The appeals court

did, however, reinstate the misappropriation of public funds charge against Burum that McCarville had dismissed.

Prosecutors then made a last-minute appeal of the Fourth District's ruling to the California Supreme Court on December 10, 2012. More than a year later, on December 23, 2013, the California Supreme Court reestablished the essential elements of the case, granting the gist of the prosecution's appeal more than a year and two months after the Fourth District Court of Appeal in Riverside dismissed the most crucial charges lodged against Burum.

Last year and earlier this year, Burum's attorney, Stephen Larson, a former federal judge, filed a total of five motions to dismiss the case, including ones based on statute of limitations grounds, lack of probable cause, prosecutors' misinstruction of the grand jury, withholding of exculpatory evidence, prosecutorial misconduct, misconduct on the part of investigators in

their filings to obtain search warrants and an illegal effort by both prosecutors and investi-



**Dan Richards**

gators to seize privileged materials in the possession of the defense team. The defense attorneys for the other defendants piggybacked on those motions.

Beginning on July 23, Smith began hearing oral arguments on those motions before a near-capacity crowd in one of the largest courtrooms in the newly opened San Bernardino Justice Center. In one of his first rulings, he severely weakened the prosecution's case by dismissing conspiracy charges against the defendants on statute of limitations grounds. That dismissal also erased the 43 overt acts alleged as part of the

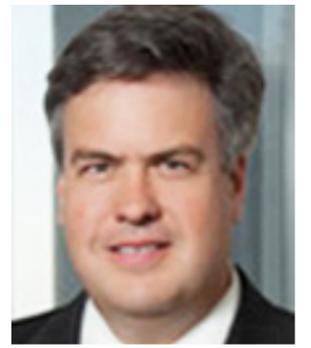
conspiracy in the indictment.

Smith then moved on to throw out 12 other charges in the case, likewise on statute of limitations grounds, pending his own determination of whether he would give the prosecution the opportunity to amend the complaint.

At that point, with the hearing on the five motions to dismiss having progressed only half way through the first motion, the prosecution's case appeared to have been severely compromised and there were confident pronouncements from some in the defense camp that the case would be completely dismissed before all of the motions were heard.

When the second week of hearings began on July 25, a subtle shift in favor of the prosecution manifested in the courtroom. Smith had at that point yet to fully rule with regard to the defense's challenge of the prosecution's assertion that law enforcement officers did not learn of the alleged bribery scheme

until November 2008. Smith entertained defense arguments that the victim, i.e., the county



**Stephen Larson**

and its officials, knew of or had strong grounds to suspect as early as 2006 that the illegal activity described in the indictment had taken place, thus making the May 2011 indictment too late given the three-year statute of limitations.

Ultimately, however, Smith made a finding that though there were numerous suspicions with regard to, and even unsubstantiated allegations of, wrongdoing being batted about while a negotiated settlement was being sought in 2006, the circulation of such rumors did not meet

*Continued on Page 9*

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**Colonies Case  
Dismissal Motion  
Rulings**  
*from page 8*

the legal standard for initiating a criminal investigation. Smith called the suspicions no more than “a gut feeling something wasn’t right” and said “There were no facts or information to support a reasonable suspicion that there were offers or payments to defendants” or that Postmus and Biane had “agreed to accept payment in exchange for their votes” at that time. Thus, Smith gave the prosecution leave to amend the indictment with regard to 12 of the counts he had earlier thrown out by stating more clearly that both law enforcement and county officials, other than the accused, were unaware of the alleged bribery scheme until November 2008.

The motion to dismiss the charges based on statute of limitations grounds completed, Smith then moved on to the remaining motions to dismiss, the grounds for which included lack of

probable cause, jury misinstruction, prosecutorial misconduct in having raided the defense camp



**Melissa Mandel**

and seizing privileged materials crucial to the defense, along with prosecutorial and investigator misconduct in having made misrepresentations to obtain search warrants and hiding information about a witness from the grand jury. During the hearings on July 28, 29 and 30, the defense, led by Stephen Larson and Mary Andrues, representing Burum; David Goldstein, representing Biane; Raj Maline, representing Erwin; and Paul Grech, representing Kirk; remained aggressive, overshadowing if not entirely overwhelming the prosecution team of supervising deputy California Attorney

General Melissa Mandel and San Bernardino County deputy district attorneys Michael Abney, Lewis Cope and Reza Sadeghi.

When the hearings resumed on Wednesday, August 6, however, the complexion of the case dramatically changed, as the bulk of rulings Smith made, with a few exceptions, strongly favored the prosecution.

In what was the most significant victory for the prosecution, Smith ruled that the grand jury’s indictment of Burum for aiding and abetting in Postmus’ and Biane’s and Kirk’s receipt of bribes was indeed based on sufficient evidence.

Smith said that there was evidence Burum used “threats and intimidation to get them to accept” the bribes he provided. “Threatening to expose someone has a drug problem is not a crime,” Smith said. “Threatening to expose someone’s sexual orientation or life style is not a crime.” But there was evidence Burum, working in concert with Erwin, had gone beyond that, the judge said. The dam-

aging information about Postmus and Biane was withheld, Smith said, to induce them to take the bribes and vote for the settlement. And there was evidence, Smith said, that “Mr. Burum is the one who suggested a sophisticated plan to hide the evidence by creating PACS [political action committees] the board members would secretly control.” Noting that the money provided to the PACS was “declared as a contribution by Mr. Burum and appropriately declared as a contribution received by the PAC [so] there would be no trace of any of that going to the board members,” Smith said, “the court finds that kind of plan to hide the bribes after they were received... is additional action beyond providing the bribe that aids and abets the receiving of the bribe.” Burum, Smith said was involved in “devising a plan” so the money could be delivered to those being bribed “without it being discovered. That is additional conduct that aids and abets the person in receiving the bribe. The court concludes that for

those reasons the evidence before the grand jury is sufficient to support the finding of probable cause that Mr. Bu-



**Raj Maline**

rum aided Mr. Postmus, Mr. Biane and Mr. Kirk in accepting the bribes.”

Likewise, Smith ruled, the evidence showed Erwin was involved in aiding and abetting Postmus and Biane receiving bribes.

Smith did rule that contributions to the political action committees cannot be considered income to the founders of the PACS or those in control of them, even if the contributions are intended as or are in fact bribes. Consequently, Smith dismissed perjury and tax fraud charges against Erwin, Biane and Kirk.

Smith, as he gave

previous indication, on August 6 also dismissed conflict-of-interest charges against Burum and Erwin, reasoning that Burum was never a public official and Erwin was not a public official at the time of the alleged crimes.

Smith, however, deviated from the direction he appeared to be leaning during the closing days of July with regard to charges of misappropriation of public funds against all four defendants. He previously appeared to be persuaded by defense arguments that those charges should be dropped. On August 6, Smith acknowledged that the actions of the defendants did not in any fashion fall under two theories of how the statute relating to misappropriation of public funds – Penal Code Section 424 – applies. In a somewhat tortuous exposition, however, he said the defendants’ actions fit under a third theory of what constitutes misappropriation of public funds. Smith said that though the grand jury

*Continued on Page 10*

**LueLLa G. Hairston, Esq.**

**Family Law Attorney**

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## San Bernardino County Coroner Reports

Coroner case #701405899 – On 8/5/2014 at 7:55 A.M. thirty-nine year-old Las Vegas resident Howard Anthony Wedderburn had exited his vehicle parked along southbound Interstate 15, 1/2 mile north of Nisquali Rd in Victorville, when he was struck by a semi tractor. Wedderburn was pronounced dead at the scene. The Victorville office of the California Highway Patrol is investigating this incident. [080514 1658 SY]

Coroner case #701405897 – On 8/5/2014 at about 6:45 A.M., a 1997 Freightliner tractor-trailer was traveling eastbound on Interstate 40 in Daggett. East of Hidden Springs Rd. the Freightliner collided with a tractor-trailer traveling westbound. Sixty year-old Michael Ruhl of Banning, who was the driver and sole occupant of the eastbound vehicle, was pronounced dead at the scene. The Barstow California Highway Patrol Office is investigating this incident. [080514 1626 SY]

Coroner Case #701405777 – On 07/31/2014 at 1235 AM, a 911 call was received reporting a collision southbound on Interstate 15 in Rural Mountain Pass. Emergency personnel responded to find a semi tractor trailer had collided with another semi tractor trailer. Enrique Ramos, a 35 year old resident of Las Vegas, was pronounced dead at the scene. The California Highway Patrol is also investigating the incident. [080314 0930 JK]

Coroner case #701405751 – On 07/30/2014 at approximately 3:15 AM San Bernardino County Fire Department received a 911 call of a house fire in El Mirage. After the fire was extinguished, a body was found. The San Bernardino Sheriff's Department and the San Bernardino County Fire Department are also conducting investigations into the incident. The name of the deceased will be released once identification is complete and family is notified. [080314 0930 JK]

*The Coroner Reports are reproduced in their original format as authored by department personnel.*

### Colonies Case Hearings from page 9

had not been instructed directly with regard to this, the instructions on other charges relating to the action that constituted the misappropriation of public funds sufficed in giving the grand jurors an understanding of the issue to allow them to issue the indictment including the 424 charge. Essentially, Smith

said, the quid pro quo arrangement involving the payments into the political action committees in exchange for the vote to approve the \$102 million settlement extended into being a misappropriation of public funds. "The bribe was a misappropriation of public funds because a portion of the appropriation was coming back to the board. It cannot be argued that they did not know the money coming back to them was not a violation of the law."

Smith responded to the slightly different

circumstances pertaining to Kirk with regard to the misappropriation of public funds charges, saying, "Mr. Kirk used his influence. He did have a financial interest in the outcome of the vote. Supervisor Ovitt testified before the grand jury that Mr. Kirk did not influence his vote, but there was evidence considered by the grand jury that Mr. Kirk did take steps to influence Mr. Ovitt and took steps to ensure the settlement occurred."

Smith denied the defense motion to dismiss

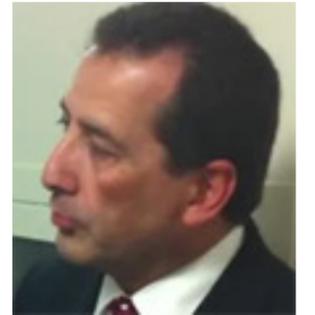
the misappropriation of public funds charges against all four defendants.

Smith also ruled on the defense motion to dismiss the case based on prosecutorial and investigative misconduct as pertained to what Burum's attorneys, Stephen Larson and Mary Andruess, termed an "unconstitutional" raid on the defense camp. In question was the manner in which a search warrant prosecutors had obtained for files at the office of the Thomas Dale & Associates private

investigation firm was executed.

Larson, in an effort to obtain information about continuing drug use on the part of Bill Postmus, hired Thomas Dale & Associates to carry out surveillance of Postmus. Thomas Dale & Associates contracted with another investigator, Theresa Speer at Alabama-based Lookout Resources in 2011, to assist in tracking Postmus. Subsequently, Postmus learned that someone had "hacked," i.e. electronically accessed, his cell phone. He informed

investigators with the district attorney's office and they traced the hacking to Speer. Investigators approached Speer at her residence in



Reza Sadeghi

Fairhope, Alabama and learned from her that she had been commissioned to surveil Postmus by Thomas Dale & Associates,

On January 31, 2013 investigators served a search warrant at the Thomas Dale & Associates office in El Segundo after having obtained a warrant. Because of the possibility that in the course of the search the investigators would come across confidential and privileged information relating to Burum's legal defense, a special master was appointed to conduct the review of the files to be seized. On July 30, Andruess in court had played for Smith a portion of the security video taken on January 31, 2013 at the Thomas Dale & Associates office, depicting investigators and deputy district attorney Reza Sadeghi rifling through files without the oversight of the special master, Brian Collins, who was in another room. This contradicted

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### Colonies Case Hearings from page 10

assertions by Sadeghi that neither prosecutors nor their investigators had examined the defense team's potentially privileged material.

In his ruling on that matter, Smith said that "The search at the TDA office was serving a legitimate government interest and it was lawful in its execution. They were investigating a crime of the cell phone being hacked. It is absolutely clear to me all those investigators were screening that information so they could see who hired Theresa Speers. Their only interest was billing documents as to who had hired TVA and Look-out Resources, Theresa Speers' business. Once they determined it went to that issue, they sealed it and it went to the special master. There is no indication they took notes or looked at the contents of the files. There was no intent to harm the defendants or to gain any unfair advantage to gain any privileged information."

He rejected the defense motion to dismiss

the charges, finding there had been "no harm or prejudice to the defendant."

Smith also rejected a second defense motion for dismissal based upon assertions that in obtaining a search warrant



Adam Aleman

based upon statements from Adam Aleman, an assistant county assessor who had previously worked as a field representative in Postmus' supervisory office, investigators did not disclose on the affidavit for the search warrant that Aleman had entered into a plea arrangement on criminal charges relating to corrupt practices in his official capacity, along with allegations that prosecutors did not properly instruct the Grand Jury on the extent of witness Postmus' drug addiction.

Andrues told the

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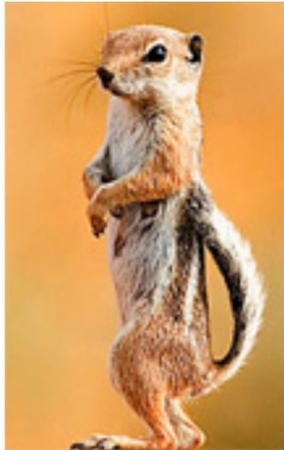
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## County Wildlife Corner

# White Tailed Antelope Squirrel: *Ammospermophilus leucurus*

The white-tailed antelope squirrel is common in San Bernardino



County's Mojave Desert, as it does well in desert riparian, desert succulent shrub, and desert wash habitats.

The white-tailed antelope squirrel is a diurnal omnivore that lives in the same environs as the Mohave ground squirrel, but the two do not interbreed and should not be confused with one another.

Much like the Mohave ground squirrel, the white tailed antelope squirrel's optimal habitats are desert scrub, sagebrush, alkali desert scrub, Joshua tree, bitterbrush, and pinyon-juniper.

These creatures are about eight inches in total length with a tail length of about three

inches. They weigh about a quarter pound at maturity.

Foraging on the ground and in shrubs and trees, white-tailed antelope squirrels feast on seeds, fruits, green vegetation, arthropods, insects and carrion. In the spring, better than half of their diet consists of winter rain-induced greens, such as grasses, blackbrush, acacia, Joshua tree, opuntia cactus and mesquite. Also in autumn Arthropods grow to become upwards of 30 percent of their diet. To a lesser extent, they will munch on vertebrates, mainly lizards



and mice.

Like some other squirrels, they carry the food they catch in their cheek pouches. They form hierarchies in small feeding groups.

White-tailed antelope squirrels are burrowing

creatures, and they will dig into friable soil to form their own tunnels, creating several in their home range, in some cases interconnecting them. They will also adopt the abandoned burrows of other animals. This habitat is useful for eluding predators and extreme temperatures.

To reproduce, they will construct nesting burrows to a maximum depth of two feet with two to three entrances often beneath shrubs but also in the open. The birthing spot is strewn with dried vegetation and hair. Their breeding season runs from February through June with a

peak in births in April. The litter size ranges from 5-14, with a mean of 9. Females may have two litters per year, but one is considered normal. Pups are weaned at about two months.

As a species, these squirrels have an average home range of 15 acres and utilize roughly four acres in their daily activities.

While Mohave ground squirrel are predominant in the Mojave Desert and are apparent in greater numbers while active, the white-tailed antelope squirrel has made behavioral and physiological adaptations which keep it active yearlong, as opposed to the Mohave ground squirrel, which hibernates.

Their activity is greatest at temperatures between 59-86° Fahrenheit. Through much of the year they are most active in the morning, midday and late afternoon. They will venture out of their burrows a little more than an hour after sunrise and retire to their burrows a half hour or so before sunset. Their energy output increases from April through October and their metabolic rate drops in the evening. In the winter, they will form small huddling groups to keep warm, in this way reducing their individual energy output.

Their major predators include hawks, owls, coyotes, kit foxes, badgers, bobcats, and snakes

court that during the course of his interviews with investigators, Postmus indicated he could not remember or otherwise was having trouble with his recollection 205 times. "His memory was shaped and manipulated by drug use and suggestive questioning and the passage of time," Andrues told Smith.

Andrues presented testimony provided by district attorney's office investigator Hollis Randles, who interrogated Postmus, culled from another court case in which Randles acknowledged Postmus' drug addiction and steady use of methamphetamine. In that testimony, Randles said

users of methamphetamine tend to be "er-



Mary Andrues

ratic and paranoid" and the use of the drug "can make them delusional." Randles admitted during questioning in that case that an individual's "credibility under the influence of drugs is questionable" and a factor that he considers in weighing the value of the evidence provided by

that witness.

Larson and Andrues maintained Postmus was continuing to use drugs during his cooperation with the prosecution, during his grand jury testimony and thereafter. This left him in a highly suggestive state wherein he was coached and coerced by investigators into telling them what they wanted to hear. Andrues suggested he was tailoring his statements to be able to get leniency when he is sentenced for the crimes he has entered guilty pleas to.

Deputy Attorney General Melissa Mandel said the defense's contention that the district attorney's office had

dropped drug related charges against Postmus in return for his testimony "didn't happen."

Smith said the omission with regard to Aleman's legal status on the affidavit did not rise to the level of misconduct by investigators or prosecutors that would justify dropping the charges against the defendants and that the defense could move to suppress at trial whatever information or evidence was obtained as a result of the search.

Smith rejected the motion to dismiss the case based on the grounds that Postmus' drug use

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# California Style Drape Yourself

By Grace Bernal

I'm loving summer. It's absolutely beautiful and so individual. People keep getting more and more creative. The looks are endless and sometimes it's difficult to notice a trend. So, this week women are wearing evening dresses during the day. Previously, it was not uncommon to see them at night. Now



they are in plain sight at high noon. Absolutely beautiful! Women look

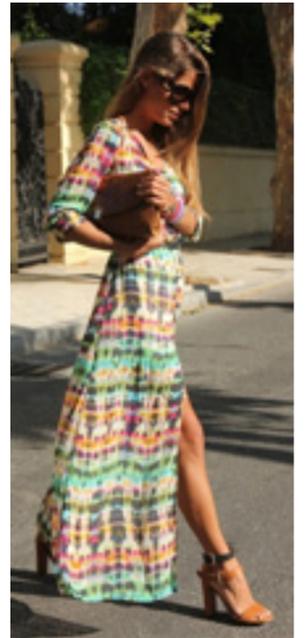
stunning in their long drapery jersey dresses. They have this Grecian



aspect to them and are very colorful. Too interesting to pass up, and there's nothing antique about it. It is all about preference, in the heat of August, and it's the dresses down to the cement of the sidewalks that are showing off the

month. Keep being creative because it's look-

ing better and better every week. Have fun this August no matter what you're trending.



"Say what you want about long dresses, but they cover a multitude of shins." ~Mae West

As always, if there's anything you need, I'd love to hear from you: Greygris@aol.com or visit my page I Love Your Style on Facebook Copyright Grace Bernal all rights reserved

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made him an unreliable witness and that the grand jury was given incomplete information about his drug use. The judge said the prosecution had erred in some regards but there was no evidence of misconduct or the withholding from the Grand Jury of any

exculpatory evidence that would have resulted in the defendants not being indicted.

Smith also refused to throw out tax and perjury charges against Erwin that were based upon his not having properly reported having received gifts from Burum, including a Rolex watch and airfare and accommodations during a trip

to New York and Washington, D.C., as well as a forgery count based on his having allegedly forged a check to himself from his own PAC.

"It's a little ironic the district attorney is alleging he controlled the PAC and yet committed forgery to get money out of the PAC," Smith said. Despite that contradiction, Smith said

the theory Erwin was legally charged under was "technically" correct because there was "testimony before the grand jury that at the time he was not a director [of the PAC] and did not have signatory authority over that particular account so he could not have written a check on that account and signed it himself."

The court did not bring to a conclusion a motion by the prosecution to disqualify Larson, Andruess and their entire law firm, Arent Fox, from continuing to represent Burum, based on Arent Fox's recent hiring of former assistant U.S. Attorney Jerry Behnke, who previously oversaw the federal investigation of the Colonies case. Behnke supervised the FBI's Riverside office and was part of a task force that included the San Bernardino County District Attorney's Office and the state Attorney General's Office during the federal inves-

tigation into the Colonies matter. Ultimately, the U.S. Attorney's Office decided against pursuing a case against any of the Colonies defendants.

Arent Fox hired Behnke in May. Larson is Behnke's supervisor in the Los Angeles office of Arent Fox. Larson said in court papers that a fire wall has been constructed between Behnke and the Colonies case.

The matter was discussed between the judge, prosecutors and

defense attorneys and the defendants in chambers on August 6, after which point Smith went on the record to state that an effort was ongoing to have the attorneys resolve the matter without an evidentiary hearing.

Smith gave prosecutors until today, Friday August 8, to amend the indictment. He set the next court date for August 25, when the defendants are to be arraigned on that amended indictment.



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