

CONFORMED COPY  
ORIGINAL FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

MAY 28 2013

John A. Clarke, Executive Officer/Clerk  
BY Iskaylia Chambers Deputy

1 JANET K. GOLDSMITH, State Bar No. 065959  
2 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
3 A Professional Corporation  
4 400 Capitol Mall, 27th Floor  
5 Sacramento, CA 95814-4416  
6 Telephone: (916) 321-4500  
7 Facsimile: (916) 321-4555  
8 E-mail: jgoldsmith@kmtg.com

9 CARMEN A. TRUTANICH, Los Angeles City Attorney  
10 RICHARD M. BROWN, General Counsel, Water and  
11 Power  
12 RAYMOND ILGUNAS, General Counsel, Los Angeles  
13 World Airports  
14 Attorneys for Defendant CITY OF LOS ANGELES and  
15 LOS ANGELES WORLD AIRPORTS

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF LOS ANGELES

13 Coordination Proceeding

Case No. 105 CV 049053

14 ANTELOPE VALLEY  
15 GROUNDWATER CASES

Judicial Council Coordination Proceeding  
No. 4408

16 Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co.

The Honorable Jack Komar  
Santa Clara Case No. Case No. 105 CV 049053

17 Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co.

~~[Proposed]~~ **FOURTH AMENDMENT TO  
CASE MANAGEMENT ORDER FOR  
PHASE FOUR TRIAL**

18 Wm. Bolthouse Farms, Inc. v. City of  
19 Lancaster

Riverside County Superior Court  
Lead Case No. RIC 344436  
Case No. RIC 344668  
Case No. RIC 353840

20 Diamond Farming Co. v. City of  
21 Lancaster

Los Angeles Superior Court  
Case No. BC 325201  
Kern County Superior Court  
Case No. S-1500-CV-254348

22 Diamond Farming Co. v. Palmdale Water  
23 District

24  
25 Many parties have filed a Notice of Intent to Participate in the Phase Four Trial ("Trial"),  
26 and well over one hundred potential witnesses have been designated to testify concerning land  
27 ownership and water use during the Trial. Pursuant to its authority under Code of Civil Procedure  
28 sections 187 and 404.7, California Rules of Court, rule 3.504(c), and the Court's fundamental

1024703.1 1351.007

1 inherent equity, supervisory, and administrative powers, as well as its inherent power to control  
 2 litigation, the Court seeks to provide for the efficient presentation of evidence at Trial by  
 3 identifying those factual issues on which there is no evidentiary dispute among parties and, where  
 4 there is such a dispute, to identify the parties involved in that dispute, the evidence relevant to it  
 5 and an estimate of trial time the dispute may consume.

6 To that end, the Court previously entered Discovery Order No. 1 on December 12, 2012,  
 7 requiring all parties to provide detailed and specific information concerning ownership of  
 8 property, groundwater use, well locations, crop types, imported water claims, return flow claims  
 9 and federal reserved right claims and to post the information on the Court's website by December  
 10 21, 2012. The Court further ordered that the parties' responses be accompanied by an executed  
 11 verification by an individual authorized to respond on behalf of the responding party. With  
 12 certain exceptions, responses ("Discovery Response(s)") were timely posted by the parties.

13 At the request of the parties, on January 17, 2013 the Court entered its First Amendment  
 14 to Case Management Order for Phase Four Trial, requiring the parties to set forth in a prescribed  
 15 form of declaration ("Declaration") the information that had been produced in the response to the  
 16 Discovery Order and to do so by January 31, 2013. The Declarations were to organize the  
 17 information contained in the Discovery Responses to enable the parties to more efficiently review  
 18 the information to ascertain whether it is subject to dispute. Numerous parties served  
 19 Declarations in compliance with the First Amendment to Case Management Order for Phase Four  
 20 Trial. The Court set February 28, 2013 as the date by which stipulations or objections to  
 21 information in the parties' Declarations were to be filed, and later extended it to March 15, 2013.

22 In order to prepare for a more efficient Trial, the Court and the parties need to know what  
 23 facts are disputed and require testimony. It is necessary to identify, based on the information  
 24 provided by the parties under the Court's above-referenced orders, what evidentiary disputes may  
 25 exist to be resolved during the Trial, the parties involved in those disputes and the evidence that  
 26 may be presented to the Court without dispute. The Court notes that information the parties have  
 27 provided to one another pursuant to the Court's earlier Phase Four orders has been available to  
 28 the parties for approximately months and for at least six weeks in the Declaration format

KRONICK,  
 MOSKOVITZ,  
 TIEDEMANN &  
 GIRARD  
 ATTORNEYS AT LAW

1024703.1 1351.007

1 approved by the Court. The parties were required to respond to this proposed order in writing  
 2 within five (5) days of its posting on the Court's website. All written comments have been  
 3 considered by the Court. Pursuant to the Court's authority under Code of Civil Procedure sections  
 4 187 and 404.7 and California Rules of Court, rule 3.504(c), and GOOD CAUSE APPEARING,  
 5 **IT IS THEREFORE ORDERED THAT:**

6 1. The Court intends for this Order to establish, consistent with the unique  
 7 circumstances of these coordinated cases, a process for narrowing the factual disputes to be  
 8 determined at the Trial and to eliminate, to the extent possible, the necessity of presenting  
 9 evidence through witnesses at Trial. The Court finds that the parties have had adequate time to  
 10 review the substantial amounts of information disclosed pursuant to the Court's prior orders for  
 11 Phase Four of this matter, and that <sup>MAY 3, 2013</sup> ~~April 15, 2013~~ is an appropriate date by which to require  
 12 parties to indicate whether they dispute information provided by other parties in response to those  
 13 orders. *OR TO STATE THE REASON THEY ARE UNABLE TO DO SO.*

14 2. Certain parties' witnesses were deposed before March 15, and such parties may  
 15 have filed a Stipulation of Facts ("Stipulation") in lieu of providing a Declaration. If no objection  
 16 or dispute is filed as to facts stated in a Stipulation, those facts will be treated in the same manner  
 17 as facts stated in a Declaration, as set forth in paragraph 5 of this order. If a party objects to or  
 18 disputes a fact stated in a Stipulation, the objecting party must also object to or dispute the facts  
 19 stated in any related Declaration, as set forth in paragraph 3 of this order.

20 3. On or before 5:00 p.m. on <sup>MAY 3</sup> ~~April 15, 2013~~, all parties shall serve, by posting to the  
 21 Court's website, a statement of any objections or disputes they have to any or all facts stated in  
 22 any Stipulation or Declaration. The statement of objection and/or dispute shall indicate by party  
 23 and paragraph the statement of fact being disputed, the basis of the objection and/or dispute to the  
 24 , and shall identify documents and witnesses known to the disputing and/or objecting party that  
 25 disputes, contradict or is inconsistent with the disputed fact. If the evidence on which the  
 26 objecting party relies consists in whole or in part of documents, the objecting party shall either  
 27 identify the documents in its objection or serve copies of those documents with the objection.

28

KRONICK,  
 MOSKOVITZ,  
 TIEBMAN &  
 GIRARD  
 ATTORNEYS AT LAW

1024703.1 1351.007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

4. Objections must be specific; a broad or general statement of objection or dispute without a specifically stated basis will be ineffective for satisfying paragraph 3 of this order.

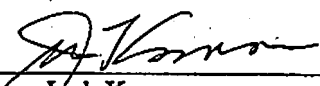
5. Any portion of a Stipulation or Declaration to which no objection has been made by the time set forth in paragraph 3 hereof will be accepted by the Court in the Trial as competent evidence of the facts stated therein, without the necessity to call a witness to establish the fact.

6. If a party did not, by <sup>MAY 3</sup> April 25, 2013, object to or dispute a fact stated in a Stipulation or Declaration and provide the information required by this Order but later seeks to dispute that fact during the Trial, that party shall file an application on no less than five (5) days' notice for leave to present evidence disputing the fact at Trial. The application shall be supported by a sworn declaration establishing good cause. If the Court approves such an application, it may impose conditions on its approval, including allowing additional discovery related to the objection or dispute, and requiring that the costs be borne, in whole or in part, by the party filing the application.

7. This Fourth Amendment to the Case Management Order shall not affect the burden of proof of any party as to any fact required for its case; it affects only the burden of going forward with the evidence.

**IT IS SO ORDERED.**

Date: 4-30-2013

  
Hon. Jack Komar  
Judge of the Superior Court

KRONICK,  
MOSKOVITZ,  
TIEDEMANN &  
GIRARD  
ATTORNEYS AT LAW