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6 Attorneys for Defendants ROSAMOND RANCH, L.P ; ELIAS and SHIRLEY SHOKRIAN

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8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF LOS ANGELES
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11 ANTELOPE VALLEY GROUNDWATER) Judicial Counsel Coordination Proceeding
12 CASES) No.: 4408

13 Including Consolidated Cases:)
14) Lead Case: BC 325 201

15 Los Angeles County Waterworks District No. 40)
16 v. Diamond Farming Co., Superior Court of) DEFENDANT ROSAMOND RANCH,
17 California, County of Los Angeles, Case No.:) ELIAS SHOKRIAN AND SHIRLEY
18 BC 325201) SHOKRIAN OPPOSITION TO (1)LOS
19 AND RELATED CONSOLIDATED CASES:) ANGELES COUNTY MOTION FOR
20) LEGAL FINDINGS ON WATER CODE
21) REQUIREMENTS TO REPORT
22) EXTRACTIONS, and (2) AGWA
23) MOTION FOR LEGAL FINDINGS
24) REGARDING PRESRIPTIVE RIGHTS

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DATE: February 14, 2012
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TO THE COURT AND ALL PARTIES :

Defendants ROSAMOND RANCH, L.P .; ELIAS SHOKRIAN, and SHIRLEY

SHOKRIAN (collectively as “SHOKRIAN”) provide the following opposition to (1)LOS ANGELES COUNTY MOTION FOR LEGAL FINDINGS ON WATER CODE REQUIREMENTS TO REPORT EXTRACTIONS, and (2) AGWA MOTION FOR LEGAL FINDINGS REGARDING PRESRIPTIVE RIGHTS in the above matter.

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I. STATEMENT OF FACTS

Defendants ROSAMOND RANCH, L.P. ; ELIAS SHOKRIAN, and SHRILEY

SHOKRIAN are small property owners who own property which is part of the above litigation in this matter. As the court is aware, the present matter involves consolidated lawsuits regarding limiting water useage in certain areas of Southern and Central California. Various phases of the litigation have already taken place regarding major issues concerning government, utility and water agencies. The current phase of the litigation now involves smaller property owners.

Several sessions of mediation have taken place. Among the recent issues at mediation have been water useage from the 2000-2004 time period. Defendants ROSAMOND RANCH, L.P. ; ELIAS SHOKRIAN, and SHRILEY SHOKRIAN are small property owners who did not even purchase their parcel until well late in 2004. They don't have access to water useage records of the prior owner, and have been unable to date to obtain water useage records since then as of this time. Subpoenas and discovery to obtain those records may be necessary.

However, as a result of the mediations, certain of the major parties have asserted that (1) water use forms needed to be field annually with the State Water Resource Control Board, (2) that for mediation further water useage documentation needs to be filed, and (3) if such records are no promptly provided, that such claimants will not be allowed to participate in any settlement, AND WORSE (4) if items 1 and 2 are not provided to them, that any such landowners water claims would be barred from trial and forfeited.

These are unreasonable, not supported by either the discovery act, and California statutory and case law, and in fact unconstitutional. However, this result and forfeiture seems to be the intent of the above two motions. For these reasons, SHOKRIAN respectfully opposes the above two motions, particularly if the in any was seek to bar water use claim in mediation and

1 trial by SHOKRIAN based on the non filing of annual water use forms with the State Water
2 Resource Control Board, or non production of non obtained water use records as of this date.
3 The motions seem to be based on gaining leverage in mediation, specifically as discovery is still
4 proceeding and not foreclosed. If anything, such an assertion would only be proper as a motion
5 in limine at trial if the documents had not been produced before trial, AND only if such
6 documents would be necessary as an element of any defense to Plaintiffs claim. To bar claims
7 now would in fact be an unfair and unconstitutional forfeiture of water fights.
8

9 Indeed, if this is a discovery dispute, **there has been no formal CCP 2031 discovery, no**
10 **motion to compel, and no violation of a motion to compel** which would warrant what is in
11 essence being sought- terminating and/or issue preclusion sanctions.
12

13 For these reasons, responding party hereby opposes the above motions.
14

15 II. WATER USEAGE

16 Information for property of claimant/Defendants ROSAMOND RANCH, L.P, ELIAS
17 SHOKRIAN, and SHIRLEY SHOKRIAN is as follows:
18

19 **Property: APN Numbers 359-031-(02, 03,04, 05, and 06); 359-052(02)**

20 **County: Kern**

21 **Size: 730 acres**

22 **Crops -crops grown were primarily alfalfa, as well as onions and carrots; small
23 amounts of pistachios**

24 **Purchased from: COALINGA CORPORATION, a Nevada corporation, on August**

25 III. LEGAL AUTHORITIES

26 It is unclear whether the prior owner, before 2004, or respondents farmer after 2004 filed
27 notices under Water Code §§ 4999 *et .seq.* for extraction of groundwater for use for the above
28 properties. Inquiry to date by respondent has not yielded such information.

1 However, whether either the predecessor owner or current owner complied with any
2 statutory obligation (if such as obligation exists for this particular land), or is able to immediately
3 comply with the mediating parties request for prompt obtaining and production of water useage
4 records **should not, result in a pre-trial forfeiture of water rights.** Indeed, the cases are clear,
5 the law abhors a forfeiture of water rights. See U.S. v. Alpine Land & Reservoir Co., 291 F.3d
6 1062, 1077 (9th Cir. 2002) (the “law abhors a forfeiture” of water rights); Barnes v. Hussa, 136
7 Cal.App.4th 1358 (2006) (water rights not forfeited where failure to prove non-use).

8
9 Accordingly, SHOKRIAN respectfully asserts that if the motions seek to bar water use
10 claims in mediation and trial based on the non filing of annual water use forms with the State
11 Water Resource Control Board, or non production of non obtained water use records as of this
12 date, that they should NOT be granted. As stated, if anything, such an assertion would only be
13 proper as a motion in limine at trial IF NO water useage proof has been produced before trial,
14 AND only if such documents would be necessary as an element of any defense to Plaintiffs
15 claim; to bar claims now would be unfair, and an unconstitutional forfeiture of water fights.

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19 IV. CONCLUSION

20 For the reasons set forth hereinabove, responding party hereby opposes the above
21 motions.

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24 LAW OFFICES OF FRANK SATALINO

25 Dated: January 30, 2012

26 By: Frank Satalino
27 FRANK SATALINO, Esq.
28 Attorneys for Defendant ROSAMOND,
SHOKRIAN

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to this action. My business address is 19 Velarde Court, Rancho Santa Margarita, CA 92688.

On January 31, 2011 I served the foregoing document described as: **OPPOSTION ANSWER** on the interested parties in this action as follows:

x **(Electronic service)** By posting the document above to the Santa Clara County Superior Court website in regard to the Antelope Valley groundwater matter _

 (Service By Mail) I caused such envelope, with postage thereon, fully prepaid, to be placed for deposit at 19 Velarde Court, Rancho Santa Margarita, CA 92688, in the United States Postal Service. I am familiar with the regular mail collection and processing practices of this office that the mail would be deposited with the United States Postal Service within one day of the within date in the ordinary course of business, and that the envelope was sealed and deposited for collection and mailing on the above date following ordinary business practices.

 (Personal Service) I caused such envelope to be delivered by hand to the addressee(s).

 (Via Facsimile) By faxing copies to the person(s) above named.

 (FEDERAL) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Proof of Service was executed on January 31, 2011 at Rancho Santa Margarita, California.

By: *Frank Satalino*
FRANK SATALINO