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 11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 12 **COUNTY OF LOS ANGELES**

13 Coordination Proceeding
 14 Special Title (Rule 1550(b))

15 **ANTELOPE VALLEY**
 16 **GROUNDWATER CASES**

17 **Included Actions:**

18 Los Angeles County Waterworks District
 19 No. 40 v. Diamond Farming Co.
 20 Superior Court of California
 21 County of Los Angeles, Case No. BC
 22 325201

23 Los Angeles County Waterworks District
 24 No. 40 v. Diamond Farming Co.
 25 Superior Court of California, County of
 26 Kern, Case No. S-1500-CV 254348

27 Wm. Bolthouse Farms, Inc. v. City of
 28 Lancaster Diamond Farming Co. v. City of
 Lancaster Diamond Farming Co. v. Palmdale
 Water Dist. Superior Court of California,
 County of Riverside, consolidated actions,
 Case Nos. RIC 353840, RIC 344436, RIC
 344668

Judicial Council Coordination Proceeding
 No. 4408

SC Case No. 105CV 049053
 Assigned to Hon. Jack Komar

**CASE MANAGEMENT/TRIAL SETTING
 CONFERENCE STATEMENT OF WDS
 CALIFORNIA II, LLC, GERTRUDE J.
 VAN DAM, DELMAR D. VAN DAM,
 CRAIG VAN DAM AND GARY VAN
 DAM**

DATE: July 9, 2012

TIME: 9:00 a.m.

DEPT: 1

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 WDS CALIFORNIA II, LLC, GERTRUDE J. VAN DAM, DELMAR D. VAN DAM,
3 CRAIG VAN DAM and GARY VAN DAM (collectively "VAN DAMS"), provide the
4 following Case Management/Trial Setting Conference Statement.

5 **INTRODUCTION**

6 Since this Court's Phase 3 ruling determining the conservative safe yield of the
7 groundwater basin, the parties have diligently and in good faith engaged in a mediation process
8 with Justice Robie designed to resolve this litigation. While considerable progress has been
9 achieved the parties have not yet succeeded in attaining a final settlement which resolves all
10 issues. However, progress continues and this office remains confident that the mediated
11 settlement negotiations before Justice Robie is the most expeditious path for finally resolving
12 this litigation because the alternative of multiple further phases of litigation will be highly
13 complex, time-consuming, uncertain and costly for all the parties and the Court.

14 A further mediation session is scheduled with Justice Robie for September 11, 2012. The
15 most recent settlement/drafting session addressing the current draft of the Proposed Judgment
16 and Physical Solution was held on June 22, 2012 and another session is scheduled for September
17 5, 2012. In these working-group sessions the parties have worked diligently to discuss and
18 develop language to a draft Judgment and Physical Solution intended to resolve issues between
19 the parties and to identify points of disagreement which require further discussion and
20 compromise. Specific unresolved issues have been identified and are planned to be discussed
21 with Justice Robie at the upcoming mediation session if not resolved earlier.

22 Adoption of a schedule for the next phases of trial, defining pertinent issues for
23 discovery, expert disclosure deadlines, dispositive motions, submissions for motions in limine
24 are premature pending further discussions with Justice Robie in September. However, as
25 requested by the Court, this Trial Setting Conference Statement suggests a proposed schedule to
26 assist the Court in resolving this litigation.

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NEXT PHASE OF TRIAL

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2 Following the September mediation session a further Case Management Conference
3 should be scheduled so that the parties can submit Status Reports advising the Court on the
4 current status of the mediation and settlement sessions. If a substantial majority of the parties
5 have reached agreement on the terms of a Judgment/Physical Solution, the next phase of trial
6 should be limited to developing the appropriate procedures for presenting to the Court the
7 necessary evidence sufficient to consider, approve and enter the Judgment/Physical Solution.

8 If the parties are unable to reach agreement on the terms of a Judgment/Physical Solution,
9 then the next phase of trial should be dedicated to resolving the disputed causes of action alleged
10 in the principal pleading -- Waterworks District No. 40, et al. Cross-Complaint. Specifically, the
11 Phase 4 Trial should be expressly limited to resolving the legal and factual issues arising from
12 the stated claims of prescription (First Cause of Action), claims of prior appropriation (Second
13 Cause of Action) and claims of return flows (Sixth Cause of Action). The Court should provide
14 in its Trial Setting Order that discovery for the Phase 4 Trial shall be limited to resolution of the
15 legal and factual issues relevant to these three (3) causes of action only, absent further order of
16 the Court. The prior trial phases and orders of this Court have expressly not addressed nor
17 determined any of the legal or factual issues (e.g., claims of prescription) regarding these causes
18 of action. It is anticipated that the scope of the Phase 4 Trial will be substantially affected by the
19 Court's pre-trial rulings pertaining to various key legal issues. Therefore it will be important that
20 the scheduling of the Phase 4 Trial be designed to focus written discovery, expert disclosures,
21 dispositive motions, and pre-trial orders for the purpose of narrowing the scope of the
22 evidentiary Phase 4 Trial. Given the nature and extent of these claims and complexity of this
23 adjudication it is anticipated that the Phase 4 Trial will not be capable of being presented to the
24 Court for determination sooner than mid-2013.

25 In the event that the Phase 4 Trial does not serve to finally resolve this litigation, the
26 Court should schedule a further Trial Setting Conference following its Phase 4 ruling to identify
27 the next issues for trial and scheduling.

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CONCLUSION

The parties are continuing to work very hard to settle and finally resolve this very complicated groundwater adjudication. If the parties are unable to reach agreement and it becomes necessary for a further phase of trial, the Court's ruling on the causes of action of prescription, prior appropriation and return flows will likely foster a final settlement of this litigation.

Dated: July 5, 2012

THE LAW OFFICES OF YOUNG WOOLDRIDGE, LLP

By: 
SCOTT K. KUNEY, Esq., Attorneys for WDS California II, LLC and Gertrude J. Van Dam, Delmar D. Van Dam, Craig Van Dam, and Gary Van Dam

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF KERN

I, ERIN L. LINDSEY, declare: I am and was at the times of the service hereunder mentioned, over the age of eighteen (18) years, and not a party to the within cause. My business address is The Law Offices of Young Wooldridge LLP, 1800 30th Street, Fourth Floor, Bakersfield, CA 93301.

On July 6, 2012, I caused the foregoing document(s) entitled as:
CASE MANAGEMENT/TRIAL SETTING CONFERENCE STATEMENT OF WDS CALIFORNIA II, LLC, GERTRUDE J. VAN DAM, DELMAR D. VAN DAM, CRAIG VAN DAM, and GARY VAN DAM
to be served on the parties via the following service:

X (BY POSTING) I posted the document listed above to the Santa Clara Superior Court website regarding the Antelope Valley Groundwater matter pursuant to the Court's Clarification Order. Electronic service posting completed through www.scefilng.org.

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

Executed on July 6, 2012, at Bakersfield, California.


ERIN L. LINDSEY