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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES  
10

11 **ANTELOPE VALLEY GROUNDWATER**  
12 **CASES:**  
13 Los Angeles County Waterworks District No. 40  
v. Diamond Farming Co.  
Superior Court of California  
14 County of Los Angeles, Case No. BC325201  
15 Los Angeles County Waterworks District No. 40  
v. Diamond Farming Co.  
16 Superior Court of California  
County of Kern, Case No. S-1500-CV254-348  
17  
18 Wm. Bolthouse Farms, Inc. v. City of Lancaster  
Diamond Farming Co. v. City of Lancaster  
19 Diamond Farming Co. v. Palmdale Water Dist.  
Superior Court of California  
20 County of Riverside, consolidated actions  
Case Nos. RIC 353840, RIC 344436,  
21 RIC 344668  
22

Judicial Council Coordination  
Proceeding No. 4408

Santa Clara Case No. 1-05-CV-049053  
Assigned to the Honorable Jack Komar

**NOTICE OF MOTION AND MOTION  
FOR LEAVE TO INTERVENE OR  
ALTERNATIVELY FOR AN ORDER  
REQUIRING SERVICE OF THE  
SUMMONS AND COMPLAINT UPON  
ANAVERDE; DECLARATION OF  
CLAIRE HERVEY COLLINS;  
PROPOSED COMPLAINT IN  
INTERVENTION**

Hearing Date: April 9, 2007  
Time: 9:00 a.m.  
Department: 1

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1 ANAVERDE LLC, a Delaware limited liability  
2 company,

3 Petitioner and Intervenor,

4 vs.

5 LOS ANGELES COUNTY WATERWORKS  
6 DISTRICT NO. 40,

7 Plaintiff and Respondent,

8 And

9 DIAMOND FARMING COMPANY;  
10 WM. BOLTHOUSE FARMS, INC.;  
11 BOLTHOUSE PROPERTIES, INC.;  
12 CALIFORNIA WATER SERVICE COMPANY;  
13 CITY OF LANCASTER;  
14 CITY OF LOS ANGELES; CITY OF  
15 PALMDALE; LITTLEROCK CREEK  
16 IRRIGATION DISTRICT; PALMDALE  
17 WATER DISTRICT; PALM RANCH  
18 IRRIGATION DISTRICT; QUARTZ HILL  
19 WATER DISTRICT; and DOES 1 through 1,000  
20 inclusive,

21 Defendants and Respondents.

22 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE that on April 9, 2007, at 9:00 a.m., in Department 1 of the Los  
24 Angeles Superior Court located at 111 N. Hill Street, Los Angeles, California 90012, Anaverde  
25 LLC (“Anaverde”) will move this court for leave to intervene in the above-captioned matter, or  
26 alternatively for the Court to order that the summons and complaint in the above-captioned matter  
27 be served upon Anaverde LLC. This motion for intervention is made upon the following grounds:

28 1. Anaverde claims an interest in the matter in litigation within the meaning of  
*Code of Civil Procedure* section 387(a); and

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2. Anaverde claims an interest relating to the groundwater (property right) that is the subject of this action and is so situated that disposition of this action may as a practical matter impair or impede Anaverde's ability to protect that interest, within the meaning of *Code of Civil Procedure* section 387(b).

This motion is made upon the attached Memorandum of Points and Authorities, the Declaration of Claire Hervey Collins, on all pleadings and papers on file herein, all matters of which this Court must or may take judicial notice, and on such oral and documentary evidence as may be presented at the hearing of this motion.

DATED: March 9, 2007

MALISSA HATHAWAY McKEITH  
CLAIRE HERVEY COLLINS  
LEWIS BRISBOIS BISGAARD & SMITH LLP

By:   
\_\_\_\_\_  
Claire Hervey Collins  
Attorneys for Anaverde LLC

1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 Petitioner Anaverde LLC (“Anaverde”), respectfully moves this court for leave to  
5 intervene in the action commonly known as the Antelope Valley Groundwater Adjudication (“AV  
6 Adjudication”), the principal case of which has been brought by Los Angeles County Waterworks  
7 District No. 40 (“LACWW”), LASC Case No. BC 325201. The AV Adjudication seeks a judicial  
8 determination of all rights to groundwater within the Antelope Valley Groundwater Basin  
9 (“Basin”), and includes several other coordinated actions pursuant to Judicial Council  
10 Coordination Proceeding No. 4408.

11 Anaverde owns approximately 2,055 acres of land in the City of Palmdale, within the  
12 jurisdictional boundaries of the Antelope Valley Groundwater Basin. Anaverde previously made a  
13 special appearance (under the name of its corporate parent, Empire Companies) before this Court  
14 on November 13, 2006, informing the Court that Anaverde, despite being a 2,055-acre landowner  
15 and overlying groundwater user in the Antelope Valley, had yet to be served in this action. As a  
16 large landowner and active water user, it is not an appropriate member of the proposed defendant  
17 class and intervention as a separate party is appropriate.

18 **II.**

19 **INTERVENTION BY ANAVERDE IS APPROPRIATE BECAUSE IT MAINTAINS AN**  
20 **INTEREST IN THE PROPERTY RIGHTS TO BE DETERMINED IN THIS**  
21 **ADJUDICATION**

22 “The purposes of intervention are to protect the interests of others who may be affected by  
23 the judgment and to obviate delay and multiplicity of actions.” *People ex rel. Rominger v. County*  
24 *of Trinity* (1983) 147 Cal.App.3d 655, 660. Pursuant to Code of Civil Procedure section 387(b):

25 if the person seeking intervention claims an interest relating to the property or  
26 transaction which is the subject of the action and that person is so situated  
27 that the disposition of the action may as a practical matter impair or impede  
28 that person’s ability to protect that interest, unless that person’s interest is  
adequately represented by existing parties, the court shall, upon timely  
application, permit that person to intervene.

1 Intervention may either be compulsory or permissive, and both theories apply to Anaverde here.

2 **A. Mandatory Intervention is Appropriate**

3 Anaverde has the right to mandatory intervention in this action under *Code of Civil*  
4 *Procedure* section 387(b). An applicant for mandatory or compulsory intervention must show that  
5 (1) it has an interest in the subject matter of the litigation, (2) the litigation may prevent the  
6 applicant from protecting that interest, and (3) its interest is not adequately represented by existing  
7 parties.

8 Anaverde can establish all three of these requirements because it is a 2,000-acre landowner  
9 which maintains overlying rights to groundwater within the Basin, because the complaint in the  
10 AV Adjudication action “seeks a judicial determination of all rights to groundwater” within the  
11 Basin, and because no existing parties can adequately represent Anaverde’s interest, as their  
12 interests are adverse to those of Anaverde. Other legal and equitable remedies are inadequate to  
13 protect the Anaverde’s interests. Anaverde therefore has a direct interest in the subject matter of  
14 the adjudication and mandatory intervention is appropriate.

15 **B. Permissive Intervention is Appropriate**

16 Anaverde claims an interest in the matter in litigation, and therefore permissive  
17 intervention is proper under *Code of Civil Procedure* section 387(a). For permissive intervention,  
18 three factors are paramount: the intervener must have a direct and immediate interest in the  
19 litigation; the intervention must not enlarge the issues raised by the original parties; and, the  
20 reasons for intervention outweigh any opposition by the existing parties. *Truck Ins. Exch. V. Sup.*  
21 *Ct.* (1997) 60 Cal. App. 4<sup>th</sup> 342, 346.

22 Anaverde’s interests in land and the groundwater supply in the Basin are direct interests in  
23 the adjudication. Intervention by Anaverde will not enlarge the issues raised by the original  
24 parties because the issues of groundwater pumping and control of all water in the Basin are  
25 already in controversy. Intervention by Anaverde to protect its rights outweigh any opposition by  
26 the existing parties, because the addition of Anaverde to the lawsuit will not impinge upon the  
27 rights of the original parties to conduct their own lawsuit. Instead, Anaverde’s inclusion will  
28 allow the court to more comprehensively adjudicate the rights of all parties in the Basin; indeed,

1 the Judicial Council ordered coordination of the existing lawsuits in response to arguments that all  
2 rights to Basin groundwater should be resolved in a single action. Finally, intervention is timely  
3 since answers have only recently been filed, the Court is contemplating certification of a defendant  
4 class of small landowners, and the original complaints for adjudication anticipated adding  
5 necessary additional parties such as Anaverde at a later date. At this time, Anaverde has not been  
6 joined or served in the Action. Anaverde therefore requests permission to intervene in this action.

7 **III.**

8 **CONCLUSION**

9 Anaverde, a major landowner and overlying water user in the Antelope Valley, is an  
10 appropriate party to the AV Adjudication. In the absence of an order by this court for the  
11 Plaintiffs to serve Anaverde forthwith in this matter, Anaverde respectfully requests that this court  
12 grant its motion for leave to intervene, and allows the proposed Complaint in Intervention, filed  
13 concurrently herewith, to be filed in this matter.

14 DATED: March 9, 2007

MALISSA HATHAWAY McKEITH  
CLAIRE HERVEY COLLINS  
LEWIS BRISBOIS BISGAARD & SMITH LLP

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17 By: 

Claire Hervey Collins  
Attorneys for Anaverde LLC

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**DECLARATION OF CLAIRE HERVEY COLLINS**

I, CLAIRE HERVEY COLLINS, declare as follows:

1. I am an attorney at law, duly licensed to practice before all courts of the State of California, and I am an associate at the law firm of LEWIS BRISBOIS BISGAARD & SMITH, attorneys of record for intervenor Anaverde LLC (“Anaverde”). I have personal knowledge of the facts set forth herein. If called as a witness, I could and would competently testify thereto.

2. I make this Declaration in support of Anaverde’s motion for leave to intervene in the Antelope Valley Groundwater Adjudication.

3. Anaverde owns approximately 2,055 acres of land in the City of Palmdale, within the jurisdictional boundaries of the Antelope Valley Groundwater Basin. I appeared specially for Anaverde under the name of its corporate parent, Empire Companies, before this Court on November 13, 2006, informing the Court that Anaverde, despite being a 2,000-acre landowner and overlying groundwater user in the Antelope Valley, had yet to be served in this action. As of this date, neither Anaverde nor its corporate parent Empire Companies has been served in this matter.

4. It is in the interests of justice to permit the filing of the Anaverde’s proposed complaint in intervention under the mandatory intervention provisions of CCP 387(b) because Anaverde is a 2,055-acre landowner which maintains overlying rights to groundwater within the Basin, because the complaint in the AV Adjudication action “seeks a judicial determination of all rights to groundwater” within the Basin, and because no existing parties can adequately represent Anaverde’s interest, as their interests are adverse to those of Anaverde. Other legal and equitable remedies are inadequate to protect the Anaverde’s interests. Anaverde therefore has a direct interest in the subject matter of the adjudication and mandatory intervention is appropriate.

5. It is in the interests of justice to permit the filing of the Anaverde’s proposed complaint in intervention under the permissive intervention provisions of CCP 387(a) because Anaverde’s interests in land and the groundwater supply in the Basin are direct interests in the adjudication. Intervention by Anaverde will not enlarge the issues raised by the original parties because the issues of groundwater pumping and control of all water in the Basin are already in controversy. Intervention by Anaverde to protect its rights outweigh any opposition by the existing parties,

1 because the addition of Anaverde to the lawsuit will not impinge upon the rights of the original  
2 parties to conduct their own lawsuit. Instead, Anaverde's inclusion will allow the court to more  
3 comprehensively adjudicate the rights of all parties in the Basin; indeed, the Judicial Council  
4 ordered coordination of the existing lawsuits in response to arguments that all rights to Basin  
5 groundwater should be resolved in a single action. Finally, intervention is timely since answers  
6 have only recently been filed, the Court is contemplating certification of a defendant class of small  
7 landowners, and the original complaints for adjudication anticipated adding necessary additional  
8 parties such as Anaverde at a later date.

9 I declare under penalty of perjury, under the laws of the State of California, that the  
10 foregoing is true and correct.

11  
12 Executed this 9th day of March, 2007, at Los Angeles, California.

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15 Claire Hervey Collins  
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County of Riverside, consolidated actions  
20 Case Nos. RIC 353840, RIC 344436,  
RIC 344668  
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Judicial Council Coordination  
Proceeding No. 4408  
  
Santa Clara Case No. 1-05-CV-049053  
Assigned to the Honorable Jack Komar  
  
**ANAVERDE LLC'S PROPOSED  
COMPLAINT IN INTERVENTION**  
  
Hearing Date: April 9, 2007  
Time: 9:00 a.m.  
Department: 1

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1           2.       Anaverde is informed and believes that the Plaintiff LACWW is a public agency  
2 that provides public water service to portions of the Antelope Valley.

3           3.       Anaverde is informed and believes that Diamond Farming Company is a California  
4 corporation doing business in Los Angeles County.

5           4.       Anaverde is informed and believes that Wm. Bolthouse Farms, Inc. is a Michigan  
6 corporation doing business in Los Angeles County.

7           5.       Anaverde is informed and believes that Bolthouse Properties, Inc. is a California  
8 Corporation doing business in Los Angeles County.

9           6.       Anaverde is informed and believes that California Water Service Company is a  
10 California corporation that provides water to customers within Los Angeles County.

11          7.       Anaverde is informed and believes that the City of Lancaster is a municipal  
12 corporation situated within Los Angeles County.

13          8.       Anaverde is informed and believes that the City of Los Angeles is a municipal  
14 corporation situated within Los Angeles County.

15          9.       Anaverde is informed and believes that the City of Palmdale is a municipal  
16 corporation situated within Los Angeles County.

17          10.      Anaverde is informed and believes that Littlerock Creek Irrigation District is a  
18 public agency that provides water to consumers within Los Angeles County.

19          11.      Anaverde is informed and believes that the Palmdale Water District is a public  
20 agency that provides water to consumers within Los Angeles County.

21          12.      Anaverde is informed and believes that the Palm Ranch Irrigation District is a  
22 public agency that provides water to consumers within Los Angeles County.

23          13.      Anaverde is informed and believes that the Quartz Hill Water District is a public  
24 agency that provides water to consumers within Los Angeles County.

25          14.      Anaverde does not know the true names and capacities of Defendants Doe 1  
26 through Doe 1,000, inclusive, and therefore sues said Defendants under fictitious names.

27          Petitioner will amend this Petition to show the true names and capacities of the Doe Defendants  
28 when such names and capacities have been ascertained.

1 **II. FACTUAL BACKGROUND**

2 15. The Antelope Valley is located in Los Angeles and Kern Counties. The Antelope  
3 Valley is roughly triangular in shape and encompasses approximately 1,600 square miles in area.  
4 The Tehachapi Mountains, which rise to an altitude of approximately 8,000 feet above mean sea  
5 level, form the northwestern boundary of the valley. The San Gabriel Mountains, which rise to an  
6 altitude of more than 9,000 feet, form the southwestern boundary of the valley.

7 16. The Antelope Valley is a closed topographic basin with no outlet. Underlying the  
8 Antelope Valley is the Antelope Valley Groundwater Basin (“Basin”), with geographic  
9 boundaries similar to the overlying valley.

10 17. All water that enters Antelope Valley either infiltrates into the Basin, evaporates, or  
11 flows toward three playa lakes: Rosamond Dry Lake, Rogers Dry Lake, and Buckhorn Dry Lake.  
12 In general, groundwater flows in the direction of the playa lakes.  
13 There is dispute as to the quantity of water available for use from groundwater and surface water  
14 sources in the Antelope Valley.

15 18. Anaverde is a large landowner and water user, which extracts groundwater from the  
16 Basin for construction and irrigation purposes on its property.

17  
18 **III. ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

19 **A. Jurisdiction and Venue**

20 19. Jurisdiction and venue are proper in this Court because the Judicial Council ordered  
21 this action to be heard in Santa Clara County in Judicial Council Coordination Proceeding No.  
22 4408.

23 **B. Standing**

24 20. Anaverde is a Delaware limited liability company that operates and owns real  
25 property in the Los Angeles County portion of the Antelope Valley. This action involves  
26 protection and control of Anaverde’s rights to the groundwater pumped from beneath its land.

27 **C. Timeliness of Action and Inadequacy of Other Remedies**

28 21. Intervention is timely because this case is not yet at issue.



**V. SECOND CAUSE OF ACTION**

**(For Declaratory Relief – No Loss of Rights by Prescription – Against All Parties)**

26. Anaverde alleges and incorporates by reference herein allegations in paragraphs 1 through 27, inclusive.

27. An actual controversy has arisen and now exists between Anaverde and Plaintiff, and between Anaverde and Defendants, to the extent any or all of them claim prescriptive rights to pump groundwater from the Basin, as follows:

- a. Anaverde contends that neither Plaintiff nor Defendants hold prescriptive rights as against Anaverde to extract or use groundwater from the Basin.
- b. Anaverde is informed and believes and on that basis alleges that Plaintiffs and Defendants, with the exceptions of Diamond Farming Co., Bolthouse Properties, Inc., and Wm. Bolthouse Farms, contend that they, and each of them, have established prescriptive rights to extract and use groundwater from the Basin.

28. Anaverde desires a judicial declaration that Plaintiff and Defendants have no prescriptive rights as against Anaverde to extract or use groundwater from the Basin.

**PRAYER FOR RELIEF**

WHEREFORE, Anaverde prays for Judgment as follows:

- 1. For a declaration that the Anaverde’s rights to pump groundwater from the Basin and put to reasonable and beneficial use on Anaverde’s properties are superior to Plaintiff’s and Defendants’ claims to extract and use groundwater from the Basin for non-overlying use and that Anaverde’s rights are correlative with all other overlying groundwater rights;
- 2. For a declaration that neither Plaintiff nor Defendants have prescriptive rights as against Anaverde to extract or use groundwater from the Basin;
- 3. For this Court to maintain continuing jurisdiction over this controversy to carry out and enforce the terms of the judgment;
- 4. For costs of suit; and
- 5. For such other relief as the Court deems just and proper.

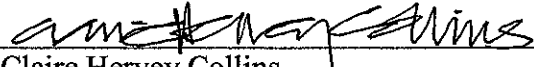
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DATED: March 9, 2007

LEWIS BRISBOIS BISGAARD & SMITH LLP

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By:   
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