

1 **MICHAEL T. FIFE (State Bar No. 203025)**
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4 **21 East Carrillo Street**
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8 **Attorneys for:** Gene T. Bahlman, William R. Barnes & Eldora M. Barnes Family Trust of 1989,
9 Thomas M. and Julie Bookman, B.J. Calandri, John Calandri, John Calandri as Trustee of the John
10 and B.J. Calandri 2001 Trust, Calmat Land Company, Sal and Connie L. Cardile, Consolidated Rock
11 Products, Del Sur Ranch LLC, Forrest G. Godde, Forrest G. Godde as Trustee of the Forrest G.
12 Godde Trust, Lawrence A. Godde, Lawrence A. Godde and Godde Trust, Dennis L. & Marjorie E.
13 Groven Trust, Healy Enterprises, Inc., Hines Family Trust, Habod Javadi, Juniper Hills Water
14 Group, Eugene V., Beverly A., & Paul S. Kindig, Paul S. & Sharon R. Kindig, Kootenai Properties,
15 Inc., Gailen Kyle, Gailen Kyle as Trustee of the Kyle Trust, James W. Kyle, James W. Kyle as
16 Trustee of the Kyle Family Trust, Julia Kyle, Wanda E. Kyle, Malloy Family Partners, Maritorea
17 Living Trust, Jose Richard H. Miner, Barry S. Munz, Terry A. Munz and Kathleen M. Munz,
18 Eugene B. Nebeker, R and M Ranch, Inc., John and Adrienne Reca, Edgar C. Ritter, Paula E. Ritter,
19 Paula E. Ritter as Trustee of the Ritter Family Trust, Sahara Nursery, Marygrace H. Santoro as
20 Trustee for the Marygrace H. Santoro Rev Trust, Marygrace H. Santoro, Mabel Selak, Jeffrey L. &
21 Nancee J. Siebert, Leo L. Simi, Helen Stathatos, Savas Stathatos, Savas Stathatos as Trustee for the
22 Stathatos Family Trust, Tierra Bonita Ranch Company, Beverly Tobias, White Fence Farms Mutual
23 Water Co. No. 3, **collectively known as the Antelope Valley Ground Water Agreement**
24 **Association (“AGWA”)**

25 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
26 **FOR THE COUNTY OF LOS ANGELES**

27 **ANTELOPE VALLEY**)
28 **GROUNDWATER CASES**)
29 Included Actions:)
30 Los Angeles County Waterworks District No.)
31 40 v. Diamond Farming Co. Superior Court of)
32 California County of Los Angeles, Case No. BC)
33 325 201 Los Angeles County Waterworks)
34 District No. 40 v. Diamond Farming Co.)
35 Superior Court of California, County of Kern,)
36 Case No. S-1500-CV-254-348Wm. Bolthouse)
37 Farms, Inc. v. City of Lancaster Diamond)
38 Farming Co. v. City of Lancaster Diamond)
39 Farming Co. v. Palmdale Water Dist. Superior)
40 Court of California, County of Riverside,)
41 consolidated actions, Case No. RIC 353 840,)
42 RIC 344 436, RIC 344 668)

43 **Judicial Council Coordination Proceeding**
44 **No. 4408**

45 **Santa Clara Case No. 1-05-CV-049053**
46 **Assigned to The Honorable Jack Komar**

47 **OBJECTION TO AMENDED NOTICE OF**
48 **DEPOSITION OF DR. EUGENE NEBEKER**
49 **AND PRODUCTION OF EXPERT’S FILE**

1 The Antelope Valley Groundwater Agreement Association (“AGWA”) objects to Los
2 Angeles County Waterworks District No. 40’s *Amended Notice of Deposition of Disclosed Expert*
3 *Witness Eugene Nebeker and Production of Expert’s File at Deposition and Intention to Make Video*
4 *Recording of Testimony*, filed on September 8, 2010 (“Notice of Deposition”). AGWA objects to
5 the Notice of Deposition on the grounds that Dr. Nebeker is unavailable for deposition on the date
6 and at the time specified in the Notice of Deposition. Dr. Nebeker has a pre-existing engagement for
7 October 6, 2010, and thus will need to be deposed at another date. Dr. Nebeker has indicated that he
8 would be available for deposition October 26 or October 27, 2010.

9 Furthermore, AGWA objects to Los Angeles County Waterworks District No. 40’s request
10 for production of expert documents contained in the Notice of Deposition on the grounds that such
11 documents requested in the Notice of Deposition are not relevant to his testimony in this case. As
12 described in AGWA’s July 15, 2010 Expert Witness Designation for Phase 3 Trial pursuant to
13 C.C.P. § 2034.210 and Declarations of Michael T. Fife pursuant to C.C.P. § 2034.210, Dr. Nebeker’s
14 testimony at Phase 3 trial will draw on his knowledge, observations and experience as to: (a) the
15 agricultural practices in the Antelope Valley Groundwater Basin (“Basin”); (b) the distribution of
16 crops and their water use in the Basin; (c) irrigation methods in the Basin; and (d) return flows from
17 agricultural practices in the Basin. He has not relied on nor prepared any documents in preparing to
18 testify at the Phase 3 trial, and therefore has nothing relevant to his testimony that might be produced
19 at this deposition. Dr. Nebeker has been designated as an “expert witness” only pursuant to the
20 Court’s direction that all percipient witnesses testifying about observations and farming experience
21 in the Antelope Valley be designated as “experts.” (Court Reporter’s Transcript of March 23, 2010
22 Case Management Conference, at 30:22-31:6 [“Lay testimony about farming practices is expert
23 testimony as opposed to percipient testimony...And [witnesses testifying as to those practices] need
24 to be disclosed as experts.”])

25 AGWA further objects to the request for production of documents to the extent that it seeks
26 information protected by the attorney-client privilege or the attorney work-product doctrine, or any
27 other applicable right, privilege, protection or doctrine.

1 For the foregoing reasons, AGWA objects to Los Angeles County Waterworks District No.
2 40's *Notice of Deposition*. AGWA will continue to work with counsel to ensure that Dr. Nebeker is
3 promptly available for deposition on another suitable date.
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6 Dated: September 29, 2010

BROWNSTEIN HYATT FARBER SCHRECK, LLP



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8 By: _____

MICHAEL T. FIFE
BRADLEY J. HERREMA
ATTORNEYS FOR AGWA

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PROOF OF SERVICE

**STATE OF CALIFORNIA,
COUNTY OF SANTA BARBARA**

I am employed in the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action; my business address is: 21 E. Carrillo Street, Santa Barbara, California 93101.

On September 29, 2010, I served the foregoing document described as:

**OBJECTION TO AMENDED NOTICE OF DEPOSITION OF DR. EUGENE NEBEKER
AND PRODUCTION OF EXPERT'S FILE**

on the interested parties in this action.

By posting it on the website at 4:45 p.m. on September 29, 2010.
This posting was reported as complete and without error.

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

Executed in Santa Barbara, California, on September 29, 2010.



MARIA KLACHKO-BLAIR
TYPE OR PRINT NAME

SIGNATURE