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8 Attorneys for Defendant and Cross-Complainant Tejon Ranchcorp

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

11 **ANTELOPE VALLEY**) Judicial Council Coordination Proceeding No.
12 **GROUNDWATER CASES**) 4408
13 Included Actions:) Assigned to The Honorable Jack Komar
14 Los Angeles County Waterworks District No. 40)
15 v. Diamond Farming Co., Superior Court of) **STATUS REPORT TO COURT RE MOTION**
16 California, County of Los Angeles, Case No. BC) **FOR PROTECTIVE ORDER RE**
17 325 201; Los Angeles County Waterworks) **DISCLOSURE AND CONFIDENTIALITY OF**
18 District No. 40 v. Diamond Farming Co., Superior) **WELL DATA AND OTHER PRIVATE**
19 Court of California, County of Kern, Case No. S-) **INFORMATION; AND SUMMARY OF**
20 1500-CV-254-348; Wm. Bolthouse Farms, Inc.) **RESPONSES TO PROPOSED ORDERS**
21 v. City of Lancaster, Diamond Farming Co. v.)
22 City of Lancaster, Diamond Farming Co. v.) Hearing Date: December 15, 2006
23 Palmdale Water Dist., Superior Court of) Time: 9:00 a.m.
24 California, County of Riverside, Case Nos. RIC) Department: 1
25 353840, RIC 344436, RIC 344668)

26 A hearing was conducted on December 15, 2006 at 9:00 a.m. in Department 1 of the
27 above Court, the Honorable Jack Komar presiding, on the Motion by Tejon Ranchcorp and Other
28 Parties* for a Protective Order Re Disclosure and Confidentiality of Well Data and Other Private
Information. At the end of this hearing, the Court stated that it would issue two protective orders – the
first regarding well reports and the second regarding other confidential information – but subject to
additional limitations to protect the confidentiality of the well reports, i.e., prohibiting disclosure of the

* City of Palmdale, Antelope Valley-East Kern Water Agency, Diamond Farming Co., Palmdale Water District, Quartz Hill Water District, Gertrude J. Van Dam, Delmar D. Van Dam, Little Rock Creek Irrigation District, Palm Ranch Irrigation District, City of Lancaster, California Water Service Co., Rosamond Community Services District, City of Los Angeles, Bolthouse Farms, Inc. and Diamond Farming Co.

1 well reports to parties, and requiring experts to sign a confidentiality agreement. The Court requested
2 that counsel for Tejon Ranchcorp revise the protective orders, then circulate them to all parties for their
3 comments, and finally submit the orders to the Court.

4 Accordingly, the undersigned counsel engaged in negotiations with Michael Crow and
5 Lee Leininger, counsel for the State of California and the United States respectively, regarding the
6 content of the proposed protective orders. They each requested multiple additions and revisions to the
7 proposed protective orders. All of these revisions and additions were accepted and incorporated into the
8 final versions of the two proposed protective orders, which are submitted herewith as Exhibits A and B.
9 Counsel for the State of California participated in this negotiation and drafting process without waiving
10 its position that disclosure of well reports is forbidden by Water Code §13752.

11 On January 24, 2007, the undersigned counsel notified all of the other known active
12 counsel by e-mail of the revised proposed protective orders, as requested by the Court. I attached the
13 proposed protective orders and requested that they provide me with any written objections or other
14 comments within seven days. A copy of this e-mail notice is submitted herewith as Exhibit C. I
15 received no objections or other comments from any attorneys other than the proposed changes requested
16 by counsel for the State of California and the United States, which are incorporated in the final versions
17 of the protective orders submitted herewith.

18 Accordingly, we submit the two proposed protective orders to the Court for approval or,
19 if the Court deems it appropriate, further hearing.

20 Dated: February 1, 2007

NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP
FREDRIC A. FUDACZ
HENRY S. WEINSTOCK


21
22
23 By: 
24 HENRY S. WEINSTOCK
25 Attorneys for Tejon Ranchcorp
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28

EXHIBIT A

1 NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP
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12 **GROUNDWATER CASES**) 4408
13 Included Actions:) Assigned to The Honorable Jack Komar
14 Los Angeles County Waterworks District No. 40)
15 v. Diamond Farming Co., Superior Court of) **[REVISED PROPOSED]**
16 California, County of Los Angeles, Case No. BC) **PROTECTIVE ORDER RE DISCLOSURE**
17 325 201; Los Angeles County Waterworks) **AND CONFIDENTIALITY OF WELL**
18 District No. 40 v. Diamond Farming Co., Superior) **REPORTS**
19 Court of California, County of Kern, Case No. S-)
20 1500-CV-254-348; Wm. Bolthouse Farms, Inc.) Hearing Date: December 15, 2006
21 v. City of Lancaster, Diamond Farming Co. v.) Time: 9:00 a.m.
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23 Palmdale Water Dist., Superior Court of)
24 California, County of Riverside, Case Nos. RIC)
25 353840, RIC 344436, RIC 344668)

26 A hearing was conducted on December 15, 2006 at 9:00 a.m. in Department 1 of the
27 above Court, the Honorable Jack Komar presiding, on the Motion by Tejon Ranchcorp and Other
28 Parties* for a Protective Order Re Disclosure and Confidentiality of Well Data and Other Private
Information. This Motion was opposed by the State of California.

Having considered the legal briefs and oral argument of the parties, having balanced the
interests of confidentiality against the necessity for disclosure and the interests of justice per Evidence
Code § 1040, and having considered the discoverability of this data directly from several thousand well

* City of Palmdale, Antelope Valley-East Kern Water Agency, Diamond Farming Co., Palmdale Water District,
Quartz Hill Water District, Gertrude J. Van Dam, Delmar D. Van Dam, Little Rock Creek Irrigation District, Palm Ranch
Irrigation District, City of Lancaster, California Water Service Co., Rosamond Community Services District, City of Los
Angeles, Bolthouse Farms, Inc. and Diamond Farming Co.

1 owners, the Court finds that the disclosure of geophysical well logs, well level data, and well completion
2 reports subject to Water Code §§ 13751-2 is absolutely necessary to understand and resolve the
3 geological, hydrological, and other issues central to this groundwater adjudication. However, the Court
4 also finds that disclosure of such reports must be made in accordance with the purposes of Water Code
5 §§ 13751-2, i.e., protecting the basin's groundwater while preventing disclosure of confidential well
6 data to the general public.

7 NOW, THEREFORE, the Court Orders as follows:

8 1. All well logs, well data, well completion reports and appendices thereto that may
9 be subject to Water Code §§ 13751-2, for wells located within the Antelope Valley Groundwater Basin
10 as defined by the Court, shall be discoverable in these consolidated cases, notwithstanding any
11 objections based on privacy, confidentiality, Water Code §13752, or other similar limitations. If Water
12 Code § 13752 applies to these litigation proceedings, any "Reports" governed by Water Code §13752
13 that are disclosed pursuant to this Order shall be deemed disclosed to this Court, a government agency,
14 for use in making studies, findings, and conclusions regarding the Antelope Valley Groundwater Basin.

15 2. Any well completion reports subject to Water Code §§ 13751-2 shall be treated as
16 follows:

17 (a) the report and its data may be used only for purposes of this litigation, except that reports made
18 available to governmental agencies for use in making studies may continue to be used for that purpose,
19 and any person who obtains a written authorization from the owner of a well may use the well
20 information as authorized;

21 (b) the report and its data may not be disclosed to the general public or to any party to this litigation,
22 notwithstanding a request under a Freedom of Information law;

23 (c) the report and its data may be disclosed to an expert or a consultant retained by a party to this
24 litigation, an attorney for a party, or an employee of one of the above;

25 (d) any experts, consultants, or their employees who are given access to well reports, with the
26 exception of government employees using well reports for purposes of making studies, shall first sign
27 and have posted on the Court website a Confidentiality Agreement in the form of Exhibit A hereto;

28 (e) all copies of well completion reports and their data shall be kept in files marked

1 "CONFIDENTIAL" in a restricted location or format accessible only to persons authorized above;
2 (f) if any of the above well reports or their data must be disclosed in depositions, motion papers, or
3 at trial, the disclosure shall be made in a manner which minimizes the disclosure of private information,
4 such as the name of the well owner; and the Court may seal such records to prevent their disclosure to
5 the general public.

6 4. This Protective Order supersedes any party's Release Agreement with the
7 Department of Water Resources to the extent that the Release Agreement prohibits or restricts disclosure
8 of well completion reports or data in a manner that conflicts with this Order.

9 5. The attorneys and experts/consultants herein shall promptly meet and confer to
10 devise the most efficient, useful, prompt, and economical method to copy, organize, and store well
11 reports and data; and the costs of doing so shall be shared equitably by all parties who want access to
12 these reports and data.

13 6. In accordance with the "Protective Order Re Confidentiality Of Settlement
14 Discussions" dated March 24, 2006, attorneys and experts/consultants may freely discuss the well
15 reports and data described above in their settlement communications; and such communications shall
16 continue to be non-discoverable, inadmissible, and subject to all protections and privileges accorded
17 settlement discussions by California law.

18 7. This Order has no effect on the discoverability of any document withheld based
19 on the attorney-client privilege or work-product protection.

20 8. This Protective Order shall be binding on all current and future parties to these
21 cases.

22
23
24 Date: February ____, 2007

25 The Honorable Jack Komar
26 Judge of the Superior Court
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28

EXHIBIT B

1 NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP
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8 Attorneys for Defendant and Cross-Complainant Tejon Ranchcorp

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10 FOR THE COUNTY OF LOS ANGELES

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12 **GROUNDWATER CASES**) 4408
13 Included Actions:) Assigned to The Honorable Jack Komar
14 Los Angeles County Waterworks District No. 40)
15 v. Diamond Farming Co., Superior Court of) **[PROPOSED]**
16 California, County of Los Angeles, Case No. BC) **PROTECTIVE ORDER RE DISCLOSURE**
17 325 201; Los Angeles County Waterworks) **OF PRIVATE INFORMATION OTHER**
18 District No. 40 v. Diamond Farming Co., Superior) **THAN WELL REPORTS**
19 Court of California, County of Kern, Case No. S-)
20 1500-CV-254-348; Wm. Bolthouse Farms, Inc.) Hearing Date: December 15, 2006
21 v. City of Lancaster, Diamond Farming Co. v.) Time: 9:00 a.m.
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24 California, County of Riverside, Case Nos. RIC)
25 353840, RIC 344436, RIC 344668)

26 **RECITALS**

27 A. In order to fairly conduct trials, discovery, and settlement negotiations in this
28 groundwater adjudication, it is necessary for the parties to disclose and exchange many types of private
and confidential information, including without limitation: well level data, pumping records, land use
information, groundwater chemistry data, etc. The above information is necessary to resolve
hydrological, geological, and other issues central to these cases.

B. Some requested documents and information may be confidential, private, a trade
secret, or subject to other objections and limitations on disclosure.

C. Such information must be disclosed to advance the litigation and settlement
negotiations, but its use and disclosure should be limited as set forth herein.

1 NOW, THEREFORE, the Court Orders as follows:

2 1. All documents and data that are relevant to proving the hydrology, geology, water
3 use, and water quality of the Antelope Valley Groundwater Basin shall be discoverable in these
4 consolidated cases, notwithstanding any objections based on privacy, confidentiality, or other similar
5 limitations.

6 2. Any party may mark any documents or data that it produces as
7 "CONFIDENTIAL" on the front page of each such document.

8 3. Any documents or data marked "CONFIDENTIAL" shall be treated as follows:
9 (a) the documents or data may be used only for purposes of this litigation;
10 (b) they may not be disclosed to anyone who is not a party to this litigation, an expert or a consultant
11 retained by a party to this litigation, an attorney for a party, or an employee of one of the above,
12 notwithstanding a request under a Freedom of Information law.

13 4. Upon motion of any party, the Court will determine whether documents or data
14 marked "CONFIDENTIAL" should be deemed confidential and restricted in the manner set forth above.

15 5. In accordance with the "Protective Order Re Confidentiality Of Settlement
16 Discussions" dated March 24, 2006, the parties and their experts/consultants may freely discuss the
17 confidential documents and data described above in their settlement discussions and communications;
18 and such discussions and communications shall continue to be non-discoverable, inadmissible, and
19 subject to all protections and privileges accorded settlement discussions by California law.

20 6. This Order has no effect on the discoverability of any document withheld based
21 on the attorney-client privilege or work-product protection; and it shall not preclude objections based on
22 the form of any document request, unreasonable burden, or other objections unrelated to privacy, trade
23 secrets, and confidentiality.

24 7. This Protective Order shall be binding on all current and future parties to these
25 cases.

26
27 Date: February ____, 2007

28 _____
The Honorable Jack Komar
Judge of the Superior Court

EXHIBIT C

Weinstock, Henry S.

From: Weinstock, Henry S.
Sent: Wednesday, January 24, 2007 2:24 PM
To: 'Stefanie Hedlund'; 'enebeker@adelphia.net'; 'mhattam@allenmatkins.com'; 'Eric Garner'; 'Jeffrey Dunn'; 'bbrunick@bbmblaw.com'; 'skennedy@bbmblaw.com'; 'jtootle@calwater.com'; 'rzimmer@clifford-brownlaw.com'; 'fpfaeffle@counsel.co.la.ca.us'; 'Michael.Crow@doj.ca.gov'; 'virginia.cahill@doj.ca.gov'; 'claud.brown@edwards.af.mil'; 'cms@eslawfirm.com'; 'michael.davis@greshamsavage.com'; 'erenwick@hanmore.com'; 'MFife@HatchParent.com'; 'jgoldsmith@kmtg.com'; 'bjoyce@lebeauthelen.com'; 'wayne@Lemieux-Oneill.com'; 'wsloan@mofo.com'; 'Fudacz, Fred A.'; 'dale.murad@pentagon.af.mil'; 'jmarkman@rwglaw.com'; 'sorr@rwglaw.com'; 'DEVERTZ@SYCR.com'; 'jyu@SYCR.com'; 'lee.leininger@usdoj.gov'; 'ecasey@wbcounsel.com'; 'skuney@youngwooldridge.com'; 'Tom Bunn'
Subject: AV -- Revised Protective Orders Re Disclosure of Well Reports etc.
Attachments: TEJONRANCH/P - Protective Order re Disclosure & Confidentiality of Well Data.DOCx;
TEJONRANCH_P - Protective Order re Disclosure of Private Information other than well reports.DOCx

Per Judge Komar's instructions at the December 15 hearing on our Motion for a Protective Order Re Disclosure and Confidentiality of Well Data etc., I have had discussions and negotiations with counsel for the State of California and the USA to try to resolve the issues. Pursuant to those discussions, I have revised and attached the two protective orders as requested by the court: the first deals with well reports and the second deals with other confidential information. As agreed, I have revised the well report protective order so that it now bars disclosure to litigants, it requires that a confidentiality agreement be signed by experts, and I made other changes recently requested by Lee Leininger and Michael Crow. Notwithstanding the State of California's input to the protective order, the State objects to disclosure of well reports on the grounds previously stated in its opposition papers. Please send me any objections or other written comments you may have regarding these proposed protective orders within the next seven days.

Thanks. Henry

PLEASE NOTE: The information in this e-mail is privileged, confidential and protected from disclosure. If you have received this e-mail in error or are not the intended recipient, you may not use, copy or disclose this message or any information contained in it to anyone. Please notify the sender by reply e-mail and delete the message. Thank you.

1 **PROOF OF SERVICE**

2
3 The undersigned declares:

4 I am employed in the County of , State of California. I am over the age of 18 and am not a party
5 to the within action; my business address is c/o Nossaman, Guthner, Knox & Elliott, LLP, 445 S.
6 Figueroa Street, 31st Floor Los Angeles, California 90071-1602.

7 On **February 1, 2007**, I served the foregoing **STATUS REPORT TO COURT RE MOTION**
8 **FOR PROTECTIVE ORDER RE DISCLOSURE AND CONFIDENTIALITY OF WELL DATA**
9 **AND OTHER PRIVATE INFORMATION; AND SUMMARY OF RESPONSES TO PROPOSED**
10 **ORDERS** on all interested parties:

11 (X) (By U.S. Mail) On the same date, at my said place of business, said correspondence was sealed
12 and placed for collection and mailing following the usual business practice of my said employer.
13 I am readily familiar with my said employer's business practice for collection and processing of
14 correspondence for mailing with the United States Postal Service, and, pursuant to that practice,
15 the correspondence would be deposited with the United States Postal Service, with postage
16 thereon fully prepaid, on the same date at Los Angeles, California, addressed to:

17 Honorable Jack Komar
18 Judge of the Superior Court of California
19 County of Santa Clara
20 191 North First Street, Department 17C
21 San Jose, CA 95113

22 (X) (By E-Filing) I posted the document(s) listed above to the Santa Clara County Superior Court
23 website in regard to the Antelope Valley Groundwater matter in compliance with the Court's
24 electronic posting instructions and the Court's Clarification Order dated October 27, 2005.

25 () (By Federal Express) I served a true and correct copy by Federal Express or other overnight
26 delivery service, for delivery on the next business day. Each copy was enclosed in an envelope
27 or package designated by the express service carrier; deposited in a facility regularly maintained
28 by the express service carrier or delivered to a courier or driver authorized to receive documents
on its behalf; with delivery fees paid or provided for; addressed as shown on the accompanying
service list.

Executed on **February 1, 2007** at Los Angeles, California.

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

() (FEDERAL) I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.

26 _____
27 Mitchi Shibata