

EXHIBIT “A”

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

DEPARTMENT NO. 1 HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550B))
ANTELOPE VALLEY GROUNDWATER CASES) JUDICIAL COUNCIL
COORDINATION
NO. JCCP4408
PALMDALE WATER DISTRICT AND) SANTA CLARA CASE NO.
QUARTZ HILL WATER DISTRICT,) 1-05-CV-049053
CROSS-COMPLAINANTS,)
VS.)
LOS ANGELES COUNTY WATERWORKS,)
DISTRICT NO. 40, ET AL,)
CROSS-DEFENDANTS.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, MARCH 8, 2010

APPEARANCES:

(SEE APPEARANCE PAGES)

GINGER WELKER, CSR #5585
OFFICIAL REPORTER

1 IN THAT TRIAL AND HOW THEY ARE GOING TO BE ADDRESSED AS
2 WELL AS SETTING UP A TIME LINE FOR DISCLOSURE OF
3 WITNESSES AND COMPLETION OF DISCOVERY AND THE LIKE. MY
4 DESIRE TO HAVE THIS MATTER HEARD AS EARLY AS POSSIBLE --
5 I MAY HAVE BEEN OVERLY OPTIMISTIC AS TO WHAT WE COULD
6 ACCOMPLISH BETWEEN NOW AND JULY WHEN I LAST SPOKE TO YOU
7 OR -- AT OUR LAST HEARING.

8 IT SEEMS TO ME AS I'M LOOKING AT WHAT IS IN
9 PLAY HERE THE ISSUES HAVE TO BE NARROWED FOR THAT PHASE
10 OF THAT TRIAL, NUMBER ONE.

11 AND, NUMBER TWO, I THINK THAT IN ORDER TO
12 ACCOMPLISH PREPARATION IT REALLY CAN'T BE ACCOMPLISHED
13 PRIOR TO THE END OF SEPTEMBER, SO I'M REALLY THINKING
14 THIS TRIAL SHOULD OCCUR IN THE FALL ASSUMING THAT
15 EVERYTHING PROCEEDS AS I HOPE IT WILL.

16 AND I WOULD LIKE TO TALK ABOUT THE ISSUES TO
17 BE ADJUDICATED IN THAT NEXT PHASE OF THE TRIAL. IT
18 SEEMS TO ME THAT IT HAS GOT TO EVOLVE AROUND THE
19 QUESTION OF OVERDRAFT. CERTAINLY IF THE CURRENT
20 CONDITIONS -- BECAUSE IF WE ARE TALKING ABOUT ISSUES
21 RELATED TO THE MANAGEMENT OF THE AQUIFER, WE NEED TO
22 DETERMINE WHAT ITS PRESENT CONDITIONS ARE.

23 IF THERE IS NO OVERDRAFT -- AND THAT IS
24 POSSIBLE AND I DON'T KNOW WHAT THE EVIDENCE IS IN THIS
25 CASE -- THAT IS GOING TO END THAT INQUIRY.

26 THEN IT'S GOING TO BE UP TO THE INDIVIDUAL
27 DISPUTANTS AMONG THEMSELVES TO DETERMINE WHETHER OR NOT
28 THEY HAVE ANY CLAIMS THAT THEY WISH TO PURSUE AGAINST

1 EACH OTHER. AND THAT IS NOT GOING TO INVOLVE EVERYBODY
2 IN THIS CASE. THAT IS GOING TO INVOLVE THE PEOPLE WHO
3 ARE PARTIES TO THE INDIVIDUAL ACTIONS THAT HAVE BEEN
4 WORK -- COORDINATED HERE AND OBVIOUSLY TO SOME EXTENT
5 THERE MAY BE SOME COMMON ISSUES, BUT MOSTLY NOT, I
6 THINK. , THOSE ARE SEPARATE ISSUES.

7 ONE OF THE PROBLEMS THAT I FORESEE HERE IS
8 THAT VARIOUS PURVEYORS HAVE STARTED PUMPING AT VARIOUS
9 TIMES. EVEN THOUGH WE HAVE A SINGLE AQUIFER, THERE ARE
10 OBVIOUSLY DIFFERENCES IN VARIOUS PORTIONS OF THE AQUIFER
11 AS TO THE EFFECT OF PUMPING.

12 AT THE TIME THAT I MADE THE DECISION
13 CONCERNING A SINGLE AQUIFER, I INDICATED THAT THERE WERE
14 DISPARITIES AND DIFFERENCES IN THE VARIOUS PORTIONS OF
15 THE AQUIFER IN TERMS OF THE EFFECT OF THE -- THE AMOUNT
16 OF CONNECTIVITY OR CONDUCTIVITY OR -- WITHOUT AN
17 UNDERSTANDING BECAUSE WE DIDN'T HAVE SUFFICIENT
18 EVIDENCE, AND IT REALLY HASN'T -- HAD NOT BEEN ADDRESSED
19 AT THAT POINT, WITHOUT AN UNDERSTANDING OF WHAT THE
20 EFFECT OF THE DIFFERENCES WERE IN CONNECTIVITY.

21 FOR EXAMPLE, IN CERTAIN PARTS OF THE
22 AQUIFER, THERE WAS FAIRLY NOMINAL CONNECTIVITY. AND
23 WHAT THE EFFECT OF THAT SHOULD BE IN TERMS OF MANAGEMENT
24 OF THE BASIN DEPENDS ON WHAT THE EFFECT IS ON PUMPING IN
25 THAT AREA, OR EVEN IF THERE WAS NO SIGNIFICANT EFFECT
26 WHAT THE CONSEQUENCES WERE OF THE PRECIPITATION OCCURRED
27 IN THAT PART OF THE VALLEY IN TERMS OF FEEDING INTO THE
28 AQUIFER.

1 INTO SOME TERMINATION OF PRESCRIPTIVE RIGHTS. SO
2 LIMITED TO THIS, THIS IS THE CORRECT STARTING POINT.

3 THE COURT: WELL, MY INTEREST RIGHT NOW IS
4 DETERMINING WHETHER OR NOT THE COURT IS GOING TO HAVE TO
5 BE INVOLVED IN THE MANAGEMENT OF THIS BASIN, TOTALLY
6 APART FROM WHAT THE RIGHTS INTER SE MAY BE BETWEEN THE
7 VARIOUS COMPLAINANTS AGAINST EACH OTHER IN TERMS OF
8 PRESCRIPTIVE RIGHTS OR APPROPRIATED RIGHTS AND THE LIKE.

9 AND SO I -- I MEAN THAT IS WHERE I'M KIND OF
10 HEADED. I REALLY DIDN'T WANT TO MAKE THIS MY LIFETIME
11 CASE.

12

13 (LAUGHTER)

14

15 THE COURT: THAT WAS NEVER MY INTENT. AND I
16 ASSURE YOU THAT I'M NOT TAKING ANY STEPS IN TRYING TO
17 STAY IN THIS CASE. I'M DOING SOMETHING THAT I FEEL IS A
18 DUTY. I HAVE OTHER THINGS THAT I COULD BE DOING RIGHT
19 NOW.

20 MR. MARKMAN: WELL, YOUR HONOR, ONE OF THE
21 BENEFITS OF STARTING WHERE THE COURT IS STARTING IS GET
22 THE SCIENTIFIC CONCLUSIONS IN FRONT OF THE COURT AND THE
23 COURT MAKE A JUDICIAL DETERMINATION ON WHAT IS THE
24 SUPPLY AND WHAT IS THE SAFE YIELD AND ELIMINATING
25 RAINFALL FACTORS, WHAT'S THE CONDITION OF THE BASIN
26 TODAY, AND ON A GO-FORWARD BASIS SO THAT YOU CAN DECIDE
27 WHETHER YOU HAVE TO MANAGE IT.

28 ALSO, IT MAY TURN A LIGHT ON FOR EVERYBODY

1 ISSUES.

2 MR. LEMIEUX.

3 MR. LEMIEUX: I JUST HAVE A COUPLE OF QUESTIONS TO
4 MAKE IT CLEAR TO ME WHAT WE ARE TALKING ABOUT FOR THE
5 NEXT PHASE. I UNDERSTAND THAT YOU'RE TALKING ABOUT THE
6 CURRENT SAFE YIELD AND WHETHER OR NOT THE OVERDRAFTING
7 EXISTS. MY UNDERSTANDING IS THAT IN ORDER TO PRESENT
8 EVIDENCE OF THAT, THERE WILL BE EVIDENCE, I BELIEVE,
9 PRESENTED ABOUT HISTORICAL TRENDS AND SO ON.

10 IS IT YOUR INTENTION TO ALLOW THAT EVIDENCE
11 IN?

12 THE COURT: I OBVIOUSLY -- I HAVE TO HEAR WHATEVER
13 EVIDENCE THE EXPERT MAY BASE HIS OR HER OPINION ON, BUT
14 THE ONLY FINDING OF FACT THAT I INTEND TO MAKE IS WITH
15 REGARD TO THE CURRENT STATUS OF THE AQUIFER, NOT ANY
16 HISTORICAL EVIDENCE BECAUSE THAT IS GOING TO VARY FROM,
17 I THINK, AREA TO AREA WITHIN THE AQUIFER. AND IT IS
18 GOING TO VARY WITH REGARD TO VARIOUS PERIODS OF TIME AS
19 TO WHEN VARIOUS PARTIES MAY HAVE STARTED PUMPING.

20 AND SO THAT -- I THINK IT WOULD BE
21 IMPOSSIBLE FOR THE COURT TO MAKE THAT KIND OF A
22 DETERMINATION WITHOUT HEARING A TRIAL THAT WOULD TAKE
23 FOR THAT PHASE MONTHS AS MISS MCKEITH ALLUDED TO. AND I
24 THINK SHE IS CORRECT. IT WOULD TAKE MONTHS TO DO THAT,
25 AND I DON'T THINK THAT IS NECESSARY AT THIS POINT.

26 BECAUSE MY CONCERN WITH REGARD TO THE CENTER
27 POINT OF THIS CASE IS, DOES THE COURT HAVE TO INVOLVE
28 ITSELF IN THE MANAGEMENT OF THE BASINS SINCE THAT EVEN

1 AS MR. FIFE ASKED TO DO IS THE BASIC CORE OF THIS CASE.
2 AND THEN THAT IS TOTALLY APART FROM ANY INDIVIDUAL
3 CLAIMS THAT PARTIES MAY HAVE VIS-A-VIS EACH OTHER
4 WHETHER IT BE PUBLIC WATER PROVIDERS OR LANDOWNERS OR
5 WHOEVER IT MIGHT BE. ALL RIGHT.

6 MR. LEMIEUX: THE SECOND QUESTION I HAVE -- I
7 UNDERSTAND THAT ANSWER. THE SECOND QUESTION I HAD ALONG
8 THOSE LINES YOU SAID THAT WE -- YOU ARE NOT GOING TO
9 MAKE ANY DETERMINATION OF INDIVIDUAL RIGHTS, AND YOU
10 DON'T WANT TO KNOW ABOUT INDIVIDUAL PUMPING AND HISTORY
11 AND SO ON, WHICH I UNDERSTAND.

12 BUT I ALSO UNDERSTAND THAT THAT PUMPING, FOR
13 EXAMPLE, IN THE AGGREGATE WILL GO INTO THE QUESTION OF
14 WHETHER OR NOT THERE IS AN OVERDRAFT TODAY. SO JUST TO
15 MAKE IT CLEAR SO YOU -- YOU ARE PREPARED TO HEAR
16 AGGREGATE EVIDENCE ABOUT THOSE THINGS EVEN IF YOU ARE
17 NOT GOING TO MAKE A PARTICULAR DETERMINATION AT THE END
18 OF THE TRIAL.

19 THE COURT: WELL, I WANT TO HEAR AGGREGATE, BUT I
20 ALSO WANT TO HEAR INDIVIDUAL AREAS AS TO THE BASIN AND
21 WHAT'S HAPPENING IN THOSE PARTICULAR AREAS IN TERMS OF
22 WHAT THE IMPACT IS. I KNOW THERE IS CONDUCTIVITY AND
23 CONNECTIVITY, BUT I WANT TO KNOW THE EXTENT OF IT WITH
24 REGARD TO THE VARIOUS PORTIONS OF IT IN THE VALLEY NOW.

25 MR. LEMIEUX: OKAY. THAT IS CLEAR TO ME, YOUR
26 HONOR. THANK YOU.

27 THE COURT: OKAY. ALL RIGHT.

28 MR. WILLIAM KUHS: YOUR HONOR, WILLIAM KUHS ON

1 BEHALF OF TEJON RANCH CORP.

2 THE COURT: YES, MR. KUHS.

3 MR. WILLIAM KUHS: HOW ARE OUR EXPERTS GOING TO
4 HANDLE THE CLAIMS TO RETURN FLOW OR -- OR IMPORTED
5 WATER?

6 THE COURT: IN TERMS OF WHAT, MR. KUHS?

7 MR. WILLIAM KUHS: IN TERMS OF THERE ARE VARIOUS
8 PUBLIC WATER PURVEYORS, IF I RECALL THE PLEADINGS, ARE
9 CLAIMING RETURN FLOWS FROM IMPORTED WATER SUPPLIES.

10 THE COURT: WELL, THAT CERTAINLY IS PART OF THE
11 EVIDENCE AS TO WHETHER OR NOT THERE IS AN OVERDRAFT,
12 ISN'T IT?

13 MR. WILLIAM KUHS: WELL, IT DEPENDS ON WHETHER OR
14 NOT THEIR CLAIMS ARE LEGITIMATE OR WHETHER THOSE WATERS
15 HAVE BEEN ABANDONED TO THE BASIN.

16 THE COURT: WELL, THAT IS A LEGAL QUESTION THE
17 COURT WILL HAVE TO DECIDE BASED UPON THE EVIDENCE THAT
18 IS PRESENTED.

19 MR. WILLIAM KUHS: WELL, MY QUESTION IS WILL THAT
20 BE PART OF THE NEXT PHASE OF THE TRIAL?

21 THE COURT: AS IT RELATES TO WHETHER OR NOT THE
22 BASIN IS IN OVERDRAFT, THE ANSWER IS YES.

23 MR. WILLIAM KUHS: OKAY. SO THE CLAIMANTS OF
24 THOSE RETURN FLOWS WILL NEED TO PRESENT EVIDENCE TO --
25 IF THERE ARE CLAIMS, IS THAT ACCURATE?

26 THE COURT: YES. AND THE MOVING PARTIES HERE --
27 THE PARTIES ARE GOING FORWARD. THE PARTIES WHO HAVE THE
28 BURDEN OF PROOF IN THIS CASE ARE THE PURVEYORS WHO BY

1 THEIR CROSS-COMPLAINT HAVE SET UP THE ISSUE OF OVERDRAFT
2 AND A NEED FOR THE COURT TO PROVIDE A PHYSICAL SOLUTION
3 TO AN OVERDRAFT. IF THERE IS NO OVERDRAFT, THERE IS NO
4 PHYSICAL SOLUTION.

5 ALL RIGHT. MR. ZIMMER.

6 MR. ZIMMER: MR. ZIMMER ON BEHALF OF BOLTHOUSE. I
7 APPLAUD THE COURT FOR TAKING A DEEP BREATH ON THIS CASE
8 AND CONSIDERING SOME OF THESE ISSUES THAT ARE, I THINK,
9 ARE IMPORTANT TO EVERYBODY.

10 I THINK IT IS FUNDAMENTAL THAT EVERYBODY
11 NEEDS TO BE IN THE CASE. I UNDERSTAND THE COURT'S
12 POSITION REGARDING THAT YOU CAN'T BE THE POLICEMAN AS
13 FAR AS KNOWING EXACTLY WHO HAS BEEN SERVED, BUT I THINK
14 NONETHELESS MAYBE WITH MR. DUNN'S FILING IT, IT IS GOING
15 TO BE A LITTLE MORE APPARENT THAT ALL THE LANDOWNERS OUT
16 THERE HAVE BEEN SERVED, SO I THINK THAT IS IMPORTANT.

17 THE NEXT THING I WOULD LIKE TO DISCUSS IS I
18 THINK IT IS A GOOD IDEA TO -- NOTWITHSTANDING HOW LONG
19 WE HAVE BEEN IN THIS CASE, I STILL THINK WE NEED TO BE
20 CAREFUL ABOUT PROCEEDING AND DOING IT CORRECTLY. BUT I
21 THINK THAT WE ARE GOING TO NEED SOME FURTHER DISCUSSION,
22 MAYBE SOME BRIEFING IN MORE DETAIL, ON EXACTLY WHAT
23 ISSUES EVERYBODY UNDERSTANDS ARE GOING TO BE TRIED IN
24 THIS NEXT PHASE.

25 THE COURT GAVE US AN INDICATION OF WHAT YOU
26 ARE THINKING IN TERMS OF THE NEXT PHASE, AND I TAKE THAT
27 AS A GENERAL IDEA OF WHAT IS GOING TO BE TRIED. BUT
28 MR. KUHS' RESPONSE ON THE TELEPHONE KIND OF GIVES ONE

1 EXAMPLE OF MANY EXAMPLES OF DIFFERENT THINGS THAT WE --
2 THAT MIGHT BE BEING TRIED OR NOT BEING TRIED, AND I
3 THINK IT IS IMPORTANT THAT EVERYBODY UNDERSTANDS WHAT IS
4 BEING TRIED AND WHAT EVIDENCE WE ARE GOING TO BE
5 ADMITTING FOR WHAT PURPOSES RATHER THAN HAVE A BUNCH OF
6 EVIDENCE COME IN AND NOT KNOWING WHETHER IT IS GOING TO
7 BE USED IN THIS PHASE OR THE NEXT PHASE OR WHATEVER.

8 IN A ADDITION TO THAT, THERE ARE
9 DEFINITIONAL ISSUES THAT I DON'T THINK EVEN THE PARTIES
10 IN THE ROOM WOULD ALL AGREE TO IN TERMS OF WHAT DOES
11 OVERDRAFT MEAN, WHAT'S THE DEFINITION WE ARE GOING TO BE
12 OPERATING UNDER, AND THOSE SORT OF THINGS THAT I THINK
13 MAY NEED TO BE BRIEFED.

14 AND I THINK THAT IT WOULD BE HELPFUL TO BOTH
15 THE COURT AND THE COUNSEL TO KNOW WHAT DEFINITIONS WE'RE
16 USING AND WHAT CASE LAW WE ARE RELYING ON AND EXACTLY
17 HOW FAR OUT THIS -- THIS ADJUDICATION IS MEANT TO COVER.

18 THE COURT: WELL, LET ME TALK ABOUT DEFINITIONS
19 FIRST. I DON'T THINK THAT EVERYBODY IS GOING TO AGREE
20 ON WHAT EVERY WORD AND PHRASE MEANS.

21 MY EXPERIENCE IN HEARING GROUNDWATER CASES
22 TELLS ME THAT VARIOUS EXPERTS HAVE SLIGHTLY VARYING
23 DEFINITIONS AS TO WHAT OVERDRAFT IS. THE LAW, I THINK,
24 IS PRETTY CLEAR AS TO WHAT IT IS. AND THAT -- THE
25 DEFINITIONAL ISSUE THAT THE COURT WILL DECIDE WILL BE
26 BASED UPON THE EVIDENCE, AND I DON'T THINK I AM PREPARED
27 AT THIS POINT TO TELL YOU THAT ANY PARTICULAR LANGUAGE
28 MEANS ANY PARTICULAR THING.

1 BUT I DO EXPECT TRIAL BRIEFS, AND I EXPECT
2 PARTIES TO PRESENT THEIR POSITIONS WITH REGARD TO WHAT
3 CONSTITUTES OVERDRAFT IF THERE IS GOING TO BE ANY
4 DIFFERENCE OF OPINION. VARIOUS EXPERTS THAT I HAVE
5 HEARD TESTIFY IN THESE MATTERS IN THE PAST -- AND THAT
6 HAS NOTHING TO DO WITH WHAT THE ULTIMATE DECISIONS ARE
7 GOING TO BE IN THIS CASE -- BUT WHAT I HAVE HEARD IN THE
8 PAST, THERE IS A LOT OF VARIABILITY AS TO WHEN PARTIES
9 THINK THAT SOMETHING IS IN OVERDRAFT AND WHAT THAT
10 OVERDRAFT MEANS AND WHAT SAFE YIELD IS AND THE LIKE.

11 THE CASE LAW IS FAIRLY CLEAR WITH REGARD TO
12 PARTICULAR CASES. BUT, REMEMBER, YOU KNOW, IN MY
13 OPINION EVERY CASE STANDS ON ITS OWN, AND I CAN'T MAKE
14 ANY DETERMINATION AHEAD OF TIME AS TO WHAT IS GOING TO
15 CONSTITUTE OVERDRAFT OR SAFE YIELD OR ANYTHING ELSE
16 OTHER THAN THE CONCLUSION THAT IT IS IN OVERDRAFT IF
17 RECHARGE DOESN'T EQUAL PRODUCTION THAT LEADS TO AN
18 ULTIMATE DEGRADATION OF THE AQUIFER ON A PERMANENT
19 BASIS.

20 AND THAT IS STATING IT ALMOST IN LAY TERMS
21 AND NOT IN TERMS OF PRECISE LANGUAGE THAT THE VARIOUS
22 DECISIONS HAVE USED. SO AT THIS POINT I UNDERSTAND YOUR
23 CONCERN, BUT I THINK THAT -- THAT IS GOING TO GET SHAKEN
24 OUT DURING THE COURSE OF THE PREPARATION, DURING THE
25 COURSE OF THE DEPOSITIONS. AND I CERTAINLY EXPECT
26 ARGUMENT FIRST IN TRIAL BRIEFS AND ULTIMATELY AT THE
27 TIME OF TRIAL.

28 MR. ZIMMER: I GUESS WHAT I MIGHT SUGGEST THAT WE

1 SHAKE SOME OF THAT OUT EARLIER RATHER THAN BEFORE WE GET
2 TO THE EXPERT DEPOSITION PHASE. I KNOW IN THE LAST
3 TRIAL WE ENDED UP IN A BIG FLURRY AT THE END. AND
4 EVERYBODY HAD A DIFFERENT IDEA WHAT WE WERE TRYING, AND
5 I WOULD LIKE TO SEE, I GUESS, IS SOME KIND OF PRETRIAL
6 ORDER THAT ISSUES FAIRLY EARLY ON WITH SOME COMMENT BY
7 ALL COUNSEL AS TO WHAT WE THINK WE ARE TRYING, AND THEN
8 WE COULD COME UP WITH A PRETRIAL ORDER AS TO WHAT WE --
9 AN ACCOUNTING BY ALL AS TO WHAT WE WILL BE TRYING.

10 A PRETRIAL ORDER I WOULD VISION ISSUING FROM
11 THAT AS TO WHAT WE ARE TRYING, AND THEN WE CAN DO THE
12 DEPOSITIONS AND DISCOVERY, WHATEVER IS GOING TO BE DONE
13 AND --

14 THE COURT: I'M CERTAINLY NOT ADVERSE TO THAT, AND
15 I WOULD EXPECT COUNSEL TO MAKE PROPOSALS AS TO THAT.
16 AND WE CAN TAKE THAT UP VERY EARLY ON IN TERMS OF A CASE
17 MANAGEMENT CONFERENCE AS WE GET SET FOR TRIAL. SO WE
18 WILL TALK ABOUT THOSE PROPOSALS.

19 MR. ZIMMER: THE LAST ITEM I WANTED TO DISCUSS
20 WITH THE COURT IS JUST TO MAKE SURE THAT WE HAVE
21 FLEXIBILITY ON THE TRIAL DATE TO MAKE SURE OUR EXPERTS
22 ARE AVAILABLE. MY EXPERT WAS ONE THAT GOT EXCLUDED LAST
23 TIME. AND I JUST WANT TO BE SURE IF HE'S NOT AVAILABLE
24 IN OCTOBER AND I HAVE A VACATION ONE WEEK IN THE
25 BEGINNING OF NOVEMBER, BUT I -- SO I WOULD LIKE SOME
26 ACCOMMODATION ON OUR EXPERTS IF WE CAN GET THAT.

27 THE COURT: HERE IS WHAT I WOULD LIKE TO DO: I
28 WOULD LIKE TO SET A TENTATIVE TRIAL DATE, AND I -- THEN

1 INDIVIDUAL ACTIONS THAT ARE GOING TO -- THAT WILL
2 PROCEED THAT MAY OR MAY NOT BE COMBINED WITH OTHER
3 INDIVIDUAL ACTIONS. TO THE EXTENT THAT THE COURT FINDS
4 THAT THERE IS AN OVERDRAFT HERE AND THE DEALING WITH THE
5 MANAGEMENT OF THE BASIN, THAT IS GOING TO TAKE PLACE
6 SEPARATELY FROM THE CLAIMS VIS-A-VIS EACH OTHER AS TO
7 WHETHER OR NOT THERE IS A CLAIM -- A RIGHT OF
8 PRESCRIPTION OR SOME OF THESE APPROPRIATORS SHOULD BE
9 ENJOINED FROM FURTHER PUMPING WITH REGARD TO THAT
10 PARTICULAR PORTION OF THE AQUIFER OR NOT.

11 BUT I -- YOU KNOW, I THINK THAT -- MAYBE
12 THERE'S A LACK OF CLARITY HERE IN TERMS OF WHAT THE
13 COURT HAS INTENDED, BUT WHAT YOU HAVE DESCRIBED IS NOT
14 WHAT THE COURT HAS INTENDED BY ANY ORDER THAT I HAVE
15 MADE IN THIS CASE. AND SO I THINK THAT -- WHAT IS
16 HAPPENING HERE IS FAILURE TO RECOGNIZE IT IN A
17 COORDINATED ACTION.

18 THE REASON FOR COORDINATION IS TO AVOID
19 DUPLICATION OF PRESENTATION OF EVIDENCE AND CONFLICTING
20 ISSUES OF LAW. YOU -- AND DETERMINATIONS OF LAW.

21 AND YOU CAN'T DO THAT UNLESS YOU HAVE THE
22 ABILITY TO RELATE THE JUDGMENT AS TO ONE PART OF THE
23 CASE TO ANOTHER. IT REALLY HAS TO COME DOWN AS A SINGLE
24 JUDGMENT EVEN THOUGH EVERYBODY IS NOT INVOLVED IN
25 EVERYBODY ELSE'S FIGHT, BUT THERE IS ONE FIGHT THAT
26 EVERYBODY IS INVOLVED IN. AND THAT IS WHAT IS THE
27 STATUS OF THIS BASIN IN TERMS OF THE NEED FOR THE COURT
28 TO EXERCISE MANAGEMENT IN EQUITY.

EXHIBIT “B”

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

**ANTELOPE VALLEY GROUNDWATER
CASES**

Judicial Council Coordination
Proceeding No. 4408

Included Consolidated Actions:

Lead Case No. BC 325 201

Los Angeles County Waterworks District No.
40 v. Diamond Farming Co.
Superior Court of California
County of Los Angeles, Case No. BC 325 201

**ORDER AFTER CASE
MANAGEMENT CONFERENCE
ON MARCH 22, 2010**

Los Angeles County Waterworks District No.
40 v. Diamond Farming Co.
Superior Court of California, County of Kern,
Case No. S-1500-CV-254-348

Hearing Date(s): March 22, 2010
Time: 9:00 a.m.
Location: Department 1, LASC

Wm. Bolthouse Farms, Inc. v. City of 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 353 840, RIC 344 436, RIC 344 668

Judge: Honorable Jack Komar

Rebecca Lee Willis v. Los Angeles County
Waterworks District No. 40
Superior Court of California, County of Los
Angeles, Case No. BC 364 553

Richard A. Wood v. Los Angeles County
Waterworks District No. 40
Superior Court of California, County of Los

1 Angeles, Case No. BC 391 869

2
3 The matter came on as a regularly scheduled telephonic Case Management Conference
4 on March 22, 2010 in Department One in the above entitled Court. All parties appeared by
5 telephone. Those parties appearing are listed in the minutes of the Court prepared by the Clerk of
6 Court.

7 The parties having briefed and argued the issues, good cause appearing, the Court makes
8 the following Case Management order:

9 The Third Phase of Trial is scheduled for September 27, 2010 at 9:00 a.m. in
10 Department One of this Court. The time of trial is estimated at 10 court days. The Court will be
11 in session for trial Monday through Thursday of each week. If additional days of trial are
12 required, the Court will schedule such after conferring with the parties.

13 The parties shall comply with the provisions of Code of Civil Procedure Section
14 2034.210 and engage in a simultaneous disclosure and exchange of expert information,
15 including any reports prepared by such experts, on July 1, 2010. Any supplemental disclosures
16 and exchange of information shall occur on July 15, 2010. Expert depositions shall be taken
17 between July 15 and August 30, 2010.

18 On July 1, 2010, any party who intends to call non-expert witnesses to provide
19 percipient testimony shall file a statement listing such witness, the subject matter of their
20 testimony, and an estimate of the amount of time required for their testimony on direct.

21 All discovery shall be completed in compliance with the Code of Civil Procedure 30
22 days before trial and all motions shall be heard no later than 15 days before trial.

23 Trial briefs and motions in limine shall be filed no later than September 15, 2010 and
24 any responses or opposition shall be filed no later than September 24, 2010.

25 The public water provider parties have essentially alleged that the basin is in overdraft,
26 that extraction of water on an annual basis exceeds recharge, and that the basin will suffer
27 serious degradation and damage unless the Court exercises its equitable jurisdiction. In this
28 third phase of trial, the Court will hear evidence to determine whether the basin, as previously

1 defined by the Court in trial phases one and two, is in such overdraft and to determine whether
2 there is a basis for the Court to exercise its equitable jurisdiction, including the implementation
3 of a "physical solution," as prayed for by the public water provider parties. The public water
4 providers have the burden of proof.

5 The Court will not hear any evidence concerning prescription claims nor does it expect
6 to hear evidence of individual pumping of water by any party within the basin; rather, it expects
7 to hear evidence concerning total pumping and total recharge from all sources, with a further
8 breakdown showing the amount of imported water on an annual basis.

9 Any party requiring further clarification of the issues in this third phase of trial is
10 invited to request such clarification and the Court will consider a further case management
11 conference to provide such clarification unless it is a simple matter permitting the Court to
12 issue a clarifying order.

13 Dated: March 22, 2010

14 /s/ Jack Komar
15 Honorable Jack Komar
16 Judge of the Superior Court
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EXHIBIT "C"

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BEST BEST & KRIEGER LLP
ERIC L. GARNER, Bar No. 130665
JEFFREY V. DUNN, Bar No. 131926
STEFANIE D. HEDLUND, Bar No. 239787
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614
TELEPHONE: (949) 263-2600
TELECOPIER: (949) 260-0972
Attorneys for Cross-Complainants
ROSAMOND COMMUNITY SERVICES
DISTRICT and LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40

**EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103**

OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES
ANDREA ORDIN, Bar No. 38235
COUNTY COUNSEL
WARREN WELLEN, Bar No. 139152
PRINCIPAL DEPUTY COUNTY COUNSEL
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012
TELEPHONE: (213) 974-8407
TELECOPIER: (213) 687-7337
Attorneys for Cross-Complainant LOS ANGELES
COUNTY WATERWORKS DISTRICT NO. 40

[See Next Page For Additional Counsel]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

**ANTELOPE VALLEY
GROUNDWATER CASES**

Included Actions:
Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Superior
Court of California, County of Los
Angeles, Case No. BC 325201;

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Superior
Court of California, County of Kern, Case
No. S-1500-CV-254-348;

Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
Lancaster, Diamond Farming Co. v.
Palmdale Water Dist., Superior Court of
California, County of Riverside, Case Nos.
RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

CLASS ACTION

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

**PUBLIC WATER SUPPLIERS' EXPERT
DESIGNATION FOR PHASE III TRIAL
AND EXPERT DECLARATION**

LAW OFFICES OF
BEST BEST & KRIEGER LLP
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

- 1 RICHARDS WATSON & GERSHON
James L. Markman, Bar No. 43536
2 Steven Orr, Bar No. 136615
355 S. Grand Avenue, 40th Floor
3 Los Angeles, CA 90071-3101
(213) 626-8484 (213) 626-0078 fax
4 Attorneys for City of Palmdale
- 5 LEMIEUX & O'NEILL
Wayne Lemieux, Bar No. 43501
6 2393 Townsgate Road, Ste. 201
Westlake Village, CA 91361
7 (805) 495-4770 (805) 495-2787 fax
8 Attorneys for Littlerock Creek Irrigation District and
Palm Ranch Irrigation District
- 9 LAGERLOF SENEAL GOSNEY & KRUSE
Thomas Bunn III, Bar No. 89502
10 301 North Lake Avenue, 10th Floor
Pasadena, CA 91101-4108
11 (626) 793-9400 (626) 793-5900 fax
12 Attorneys for Palmdale Water District
- 13 CHARLTON WEEKS LLP
Bradley T. Weeks, Bar No. 173745
14 1007 West Avenue M-14, Suite A
Palmdale, CA 93551
15 (661) 265-0969 (661) 265-1650 fax
Attorneys for Quartz Hill Water District
- 16 CALIFORNIA WATER SERVICE COMPANY
John Tootle, Bar No. 181822
17 2632 West 237th Street
Torrance, CA 90505
18 (310) 257-1488; (310) 325-4605-fax
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LAW OFFICES OF
BEST BEST & KRIEGER LLP
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

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TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

Cross Complainants Littlerock Creek Irrigation District, Desert Lakes Community Services District, Palmdale Water District, Quartz Hill Water District, Palm Ranch Irrigation District, North Edwards Water District, California Water Service Company, Los Angeles County Waterworks District No. 40, Rosamond Community Services District, and the City of Palmdale, by and through their attorneys of record, hereby exchange, pursuant to Code of Civil Procedure Section 2034.260: (1) a list containing the name and address of each person whose expert opinion testimony that the parties expect to offer at trial, whether orally or by deposition testimony; (2) an expert witness declaration for each such person pursuant to Code of Civil Procedure Sections 2034.210 (b) and 2034.260 (c); and (3) an expert witness report attached hereto as Exhibit "1."

I. List of Experts expected to testify at trial on behalf of cross-complainants:

- A. Joseph Scalmanini
Luhdorff and Scalmanini
500 First Street
Woodland, California 95695
Telephone: (530) 661-0109
- B. Mark Wildermuth
Wildermuth Environmental, Inc.
23692 Birtcher Drive
Lake Forest, California 92630
Telephone: (949) 420-3030
- C. Robert Beeby
Beeby Engineering, Inc.
200 Longhorn Lane
Ojai, California 93023-4203
Telephone: (805) 646-8652

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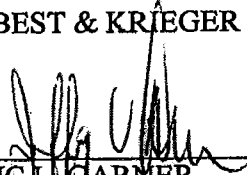
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D. Peter Leffler
Fugro West Associates
1000 Broadway, Suite 200
Oakland, California 94607
Telephone: (510) 267-4415

Dated: July 15, 2010

BEST BEST & KRIEGER LLP

By



ERIC L. GARNER
JEFFREY V. DUNN
STEFANIE D. HEDLUND
Attorneys for Cross-Complainants
ROSAMOND COMMUNITY SERVICES
DISTRICT and LOS ANGELES
COUNTY WATERWORKS DISTRICT
NO. 40

LAW OFFICES OF
BEST BEST & KRIEGER LLP
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

1 I, Jeffrey V. Dunn, declare as follows:

2 1. I am a California licensed attorney and a partner with Best Best & Krieger LLP,
3 attorneys of record for Rosamond Community Services District and Los Angeles County
4 Waterworks District No. 40. I have personal knowledge of each of fact stated in this declaration.

5 2. Cross-complainants Littlerock Creek Irrigation District, Desert Lakes Community
6 Services District, Palmdale Water District, Quartz Hill Water District, Palm Ranch Irrigation
7 District, North Edwards Water District, California Water Service Company, Los Angeles County
8 Waterworks District No. 40, Rosamond Community Services District, and the City of Palmdale,
9 (collectively, "Public Water Suppliers") intend to offer at trial, either orally or by deposition
10 testimony from the following experts: Mr. Joseph Scalmanini; Mr. Mark Wildermuth; Mr. Robert
11 Beeby; and Mr. Peter Leffler.

12 3. All experts named have agreed to testify as expert witnesses at the Phase 3 trial.

13 4. Attached to this declaration as Exhibit "2" are the resumes of Mr. Joseph
14 Scalmanini, Mr. Mark Wildermuth, Mr. Robert Beeby, and Mr. Peter Leffler.

15 5. Mr. Scalmanini is a registered civil engineer in California and president of
16 Luhdorff and Scalmanini, Consulting Engineers, Inc., which specializes in geologic, hydrologic
17 and engineering work associated with the investigation, assessment, development and
18 management of groundwater resources throughout California, and which also specializes in water
19 resources engineering work for municipal, agricultural, and industrial water supply throughout
20 California. Mr. Scalmanini has conducted and directed groundwater assessments and
21 investigations, developed and implemented groundwater monitoring and management programs,
22 designed groundwater development projects, and conducted and directed water resources
23 engineering projects throughout California over the last 40 years. Prior to the founding of
24 Luhdorff and Scalmanini, Consulting Engineers in 1980, Mr. Scalmanini was a Development
25 Engineer at the University of California, Davis, where he directed applied research in
26 groundwater and taught classes in Hydraulics and Principles of Groundwater Management; his
27 association with the University continues as an instructor in a University Extension class on
28 groundwater hydrology and law.

1 6. Mr. Scalmanini will testify as to characteristics and hydrologic conditions of the
2 groundwater in the Antelope Valley Groundwater Adjudication Area (“Basin”). Mr. Scalmanini
3 will testify concerning the Basin’s sustainable yield and geology and the occurrence of
4 groundwater in the Basin. Mr. Scalmanini’s testimony will include historic groundwater
5 conditions, effects of groundwater development and the current status and past changes in
6 groundwater conditions. Mr. Scalmanini will also be prepared to offer rebuttal testimony
7 concerning the groundwater conditions analyses prepared by other experts.

8 7. Mr. Wildermuth is the founder and president of Wildermuth Environmental and
9 has over 33 years of experience in water resources engineering and planning, including surface
10 and groundwater hydrology and hydraulics, water resources planning, surface water and
11 groundwater hydrology and hydraulics, water resources planning, surface water and groundwater
12 computer simulation modeling, water rights and surface water and groundwater quality. Mr.
13 Wildermuth had extensive expertise in the development of water resource management plans for
14 groundwater basins and watersheds in Southern California, including the Chino Basin. Mr.
15 Wildermuth is a California registered professional civil engineer.

16 8. Mr. Wildermuth will testify as to the Basin’s water resources. Mr. Wildermuth
17 will offer opinions regarding historic and current groundwater levels, land subsidence, water
18 supplies, groundwater storage and natural recharge and changes in groundwater storage. Mr.
19 Wildermuth will also provide rebuttal testimony regarding other experts’ analyses related to
20 historic and current groundwater levels, land subsidence, water supplies, groundwater storage and
21 natural recharge and changes in groundwater storage.

22 9. Mr. Beeby is currently the principal of Beeby Engineering, Inc., and has over 40
23 years of engineering experience in project planning and management of water resources for a
24 wide range of clients, including agricultural and urban water purveyors, power providers, federal,
25 state and local governmental agencies. He has served as principal-in-charge and directed
26 technical studies related to the adjudication of pumping rights of several groundwater basins,
27 served on Technical Expert Committees appointed to develop the factual aspects of groundwater
28 basins under adjudication, directed the studies leading to water management programs/exchanges

1 between agricultural and urban interest, developed regional plans for management of surface and
2 groundwater resources, directed studies relating to technical and economic feasibility of
3 agricultural water projects and has managed the preliminary design and construction phases of
4 major water resource facilities. Mr. Beeby has provided expert witness testimony since 1980 in
5 numerous proceedings relating to land, water use, groundwater adjudications and water rights.
6 He has testified before a Special Master appointed by the Supreme Court in Arizona v. California,
7 the California State Water Resources Control Board, and groundwater adjudications, such as the
8 Santa Maria Valley Groundwater Cases. Mr. Beeby is a registered civil engineer in California,
9 Arizona, New Mexico, South Dakota and Washington. Mr. Beeby is also a California registered
10 agricultural engineer.

11 10. Mr. Beeby will testify as to agricultural crop requirements, applied water for
12 irrigation and return flows from agricultural irrigation in the Antelope Valley. Mr. Beeby will
13 also be prepared to offer rebuttal testimony regarding other experts' analyses of agricultural crop
14 requirements, applied water for irrigation and return flows from agricultural irrigation.

15 11. Mr. Leffler has more than 20 years of experience performing hydrogeologic
16 studies in California. His experience includes groundwater basin analysis and management;
17 groundwater modeling, design and construction of water wells, test wells, and monitoring wells;
18 pumping tests and data analysis; evaluation of artificial recharge options, evaluation of bedrock
19 groundwater flow and yields from bedrock wells, water resource planning, water quality,
20 contaminant hydrogeology, and surface water and groundwater interaction. Mr. Leffler is a
21 California registered geologist and certified hydrogeologist.

22 12. Mr. Leffler will offer testimony regarding characteristics of bedrock surrounding
23 the Antelope Valley and potential flows of groundwater through those materials into the Basin.
24 Mr. Leffler will also offer rebuttal testimony regarding other experts' analyses regarding
25 characteristics of bedrock surrounding the Antelope Valley and potential flows of groundwater
26 through those materials into the Basin.

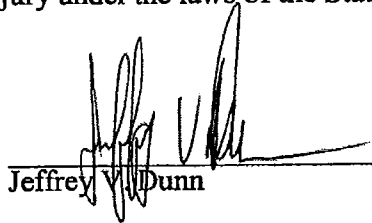
27 13. Mr. Scalmanini, Mr. Wildermuth, Mr. Leever, Mr. Beeby, and Mr. Leffler are
28 sufficiently familiar with the pending action to submit a meaningful oral deposition concerning

1 their respective testimony, including their expert opinions and the basis for their opinions.

2 14. Mr. Scalmanini's hourly fee for depositions and trial testimony is \$470.00 plus
3 travel time. Mr. Wildermuth's hourly fee for depositions and trial testimony is \$450.00 plus
4 travel time. Mr. Beeby's hourly fee for depositions and trial testimony is \$340.00 plus travel
5 time. Mr. Leffler's hourly fee for depositions and trial testimony is \$400.00 plus travel time.

6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct.

8 Date: July 15, 2010

9 
Jeffrey V. Dunn

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1 **PROOF OF SERVICE**

2 I, Kerry V. Keefe, declare:

3 I am a resident of the State of California and over the age of eighteen years, and
4 not a party to the within action; my business address is Best Best & Krieger LLP, 5 Park Plaza,
Suite 1500, Irvine, California 92614. On July 15, 2010, I served the within document(s):

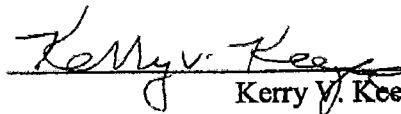
5 **PUBLIC WATER SUPPLIERS' EXPERT DESIGNATION FOR PHASE III TRIAL
6 AND EXPERT DECLARATION**

- 7 by posting the document(s) listed above to the Santa Clara County Superior Court
8 website in regard to the Antelope Valley Groundwater matter.
- 9 by placing the document(s) listed above in a sealed envelope with postage thereon
10 fully prepaid, in the United States mail at Irvine, California addressed as set forth
below.
- 11 by causing personal delivery by ASAP Corporate Services of the document(s)
12 listed above to the person(s) at the address(es) set forth below.
- 13 by personally delivering the document(s) listed above to the person(s) at the
14 address(es) set forth below.
- 15 I caused such envelope to be delivered via overnight delivery addressed as
16 indicated on the attached service list. Such envelope was deposited for delivery
17 by Federal Express following the firm's ordinary business practices.

18 I am readily familiar with the firm's practice of collection and processing
19 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
20 Service on that same day with postage thereon fully prepaid in the ordinary course of business. I
am aware that on motion of the party served, service is presumed invalid if postal cancellation
date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

22 Executed on July 15, 2010, at Irvine, California.

23
24 
25 _____
Kerry V. Keefe

LAW OFFICES OF
BEST BEST & KRIEGER LLP
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

EXHIBIT “D”

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 316

HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550B))
ANTELOPE VALLEY GROUNDWATER CASES))
-----))

JUDICIAL COUNCIL
COORDINATION
NO. JCCP4408

PALMDALE WATER DISTRICT AND)
QUARTZ HILL WATER DISTRICT,)
CROSS-COMPLAINANTS,)

SANTA CLARA CASE NO.
1-05-CV-049053

VS.

LOS ANGELES COUNTY WATERWORKS,)
DISTRICT NO. 40, ET AL,)
CROSS-DEFENDANTS.)
-----))

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, FEBRUARY 14, 2011

APPEARANCES:

(SEE APPEARANCE PAGES)

GINGER WELKER, CSR #5585
OFFICIAL REPORTER

1 CASE NUMBER: JCCP 4408
2 CASE NAME: ANTELOPE VALLEY
3 LOS ANGELES, CALIFORNIA, MONDAY, FEBRUARY 14, 2011
4 DEPARTMENT NO. 316 HON. JACK KOMAR
5 REPORTER GINGER WELKER, CSR #5585
6 TIME: 1:30 P.M.
7 APPEARANCES: (SEE TITLE PAGE)
8

9 THE COURT: ALL RIGHT. GOOD AFTERNOON. THIS IS
10 THE TIME THAT WE WERE GOING THE HEAR OBJECTIONS TO
11 EVIDENCE AND EXHIBITS, I PRESUME, WITH REGARD TO
12 MR. SCALMANINI'S TRIAL TESTIMONY.

13 WHO WANTS TO START ON THAT? MR. ZIMMER?

14 MR. ZIMMER: GOOD AFTERNOON, YOUR HONOR.

15 THE COURT: GOOD AFTERNOON. BEFORE YOU START, LET
16 ME ASK, HAVE YOU CONFERRED AT ALL WITH COUNSEL ON YOUR
17 SIDE OF THE CASE WITH THE OBJECTIONS SO WE DON'T HAVE
18 REPETITION?

19 MR. ZIMMER: NO -- JUST KIDDING, YES, I HAVE.
20

21 (LAUGHTER)
22

23 MR. ZIMMER: I'M SURE THEY WILL HAVE A FEW
24 COMMENTS.

25 THE COURT: NO DOUBT.

26 MR. ZIMMER: I HAVE THREE PARTS THAT I'LL BE
27 DISCUSSING YOUR HONOR:

28 THE FIRST PART IS THE FACTUAL AND PROCEDURAL

1 THE COURT: JUST DESCRIBE THEM.

2 MR. ZIMMER: THE FIRST THING THAT IS INCLUDED IS
3 PAGE 7 WHICH COMES OUT OF THE EXPERT DESIGNATION BY THE
4 PURVEYORS. IT DISCUSSES WHAT MR. LEFFLER WILL GIVE
5 TESTIMONY ON.

6 THE COURT: LET ME SEE THAT, MARTY.

7 MR. ZIMMER: THAT IS THE FIRST PAGE OF WHAT IS
8 MARKED AS C3, PARAGRAPH 12. MR. LEFFLER WAS RETAINED
9 FOR TESTIMONY REGARDING THE CHARACTERISTICS OF BEDROCK
10 SURROUNDING ANTELOPE VALLEY AND POTENTIAL FLOWS OF
11 GROUNDWATER THROUGH THOSE MATERIALS INTO THE BASIN.

12 MR. LEFFLER WILL ALSO OFFER REBUTTAL
13 TESTIMONY REGARDING OTHER EXPERTS ANALYSIS REGARDING
14 CHARACTERISTICS OF BEDROCK SURROUNDING ANTELOPE VALLEY
15 AND POTENTIAL FLOWS OF GROUNDWATER THROUGH THOSE
16 MATERIALS INTO BASIN.

17 THE NEXT DOCUMENT THE COURT WILL SEE IN THAT
18 PACKAGE IS AN OBJECTION BY CHRIS SANDERS, THE LOS
19 ANGELES COUNTY SANITATION ATTORNEY. AND ON PAGE 2 OF
20 THAT DOCUMENT, LINES 3 THROUGH 9, MR. SANDERS OBJECTED
21 TO THE DEPOSITION NOTICE OF MR. LEFFLER ON THE GROUND
22 THAT IT CALLED FOR INFORMATION OUTSIDE THE SCOPE OF THE
23 EXPERT DESIGNATIONS; THAT HE WAS DESIGNATED BY THE
24 PUBLIC WATER SUPPLIERS FOR THE LIMITED PURPOSE OF
25 PROVIDING EXPERT'S TESTIMONY AND REBUTTAL TESTIMONY
26 REGARDING THE CHARACTERISTICS OF BEDROCK CONCERNING THE
27 ANTELOPE VALLEY, ET CETERA.

28 THE NEXT DOCUMENT AFTER THAT IS --

1 THE COURT: HOLD ON JUST A MINUTE. THAT WAS
2 PAGE 2, LINES --

3 MR. WEEKS: IF COUNSEL IS GOING TO OBJECT TO A
4 PARTICULAR PAGE, LINE AND PAGE OF TESTIMONY, I'M
5 PREPARED TO DEAL WITH THAT. I THOUGHT HE WAS GOING TO
6 OBJECT TO SOME PORTION OF MR. SCALMANINI'S DEPOSITION ON
7 SUBSIDENCE, AND NOW WE ARE TALKING ABOUT MR. LEFFLER.

8 THE COURT: ONE OBJECTION AT A TIME. SO LET'S
9 HEAR WHAT HE HAS TO SAY. SO THE FIRST OBJECTION THAT
10 YOU ARE MAKING HERE REGARDS TO MR. LEFFLER; IS THAT
11 CORRECT.

12 MR. ZIMMER: THIS BEARS ON MR. SCALMANINI'S
13 OPINIONS. WHAT I DID IS I SPENT SEVERAL HOURS LAST
14 NIGHT GOING THROUGH AND TRYING TO SYNTHESIZE THE
15 OBJECTIONS, AND THIS IS FOUNDATIONAL TO THE OBJECTIONS
16 WHICH WILL FOLLOW. I HAVE GREATLY REDUCED THE NUMBER OF
17 OBJECTIONS, FOR EXAMPLE, THAT I MADE AT TRIAL TO A
18 CERTAIN NUMBER OF OBJECTIONS THAT BEAR ON THE ISSUES
19 THAT WE ARE DISCUSSING NOW.

20 FOR EXAMPLE, MR. LEFFLER PROVIDED ALL THE
21 RECYCLED WATER ANALYSIS. IT IS RECYCLED WATER ANALYSIS
22 THAT THEY ARE NOW ATTEMPTING TO O USE THROUGH
23 MR. SCALMANINI. SO THIS IS THE FOUNDATION FOR THAT
24 OBJECTION.

25 THE COURT: ALL RIGHT. DO YOU HAVE A COPY OF THE
26 DISCLOSURE FROM MR. SCALMANINI?

27 MR. ZIMMER: I DO, YOUR HONOR.

28 THE COURT: IT IS NOT INCLUDED IN THIS?

1 MR. ZIMMER: I CAN PROVIDE A COPY TO THE COURT. I
2 DON'T HAVE AN EXTRA COPY RIGHT AT THE MOMENT, BUT I
3 WOULD BE HAPPY TO PROVIDE THE ENTIRE --

4 THE COURT: IT WOULD BE HELPFUL FOR ME TO READ IT.

5 MR. ZIMMER: MARK THIS AS NEXT IN ORDER.

6 THE COURT: YES, HAND IT TO THE COURT. WHILE HE
7 IS GONE -- YES, YOU MAY.

8 DO YOU WANT IT MARKED NEXT IN ORDER?

9 MR. ZIMMER: THAT WOULD FINE.

10 THE COURT: THE LAST ONE WAS.

11 MR. ZIMMER: C3 -- SO THIS WOULD BE C4.

12 THE COURT: MAKE THIS C4.

13

14 (BOLTHOUSE PROPERTIES EXHIBIT C4
15 MARKED.)

16

17 THE CLERK: YOUR EXHIBITS WERE C?

18 MR. ZIMMER: MINE WERE C, AND I BELIEVE WE WERE AT
19 THREE.

20 THE COURT: ALL RIGHT. GO AHEAD, MR. ZIMMER.

21 MR. ZIMMER: WHAT THE COURT WILL SEE NEXT IN THE
22 PACKAGE IS SIMPLY ANOTHER OBJECTION BY MR. SANDERS WHEN
23 THE DEPOSITION WAS RESET. BUT FOLLOWING THAT IS A
24 DEPOSITION FROM BEST, BEST AND KRIEGER WITH BEST, BEST
25 AND KRIEGER ON THE TOP LEFT CORNER.

26 THE COURT: ALL RIGHT.

27 MR. ZIMMER: ENTITLED "OBJECTIONS TO BOLTHOUSE
28 NOTICE OF DEPOSITION OF EXPERT PETER LEFFLER." IF THE

1 COURT WILL TURN TO PAGE 2 OF THAT DOCUMENT, LINES 13
2 THROUGH 17, I WON'T READ THE WHOLE SECTION THERE, BUT IT
3 SAYS, "MR. LEFFLER HAS BEEN DESIGNATED BY THE PUBLIC
4 WATER SUPPLIERS FOR A LIMITED PURPOSE OF PROVIDING
5 EXPERT TESTIMONY AND REBUTTAL TESTIMONY REGARDING
6 CHARACTERISTICS OF BEDROCK SURROUNDING THE ANTELOPE
7 VALLEY AND POTENTIAL FLOWS OF GROUNDWATER THROUGH
8 MATERIALS INTO THE BASIN."

9 WHAT FOLLOWS AFTER THAT IS SIMPLY ANOTHER
10 OBJECTION BY LA COUNTY.

11 THE COURT: I'M NOT FINDING THAT IN THIS DOCUMENT.

12 MR. ZIMMER: SHOULD BE PAGE --

13 THE COURT: ARE YOU TALKING ABOUT PAGE 7 OF THE
14 DISCLOSURES?

15 MR. ZIMMER: NO. THIS IS AN OBJECTION FILED BY
16 BEST, BEST AND KRIEGER. IT HAS BEST, BEST AND KRIEGER
17 LETTERHEAD UP HERE ON THE LEFT SIDE, AND IT IS ENTITLED
18 "OBJECTIONS." IT SHOULD BE JUST AFTER MR. SANDERS'
19 OBJECTIONS ON BEHALF OF LA COUNTY.

20 THE COURT: I SEE AN OBJECTION TO THE TAKING OF
21 THE BOLTHOUSE --

22 MR. ZIMMER: BEST, BEST, KRIEGER, YOUR HONOR?

23 THE COURT: NO, IT IS ELLIS, SCHNEIDER AND --

24 MR. ZIMMER: NO, KEEP GOING DOWN. IT SHOULD BE
25 THE NEXT ONE.

26 THE COURT: OKAY.

27 MR. ZIMMER: IF YOU LOOK ON PAGE 2 OF THAT
28 DOCUMENT, 11 THROUGH 16 OR 17, THAT IS THE LANGUAGE THAT

1 I JUST READ.

2 THE CLERK: IF I MAY C3 WILL BE FINE FOR THAT.

3 THE COURT: C3. TELL ME AGAIN WHAT YOUR POSITION
4 WITH REGARDS TO MR. LEFFLER?

5 MR. ZIMMER: OUR POSITION REGARDING MR. LEFFLER IS
6 THAT MR. SCALMANINI IS ATTEMPTING TO GET INTO EVIDENCE
7 INFORMATION ON RECYCLED WATER IN A VERY BROAD CONTEXT,
8 MANY DIFFERENT ISSUES, AND ATTEMPTING TO GET THAT BEFORE
9 THE COURT WHEN WE WERE DENIED THE ABILITY TO DEPOSE
10 MR. LEFFLER ON THAT ISSUE AND I WILL GET TO THE
11 DEPOSITION HERE I'VE GOT ATTACHED ON EXHIBIT C3 AS WELL.

12 THE COURT: WELL, WHAT I'M LOOKING AT HERE ON
13 ELEVEN, TWO, SIXTEEN (SIC) SAYS -- AN ATTEMPT TO DOUBLE
14 SET MR. LEFFLER, AND THAT WAS THE OBJECTION.

15 MR. ZIMMER: THE OBJECTION FROM BEST, BEST, AND
16 KRIEGER?

17 THE COURT: YES.

18 MR. ZIMMER: IT MUST BE ON THE WRONG LINE. LET'S
19 SEE.

20 THE COURT: LINE 15 TELLS YOU WHETHER HE WAS
21 DESIGNATED AS ... BEDROCK AND FLOWS THROUGH THE
22 BEDROCK.

23 MR. ZIMMER: RIGHT, BUT ON THE ACTUAL OBJECTION --

24 THE COURT: GROUNDWATER, I SHOULD SAY.

25 MR. ZIMMER: THE OBJECTION THAT LOS ANGELES COUNTY
26 FILED THROUGH BEST, BEST, AND KRIEGER ON PAGE 2 OF THE
27 OBJECTION, LINES 13 THROUGH 17, THEY OBJECT ESSENTIALLY
28 ON THE SAME GROUNDS THAT LA COUNTY SANITATION OBJECTED.

1 AND THAT WAS THEY HAVE BEEN DESIGNATED FOR THE SOLE
2 PURPOSE OF PROVIDING TESTIMONY ON BEDROCK INFILTRATION
3 AND REBUTTAL ON BEDROCK INFILTRATION.

4 THE COURT: DID YOU TAKE MR. LEFFLER'S DEPOSITION?

5 MR. ZIMMER: NO, WE WEREN'T ALLOWED TO TAKE HIS
6 DEPOSITION ON RECYCLED WATER.

7 THE COURT: WAS THERE AN ORDER THAT NOT BE TAKEN?

8 MR. ZIMMER: A STIPULATION.

9 THE COURT: WELL --

10 MR. ZIMMER: WE TOOK HIS DEPOSITION ON BEDROCK
11 INFILTRATION. WE BY STIPULATION DID NOT TAKE HIS
12 DEPOSITION ON RECYCLED WATER BECAUSE OF THE OBJECTION
13 AND BECAUSE OF THE STIPULATION OF COUNSEL THAT THERE
14 WOULD BE NO TESTIMONY ABOUT RECYCLED WATER.

15 THE COURT: THAT WAS AN AGREED TO STIPULATION?

16 MR. ZIMMER: YES. I'M GETTING DOWN TO THAT. I
17 WAS JUST KIND OF GIVING YOUR HONOR THE HISTORY.

18 THE COURT: ALL RIGHT. GO AHEAD.

19 MR. ZIMMER: ALSO, CONTAINED IN THAT PACKAGE IS A
20 JANUARY 14TH DOWN A WAYS -- IT IS PROBABLY FROM THE
21 BOTTOM IS -- EIGHT SHEETS FROM THE BOTTOM IS AN EMAIL
22 BETWEEN MR. SANDERS AND MYSELF DISCUSSING THIS ISSUE.
23 AND IN THE LAST DOCUMENT, PROBABLY MOST IMPORTANT IN
24 THAT PACKAGE IS FOUR PAGES UP FROM THE BOTTOM --
25 ACTUALLY SIX PAGES FROM THE BOTTOM IS THE EMAIL.

26 THE COURT: YEAH, I'M LOOKING. THE FINAL DOCUMENT
27 ATTACHED FOUR PAGES UP FROM THE BOTTOM IS PAGE 29 OF THE
28 BEGINNING OF THE DEPOSITION OF MR. LEFFLER. AND ON

1 AND COULDN'T PUT ON EVIDENCE OF SPECIFIC PUMPING.

2 THE COURT TOLD ALL PARTIES THAT I WILL NOT
3 BE ACCEPTING SPECIFIC PUMPING BY ANY PARTY TO BE PUMPING
4 AS TO THAT PARTY. WHAT I'M DOING IN THIS PHASE WILL BE
5 SAFE YIELD, OVERDRAFT, WHETHER THE COURT NEEDS TO
6 EXERCISE EQUITABLE JURISDICTION. THOSE ARE THE FINDINGS
7 THAT WE ARE MAKING, AND EVERYTHING ELSE WILL BE SIMPLY
8 HEARSAY THAT THE EXPERT RELIED UPON TO FORM HIS OPINION
9 IF IT IS PROPERLY USED IN THAT MANNER.

10 THE COURT: WELL, ISN'T THAT A PROPER BASES FOR AN
11 EXPERT TO OPINE?

12 MR. ZIMMER: WELL, THE INQUIRY IN MY MIND IS: IS
13 IT THE TYPE OF HEARSAY THAT AN EXPERT WOULD NORMALLY
14 RELY ON? FOR EXAMPLE, IF I CITED MR. JOYCE ON
15 SUBSIDENCE, THAT PROBABLY WOULDN'T BE A PROPER BASIS FOR
16 SUBSIDENCE. NO OFFENSE, MR. JOYCE.

17 THE COURT: I SUPPOSE THAT DEPENDS ON WHAT HE IS
18 SUBSIDING. THAT AS IT MAY.

19

20 (LAUGHTER)

21 .

22 MR. ZIMMER: THE SECOND ISSUE IS HOW IT IS BEING
23 USED. TYPICALLY, IT IS NOT -- IT CANNOT BE ADMITTED FOR
24 THE TRUTH OF THE MATTER; IT IS BEING ADMITTED SOLELY TO
25 THE EXTENT THAT THE COURT DOES ADMIT IT IF IT IS THE
26 KIND OF HEARSAY THAT THE EXPERT WOULD NORMALLY RELY ON.

27 THE DETAILS ON IT AS I READ FROM THE ONE
28 CASE, THE CONTINENTAL CASE, I BELIEVE IT WAS, THE

1 DETAILS OF IT ARE RELEVANT. SO WE HAVE A NUMBER OF
2 THESE EXHIBITS THAT HAVE ALL MANNER OF SUPPOSED PUMPING,
3 AGRICULTURAL PUMPING, THOSE ACTUAL NUMBERS WERE NOT
4 VERIFIED BY MR. SCALMANINI IN ANY WAY.

5 NOW, HE MAY BE RELYING ON THAT AND MAYBE
6 SOMETHING AN EXPERT NORMALLY RELIES ON; BUT TRULY FROM A
7 FINANCIAL STANDPOINT, HE DIDN'T VERIFY ANY OF THOSE
8 NUMBERS. SO THE POTENTIAL PROBLEM IN ADMITTING SOME OF
9 THESE EXHIBITS AS IT SUGGESTS THAT THAT IS ACTUAL DATA
10 AS OPPOSED TO SOMETHING THAT THE EXPERT MERELY RELIED
11 ON. TO THE EXTENT THAT IT IS SOMETHING THAT THE EXPERT
12 MERELY RELIED ON, THE DETAILS OF IT, AS THE CONTINENTAL
13 CASE POINTED OUT ARE INADMISSIBLE.

14 THE COURT: I THINK YOU ARE OVERREADING THE
15 CONTINENTAL CASE.

16 MR. ZIMMER: THE SECOND ASPECT OF THIS IS
17 IMPORTANT, AND I'LL GET INTO IT IN A MINUTE WITH SOME OF
18 THESE OTHER EXHIBITS IS THE ISSUE OF RECYCLED WATER.
19 AND I'LL POINT TO A FEW EXHIBITS WHERE WE HAVE GOT THE
20 RECYCLED WATER.

21 SO IT IS MY UNDERSTANDING AS TO ANY OF THESE
22 EXHIBITS WHETHER THE COURT INTRODUCES THEM OR NOT TO THE
23 EXTENT THEY HAVE ANY PUMPING DATA ON THEM, IT'S NOT
24 OFFERED FOR THE TRUTH OF THE MATTER, BUT MERELY AS SOME
25 INDICATION OF WHAT THE EXPERT WAS RELYING ON.

26 THE COURT: TO SHOW THE BASIS OF THE EXPERT'S
27 ESTIMATE OF PUMPING AND RECHARGE.

28 MR. ZIMMER: ON A GROSS BASIS?

1 THE COURT: YES.

2 MR. ZIMMER: IN THAT CASE, YOUR HONOR, I WOULD
3 MOVE TO EXHIBIT 68 WHICH IS, I THINK, OUR FIRST
4 INDICATION OF THIS THREE-CYCLE WATER ISSUE. IF YOU LOOK
5 AT ABOUT TWO-THIRDS ACROSS THE PAGE GOING FROM LEFT TO
6 RIGHT, TOP COLUMN, WE HAVE "WRP'S RECYCLED WATER
7 FOLLOWED BY TOTAL SURFACE AND RECYCLED WATER."

8 ONCE, AGAIN, WE WERE PROHIBITED FROM
9 DISCUSSING ANY RECYCLED WATER ISSUES WITH THE EXPERT WHO
10 DID THAT ANALYSIS. AND ALL OF THESE NUMBERS ARE
11 IMPROPERLY -- AN IMPROPER ATTEMPT TO ADMIT THOSE THROUGH
12 THIS EXPERT, AND IT NEED TO BE CLEAR THAT WE WERE NOT
13 GIVEN AN OPPORTUNITY TO CHALLENGE ANY OF THOSE NUMBERS.

14 EXHIBIT 71, AND WE HAVE TALKED ABOUT THAT
15 ENOUGH. LIKEWISE, ON RECYCLED WATER, EXHIBIT 74,
16 THERE'S ANOTHER DEPICTION OF RECYCLED WATER. NONE OF
17 THIS WAS MR. SCALMANINI'S ANALYSIS. WE WERE PRECLUDED
18 FROM EXAMINING MR. LEFFLER ON ANY OF THESE ISSUES WITH
19 REGARD TO RECYCLED WATER. IT WAS ALL BASED ON HIS
20 EXAMINATION. THE SAME WOULD BE TRUE FOR EXHIBIT 75
21 WHICH DEALS WITH HISTORICAL RECYCLED WATER.

22 76 ALSO INCORPORATES RECYCLED WATER.
23 EXHIBIT 77 INCORPORATES RECYCLED WATER.

24 DID THE COURT GET THE LAST ONE, EXHIBIT 77?

25 THE COURT: YES.

26 MR. ZIMMER: MOVING ON TO EXHIBIT 78, THE COURT
27 STATED PREVIOUSLY THAT THE COURT IS GOING TO DETERMINE
28 PROPER DEFINITIONS FOR SAFE YIELD. THE COURT WILL NOTE

1 FROM THE CROSS-EXAMINATION OF MR. SCALMANINI THAT HE
2 DIDN'T DO A SAFE YIELD ANALYSIS INVOLVING THE MAXIMUM
3 AMOUNT OF WATER WITHDRAWN FROM A GROUNDWATER BASIN.

4 HERE IN EXHIBIT 78, THERE IS AN ATTEMPT TO
5 SPLIT OUT NATIVE SUSTAINABLE YIELD, SOMETHING CALLED
6 NATIVE SUSTAINABLE YIELD, WHICH SAN FERNANDO DOESN'T
7 DISCUSS AT ALL.

8 AND ON EXHIBIT 79 THERE IS A NATIVE AND
9 SUPPLEMENTAL SUSTAINABLE YIELD. THESE ARE NOT SAFE
10 YIELD -- IS NOT A SAFE YIELD ANALYSIS. AND I MAKE THE
11 SAME COMMENTS ON A PREVIOUSLY -- MISCONSTRUES WHAT THE
12 LAW IS ON SAFE YIELD.

13 IN TERMS OF -- THERE ARE NUMEROUS OTHER
14 EXHIBITS THAT FOLLOW THAT -- THAT HAVE IN MY VIEW THE
15 SAME PROBLEM. THE PROBLEM FROM THE PRACTITIONER'S
16 STANDPOINT IS THAT LATER ON REVIEW IF SOMEONE WERE TO
17 REVIEW IN COURT THINKS THAT SOMEHOW THIS WAS SAFE YIELD
18 OR SOMEHOW RELIED UPON BY THE COURT AS, QUOTE, SAFE
19 YIELD, THEN THERE'S GOING TO BE A SIGNIFICANT PROBLEM IN
20 TERMS OF WHAT THE ACTUAL DEFINITION WAS.

21 BUT I THANK THE COURT FOR CLARIFYING THAT
22 YOU ARE GOING TO DETERMINE SAFE YIELD; AND THAT THERE
23 WILL BE A DETERMINATION OF THAT AS OPPOSED TO THE
24 POTENTIAL PROBLEMS WE HAVE HERE IN TERMS OF DEFINITIONS.

25 I THINK THOSE, YOUR HONOR, GENERALLY, ARE MY
26 COMMENTS ON THOSE TOPICS. I -- MAYBE SOME OTHER
27 COMMENTS BY OTHER COUNSEL, BUT THAT GENERALLY SPEAKING
28 IS WHAT I HAD TO SAY. THANK YOU.

1 THE COURT: THANK YOU. IN THE NEXT THREE MINUTES,
2 DOES ANYBODY WANT TO TELL ME WHAT THEY WANT TO TELL ME?

3 MR. ZIMMER: OH, YOUR HONOR, EXHIBIT 104 IS A
4 COMPLETE COPY OF THE REPORT, OBVIOUSLY, ALL SORT OF
5 HEARSAY IN THAT.

6 EXHIBIT 105, THE SAME THING, IT IS COMPLETE
7 REPORT.

8 the reporter: DID YOU SAY "INCOMPLETE"?

9 MR. ZIMMER: A COMPLETE REPORT. EXHIBIT -- I
10 THINK THAT WAS IT. MR. JOYCE IS ADDING THAT 106 AND 107
11 AND 108 ARE LIKEWISE COMPLETE REPORTS CONTAINING
12 OBJECTIONABLE HEARSAY.

13 THE COURT: THANK YOU.

14 MR. ROBERT KUHS: YOUR HONOR, ROBERT KUHS FOR
15 TEJON RANCH CORP. JUST SO THE RECORD IS CLEAR, WE WOULD
16 OBJECT TO EXHIBITS 62, 63, 64, 68, 73, 75, 76, 77.

17 AS MR. ZIMMER INDICATED ALL OF THOSE
18 EXHIBITS HAVE INFORMATION RELATING TO INDIVIDUALIZED
19 PUMPING AND INDIVIDUALIZED SERVICE DELIVERIES AND
20 INDIVIDUAL CALCULATIONS OF RECYCLED WATER.

21 UNDER THE CONTINENTAL CASE, I THINK IT IS
22 CLEAR THAT THE DETAILS DON'T COME IN; BUT IF THEY COME
23 IN, I WOULD ASK THE COURT TO MAKE IT CLEAR THAT THEY ARE
24 COMING IN NOT FOR THE TRUTH OF THE MATTER ASSERTED.

25 THE COURT: THEY ARE SO FAR COMING IN AS THE BASIS
26 FOR MR. SCALMANINI'S OPINION. HE HAS AN OPINION. AND
27 THE VALIDITY OF HIS OPINION DETERMINES THE WEIGHT OF THE
28 EVIDENCE THAT UPON WHICH HE BASIS IT. THAT IS SOMETHING

EXHIBIT “E”

1 ELLISON, SCHNEIDER & HARRIS L.L.P.
2 Christopher M. Sanders (SBN: 195990)
3 2600 Capitol Avenue, Suite 400
4 Sacramento, California 95816
5 Telephone: (916) 447-2166
6 Facsimile: (916) 447-3512

EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103

Attorneys for Cross-Defendants County Sanitation Districts Nos. 14 and 20 of Los Angeles
County

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

**ANTELOPE VALLEY
GROUNDWATER CASES**

Judicial Council Coordination No. 4408

CLASS ACTION

Included Actions:

Santa Clara Case No.: 1-05-CV-049053

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
Superior Court of California, County of
Los Angeles, Case No. BC 325 201

ASSIGNED FOR ALL PURPOSES TO:
Judge: Honorable Jack Komar

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
Superior Court of California, County of
Kern, Case No. S-1500-CV-254-348

OBJECTIONS TO BOLTHOUSE RE-NOTICE
OF DEPOSITION OF EXPERT WITNESS
PETER LEFFLER AND REQUEST FOR
PRODUCTION OF DOCUMENTS

Wm. Bolthouse Farms, Inc. v. City of
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 353
840, RIC 344 436, RIC 344 668

Date: October 22, 2010
Time: 10:00 a.m.
Place: Ramada Inn - Burbank
2900 N. San Fernando Blvd.
Burbank, California 91504

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that COUNTY SANITATION DISTRICTS NOS. 14 AND 20
OF LOS ANGELES COUNTY (“Cross-Defendants”) object to Bolthouse Properties, LLC and

1 Wm. Bolthouse Farms Re-Notice of Deposition of Expert Witness Peter Leffler and Request for
2 Production of Documents (“Deposition Notice”), as follows:

3 Cross-Defendants object to the Deposition Notice on the grounds that it calls for
4 information outside the scope of the expert designation. Mr. Leffler has been designated by the
5 Public Water Suppliers for the limited purpose of providing expert testimony and rebuttal
6 testimony regarding characteristics of bedrock surrounding the Antelope Valley and potential
7 flows of groundwater through those materials into the Basin. Nothing in this objection, however,
8 limits the breadth or scope of future designation of this expert by Cross-Defendants, should this
9 designation be made.

10 SPECIFIC OBJECTIONS

11 1. Cross-Defendants object to this document request to the extent it is outside the scope of
12 the expert designation and calls for information protected by the attorney work product doctrine.

13 2. Cross-Defendants object to this document request to the extent it is outside the scope of
14 the expert designation and calls for information protected by the attorney work product doctrine.

15 3. Cross-Defendants object to this document request to the extent it is outside the scope of
16 the expert designation and calls for information protected by the attorney work product doctrine.

17 4. Cross-Defendants object to this document request to the extent it is outside the scope of
18 the expert designation and calls for information protected by the attorney work product doctrine.

19 5. Cross-Defendants object to this document request to the extent it is outside the scope of
20 the expert designation and calls for information protected by the attorney work product doctrine.

21 6. Cross-Defendants object to this document request to the extent it is outside the scope of
22 the expert designation and calls for information protected by the attorney work product doctrine.

23 7. Cross-Defendants object to this document request to the extent it is outside the scope of
24 the expert designation and calls for information protected by the attorney work product doctrine.

25 8. Cross-Defendants object to this document request to the extent it is outside the scope of
26 the expert designation and calls for information protected by the attorney work product doctrine.

27 9. Cross-Defendants object to this document request to the extent it is outside the scope of
28 the expert designation and calls for information protected by the attorney work product doctrine.

1 11. Cross-Defendants object to this document request to the extent it is outside the scope of
2 the expert designation and calls for information protected by the attorney work product doctrine.

3 12. Cross-Defendants object to this document request to the extent it is outside the scope of
4 the expert designation and calls for information protected by the attorney work product doctrine.

5 13. Cross-Defendants object to this document request to the extent it is outside the scope of
6 the expert designation and calls for information protected by the attorney work product doctrine.

7 15. Cross-Defendants object to this document request to the extent it is outside the scope of
8 the expert designation and calls for information protected by the attorney work product doctrine.

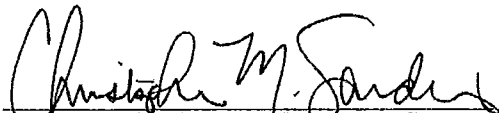
9 17. Cross-Defendants object to this document request to the extent it is outside the scope of
10 the expert designation and calls for information protected by the attorney work product doctrine.

11 18. Cross-Defendants object to this document request to the extent it is outside the scope of
12 the expert designation and calls for information protected by the attorney work product doctrine.

13 19. Cross-Defendants object to this document request to the extent it is outside the scope of
14 the expert designation and calls for information protected by the attorney work product doctrine.

15
16 Dated: October 11, 2010

ELLISON, SCHNEIDER & HARRIS L.L.P.

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19 By: 
20 CHRISTOPHER M. SANDERS
21 Attorneys for Cross-Defendants
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1 **PROOF OF SERVICE**

2 I declare that:

3 I am employed in the County of Sacramento, State of California. I am over the age of
4 eighteen years and am not a party to the within action. My business address is ELLISON,
5 SCHNEIDER & HARRIS, L.L.P.; 2600 Capitol Avenue, Suite 400; Sacramento, California
6 95816; telephone (916) 447-2166.

7 On October 11, 2010, I served the County Sanitation Districts' *OBJECTIONS TO*
8 *BOLTHOUSE RE-NOTICE OF DEPOSITION OF EXPERT WITNESS PETER LEFFLER AND*
9 *REQUEST FOR PRODUCTION OF DOCUMENTS* by electronic posting to the Santa Clara
10 Superior Court E-Filing website, <http://www.scefilng.org/cases/casehome.jsp?caseId=19>.

11 I declare under penalty of perjury that the foregoing is true and correct and that this
12 declaration was executed on October 11, 2010, at Sacramento, California.

13 

14 Patty Slomski

EXHIBIT “F”

1 ELLISON, SCHNEIDER & HARRIS L.L.P.
Christopher M. Sanders (SBN: 195990)
2 2600 Capitol Avenue, Suite 400
Sacramento, California 95816
3 Telephone: (916) 447-2166
Facsimile: (916) 447-3512

EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103

4 Attorneys for Cross-Defendants County Sanitation Districts Nos. 14 and 20 of Los Angeles
5 County

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

9 ANTELOPE VALLEY
10 GROUNDWATER CASES

Judicial Council Coordination No. 4408

CLASS ACTION

Included Actions:

Santa Clara Case No.: 1-05-CV-049053

11 Los Angeles County Waterworks District
12 No. 40 v. Diamond Farming Co.
Superior Court of California, County of
13 Los Angeles, Case No. BC 325 201

ASSIGNED FOR ALL PURPOSES TO:
Judge: Honorable Jack Komar

14 Los Angeles County Waterworks District
15 No. 40 v. Diamond Farming Co.
Superior Court of California, County of
Kern, Case No. S-1500-CV-254-348

**OBJECTIONS TO BOLTHOUSE
RE-NOTICE OF TAKING AND
VIDEOTAPING DEPOSITION OF LOS
ANGELES COUNTY WATERWORKS NO.
40's EXPERT, PETER LEFFLER**

16 Wm. Bolthouse Farms, Inc. v. City of
17 Lancaster, Diamond Farming Co. v. City
of Lancaster, Diamond Farming Co. v.
18 Palmdale Water Dist., Superior Court of
California, County of Riverside,
19 consolidated actions, Case Nos. RIC 353
840, RIC 344 436, RIC 344 668

Phase 3 Trial Date: January 4, 2011

Date: November 19, 2010
Time: 9:00 a.m.
Place: Lagerlof, Senecal, et al., LLP
301 North Lake Avenue, 10th Floor
Pasadena, California 91101

25
26 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

27 PLEASE TAKE NOTICE that COUNTY SANITATION DISTRICTS NOS. 14 AND 20
28 OF LOS ANGELES COUNTY ("Cross-Defendants") object to Bolthouse Properties, LLC and

1 Wm. Bolthouse Farms Re-Notice of Taking and Videotaping Deposition of Los Angeles County
2 Waterworks No. 40's Expert, Peter Leffler as follows:


3 Cross-Defendants object to the Deposition Notice on the grounds that it calls for
4 information outside the scope of the expert designation. Mr. Leffler has been designated by the
5 Public Water Suppliers for the limited purpose of providing expert testimony and rebuttal
6 testimony regarding characteristics of bedrock surrounding the Antelope Valley and potential
7 flows of groundwater through those materials into the Basin. Nothing in this objection, however,
8 limits the breadth or scope of future designation of this expert by Cross-Defendants, should this
9 designation be made.

10 SPECIFIC OBJECTIONS

11 1. Cross-Defendants object to document request Nos. 1-9 and Nos. 11-35 to the extent they
12 are outside the scope of the expert designation and call for information protected by the attorney
13 work product doctrine.

14 Dated: October 18, 2010

ELLISON, SCHNEIDER & HARRIS L.L.P.

15
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17 By: 
18 CHRISTOPHER M. SANDERS
19 Attorneys for Cross-Defendants
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1 **PROOF OF SERVICE**

2 I declare that:

3 I am employed in the County of Sacramento, State of California. I am over the age of
4 eighteen years and am not a party to the within action. My business address is ELLISON,
5 SCHNEIDER & HARRIS, L.L.P.; 2600 Capitol Avenue, Suite 400; Sacramento, California
6 95816; telephone (916) 447-2166.

7 On October 18, 2010, I served the County Sanitation Districts' *OBJECTIONS TO*
8 *BOLTHOUSE RE-NOTICE OF TAKING AND VIDEOTAPING DEPOSITION OF LOS*
9 *ANGELES COUNTY WATERWORKS NO. 40's EXPERT, PETER LEFFLER* by electronic
10 posting to the Santa Clara Superior Court E-Filing website,
11 <http://www.scefiling.org/cases/casehome.jsp?caseId=19>.

12 I declare under penalty of perjury that the foregoing is true and correct and that this
13 declaration was executed on October 18, 2010, at Sacramento, California.

14 
15 _____
16 Patty Slomski
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EXHIBIT “G”

1 **BEST BEST & KRIEGER LLP**
 ERIC L. GARNER, Bar No. 130665
 2 JEFFREY V. DUNN, Bar No. 131926
 STEFANIE D. HEDLUND, Bar No. 239787
 3 5 PARK PLAZA, SUITE 1500
 IRVINE, CALIFORNIA 92614
 4 TELEPHONE: (949) 263-2600
 TELECOPIER: (949) 260-0972
 5 Attorneys for Cross-Complainants
 ROSAMOND COMMUNITY SERVICES
 6 DISTRICT and LOS ANGELES COUNTY
 WATERWORKS DISTRICT NO. 40

**EXEMPT FROM FILING FEES
 UNDER GOVERNMENT CODE
 SECTION 6103**

7 **OFFICE OF COUNTY COUNSEL**
 8 **COUNTY OF LOS ANGELES**
 ANDREA ORDIN, Bar No. 38235
 9 COUNTY COUNSEL
 WARREN WELLEN, Bar No. 139152
 10 PRINCIPAL DEPUTY COUNTY COUNSEL
 500 WEST TEMPLE STREET
 11 LOS ANGELES, CALIFORNIA 90012
 TELEPHONE: (213) 974-8407
 12 TELECOPIER: (213) 687-7337
 Attorneys for Cross-Complainant LOS ANGELES
 13 COUNTY WATERWORKS DISTRICT NO. 40

14
 15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 16 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**
 17

18 **ANTELOPE VALLEY**
GROUNDWATER CASES
 19
 20 Included Actions:
 Los Angeles County Waterworks District
 No. 40 v. Diamond Farming Co., Superior
 21 Court of California, County of Los
 Angeles, Case No. BC 325201;
 22
 Los Angeles County Waterworks District
 23 No. 40 v. Diamond Farming Co., Superior
 Court of California, County of Kern, Case
 24 No. S-1500-CV-254-348;
 25
 Wm. Bolthouse Farms, Inc. v. City of
 Lancaster, Diamond Farming Co. v. City of
 26 Lancaster, Diamond Farming Co. v.
 Palmdale Water Dist., Superior Court of
 27 California, County of Riverside, Case Nos.
 RIC 353 840, RIC 344 436, RIC 344 668
 28

Judicial Council Coordination No. 4408

CLASS ACTION

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

**OBJECTIONS TO BOLTHOUSE'S NOTICE
 OF DEPOSITION OF EXPERT PETER
 LEFFLER**

Date: August 3, 2010
 Time: 9:00 a.m.
 Place: Lagerlof, Senecal, Gosney & Kruse
 301 North Lake Avenue, 10th Floor
 Pasadena, California 91101

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:
2

3 PLEASE TAKE NOTICE that LOS ANGELES COUNTY WATERWORKS DISTRICT
4 NO. 40 and ROSAMOND COMMUNITY SERVICES DISTRICT (“Cross-Complainants”)
5 object to BOLTHOUSE PROPERTIES, LLC AND WM. BOLTHOUSE FARMS, INC.’S
6 (“Bolthouse’s”) Notice Of Taking And Videotaping Deposition of Los Angeles County’s Expert,
7 Peter Leffler (“Deposition Notice”), as follows:

8 Cross-Complainants object to the Deposition Notice on the grounds that the Deposition
9 Notice is improper, as it requests the appearance of expert witness Peter Leffler on August 3,
10 2010 and the Antelope Ground Water Agreement Association requests Mr. Leffler be available
11 on August 17, 18 and 19th. Expert witness Peter Leffler cannot appear for depositions twice, and
12 therefore Cross-Complainants object to Bolthouse’s improper Deposition Notice.

13 Cross-Complainants further object to the Deposition Notice on the grounds that it calls for
14 information beyond the scope of the expert designation. Mr. Leffler has been designated by the
15 Public Water Suppliers for a limited purpose of providing expert testimony and rebuttal testimony
16 regarding characteristics of bedrock surrounding the Antelope Valley and potential flows of
17 groundwater through those materials into the Basin.

18 SPECIFIC OBJECTIONS

19 1. Cross-Complainants object to document request number 1 to the extent it is
20 beyond the scope of the expert designation and calls for information protected by the attorney
21 work product doctrine.

22 2. Cross-Complainants object to document request number 2 to the extent it is
23 beyond the scope of the expert designation and calls for information protected by the attorney
24 work product doctrine.

25 3. Cross-Complainants object to document request number 3 to the extent it is
26 beyond the scope of the expert designation and calls for information protected by the attorney
27 work product doctrine.

28 4. Cross-Complainants object to document request number 4 to the extent it is

1 beyond the scope of the expert designation and calls for information protected by the attorney
2 work product doctrine.

3 5. Cross-Complainants object to document request number 5 to the extent it is
4 beyond the scope of the expert designation and calls for information protected by the attorney
5 work product doctrine.

6 6. Cross-Complainants object to document request number 6 to the extent it is
7 beyond the scope of the expert designation and calls for information protected by the attorney
8 work product doctrine.

9 7. Cross-Complainants object to document request number 7 to the extent it is
10 beyond the scope of the expert designation and calls for information protected by the attorney
11 work product doctrine.

12 8. Cross-Complainants object to document request number 8 to the extent it is
13 beyond the scope of the expert designation and calls for information protected by the attorney
14 work product doctrine.

15 9. Cross-Complainants object to document request number 9 to the extent it is
16 beyond the scope of the expert designation and calls for information protected by the attorney
17 work product doctrine.

18 10. Cross-Complainants object to document request number 11 to the extent it is
19 beyond the scope of the expert designation and calls for information protected by the attorney
20 work product doctrine.

21 11. Cross-Complainants object to document request number 12 to the extent it is
22 beyond the scope of the expert designation and calls for information protected by the attorney
23 work product doctrine.

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12. Cross-Complainants object to document request number 13 to the extent it is beyond the scope of the expert designation and calls for information protected by the attorney work product doctrine.

Dated: July 26, 2010

BEST BEST & KRIEGER LLP

By Jeffrey V. Dunn
ERIC J. GARNER
JEFFREY V. DUNN
STEFANIE D. HEDLUND
Attorneys for Cross-Complainants
ROSAMOND COMMUNITY SERVICES
DISTRICT and LOS ANGELES
COUNTY WATERWORKS DISTRICT
NO. 40

LAW OFFICES OF
BEST BEST & KRIEGER LLP
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

ORANGEVDUNN70341.1

LAW OFFICES OF
BEST BEST & KRIEGER LLP
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

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PROOF OF SERVICE

I, Kerry V. Keefe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 5 Park Plaza, Suite 1500, Irvine, California 92614. On July 26, 2010, I served the within document(s):

OBJECTIONS TO BOLTHOUSE'S NOTICE OF DEPOSITION OF EXPERT PETER LEFFLER

- by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on July 26, 2010, at Irvine, California.

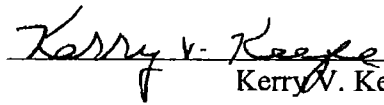

Kerry V. Keefe

EXHIBIT “H”

1 RICHARD G. ZIMMER - SBN 107263
T. MARK SMITH - SBN 162370
2 CLIFFORD & BROWN
A Professional Corporation
3 Attorneys at Law
Bank of America Building
4 1430 Truxtun Avenue, Suite 900
Bakersfield, CA 93301-5230
5 (661) 322-6023

6 Attorneys for Bolthouse Properties, LLC and Wm. Bolthouse Farms, Inc.

7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF SANTA CLARA

9 * * *

10 COORDINATION PROCEEDING
SPECIAL TITLE (Rule 1550(b))

) Judicial Council Coordination Proceeding No.
4408

11 ANTELOPE VALLEY GROUNDWATER
12 CASES

) CASE NO. 1-05-CV-049053

13 INCLUDED ACTIONS:

14 LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 v.
15 DIAMOND FARMING COMPANY, et al.,
Los Angeles Superior Court Case No.
16 BC325201

) **BOLTHOUSE PROPERTIES, LLC'S
AND WM. BOLTHOUSE FARMS, INC.'S
PROPOSAL RE CONTENT OF
STATEMENT OF DECISION**

) [C.C.P. §632]

17 LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 v.
18 DIAMOND FARMING COMPANY, et al.,
Kern County Superior Court Case No. S-
19 1500-CV-254348

) Phase 3 Trial Date:
January 4, 2011

20 DIAMOND FARMING COMPANY, and
W.M. BOLTHOUSE FARMS, INC., v.
21 CITY OF LANCASTER, et al.,
Riverside Superior Court
22 Case No. RIC 344436 [c/w case no. RIC
344668 and 353840]

23 ROSAMOND COMMUNITY SERVICES
24 DISTRICT,

25 CROSS-COMPLAINANT,

26 \\\

27 \\\

28 \\\

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that pursuant to California *Code of Civil Procedure* § 632,
3 Bolthouse Properties, LLC and Wm. Bolthouse Farms, Inc. (hereinafter “Bolthouse”), make the
4 following initial proposals as to the content of the Statement of Decision following the issuance
5 of the Court’s Tentative Decision Phase 3 Trial dated May 4, 2011, references to which are set
6 forth below.

- 7 1. That the Statement of Decision be limited to “the safe yield of the Antelope
8 Valley Aquifer” and “whether the Aquifer is in a state of overdraft such that the
9 Court should exercise equitable powers to protect the Aquifer from detriment
10 caused by any such overdraft” as set forth in the Order After Hearing Held on
11 November 18, 2010 setting forth the scope of the Phase 3 Trial.
- 12 2. The legal definition and basis thereof used by the Court to determine the safe
13 yield of the Antelope Valley Aquifer.
- 14 3. All facts relied upon by the Court to determine the safe yield as defined by the
15 Court for the purpose of the Phase 3 Trial.
- 16 4. The legal definition, and the basis thereof, that the Court used to determine
17 “whether the Aquifer is in a state of overdraft such that the Court should
18 exercise equitable powers to protect the Aquifer from detriment caused by any
19 such overdraft.”
- 20 5. All facts relied upon by the Court to support “whether the Aquifer is in a state of
21 overdraft such that the Court should exercise equitable powers to protect the
22 Aquifer from detriment caused by any such overdraft.”
- 23 6. The legal definition, and the basis thereof, that the Court used to determine
24 “whether the Aquifer is in a state of temporary surplus”.
- 25 7. All facts relied upon by the Court to support “whether the Aquifer is in a state of
26 temporary surplus”.
- 27 8. The specific testimony of each testifying expert which the Court relied upon to
28 determine the “safe yield of the Antelope Valley Aquifer.”

- 1 9. The specific testimony of each testifying expert which the Court relied upon to
2 determine “whether the Aquifer is in a state of overdraft such that the Court
3 should exercise equitable powers to protect the Aquifer from detriment caused
4 by any such overdraft.”
- 5 10. All facts relied upon by the Court to determine that “The preponderance of the
6 evidence presented establishes that the basin is in a state of overdraft,” as set
7 forth on Page 4, Lines 27 through 28.
- 8 11. Specific expert testimony relied upon by the Court to determine that “The
9 preponderance of the evidence presented establishes that the basin is in a state of
10 overdraft,” as set forth on Page 4, Lines 27 through 28.
- 11 12. All facts relied upon by the Court to determine that “Reliable estimates of long-
12 term extractions from the basin have exceeded reliable estimates of the basin’s
13 recharge by significant margins, and empirical evidence of overdraft in the basin
14 corroborates that conclusion,” as set forth on Page 4, Line 28 through Page 5,
15 Lines 1 through 2.
- 16 13. Specific expert testimony relied upon by the Court to determine that “Reliable
17 estimates of long-term extractions from the basin have exceeded reliable
18 estimates of the basin’s recharge by significant margins, and empirical evidence
19 of overdraft in the basin corroborates that conclusion,” as set forth on Page 4,
20 Line 28 through Page 5, Lines 1 through 2.
- 21 14. All facts relied upon by the Court to determine that “The basin has sustained a
22 significant loss of groundwater storage since 1951,” as set forth on Page 5, Lines
23 2 through 3.
- 24 15. Specific expert testimony relied upon by the Court to determine that “The basin
25 has sustained a significant loss of groundwater storage since 1951,” as set forth
26 on Page 5, Lines 2 through 3.

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1 16. All facts relied upon by the Court to determine that “While pumping in recent
2 years has reduced and moderated the margin between pumping and recharge as
3 cultural conditions have changed and precipitation has increased with the
4 appearance of wetter parts of the historical cycle, pumping in some areas of the
5 aquifer is continuing to cause harm to the basin,” as set forth on Page 5, Lines 3
6 through 6.

7 17. Specific expert testimony relied upon by the Court to determine that “While
8 pumping in recent years has reduced and moderated the margin between
9 pumping and recharge as cultural conditions have changed and precipitation has
10 increased with the appearance of wetter parts of the historical cycle, pumping in
11 some areas of the aquifer is continuing to cause harm to the basin,” as set forth
12 on Page 5, Lines 3 through 6.

13 18. All facts relied upon by the Court to determine that “The evidence is persuasive
14 that current extractions continue to exceed recharge and therefore that the basin
15 continues to be in a state of overdraft, although by a much reduced amount,” as
16 set forth on Page 5, Lines 6 through 8.

17 19. Specific expert testimony relied upon by the Court to determine that “The
18 evidence is persuasive that current extractions continue to exceed recharge and
19 therefore that the basin continues to be in a state of overdraft, although by a
20 much reduced amount,” as set forth on Page 5, Lines 6 through 8.

21 20. All facts relied upon by the Court to determine that “Since 1951, there is
22 evidence of substantial pumping (principally agricultural in the early years of
23 the period) coinciding with periods of drought, with continuous lowering of
24 water levels and subsidence extending to the present time, with intervals of only
25 slight rises in water levels in some areas,” as set forth on Page 5, Lines 8
26 through 12.

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1 21. Specific expert testimony relied upon by the Court to determine that "Since
2 1951, there is evidence of substantial pumping (principally agricultural in the
3 early years of the period) coinciding with periods of drought, with continuous
4 lowering of water levels and subsidence extending to the present time, with
5 intervals of only slight rises in water levels in some areas," as set forth on Page
6 5, Lines 8 through 12.

7 22. All facts relied upon by the Court to determine that "In the areas of increased
8 pumping, in particular in the Palmdale and Lancaster areas, there is a continual
9 lowering of water levels such that it may have a serious effect on water rights in
10 other areas, causing cones of depression, altering natural water flow gradients,
11 causing the lowering of water levels in adjacent areas, and causing subsidence
12 and loss of aquifer storage capacity," as set forth on Page 5, Lines 13 through
13 17.

14 23. Specific expert testimony relied upon by the Court to determine that "In the
15 areas of increased pumping, in particular in the Palmdale and Lancaster areas,
16 there is a continual lowering of water levels such that it may have a serious
17 effect on water rights in other areas, causing cones of depression, altering
18 natural water flow gradients, causing the lowering of water levels in adjacent
19 areas, and causing subsidence and loss of aquifer storage capacity," as set forth
20 on Page 5, Lines 13 through 17.

21 24. All facts relied upon by the Court to determine that "Given population growth,
22 and agricultural and industrial changes, the valley is at risk of being in an even
23 more serious continuing overdraft in the future," as set forth on Page 5, Lines 17
24 through 18.

25 25. Specific expert testimony relied upon by the Court to determine that "Given
26 population growth, and agricultural and industrial changes, the valley is at risk
27 of being in an even more serious continuing overdraft in the future," as set forth
28 on Page 5, Lines 17 through 18. 5

1 26. All facts relied upon by the Court to determine that “While the lowering of
2 current water levels has slowed, and some levels in wells in some areas have
3 risen in recent years, significant areas within the aquifer continue to show
4 declining levels, some slightly so, but many with material lowering of water
5 levels,” as set forth on Page 5, Lines 19 through 21.

6 27. Specific expert testimony relied upon by the Court to determine that “While the
7 lowering of current water levels has slowed, and some levels in wells in some
8 areas have risen in recent years, significant areas within the aquifer continue to
9 show declining levels, some slightly so, but many with material lowering of
10 water levels,” as set forth on Page 5, Lines 19 through 21.

11 28. All facts relied upon by the Court to determine that “Thus, the Antelope Valley
12 adjudication area has been in a state of overdraft for more than 50 years and
13 based on estimates of extraction and recharge, corroborated by physical
14 evidence of conditions in the basin as a whole, and while the annual amount of
15 overdraft has lessened in recent years with increased precipitation and recharge,
16 the effects of overdraft remain and are in danger of being exacerbated with
17 increased pumping and the prospective cyclical precipitation fluctuations shown
18 by the historical record,” as set forth on Page 5, Lines 22 through 26 through
19 Page 6, Line 1.

20 29. Specific expert testimony relied upon by the Court to determine that “Thus, the
21 Antelope Valley adjudication area has been in a state of overdraft for more than
22 50 years and based on estimates of extraction and recharge, corroborated by
23 physical evidence of conditions in the basin as a whole, and while the annual
24 amount of overdraft has lessened in recent years with increased precipitation and
25 recharge, the effects of overdraft remain and are in danger of being exacerbated
26 with increased pumping and the prospective cyclical precipitation fluctuations
27 shown by the historical record,” as set forth on Page 5, Lines 22 through 26
28 through Page 6, Line 1.

1 30. All facts relied upon by the Court to determine that “The physical evidence
2 establishes that there was significant subsidence occurring throughout the valley
3 ranging from two to six feet or more in certain areas of the valley caused by
4 such pumping and that measurable water levels fell in a substantial part of the
5 valley,” as set forth on Page 6, Line 1 through 4.

6 31. Specific expert testimony relied upon by the Court to determine that “The
7 physical evidence establishes that there was significant subsidence occurring
8 throughout the valley ranging from two to six feet or more in certain areas of the
9 valley caused by such pumping and that measurable water levels fell in a
10 substantial part of the valley,” as set forth on Page 6, Line 1 through 4.

11 32. All facts relied upon by the Court to determine that “While some of the ongoing
12 subsidence may be attributable to residual subsidence (from earlier periods of
13 shortfall) that would not seem to be an explanation for the extent of continued
14 subsidence,” as set forth on Page 6, Lines 4 through 6.

15 33. Specific expert testimony relied upon by the Court to determine that “While
16 some of the ongoing subsidence may be attributable to residual subsidence
17 (from earlier periods of shortfall) that would not seem to be an explanation for
18 the extent of continued subsidence,” as set forth on Page 6, Lines 4 through 6.

19 34. All facts relied upon by the Court to determine that “One expert selected two
20 shorter base periods (the total time span of which was considerably less than the
21 50 year period the court believes is more credible), each having a different
22 estimated average natural recharge based upon different precipitation averages
23 from each base period,” as set forth on Page 6, Lines 20 through 23.

24 35. Specific expert testimony relied upon by the Court to determine that “One expert
25 selected two shorter base periods (the total time span of which was considerably
26 less than the 50 year period the court believes is more credible), each having a
27 different estimated average natural recharge based upon different precipitation
28 averages from each base period,” as set forth on Page 6, Lines 20 through 23.

1 36. All facts relied upon by the Court to determine that “A period of precipitation
2 fluctuations from 1951 to 2004 satisfies that standard. Shorter periods do not,”
3 as set forth on Page 6, Lines 28 through Page 7, Line 1 through 2.

4 37. Specific expert testimony relied upon by the Court to determine that “A period
5 of precipitation fluctuations from 1951 to 2004 satisfies that standard. Shorter
6 periods do not,” as set forth on Page 6, Lines 28 through Page 7, Line 1 through
7 2.

8 38. All facts relied upon by the Court to determine that “The total amount of
9 extractions of water by pumping is not seriously in dispute by any of the experts
10 who testified. All seem to agree that pumping currently is estimated to range
11 from 130,000 to 150,000 acre feet a year,” as set forth on Page 7, Lines 3
12 through 5.

13 39. Specific expert testimony relied upon by the Court to determine that “The total
14 amount of extractions of water by pumping is not seriously in dispute by any of
15 the experts who testified. All seem to agree that pumping currently is estimated
16 to range from 130,000 to 150,000 acre feet a year,” as set forth on Page 7, Lines
17 3 through 5.

18 40. All facts relied upon by the Court to determine that “Other sources of recharge
19 to the basin, including artificial recharge-water pumped into the aquifer from
20 external sources are not in dispute,” as set forth on Page 7, Lines 8 through 10.

21 41. Specific expert testimony relied upon by the Court to determine that “Other
22 sources of recharge to the basin, including artificial recharge-water pumped into
23 the aquifer from external sources are not in dispute,” as set forth on Page 7,
24 Lines 8 through 10.

25 42. All facts relied upon by the Court to determine that “The nature of the
26 agricultural duties has changed as well,” as set forth on Page 7, Line 15.

27 43. Specific expert testimony relied upon by the Court to determine that “The nature
28 of the agricultural duties has changed as well,” as set forth on Page 7, Line 15.

- 1 44. All facts relied upon by the Court to determine that “The type of irrigation used
2 by farmers has become more efficient and less water is needed per acre
3 (depending on the crops grown) with more efficient uses of water,” as set forth
4 on Page 7, Lines 15 through 17.
- 5 45. Specific expert testimony relied upon by the Court to determine that “The type
6 of irrigation used by farmers has become more efficient and less water is needed
7 per acre (depending on the crops grown) with more efficient uses of water,” as
8 set forth on Page 7, Lines 15 through 17.
- 9 46. All facts relied upon by the Court to determine that “But there has also been an
10 increase as well as a change in the nature of the type of agriculture in the valley
11 in material quantities in recent years,” as set
12 forth on Page 7, Lines 17 through 19.
- 13 47. Specific expert testimony relied upon by the Court to determine that “But there
14 has also been an increase as well as a change in the nature of the type of
15 agriculture in the valley in material quantities in recent years,” as set
16 forth on Page 7, Lines 17 through 19.
- 17 48. All facts relied upon by the Court to determine that “Observable conditions in
18 the valley are inconsistent with those conclusions” as set forth on Page 8, Lines
19 15 through 16.
- 20 49. Specific expert testimony relied upon by the Court to determine that
21 “Observable conditions in the valley are inconsistent with those conclusions” as
22 set forth on Page 8, Lines 15 through 16.
- 23 50. All facts relied upon by the Court to determine that “If there were a surplus,
24 even in the shortened base periods used by the same experts, there should not be
25 subsidence of land, nor the need to drill for water at deeper and deeper levels in
26 those parts of the aquifer most affected by the overdraft” as set forth on Page 8,
27 Lines 16 through 19.

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1 51. Specific expert testimony relied upon by the Court to determine that “If there
2 were a surplus, even in the shortened base periods used by the same experts,
3 there should not be subsidence of land, nor the need to drill for water at deeper
4 and deeper levels in those parts of the aquifer most affected by the overdraft” as
5 set forth on Page 8, Lines 16 through 19.

6 52. All facts relied upon by the Court to determine that “The physical condition of
7 the valley is inconsistent with those estimates that there is and has been a surplus
8 of water in the aquifer” as set forth on Page 8, Lines 19 through 20.

9 53. Specific expert testimony relied upon by the Court to determine that “The
10 physical condition of the valley is inconsistent with those estimates that there is
11 and has been a surplus of water in the aquifer” as set forth on Page 8, Lines 19
12 through 20.

13 54. All facts relied upon by the Court to determine that “Weighing the various
14 opinions, however, the Court finds by a preponderance of the evidence that
15 setting a safe yield at a conservative 110,000 acre feet a year will permit
16 management of the valley in such a way as to preserve the rights of all parties in
17 accordance with the Constitution and laws of the State of California” as set forth
18 on Page 9, Lines 7 through 10.

19 55. Specific expert testimony relied upon by the Court to determine that “Weighing
20 the various opinions, however, the Court finds by a preponderance of the
21 evidence that setting a safe yield at a conservative 110,000 acre feet a year will
22 permit management of the valley in such a way as to preserve the rights of all
23 parties in accordance with the Constitution and laws of the State of California”
24 as set forth on Page 9, Lines 7 through 10.

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1 56. All facts relied upon by the Court to determine that "It should not be assumed
2 that the safe yield management number may not change as climate
3 circumstances and pumping may change, or as the empirical evidence based on
4 experience in managing the basin suggests it is either too high or too low" as set
5 forth on Page 9, Lines 15 through 17.

6 57. Specific expert testimony relied upon by the Court to determine that "It should
7 not be assumed that the safe yield management number may not change as
8 climate circumstances and pumping may change, or as the empirical evidence
9 based on experience in managing the basin suggests it is either too high or too
10 low" as set forth on Page 9, Lines 15 through 17.

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12 DATED: May 24, 2011

Respectfully submitted.

13 CLIFFORD & BROWN

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16 By: 

RICHARD G. ZIMMER, ESQ.

T. MARK SMITH, ESQ.

Attorneys for

BOLTHOUSE PROPERTIES, LLC and

WM. BOLTHOUSE FARMS, INC.

