

# EXHIBIT A

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7

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SANTA CLARA

10 \* \* \*

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

) Judicial Council Coordination Proceeding No.  
4408

12 ANTELOPE VALLEY GROUNDWATER  
13 CASES

) CASE NO. 1-05-CV-049053

14 INCLUDED ACTIONS:

) BOLTHOUSE PROERTIES, LLC and  
Wm. BOLTOUSE FARMS, INC.'S  
OPPOSITION TO:

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

) 1. Quartz Hill Water District Motion  
in Limine No. One Regarding  
Quantity of Imported Water Return  
Flows;

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

) 2. Motion in Limine Number One by  
Los Angeles County Waterworks  
District No. 40 to Preclude Evidence  
Re Decided Issues Including Return  
Flow Contribution to Basin Safe  
Yield;

20 DIAMOND FARMING COMPANY, and  
21 W.M. BOLTHOUSE FARMS, INC., v.  
CITY OF LANCASTER, et al.,  
22 Riverside Superior Court  
Case No. RIC 344436 [c/w case no. RIC  
23 344668 and 353840]

) 3. Motion in Limine of Rosamond  
Community Services District For  
Order: (1) Excluding Any Evidence  
or Argument that the District is Not  
Entitled to Produce Return Flows  
From Its Imported Waters, and (2)  
Excluding Any Evidence or  
Testimony Contrary To or  
Inconsistent With the Return Flow  
Formula Adopted by the Court in  
the Phase III Trial; and

24 ROSAMOND COMMUNITY SERVICES  
25 DISTRICT,

) 4. Request for Judicial Notice of Trial  
Testimonies, Exhibits, and Decision  
in Phase Three Re Return Flows by  
Los Angeles County Waterworks  
District No. 40

26 CROSS-COMPLAINANT,  
27  
28

1 COME NOW WILLIAM BOLTHOUSE PROPERTIES, LLC and WM. BOLTHOUSE  
2 FARMS, INC. (hereinafter "Bolthouse") in opposition to:

- 3 1. Quartz Hill Water District Motion in Limine Regarding Quantity of Imported  
4 Water Return Flows;
- 5 2. Motion in Limine Number One by Los Angeles County Waterworks District No.  
6 40 to Preclude Evidence Re Decided Issues Including Return Flow Contribution to  
7 Basin Safe Yield;
- 8 3. Motion in Limine of Rosamond Community Services District For Order: (1)  
9 Excluding Any Evidence or Argument that the District is Not Entitled to Produce  
10 Return Flows From Its Imported Waters, and (2) Excluding Any Evidence or  
11 Testimony Contrary To or Inconsistent With the Return Flow Formula Adopted by  
12 the Court in the Phase III Trial; and
- 13 4. Request for Judicial Notice of Trial Testimonies, Exhibits, and Decision in Phase  
14 Three Re Return Flows by Los Angeles County Waterworks District No. 40.

15 These Motions in Limine and the Request for Judicial Notice seek to eliminate  
16 presentation of evidence and litigation of the purveyor claimed rights to return flows. As  
17 discussed below, these motions and the Request for Judicial Notice improperly suggest that  
18 return flow rights were litigated in Phase 3, would result in a finding of return flow rights based  
19 upon hearsay without proper foundation, would deprive the parties of their due process right to  
20 litigate return flow claims and would not be in the interest of justice because it would deprive  
21 parties of their opportunity to litigate the return flow issues and would force parties to appeal to  
22 obtain a trial on return flows.

23  
24 **I. JOINDER IN AGWA OPPOSITION**

25 Bolthouse joins in AGWA's **Opposition To Motions In Limine To Preclude**  
26 **Evidence Re Decided Issues Including Return Flow Contribution To Basin Safe Yield.**  
27 Bolthouse additionally adds the following comments, analysis and arguments.

1 **II. ALL OF THE MOTIONS IN LIMINE AND THE REQUEST FOR JUDICIAL**  
2 **NOTICE IMPROPERLY SUGGEST THAT RETURN FLOW RIGHTS WERE**  
3 **LITIGATED IN PHASE 3**

4 **A. Return Flow Rights Were Not Litigated in Phase 3.**

5 Numerous parties over a significant period of time voiced concerns about proceeding to  
6 the Phase 3 Trial in the absence of clearly defined trial issues. The Court also was concerned  
7 about the issues which would be tried. Given the fact that the Court did not intend to try  
8 distinct causes of action, and given the extremely complicated and factually intensive nature of  
9 a groundwater rights adjudication, it was essential to determine exactly what was being tried  
10 and to limit presentation of evidence to the issues being tried and to limit the findings to the  
11 Phase 3 issues tried. As early as March 8, 2010, counsel and this Court considered what issues  
12 would be tried in Phase 3. The following comments were made at the March 8<sup>th</sup> hearing:

13 THE COURT:

14 "And I would like to talk about the issues to be  
15 adjudicated in that next phase of the trial. It seems to me that it  
16 has got to evolve around the question of overdraft. Certainly if  
17 the current conditions - - because if we are talking about issues  
18 related to the management of the aquifer, we need to determine  
19 what its present conditions are.

20 If there is no overdraft - - and that is possible and I don't  
21 know what the evidence is in this case - - that is going to end that  
22 inquiry.

23 Then it's going to be up to the individual disputants  
24 among themselves to determine whether or not they have any  
25 claims that they wish to pursue against each other. (page 2)

26 ... Well, my interest right now is determining whether or  
27 not the Court is going to have to be involved in the management  
28 of this basin, totally apart from what the rights inter se may be  
between the various complainants against each other in terms of  
prescriptive rights or appropriated rights and the like. (page 5)

... And then that is totally apart from any individual claims  
that parties may have vis-à-vis each other whether it be  
public water providers or landowners or whoever it might  
be. All right. (page 6) (emphasis added)

MR. ZIMMER:

... And I think it is important that everybody understands what is  
being tried and what evidence we are going to be admitting for.

1 what purposes rather than have a bunch of evidence come in and  
2 not knowing whether it is going to be used in this phase or the  
next phase or whatever. (page 9 and 10)

3 ...I guess what I might suggest that we shake some of that out  
4 earlier rather than before we get to the expert deposition phase. I  
5 know in the last trial we ended up in a big flurry at the end. And  
6 everybody had a different idea what we were trying, and I would  
7 like to see, I guess, is some kind of pretrial order that issues  
fairly early on with some comment by all counsel as to what we  
8 think we are trying, and then we could come up with a pretrial  
9 order as to what we - - an accounting by all as to what we will be  
10 trying. (page 11 and 12)

11 ... To the extent that the Court finds that there is an overdraft  
12 here and the dealing with the management of the basin, that is  
13 going to take place separately from the claims vis-à-vis each  
14 other as to whether or not there is a claim ..." (page 13)

15 *See Exhibit "A" to the Declaration of Richard G. Zimmer (Reporter's*  
16 *Transcript of Proceedings dated Monday, March 8, 2010 at pp. 2, 5, 6, 9, 10, 11, 12.*

17 Thereafter, the Court issued an Order After Case Management Conference On  
18 March 22, 2010, including the following language:

19 "... In this third phase of trial, the Court will hear evidence to  
20 determine whether the basin, as previously defined by the Court  
21 in trial phases one and two, is in such overdraft and to determine  
22 whether there is a basis for the Court to exercise its equitable  
23 jurisdiction, including the implementation of a "physical  
24 solution," as prayed for the by the public water provider parties.  
25 The public water providers have the burden of proof."

26 *See Exhibit "B" to the Declaration of Richard G. Zimmer filed herewith. (Order After*  
27 *Case Management Conference On March 22, 2010 at p. 2, 3.)*

28 **B. The Discovery, Witnesses and Focus of Phase 3 Would Have Been Different  
if Return Flows Were At Issue for the Phase 3 Trial.**

Discovery and depositions focused on the safe yield of the groundwater basin and  
whether the groundwater basin was in overdraft such that the Court should exercise equitable  
jurisdiction. Peter Leffler was identified as an expert witness for Phase 3. Joseph Scalmanini  
also was designated as an expert by the purveyors for Phase 3. As the Court knows, these  
experts participated on behalf of the purveyors in preparing what has been described as the  
Summary Expert Report (SER), identified but not admitted into evidence at trial as Exhibit 101.

1 Mr. Leffler conducted the analysis to prepare section 3.6.5 "Fractured Bedrock" and IV Water  
2 Resources Analyses, section 4.6 "Recycled Water" of the SER. The recycled water section  
3 deals with return flows. The expert designations for these witnesses for Phase 3 designated  
4 them as experts as follows:

5 Peter Leffler "12. Mr. Leffler will offer testimony regarding  
6 characteristics of bedrock surrounding the Antelope Valley and  
7 potential flows of groundwater through those materials into the  
8 Basin. Mr. Leffler will also offer rebuttal testimony regarding  
9 other experts' analyses regarding characteristics of bedrock  
10 surrounding the Antelope Valley and potential flows of  
11 groundwater through those materials into the Basin."

12 See Exhibit "C" to Declaration of Richard G. Zimmer filed herewith (Public Water  
13 Suppliers' Expert Designation For Phase III Trial And Expert Declaration (page 7); See also  
14 Exhibit "D" to Declaration of Richard G. Zimmer. (Reporter's Transcript of Proceedings dated  
15 February 14, 2011, p. 88).

16 Joseph Scalmanini: "Mr. Scalmanini will testify as to  
17 characteristics and hydrologic conditions of the groundwater in  
18 the Antelope Valley Groundwater Adjudication Area ("Basin").  
19 Mr. Scalmanini will testify concerning the Basin's sustainable  
20 yield and geology and the occurrence of groundwater in the  
21 Basin. Mr. Scalmanini's testimony will include historic  
22 groundwater conditions, effects of groundwater development and  
23 the current status and past changes in groundwater conditions.  
24 Mr. Scalmanini will also be prepared to offer rebuttal testimony  
25 concerning the groundwater conditions analyses prepared by  
26 other experts."

27 See Exhibit "C" Public Water Suppliers' Expert Designation For Phase III Trial And  
28 Expert Declaration (page 6).

After the deposition of Mr. Leffler was noticed, the Sanitation District attorney, Chris  
Sanders, objected to the deposition of Mr. Leffler on the issue of recycled return flow water and  
the analysis he did of recycled return flow water in the Summary Expert Report. Mr. Sanders  
objected on the grounds that this analysis was beyond the expert designation for the Phase 3  
Trial which included discussion of section 3.6.5 "Fractured Bedrock" of the SER but did not  
include section IV Water Resources Analyses, section 4.6 "Recycled Water" of the SER.

See Exhibit "G" to the Declaration of Richard G. Zimmer filed herewith. (Trial Exhibit  
C4; See also Exhibit "D" Reporter's Transcript of Proceedings dated February 14, 2011, p. 88.

1 Mr. Leffler's deposition was set a second time. This was met with another objection by  
2 Mr. Sanders entitled "Objections to Bolthouse Notice of Deposition of Expert Peter Leffler"  
3 attached as Exhibit "E" to the Declaration of Richard G. Zimmer filed herewith. (Also see  
4 Exhibit "D" attached to the Declaration of Richard G. Zimmer (Reporter's Transcript of  
5 Proceedings dated February 14, 2011, p. 90). The objection stated "Mr. Leffler has been  
6 designated by the Public Water Suppliers for a limited purpose of providing expert testimony  
7 and rebuttal testimony regarding characteristics of bedrock surrounding the Antelope Valley  
8 and potential flows of groundwater through those materials into the basin." (*Id.* at p. 91.) The  
9 purveyor attorneys for Los Angeles County also objected in a document entitled "Objections"  
10 attached as Exhibit "F" to the Deposition of Richard G. Zimmer filed herewith.

11 Given the fact that the purveyor parties had taken the position that the Phase 3 Trial  
12 would not include testimony on return flows by the expert that did this analysis, and their  
13 specific objection that Mr. Leffler would not be permitted to testify regarding recycled return  
14 flow water, and because the trial was solely to evaluate safe yield and overdraft on a gross  
15 basis, we argued:

16 Counsel pointed out to this Court the following:

17 "MR. ZIMMER: For example, Mr. Leffler provided all the recycled  
18 water analysis. It is recycled water analysis that they are now attempting  
19 to use through Mr. Scalmanini. So this is the foundation for that  
objection." (See Exhibit "D" page 89)

20 "MR. ZIMMER: Our position regarding Mr. Leffler is that Mr. Scalmanini is  
21 attempting to get into evidence information on recycled water in a very broad context,  
22 many different issues, and attempting to get that before the Court when we were denied  
the ability to depose Mr. Leffler on that issue and I will get to the deposition here I've  
got attached on Exhibit C3 as well."

23 See Exhibit "D" to Declaration of Richard G. Zimmer filed herewith (Reporter's  
24 Transcript of Proceedings dated February 14, 2011 at p. 92.)

25 We confirmed for the Court at that time, that the following stipulation was confirmed  
26 by email:

27 "MR. ZIMMER: We by stipulation did not take his deposition on  
28 recycled water because of the objection and because of the

1 stipulation of counsel that there would be no testimony about  
2 recycled water.” (page 93)

3 See Exhibit “D” to Declaration of Riochard G. Zimmer filed herewith (Reporters  
4 Transcript of Proceedings dated February 14, 2011 at p. 93.)

5 **C. The Presentation of Evidence Would Have Been Different if Return Flows  
6 Was at Issue In the Phase 3 Trial.**

7 The Phase 3 Trial consisted of numerous experts being called on the issue of the safe  
8 yield and whether current extractions were in excess of the safe yield, thereby resulting in  
9 overdraft. Peter Leffler, who conducted the recycled water return flow analysis for the  
10 purveyors, was not called as a witness by the purveyors, nor was any other witness called to  
11 testify regarding the details of how the return flow analysis was done and therefore he was not  
12 cross examined by the parties regarding the return flow numbers. The numbers were simply  
13 accepted by Joseph Scalmanini, as discussed below, for the purpose of his expert opinion of  
14 safe yield and overdraft.

15 Litigation of the return flow claims would have involved significant investigation,  
16 discovery and expert analysis along with extensive presentation of evidence and expert  
17 testimony at trial regarding the right to return flows, the amounts of return flows, transmission  
18 losses, quality issues, and numerous other issues. This did not occur in the present case since  
19 the scope of the Phase 3 trial was the overall safe yield and whether the basin was currently in  
20 overdraft.

21 **D. If Return Flows Was Litigated in Phase 3, The Statement of Decision Would  
22 Have Been Different.**

23 The Court requested proposed statements of decision following the Phase 3 Trial.  
24 Consistent with the pre-trial conferences, pre-trial order and discovery and trial presentation,  
25 Bolthouse submitted a proposed statement of decision including the following language:

26 “That the Statement of Decision be limited to ‘the safe yield of  
27 the Antelope Valley Aquifer’ and ‘whether the Aquifer is in a  
28 state of overdraft such that the Court should exercise equitable  
powers to protect the Aquifer from detriment caused by any such  
overdraft’ as set forth in the Order After Hearing Held on  
November 18, 2010 setting forth the scope of the Phase 3 Trial.”



1           See Bolthouse Properties, LLC's and Wm. Bolthouse Farms, Inc.'s Proposal Re Content  
2 of Statement of Decision filed May 24, 2011 at p. 2 attached as Exhibit "H" to the Declaration  
3 of Richard G. Zimmer filed herewith.

4           On June 6, 2011, Best Best and Krieger, counsel for Los Angeles County Water District  
5 40 served a proposed Statement of Decision Re Phase III Trial submitted by Los Angeles  
6 County and other water purveyors. The proposed Statement of Decision, attached to the  
7 Declaration of Richard G. Zimmer as Exhibit "I" filed herewith, improperly attempted to  
8 include issues in the Statement of Decision which were not litigated, including among other  
9 issues, a detailed determination of return flow amounts and percentages.

10          Bolthouse filed an "Objection to Statement of Decision Re Phase 3 Trial Submitted By  
11 Los Angeles County and Other Water Purveyors". Numerous objections were filed by other  
12 parties as well. The Bolthouse objection included on page 3, a citation to this Court's "Order  
13 After Hearings Held on November 18, 2010, setting forth the scope of the Phase 3 Trial as  
14 follows:

15                   "The trial will commence on January 4, 2011 at 9:00 a.m. in  
16 department 1 of the Los Angeles County Superior Court to hear  
17 evidence of the **safe yield** of the Antelope Valley aquifer and to  
18 further hear evidence as to **whether the aquifer is in a state of  
overdraft** such that the court should exercise equitable powers to  
protect the aquifer from detriment caused by any such overdraft."  
(Emphasis added.)

19          The Bolthouse objection also pointed out on page 5 that "The so called native safe  
20 yield, supplemental safe yield and return flows were not litigated and have been improperly  
21 added by los angeles county and the purveyors to the statement of decision."

22          A lengthy hearing regarding the scope of the Phase III Trial and the Statement of  
23 Decision was held on July 11, 2011. At this hearing, Bolthouse and other parties argued that  
24 the County and other purveyors were adding new issues to the case which were not tried and  
25 which were not clearly defined before the trial started. (page 8) Bolthouse further argued:

26                   "... these other issues that are being raised and - - or were raised  
27 in terms of return flows and what others may argue in terms of  
28 native recharge, the legal right to return flows, the amount of  
return flows, if there's a legal right to it, those are all things that I  
think we can properly tackle in a rights phase of the trial when

1 particular parties are claiming rights, for example, imported  
2 water or to other aspects of the safe yield.

3 The bottom line is we tried safe yield for purposes of  
4 overdraft, and that was it. And the Court made a decision on  
5 that." (page 9)

6 Counsel also pointed out that:

7 "During the trial we objected on hearsay grounds to a lot of the  
8 information that was being employed by the experts for precisely  
9 this reason. And the Court, I believe, on several occasions said  
10 that the - - all this information and data was being offered not for  
11 the truth of the matter asserted, but for simply as a basis for an  
12 expert's opinion as to safe yield or overdraft.

13 THE COURT: All right." (page 10) \*

14 All parties argued the issues extensively and vociferously. Following these arguments  
15 the Court made the following comments:

16 "... THE COURT: All right. Thank you.

17 Let me make an observation. I'm going to give you a  
18 written statement of decision that will encompass my final  
19 rulings on these objections. But I think that is[sic] it is important  
20 to note that the Phase III Trial - - the purpose was to determine  
21 whether or not there was a status of overdraft within the basin  
22 and the adjudication area such that it was necessary for the Court  
23 to seek a physical solution to that problem.

24 So the principal issue was overdraft." (page 12)

25 "... I did not make and could not make individual  
26 determinations as to pumping in various areas, total sources of  
27 water that went into various portions of the aquifer, the amount  
28 of subsidence in variance areas or lack thereof.

None of those things were adjudicated. It was  
adjudicated on a very general basis with the intent of determining  
whether or not there was a sufficient overdraft problem in the  
adjudication area such that the court would be in the position of  
making determinations concerning physical solutions and how  
that might be brought about.

So that when - - when you are asking for a lot of detailed  
findings, I don't think you are entitled to them. And I don't  
think you are entitled to findings - - and I wouldn't be  
comfortable making findings as to what for example public water  
- - California water project water is generated and produced into  
the aquifer. I can't make that determination." (page 13, 14)

"So I'm not inclined to do that. And I think that there is a  
possibility for a great deal of argument and discussion

1 concerning water that is introduced into the valley from other  
2 areas as well as with the return flows might be for agricultural  
3 and for municipal and industrial, for salvaged water for any  
4 number of other sources of water or whatever they may be.

5 So, essentially, what I'm saying is I'm going to sustain  
6 the objection. And what I'm ultimately going to do here with  
7 regard to each one of these issues is deal with it in terms of the  
8 Statement of Decision, and I'll draft it myself. All right." (page  
9 14)

10 See Reporter's Transcript on Hearing dated July 11, 2011 at pp. 8, 9, 12, 13, 14.

11 The Court's final Statement of Decision Phase Three Trial attached as Exhibit "L" to  
12 the Declaration of Richard G. Zimmer filed herewith, confirmed:

13 "The **only issues** at this phase of the trial were simply to  
14 determine whether the adjudication area aquifer is in a current  
15 state of **overdraft** and as part of the adjudication to determine  
16 the **safe yield**. This Statement of Decision focuses solely on  
17 those issues." (page 2) (emphasis added)

18 The final Statement of Decision authored by this Court, is broken down into sub-parts which  
19 include "overdraft," page 5 and "safe yield," page 7. Accordingly, there is no question that the  
20 issues in the Phase III Trial were limited to safe yield and overdraft as a basis for determining  
21 whether the Court has equitable jurisdiction.

22 E. **The Phase 4 Issues Would Be Different If Return Flows Were Litigated in**  
23 **Phase 3.**

24 The issues in Phase 4 would be different if return flows were litigated in Phase 3. The  
25 Court specifically articulated the Phase 4 issues in its Case Management Order for Phase 4  
26 Trial filed on December 12, 2012, as follows:

27 "... 2. The **Phase 4 trial** will address the issue of current  
28 groundwater production of all parties for the calendar year 2011  
and January 1 through November 30, 2012, proof of claimed  
reasonable and beneficial use of water for each parcel to be  
adjudicated, **claimed return flows from imported water**, and  
federal reserved rights. Claims of prescription will be tried  
following the decision in Phase 4." (page 2) (emphasis added)

1 **III. ANY RETURN FLOW INFORMATION IN PHASE 3 WAS HEARSAY WITHOUT**  
2 **FOUNDATION ADMITTED FOR THE LIMITED PURPOSE OF SHOWING THE**  
3 **BASIS FOR PURVEYOR EXPERT SCALMANINI'S CONCLUSION OF SAFE**  
4 **YIELD AND OVERDRAFT**

5 **A. Procedural history:**

6 As discussed above, the Phase 3 trial was limited to safe yield and overdraft. Purveyor  
7 expert Peter Leffler conducted the recycled water return flow analysis for the purveyors which  
8 is contained in the Summary Expert Report. Joseph Scalmanini testified at trial on behalf of  
9 the purveyors on the purveyor claim to the amount of the safe yield in order to support the  
10 purveyor claim of current overdraft. The Court allowed Mr. Scalmanini to consider the  
11 analysis and findings of other experts, including Mr. Leffler, in order to opine on the safe yield  
12 and whether the basin is currently in overdraft. However, as discussed below, the Court  
13 properly ruled on numerous occasions that the hearsay testimony, opinions of experts and other  
14 hearsay data, was being admitted solely for the purpose of evaluating Mr. Scalmanini's opinion  
15 of safe yield and overdraft and not for the truth of the matters contained in the hearsay.

16 **B. The Law.**

17 **Hearsay:**

18 While an expert may base his opinion on inadmissible hearsay evidence which is the  
19 type of evidence an expert normally relies on, "when [an expert] opinion is based in part on  
20 inadmissible hearsay statements, it is improper for the proponent of the testimony to solicit  
21 evidence of the substance of the statements on direct examination." (*Korsak v. Atlas Hotels,*  
22 *Inc.* (1992) 2 Cal.App.4<sup>th</sup> 1516, 1525-1527.

23 The law also is clear that analysis and opinion of non-testifying experts is hearsay,  
24 although it may be relied upon as a basis for the opinion of a testifying expert. *See, Continental*  
25 *Airlines, Inv. v. McDonnell Douglas Corp.* (date) 216 Cal.App.3d 388. The *Continental* case  
26 involved one expert who based his opinion on the analysis of two other experts who were not  
27 present at trial. The court found that the analysis by the two absent experts was hearsay and  
28

1 that the testifying expert could not properly testify to the hearsay in the reports of the non-  
2 testifying experts. (*Id.* At 414).

3 “While an expert may state on direct examination the matters on  
4 which he relied in forming his opinion, he may not testify as to  
5 the details of such matters if they are otherwise inadmissible.  
6 [citations]. The rule rests on the rationale that **while an expert  
7 may give reasons on direct examination for his opinions,  
8 including the matters he considered in forming them, he may  
9 not under the guise of reasons bring before the jury  
10 incompetent hearsay evidence.** [citation].” (*People v. Coleman*  
11 (1985) 38 Cal.3d 69, 92 [emphasis added]).

12 “In other words . . . while an expert may rely on inadmissible  
13 hearsay in forming his her opinion [citation], and may state  
14 on direct examination the matters on which he or she relied,  
15 the expert may not testify as to the details of those matters if  
16 they are otherwise inadmissible.” (*Id.*) (emphasis added)

17 The court in *Continental* affirmed the trial court’s decision to preclude one expert from  
18 testifying as to the contents of the reports by other experts, upon which the testifying expert  
19 relied. This case was discussed at length with the court in the trial proceedings on February 14,  
20 2011 starting at page 95 of the Reporter’s Transcript. Likewise, as the court noted in *People v.*  
21 *Campos*:

22 “An expert witness may not, on direct examination, reveal the  
23 content of reports prepared or opinions expressed by  
24 nontestifying experts. The reason for this is obvious. The  
25 opportunity of cross-examining the other doctors as to the basis  
26 for their opinion, etc., is denied the party as to whom the  
27 testimony is adverse. [citation] . . . Here, the reports of the  
28 nontestifying experts were hearsay. Doctor Mertz was properly  
allowed to testify that she relied upon the reports in forming her  
own opinions. The trial court erred, however, when it allowed  
her to reveal their content on direct examination by testifying  
that each prior medical evaluation agreed with her own opinion.  
Doctors can testify as to the basis for their opinion [citation], but  
this is not intended to be a channel by which testifying doctors  
can place the opinion of innumerable out-of-court doctors before  
the jury. [citations].” (*People v. Campos* (1995) 32 Cal.App.4th  
304, 308).

During this discussion on February 14, 2011, attorney Bob Joyce aptly described the  
hearsay as “inadmissible hearsay on top of hearsay,” page 111 of the Reporter’s Transcript

1 attached as Ex "D" to the Declaration of Richard G. Zimmer filed herewith, also known as  
2 multiple hearsay. Following the lengthy argument, the Court ultimately stated:

3 " ... What I'm doing in this phase will be safe yield, overdraft,  
4 whether the Court needs to exercise equitable jurisdiction.  
5 Those are the findings that we are making, and everything  
6 else will be simply hearsay that the expert relied upon to  
7 form his opinion if it is properly used in that manner." (page  
8 123) (emphasis added)

6 **Judicial Notice:**

7 The purveyors also improperly request that the Court take Judicial Notice of Phase 3  
8 testimony to prove return flows even though the Phase 3 Trial was not intended to litigate  
9 return flows and even though judicial notice would be improper.

10 "A court may take judicial notice of the *existence of each*  
11 *document in a court file, but can only take judicial notice of the*  
12 *truth of facts asserted in documents such as orders, findings of*  
13 *fact and conclusions of law and judgments."* (Garcia v. Sterling  
14 (date) 176 Cal.App.3d 17, 22 [quoting Day v. Sharp (1975) 50  
15 Cal.App.3d 904, 914]) (emphasis added).

14 As such, a witnesses' prior testimony is not accepted as true merely because judicial  
15 notice may be taken of its existence. It is well established that:

16 "a court cannot take judicial notice of hearsay allegations as  
17 being true, just because they are part of a court record or file . . .  
18 ." (Day v. Sharp (1975) 50 Cal.App.3d 904, 914)(emphasis  
19 added).

18 **C. Requesting Judicial Notice of the Testimony of Joseph Scalmanini On Safe**  
19 **Yield and Overdraft Which to a Limited Extent Was Based Upon Hearsay**  
20 **Analysis and Conclusions of Peter Leffler Regarding Recycled Water Return**  
21 **Flows, and Without Foundation by Mr. Scalmanini Since He Did Not Do This**  
22 **Analysis, Is Clearly Improper.**

21 As noted above, purveyor expert Peter Leffler conducted the analysis of recycled water  
22 return flows for the purposes of the Summary Expert Report. Joseph Scalmanini relied on  
23 recycled water return flow numbers based upon analysis done by Mr. Leffler, not by Mr.  
24 Scalmanini. At trial on February 14, 2011, counsel objected to admitting such recycled water  
25 return flow numbers for the truth of the numbers. See, Exhibit "D" to Declaration of Richard  
26 G. Zimmer (Reporter's Transcript dated February 14, 2011 at page 123). Counsel further  
27 pointed out that numerous exhibits contained numbers that were not verified by Mr. Scalmanini  
28

1 and that admitting such exhibits would suggest that this was actual data "as opposed to  
2 something the expert merely relied upon." page 124. Following the Court's comments, counsel  
3 further stated:

4 "So it is my understanding as to any of these exhibits  
5 whether the Court introduces them or not to the extent they have  
6 any pumping data on them, it's not offered for the truth of the  
7 matter, but merely as some indication of what the expert was  
8 relying on.

9 THE COURT: To show the basis of the expert's estimate  
10 of pumping and recharge.

11 MR. ZIMMER: On a gross basis?

12 THE COURT: YES." (pages 124-125)

13 The Court correctly recognized that the only matters at issue in the Phase 3 Trial were  
14 safe yield and overdraft and allowed Mr. Scalmanini to rely on the recycled water return flow  
15 estimates by Mr. Leffler as a basis for Mr. Scalmanini's opinion as to safe yield and overdraft.  
16 The details relied upon are clearly hearsay within the meaning of the *Continental* case and  
17 based upon the Court's ruling. The details also lack foundation as a determination of the true  
18 return flow numbers when presented by Mr. Scalmanini, because he did not do the analysis.

19 Additionally, the Sanitation District and Los Angeles County Water District 40,  
20 objected to taking expert Leffler's deposition on the issue of recycled water return flows. They  
21 made this objection claiming that recycled water return flows were beyond the scope of the  
22 expert witness designations which were directed to the Phase 3 issues. Based upon this  
23 objection, a stipulation was reached that recycled water return flow evidence would not be  
24 received into evidence at the Phase 3 trial. The Court properly ruled that the details of the  
25 recycled water return flow analysis conducted by Mr. Leffler was not introduced into evidence  
26 for the truth of the matter, but merely as a basis for supporting Mr. Scalmanini's safe yield and  
27 overdraft opinion.  
28

1 IV. GRANTING THE MOTIONS IN LIMINE AND REQUEST FOR JUDICIAL  
2 NOTICE WOULD DEPRIVE PARTIES OF THE DUE PROCESS RIGHT TO  
3 LITIGATE RETURN FLOWS

4 As noted above, the Court properly defined the scope of the Phase 3 Trial as a  
5 determination of safe yield and overdraft. The Court also properly ruled that the testimony of  
6 the expert witnesses was limited to safe yield and overdraft and that all of the hearsay upon  
7 which they relied for purposes of forming their opinions, was not being accepted for the truth  
8 of the matters thereof. The Court made this ruling in trial on many occasions, such as during  
9 the testimony of Mr. Wildermuth when the following clarification was requested:

10 "MR. ZIMMER: I would join as well, as well. Just for  
11 clarification, your honor, it is my understanding that to the extent  
12 that there is hearsay in any of these exhibits that these exhibits  
13 are not being accepted for the truth of the matter, but merely as  
14 the basis for the expert opinion.

15 THE COURT: Everyone[sic] of them. (page 140)

16 See Exhibit "O" to the Declaration of Richard G. Zimmer filed herewith.

17 As the Court responded in a further discussion regarding hearsay being relied upon by Mr.  
18 Scamanini:

19 "MR. ROBERT KUHS: ... Under the Continental case, I think it  
20 is clear that the details don't come in; but if they are coming in, I  
21 would like the court to make it clear that they are coming in not  
22 for the truth of the matter asserted.

23 "THE COURT: They are so far coming in as the basis for Mr.  
24 Scamanini's opinion."

25 See Exhibit "D" to Declaration of Richard G. Zimmer filed  
26 herewith at page 127.

27 Likewise, concerning the testimony of federal expert June Oberdorfer, the Court stated:

28 "MR. LEININGER: Your Honor, at this time, I would move for  
entries of exhibits marked I-1 through 18 and I-20 of her  
testimony.

THE COURT: Now I understand that there are objections to the  
Court accepting the information for the truth of the matters. That  
objection has been sustained. I'll permit them to come in  
exemplifying her testimony with the understanding that hearsay  
is hearsay."

See Exhibit "O" to Declaration of Richard G. Zimmer filed herewith.  
(Reporter's Transcript dated February 17, 2011 at p. 85).



1 Granting the motions in limine and request for judicial notice would deprive parties of  
2 the due process right to litigate return flows for the following reasons:

- 3 1. Doing so would improperly deprive the parties from hearing testimony of Peter Leffler  
4 who conducted the recycled water return flow analysis.
- 5 2. Doing so would eliminate the need for direct examination of Mr. Leffler or some other  
6 expert to provide appropriate foundation and basis for the recycled water return flow  
7 numbers.
- 8 3. Doing so would deprive parties of the right to cross-examine Mr. Leffler, the individual  
9 who did the recycled water return flow analysis.
- 10 4. Doing so would deny the parties the right to present rebuttal evidence based upon direct  
11 and/or cross-examination testimony of the expert who did the recycled water return  
12 flow analysis.
- 13 5. Doing so would allow proof of return flows based upon hearsay without foundation.
- 14 6. Doing so would allow proof of return flows without the proper foundation of the  
15 process and procedure used to determine return flow numbers.
- 16 7. Doing so would require the court to make return flow findings without trial and without  
17 providing the parties the opportunity to present their evidence on return flow issues.

18 **V. GRANTING THE MOTIONS IN LIMINE AND THE REQUEST FOR JUDICIAL**  
19 **NOTICE IS NOT IN THE INTEREST OF JUSTICE BECAUSE IT WOULD BE**  
20 **COUNTERPRODUCTIVE TO SETTLEMENT NEGOTIATIONS BY FORCING**  
21 **PARTIES TO SEEK APPELLATE RELIEF TO OBTAIN A TRIAL ON RETURN**  
22 **FLOWS**

23 It is clear that the Phase 3 Trial did not litigate return flow and recycled water issues. It  
24 is also clear that due process requires that the parties be provided the opportunity to fairly  
25 litigate return flow issues. Denying this right to trial on these important issues would be  
26 counterproductive to settlement negotiations. It would force parties to seek appellate relief to  
27 obtain a trial on these issues and would prevent them from considering such claims for  
28 settlement purposes following the opportunity to investigate and dispute the claims. As such,

1 granting the motions in limine and request for judicial notice would not be in the interest of  
2 justice.

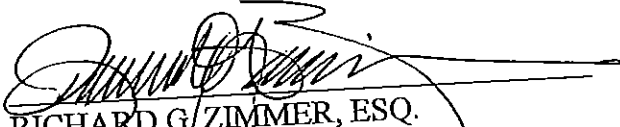
3 **VI. CONCLUSION**

4 The motions in limine and request for judicial notice improperly suggest that return  
5 flow issues were litigated and decided in Phase 3. The record clearly demonstrates that this is  
6 not correct. Further, the motions in limine and request for judicial notice request findings on  
7 return flows which were not litigated and which are based upon hearsay without proper  
8 foundation. As such, the motions in limine and request for judicial notice deprive parties of  
9 their due process right to contest and litigate these issues. Accordingly, Bolthouse requests that  
10 the motions in limine and request for judicial notice regarding these issues be denied.

11  
12 DATED: April 19, 2013

Respectfully submitted.

CLIFFORD & BROWN

13  
14  
15  
16 By:   
17 RICHARD G. ZIMMER, ESQ.  
18 Attorneys for  
19 BOLTHOUSE PROPERTIES, LLC and  
20 WM. BOLTHOUSE FARMS, INC.  
21  
22  
23  
24  
25  
26  
27  
28

1 PROOF OF SERVICE (C.C.P. §1013a, 2015.5)  
2 Antelope Valley Groundwater Cases  
3 Judicial Counsel Coordination Proceeding No. 4408  
4 Santa Clara County Superior Court Case No. 1-05-CV-049053

5 I am employed in the County of Kern, State of California. I am over the age of 18 and  
6 not a party to the within action; my business address is 1430 Truxtun Avenue, Bakersfield, CA  
7 93301.

8 On April 19, 2013, I served the foregoing document(s) entitled:

9 **BOLTHOUSE PROERTIES, LLC and Wm. BOLTOUSE FARMS, INC.'S  
10 OPPOSITION TO:**

- 11 1. Quartz Hill Water District Motion in Limine No. One Regarding Quantity of  
12 Imported Water Return Flows;
- 13 2. Motion in Limine Number One by Los Angeles County Waterworks District No. 40  
14 to Preclude Evidence Re Decided Issues Including Return Flow Contribution to  
15 Basin Safe Yield;
- 16 3. Motion in Limine of Rosamond Community Services District For Order: (1)  
17 Excluding Any Evidence or Argument that the District is Not Entitled to Produce  
18 Return Flows From Its Imported Waters, and (2) Excluding Any Evidence or  
19 Testimony Contrary To or Inconsistent With the Return Flow Formula Adopted  
20 by the Court in the Phase III Trial; and

21 **Request for Judicial Notice of Trial Testimonies, Exhibits, and Decision in Phase Three  
22 Re Return Flows by Los Angeles County Waterworks District No. 40**

23 by posting the DOCUMENT listed above to the Santa Clara Superior Court  
24 website in regard to the Antelope Valley Groundwater Matter. All parties listed on the Santa  
25 Clara Superior Court in regard in regard to this matter are hereby incorporated herein by this  
26 reference.

27 Executed on April 19, 2013, at Bakersfield, California.

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

29   
30 VICKI STREET

31 2455-2

1 RICHARD G. ZIMMER - SBN 107263  
2 T. MARK SMITH - SBN 162370  
3 CLIFFORD & BROWN  
4 A Professional Corporation  
5 Attorneys at Law  
6 Bank of America Building  
7 1430 Truxtun Avenue, Suite 900  
8 Bakersfield, CA 93301-5230  
9 (661) 322-6023

10 Attorneys for Bolthouse Properties, LLC  
11 and Wm. Bolthouse Farms, Inc.

12 SUPERIOR COURT OF CALIFORNIA  
13 COUNTY OF SANTA CLARA

14 \* \* \*

15 COORDINATION PROCEEDING  
16 SPECIAL TITLE (Rule 1550(b))

Judicial Council Coordination Proceeding No.  
4408

17 ANTELOPE VALLEY GROUNDWATER  
18 CASES

CASE NO. 1-05-CV-049053

19 INCLUDED ACTIONS:

DECLARATION OF RICHARD G.  
ZIMMER IN SUPPORT OF  
BOLTHOUSE PROPERTIES'  
OPPOSITION TO MOTIONS IN LIMINE

20 LOS ANGELES COUNTY  
21 WATERWORKS DISTRICT NO. 40 v.  
22 DIAMOND FARMING COMPANY, et al.,  
23 Los Angeles Superior Court Case No.  
24 BC325201

25 LOS ANGELES COUNTY  
26 WATERWORKS DISTRICT NO. 40 v.  
27 DIAMOND FARMING COMPANY, et al.,  
28 Kern County Superior Court Case No. S-  
1500-CV-254348

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

ROSAMOND COMMUNITY SERVICES  
DISTRICT,  
CROSS-COMPLAINANT,

DECLARATION OF RICHARD G. ZIMMER

I, RICHARD G. ZIMMER, hereby declare as follows:

1. I am an attorney duly licensed to practice law in the State of California, and am a partner in the law firm of Clifford & Brown, A Professional Corporation, attorneys for Bolthouse Properties, LLC and Wm Bolthouse Farms, Inc. in the above-entitled matter. I make this declaration of my own personal knowledge, except for those matters stated on information and belief, and as to those matters, I believe them to be true.

2. Attached hereto as Exhibit "A" is a true and correct copy of excerpts from the transcript of proceedings in this matter on March 8, 2010.

3. Attached hereto as Exhibit "B" is a true and correct copy of the Court's Order After Case Management Conference on March 22, 2010.

4. Attached hereto as Exhibit "C" is a true and correct copy of the Public Water Suppliers' Expert Designation for Phase III Trial and Expert Declaration.

5. Attached hereto as Exhibit "D" is a true and correct copy of excerpts from the transcript of proceedings in this matter on February 14, 2011.

6. Attached hereto as Exhibit "E" is a true and correct copy of the San District's objections to the deposition of Mr. Leffler.

7. Attached hereto as Exhibit "F" is a true and correct copy of the San District's second set of objections to the deposition of Mr. Leffler.

8. Attached hereto as Exhibit "G" is a true and correct copy of the Los Angeles County objections to the deposition of Mr. Leffler.

9. Attached hereto as Exhibit "H" is a true and correct copy of Bolthouse Properties' Proposal regarding Content of Statement of Decision, dated May 24, 2011.

10. Attached hereto as Exhibit "I" is a true and correct copy of the Proposed Statement of Decision regarding the Phase Three Trial, served by the purveyors on June 6, 2011.

11. Attached hereto as Exhibit "J" is a true and correct copy of Bolthouse Properties' Objection to the Proposed Statement of Decision, dated June 21, 2011.

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12. Attached hereto as Exhibit "K" is a true and correct copy of excerpts from the transcript of proceedings in this matter on July 11, 2011.

13. Attached hereto as Exhibit "L" is a true and correct copy of the final Statement of Decision regarding the Phase Three Trial, dated July 13, 2011.


14. Attached hereto as Exhibit "M" is a true and correct copy of the Court's December 12, 2012 Case Management Order regarding Phase IV trial.

15. Attached hereto as Exhibit "N" is a true and correct copy of excerpts from the transcript of proceedings in this matter on February 1, 2011.

16. Attached hereto as Exhibit "O" is a true and correct copy of excerpts from the transcript of proceedings in this matter on February 17, 2011.

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

Executed this 17<sup>th</sup> day of April, 2013 at Bakersfield, California.

  
RICHARD G. ZIMMER

**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**

Included Consolidated Actions:

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

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, consolidated actions, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668

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

Judicial Council Coordination  
Proceeding No. 4408

Lead Case No. BC 325 201

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

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

Judge: Honorable Jack Komar

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

/s/ Jack Komar  
Honorable Jack Komar  
Judge of the Superior Court

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# **EXHIBIT "C"**



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

1 **BEST BEST & KRIEGER LLP**  
ERIC L. GARNER, Bar No. 130665  
2 JEFFREY V. DUNN, Bar No. 131926  
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4 5 PARK PLAZA, SUITE 1500  
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6 Attorneys for Cross-Complainants  
ROSAMOND COMMUNITY SERVICES  
DISTRICT and LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40

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 [See Next Page For Additional Counsel]

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 COUNTY OF LOS ANGELES - CENTRAL DISTRICT

17  
18 **ANTELOPE VALLEY  
GROUNDWATER CASES**

19 Included Actions:  
20 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

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**

28  
PUBLIC WATER SUPPLIERS' EXPERT DESIGNATION AND EXPERT DECLARATION

LAW OFFICES OF  
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5 PARK PLAZA, SUITE 1500  
IRVINE, CALIFORNIA 92614

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2 James L. Markman, Bar No. 43536  
3 Steven Orr, Bar No. 136615  
4 355 S. Grand Avenue, 40<sup>th</sup> Floor  
Los Angeles, CA 90071-3101  
(213) 626-8484 (213) 626-0078 fax  
Attorneys for City of Palmdale

5 LEMIEUX & O'NEILL  
6 Wayne Lemieux, Bar No. 43501  
7 2393 Townsgate Road, Ste. 201  
8 Westlake Village, CA 91361  
(805) 495-4770 (805) 495-2787 fax  
Attorneys for Littlerock Creek Irrigation District and  
Palm Ranch Irrigation District

9 LAGERLOF SENEAL GOSNEY & KRUSE  
10 Thomas Bunn III, Bar No. 89502  
11 301 North Lake Avenue, 10<sup>th</sup> Floor  
Pasadena, CA 91101-4108  
(626) 793-9400 (626) 793-5900 fax  
Attorneys for Palmdale Water District

12 CHARLTON WEEKS LLP  
13 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  
17 John Tootle, Bar No. 181822  
18 2632 West 237<sup>th</sup> Street  
Torrance, CA 90505  
(310) 257-1488; (310) 325-4605-fax

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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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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.

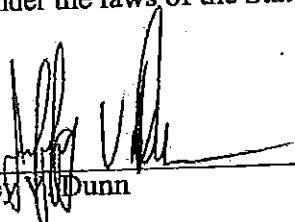
22 12. Mr. Leffler will offer testimony regarding characteristics of bedrock surrounding  
23 the Antelope Valley and potential flows of groundwater through those materials into the Basin.  
24 Mr. Leffler will also offer rebuttal testimony regarding other experts' analyses regarding  
25 characteristics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

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 15, 2010, I served the within document(s):

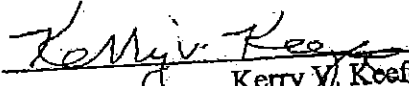
**PUBLIC WATER SUPPLIERS' EXPERT DESIGNATION FOR PHASE III TRIAL AND EXPERT DECLARATION**

- 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 15, 2010, at Irvine, California.

  
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, )

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

CROSS-COMPLAINANTS, )

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"**



EXEMPT FROM FILING FEES  
UNDER GOVERNMENT CODE  
SECTION 6103

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

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES - CENTRAL DISTRICT

11 ANTELOPE VALLEY  
12 GROUNDWATER CASES

13 Included Actions:

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

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

22 Wm. Bolthouse Farms, Inc. v. City of  
23 Lancaster, Diamond Farming Co. v. City  
24 of Lancaster, Diamond Farming Co. v.  
25 Palmdale Water Dist., Superior Court of  
26 California, County of Riverside,  
27 consolidated actions, Case Nos. RIC 353  
28 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

CLASS ACTION

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

ASSIGNED FOR ALL PURPOSES TO:  
Judge: Honorable Jack Komar

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

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.

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

I declare that:

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

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

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

  
Patty Slomski

# **EXHIBIT “F”**

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

Included Actions:

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

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,  
consolidated actions, 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 FOR ALL PURPOSES TO:  
Judge: Honorable Jack Komar

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

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, 10<sup>th</sup> Floor  
Pasadena, California 91101

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 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.

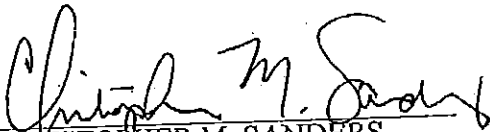
10 SPECIFIC OBJECTIONS

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  
16  
17 By:

  
CHRISTOPHER M. SANDERS  
Attorneys for Cross-Defendants

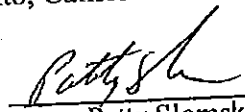
PROOF OF SERVICE

I declare that:

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

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

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

  
Patty Slomski



**EXHIBIT "G"**

EXEMPT FROM FILING FEES  
UNDER GOVERNMENT CODE  
SECTION 6103

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

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 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 COUNTY OF LOS ANGELES - CENTRAL DISTRICT  
16

17  
18 ANTELOPE VALLEY  
GROUNDWATER CASES  
19 Included Actions:  
20 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

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

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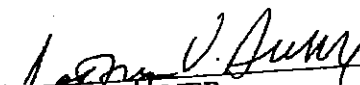
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12. Cross-Complainants object to document request number 13 to the extent it is beyond the scope of the expert designation and calls for information protected by the attorney work product doctrine.

Dated: July 26, 2010

BEST BEST & KRIEGER LLP

By   
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

**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):

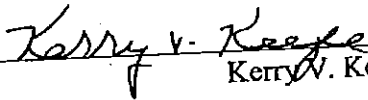
**OBJECTIONS TO BOLTHOUSE'S NOTICE OF DEPOSITION OF EXPERT PETER LEFFLER**

- 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

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

**EXHIBIT "H"**

1 RICHARD G. ZIMMER - SBN 107263  
2 T. MARK SMITH - SBN 162370  
3 CLIFFORD & BROWN  
4 A Professional Corporation  
5 Attorneys at Law  
6 Bank of America Building  
7 1430 Truxtun Avenue, Suite 900  
8 Bakersfield, CA 93301-5230  
9 (661) 322-6023

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

7 SUPERIOR COURT OF CALIFORNIA  
8 COUNTY OF SANTA CLARA

9 \* \* \*

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

Judicial Council Coordination Proceeding No.  
4408

12 ANTELOPE VALLEY GROUNDWATER  
13 CASES

CASE NO. 1-05-CV-049053

13 INCLUDED ACTIONS:

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

Phase 3 Trial Date:  
January 4, 2011

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

23 ROSAMOND COMMUNITY SERVICES  
24 DISTRICT,

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."

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

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.

27 III

28 III

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. s

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.



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

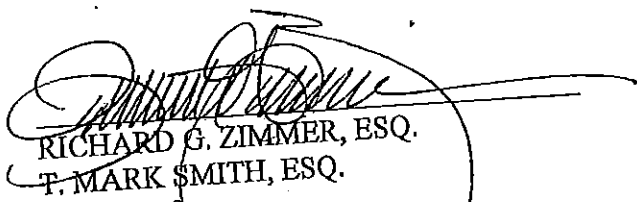
57. Specific expert testimony relied upon by the Court to determine that "It should not be assumed that the safe yield management number may not change as climate circumstances and pumping may change, or as the empirical evidence based on experience in managing the basin suggests it is either too high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

DATED: May 24, 2011

Respectfully submitted.

CLIFFORD & BROWN

By:



RICHARD G. ZIMMER, ESQ.  
T. MARK SMITH, ESQ.  
Attorneys for  
BOLTHOUSE PROPERTIES, LLC and  
WM. BOLTHOUSE FARMS, INC.

**PROOF OF SERVICE (C.C.P. §1013a, 2015.5)**

*Antelope Valley Groundwater Cases  
Judicial Counsel Coordination Proceeding No. 4408  
Santa Clara County Superior Court Case No. 1-05-CV-049053*

I am employed in the County of Kern, State of California. I am over the age of 18 and not a party to the within action; my business address is 1430 Truxtun Avenue, Bakersfield, CA 93301.

On May 24, 2011, I served the foregoing document(s) entitled:

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

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.


by placing    the original,    a true copy thereof, enclosed in a sealed enveloped addressed as follows:

   BY SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX LITIGATION PURSUANT TO CLARIFICATION ORDER DATED OCTOBER 27, 2005.

Executed on May 24, 2011, at Bakersfield, California.

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

(Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

  
NANETTE MAXEY  
2455-2

**EXHIBIT "I"**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

**ANTELOPE VALLEY GROUNDWATER  
CASES**

Included Consolidated Actions:

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

Los Angeles County Waterworks District No.  
40 v. Diamond Farming Co.  
Superior Court of California, County of Kern,  
Case No. S-1500-CV0254-348

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, consolidated actions, Case Nos.  
MC 353 840, MC 344 436, MC 344 668

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  
Angeles, Case No. BC 391-869

Judicial Council Coordination  
Proceeding No. 4408

Lead Case No. BC 325201

**STATEMENT OF DECISION RE  
PHASE III TRIAL**

Judge: Honorable Jack Komar

1 Cross-complainants Los Angeles County Waterworks District No. 40, City of Palmdale,  
2 Palmdale Water District, Littlerock Creek Irrigation District, Palm Ranch Irrigation District,  
3 Quartz Hill Water District, California Water Service Company, Rosamond Community Service  
4 District, Phelan Piñon Hills Community Services District, Desert Lake Community Services  
5 District, North Edwards Water District (collectively, the "Public Water Suppliers")<sup>1</sup> brought an  
6 action for, *inter alia*, declaratory relief, alleging that the Antelope Valley Adjudication Area  
7 groundwater aquifer ("Basin") was in a state of overdraft and required judicial intervention to  
8 provide for water resource management within the Basin to prevent depletion of the aquifer and  
9 damage to the Basin ("Basin").

10 Several of the cross-defendant parties (collectively, the "Landowner Group") also sought  
11 declaratory relief in their various independent (now coordinated and consolidated) actions.

12 The first issues to be decided in the declaratory relief cause of action are overdraft and  
13 safe yield. The remaining causes of action and issues are to be tried in a subsequent phase or  
14 phases.

15 This Phase Three trial commenced on January 4, 2011 and continued thereafter on various  
16 days based upon the needs of the parties and the Court's availability. Appearances of counsel are  
17 noted in the Court minutes.

18 Upon conclusion of the evidence, the Court offered counsel the opportunity to provide  
19 written final arguments and the invitation was declined by all counsel. On April 13, 2011, the  
20 Court heard oral argument and the matter was ordered submitted.

21 The Public Water Suppliers (and others) have alleged that the Basin is in a condition of  
22 overdraft and have requested that the Court determine a safe yield and consider imposing a  
23 physical solution or other remedy to prevent further Basin depletion and degradation.

24 Several parties, in opposition to the requests of the Public Water Suppliers, have  
25 contended that while there may have been overdraft in the past, currently, the Basin has recovered

26 <sup>1</sup> The United States and City of Los Angeles, though not public water suppliers in the Antelope Valley Adjudication  
27 Area, joined with the Public Water Suppliers. Rosamond Community Services District, though a public water  
28 supplier, did not join the Public Water Suppliers. Instead, Rosamond Community Services District joined the  
Landowner Group parties.

1 and is not in overdraft. These same parties contend that it is not possible to establish a single  
2 value for the Basin's safe yield; instead they have requested that the Court determine a range of  
3 values for safe yield.

4 The Court concludes that the Public Water Suppliers have the burden of proof and that the  
5 burden must be satisfied by a preponderance of the evidence. (Evid. Code section 115.) The  
6 Court finds that the Public Water Suppliers have met the burden of proof by a preponderance of  
7 the evidence as to the safe yield and overdraft of the Basin.

8 The law defines overdraft as groundwater extractions in excess of the "safe yield" of  
9 water from an aquifer, which over time will lead to a depletion of the water supply within a  
10 groundwater basin as well as other detrimental effects, if the imbalance between pumping and  
11 extraction continues. (*City of Los Angeles v. City of San Fernando* (1975) 14 Cal. 3d 199, 278;  
12 *City of Pasadena v. City of Alhambra* (1949) 33 Cal. 2d 908, 929; *Orange County Water District*  
13 *v. City of Riverside* (1959) 173 Cal.App.2d 137.) "Safe yield" is the annual water extraction from  
14 the aquifer over time equal to the amount of water needed to recharge the aquifer and maintain it  
15 in equilibrium, plus any temporary surplus. (*City of Los Angeles v. City of San Fernando* (1975)  
16 14 Cal.3d 199, 278.) Temporary surplus is defined as that amount of water that may be pumped  
17 from an aquifer to make room to store future water that would otherwise be wasted and  
18 unavailable for use. (*Id.*, p. 278.)

19 A determination of safe yield and overdraft requires the expert opinions of engineers,  
20 hydrologists and geologists.<sup>2</sup> Experts in the field of hydrogeology routinely base their opinions  
21 and conclusions concerning overdraft on evidence of long-term lowering of groundwater levels,  
22 loss of groundwater storage, declining water quality, seawater intrusion (not an issue in this case),  
23 land subsidence, and the like. Experts also conduct a sophisticated analysis of precipitation and  
24 its runoff, stream flow, and infiltration into the aquifer, including such things as  
25 evapotranspiration, water from other sources introduced into the aquifer (artificial recharge  
26 including return flows from imported water), as well as the nature and quantity of extractions

27 \_\_\_\_\_  
28 <sup>2</sup> All the experts offer estimates. The American Heritage College Dictionary, Third Edition, defines an "estimate"  
as, *inter alia*, "[a] rough calculation, as of size" or "[a] judgment based on one's impressions; an opinion."

1 from the Basin and return flows therefrom.

2 Generally, neither overdraft nor safe yield can be determined by looking at a groundwater  
3 basin in a single year but must be determined by evaluating the basin conditions over a sufficient  
4 period of time to determine whether pumping rates have or will lead to eventual permanent  
5 lowering of the water level in the aquifer and ultimately depletion of the water supply or other  
6 harm. Recharge must equal discharge over the long term. (*City of Los Angeles v. City of San*  
7 *Fernando, supra*, 14 Cal.3d at pp. 278-279.)

8 The location of the Antelope Valley Adjudication Area boundaries was decided in the  
9 Phase I and II trials. The Court defined the boundaries of the Basin's aquifer based upon  
10 evidence of hydraulic connectivity within the aquifer. If there was no hydraulic connectivity with  
11 the aquifer, an area was excluded from the adjudication. The degree of hydraulic connectivity  
12 varies from area to area within the Antelope Valley Adjudication Area. Some areas seemingly  
13 have fairly small or nominal hydro-conductivity but must be included in this phase of the  
14 adjudication. Pumping in those parts of the Basin may be shown to have *de minimis* effect on  
15 other parts of the Basin while pumping in other areas within the Basin appears to have very large  
16 impacts on adjacent parts of the Basin. All areas were included within the Adjudication Area  
17 because they all have some level of hydraulic connectivity, some more and some less. How to  
18 deal with those differences is ultimately a basin management decision that is well beyond the  
19 scope of this phase of trial.

### 20 21 Overdraft

22 The preponderance of the evidence presented establishes that the Basin is in a state of  
23 overdraft. Reliable estimates of the long-term extractions from the Basin have exceeded reliable  
24 estimates of the Basin's recharge by significant margins, and empirical evidence of overdraft in  
25 the Basin corroborates that conclusion. The Basin has sustained a significant loss of groundwater  
26 storage since 1951. While pumping in recent years has reduced and moderated the margin  
27 between pumping and recharge as cultural conditions have changed and precipitation has  
28 increased with the appearance of "wetter" parts of the historical cycle, pumping in some areas of



1 the aquifer is continuing to cause harm to the basin. The evidence is persuasive that current  
2 extractions continue to exceed recharge and therefore that the Basin continues to be in a state of  
3 overdraft, although by a much reduced amount. Since 1951<sup>3</sup> there is evidence of substantial  
4 pumping (principally agricultural in the early years of the period), with continuous lowering of  
5 water levels and subsidence extending to the present time, with intervals of only slight rises in  
6 water levels in some areas.

7 In the areas of increased pumping, in particular in the Palmdale and Lancaster areas, there  
8 is a continual lowering of water levels such that it may have a serious effect on water rights in  
9 other areas, causing cones of depression, altering natural water flow gradients, causing the  
10 lowering of water levels in adjacent areas, and causing subsidence and loss of aquifer storage  
11 capacity. Given population growth, and land use changes, the Antelope Valley is at risk of an  
12 even more serious continuing overdraft in the future.

13 While the lowering of current water levels has slowed, and water levels in some wells in  
14 some areas have risen in recent years, significant areas within the Basin continue to show  
15 declining levels, some slightly so, but many show a material lowering of water levels. Overall,  
16 water levels and storage in the Basin are declining.

17 Thus, the Antelope Valley Adjudication Area has been in a state of overdraft for more  
18 than 50 years, and based on estimates of extraction and recharge, corroborated by physical  
19 evidence of conditions in the Basin as a whole including loss of groundwater in storage, land  
20 subsidence and changes in the amount and direction of groundwater flow to Edwards Air Force  
21 Base. While the annual amount of overdraft has lessened in recent years with decreased pumping  
22 and increased precipitation and recharge, the effects of overdraft remain and are in danger of  
23 being exacerbated with increased pumping and the prospective cyclical precipitation fluctuations  
24 shown by the historical record. The physical evidence establishes that there was significant  
25 subsidence occurring throughout the Antelope Valley Adjudication Area ranging from two to six  
26 feet or more in certain areas caused by such pumping and that measurable water levels fell in a  
27 substantial part of the Valley. While some of the ongoing subsidence may be attributable to

28 <sup>3</sup> Precipitation and well records prior to that year are too intermittent to be relied upon.

1 residual subsidence (from earlier periods of shortfall) a preponderance of the evidence establishes  
2 that ongoing and continued subsidence is caused, in part, by ongoing groundwater extractions in  
3 excess of the Basin's safe yield.  
4

#### 5 Safe Yield

6 A safe yield calculation is necessary to manage a basin and create a physical solution to a  
7 potential or actual continuing overdraft. A determination of safe yield requires an initial  
8 determination of average annual natural or native recharge to the aquifer from all sources. The  
9 only sources of natural or native recharge for the Antelope Valley are precipitation from the  
10 surrounding mountains that recharges the Basin and it is therefore necessary to ascertain average  
11 annual precipitation. The calculation of annual average precipitation can only be properly  
12 determined by using a baseline study period that covers precipitation in periods of drought and  
13 periods of abundant precipitation over a sufficient period of time that a reliable estimate of  
14 average future recharge based on precipitation can be made.

15 One Landowner Group expert selected two shorter base periods (the total time span of  
16 which was considerably less than the 50 year period used by the Public Water Suppliers' experts  
17 which the Court believes are more credible), each having different estimated average natural  
18 recharge based upon different precipitation averages from each base period. If the purpose of  
19 selecting a base period is to determine average recharge over time based on precipitation,  
20 choosing two consecutive periods of time with two different average numbers would not serve  
21 that purpose and would preclude estimating a single safe yield. A base period that calculates  
22 average precipitation over a representative period of time permits reliable predictions about future  
23 natural recharge based on regular recurring precipitation cycles. A period of precipitation  
24 fluctuations from 1951 to 2005 satisfies that standard. Shorter periods do not and the Court does  
25 not find those shorter base periods to produce accurate results. The Court accepts the base period  
26 selected by the Public Water Supplier experts as the more credible and accurate representation of  
27 long-term conditions in the Basin.

28 The pumping extractions are not seriously in dispute by any of the experts who testified.

1 All seem to agree that pumping currently is estimated to range from 130,000 to 150,000 acre feet  
2 a year. The major area of dispute between the parties is the average annual natural recharge,  
3 which also involves disputes concerning return flows, the amount of native vegetation water  
4 needs, evapotranspiration, stream flow, runoff, groundwater infiltration, specific yield, lag time,  
5 bedrock infiltration, agricultural crop needs, and the like. Other sources of recharge to the Basin,  
6 including artificial recharge-water introduced into the Basin from external sources are not in  
7 dispute.

8 Evidence established that during the entire historical period presented, population  
9 increased within the Valley and water use changed in a variety of ways. There has been a shift in  
10 some areas to urban uses and away from agriculture although in recent years agricultural pumping  
11 has also increased. The nature of agricultural water duties has changed as well. The type of  
12 irrigation used by farmers has become more efficient and less water is needed per acre (depending  
13 on the crops grown) with more efficient uses of water. But there has also been an increase as well  
14 as a change in the nature of the type of agriculture in the Valley in material quantities in recent  
15 years. Other such changes may occur and it is important to both current and future generations to  
16 ensure that the water resources within the Basin are managed prudently.

17 The Court heard from a very large number of experts, some of whom have provided  
18 opinion testimony about what constitutes safe yield. All the experts testifying acknowledged that  
19 changes in the selection of a base study period, lag time, agricultural water duties  
20 evapotranspiration, specific yield, runoff quantities, well level contours, bedrock infiltration  
21 return flows, playa evaporation relating to run off and bedrock infiltration, chloride  
22 measurements, satellite imaging, and agricultural and municipal pumping estimates, among  
23 others, would affect the ultimate opinion of natural recharge and return flows including return  
24 flows from State Water Project water.

25 The opinions of all the experts are estimates, based upon their professional opinion. All of  
26 the opinions were critiqued by other experts who often had different opinions. The Court  
27 recognizes the imprecision of the various estimates and the fact that an estimate by definition is  
28 imprecise. But because estimates lack precision does not mean that the Court cannot rely upon

1 such estimates. The scientific community relies upon such estimates in the field of hydrogeology  
2 and the Court must do the same.

3 Reasonable experts can differ as to reasonable estimates of natural recharge and virtually  
4 all other components of water budgets, computations of change of storage, and the like, all the  
5 while using the same formulae and scientific principles to reach their conclusion. For example,  
6 all the experts could agree on the definition of "Darcy's Law" and the physics principle of  
7 "conservation of mass" but still reach different conclusions.

8 Some of the experts opined that the Basin was not in overdraft and that recharge was in  
9 excess of or in balance with extractions so that there was a surplus in the Basin. One Landowner  
10 Group expert opined that loss of storage was merely space for temporary storage. The evidence  
11 presented and observable conditions in the valley are inconsistent with those conclusions. If there  
12 were a surplus, even in the shortened base periods used by the Landowner Group experts, there  
13 would not be land subsidence, nor declining water levels. The Basin's physical conditions are  
14 inconsistent with those Landowner Group expert estimates that there is and has been a surplus of  
15 water in the Basin and the Court finds these opinions unreliable.

16 Selecting a safe yield number for an aquifer the size of the Antelope Valley is made  
17 difficult because its size and its geologic complexity. As reflected above, hydraulic connectivity  
18 varies considerably between various parts of the Basin. Hydraulic connectivity between some  
19 portions of the Basin and other portions is so slight as to be almost (apparently) nonexistent.  
20 Pumping in those areas may have little or no effect on other areas of the Basin. The Basin is not  
21 like a bathtub where lowering and raising of water levels is equal in all parts of the "tub."

22 Therefore, different areas of the Basin may require different levels of pumping in order to  
23 maintain equilibrium. No attempt has been made in this phase of trial to define geological  
24 differences in the Basin that would justify different pumping regimes for different parts of  
25 Antelope Valley as a result of the decision in Phase Two regarding hydraulic connectivity.

26 Weighing the various opinions, however, the Court finds by a preponderance of the  
27 evidence that setting a total safe yield at a conservative 110,000 acre feet per year will permit  
28 management of the Basin in such a way as to preserve the rights of all parties in accordance with

1 the Constitution and laws of the State of California. Some Basin areas receive more recharge  
2 than others and pumping requirements vary. These differences require management decisions  
3 that respect the differences in both the geology and the cultural needs of the diverse parts of the  
4 valley. However, the amount of hydro-conductivity between Basin areas was beyond the scope  
5 of the Phase III trial.

6 Out of the total safe yield of 110,000 acre feet annually, the Court finds, by a  
7 preponderance of the evidence, the native safe yield is 82,000 acre feet per year and the  
8 supplemental safe yield is 28,000 acre feet annually. The native safe yield is the amount of  
9 precipitation that recharges the Basin. The native safe yield is the total of the long-term average  
10 annual natural recharge to the Basin in the amount of 60,000 acre feet, and the long-term average  
11 annual return flows attributable to pumping the native recharge in the amount of 22,000 acre feet.

12 Supplemental safe yield is the amount of imported water (i.e., State Water Project water)  
13 that recharges the Basin, plus the return flows from such water after it is pumped and re-applied  
14 to municipal and industrial or agricultural use. (See Scalmanini Exhibits 94 and 95.) The Court  
15 finds that the supplemental safe yield of the Basin is 28,000 acre feet annually, based on  
16 estimated return flow percentages of 28.1% for municipal and industrial use, and 25% for  
17 agricultural use. (See Scalmanini Exhibits 94 and 95.) The Court finds that all subsequent  
18 pumping of return flows are subject to these respective percentages as shown by Scalmanini  
19 Exhibit 95.

20 The Court makes the findings herein based on a preponderance of the evidence presented  
21 by the Public Water Suppliers, the City of Los Angeles and the United States. The Court finds  
22 that the opinion testimony and evidence presented by the Public Water Suppliers<sup>4</sup>, the City of Los  
23 Angeles and the United States to be credible and that the opinion testimony and evidence  
24 presented by the Landowner Group parties to not be as credible as to the safe yield and overdraft  
25 issues.

26 It should not be assumed that the safe yield management number may not change as

27 <sup>4</sup> As previously noted, Rosamond Community Services District is a public water producer but it did not align itself  
28 with the Public Water Producers. Instead, Rosamond Community Services District and the City of Lancaster aligned  
themselves and supported the Landowner Group parties.

1 climate circumstances and pumping may change, or as the empirical evidence based on  
2 experience in managing the Basin suggests it is either too high or too low, that is why the Court  
3 will retain jurisdiction over any physical solution to the Basin's overdraft  
4

5 Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. Jack Komar  
Judge of the Superior Court

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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 June 6, 2011, I served the within document(s):

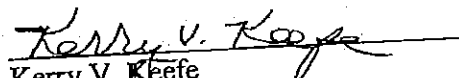
**STATEMENT OF DECISION RE PHASE III TRIAL**

- 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 June 6, 2011, at Irvine, California.

  
Kerry V. Keefe

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

**EXHIBIT “J”**



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

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA

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COORDINATION PROCEEDING  
SPECIAL TITLE (Rule 1550(b))

Judicial Council Coordination Proceeding No.  
4408

ANTELOPE VALLEY GROUNDWATER  
CASES

CASE NO. 1-05-CV-049053

INCLUDED ACTIONS:

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

BOLTHOUSE PROPERTIES, LLC'S  
AND WM. BOLTHOUSE FARMS, INC.'S  
OBJECTION TO STATEMENT OF  
DECISION RE PHASE III TRIAL  
SUBMITTED BY LOS ANGELES  
COUNTY AND OTHER WATER  
PURVEYORS

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

[C.C.P. §632, 634]

Phase 3 Trial Date:  
January 4, 2011

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

ROSAMOND COMMUNITY SERVICES  
DISTRICT,

CROSS-COMPLAINANT,

\\  
\\  
\\

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that pursuant to California *Code of Civil Procedure*, Sections  
3 632 and 634, BOLTHOUSE PROPERTIES, LLC and WM. BOLTHOUSE FARMS, INC.  
4 (hereinafter "Bolthouse"), hereby object to the Statement of Decision Re Phase III Trial  
5 submitted by Los Angeles County and other Water Purveyors on June 6, 2011, on the grounds  
6 that the Purveyors' Statement of Decision fails to set forth the "factual and legal basis for its  
7 decision as to each of the principal controverted issues at trial" and omits material and  
8 subsidiary issues of fact and evidence as requested in Bolthouse's Proposal Re: Content of  
9 Statement of Decision filed on May 24, 2011, incorporated herein by reference, and as clarified  
10 on "Exhibit A" attached hereto, and on the grounds that the Purveyors' Statement of Decision  
11 is ambiguous as to the scope of the Phase III Trial and makes findings on issues not set for trial  
12 as set forth in the Order After Hearing Held on November 18, 2010.

13 **PURVEYORS' STATEMENT OF DECISION FAILS TO SET FORTH THE FACTUAL**  
14 **AND LEGAL BASIS FOR THE DECISION**

15 *Code of Civil Procedure*, Section 632 requires that the Court issue a "Statement of  
16 Decision explaining the factual and legal basis for its decision as to each of the principal  
17 controverted issues at trial." "The Trial Court must make findings on material subsidiary  
18 issues of fact." *Midwest Television, Inc. v. Scott, Lancaster Mills and Atha, Inc.* (1988) 205  
19 Cal.App.3d 442, 457. The Court in *Midwest*, stated the following:

20 "A material issue of fact is one which is relevant and essential to  
21 the judgment and closely and directly related to the trial court's  
22 determination of the ultimate issue in the case." *Midwest, supra*,  
at p. 457

23 The Purveyors' Statement of Decision contains for the most part conclusions of law and  
24 summary conclusions of facts without setting forth the factual and legal basis for findings on  
25 material factual subsidiary issues as requested in the Proposal Re: Content of Statement of  
26 Decision filed by Bolthouse on May 24, 2011, clarified in Exhibit A attached hereto.

27 ///

28 ///

1 THE PURVEYORS' STATEMENT OF DECISION IS AMBIGUOUS AND INCLUDES  
2 MATTERS OR ISSUES NOT TRIED BY THE COURT IN PHASE III

3 "A Statement of Decision is limited to the issues litigated in the case." *Colony Ins. Co.*  
4 *v. Crusader Ins. Co.* (2010) 188 Cal.App.4<sup>th</sup> 743, 750-751. Accordingly, it would be  
5 fundamentally unfair to include in the Statement of Decision, matters not designated for trial,  
6 after the trial is completed. The Phase III Trial was limited to safe yield and current overdraft.  
7 Including any other issues in the Statement of Decision would be inappropriate and  
8 fundamentally unfair to the parties.

9 The Court and counsel had numerous discussions regarding the scope of the Phase III  
10 Trial. Bolthouse, Tejon and Diamond Farming, were among the parties specifically engaged in  
11 this discussion. These parties expressed concerns regarding the scope of the Phase III Trial.  
12 Bolthouse agrees with Tejon as set forth in its Objections of Tejon Ranchcorp to Proposed  
13 Statement of Decision Re Phase III Trial that "the only issues to be decided in the Phase III  
14 Trial are (a) current *safe yield*, (b) whether the aquifer is currently in *overdraft*. To resolve this  
15 discussion and ambiguity regarding the scope of the Phase III Trial, the Court issued its Order  
16 After Hearings Held on November 18, 2010, setting forth the scope of the Phase III Trial as  
17 follows:

18 "The trial will commence on January 4, 2011 at 9:00 a.m. in  
19 Department 1 of the Los Angeles County Superior Court to hear  
20 evidence of the *safe yield* of the Antelope Valley aquifer and to  
21 further hear evidence as to whether the aquifer is in a state of  
22 *overdraft* such that the court should exercise equitable powers to  
23 protect the aquifer from detriment caused by any such overdraft."  
(Emphasis added.)

24 The Tentative Decision Phase Three Trial ("Tentative Decision") sets forth the proper  
25 scope of the Phase III Trial as follows:

26 "The first issues to be decided in the declaratory relief cause of  
27 action are the issues of overdraft and safe yield. The remaining  
28 causes of action and issues are to be tried in a subsequent phase  
or phases."

29 Bolthouse agrees with Tejon as set forth in its objections, that so-called "native safe  
30 yield", "supplemental safe yield" and "return flows" are beyond the scope of the Phase III

1 Trial. The description of the issues tried in Phase III set forth above, combined with other  
2 language in the Purveyors' Statement of Decision, are ambiguous and suggest that issues  
3 beyond current safe yield and current overdraft were tried. As such, the Purveyors' Statement  
4 of Decision should be clarified to make clear that the only issues tried in Phase III were the  
5 current safe yield of the Antelope Valley aquifer and whether the aquifer is currently in a state  
6 of overdraft such that the Court should exercise equitable powers to protect the aquifer.

7 **A. No Evidence To Support Factual Finding Of 50 Year Overdraft.**

8 Bolthouse incorporates by reference the argument by Tejon that the evidence does not  
9 support a finding of overdraft for the last fifty (50) years. Further, as noted above, historical  
10 overdraft was not an issue for determination in the Phase III Trial and should not be reflected in  
11 the Statement of Decision.

12 **B. Evaluation Of Management Areas Was Not At Issue In The Phase III Trial.**

13 The discussion between Bolthouse, Tejon and Diamond Farming at the November 18<sup>th</sup>  
14 hearing regarding the scope of the Phase III Trial related to whether the Phase III Trial would  
15 involve evidence of differences in pumping and hydrologic effect in various areas of the  
16 Antelope Valley and aquifer for purposes of prescription or management of the basin. The  
17 Court confirmed that differences in pumping and effect in various areas of the Antelope Valley  
18 aquifer for purposes of prescription and or management of the basin was not an issue for the  
19 Phase 3 trial and issued its November 18, 2010 Order limiting the Phase III issues to safe yield  
20 and current overdraft.

21 Based upon the comments of the Court at the hearing, and the November 18<sup>th</sup> Order,  
22 experts were not called by Bolthouse, Diamond, the Purveyor parties and others to testify  
23 regarding the affects of pumping in one area versus pumping in other areas. The expert  
24 testimony was for the most part directed to safe yield and overdraft. Making findings as to  
25 potential affect of pumping in one area or another, or a to the effect of pumping in one area or  
26 another is inappropriate since this issue has not been litigated and since parties specifically did  
27 not call experts at trial regarding these issues based upon the court's comments and orders.  
28 Accordingly, all references to the effect of pumping in one area of the basin versus other areas

1 of the basin should be excluded from the Statement of Decision, including but not limited to the  
2 following statements:

3 "Some areas seemingly have fairly small or nominal hydro-  
4 conductivity but must be included in this phase of the  
5 adjudication. Pumping in those parts of the Basin may be shown  
6 to have *de minimis* effect on other parts of the Basin while  
7 pumping in other areas within the basin appears to have very  
8 large impacts on adjacent parts of the Basin. All areas were  
9 included within the Adjudication Area because they all have  
10 some level of hydraulic connectivity, some more and some less."  
11 (Page 3; Lines 12 through 17.)

12 And

13 "Hydraulic connectivity between some portions of the Basin and  
14 other portions is so slight as to be almost (apparently)  
15 nonexistent. Pumping in those areas may have little or no effect  
16 on other areas of the Basin." (Page 7, Lines 18 through 20)

17 **C. The So Called Native Safe Yield, Supplemental Safe Yield And Return Flows Were**  
18 **Not Litigated And Have Been Improperly Added By Los Angeles County And The**  
19 **Purveyors To The Statement Of Decision.**

20 As noted above, the issues identified by the Court for the Phase III Trial included  
21 current safe yield and current overdraft. So called native safe yield, supplemental safe yield  
22 and return flows were not identified as issues to be tried in Phase III and were not litigated by  
23 the parties for the purposes of Phase III. The parties did not call experts on these issues nor  
24 were these concepts or findings identified by the Court as Phase III issues. The Tentative  
25 Decision Phase III Trial prepared by the Court correctly limits the scope of Phase III to safe  
26 yield and overdraft.

27 In its Tentative Decision, consistent with its prior Order regarding the issues to be tried  
28 in Phase III, the Court made no findings regarding so called native safe yield, supplemental  
safe yield and return flows, and the parties never agreed to the meaning of these terms added to  
the Purveyors' Statement of Decision. The Court heard testimony by numerous different  
experts, using different terminology, in order to determine the safe yield of the basin and to  
evaluate current overdraft in the basin based upon the definition of safe yield and overdraft set  
forth in *San Fernando*. *San Fernando* does not use the terms native safe yield and/or

1 supplemental safe yield, and return flows are part of the safe yield as defined by *San Fernando*.  
2 Accordingly, the Purveyors' Statement of Decision should be limited to this Court's finding as  
3 to the safe yield of the basin and whether the basin is currently in overdraft. Accordingly, Page  
4 8, Lines 6 through 19 should be excluded from the Purveyors' Statement of Decision.

5 **D. Vague And Argumentative References To Findings Regarding The Expert**  
6 **Testimony Of The Purveyor Experts Should Be Excluded.**

7 On Page 8, Lines 20 through 25, the Purveyor Parties request language be included that  
8 "The Court finds that the opinion testimony and evidence presented by the Public Water  
9 Suppliers<sup>4</sup>, the City of Los Angeles and the United States to be credible and that the opinion  
10 testimony and evidence presented by the Landowner Group parties to not be as credible as to  
11 the safe yield and overdraft issues.", is vague and non-specific. Based upon this language, it is  
12 impossible to tell what testimony the Court found to be credible and what testimony the Court  
13 found not credible as between Purveyor and Landowner experts. The argumentative  
14 conclusion also assumes that all testimony by all Purveyor experts was more credible than all  
15 testimony by all Landowner experts. Finally, the introductory comment stating that the  
16 findings are based upon a preponderance of the evidence, is vague since the reference to a  
17 finding by a preponderance of the evidence is non specific to any particular finding.  
18 Accordingly, Page 8, lines 20 through 25 should be excluded from the Purveyors' Statement of  
19 Decision.

20 **CONCLUSION**

21 The Statement of Decision should include explanation of the factual and legal basis for  
22 the decision, including all material and subsidiary issues of fact supporting the decision as  
23 requested on Exhibit "A.". The Statement of Decision should be limited to issues identified by  
24 the Court before trial, which would be tried in Phase III, including the current safe yield and  
25

26  
27 <sup>4</sup> As previously noted, Rosamond Community services District is a public water producer but it did no align itself  
28 with the Public Water Producers. Instead, Rosamond Community Services District and the City of Lancaster  
aligned themselves and supported the Landowner Group parties.

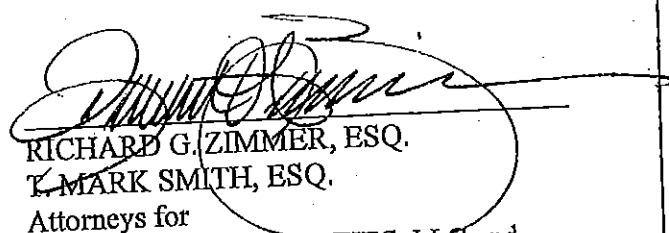
1 whether the basin is currently in overdraft. Other discussion and arguments should be  
2 eliminated from the Statement of Decision as discussed herein.

3 DATED: June 21, 2011

Respectfully submitted.

4 CLIFFORD & BROWN

5  
6  
7 By:



RICHARD G. ZIMMER, ESQ.

T. MARK SMITH, ESQ.

Attorneys for  
BOLTHOUSE PROPERTIES, LLC and  
WM. BOLTHOUSE FARMS, INC.

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**EXHIBIT "A"**



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*Antelope Valley Groundwater Cases*  
*Judicial Counsel Coordination Proceeding No. 4408*  
*Santa Clara County Superior Court Case No. 1-05-CV-049053*

EXHIBIT "A"

It is requested that the Statement of Decision include the factual and legal basis for all findings of the Court, including all material and subsidiary issues of fact, upon which the Phase 3 Statement of Decision is based, including but not limited to the following:

1. That the Statement of Decision be limited to "the safe yield of the Antelope Valley Aquifer" and "whether the Aquifer is in a state of overdraft such that the Court should exercise equitable powers to protect the Aquifer from detriment caused by any such overdraft" as set forth in the Order After Hearing Held on November 18, 2010 setting forth the scope of the Phase 3 Trial.
2. The legal definition of safe relied upon by the Court to determine the existence of current overdraft of the Antelope Valley Aquifer.
3. The legal definition of overdraft relied upon by the Court to determine the existence of current overdraft of the Antelope Valley Aquifer.
4. All material and subsidiary issues of fact relied upon by the Court to determine safe yield.
5. All material and subsidiary issues of fact relied upon by the Court to determine that the Antelope Valley Aquifer is currently in overdraft.
6. The legal definition the Court used to determine whether the Aquifer is in a state of temporary surplus.
7. All material and subsidiary issues of fact relied upon by the Court to determine whether the Aquifer is in a state of temporary surplus.
8. The testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine the safe yield of the Antelope Valley Aquifer.

- 1 9. The testimony of each testifying expert which the Court relied upon to establish  
2 all material and subsidiary issues of fact relied upon by the Court to determine  
3 that the Antelope Valley Aquifer is currently in overdraft.
- 4 10. The testimony of each testifying expert which the Court relied upon to establish  
5 all material and subsidiary issues of fact relied upon by the Court to make its  
6 findings regarding temporary surplus.
- 7 11. All material and subsidiary issues of fact relied upon by the Court to determine  
8 that "Reliable estimates of long-term extractions from the basin have exceeded  
9 reliable estimates of the Basin's recharge by significant margins, and empirical  
10 evidence of overdraft in the basin corroborates that conclusion," as set forth on  
11 Page 3, Lines 23-25.
- 12 13. The testimony of each testifying expert which the Court relied upon to establish  
13 all material and subsidiary issues of fact relied upon by the Court to determine  
14 "Reliable estimates of long-term extractions from the basin have exceeded  
15 reliable estimates of the basin's recharge by significant margins, and empirical  
16 evidence of overdraft in the basin corroborates that conclusion," as set forth on  
17 Page 3, Lines 23-25.
- 18 14. All material and subsidiary issues of fact relied upon by the Court to determine  
19 that "The Basin has sustained has sustained a significant loss of groundwater  
20 storage since 1951," as set forth on Page 3, Lines 25-26.
- 21 15. The testimony of each testifying expert which the Court relied upon to establish  
22 all material and subsidiary issues of fact relied upon by the Court to determine  
23 that "The Basin has sustained has sustained a significant loss of groundwater  
24 storage since 1951," as set forth on Page 3, Lines 25-26.
- 25 16. All material and subsidiary issues of fact relied upon by the Court to determine  
26 that "While pumping in recent years has reduced and moderated the margin  
27 between pumping and recharge as cultural conditions have changed and  
28 precipitation has increased with the appearance of "wetter" parts of the historical

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cycle, pumping in some areas of the aquifer is continuing to cause harm to the basin," as set forth on Page 3, Line 26 to Page 4, Line 1.

17. The testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine that "While pumping in recent years has reduced and moderated the margin between pumping and recharge as cultural conditions have changed and precipitation has increased with the appearance of "wetter" parts of the historical cycle, pumping in some areas of the aquifer is continuing to cause harm to the basin," as set forth on Page 3, Line 26 to Page 4, Line 1.
18. All material and subsidiary issues of fact facts relied upon by the Court to determine that "The evidence is persuasive that current extractions continue to exceed recharge and therefore that the Basin continues to be in a state of overdraft, although by a much reduced amount," as set forth on Page 4, Lines 1-3.
19. The testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine that "The evidence is persuasive that current extractions continue to exceed recharge and therefore that the Basin continues to be in a state of overdraft, although by a much reduced amount," as set forth on Page 4, Lines 1-3.
20. All material and subsidiary issues of fact relied upon by the Court to determine that "Since 1951<sup>3</sup>, there is evidence of substantial pumping (principally agricultural in the early years of the period), with continuous lowering of water levels and subsidence extending to the present time, with intervals of only slight rises in water levels in some areas," as set forth on Page 4, Lines 3-6.
21. The testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine

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<sup>3</sup> Precipitation and well records prior to that year are to intermittent to be relied upon.  
BOLTHOUSE PROPERTIES, LLC'S AND WM. BOLTHOUSE FARMS, INC.'S EXHIBIT "A" TO OBJECTION TO STATEMENT OF  
DECISION RE PHASE III TRIAL SUBMITTED BY LOS ANGELES COUNTY AND OTHER WATER PURVEYORS

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

5 22. All material and subsidiary issues of fact relied upon by the Court to determine  
6 that "In the areas of increased pumping, in particular in the Palmdale and  
7 Lancaster areas, there is a continual lowering of water levels such that it may  
8 have a serious effect on water rights in other areas, causing cones of depression,  
9 altering natural water flow gradients, causing the lowering of water levels in  
10 adjacent areas, and causing subsidence and loss of aquifer storage capacity," as  
11 set forth on Page 4, Line 7-11.

12 23. The testimony of each testifying expert which the Court relied upon to establish  
13 all material and subsidiary issues of fact relied upon by the Court to determine  
14 that "In the areas of increased pumping, in particular in the Palmdale and  
15 Lancaster areas, there is a continual lowering of water levels such that it may  
16 have a serious effect on water rights in other areas, causing cones of depression,  
17 altering natural water flow gradients, causing the lowering of water levels in  
18 adjacent areas, and causing subsidence and loss of aquifer storage capacity," as  
19 set forth on Page 4, Line 7-11.

20 24. All material and subsidiary issues of fact relied upon by the Court to determine  
21 that "Given population growth, and land use changes, the Antelope Valley is at  
22 risk of an even more serious continuing overdraft in the future," as set forth on  
23 Page 4, Lines 11-12.

24 25. The testimony of each testifying expert which the Court relied upon to establish  
25 all material and subsidiary issues of fact relied upon by the Court to determine  
26 that "Given population growth, and land use changes, the Antelope Valley is at  
27 risk of an even more serious continuing overdraft in the future," as set forth on  
28 Page 4, Lines 11-12.

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26. All material and subsidiary issues of fact relied upon by the Court to determine that "While the lowering of current water levels has slowed, and water levels in some wells in some areas have risen in recent years, significant areas within the Basin continue to show declining levels, some slightly so, but many show a material lowering of water levels," as set forth on Page 4, Lines 13-15.

27. The testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine that "While the lowering of current water levels has slowed, and water levels in some wells in some areas have risen in recent years, significant areas within the Basin continue to show declining levels, some slightly so, but many show a material lowering of water levels," as set forth on Page 4, Lines 13-15.

28. All material and subsidiary issues of fact relied upon by the Court to determine that "Thus, the Antelope Valley Adjudication Area has been in a state of overdraft for more than 50 years, and based on estimates of extraction and recharge, corroborated by physical evidence of conditions in the Basin as a whole including loss of groundwater in storage, land subsidence and changes in the amount and direction of groundwater flow to Edwards Air Force Base. While the annual amount of overdraft has lessened in recent years with decreased pumping and increased precipitation and recharge, the effects of overdraft remain and are in danger of being exacerbated with increased pumping and the prospective cyclical precipitation fluctuations shown by the historical record," as set forth on Page 4, Lines 17-24.

29. The testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine that "Thus, the Antelope Valley Adjudication Area has been in a state of overdraft for more than 50 years, and based on estimates of extraction and recharge, corroborated by physical evidence of conditions in the Basin as a whole including loss of groundwater in storage, land subsidence and changes in

1 the amount and direction of groundwater flow to Edwards Air Force Base.  
2 While the annual amount of overdraft has lessened in recent years with  
3 decreased pumping and increased precipitation and recharge, the effects of  
4 overdraft remain and are in danger of being exacerbated with increased pumping  
5 and the prospective cyclical precipitation fluctuations shown by the historical  
6 record," as set forth on Page 4, Lines 17-24.

7 30. All material and subsidiary issues of fact relied upon by the Court to determine  
8 that "The physical evidence establishes that there was significant subsidence  
9 occurring throughout the Antelope Valley Adjudication Area ranging from two  
10 to six feet or more in certain areas caused by such pumping and that measurable  
11 water levels fell in a substantial part of the Valley," as set forth on Page 4, Lines  
12 24-27.

13 31. The testimony of each testifying expert which the Court relied upon to establish  
14 all material and subsidiary issues of fact relied upon by the Court to determine  
15 that "The physical evidence establishes that there was significant subsidence  
16 occurring throughout the Antelope Valley Adjudication Area ranging from two  
17 to six feet or more in certain areas caused by such pumping and that measurable  
18 water levels fell in a substantial part of the Valley," as set forth on Page 4, Lines  
19 24-27.

20 32. All material and subsidiary issues of fact relied upon by the Court to determine  
21 that "While some of the ongoing subsidence may be attributable to residual  
22 subsidence (from earlier periods of shortfall) a preponderance of the evidence  
23 establishes that ongoing and continued subsidence is caused, in part, by ongoing  
24 groundwater extractions in excess of the Basin's safe yield," as set forth on Page  
25 4, Line 27 through Page 5, Line 3.

26 33. The testimony of each testifying expert which the Court relied upon to establish  
27 all material and subsidiary issues of fact relied upon by the Court to determine  
28 that "While some of the ongoing subsidence may be attributable to residual

1 subsidence (from earlier periods of shortfall) a preponderance of the evidence  
2 establishes that ongoing and continued subsidence is caused, in part, by ongoing  
3 groundwater extractions in excess of the Basin's safe yield," as set forth on Page  
4 4, Line 27 through Page 5, Line 3.

5 34. All material and subsidiary issues of fact relied upon by the Court to determine  
6 that "One Landowner Group expert selected two shorter base periods (the total  
7 time span of which was considerably less than the 50 year period used by the  
8 Public Water Suppliers' experts which the Court believes is more credible), each  
9 having different estimated average natural recharge based upon different  
10 precipitation averages from each base period," as set forth on Page 5, Lines 15-  
11 18.

12 35. The testimony of each testifying expert which the Court relied upon to establish  
13 all material and subsidiary issues of fact relied upon by the Court to determine  
14 that "One Landowner Group expert selected two shorter base periods (the total  
15 time span of which was considerably less than the 50 year period used by the  
16 Public Water Suppliers' experts which the Court believes is more credible), each  
17 having different estimated average' natural recharge based upon different  
18 precipitation averages from each base period," as set forth on Page 5, Lines 15-  
19 18.

20 36. All material and subsidiary issues of fact relied upon by the Court to determine  
21 that "A period of precipitation fluctuations from 1951 to 2005 satisfies that  
22 standard. Shorter periods do not and the Court does not find those shorter base  
23 periods to produce accurate results. The Court accepts the base period selected  
24 by the Public Water Supplier experts as the more credible and accurate  
25 representation of long-term conditions in the Basin," as set forth on Page 5,  
26 Lines 23-27.

27 37. The testimony of each testifying expert which the Court relied upon to establish  
28 all material and subsidiary issues of fact relied upon by the Court to determine

1 that "A period of precipitation fluctuations from 1951 to 2005 satisfies that  
2 standard. Shorter periods do not and the Court does not find those shorter base  
3 periods to produce accurate results. The Court accepts the base period selected  
4 by the Public Water Supplier experts as the more credible and accurate  
5 representation of long-term conditions in the Basin," as set forth on Page 5,  
6 Lines 23-27.

7 38. All material and subsidiary issues of fact relied upon by the Court to determine  
8 that "The pumping extractions are not seriously in dispute by any of the experts  
9 who testified. All seem to agree that pumping currently is estimated to range  
10 from 130,000 to 150,000 acre feet a year," as set forth on Page 5, Line 28  
11 through Page 6, Line 2.

12 39. The testimony of each testifying expert which the Court relied upon to establish  
13 all material and subsidiary issues of fact relied upon by the Court to determine  
14 that "The pumping extractions are not seriously in dispute by any of the experts  
15 who testified. All seem to agree that pumping currently is estimated to range  
16 from 130,000 to 150,000 acre feet a year," as set forth on Page 5, Line 28  
17 through Page 6, Line 2.

18 40. All material and subsidiary issues of fact relied upon by the Court to determine  
19 that "Other sources of recharge to the Basin, including artificial recharge-water  
20 introduced into the Basin from external sources are not in dispute," as set forth  
21 on Page 6, Lines 5-7.

22 41. The testimony of each testifying expert which the Court relied upon to establish  
23 all material and subsidiary issues of fact relied upon by the Court to determine  
24 that "Other sources of recharge to the Basin, including artificial recharge-water  
25 introduced into the Basin from external sources are not in dispute," as set forth  
26 on Page 6, Lines 5-7.



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42. All material and subsidiary issues of fact relied upon by the Court to determine that "The nature of the agricultural duties has changed as well," as set forth on Page 6, Line 11.

43. The testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine that "The nature of the agricultural duties has changed as well," as set forth on Page 6, Line 11.

44. All material and subsidiary issues of fact relied upon by the Court to determine that "The type of irrigation used by farmers has become more efficient and less water is needed per acre (depending on the crops grown) with more efficient uses of water," as set forth on Page 6, Lines 11-13.

45. The testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine that "The type of irrigation used by farmers has become more efficient and less water is needed per acre (depending on the crops grown) with more efficient uses of water," as set forth on Page 6, Lines 11-13.

46. All material and subsidiary issues of fact relied upon by the Court to determine that "But there has also been an increase as well as a change in the nature of the type of agriculture in the Valley in material quantities in recent years," as set forth on Page 6, Lines 13-15.

47. The testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine that "But there has also been an increase as well as a change in the nature of the type of agriculture in the Valley in material quantities in recent years," as set forth on Page 6, Lines 13-15.

48. All material and subsidiary issues of fact relied upon by the Court to determine that "The evidence presented and observable conditions in the valley are inconsistent with those conclusions" as set forth on Page 7, Lines 11-12.

1 49. The testimony of each testifying expert which the Court relied upon to establish  
2 all material and subsidiary issues of fact relied upon by the Court to determine  
3 that "The evidence presented and observable conditions in the valley are  
4 inconsistent with those conclusions" as set forth on Page 7, Lines 11-12.

5 50. All material and subsidiary issues of fact relied upon by the Court to determine  
6 that "If there were a surplus, even in the shortened base periods used by the  
7 Landowner Group experts, there would not be land subsidence, nor declining  
8 water levels" as set forth on Page 7, Lines 11-13.

9 51. The testimony of each testifying expert which the Court relied upon to establish  
10 all material and subsidiary issues of fact relied upon by the Court to determine  
11 that "If there were a surplus, even in the shortened base periods used by the  
12 Landowner Group experts, there would not be land subsidence, nor declining  
13 water levels" as set forth on Page 7, Lines 11-13.

14 52. All material and subsidiary issues of fact relied upon by the Court to determine  
15 that "The Basin's physical conditions are inconsistent with those Landowner  
16 Group estimates that there is and has been a surplus of water in the Basin and  
17 the Court finds these opinions unreliable" as set forth on Page 7, Lines 13-15.

18 53. The testimony of each testifying expert which the Court relied upon to establish  
19 all material and subsidiary issues of fact relied upon by the Court to determine  
20 that "The Basin's physical conditions are inconsistent with those Landowner  
21 Group estimates that there is and has been a surplus of water in the Basin and  
22 the Court finds these opinions unreliable" as set forth on Page 7, Lines 13-15.

23 54. All material and subsidiary issues of fact relied upon by the Court to determine  
24 that "Weighing the various opinions, however, the Court finds by a  
25 preponderance of the evidence that setting a total safe yield at a conservative  
26 110,000 acre feet per year will permit management of the Basin in such a way as  
27 to preserve the rights of all parties in accordance with the Constitution and laws

of the State of California" as set forth on Page 7, Line 26 through Page 8, Line

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3 55. The testimony of each testifying expert which the Court relied upon to establish  
4 all material and subsidiary issues of fact relied upon by the Court to determine  
5 that "Weighing the various opinions, however, the Court finds by a  
6 preponderance of the evidence that setting a total safe yield at a conservative  
7 110,000 acre feet per year will permit management of the Basin in such a way as  
8 to preserve the rights of all parties in accordance with the Constitution and laws  
9 of the State of California" as set forth on Page 7, Line 26 through Page 8, Line  
10 1.

11 56. All material and subsidiary issues of fact relied upon by the Court to determine  
12 that "It should not be assumed that the safe yield management number may not  
13 change as climate circumstances and pumping may change, or as the empirical  
14 evidence based on experience in managing the Basin suggests it is either too  
15 high or too low" as set forth on Page 8, Line 27 through Page 9, Line 2.

16 57. The testimony of each testifying expert which the Court relied upon to establish  
17 all material and subsidiary issues of fact relied upon by the Court to determine  
18 that "It should not be assumed that the safe yield management number may not  
19 change as climate circumstances and pumping may change, or as the empirical  
20 evidence based on experience in managing the Basin suggests it is either too  
21 high or too low" as set forth on Page 8, Line 27 through Page 9, Line 2.

22 58. If over Landowner objections, the Court includes in the Statement of Decision  
23 the "Native Safe Yield" issue added by the Purveyor parties on page 8, starting  
24 on line 6, all material and subsidiary issues of fact relied upon by the Court to  
25 determine "Native Safe Yield."

26 59. If over Landowner objections, the Court includes in the Statement of Decision  
27 the "Native Safe Yield" issue added by the Purveyor parties on page 8, starting  
28 on line 6, the testimony of each testifying expert which the Court relied upon to

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establish all material and subsidiary issues of fact relied upon by the Court to determine "Native Safe Yield."

60. If over Landowner objections, the Court includes in the Statement of Decision the "Supplemental Safe Yield" issue added by the Purveyor parties on page 8, starting on line 6, all material and subsidiary issues of fact relied upon by the Court to determine "Supplemental Safe Yield."

61. If over Landowner objections, the Court includes in the Statement of Decision the "Supplemental Safe Yield" issue added by the Purveyor parties on page 8, starting on line 6, the testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine "Supplemental Safe Yield."

62. If over Landowner objections, the Court includes in the Statement of Decision the "Return Flows" issue added by the Purveyor parties on page 8, starting on line 6, all material and subsidiary issues of fact relied upon by the Court to determine "Return Flows."

63. If over Landowner objections, the Court includes in the Statement of Decision the "Return Flows" issue added by the Purveyor parties on page 8, starting on line 6, the testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine "Return Flows."

**PROOF OF SERVICE (C.C.P. §1013a, 2015.5)**

*Antelope Valley Groundwater Cases  
Judicial Counsel Coordination Proceeding No. 4408  
Santa Clara County Superior Court Case No. 1-05-CV-049053*

I am employed in the County of Kern, State of California. I am over the age of 18 and not a party to the within action; my business address is 1430 Truxtun Avenue, Bakersfield, CA 93301.

On June 21, 2011, I served the foregoing document(s) entitled:

**BOLTHOUSE PROPERTIES, LLC'S AND WM. BOLTHOUSE FARMS, INC.'S  
OBJECTION TO STATEMENT OF DECISION RE PHASE III TRIAL SUBMITTED BY  
LOS ANGELES COUNTY AND OTHER WATER PURVEYORS**

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

by placing    the original,    a true copy thereof, enclosed in a sealed enveloped addressed as follows:

   **BY SANTA CLARA SUPERIOR COURT E-FILED IN COMPLEX  
LITIGATION PURSUANT TO CLARIFICATION ORDER DATED OCTOBER  
27, 2005.**

Executed on June 21, 2011, at Bakersfield, California.

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

   (Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.



NANETTE MAXEY

2455-2

**EXHIBIT "K"**

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

DEPARTMENT NO. 4

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

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, JULY 11, 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, JULY 11, 2011  
 4 DEPARTMENT NO. 316 HON. JACK KOMAR  
 5 REPORTER GINGER WELKER, CSR #5585  
 6 TIME: 11:00 A.M.  
 7 APPEARANCES: (SEE TITLE PAGE)

8  
 9 THE COURT: GOOD MORNING. HAVE WE TAKEN ROLL CALL  
 10 ON THE APPEARANCES BY PHONE ALREADY?

11 THE CLERK: YES, YOUR HONOR, ON COURT CALL.

12 THE COURT: ALL RIGHT. LET'S JUST HAVE COUNSEL  
 13 WHO ARE PRESENT IN THE COURTROOM STATE THEIR  
 14 APPEARANCES.

15 MR. WEEKS: GOOD MORNING, YOUR HONOR, BRAD WEEKS  
 16 FOR QUARTZ HILL.

17 MR. ORR: GOOD MORNING, YOUR HONOR, STEVEN ORR FOR  
 18 THE CITY OF PALMDALE.

19 MR. DUNN: GOOD MORNING, YOUR HONOR, JEFFREY DUNN  
 20 FOR LA COUNTY WATERWORKS DISTRICT NO. 40.

21 MR. BUNN: GOOD MORNING, YOUR HONOR, THOMAS BUNN  
 22 FOR PALMDALE WATER DISTRICT.

23 MR. WELLEN: GOOD MORNING, YOUR HONOR, WARREN  
 24 WELLEN ON BEHALF OF THE LOS ANGELES WATER DISTRICT NO.  
 25 40.

26 MR FIFE: GOOD MORNING, YOUR HONOR, MICHAEL FIFE  
 27 FOR ANTELOPE VALLEY GROUNDWATER AGREEMENT ASSOCIATION.

28 MR. ZIMMER: GOOD MORNING, YOUR HONOR, RICHARD



1 YOUR HONOR. THAT DESCRIBED SAFE YIELD AND OVERDRAFT.  
2 TO GO BACK NOW AND ADD IN THINGS THAT WE WERE NOT TRYING  
3 RAISES BOTH LEGAL ISSUES IN TERMS OF THE PROPRIETY OF  
4 THE TERMS NATIVE AND SAFE YIELD, SUPPLEMENTAL SAFE  
5 YIELD, RETURN FLOWS, AND INTRODUCES NEW ISSUE INTO THE  
6 CASE WHICH WE WERE NOT TRYING. ALTHOUGH ITS DIFFERENT  
7 TERMS SUCH AS NATIVE RECHARGE MAY HAVE BEEN TALKED ABOUT  
8 IN TERMS OF ULTIMATE NUMBER OF OVERDRAFT OR SAFE YIELD,  
9 CERTAINLY WE WERE NOT TRYING THESE OTHER TERMS  
10 SUPPLEMENTAL SAFE YIELD, ET CETERA.

11 SO TO -- SINCE WE HAD THE ISSUES CLEARLY  
12 DEFINED BEFORE WE WENT TO TRIAL, I THINK THOSE ARE THE  
13 ISSUES THAT THE COURT SHOULD BE DECIDING AND IN WHICH  
14 THE COURT DID PROPERLY DECIDE IN THE PROPOSED -- OR IN  
15 THE TENTATIVE STATEMENT OF DECISION.

16 THE OTHER THING IS THAT I THINK SOME OF  
17 THESE OTHER ISSUES THAT ARE BEING RAISED AND -- OR WERE  
18 RAISED IN TERMS OF RETURN FLOWS AND WHAT OTHERS MAY  
19 ARGUE IN TERMS OF NATIVE RECHARGE, THE LEGAL RIGHT TO  
20 RETURN FLOWS, THE AMOUNT OF RETURN FLOWS, IF THERE'S A  
21 LEGAL RIGHT TO IT, THOSE ARE ALL THINGS THAT I THINK WE  
22 CAN PROPERLY TACKLE IN A RIGHTS PHASE OF THE TRIAL WHEN  
23 PARTICULAR PARTIES ARE CLAIMING RIGHTS, FOR EXAMPLE,  
24 IMPORTED WATER OR TO OTHER ASPECTS OF THE SAFE YIELD.

25 THE BOTTOM LINE IS WE TRIED SAFE YIELD FOR  
26 PURPOSES OF OVERDRAFT, AND THAT WAS IT. AND THE COURT  
27 HAS MADE A DECISION ON THAT.

28 AND I THINK THAT THESE OTHER ISSUES -- I

1 AGREE WITH MR. DUNN THAT THESE OTHER ISSUES WILL BE --  
2 AND ARE BEING DISCUSSED IN TERMS OF SETTLEMENT  
3 NEGOTIATIONS WHICH I THINK ARE PROCEEDING BETTER THAN  
4 EXPECTED. AND I THINK THAT THE COURT'S DECISION AS IT  
5 STANDS ON OVERDRAFT AND SAFE YIELD IS WHAT IT IS, BUT I  
6 WOULDN'T WANT TO INJECT OTHER ISSUES INTO IT AFTER THE  
7 FACT SINCE VARIOUS PARTIES ON OUR SIDE OF IT CERTAINLY  
8 DID NOT INTEND TO -- TRYING THOSE ISSUES AND TRIED TO  
9 MAKE IT VERY CLEAR WHAT WE WERE TRYING.

10 THE COURT: MR. FIFE.

11 MR FIFE: I WOULD BE AGREEABLE TO WHAT MR. ZIMMER  
12 SAID. THE ISSUE OF THE SPECIFIC NUMBER OR EVEN THE  
13 SPECIFIC PERCENTAGE THAT ONE WOULD PUT ON THE RETURN  
14 FLOWS, PARTICULARLY FROM IMPORTED WATER, THAT IS  
15 SOMETHING THAT CAN BE DETERMINED EXPERIMENTALLY BY THE  
16 WATER MASTER GOING FORWARD. IT WAS AN ISSUE THAT WAS  
17 CONTESTED IN THE PHASE III TRIAL.

18 THE EXPERTS GAVE DIFFERENT NUMBERS FOR ALL  
19 OF THOSE. AND IT REALLY ONLY HAS BEARING IN AN  
20 ALLOCATION PHASE. AND I WOULD PERSONALLY THINK THAT IT  
21 WOULD INTERFERE WITH THE SETTLEMENT DISCUSSIONS THAT ARE  
22 UNDER WAY BECAUSE IT WOULD LOCK THINGS IN PLACE WHEN  
23 WE'RE CURRENTLY NEGOTIATING AND INAPPROPRIATE TO PUT  
24 INTO A STATEMENT OF DECISION.

25 MR. ZIMMER: ONE LAST POINT I WOULD MAKE, YOUR  
26 HONOR, IS THE REASON THAT DURING THE TRIAL WE OBJECTED  
27 ON HEARSAY GROUNDS TO A LOT OF THE INFORMATION THAT WAS  
28 BEING EMPLOYED BY THE EXPERTS FOR PRECISELY THIS REASON.

1 AND THE COURT, I BELIEVE, ON SEVERAL OCCASIONS SAID THAT  
2 THE -- ALL THIS INFORMATION AND DATA WAS BEING OFFERED  
3 NOT FOR THE TRUTH OF THE MATTER ASSERTED, BUT FOR SIMPLY  
4 AS A BASIS FOR AN EXPERT'S OPINION AS TO SAFE YIELD OR  
5 OVERDRAFT.

6 THE COURT: ALL RIGHT.

7 MR. BUNN: JUST BRIEFLY IN RESPONSE, YOUR HONOR,  
8 MR. ZIMMER TALKED ABOUT THE USE OF THE DEFINITIONS IN  
9 THE CASE LAW AND HOW WE WERE ONLY USING THE DEFINITIONS  
10 OF SAFE YIELD AND OVERDRAFT AS PROVIDED IN THE CASE LAW.  
11 AND THEN IN HIS WRITTEN OPPOSITION, HE WENT FURTHER AND  
12 SAID SAN FERNANDO CASE NEVER USED THE TERMS OF NATIVE  
13 SAFE YIELD AND SUPPLEMENTAL SAFE YIELD.

14 YOUR HONOR, I JUST WANT TO POINT OUT THAT  
15 THE SAN FERNANDO CASE DID IN FACT USE THOSE CONCEPTS AND  
16 ORDERED THE TRIAL COURT TO USE THOSE CONCEPTS. JUST TO  
17 READ ONE QUICK SENTENCE FROM THE SAN FERNANDO CASE ON  
18 PAGE 288, "ON REMAND THE BASE SAFE YIELD SHOULD BE  
19 APPORTIONED BETWEEN AMOUNTS ATTRIBUTABLE TO (1) NATIVE  
20 WATERS PRODUCED BY PRECIPITATION WITHIN THE ULARA."  
21 THAT IS THE UPPER LA RIVER THAT -- IN ISSUE IN THAT CASE  
22 AND IN (2) WATER IMPORTED FROM OUTSIDE THE ULARA.

23 THE REPORTER: ARE YOU SAYING ULARA?

24 MR. BUNN: U-L-A-R-A.

25 THE REPORTER: THANK YOU.

26 THE COURT: ALL RIGHT. THANK YOU.

27 MR. BEZERRA: YOUR HONOR, RYAN BEZERRA FOR COPA DE

28 ORO.

1 THE COURT: GO AHEAD.

2 MR. BEZERRA: I BELIEVE WHAT YOU HAVE HERE ARE TWO  
3 SEPARATE ISSUES: ONE IS THAT THE CALCULATION OF THE  
4 SAFE YIELD INCLUDED SOME CALCULATION OF RECHARGE FROM  
5 IMPORTS APPLIED OVER THE BASE PERIOD. WHAT YOU HAVE  
6 HERE, HOWEVER, IS THE STATEMENT -- THE PROPOSED  
7 STATEMENT THAT THE COURT DECLARED THAT THE CURRENT  
8 AMOUNT OF RECHARGE FROM IMPORTS APPLIED IS A DESIGNATED  
9 NUMBER IS A DIFFERENT ISSUE.

10 IF THE INTENTION OF THE STATE IS THAT THE  
11 COURT HAS TO HAVE FOUND SOME AMOUNT OF RECHARGE IMPORT  
12 APPLIES IN ORDER TO BE ABLE TO DETERMINE A SAFE YIELD,  
13 IT SHOULD SAY THAT, AND IT SHOULD NOT SAY THAT THE COURT  
14 FINDS THAT THE SAFE YIELD -- OR THAT THE YIELD FROM  
15 IMPORT SUPPLIES IS A PARTICULAR NUMBER WHICH IS AN  
16 AMOUNT THAT WOULD CARRY FORWARD.

17 THE AMOUNT SHOULD NOT CARRY FORTH. IT  
18 SHOULD BE COMPLETELY RETROSPECTIVE AS TO WHAT THE COURT  
19 FOUND AS PART OF ITS CALCULATION OF THE SAFE YIELD AS  
20 STATED IN THE STATEMENT OF DECISION.

21 THE COURT: ALL RIGHT. MR. MCLACHLAN, DID YOU  
22 WANT TO SAY SOMETHING?

23 MR. MCLACHLAN: YES, YOUR HONOR, MICHAEL MCLACHLAN  
24 FOR THE WOOD CLASS. I JUST WANTED TO ADD ONE POINT  
25 RELATIVE TO THIS QUESTION OF RETURN FLOWS, AND I THINK  
26 IT IS IMPORTANT IN THIS CONTEXT BECAUSE THIS IS A RATHER  
27 UNUSUAL PROCEEDING WHEREIN WE ARE NOT HAVING A TRIAL OF  
28 ALL THE CAUSES OF ACTION.

1           IN FACT, THE LAST TRIAL DIDN'T REALLY  
2 RESOLVE ANY PARTICULAR CAUSE OF ACTION. IT JUST  
3 RESOLVED AN ISSUE TO MANY OF THE VARIOUS CAUSES OF  
4 ACTION.

5           BECAUSE OF THAT, I THINK THAT THE ISSUE OF  
6 NOTICE IN ADVANCE OF, LET'S SAY, THE PHASE III TRIAL AND  
7 ANY FUTURE PHASES REALLY HAS TO BE PRETTY CLEAR. AND I  
8 DON'T THINK THERE IS MUCH ARGUMENT THAT IN THOSE NOTICES  
9 THERE WAS NO REFERENCE TO DETERMINATION SPECIFICALLY BY  
10 THE COURT IN THIS PHASE III OF THE RETURN FLOWS. AND  
11 WITHOUT THE NOTICE, THEN YOU HAVE LIMITATIONS IN  
12 DISCOVERY AND THE ABSENT PARTIES AND ON AND ON.

13           AND I THINK THAT IS A BIT PROBLEMATIC, AND I  
14 THINK IT PERHAPS UNNECESSARILY INVITES AN APPEALABLE  
15 ISSUE WHEN, IN FACT, WE DON'T NEED TO REACH THAT POINT  
16 UNTIL A SUBSEQUENT PHASE.

17           THE COURT: ALL RIGHT. THANK YOU.

18           LET ME MAKE AN OBSERVATION. I'M GOING TO  
19 GIVE YOU A WRITTEN STATEMENT OF DECISION THAT WILL  
20 ENCOMPASS MY FINAL RULINGS ON THESE OBJECTIONS. BUT I  
21 THINK THAT IS IT IS IMPORTANT TO NOTE THAT THE PHASE III  
22 TRIAL -- THE PURPOSE WAS TO DETERMINE WHETHER OR NOT  
23 THERE WAS A STATUS OF OVERDRAFT WITHIN THE BASIN AND THE  
24 ADJUDICATION AREA SUCH THAT IT WAS NECESSARY FOR THE  
25 COURT TO SEEK A PHYSICAL SOLUTION TO THAT PROBLEM.

26           SO THE PRINCIPAL ISSUE WAS OVERDRAFT. YOU  
27 CANNOT DETERMINE OVERDRAFT WITHOUT AT LEAST AN ESTIMATE  
28 OF THE AMOUNT OF RECHARGE FROM ALL SOURCES THAT ARE PUT

1 INTO THE AQUIFER.

2 AND IN THIS CASE, OBVIOUSLY, THE COURT FOUND  
3 BASED UPON THE OPINIONS OF EXPERTS THAT AS I INDICATED  
4 IN THE TENTATIVE DECISION THE AMOUNT OF RECHARGE WAS  
5 EXCEEDED BY THE AMOUNT OF PUMPING OVER A LONG PERIOD OF  
6 TIME. IT DOESN'T MEAN EVERY YEAR, BUT OVER A LONG  
7 PERIOD OF TIME USING THE TIMELINE OF 50 YEARS, WHICH I  
8 THOUGHT WAS THE APPROPRIATE ONE BECAUSE IT MANIFESTED  
9 ALL CYCLES OF PRECIPITATION, DROUGHT AND THE LIKE.

10 THAT IS TO MY MIND THE MOST IMPORTANT THING  
11 THAT WE DECIDED IN PHASE III.

12 I DID NOT MAKE AND COULD NOT MAKE INDIVIDUAL  
13 DETERMINATIONS AS TO PUMPING IN VARIOUS AREAS, TOTAL  
14 SOURCES OF WATER THAT WENT INTO VARIOUS PORTIONS OF THE  
15 AQUIFER, THE AMOUNT OF SUBSIDENCE IN VARIANCE AREAS OR  
16 LACK THEREOF.

17 NONE OF THOSE THINGS WERE ADJUDICATED. IT  
18 WAS ADJUDICATED ON A VERY GENERAL BASIS WITH THE INTENT  
19 OF DETERMINING WHETHER OR NOT THERE WAS A SUFFICIENT  
20 OVERDRAFT PROBLEM IN THE ADJUDICATION AREA SUCH THAT THE  
21 COURT WOULD BE IN THE POSITION OF MAKING DETERMINATIONS  
22 CONCERNING PHYSICAL SOLUTIONS AND HOW THAT MIGHT BE  
23 BROUGHT ABOUT.

24 SO THAT WHEN -- WHEN YOU ARE ASKING FOR A  
25 LOT OF DETAILED FINDINGS, I DON'T THINK YOU ARE ENTITLED  
26 TO THEM. AND I DON'T THINK YOU ARE ENTITLED TO  
27 FINDINGS -- AND I WOULDN'T BE COMFORTABLE MAKING  
28 FINDINGS AS TO WHAT FOR EXAMPLE PUBLIC WATER --

1 CALIFORNIA WATER PROJECT WATER IS GENERATED AND PRODUCED  
2 INTO THE AQUIFER. I CAN'T MAKE THAT DETERMINATION.

3 I CAN TELL YOU WHAT IT MIGHT HAVE BEEN IN  
4 ONE YEAR OR TWO YEARS BASED UPON THE TESTIMONY THAT WAS  
5 PROVIDED. BUT THAT CERTAINLY IS NOT A SUFFICIENT BASIS  
6 FOR MAKING A FINDING WHICH WOULD GIVE CERTAIN RIGHTS TO  
7 PARTIES WHO PRODUCED -- OBTAINED THAT WATER. THAT'S  
8 BEYOND THE SCOPE OF THIS THIRD PHASE OF THE TRIAL.

9 SO I'M NOT INCLINED TO DO THAT. AND I THINK  
10 THAT THERE IS A POSSIBILITY FOR A GREAT DEAL OF ARGUMENT  
11 AND DISCUSSION CONCERNING WATER THAT IS INTRODUCED INTO  
12 THE VALLEY FROM OTHER AREAS AS WELL AS WITH THE RETURN  
13 FLOWS MIGHT BE FOR AGRICULTURAL AND FOR MUNICIPAL AND  
14 INDUSTRIAL, FOR SALVAGED WATER FOR ANY NUMBER OF OTHER  
15 SOURCES OF WATER OR WHATEVER THEY MAY BE.

16 SO, ESSENTIALLY, WHAT I'M SAYING IS I'M  
17 GOING TO SUSTAIN THE OBJECTION. AND WHAT I'M ULTIMATELY  
18 GOING TO DO HERE WITH REGARD TO EACH ONE OF THESE ISSUES  
19 IS DEAL WITH IT IN TERMS OF THE STATEMENT OF DECISION,  
20 AND I'LL DRAFT IT MYSELF. ALL RIGHT.

21 ALL RIGHT. LET'S GO ONTO BOLTHOUSE'S MORE  
22 SPECIFIC OBJECTION. IS THERE AN OBJECTION FINDING THERE  
23 HAS BEEN A 50-YEAR OLD OVERDRAFT WITHIN THE VALLEY? I  
24 DON'T THINK THAT IS WHAT I INTENDED BY MY TENTATIVE  
25 DECISION. VERY CLEARLY THERE WERE YEARS WHERE THE  
26 INFLOW WAS SUBSTANTIALLY EQUAL TO OUTFLOW. BUT YOU  
27 CAN'T DECIDE OVERDRAFT ON THE BASIS OF ONE YEAR OR TWO  
28 YEARS. IT HAS GOT TO BE DECIDED ON A LONG-TERM BASIS.

**EXHIBIT "L"**



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**CONFORMED COPY  
OF ORIGINAL FILED  
Los Angeles Superior Court**

JUL 18 2011

John A. Clarke, Executive Officer/Clerk

By Paul Sanchez, Dept

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

**ANTELOPE VALLEY GROUNDWATER  
CASES**

Included Consolidated Actions:

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

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, consolidated actions, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668

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

Judicial Council Coordination  
Proceeding No. 4408

Lead Case No. BC 325 201

**STATEMENT OF DECISION  
PHASE THREE TRIAL**

Judge: Honorable Jack Komar

2  
3 The standard for a statement of decision as set forth in Code of Civil Procedure section  
4 632 requires a court to explain "... the legal and factual basis for its decision as to each of the  
5 principal controverted issues at trial...." Case law is clear that a court must provide the factual  
6 and legal basis for the decision on those issues only closely related to the ultimate issues on the  
7 case. (See *People v. Casa Blanca Convalescent Homes* (1984) 159 Cal. App. 3d 509, 523-524.)  
8 It is also clear that a court need not respond to requests that are in the nature of "interrogatories."  
9 (See *Id.* at pp. 525-526.)

10 The only issues at this phase of the trial were simply to determine whether the  
11 adjudication area aquifer is in a current state of overdraft and as part of that adjudication to  
12 determine the safe yield. This Statement of Decision focuses solely on those issues.

13 Cross-complainants Los Angeles County Waterworks District No. 40, City of Palmdale,  
14 Palmdale Water District, Littlerock Creek Irrigation District, Palm Ranch Irrigation District,  
15 Quartz Hill Water District, California Water Service Company, Rosamond Community Service  
16 District, Phelan Piñon Hills Community Services District, Desert Lake Community Services  
17 District, North Edwards Water District (collectively, the "Public Water Producers")<sup>1</sup> brought an  
18 action for, *inter alia*, declaratory relief, alleging that the Antelope Valley adjudication area  
19 groundwater aquifer was in a state of overdraft and required judicial intervention to provide for  
20 management of the water resources within the aquifer to prevent depletion of the aquifer and  
21 damage to the Antelope Valley basin.

22 Several of the cross-defendant parties (collectively, the "Land Owner Group") also  
23 sought declaratory relief in their various independent (now coordinated and consolidated)  
24 actions.

25  
26 <sup>1</sup> The United States and the City of Los Angeles, though not water suppliers in the Antelope Valley adjudication  
27 area, joined with the Public Water Producers. Rosamond Community Services District joined with the Land Owner  
28 Group.

1 The first issues to be decided in the declaratory relief cause of action are the issues of  
2 overdraft and safe yield. The remaining causes of action and issues are to be tried in a  
3 subsequent phase or phases.

4 This Phase Three trial commenced on January 4, 2011 and continued thereafter on  
5 various days based upon the needs of the various parties and the Court's availability.  
6 Appearances of counsel are noted in the minutes of the Court.

7 At the conclusion of the evidence, the Court offered counsel the opportunity to provide  
8 written final arguments and the invitation was declined by all counsel. On April 13, 2011, the  
9 Court heard oral argument and the matter was ordered submitted.

10 The Public Water Producers (and others) have alleged that the basin is in a condition of  
11 overdraft and have requested that the Court determine a safe yield and consider imposition of a  
12 physical solution or other remedy to prevent further depletion of the water resource and  
13 degradation of the condition of the aquifer.

14 Several parties in opposition to the request of the Public Water Producers have  
15 contended that while there may have been overdraft in the past, currently the aquifer has  
16 recovered and is not in overdraft. These same parties contend that it is not possible to establish  
17 a single value for safe yield; instead they have requested that the Court determine a range of  
18 values for safe yield.

19 The Court concludes that the Public Water Producers have the burden of proof and that  
20 the burden must be satisfied for this phase and purpose by a preponderance of the evidence.  
21 This burden of proof may or may not be appropriate to other phases of this trial. And since the  
22 findings here have no application to other phases, such as prescription or rights of appropriators,  
23 and the parties have not briefed those or other issues, the Court makes no conclusions as to what  
24 standard of proof might be applicable to such other issues or phases of trial.

25 The law defines overdraft as extractions in excess of the "safe yield" of water from an  
26 aquifer, which over time will lead to a depletion of the water supply within a groundwater basin  
27 as well as other detrimental effects, if the imbalance between pumping and extraction  
28 continues. (*City of Los Angeles v. City of San Fernando* (1975) 14 Cal. 3d 199; *City of*

1 *Pasadena v. City of Alhambra* (1949) 33 Cal. 2d 908, 929; *Orange County Water District v.*  
2 *City of Riverside* (1959) 173 Cal. App. 2d 137.) "Safe yield" is the amount of annual  
3 extractions of water from the aquifer over time equal to the amount of water needed to recharge  
4 the groundwater aquifer and maintain it in equilibrium, plus any temporary surplus. Temporary  
5 surplus is defined as that amount of water that may be pumped from an aquifer to make room to  
6 store future water that would otherwise be wasted and unavailable for use.

7 Determination of safe yield and overdraft requires the expert opinions of hydrologists and  
8 geologists.<sup>2</sup> Experts in the field of hydrogeology routinely base their opinions and conclusions  
9 concerning groundwater basin overdraft on evidence of long-term lowering of groundwater  
10 levels, loss of groundwater storage, declining water quality, seawater intrusion (not an issue in  
11 this case), land subsidence, and the like. Experts also conduct a sophisticated analysis of  
12 precipitation and its runoff, stream flow, and infiltration into the aquifer, including such things as  
13 evapotranspiration, water from other sources introduced into the aquifer (artificial recharge), as  
14 well as the nature and quantity of extractions from the aquifer and return flows therefrom.  
15

16 Generally, neither overdraft nor safe yield can be determined by looking at a  
17 groundwater basin in a single year but must be determined by evaluating the basin conditions  
18 over a sufficient period of time to determine whether pumping rates have or will lead to  
19 eventual permanent lowering of the water level in the aquifer and ultimately depletion of the  
20 water supply or other harm. Recharge must equal discharge over the long term. (*City of Los*  
21 *Angeles v. City of San Fernando, supra*, 14 Cal. 3d at pp. 278-279.) But having heard  
22 evidence about the aquifer as a whole, the Court is not making historical findings that would be  
23 applicable to specific areas of the aquifer or that could be used in a specific way to determine  
24 water rights in particular areas of the aquifer.  
25  
26

27 <sup>2</sup> All the experts offer estimates. The American Heritage College Dictionary, Third Edition, defines an "estimate"  
28 as, *inter alia*, "[a] rough calculation, as of size" or "[a] judgment based on one's impressions; an opinion."

1 The location of the Antelope Valley adjudication area boundaries was the subject of the  
2 Phase One and Two trials in this matter. The Court defined the boundaries of the valley aquifer  
3 based upon evidence of hydro-connection within the aquifer. If there was no hydro-connectivity  
4 with the aquifer, an area was excluded from the adjudication. The degree of hydro-connectivity  
5 within the Antelope Valley adjudication area varies from area to area. Some areas seemingly  
6 have fairly small or nominal hydro-connectivity but must be included in this phase of the  
7 adjudication unless the connection is *de minimis*.<sup>3</sup> Pumping in those parts of the aquifer may be  
8 shown to have *de minimis* effect on other parts of the aquifer while pumping in other areas  
9 within the basin appear to have material impacts on adjacent parts of the basin. All areas were  
10 included within the adjudication area because they all have some level of hydro-connection,  
11 some more and some less. How to deal with those differences is ultimately a basin management  
12 decision that is well beyond the scope of this phase of trial.  
13

### 14 Overdraft

15  
16  
17 The preponderance of the evidence presented establishes that the adjudication area  
18 aquifer is in a state of overdraft. Reliable estimates of the long-term extractions from the basin  
19 have exceeded reliable estimates of the basin's recharge by significant margins, and empirical  
20 evidence of overdraft in the basin corroborates that conclusion. Portions of the aquifer have  
21 sustained a significant loss of groundwater storage since 1951. While pumping in recent years  
22 has reduced and moderated, the margin between pumping and recharge as cultural conditions  
23 have changed and precipitation has increased (with the appearance of wetter parts of the  
24 historical cycle), pumping in some areas of the aquifer is continuing to cause harm to the basin.  
25 The evidence is persuasive that current extractions exceed recharge and therefore that the basin is  
26

27  
28 <sup>3</sup> The court may exclude truly *de minimis* connectivity areas based upon evidence in later phases of the trial if  
shown to have virtually no impact on the aquifer.

1 in a state of overdraft. Since 1951<sup>4</sup> there is evidence of periods of substantial pumping  
2 (principally agricultural in the early years of the period) coinciding with periods of drought, with  
3 almost continuous lowering of water levels and severe subsidence in some areas extending to the  
4 present time, with intervals of slight rises in water levels in some areas.

5 Areas of increased pumping, with concomitant lowering of water levels, can have a  
6 serious effect on water rights in other areas, caused by cones of depression, which alter natural  
7 water flow gradients, causing the lowering of water levels in adjacent areas, with resulting  
8 subsidence and loss of aquifer storage capacity. Given population growth, and agricultural and  
9 industrial changes, the valley is at risk of being in an even more serious continuing overdraft in  
10 the future unless pumping is controlled.

11 While the lowering of current water levels has slowed, and some levels in wells in some  
12 areas have risen in recent years, significant areas within the aquifer continue to show declining  
13 levels, some slightly so, but many with material lowering of water levels.

14 Thus, the Antelope Valley adjudication area is in a state of overdraft based on estimates  
15 of extraction and recharge, corroborated by physical evidence of conditions in the basin, and  
16 while the annual amount of overdraft has lessened in recent years with increased precipitation  
17 and recharge, the effects of overdraft remain and are in danger of being exacerbated with  
18 increased pumping and the prospective cyclical precipitation fluctuations shown by the historical  
19 record. The physical evidence establishes that there was significant subsidence occurring in  
20 parts of the adjudication area ranging from two to six feet or more in certain areas of the valley  
21 caused by such pumping and that measurable water levels fell in a substantial part of the valley.  
22 While some of the ongoing subsidence may be attributable to residual subsidence (from earlier  
23 periods of shortfall) that would not seem to be an explanation for the extent of continued  
24 subsidence. The evidence establishes that ground water extractions in excess of recharge are a  
25 cause as well.  
26  
27

28 <sup>4</sup> Precipitation and well records prior to that year are too sketchy to be relied upon.

1            **Safe Yield**

2  
3            A calculation of safe yield is necessary to manage the basin or create a physical solution  
4 to a potential or actual continuing overdraft. A determination of safe yield requires an initial  
5 determination of average annual natural or native recharge to the aquifer from all sources. The  
6 only source of natural or native recharge for the Antelope Valley is precipitation that recharges  
7 the aquifer and it is therefore necessary to ascertain average annual precipitation. The  
8 calculation of annual average precipitation can only be determined by using a baseline study  
9 period that covers precipitation in periods of drought and periods of abundant precipitation over  
10 a sufficient period of time that a reliable estimate of average future recharge based on  
11 precipitation can be made.

12            It has been suggested that safe yield could be based on using shorter base periods or more  
13 than one base period, (the total time span of which was considerably less than the 50 year period  
14 the Court believes is more credible). If the purpose of selecting a base period is to determine  
15 average recharge over time based on precipitation, choosing two consecutive periods of time  
16 with two different average numbers would not serve that purpose and would preclude estimating  
17 a single safe yield. Likewise, selecting a base period that does not have completely representative  
18 precipitation cycles over time would not provide an accurate evaluation of conditions in the  
19 valley. A base period that calculates average precipitation over a representative period of time  
20 permits reliable predictions about future natural recharge based on regular recurring precipitation  
21 cycles. A period of precipitation fluctuations from 1951 to 2005 satisfies that standard. Shorter  
22 periods do not.

23  
24            The Court finds that current extraction of water from the aquifer by all pumping ranges  
25 from 130,000 to 150,000 acre feet a year, but in any event, is in excess of average annual  
26 recharge. The major area of dispute between the parties is the average amount of natural  
27 recharge, which also involves disputes concerning return flows, the amount of native vegetation  
28 water needs, evapotranspiration, stream flow, runoff, groundwater infiltration, specific yield, lag

1 time, bedrock infiltration, agricultural crop needs, and the like. Other sources of recharge to the  
2 basin, including artificial recharge-water pumped into the aquifer from external sources are not  
3 in dispute.

4 Evidence established that during the entire historical period presented, populations  
5 increased within the valley and water use changed in a variety of ways. There has been a shift in  
6 some areas to urban uses and away from agriculture although in recent years agricultural  
7 pumping has also increased. The nature of agricultural duties has changed as well. The type of  
8 irrigation used by farmers has become more efficient and less water is needed per acre  
9 (depending on the crops grown) with more efficient uses of water. But there has also been an  
10 increase as well as a change in the nature of the type of agriculture in the valley in material  
11 quantities in recent years. More of such changes may occur and it is important to both current  
12 and future generations to ensure that the water resources within the basin are managed prudently.

13 The Court heard from a very large number of experts, some of whom have provided  
14 opinion testimony of what constitutes safe yield. All the experts testifying acknowledged that  
15 changes in the selection of a base study period, lag time, agricultural water duties,  
16 evapotranspiration, specific yield, runoff quantities, well level contours, bedrock infiltration,  
17 return flows, playa evaporation relating to run off and bedrock infiltration, chloride  
18 measurements, satellite imaging, and agricultural and municipal pumping estimates, among  
19 others, would affect the ultimate opinion of natural recharge and return flows.  
20

21 The opinions of all the experts are estimates, based upon their professional opinion. All  
22 of the opinions were critiqued by other experts who often had different opinions. The Court  
23 recognizes the imprecision of the various estimates and the fact that an estimate by definition is  
24 imprecise. But the fact that estimates lack precision does not mean that the Court cannot rely  
25 upon such estimates. The scientific community relies upon such estimates in the field of  
26 hydrogeology and the Court must do the same.

27 Reasonable experts can differ as to reasonable estimates of natural recharge and  
28 virtually all other components of water budgets, computations of change of storage, and the



1 like, all the while using the same formulae and scientific principles to reach their conclusion.  
2 For example, all the experts could agree on the definition of "Darcy's Law" and the physics  
3 principle of "conservation of mass" but still reach different conclusions.

4 Some of the experts opined that the basin was not in overdraft and that recharge was in  
5 excess of or in balance with extractions so that there was a surplus in the aquifer. One expert  
6 opined that loss of storage was merely space for temporary storage. Observable conditions in the  
7 valley are inconsistent with those conclusions. If there were a surplus, even in the shortened  
8 base periods used by the some experts, there should not be subsidence of land, nor the need to  
9 drill for water at deeper and deeper levels in those parts of the aquifer most affected by the  
10 overdraft. The physical condition of the valley is inconsistent with those estimates that there is  
11 and has been a surplus of water in the aquifer.

12 The selection of a safe yield number for an aquifer the size of the Antelope Valley is  
13 made difficult because of not only its size but because of the complexity of its geology. As  
14 reflected above, hydro-connectivity and conductivity varies considerably between various parts  
15 of the aquifer. The hydro-connectivity between some portions of the adjudication area aquifer  
16 and others is so slight as to be almost (apparently) nonexistent. Pumping in those areas may  
17 have little or no effect on other areas of the aquifer. The Antelope Valley basin is not like a  
18 bathtub where lowering and raising of water levels is equal in all parts of the "tub."  
19


20 Therefore, assigning a safe yield number (what quantity of pumping from the basin will  
21 maintain equilibrium in the aquifer) may require different numbers for different parts of the  
22 aquifer (and clearly may also provide for some level of separate management). No attempt has  
23 been made in this phase of trial to define geological differences in the valley that would justify  
24 different safe yield numbers for different parts of the valley in light of the decision in Phase Two  
25 regarding connectivity (the Phase Two trial focused on hydro-connectivity for purposes of  
26 determining necessary parties to the action).

27 Weighing the various opinions of the experts, however, the Court finds by a  
28 preponderance of the evidence that conservatively setting a safe yield at 110,000 acre feet a

1 year will permit management of the valley in such a way as to preserve the rights of all parties  
2 in accordance with the Constitution and laws of the State of California. Some portions of the  
3 aquifer receive more recharge than others and pumping requirements vary. These differences  
4 require management decisions that respect the differences in both the geology and the cultural  
5 needs of the diverse parts of the valley.

6 It should not be assumed that the safe yield management number may not change as  
7 climate circumstances and pumping may change, or as the empirical evidence based on  
8 experience in managing the basin suggests it is either too high or too low.  
9

10  
11 Dated: JUL 13 2011

12   
13 Hon. Jack Komar  
14 Judge of the Superior Court  
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**EXHIBIT "M"**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

**ANTELOPE VALLEY GROUNDWATER  
CASES**

Included Consolidated Actions:

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

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, consolidated actions, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668

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

Judicial Council Coordination  
Proceeding No. 4408

Lead Case No. BC 325 201

**CASE MANAGEMENT ORDER  
FOR PHASE 4 TRIAL**

Hearing Date(s): December 11, 2012  
Time: 9:00 a.m.  
Location: Department 1  
Santa Clara County  
Superior Court

Judge: Honorable Jack Komar

1 Richard A. Wood v. Los Angeles County  
2 Waterworks District No. 40  
3 Superior Court of California, County of Los  
4 Angeles, Case No. BC 391 869

5 IT IS HEREBY ORDERED:

6 1. The Phase 4 trial will commence at 9:00 a.m. on February 11, 2013, in  
7 Department 1 of the Superior Court of the County of Los Angeles, located at 111 North Hill  
8 Street, Los Angeles, California or such other location pursuant to court order upon notice.

9 2. The Phase 4 trial will address the issue of current groundwater production of all  
10 parties for the calendar year 2011 and January 1 through November 30, 2012, proof of claimed  
11 reasonable and beneficial use of water for each parcel to be adjudicated, claimed return flows  
12 from imported water, and federal reserved rights. Claims of prescription will be tried following  
13 the decision in Phase 4.

14 3. Expert witness disclosure shall take place on January 4, 2013. Designation of  
15 supplemental experts shall take place on January 11, 2013. Said designations shall meet the  
16 requirements of Code of Civil Procedure section 2034.010, *et seq.*, and include a statement as  
17 to availability for deposition during January 14-31, 2013. In addition, any expert designation  
18 shall produce a copy of any reports prepared concurrently with his or her designation.

19 A party intending to call a non-expert witness shall post the name(s) of such witness(es)  
20 on the Court's website on January 4, 2013, which shall include a statement as to availability for  
21 deposition during January 10-31, 2013.

22 The parties who have designated expert or non-expert witnesses are directed to meet  
23 and confer in person and/or by telephone at 10:00 a.m. on January 7, 2013, to develop a  
24 schedule for the taking of depositions of witnesses for the Phase 4 trial who have been  
25 designated. Counsel for the Los Angeles County Waterworks District No. 40 is directed to  
26 provide telephone conference information to the parties by posting the same to the Court's  
27 website by 12:00 p.m. on January 4, 2013. The purpose of the telephone conference is to  
28

1 develop a schedule for the taking of depositions, such that such taking is concluded by January  
2 31, 2013, which is the expert witness, percipient witness and written discovery cut-off. A  
3 similar telephone conference shall take place in the same manner on January 14, 2013 for the  
4 supplemental expert witnesses designated on January 11, 2013.

5 Any party failing to participate in the telephone scheduling conferences or who refuses  
6 to schedule their witnesses for deposition shall be deemed to have waived the right to  
7 coordinate, and may thereafter have their witness' deposition set at the convenience of the  
8 participating parties on 5 court days notice given pursuant to the Court's Electronic Filing and  
9 Service Order. To the extent that parties are unable to reach agreement as to any deposition,  
10 the Court will conduct a telephonic meet and confer to be scheduled at the earliest convenient  
11 to the Court.

12 4. The parties are directed to conduct a telephone conference at 10:00 a.m. on  
13 December 14, 2012 to discuss a coordinating or liaison committee for purposes of the Phase 4  
14 trial. Counsel for the Los Angeles County Waterworks District No. 40 is directed to provide  
15 telephone conference information to the parties by posting the same to the Court's website by  
16 noon on December 13, 2012. The purpose of the committee is to create a means of attempting  
17 to resolve issues quickly and informally, and to streamline the presentations at trial. The  
18 existence of this committee, however, shall not deprive any other party from raising issues or  
19 concerns to the other parties.

20 5. Any expert or other witnesses designated by the parties on January 4, 2013 shall  
21 be available and prepared to provide deposition testimony, absent other agreement, beginning  
22 on January 14, 2013. Any expert designated by the parties on January 11, 2013 shall be  
23 available and prepared to provide deposition testimony beginning on January 23, 2013. The  
24 parties shall make every effort to complete the depositions of the initially designated experts in  
25 time for the depositions of the supplemental experts to take place before the discovery cut-off  
26 directed above. More than one deposition may be scheduled to take place on the same day.

27 6. Any expert or other witness who is not prepared to testify on the date agreed or  
28

1 noticed for deposition is subject to exclusion at the time of trial.

2 7. All deponents are directed to produce their file on this matter, and any other  
3 requested materials for inspection at least three business days before the date set for the  
4 deposition at the expert's place of business or such location as the parties may agree. Such  
5 materials may be produced in electronic format.

6 8. Other than materials requested through a notice of deposition, the only written  
7 discovery allowed is the Court-ordered discovery dated December \_\_, 2012.

8 9. The parties are directed to meet and confer concerning any discovery dispute  
9 before contacting the Court and before filing any discovery motion. If such attempts prove  
10 unsuccessful, the Court will conduct a further meet and confer, either by telephone or in person  
11 as the Court may direct. The parties will provide the Court with a letter in advance setting forth  
12 the text of any written discovery requests and responses thereto that are in dispute, or other  
13 information that will assist the Court in conducting the meet and confer. The parties should  
14 contact the Court's clerk to schedule any such meet and confer. The Court expects that all  
15 discovery disputes will be resolved through the meet and confer process. Any party may  
16 thereafter apply *ex parte* for an order shortening time and specially setting a motion to compel  
17 for hearing by providing notice thereof pursuant to the Electronic Filing and Service Order.

18 10. Any party intending to participate in the Phase 4 trial must post a Notice of  
19 Intention to Participate in the Phase 4 Trial on the Court's website by December 18, 2012.  
20 Excuse from this requirement may be given upon a showing of good cause.

21 11. The parties shall post their witness and exhibit lists on February 1, 2013. The  
22 witness lists shall provide the name of the witness(es), a short summary of testimony expected  
23 to be elicited, and a time estimate. The exhibit lists shall be sufficiently specific as to enable  
24 the other parties to identify the exhibit prior to trial. Exhibits shall be sequentially numbered,  
25 starting with the Arabic number 1. The parties shall agree through the Liaison Committee as to  
26 the division of exhibit numbers by January 27, 2013.

27 12. The parties shall coordinate with one another to determine the actual date and  
28

1 time of the witnesses' testimony at trial. The parties shall make their best efforts to produce all  
2 documents relevant to that witnesses' testimony prior to the witness' deposition. Any other  
3 documents not previously produced, but which are intended to be used at trial, shall be made  
4 available as soon as practicable.

5 13. Upon request, the parties shall provide one another with electronic copies of  
6 their exhibits, except those exhibits that are not practical to provide in electronic format.

7 14. Trial briefs shall be filed and posted on or before January 29, 2013. Responding  
8 trial briefs, *if any*, shall be filed at posted on or before February 5, 2013. Allied parties are  
9 encouraged to file joint briefs.

10 15. Any motion to exclude witnesses or exhibits, or other motions *in limine*, will be  
11 heard at the commencement of the trial on February 11, 2013. Any such moving papers shall  
12 be filed and posted on February 4, 2013. Any opposition papers, including evidentiary  
13 objections, shall be filed and posted on February 7, 2013. Evidentiary objections to evidence  
14 submitted in opposition shall be filed and posted on February 7, 2013. No other reply papers  
15 are allowed.

16 16. Should any party elect to use a third party provider to assist in the projection or  
17 presentation of evidence, that party shall permit said third party provider to contract with any  
18 other party for the use the same services provided. Third party providers, in any event, shall  
19 work together to coordinate the use of equipment.

20 17. Any party desiring to monitor the Phase 4 trial by telephone may do so through  
21 CourtCall, but will not be allowed to question witnesses or participate in oral argument absent  
22 prior arrangement with the Court.

23 18. The Court shall be provided with courtesy copies of all exhibits, except those  
24 pertaining to impeachment, preferably in three ring notebooks with numbered dividers, on or  
25 before February 6, 2013. Counsel are directed to coordinate this project with one another.

26 19. Prior to the commencement of each day of trial, counsel shall confer as to the  
27 order of the next day's witnesses, and shall advise the Court of the same at the commencement  
28



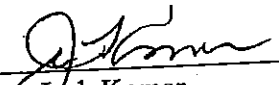
1 of that day of trial.

2 20. The Court will consider whether to request closing trial briefs as the Phase 4  
3 proceeds.

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DEC 1 8 2012

Dated: \_\_\_\_\_

  
\_\_\_\_\_  
Hon. Jack Komar  
Judge of the Superior Court

**EXHIBIT "N"**

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

3 DEPARTMENT NO. 4

HON. JACK KOMAR, JUDGE

4 COORDINATION PROCEEDING )  
5 SPECIAL TITLE (RULE 1550B) )  
6 ANTELOPE VALLEY GROUNDWATER CASES )

JUDICIAL COUNCIL  
COORDINATION  
NO. JCCP4408

7 PALMDALE WATER DISTRICT AND )  
8 QUARTZ HILL WATER DISTRICT, )

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

9 CROSS-COMPLAINANTS, )

10 VS. )

11 LOS ANGELES COUNTY WATERWORKS, )  
12 DISTRICT NO. 40, ET AL, )

13 CROSS-DEFENDANTS. )

14  
15 REPORTER'S TRANSCRIPT OF PROCEEDINGS

16 TUESDAY, FEBRUARY 1, 2011

17  
18 APPEARANCES:

19 (SEE APPEARANCE PAGES)

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27 GINGER WELKER, CSR #5585  
28 OFFICIAL REPORTER

1 CASE NUMBER: JCCP 4408  
2 CASE NAME: ANTELOPE VALLEY GROUNDWATER  
3 LOS ANGELES, CALIFORNIA, TUESDAY, FEBRUARY 1, 2011  
4 DEPARTMENT NO. 4 HON. JACK KOMAR  
5 REPORTER GINGER WELKER, CSR #5585  
6 TIME: 9:00 A.M.  
7 APPEARANCES: (SEE TITLE PAGE)

8  
9 THE COURT: GOOD MORNING, MR. WILDERMUTH. WELCOME  
10 BACK.

11 THE WITNESS: GOOD MORNING.

12 THE COURT: MR. KUHS.

13 MR. WILLIAM KUHS: THANK YOU, YOUR HONOR.

14  
15 MARK J. WILDERMUTH,  
16 CALLED BY THE PALMDALE WATER DISTRICT AS A WITNESS,  
17 HAVING BEEN PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:

18  
19 CROSS-EXAMINATION (CONTINUED)

20 BY MR. WILLIAM KUHS:

21 Q GOOD MORNING, MR. WILDERMUTH.

22 A GOOD MORNING, MR. KUHS.

23 Q MR. WILDERMUTH, WOULD YOU TURN TO S101 AND  
24 PAGE ROMAN 3-24.

25 MR. BUNN: THAT'S THE SUMMARY EXPERT REPORT.

26 THE WITNESS: COULD YOU TELL ME --

27 BY MR. WILLIAM KUHS:

28 Q PAGE ROMAN 3-24 IN THE TEXT OF THE SUMMARY

1 OBJECTION TO 62 --

2 MR. JOYCE: I WOULD JOIN.

3 MR. SLOAN: -- 64, 65, AND I BELIEVE THAT IS.

4 THE COURT: 62, 64 AND 65.

5 MR. JOYCE: AND I WOULD JOIN IN THAT, YOUR HONOR.

6 MR. ZIMMER: I WOULD JOIN AS WELL, AS WELL. JUST

7 FOR CLARIFICATION, YOUR HONOR, IT IS MY UNDERSTANDING

8 THAT TO THE EXTENT THAT THERE IS HEARSAY IN ANY OF THESE

9 EXHIBITS THAT THESE EXHIBITS ARE NOT BEING ACCEPTED FOR

10 THE TRUTH OF THE MATTER, BUT MERELY AS THE BASIS FOR THE

11 EXPERT OPINION.

12 THE COURT: EVERYONE OF THEM.

13 MR. ZIMMER: THANK YOU, YOUR HONOR.

14 THE COURT: OKAY.

15 MR. JOYCE: YOUR HONOR, I WOULD MOVE INTO EVIDENCE

16 B4 THROUGH B12, AND I WOULD ALSO MOVE INTO EVIDENCE MY

17 COLLECTIVE EXHIBITS WHICH WAS MARKED AS B13(A-R). THAT

18 ARE IS THE ONES THAT WE HAD MR. WILDERMUTH --

19 THE CLERK: PREVIOUSLY ADMITTED.

20 MR. BUNN: RIGHT. 13 WAS ADMITTED.

21 MR. JOYCE: THEN IT WOULD BE B4 THROUGH B12.

22 THE COURT: ALL RIGHT.

23 MR. JOYCE: THANK YOU, YOUR HONOR.

24 THE COURT: IT'S IN EVIDENCE.

25

26

27

28

(DIAMOND FARMING EXHIBIT B4 THROUGH  
B12 RECEIVED IN EVIDENCE.)

**EXHIBIT "O"**

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NO. 316

HON. JACK KOMAR, JUDGE

4 COORDINATION PROCEEDING )  
5 SPECIAL TITLE (RULE 1550B) )  
6 ANTELOPE VALLEY GROUNDWATER CASES )

JUDICIAL COUNCIL  
COORDINATION  
NO. JCCP4408

7 PALMDALE WATER DISTRICT AND )  
8 QUARTZ HILL WATER DISTRICT, )

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

9 CROSS-COMPLAINANTS, )

10 VS. )

11 LOS ANGELES COUNTY WATERWORKS, )  
12 DISTRICT NO. 40, ET AL, )

13 CROSS-DEFENDANTS. )

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 THURSDAY, FEBRUARY 17, 2011

16  
17  
18 APPEARANCES: .

(SEE APPEARANCE PAGES)

19  
20  
21  
22  
23  
24  
25  
26 GINGER WELKER, CSR #5585  
27 OFFICIAL REPORTER  
28

1 CASE NUMBER: JCCP 4408  
 2 CASE NAME: ANTELOPE VALLEY  
 3 LOS ANGELES, CALIFORNIA, THURSDAY, FEBRUARY 17, 2011  
 4 DEPARTMENT NO. 316 HON. JACK KOMAR  
 5 REPORTER GINGER WELKER, CSR #5585  
 6 TIME: 8:30 A.M.  
 7 APPEARANCES: (SEE TITLE PAGE)

8  
 9 THE COURT: GOOD MORNING, EVERYONE. WE ARE ON THE  
 10 RECORD. MR. LEININGER.

11 MR. LEININGER: YES, YOUR HONOR. GOOD MORNING,  
 12 YOUR HONOR. I WANT TO BEGIN JUST BY APOLOGIZING FOR MY  
 13 ABSENCE FOR THE LAST FEW DAYS. IT HAS BEEN  
 14 EXTRAORDINARY EVENTS RECENTLY WITH REGARD TO OUR BUDGET  
 15 AND OUR TRAVEL RESTRICTIONS. SOMETHING I HAVEN'T  
 16 WITNESSED SINCE SHUT DOWN OF THE GOVERNMENT IN 1995 WHEN  
 17 I WAS WORKING FOR THE JUSTICE DEPARTMENT. I APOLOGIZE  
 18 FOR MY ABSENCE.

19 THE COURT: I UNDERSTAND THE PROBLEM. I WORKED IN  
 20 THE DEPARTMENT OF JUSTICE. I WOULD LOVE TO SAY IT  
 21 PROBABLY WON'T HAPPEN AGAIN, BUT I REALLY AM NOT ABLE TO  
 22 PREDICT.

23 MR. LEININGER: AND, YOUR HONOR, I -- FOR TODAY'S  
 24 TESTIMONY, I DO HAVE ONE WITNESS, DR. JUNE OBERDORFER.  
 25 SHE HAS TESTIFIED IN THE TWO PREVIOUS PHASES OF TRIAL IN  
 26 THIS CASE. TODAY SHE IS AVAILABLE TO TESTIFY AND HAS A  
 27 BRIEF DIRECT TESTIMONY WHICH I BELIEVE WE SHOULD BE ABLE  
 28 TO ACCOMPLISH WITHIN AN HOUR OR A LITTLE OVER AN HOUR



1 A NO, IT DOESN'T.

2 MR. LEININGER: I HAVE NO OTHER QUESTIONS.

3 THE COURT: ALL RIGHT. THANK YOU.

4 MR. LEININGER: YOUR HONOR, AT THIS TIME, I WOULD  
5 MOVE FOR ENTRIES OF EXHIBITS MARKED I-1 THROUGH 18 AND  
6 I-20 OF HER TESTIMONY.

7 THE COURT: NOW I UNDERSTAND THAT THERE ARE  
8 OBJECTIONS TO THE COURT ACCEPTING THE INFORMATION FOR  
9 THE TRUTH OF THE MATTERS. THAT OBJECTION HAS BEEN  
10 SUSTAINED. I'LL PERMIT THEM TO COME IN EXEMPLIFYING HER  
11 TESTIMONY WITH THE UNDERSTANDING THAT HEARSAY IS  
12 HEARSAY.

13 MR. JOYCE: WITH THAT, YOUR HONOR, I WILL WITHHOLD  
14 MY OBJECTION.

15 MR. BUNN: YOUR HONOR, A CLARIFICATION AS TO THE  
16 NUMBERS. COULD YOU GIVE THE NUMBERS AGAIN.

17 MR. LEININGER: YES, I'M SORRY. I SAID I-1  
18 THROUGH 18, BUT EXHIBIT I-10 HAD BEEN REDACTED. SO IT  
19 IS 1 THROUGH 9, 11 THROUGH 18 AND I-20.

20 MR. BUNN: 20? DO YOU MEAN 21?

21 MR. LEININGER: I'M SORRY, 21. THANK YOU.

22 MR. ZIMMER: THE ONLY COMMENT I HAVE IS, YOUR  
23 HONOR, WITH SOME OF THOSE EXHIBITS AS WE RAISED AS THEY  
24 WERE BEING PRESENTED INVOLVED EXHIBITS THAT ARE  
25 CURRENTLY SUBJECT TO A MOTION TO STRIKE. I APPRECIATE  
26 THE FACT THAT THE COURT HAS IDENTIFIED DOWN ON THE  
27 RECORD THAT THESE EXHIBITS ARE NOT ADMITTED FOR ANY --  
28 THE COURT: TO ESTABLISH THE DATA --- NOT ADMITTED

1 TO ESTABLISH THE DATA.

2 MR. ZIMMER: THANK YOU, YOUR HONOR.

3 THE COURT: AND LET ME JUST OBSERVE. IRRESPECTIVE  
4 OF WHAT THE COURT'S RULING ON THE MOTION TO STRIKE  
5 EXHIBITS MIGHT BE, THAT IS -- HER TESTIMONY IS  
6 INDEPENDENT OF THE ISSUES THAT YOU RAISED IN YOUR MOTION  
7 TO STRIKE IN TERMS OF PREPARATION BECAUSE CERTAINLY  
8 SOMETHING THAT SHE HAS LOOKED AT AND CONSIDERED, AND SHE  
9 HAS OPINED ABOUT THAT.

10 AND SO BEAR THAT IN MIND WHEN YOU ARE MAKING  
11 YOUR RENEWED ARGUMENTS AS I'M SURE YOU WILL ON THE 14TH.

12 MR. ZIMMER: MY COMMENT WAS TO THE EXTENT THAT IT  
13 INCORPORATES DATA THAT IS ULTIMATELY SHOWN TO BE  
14 INCORRECT OR FALSE. IT IS --

15 THE COURT: THAT WAS NOT THE BASIS FOR THE MOTION  
16 TO STRIKE. THE MOTION TO STRIKE WAS PREDICATED UPON  
17 NONDISCLOSURE AND RELATED TYPES OF OBJECTIONS IF I  
18 REMEMBER CORRECTLY.

19 MR. ZIMMER: THAT IS TRUE, BUT I THINK WHAT THE  
20 COURT SAID WAS THAT YOU WOULD TAKE A LOOK AT IT AGAIN TO  
21 SEE IF THE CONTOUR LINES ACTUALLY MATCHED UP WITH THE  
22 DATA. SO WHAT I'M SAYING HERE IS TO THE EXTENT THAT THE  
23 CONTOUR LINES DON'T MATCH UP WITH THE DATA, NOT ONLY IS  
24 THERE A BASIS FOR STRIKING THE EXHIBITS WHICH WOULD HAVE  
25 THIS EXPERT RELYING ON SOMETHING WHICH IS NOT IN  
26 EVIDENCE AND NOT PROPERLY -- NOT A PROPER ...

27 THE COURT: WELL, SHE IS NOT BASING HER OPINION  
28 WHAT IS IN EVIDENCE. SHE IS BASING HER OPINION ON WHAT

1 HER OBSERVATIONS WERE. IT IS A TOTALLY DIFFERENT BASIS.

2 SO THEY ARE ADMITTED WITH THE LIMITATIONS  
3 THAT I HAVE EXPRESSED IN THIS -- AS PART OF HER  
4 TESTIMONY. WHETHER THEY ARE ALSO GOING TO BE ADMITTED  
5 WITH REGARD TO -- OR STRICKEN WITH REGARD THE OTHER  
6 WITNESS'S TESTIMONY IS A TOTALLY DIFFERENT ISSUE. SO --  
7 BUT YOUR COMMENTS ARE NOTED.

8 MR. ZIMMER: THANK YOU.

9 THE COURT: THEY ARE ADMITTED AS I INDICATED.

10

11 (EDWARDS AIR FORCE BASE EXHIBITS 1-9,  
12 11-18, AND 21 RECEIVED IN EVIDENCE  
13 WITH THE COURT'S STATED LIMITATIONS.)

14

15 THE COURT: YOU MAY STEP DOWN, DOCTOR. THANK YOU  
16 VERY MUCH FOR COMING.

17 MR. JOYCE: YOUR HONOR?

18 THE COURT: YES.

19 MR. JOYCE: BOTH MR. KUHS AND I HAD AN ISSUE THAT  
20 WE THOUGHT MAYBE IT WOULD BE APPROPRIATE TO CLEAR UP  
21 WITH THE COURT NOW SO THAT WE CAN PLAN WHAT WE ARE GOING  
22 TO BE DOING FOR THE NEXT FEW WEEKS. AS THE COURT WILL  
23 RECALL, THERE HAS BEEN A LOT OF DISCUSSION ABOUT THE  
24 SCOPE OF WHAT ISSUES WE WERE GOING TO ENTERTAIN IN THIS  
25 PHASE OF THE TRIAL. AND, SPECIFICALLY, AS IT PERTAINS  
26 TO THE EFFECTS OF PUMPING IN ONE AREA VERSUS ANOTHER  
27 AREA.

28

I THINK WE ALL HAD A LITTLE BIT OF A PREVIEW

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA  
ELECTRONIC FILING - WWW.SCEFILING.ORG

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FAX: (510) 465-7348  
EMAIL: Info@Glotrans.com

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SANTA CLARA

Coordination Proceeding Special Title (Rule  
1550(b)) ANTELOPE VALLEY GROUNDWATER CASES  
(JCCP 4408) Included Actions: Los Angeles  
County Waterworks District No. 40

Antelope Valley Groundwater Cases (JCCP  
4408)

Lead Case No.1-05-CV-049053

Hon. Jack Komar

Plaintiff,

vs.

Diamond Farming Co. Superior Court of  
California County of Los Angeles, Case No.  
BC 325 201 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, consolidated actions, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668

Defendant.

PROOF OF SERVICE  
Electronic Proof of Service

AND RELATED ACTIONS

I am employed in the County of Alameda, State of California.

I am over the age of 18 and not a party to the within action; my business address is 2915 McClure Street, Oakland, CA 94609.

The documents described on page 2 of this Electronic Proof of Service were submitted via the worldwide web on Fri. April 19, 2013 at 5:03 PM PDT and served by electronic mail notification.

I have reviewed the Court's Order Concerning Electronic Filing and Service of Pleading Documents and am readily familiar with the contents of said Order. Under the terms of said Order, I certify the above-described document's electronic service in the following manner:

The document was electronically filed on the Court's website, <http://www.scefilling.org>, on Fri. April 19, 2013 at 5:03 PM PDT

Upon approval of the document by the Court, an electronic mail message was transmitted to all parties on the electronic service list maintained for this case. The message identified the document and provided instructions for accessing the document on the worldwide web.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and

correct. Executed on April 19, 2013 at Oakland, California.

Dated: April 19, 2013

For WWW.SCEFILING.ORG

Andy Jamieson

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