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UNDER GOVERNMENT CODE
SECTION 6103**

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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
28

Judicial Council Coordination No. 4408

CLASS ACTION

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

**PUBLIC WATER SUPPLIERS'
OPPOSITION TO TEJON RANCHCORP'S
MOTION *IN LIMINE* FOR ORDER
EXCLUDING EXPERT TESTIMONY OF
(1) JOSEPH SCALMANINI, (2) KENNETH
UTLEY, AND (3) DENNIS WILLIAMS;
DECLARATION OF JEFFREY V. DUNN
IN SUPPORT THEREOF**

Trial:

Date: October 6, 2008

Time: 9:00 a.m.

Dept.: 1

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1 **I. INTRODUCTION**

2 California Water Service Company, City of Lancaster, City of Palmdale, Littlerock Creek
3 Irrigation District, Los Angeles County Water Works District No. 40, Palmdale Water District,
4 Palm Ranch Irrigation District, Quartz Hill Water District, and Rosamond Community Services
5 District (collectively, "Public Water Suppliers") respectfully oppose Tejon Ranchcorp's Motion
6 In Limine for Order Excluding Expert Testimony of (1) Joseph Scalmanini, (2) Kenneth Utley,
7 and (3) Dennis Williams, all of whom have been designated as expert witnesses for the Public
8 Water Suppliers for the Phase 2 trial. Tejon's basis for seeking exclusion of these experts is its
9 claim that the expert declaration included with the Public Water Supplier's expert witness
10 designation was not as specific as Tejon believes is necessary.

11 Tejon's motion in limine should be denied because (1) the Public Water Suppliers' original
12 expert declaration, as well as their amended expert declaration, each satisfy the requirements of
13 Section 2034.260 of the Code of Civil Procedure, and therefore the expert disclosure was
14 adequate, (2) if the Public Water Suppliers' expert declaration is insufficient, so too is Tejon's,
15 meaning Tejon is incapable of seeking exclusion under Section 2034.300; (3) all three of the
16 experts at issue here were deposed, giving Tejon the opportunity to find out whatever it wanted
17 about the experts' opinions, yet Tejon chose not to attend the depositions, and (4) because the
18 Public Water Suppliers are in a position of rebuttal in Phase 2 of this case regarding whether there
19 are any sub-basins, their experts will necessarily be rebutting the opinions of the experts of other
20 parties, and additional detail regarding those rebuttal opinions is not possible in an expert
21 declaration made before discovering the opinions to be rebutted.

22 **II. ANALYSIS**

23 **A. The Public Water Suppliers' Expert Declaration Satisfies Section 2034.260**

24 Contrary to Tejon's statement in its memorandum of points and authorities in support of
25 this motion in limine, the Public Water Suppliers did submit a proper expert disclosure under
26 Section 2034.260 of the Code of Civil Procedure. Therefore, no exclusion of their experts is
27 proper under Section 2034.300. Tejon cannot argue that the Public Water Supplier did not
28 provide an expert witness designation, complete with an expert declaration signed by counsel. In

1 fact, their original designation is attached to Tejon's motion, and Tejon quotes from that
2 declaration in its motion. Further, the Public Water Suppliers supplied an amended declaration
3 on September 18, 2008 to provide additional information in response to Tejon's objections to the
4 adequacy of the original declaration raised in its August 22, 2008 meet-and-confer letter and the
5 instant motion in limine filed seven days later. See Decl. of Jeffrey V. Dunn attached hereto
6 ("Dunn Decl.") at ¶ 3; Ex. "A."

7 Rather, Tejon appears to complain that the expert declaration is not specific enough as to
8 what opinions the Public Water Suppliers' experts will offer. Specifically, Tejon claims that as to
9 Mr. Scalmanini, the declaration "contains absolutely no expression of [his] opinion, only a vague
10 reference to the substantive areas he will discuss." Tejon's Mem. P. & A. at 5:7-8. Tejon's
11 complaints as to Mr. Utley and Dr. Williams are similar – the declaration does not specify exactly
12 what their opinions are, it only states the substantive areas of their testimony. Without any
13 supporting authority, Tejon argues that this is insufficient, and those experts should be barred
14 from testifying.

15 Tejon's premise – that Section 2034.260 requires the expert declaration to specify what the
16 expert's opinion will be at trial, rather than specifying generally what the expert will testify to – is
17 erroneous; thus, its argument that the Public Water Suppliers' experts should be excluded from
18 trial because the declaration is insufficient fails. Section 2034.260(c) specifies the requirements
19 for an expert witness declaration. It provides that the declaration shall contain:

- 20 (1) A brief narrative statement of the qualifications of each expert.
- 21 (2) A brief narrative statement of the general substance of the
22 testimony that the expert is expected to give.
- 23 (3) A representation that the expert has agreed to testify at the trial.
- 24 (4) A representation that the expert will be sufficiently familiar
25 with the pending action to submit to a meaningful oral deposition
concerning the specific testimony, including any opinion and its
basis, that the expert is expected to give at trial.
- 26 (5) A statement of the expert's hourly and daily fee for providing
27 deposition testimony and for consulting with the retaining attorney.

28 Cal. Civ. Proc. Code § 2034.260(c) (emphasis added).

1 By its own terms, Section 2034.260 does not require that the declaration specify what the
2 experts opinions will be, merely what the "general substance" of the testimony will be. Tejon has
3 supplied no authority in its motion for its proposition that the declaration must detail what
4 opinion the expert will give. Bonds v. Roy, 20 Cal. 4th 140 (1999) dealt with a situation where
5 the expert was not permitted to testify at trial on a different subject matter than what he was
6 disclosed to testify to in the expert declaration. The Court stated there that "[w]hen an expert is
7 permitted to testify at trial on a wholly undisclosed subject area, opposing parties . . . lack a fair
8 opportunity to prepare for cross-examination or rebuttal." 20 Cal. 4th at 147 (emphasis added).
9 Earlier caselaw buttresses that the expert declaration (which is, after all, prepared and signed by
10 counsel, not the expert), need only specify the subject matter or area of the expert's testimony, not
11 specifically what opinion(s) the expert will render. In Sprague v. Equifax, 166 Cal. App. 3d 1012
12 (1985), the Court held that a disclosure that a party's expert "would testify 'to the medical care
13 and treatment rendered to plaintiff as well as [his] diagnoses and prognoses of plaintiff's physical
14 condition'" satisfied the statutory requirement that the disclosing party disclose "the general
15 substance of the testimony which the witness is expected to give." See 166 Cal. App 3d at 1040.¹
16 Such a disclosure did not specify what the expert's opinion was, just what subject matters he
17 would opine on – the expert would give his diagnoses and prognoses of Plaintiff's physical
18 condition, but there was no indication of what those diagnoses or prognoses were.

19 Thus the "general substance" of an expert's expected testimony that must be disclosed in
20 the expert declaration does not necessarily include the actual opinion the expert will render, as
21 Tejon argues for here. In fact, the language of Section 2034.260 itself shows that the expert
22 deposition, not counsel's expert declaration in the disclosure, is where the expert's actual opinion
23 must be disclosed. Section 2034.260(c)(4) requires that the declaration contain a representation
24 that the expert will be sufficiently familiar with the case to give a deposition concerning "the
25 specific testimony, including any opinion and its basis, that the expert is expected to give at trial."

26 _____
27 ¹ Although Sprague was decided under former Code of Civil Procedure Section 2037.3, the
28 disclosure requirements in that section mirror current Section 2034.260(c)(2) as applicable here.
For the text of former section 2037.3, see Kennemur v. State of California, 133 Cal. App. 3d 907,
917 (1982).

1 (Emphasis added). Accordingly, under the specific language of the statute and the case law
2 interpreting that language, counsel's declaration need only contain a statement of the "general
3 substance" of the expert's testimony; the opportunity to learn the specifics of an expert's
4 testimony, including the expert's opinion and its basis, lies in the expert deposition.

5 The Public Water Suppliers' expert declarations here contain the "general substance" of
6 their experts' testimony. As to Mr. Scalmanini, the original declaration states the three
7 "substantive areas" of his testimony, specifically (1) the Antelope Valley, including its physical
8 setting and its area of adjudication, (2) the general geology of the area and the occurrence of
9 groundwater in the [adjudication area], and his opinions regarding the nature of geologic
10 formations and aquifer materials and the effects of geologic features on the occurrence and
11 movement of groundwater and on the effects of groundwater extraction, and (3) the existence, if
12 any, of sub-basins within the adjudication area. See Aug. 14, 2008 Decl. of Douglas J. Evertz
13 ("Evertz Decl.") at ¶ 3(a) (attached to Tejon's moving papers). Though not necessary, this
14 description was buttressed in Mr. Evertz's Amended Declaration, which added that Mr.
15 Scalmanini will testify to his opinion that there are no hydrogeologically separate sub-basins
16 within the adjudication area. See Sept. 18, 2008 Amended Decl. of Douglas J. Evertz ("Amended
17 Evertz Decl.") (attached here as Ex. "A" to the Dunn Decl.) at ¶ 7(a)(3).

18 As to Mr. Utley, the original declaration specified that the general substance of his
19 testimony as "the general geology of the area of the occurrence of groundwater in the
20 [adjudication area], including his opinions regarding the nature of geologic formations and
21 aquifer materials, and the effects of geologic features on the occurrence and movement of
22 groundwater." Evertz Decl. at ¶ 3(b). The amended declaration added the clarification that Mr.
23 Utley's testimony is introductory to and supportive of the ultimate opinion of Mr. Scalmanini."
24 Amended Evertz Decl. at ¶7(b). Finally, the original and amended expert declarations notify all
25 parties that Dr. Williams may be called to opine on the opinions of other experts in the case,
26 including as a rebuttal witness on the question of the existence of sub-basins. Evertz Decl. at
27 ¶ 3(c); Amended Evertz Decl. at ¶ 7(c).

28

1 These descriptions are no less informative about the subject matter of the experts'
2 testimony that the description in Sprague that the doctor would testify to "the medical care and
3 treatment rendered to plaintiff as well as [his] diagnoses and prognoses of plaintiff's condition"
4 which the Court held to be an adequate disclosure of the "general substance" of the expert's
5 testimony. While the experts' exact opinions are not specified in the declarations, that is not
6 required. Discovery of an expert's specific testimony, including the opinion and its basis, is the
7 subject of the expert's deposition. As discussed below, all of the Public Water Suppliers' experts
8 were made available for deposition, and were deposed. The expert witness disclosure was
9 adequate and Tejon's motion in limine should be denied.

10
11 **B. If The Public Water Suppliers' Expert Declaration Does Not Comply With**
12 **Section 2034.260, Neither Does Tejon's, And Therefore Tejon May Not Seek**
13 **Exclusion Under Section 2034.300**

14 Even assuming, arguendo, that Section 2034.260 did require the Public Water Suppliers to
15 disclose their experts' exact opinions in the expert declaration as Tejon argues, and therefore the
16 Public Water Suppliers' expert declarations are insufficient, exclusion here would nevertheless
17 still be inappropriate. Section 2034.300, under which Tejon brings this motion in limine to
18 exclude the Public Water Suppliers' experts, permits only a party "who has made a complete and
19 timely compliance with Section 2034.260" to object to another party's expert disclosure and seek
20 exclusion of their expert witnesses. See Cal. Civ. Proc. Code § 2034.300.

21 If the Public Water Suppliers' expert declaration is insufficient, so too is Tejon's. Tejon
22 made its expert witness disclosures on August 15, 2008 by posting its "Exchange of Expert
23 Information" on the Court's website in this case. See Dunn Decl. at ¶ 4; Ex. "B." Therein,
24 Tejon's counsel identifies Dr. E. John List and Richard Rhone as Tejon's experts in this case. As
25 to Dr. List, Tejon's counsel states, in pertinent part, "Mr. List will testify regarding the following
26 issues: (i) The characteristics of the Antelope Valley Groundwater Basin and, in particular, the
27 West Antelope Valley Sub-Basin." As to Mr. Rhone, counsel states he "will testify regarding the
28

1 following issues: (i) The characteristics of the Antelope Valley Groundwater Basin and, in
2 particular, the West Antelope Valley Sub-Basin." Id.

3 Applying the standard Tejon advocates for in judging the Public Water Suppliers' expert
4 declarations to Tejon's own expert declaration reveals that Tejon's declaration is similarly, if not
5 more, deficient than is the Public Water Suppliers' declaration. If that standard applies, Tejon
6 itself has not complied with the requirements of Section 2034.260 and therefore is ineligible to
7 raise any objection under Section 2034.300 to exclude any party's experts.

8
9 **C. Each Of The Public Water Suppliers' Experts Were Deposed, So Tejon Had**
10 **Ample Opportunity To Discover Their Opinions**

11 As noted above, Section 2034.260 provides only that the "general substance" of an
12 expert's testimony be disclosed within counsel's declaration as part of the expert disclosure. The
13 opportunity for discovery of the specifics of an expert's testimony, including his or her opinion
14 and its basis, is at the expert's deposition. The ability to take an expert's deposition is the Code of
15 Civil Procedure's answer to the problem of the "sporting theory of litigation" Tejon discusses in
16 its motion.

17 All three of the Public Water Suppliers' experts for Phase 2 of trial were made available
18 and deposed in this case, and each stated his opinion in deposition that the so called bedrock
19 barrier should not be utilized to create a separate basin. Mr. Scalmanini was deposed on
20 September 24, 2008. See Dunn Decl. at ¶ 6. Tejon at that time could have asked Mr. Scalmanini
21 any questions they wished about the specifics of his testimony, his opinions, and his basis for
22 those opinions, just as other parties to this case did, but unlike those other parties, Tejon's counsel
23 did not attend Mr. Scalmanini's deposition. Id. Any "surprise" Tejon may experience from Mr.
24 Scalmanini's testimony is entirely self-imposed.

25 The same holds true for Mr. Utley and Dr. Williams. Mr. Utley was deposed on
26 September 23, 2008, and Dr. Williams gave his deposition on October 1, 2008. Id. at ¶¶ 7-8.
27 Again, Tejon's counsel did not appear at either of these depositions. Tejon intentionally passed
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1 on its opportunity to discover the specifics of the Public Water Suppliers' expert testimony. It
2 cannot now complain about any "surprise" as to what these experts will testify to at trial.

3
4 **D. The Public Water Suppliers' Experts Are Rebuttal Experts In The Phase 2**
5 **Trial, So Further Detail About Their Opinions Was Not Possible At The Time**
6 **Of The Expert Declaration**

7 Finally, because in Phase 2 of this trial the Public Water Suppliers are essentially in a
8 position of rebutting the contentions of other parties in this case, their experts are similarly in the
9 position of rebutting the expert opinions of those other parties contending there are sub-basins
10 within the adjudication area. As such, the Public Water Suppliers were not able to disclose all of
11 the specific rebuttal opinions of their experts and the bases underlying them until the other parties
12 disclosed their expert opinions. The information provided, first in the original Evertz
13 Declaration, and then in the Amended Evertz Declaration, was as much as was available at the
14 time those declarations were made. The Public Water Suppliers were able to formulate their
15 opinions more as they had more time to digest the opinions they would be rebutting, and gave
16 depositions at which they were prepared to answer any questions about their opinions and the
17 bases underlying them. Under these circumstances, the declarations were sufficient and Tejon
18 had every opportunity to conduct discovery into the opinions. Exclusion of the Public Water
19 Suppliers' experts is not warranted here.

20
21 **III. CONCLUSION**

22 Tejon Ranchorp's motion in limine to preclude the Public Water Suppliers' expert
23 witnesses from testifying at trial on the ground that the expert declaration was insufficient under
24 Section 2034.260 should be denied. First, the declaration satisfied the requirements of Section
25 2034.260 to provide the "general substance" of the experts' testimony. That section does not
26 require the disclosing party to include in the declaration the specific opinion(s) that the witness
27 will offer, as Tejon argues here. The Public Water Suppliers' declarations provide the "general
28 substance" of all three of their experts' testimony.

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Further, even if Tejon was right about Section 2034.260 requiring more than just a specification of the subject matter of the disclosed expert's testimony, then exclusion still would be inappropriate because Tejon would lack the ability to raise any objection to any party's disclosures under Section 2034.300 because Tejon's own disclosures would similarly be improper. Any claim that Tejon may be unfairly "surprised" at trial by the testimony of any of the Public Water Supplier's experts is entirely self-inflicted due to Tejon's failure to attend any of the experts' depositions. Finally, in light of the fact that the Public Water Suppliers, and therefore their experts, are in a rebuttal position in this Phase 2 trial, the declarations provided as much information about the rebuttal opinions of their experts as was available at the time. For each of these reasons, Tejon's motion in limine to exclude Mr. Scalmanini, Mr. Utley, and Dr. Williams should be denied.

Dated: October 2, 2008

Respectfully submitted,

BEST BEST & KRIEGER LLP

By 
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NO. 40

DECLARATION OF JEFFREY V. DUNN

I Jeffrey V. Dunn, declare as follows:

1. I have personal knowledge of the facts below, and if called upon to do so, I could testify competently thereto in a court of law.

2. I am an attorney licensed to practice law in the State of California. I am a partner of Best Best & Krieger LLP, attorneys of record for Rosamond Community Services District and Los Angeles County Water Works District No. 40

3. On September 18, 2008, the Public Water Suppliers filed with the Court and served their Amended Expert Witness Declaration of Douglas J. Evertz. A true and correct copy of that Declaration is attached hereto for the Court's convenience as Exhibit "A."

4. On August 15, 2008, Tejon Ranchcorp posted on the Court's website in this case its "Exchange of Expert Witness Information." A true and correct printout of that posting obtained from the Court's website (without the exhibits thereto) is attached hereto as Exhibit "B" for the Court's convenience.

5. The Public Water Suppliers in the above-captioned case made each of their experts, Joseph Scalmanini, Kenneth Utley, and Dennis Williams available for deposition in this matter.

6. Mr. Scalmanini's deposition occurred on September 24, 2008. I was present at that deposition. Despite begin notified of the date, time and location of the deposition, counsel for Tejon Ranchcorp failed to attend the deposition of Mr. Scalmanini.

7. Mr. Utley deposition occurred on September 23, 2008. I was present at that deposition. Despite begin notified of the date, time and location of the deposition, counsel for Tejon Ranchcorp failed to attend the deposition of Mr. Utley.

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8. Dr. Williams's deposition occurred on October 1, 2008. I was present at that deposition. Despite being notified of the date, time and location of the deposition, counsel for Tejon Ranchcorp failed to attend the deposition of Dr. Williams.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 2nd day of October, 2008 at Irvine, California.



JEFFREY V. DUNN

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Exempt from filing fee
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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 FOR THE COUNTY OF LOS ANGELES

15 ANTELOPE VALLEY GROUNDWATER
16 CASES

17 Included Actions:

18 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
Superior Court of California, County of
19 Los Angeles, Case No. BC325201;

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

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

Judicial Council Coordination
Proceeding No. 4408

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

**AMENDED EXPERT WITNESS
DECLARATION OF DOUGLAS J.
EVERTZ ON BEHALF OF LOS
ANGELES COUNTY WATER WORKS
DISTRICT NO. 40, ROSAMOND
COMMUNITY SERVICES DISTRICT,
CITY OF LANCASTER, PALMDALE
WATER DISTRICT, QUARTZ HILL
WATER DISTRICT, CALIFORNIA
WATER SERVICE COMPANY AND
LITTLE ROCK CREEK IRRIGATION
DISTRICT, et al.**

Trial Date: October 6, 2008

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501005810.3 / 36749-0001

AMENDED EXPERT WITNESS DECLARATION

EXHIBIT A

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WATER CO., BIG ROCK MUTUAL WATER CO., and LITTLE BALDY WATER CO.

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DECLARATION OF DOUGLAS J. EVERTZ

I, Douglas J. Evertz, declare as follows:

1. I am an attorney at law, duly licensed to practice law before all the courts of the State of California and am a Partner with the law firm of Luce, Forward, Hamilton & Scripps, LLP, counsel of record for the City of Lancaster (“Lancaster”) in the above-captioned proceeding. This Amended Expert Witness Declaration is submitted on behalf of Lancaster, Los Angeles County Water Works District No. 40, Rosamond Community Services District, Palmdale Water District, Quartz Hill Water District, California Water Service Company and Littlerock Creek Irrigation District (as previously defined in the original expert witness designation.) I have personal knowledge of the facts set forth below, and if called as a witness, I could and would testify competently to the following:

2. This Amended Declaration is made pursuant to Code of Civil Procedure section 2034.260(c)(2) in support of the Expert Designation of Los Angeles County Water Works District No. 40, Rosamond Community Services District, City of Lancaster, Palmdale Water District, Quartz Hill Water District, California Water Service Company and Littlerock Creek Irrigation District (the “Designating Parties”).

3. On August 15, 2008, the Designating Parties posted their expert witness designation, which included my expert witness declaration pursuant to Code of Civil Procedure section 2034.260(c)(2). The Designating Parties designated Joseph Scalmanini, Kenneth Utley and Dr. Dennis Williams.

4. On August 22, 2008, Robert Kuhs, counsel for Tejon Ranch, posted a letter requesting I “promptly submit a supplemental declaration which includes a brief narrative statement of the general substance of your proposed experts’ testimony. Absent such compliance, we will move to exclude Mr. Scalmanini’s, Mr. Utley’s and Mr. Williams’ opinions. (Code Civ. Proc., § 2034.000)” [sic] The letter did not specify any date by which Tejon Ranch requested a supplemental declaration be filed. I was out of the office on vacation August 21, 2008 through August 26, 2008.

5. On August 29, 2008, Tejon Ranch filed a Motion in Limine to exclude the expert testimony of the Designating Parties’ expert witnesses. Tejon Ranch contends in its motion the Expert

1 Designation of the Designating Parties is deficient because (1) the Expert Designation does not
2 “disclose what opinions the experts will offer at trial,” and (2) “none of the experts produced a
3 written report summarizing the anticipated opinions at trial.” (Motion of Limine, p. 3, lines 10-12.)
4 In my opinion, the motion is not well taken because (1) the expert declaration complies with Code
5 of Civil Procedure section 2034.260, (2) no written reports were prepared by Mr. Scalmanini,
6 Mr. Utley or Mr. Williams and thus none are required to be produced, and (3) on September 3, 2008,
7 Mr. Scalmanini met with, among others, Tejon Ranch’s expert witnesses, Richard Rhone (in
8 person) and John List (by telephone) to discuss certain issues regarding “subbasins.”

9 6. On September 5, 2008, I spoke with Robert Kuhs and advised him that while I believe
10 the August 15, 2008 Expert Designation of the Designating Parties is sufficient, the Designating
11 Parties are prepared to supplement the expert witness declaration. I then asked Mr. Kuhs what
12 precisely he thought was missing from the Expert Designation and/or what additional information he
13 wanted to be included. I then asked Mr. Kuhs to take his motion in limine off calendar. While
14 Mr. Kuhs did indicate that filing a supplemental declaration might be a “step in the right direction,” he
15 refused to provide any indication as to what further information he thought might be useful in the
16 declaration, and indicated he was not inclined to take his motion off calendar.

17 7. In an effort to resolve any outstanding dispute between the Designating Parties and
18 Tejon Ranch, the Designating Parties now offer the following supplemental declaration, which
19 includes only the previously designated experts and which identifies in greater detail the substance of
20 the anticipated testimony of the experts:

21 (a) Joseph Scalmanini. Mr. Scalmanini is a registered civil engineer and the President
22 of Luhdorff and Scalmanini Consulting Engineers. A true and correct copy of
23 Mr. Scalmanini’s resume was attached to the August 15, 2008 designation as
24 Exhibit “A” and incorporated herein by reference. Mr. Scalmanini’s anticipated
25 testimony will address the following substantive areas:

26 (1) The Antelope Valley, including its physical setting and its area of
27 adjudication (Antelope Valley Area of Adjudication, or “AVAA”).
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(2) The general geology of the area and the occurrence of groundwater in the AVAA, including his opinions regarding the nature of geologic formations and aquifer materials, and the effects of geologic features on the occurrence and movement of groundwater, and on the physical effects of groundwater extraction.

(3) His opinion there are no separate groundwater basins (hydrogeologically separate subdivisions) within the AVAA and that while it may ultimately be appropriate or necessary to subdivide the AVAA for development and implementation of a physical solution, it is premature to identify subdivisions for that purpose until the objectives of the physical solution are identified.

(4) Mr. Scalmanini may also be called to offer testimony to rebut the testimony of other experts.

(b) Kenneth Utley. Mr. Utley is a Registered Geologist and Certified Engineering Geologist, and Senior Geologist with Luhdorff and Scalmanini, Consulting Engineers. A true and correct copy of Mr. Utley's resume was attached to the August 15, 2008 designation as Exhibit "B". Mr. Utley's anticipated testimony, which was relied upon in part by Mr. Scalmanini in formulating his ultimate opinions, will address the following substantive areas:

(1) The general geology of the area and the occurrence of groundwater in the AVAA, including his opinions regarding the nature of geologic formations and aquifer materials, and the effects of geologic features on the occurrence and movement of groundwater, all of which is introductory to and supportive of the ultimate opinion of Mr. Scalmanini.

(c) Dr. Dennis Williams. Dr. Williams is a registered geologist and California certified hydro geologist with experience in groundwater development and management. Dr. Williams may be called to render rebuttal testimony and opinions concerning the work of other experts on the characteristics, structure, hydrologic conditions of the groundwater underlying the geographic area, including rebuttal testimony to refute

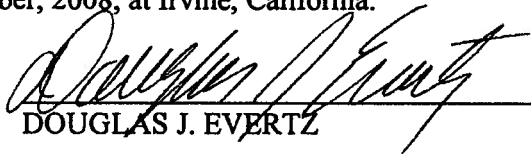
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opinions of other experts on the use of hydrogeological modeling to establish “subbasins” in the AVAA. He has agreed to testify and will be sufficiently familiar with the pending action to submit to a meaningful oral deposition concerning his specific testimony, after the work of other experts engaged by the public purveyors is completed. Additional information regarding Dr. Williams was attached to the August 15, 2008 designation as Exhibit “C.”

8. The above experts have agreed to testify at trial. They will be sufficiently familiar with the pending action to submit to meaningful depositions concerning their expert opinions and the basis thereof. Mr. Scalmanini charges \$460 per hour for deposition and trial testimony. Mr. Utley charges \$284 per hour for deposition and trial testimony. Mr. Williams charges \$500 per hour for deposition and trial testimony.

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

Executed this 18th day of September, 2008, at Irvine, California.


DOUGLAS J. EVERTZ

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PROOF OF SERVICE

ANTELOPE VALLEY GROUNDWATER CASES
Judicial Council Coordination, Proceeding No. 4408

Santa Clara Case No. 1-05-CV 049053
Assigned to the Honorable Jack Komar
Los Angeles County Superior Court, Central, Dept. 1

I am a resident of the State of California, over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 2050 Main Street, Suite 600, Irvine, California 92614. On September 18, 2008, I served the within document(s):

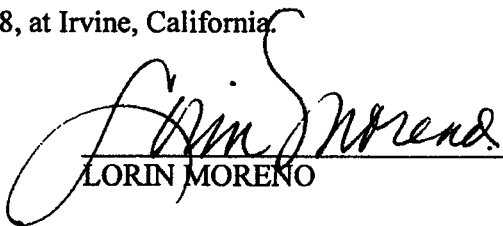
**AMENDED EXPERT WITNESS DECLARATION OF DOUGLAS J. EVERTZ
ON BEHALF OF LOS ANGELES COUNTY WATER WORKS DISTRICT NO. 40,
ROSAMOND COMMUNITY SERVICES DISTRICT, CITY OF LANCASTER,
PALMDALE WATER DISTRICT, QUARTZ HILL WATER DISTRICT,
CALIFORNIA WATER SERVICE COMPANY AND LITTLEROCK CREEK
IRRIGATION DISTRICT, et al.**

- by posting the document(s) listed above to the website <http://www.scefiling.org>, a dedicated link to the Antelope Valley Groundwater Cases; Santa Clara Case No. 1-05-CV 049053, Assigned to the Honorable Jack Komar, said document(s) is electronically served/distributed therewith.
- By transmitting via e-mail the document(s) listed above to the e-mail address(es) and/or fax number(s) set forth below on this date.
- by placing the document(s) listed above in a sealed Overnight Express envelope/package for overnight delivery at Irvine, California addressed as set forth below.
- by causing personal delivery by Nationwide Legal of the document(s) listed above, to the person(s) at the address(es) set forth below.

I am readily familiar with Luce, Forward, Hamilton & Scripps LLP's practice for collecting and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on September 18, 2008, at Irvine, California.



LORIN MORENO

1 William C. Kuhs, State Bar No. 39217
2 Robert G. Kuhs, State Bar No. 160291
3 Kuhs & Parker
4 P. O. Box 2205
5 1200 Truxtun Avenue, Suite 200
6 Bakersfield, CA 93303
7 Telephone: (661) 322-4004
8 Facsimile: (661) 322-2906
9 E-Mail: kpslaw@lightspeed.net

10 Defendant Tejon Ranchcorp

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

13 ANTELOPE VALLEY GROUNDWATER) Judicial Council Coordination No. 4408
14 CASES)
15 Included Actions:) Santa Clara Case No. 1-05-CV-049053
16 Los Angeles County Waterworks District No. 40) Assigned to Hon. Jack Komar
17 v. Diamond Farming Co., Superior Court of)
18 California, County of Los Angeles, Case No. BC) **TEJON RANCHCORP'S EXCHANGE**
19 325201;) **OF EXPERT WITNESS INFORMATION**
20) [Code Civ. Proc., § 2034.260]
21 Los Angeles County Waterworks District No. 40) Phase 2 Trial Date: October 6, 2008
22 v. Diamond Farming Co., Superior Court of)
23 California, County of Kern, Case No. S-1500-CV-)
24 254-348;)
25)
26 Wm. Bolthouse Farms, Inc. v. City of Lancaster,)
27 Diamond Farming Co. v. Lancaster, Diamond)
28 Farming Co. v. Palmdale Water Dist., Superior)
Court of California, County of Riverside, Case)
No. RIC 353 840, RIC 344 436, RIC 344 668)
)

29 COMES NOW the defendant and cross-complainant TEJON RANCHCORP
30 ("Tejon") and submits the following expert witness information.

31 **I. RETAINED EXPERTS**

- 32 1. E. John List, Phd., P.E., 723 East Green Street, Pasadena, California


1 91101 (626) 304-1134.

2 2. Richard A. Rhone, 101 North Brand Blvd., Ste. 1780, Glendale, California
3 91203 (818) 552-6400.

4 Tejon reserves the right to (a) call any expert witness disclosed by any other
5 party to this proceeding although not included herein; and (b) call any expert witness
6 to impeach the testimony of any expert witness offered by any other party at trial.
7

8 Dated: August 12, 2008

KUHS & PARKER

9
10 By 
11 Robert G. Kuhs, Attorney for Tejon

12
13 **II. DECLARATION OF ROBERT G. KUHS**

14 I, Robert G. Kuhs, declare as follows:

15 1. I am an attorney at law duly admitted to practice before all courts of the
16 State of California and a partner of Kuhs & Parker, counsel for Tejon.

17 2. Tejon may call the following expert witnesses:

18 A. E. John List, Phd., P.E. Mr. List has agreed to testify at trial. Mr.
19 List is a licensed professional engineer in the State of California. A summary of Mr.
20 List's professional qualifications is attached as **Exhibit A**. Mr. List will testify
21 regarding the following issues:
22

23 i. The characteristics of the Antelope Valley
24 Groundwater Basin and, in particular, the West Antelope Valley Sub-
25 Basin.
26

27 Mr. List will be sufficiently familiar with this proceeding to submit to a meaningful
28

KUHS & PARKER
ATTORNEYS AT LAW
P. O. Box 2205
BAKERSFIELD, CALIFORNIA 93303
(661) 322-4004 • FAX (661) 322-2906

1 oral deposition concerning his testimony. His fee for providing such testimony is
2 \$250.00 per hour. A copy of Mr. List's report is attached as **Exhibit B**.

3 B. Richard A. Rhone, P.E. Mr. Rhone has agreed to testify at trial.
4 Mr. Rhone is a registered civil engineer in the State of California. A summary of Mr.
5 Rhone's qualifications is attached as **Exhibit C**. Mr. Rhone will testify regarding the
6 following issues:

7
8 i. The characteristics of the Antelope Valley
9 Groundwater Basin and, in particular, the West Antelope Valley Sub-
10 Basin.

11 Mr. Rhone will be sufficiently familiar with this proceeding to submit to a meaningful
12 oral deposition concerning his testimony. His fee for providing testimony and
13 consulting is \$250 per hour. A copy of Mr. Rhone's report is attached as **Exhibit D**.

14
15 I declare under penalty of perjury under the laws of the State of California that
16 the foregoing is true and correct.

17 Dated: August 12, 2008

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20 Robert G. Kuhs

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

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 October 2, 2008, I served the within document(s):


PUBLIC WATER SUPPLIERS' OPPOSITION TO TEJON RANCHCORP'S MOTION *IN LIMINE* FOR ORDER EXCLUDING EXPERT TESTIMONY OF (1) JOSEPH SCALMANINI, (2) KENNETH UTLEY, AND (3) DENNIS WILLIAMS; DECLARATION OF JEFFREY V. DUNN IN SUPPORT THEREOF

- 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 October 2, 2008, at Irvine, California.



Kerry V. Keefe