

1 BEST BEST & KRIEGER LLP
ERIC L. GARNER, Bar No. 130665
2 JEFFREY V. DUNN, Bar No. 131926
DANIEL S. ROBERTS, Bar No. 205535
3 STEFANIE D. HEDLUND, Bar No. 239787
5 PARK PLAZA, SUITE 1500
4 IRVINE, CALIFORNIA 92614
TELEPHONE: (949) 263-2600
5 TELECOPIER: (949) 260-0972

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6 OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES
7 JOHN KRATTLI, Bar No. 82149
SENIOR ASSISTANT COUNTY COUNSEL
8 MICHAEL MOORE, Bar No. 175599
DEPUTY COUNTY COUNSEL
9 500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012
10 TELEPHONE: (213) 974-1901
TELECOPIER: (213) 458-4020

11 Attorneys for Defendants
12 ROSAMOND COMMUNITY SERVICES
DISTRICT and LOS ANGELES COUNTY
13 WATERWORKS DISTRICT NO. 40

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

17 **ANTELOPE VALLEY GROUNDWATER
18 CASES**

19 Included Actions:

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

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

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

RELATED CASE TO JUDICIAL
COUNCIL COORDINATION
PROCEEDING NO. 4408

**EX PARTE APPLICATION FOR
ORDER FOR PUBLICATION OF
SUMMONS ON ROE CROSS-
DEFENDANTS [CLASS MEMBER
OPT-OUTS]; DECLARATION OF
DANIEL S. ROBERTS IN SUPPORT OF
SAME; EXHIBITS A AND B;
[PROPOSED] ORDER**

1 **EX PARTE APPLICATION FOR ORDER FOR PUBLICATION OF SUMMONS**

2 The Public Water Suppliers hereby make this *ex parte* application for an order directing
3 service of the Summons and First Amended Cross-complaint by the Public Water Suppliers on
4 the remaining unserved Cross-Defendants as listed in Exhibit "A" hereto by publication.
5 Pursuant to this Court's order, any prospective class member who opted out of the class upon
6 receiving class notice was named as an individual cross-defendant to the Public Water Supplier's
7 first amended cross-complaint via fictitious-name amendment. The bulk of these opt-out Cross-
8 Defendants (approximately 743) have been served either by personal service, acknowledgement
9 and receipt, or certified mail (where applicable by law). There are ninety (90) such Cross-
10 defendants, however, whom the Public Water Suppliers have not been able to serve by any of
11 these methods, despite their due diligence in attempting to do so. Service on these remaining
12 unserved Cross-Defendants is requested to be by publication pursuant to Code of Civil Procedure
13 section 415.50 in both the Los Angeles Times and the Bakersfield Californian, which are
14 newspapers of general circulation in California. These newspapers are most likely to give notice
15 to the Cross-Defendants because they are the major newspapers covering the area wherein the
16 property at issue in this case lies, and therefore where the Cross-Defendants to be served are
17 believed to be found.

18
19 The First Amended Cross-complaint, which is for declaratory and injunctive relief and
20 adjudication of groundwater rights, was filed herein on March 13, 2007. A copy of the Summons
21 and First Amended Cross-complaint could not be served on those Cross-Defendants listed in
22 Exhibit "A" by any of the following methods:

- 23 1. Handing a copy to the person to be served. (Personal service
24 – Code Civ. Proc., § 415.10).
- 25
26 2. Leaving a copy, during usual office hours and in the office
27 of the person to be served, with the person who apparently was in
28 charge and by thereafter mailing copies (by first class mail, postage

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prepaid) to the person to be served at the place where the copies were left. (Service on a corporation, partnership, association, or public entity - Code Civ. Proc., § 415.20(a)).

3. Leaving a copy at the dwelling house, usual place of abode, or usual place of business of the person to be served in the presence of a competent member of the household or person apparently in charge of his office or place of business, at least 18 years of age, who shall be informed of the general nature of the papers and by thereafter mailing copies (by first class mail, postage prepaid) to the person to be served at the place where the copies were left. (Service on natural person, minor, incompetent, or candidate - Code Civ. Proc., § 415.20(b)).

4. Sending (by first class mail or airmail) a copy to the person to be served, together with two copies of required form of notice and acknowledgement and a return envelope, postage prepaid, addressed to the sender. (Service by mail - Code Civ. Proc., § 415.30).

5. Sending (by registered or certified airmail with return receipt requested) copies to the person to be served. (Service by mail outside the State of California - Code Civ. Proc., § 415.40).

6. Any other method (Code Civ. Proc., §§ 413.10, 413.30).

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The reasonable attempts to serve these Cross-Defendants listed in Exhibit "A" hereto are set forth in the declarations of the process servers employed to effect service on these Cross-Defendants. Copies of those declarations are attached hereto collectively as Exhibit "B."

Dated: March 2, 2010

BEST BEST & KRIEGER LLP

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

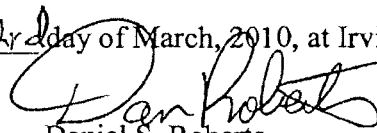
LAW OFFICES OF
BEST BEST & KRIEGER LLP
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

1 **DECLARATION OF MERITS**

2 I, Daniel S. Roberts, declare as follows:

3 I am a partner in Best Best & Krieger LLP, counsel for Rosamond Community Services
4 District and Los Angeles County Waterworks District No. 40 in the above referenced case. In
5 that capacity, Best Best & Krieger LLP has taken the lead in serving the Public Water Suppliers'
6 First Amended Cross-Complaint on those prospective class members who opted out of the class
7 upon receiving class notice, and therefore were named as individual Cross-Defendants to the
8 Public Water Supplier's first amended cross-complaint via fictitious-name amendment. The
9 Public Water Suppliers' first amended cross-complaint is for declaratory and injunctive relief and
10 adjudication of groundwater rights within the Antelope Valley groundwater basin. The Cross-
11 Defendants named therein, including those sought by this application to be served by publication,
12 are those whom public records show to be the owners of and/or beneficial interest holders in, real
13 property within the basin to be adjudicated, and whom therefore do or may claim an interest in
14 the rights to be adjudicated in this case. The specific individuals at issue in this *ex parte*
15 application are those individuals who were identified as members of either of the two classes
16 involved in this adjudication, but upon receiving the class-action notice, chose to opt out of their
17 respective class. Accordingly, they were substituted into this case via fictitious-name amendment
18 as Cross-Defendants on the Public Water Suppliers' first amended cross-complaint. Despite
19 diligent efforts to serve the Cross-Defendants at issue here, the Public Water Suppliers have not
20 been able to perfect service on them. Therefore, the Public Water Suppliers respectfully request
21 the Court order that those remaining unserved Cross-defendants listed in Exhibit "A" hereto be
22 served by publication in the Los Angeles Times and Bakersfield Californian pursuant to Code of
23 Civil Procedure 415.50.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct. Executed this 2nd day of March, 2010, at Irvine, California.

26 
27 Daniel S. Roberts
28

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

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5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

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PROOF OF SERVICE

I, Lori Bauer, declare as follows:

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 March 2, 2010, I served the within document(s):

EX PARTE APPLICATION FOR ORDER FOR PUBLICATION OF SUMMONS ON ROE CROSS-DEFENDANTS [CLASS MEMBER OPT-OUTS]; DECLARATION OF DANIEL S. ROBERTS IN SUPPORT OF SAME; EXHIBITS A AND B; [PROPOSED] ORDER

- by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matte proceeding as JCCP 4408.
- 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 March 2, 2010, at Sacramento, California.



Lori Bauer