

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-Complainant  
LOS ANGELES COUNTY WATERWORKS  
6 DISTRICT NO. 40

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

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

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

17 **ANTELOPE VALLEY**  
**GROUNDWATER CASES**

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

21 Los Angeles County Waterworks District  
22 No. 40 v. Diamond Farming Co., Superior  
Court of California, County of Kern, Case  
23 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  
26 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

**OPPOSITION TO AGWA'S MOTION FOR  
LEGAL FINDINGS DEFINING  
POTENTIAL PRESCRIPTIVE PERIOD  
TO PRIOR TO 1999**



1 cites no authority for this argument and applicable California law is against AGWA’s argument:  
2 “[T]he filing of an action, either by the person asserting a prescriptive right, or by the person  
3 against whom the statute of limitations is running, will interrupt the running of the prescriptive  
4 period, and the statue will be tolled while the action is actively pending. (*Yorba v. Anaheim Union*  
5 *Water Co.* (1953) 41 Cal.2d 265, 270 [emphasis added].) Thus, the filing of an action applies  
6 only to “the person” asserting the prescriptive right or “the person” against whom the prescriptive  
7 right is asserted.

8 Here, AGWA was not a party to the 1999 lawsuit by Diamond Farming, nor were several  
9 of the PWS. AGWA members did not become parties to these coordinated and consolidated  
10 proceedings until Los Angeles County Waterworks District No. 40 initiated adjudication  
11 proceedings in Kern and Los Angeles County Superior Courts in 2004. As to the AGWA  
12 members, there was no tolling of the five-year prescriptive period statute of limitations in 1999.

13 Courts are to examine the limitations period of a particular case separately from other  
14 cases in a consolidated action. *Hamilton v. Asbestos Corp.* (2000) 22 Cal. 4th 1127; *General*  
15 *Motors Corp. v. Superior Court of Los Angeles County* (1966) 65 Cal. 2d 88, 91-93 [stating that  
16 the statute of limitations that requires actions to be brought to trial within five years of filing  
17 complaint is similar to the statute of limitations that requires actions to be initiated within certain  
18 time periods and that “individual actions brought by plaintiffs should be treated as distinct even  
19 though they have been consolidated, and the time for bringing each action to trial should be  
20 measured from the time that particular action was filed.”].

21 Furthermore, prescriptive rights can be perfected when the use is actual, open and  
22 notorious, hostile and adverse to the original owner, continuous and uninterrupted for the  
23 minimum statutory period of five years. (*City of Los Angles v. City of San Fernando* (1975) 14  
24 Cal. 3d 199, 282.) The filing of a lawsuit may interrupt the continuous-possession element of  
25 adverse possession but only as to the party filing the lawsuit. (*California Maryland Funding, Inc.*  
26 *v. Lowe* (1995) 37 Cal.App.4th 1798, 1803-04.) It cannot however, interrupt the continuous  
27 possession element for a third party who is not involved in the lawsuit. (*Montecito Valley Water*  
28 *Co. v. Santa Barbara* (1904) 144 Cal. 578, 592-593.)

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


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III. CONCLUSION

The Public Water Suppliers respectfully request the Court deny the motion.

Dated: January 31,2012

BEST BEST & KRIEGER LLP

By   
ERIC L. GARNER  
JEFFREY V. DUNN  
STEFANIE D. HEDLUND  
Attorneys for Cross-Complainant  
LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40

# **EXHIBIT A**

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**ORIGINAL FILED**  
**FEB 24 2010**  
**LOS ANGELES**  
**SUPERIOR COURT**

**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF LOS ANGELES**

**Coordination Proceeding  
Special Title (Rule 1550(b))**

**Judicial Council Coordination  
Proceeding No. 4408**

**ANTELOPE VALLEY GROUNDWATER  
CASES**

**ORDER TRANSFERRING AND  
CONSOLIDATING ACTIONS FOR  
ALL PURPOSES**

**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**

**Hearing Date(s): February 5, 2010  
October 13, 2009  
August 17, 2009  
Time: 9:00 a.m.  
Location: Department 1, LASC**

**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**

**Judge: Honorable Jack Komar**

**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**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

Coordination Proceeding  
Special Title (Rule 1550(b))

Judicial Council Coordination  
Proceeding No. 4408

**ANTELOPE VALLEY GROUNDWATER  
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Rebecca Lee Willis v. Los Angeles County  
Waterworks District No. 40  
Superior Court of California, County of Los

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3 The City of Palmdale, Rosamond Community Services District, Los Angeles County  
4 Waterworks District No. 40, Littlerock Creek Irrigation District, Palm Ranch Irrigation District,  
5 California Water Service Company, Quartz hill District, City of Lancaster, and Palmdale Water  
6 District (collectively, "Public Water Suppliers") filed Motions to consolidate all of the  
7 coordinated matter presently pending before the Court. The motions were heard on August 17,  
8 2009 and, at the conclusion of the hearing, the Court orally stated its intent to grant the motions  
9 and directed the parties to meet and confer concerning a form of order and to present to the  
10 Court a proposed order granting the motion. Subsequently, proposed orders and written  
11 arguments were filed and a hearing on the form of the order was held on February 5, 2010.

12 All of the included actions are complex and were ordered coordinated under the  
13 provisions of Code of Civil Procedure Section 401.1. To the extent the actions were filed, or  
14 were being heard in courts other than this Court, the Order of Coordination required the transfer  
15 of the cases to this court for all purposes.

16 The Complaints and Cross-Complaints all include, in one form or other, declaratory  
17 relief causes of action seeking determinations of the right to draw ground water from the  
18 Antelope Valley basin. These claims are central to every action pending before the Court. In a  
19 single aquifer, all water rights are said to be correlative to all other water rights in the aquifer.  
20 A determination of an individual party's water rights (whether by an action to quiet title or one  
21 for declaratory relief) cannot be decided in the abstract but must also take into consideration all  
22 other water rights within a single aquifer.<sup>1</sup> All actions pending, therefore, of necessity involve  
23 common issues of law and fact relating to the determination of the relative rights to withdraw  
24 water from the Antelope Valley Groundwater Basin in the Antelope Valley and all parties to  
25 the litigation claiming water rights are necessary parties to the Court adjudicating a binding  
26 determination of those rights. Thus, it appears to the Court that consolidation is not only

27  
28 <sup>1</sup> In an earlier phase of the proceedings, the court found as a matter of fact that the area within the jurisdictional boundaries of the valley constituted a single aquifer.



1 necessary but desirable. Entering separate judgments would not permit the court to enforce the  
2 judgments once they are entered without transferring each case back to this Court.

3 It is argued by several parties that consolidating the cases will require litigating against  
4 parties they did not sue and would subject them to potential costs and fees in actions to which  
5 they were not parties. However, the only cause of action that would affect all parties to the  
6 consolidation are the declaratory relief causes of action which seek a declaration of water rights  
7 (by definition, correlative rights). If the basin is in overdraft (a fact still to be established), the  
8 Court in each declaratory relief proceeding would of necessity have to look at the totality of  
9 pumping by all parties, evaluate the rights of all parties who are producing water from the  
10 aquifer, determine whether injunctive relief was required, and determine what solution equity  
11 and statutory law required (including a potential physical solution). All other causes of action  
12 could only result in remedies involving the parties who were parties to the causes of action.  
13 Costs and fees could only be assessed for or against parties who were involved in particular  
14 actions.

15 Consolidation will allow for the entry of single statements of decision in subsequent  
16 phases specifying the identity of the parties who are subject to the particular provisions and a  
17 single judgment resulting in a comprehensive adjudication of rights to water from the Antelope  
18 Valley Groundwater Basin which, among other things, is intended to satisfy the requirements  
19 of the McCarran Amendment, 43 U.S.C. § 666.

20 The United States is the largest land owner in the Antelope Valley and claims reserved  
21 water rights under federal law. The United States was made a party defendant in this action so  
22 that the declaratory relief actions could result in a complete adjudication. No party objected to  
23 the participation of the United States in these coordinated actions. There is jurisdiction over the  
24 United States only if authorized by Congress. The McCarran Amendment provides a limited  
25 waiver of immunity for joinder in *comprehensive* adjudications of all rights to a given water  
26 source. In order for there to be a *comprehensive* adjudication all parties who have a water  
27 rights claim must be joined in the action and the judgment must bind all the parties. Without  
28 consolidation there is risk that the United States might attempt to withdraw from the

1 proceedings for lack of a comprehensive judgment. It may be that coordination itself might  
2 permit a single comprehensive judgment but consolidation would eliminate any risk of  
3 uncertainty. Consolidation of the water rights claims will result in a comprehensive  
4 adjudication and a judgment that will affect all the parties. Complete consolidation will permit  
5 these matters to proceed as an *inter se* adjudication of the rights of all the parties to these  
6 consolidated cases to withdraw groundwater from the Antelope Valley Groundwater Basin.

7 While there is a dearth of case law on the issue of consolidation in coordinated cases, it  
8 does seem that Code of Civil Procedure Section 1048 applies in these cases and authorizes a  
9 consolidation that will result in a final judgment. The California Rules of Court 3.451 requires  
10 active management by the coordination trial judge and specifically provides for separate and  
11 joint trials of causes of action and issues, as the court in its discretion might order.

12 Pursuant to Rule 3.545(d) of the Rules of Court, certified copies of the judgments  
13 bearing the original case numbers of the cases must be entered in the courts where the cases  
14 were being heard immediately prior to coordination and unless the coordination judge orders  
15 otherwise, the judgments are enforced in those original jurisdictions. However, Rule 3.545(d)  
16 empowers the court to provide for the court in which post judgment proceedings will occur and  
17 to provide for the court in which any ancillary proceedings will be heard. In this case, that court  
18 should be the coordination court in order to ensure proper enforcement of the judgment or  
19 judgments.

20 This order of consolidation will not preclude any parties from settling any or all claims  
21 between or among them, as long as any such settlement expressly provides for the Court to  
22 retain jurisdiction over the settling parties for purposes of entering a judgment resolving all  
23 claims to the rights to withdraw groundwater from the Antelope Valley Groundwater Basin as  
24 well as the creation of a physical solution if such is required upon a proper finding by the  
25 Court. Upon appropriate motion and the opportunity for all parties in interest to be heard, the  
26 Court may enter a final judgment approving any settlements, including the *Willis* and *Wood*  
27 class settlements, that finally determine all cognizable claims for relief among the settling  
28 parties for purposes of incorporating and merging the settlements into a comprehensive single

1 judgment containing such a declaration of water rights and a physical solution. Any such  
2 settlement can only affect the parties to the settlement and cannot have any affect on the rights  
3 and duties of any party who is not a party to any such settlement. Complete consolidation shall  
4 not preclude or impair any class' right to seek the entry of a final judgment after settlement.

5 Therefore it is ordered as follows:

6 Except as otherwise stated below the motion to transfer and to consolidate for all  
7 purposes is **GRANTED**.

- 8 1. To the extent not previously transferred as a result of the Judicial Council's  
9 order of coordination, all matter presently pending under the Judicial Council  
10 Coordination Proceeding No. 4408 are ordered transferred from the Riverside  
11 County Superior Court and Kern County Superior Court to the Los Angeles  
12 County Superior Court, the Honorable Jack Komar, judge presiding by special  
13 assignment.
- 14 2. The following actions are consolidated for all purposes because declaratory  
15 relief concerning rights to the ground water in the single aquifer is central to  
16 each proceeding:
  - 17 a. *Wm. Bolthouse Farms, Inc. v. City of Lancaster, et al.*, Riverside County  
18 Superior Court, Case No. RIC 353840;
  - 19 b. *Diamond Farming Co., et al. v. City of Lancaster, et al.*, Riverside County  
20 Superior Court, Case No. RIC 3444436;
  - 21 c. *Diamond Farming Co. v. Palmdale Water District, et al.*, Riverside County  
22 Superior Court, Case No. RIC 344668;
  - 23 d. *Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., et*  
24 *al.*, Kern County Superior Court, Case No. S-1500-CV-254-348;
  - 25 e. *Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., et*  
26 *al.*, Los Angeles County Superior Court, Case No. BC 325201;
  - 27 f. *Rebecca Lee Willis, et al. v. Los Angeles County Waterworks District No. 40,*  
28 *et al.*, Los Angeles County Superior Court, Case No. BC 364553;

1 g. *Richard A. Wood, et al. v. Los Angeles County Waterworks District No. 40, et*  
2 *al.*, Los Angeles County Superior Court, Case No. BC 391869; and

3 h. And all cross-complaints filed in any of the above-referenced actions.

4 3. The action entitled *Sheldon R. Blum, Trustee for the Sheldon R. Blum Trust v.*  
5 *Wm. Bolthouse Farms, Inc.*, Los Angeles County Superior Court, Case No. 1-  
6 05-CV-049053, is not consolidated, but shall remain related and coordinated  
7 with the actions and cross-actions referenced in paragraph 3 above.

8 4. The Court has ordered a Case Management Conference at which it will hear  
9 arguments concerning the order in which common issues will be heard and to  
10 set the matter for further trial. It is the Court's present intent to first schedule  
11 trial on the common issues relating to declaratory relief which will include the  
12 determination of overall condition of groundwater basin:

13 1. Safe Yield

14 2. Overdraft

15 5. The determination of rights to withdraw groundwater, and claims to  
16 prescription, issues affecting appropriation, municipal/domestic priority, rights  
17 to imported water/storage rights, return flow rights, reasonable and beneficial  
18 use of water, recycled water, quiet title, export of water, determination of  
19 federal reserved right to water and physical solution may follow.

20 6. The following described causes of action for damages and other declaratory  
21 relief will proceed after the determination of the issues identified in paragraphs  
22 4 and 5 above. Any waiver of immunity by the United States under the  
23 McCarran Amendment does not extend to these claims; jurisdiction over the  
24 United States does not attach to these claims or causes of action alleging these  
25 claims, and any determination on these claims shall not bind or otherwise  
26 adversely affect the rights of the United States:

27 a) Conversion

28 b) Nuisance


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- c) 42 U.S.C. § 1983
- d) Takings/Inverse Condemnation
- e) Trespass

7. Any claim to declaratory relief regarding basin boundaries has been determined by the Court by Order dated November 6, 2008. To the extent any current party was not a party at the time of the determination of this issue, that party may seek to reopen or, consistent with the order, move to amend the basin boundary.

SO ORDERED.

Dated: FEB 19 2010

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

LAW OFFICES OF  
BEST BEST & KRIEGER LLP  
500 CAPITOL MALL, SUITE 1700  
SACRAMENTO, CALIFORNIA 95814

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**PROOF OF SERVICE**

I, Patricia Alshabazz, 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, 500 Capitol Mall, Suite 1700, Sacramento, California 95814. On January 31, 2012, I served the within document(s):

**OPPOSITION TO AGWA'S MOTION FOR LEGAL FINDINGS DEFINING POTENTIAL PRESCRIPTIVE PERIOD TO PRIOR TO 1999**

- 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 Sacramento, 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 January 31, 2012, at Sacramento, California.

  
\_\_\_\_\_  
Patricia Alshabazz