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LOS ANGELES COUNTY WATERWORKS
6 DISTRICT NO. 40

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

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COUNTY WATERWORKS DISTRICT NO. 40
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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF LOS ANGELES

16
17 **ANTELOPE VALLEY**
GROUNDWATER CASES
18
19 Included Actions:
Los Angeles County Waterworks District
20 No. 40 v. Diamond Farming Co., Superior
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
25 Lancaster, Diamond Farming Co. v. City of
Lancaster, Diamond Farming Co. v.
26 Palmdale Water Dist., Superior Court of
California, County of Riverside, Case Nos.
27 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

**LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 CASE
MANAGEMENT STATEMENT**

1 **CASE MANAGEMENT STATEMENT**

2 Over the last nine months, certain parties made settlement progress in their mediation
3 sessions with Justice Robie. The progress was slow and expensive. Over the last three months,
4 there has been little, if any, further progress.

5 The parties remain unable to resolve their differences as to how the safe yield is allocated
6 amongst the basin's groundwater users. There still does not appear to be any reasonable
7 expectation all parties will ultimately resolve the issue by settlement. Without a resolution of the
8 allocation issues, the parties cannot agree on the long overdue physical solution to the basin's
9 overdraft condition.

10 Los Angeles County Waterworks District No. 40 respectfully requests the Court schedule
11 the next trial date in September, 2012. The District also requests an early Court ruling on a key
12 legal issue that can impact a potential settlement on how to allocate the safe yield.

13
14 **I. THE NEXT TRIAL DATE SHOULD BE SCHEDULED AS SOON AS POSSIBLE**
15 **TO ALLOW THE PARTIES TO REACH A COMPROMISE OR HAVE THE**
16 **COURT DETERMINE THE GROUNDWATER RIGHTS FOR NON-SETTLING**
PARTIES

17 In order to implement a physical solution to the Basin's groundwater problems, there
18 should be court-determined groundwater rights. District No. 40 respectfully request a trial date in
19 early September of 2012. The proposed date allows sufficient time to resolve allocation
20 differences or prepare for the Court to do so for non-settling parties.

21 As indicated in earlier court filings and hearings, the McCarran Amendment requires a
22 comprehensive adjudication of the parties' water rights. Specifically, all groundwater claims
23 must be determined by the Court. Absent the required determination of rights, the United States
24 will not sign a comprehensive agreement. A trial date is needed for the determination of
25 groundwater rights by settlement and/or by trial.

26
27 **II. A KEY LEGAL ISSUE – THE FAILURE TO FILE GROUNDWATER**
28 **EXTRACTION NOTICES UNDER WATER CODE SECTION 4999 ET SEQ.**

For each party in Los Angeles County and who extracts at least 25 afy of groundwater,

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1 Water Code section 5001 mandates such person file an annual "Notice of Extraction and
2 Diversion of Water" with the State Water Resources Control Board. Pursuant to Water Code
3 section 5004, a person's failure to file results in a finding "nonuse" of water for that year:

4 After the year 1959, failure to file with the board a notice for any
5 calendar year within six months after the close of such calendar
6 year shall be deemed equivalent for all purposes to nonuse for such
7 year of any ground water within the four counties by each person
8 failing to so file a notice within said period; provided that this
section and Section 5003 shall not apply to any person whose
aggregate extractions of ground water in any year does not exceed
25 acre-feet or to any of ground water with respect to which no
notice is required to be filed under this part.

9 The statutory language is unequivocal. Any and all parties in Los Angeles County that claim to
10 have pumped at least 25 afy but failed submit the Notice of Extraction, are deemed to have not
11 pumped for the years in which there was a failure to report.

12 During the last Case Management Conference, the Court directed District No. 40 to file a
13 motion addressing the legal issues concerning a party's failure to file the required notice pursuant
14 to Water Code section 5001 *et seq.* District No. 40 has filed the motion and respectfully requests
15 that the Court determine the legal issues as soon as so possible so the parties can take the Court's
16 decision into account in the mediation sessions and settlement discussions.

17
18 Dated: February 10, 2012

BEST BEST & KRIEGER LLP

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21 By: 

ERIC L. GARNER
JEFFREY V. DUNN
STEFANIE D. HEDLUND
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LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40

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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 February 10, 2012, I served the within document(s):


**LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 CASE
MANAGEMENT STATEMENT**

- 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 February 10, 2012, at Irvine, California.


Kerry V. Keefe

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