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6 DISTRICT NO. 40

**EXEMPT FROM FILING FEES  
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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 – CENTRAL DISTRICT  
16

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

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

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

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'S  
OPPOSITION TO EX PARTE  
APPLICATION FOR CLARIFICATION  
AND AMENDMENT OF PHASE 4 CASE  
MANAGEMENT ORDER**

Date: December 20, 2012  
Time: 8:30 a.m.  
Dept.: Telephonic Hearing (CourtCall)

1  
2 Los Angeles County Waterworks District No. 40 opposes the ex parte application by  
3 Bolthouse Properties, et al. On its face, the application is an improper request for a trial  
4 continuance. A trial continuance cannot be granted from an ex parte application without proper  
5 declarations showing appropriate good cause. (Cal. Rules of Court, Rule 3.1332.) Here, the ex  
6 parte hearing requests for both a trial continuance and for stay of court ordered-discovery have no  
7 supporting declarations. There is nothing properly before the court to base or otherwise consider  
8 the improper requests. Instead, there is only argument by a small, but tightly unified, group of  
9 large commercial and mostly commercial grower, landowner attorneys. A group, who by their  
10 own admission, have only agreed amongst themselves on how to divide up all of the limited  
11 groundwater supply for everyone else including the two classes with a combined total class  
12 membership of over 70,000, the Public Water Suppliers and their hundreds of thousands of  
13 domestic water use customers, public agency landowners, the United States, the many mutual  
14 water companies who provide domestic water service to numerous households, and many  
15 hundreds of other others private landowners.

16 Los Angeles County Waterworks District No. 40, again, hereby states its objections to the  
17 Bolthouse Properties and other large landowner parties disclosing what took place during the  
18 mediation process before the Honorable Ron R. Robie, Justice of the Court of Appeal. The  
19 previous and continuing references to the mediation violate applicable mediation confidentiality  
20 law including Evidence Code sections 1119 and 1121.

21 Bolthouse Properties, together with its other large private landowner party allies, are  
22 either attempting to improperly persuade the court on its decision for the Phase 4 trial and further  
23 proceedings, or cause the disqualification of the trial court judge. It is beyond reasonable dispute  
24 that the Bolthouse and its allies want the disqualification of the current trial court judge because  
25 they have filed not one, but two, improper peremptory challenges under Code of Civil Procedure  
26 section 170.6.

27 The ex parte requests should be denied. They are nothing more than the repeated  
28 arguments in the Court's hearing last week. A reasonable person would conclude the latest ex

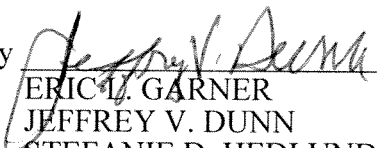
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parte requests are to keep the Court from discovering how much groundwater the ex parte applicants really use, and that it was not for reasonable and beneficial uses in the arid Antelope Valley. Bolthouse and its few but large landowner party allies believe they can stand united and thereby convince the Court to approve their partial settlement and to stop the necessary comprehensive adjudication of the groundwater rights. They are wrong. The Antelope Valley Groundwater Basin is, and has been for decades, in an overdraft condition. The large landowner parties do not own groundwater; it belongs to the people of the State of California. (*City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 277-278.)

The large landowner parties can no longer continue to pump groundwater for free and without any limitation. They must show whether they used, and have used, groundwater for a reasonable and beneficial use in the Antelope Valley.

Dated: December 19, 2012

BEST BEST & KRIEGER LLP

By   
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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 December 19, 2012, I served the within document(s):

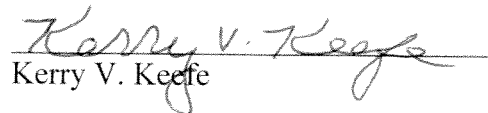
**LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40'S OPPOSITION TO EX PARTE APPLICATION FOR CLARIFICATION AND AMENDMENT OF PHASE 4 CASE MANAGEMENT ORDER**

- 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 December 19, 2012, at Irvine, California.

  
Kerry V. Keefe