

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-Complainants
ROSAMOND COMMUNITY SERVICES
6 DISTRICT and LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40

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SECTION 6103

7 OFFICE OF COUNTY COUNSEL
8 COUNTY OF LOS ANGELES
RAYMOND G. FORTNER, JR., Bar No. 42230
9 COUNTY COUNSEL
FREDERICK W. PFAEFFLE, Bar No. 145742
10 PRINCIPAL DEPUTY COUNTY COUNSEL
500 WEST TEMPLE STREET
11 LOS ANGELES, CALIFORNIA 90012
TELEPHONE: (213) 974-1951
12 TELECOPIER: (213) 458-4020
Attorneys for Cross-Complainant LOS ANGELES
13 COUNTY WATERWORKS DISTRICT NO. 40

14 [See Next Page For Additional Counsel]

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

18 **ANTELOPE VALLEY**
19 **GROUNDWATER CASES**

20 Included Actions:

21 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Superior
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 DIAMOND FARMING’S
MOTIONS TO COMPEL FURTHER
RESPONSES TO FORM
INTERROGATORIES; REQUESTS FOR
ADMISSIONS; SPECIAL
INTERROGATORIES; REQUESTS FOR
PRODUCTION OF DOCUMENTS; AND
FOR MONETARY SANCTIONS;
DECLARATIONS OF JEFFREY V. DUNN,
W. KEITH LEMIEUX AND JAMES L.
MARKMAN (IN SUPPORT THEREOF)**

ORANGE\SHEDLUND\40157.1

1 STRADLING YOCCA CARLSON & RAUTH
Douglas J. Evertz, Bar No. 123066
2 660 Newport Center Drive, Ste. 1600
Newport Beach, CA 92660
3 (949) 737-4720 (916) 823-6720 fax
Attorneys for City of Lancaster
4

RICHARDS WATSON & GERSHON
5 James L. Markman, Bar No. 43536
Steven Orr, Bar No. 136615
6 355 S. Grand Avenue, 40th Floor
Los Angeles, CA 90071-3101
7 (213) 626-8484 (213) 626-0078 fax
Attorneys for City of Palmdale
8

LEMIEUX & O'NEILL
9 Wayne Lemieux, Bar No. 43501
2393 Townsgate Road, Ste. 201
10 Westlake Village, CA 91361
(805) 495-4770 (805) 495-2787 fax
11 Attorneys for Littlerock Creek Irrigation District and
Palm Ranch Irrigation District
12

LAGERLOF SENEAL GOSNEY & KRUSE
13 Thomas Bunn III, Bar No. 89502
301 North Lake Avenue, 10th Floor
14 Pasadena, CA 91101-4108
(626) 793-9400 (626) 793-5900 fax
15 Attorneys for Palmdale Water District and Quartz
Hill Water District
16

CALIFORNIA WATER SERVICE COMPANY
17 John Tootle, Bar No. 181822
2632 West 237th Street
18 Torrance, CA 90505
(310) 257-1488; (310) 325-4605-fax
19
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21
22
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24
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1 OPPOSITION

2 **I. INTRODUCTION**

3 The Court should deny Diamond Farming Company’s motions to compel and request for
4 monetary sanctions for the following reasons:

5 1. During the Court’s informal discovery conference, Diamond Farming’s attorney
6 admitted he had propounded the numerous discovery demands for the purpose of opposing
7 *defendant* class certification. The Court explained to Diamond Farming’s attorney that the Court
8 had ruled that a property owner class is certified for then putative class representative Willis’
9 plaintiffs’ class action, and that the Diamond Farming’s discovery requests to the Public Water
10 Suppliers were not proper for the class certification process because, among other reasons, they
11 concerned the merits of the Public Water Suppliers’ claims.

12 2. The Court directed Diamond Farming’s attorney to personally meet and confer
13 with legal counsel for the Public Water Suppliers, and to obtain Court permission before filing
14 any motion to compel further discovery responses. Diamond Farming’s attorney never sought or
15 obtained Court permission before filing numerous motions to compel.

16 3. Diamond Farming’s discovery requests are unduly burdensome and oppressive
17 because they seek detailed information regarding individualized notice for each and every
18 landowner in the Antelope Valley.

19 4. As the Court further explained to Diamond Farming’s attorney during the
20 information discovery hearing, the discovery requests are premature because they seek
21 information relating to the Public Water Suppliers’ prescriptive claims, which will not be at issue
22 at least until all of the parties are served or otherwise made parties to this groundwater
23 adjudication.

24 5. Diamond Farming’s motions to compel are untimely as to Los Angeles County
25 Waterworks District No. 40 and Rosamond Community Services District because the motions
26 were filed after the forty-five day jurisdictional deadline and the Court’s thirty-day extension.

27 ///

28 ///

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

1 **II. FACTS**

2 On May 25, 2007, Diamond Farming propounded identical discovery requests on each
3 Public Water Supplier.¹ (Dunn Decl., ¶ 3.) The discovery requests are directed at the Public
4 Water Suppliers' prescriptive claims. (Dunn Decl., ¶ 4.)

5 On June 20, 2007, the Public Water Suppliers sent a letter to Diamond Farming. The
6 letter requested that Diamond Farming either withdraw its discovery requests until the matters
7 addressed therein become at issue in the litigation, or limit the requests to the class certification
8 issue. Diamond Farming's attorney refused to withdraw or limit the discovery in any way.
9 (Dunn Decl., ¶ 5.)

10 On June 26, 2007, each Public Water Supplier posted its responses to the Diamond
11 Farming's discovery requests. The Public Water Suppliers objected to all but one of Diamond
12 Farming's requests on various grounds including that they were premature. (Dunn Decl., ¶ 6.)

13 On July 5, 2007, Diamond Farming filed an *ex parte* application requesting the Court to
14 order a meet and confer regarding the requests. The Court held an informal discovery conference
15 on July 20, 2007, in conjunction with a Case Management Conference and hearings on certain
16 motions. During the informal discovery hearing, the Court ordered the parties to meet and confer
17 and indicated that permission must first be obtained from the Court before any motion to compel
18 is filed. The Court then set a thirty-day deadline from the date of the meet and confer for a
19 motion to compel. (Dunn Decl., ¶ 7.)

20 Immediately after the Court's informal discovery conference concluded, legal counsel for
21 Rosamond Community Services District and Los Angeles County Waterworks District No. 40,
22 personally met and conferred in the courtroom with legal counsel for Diamond Farming. Before
23 several other attorneys who witnessed the conversation, Diamond Farming's attorney, Mr. Joyce,
24 agreed that if the Public Water Suppliers did not file a motion for defendant class certification,
25 Diamond Farming would withdraw all if its pending discovery requests as to Los Angeles County
26

27 ¹ The Public Water Suppliers include: California Water Service Company, City of Lancaster, City of Palmdale,
28 Littlerock Creek Irrigation District, Los Angeles County Waterworks District No. 40, Palmdale Water District,
Rosamond Community Services District, Palm Ranch Irrigation District and Quartz Hill Water District.

1 Waterworks District No. 40 and Rosamond Community Services District. (Dunn Decl., ¶ 8.) Mr.
2 Joyce now claims that he did not make that agreement.

3 There was no further meet and confer between Rosamond Community Services District,
4 Los Angeles County Waterworks District No. 40 and Diamond Farming. Diamond Farming did
5 not request an extension of time to file a motion to compel against Los Angeles County
6 Waterworks District No. 40 or Rosamond Community Services District. (Dunn Decl., ¶ 10.)

7 On August 10, 2007, the remainder of the Public Water Suppliers met with Mr. Joyce at
8 the law offices of Lemieux and O'Neill² to meet and confer regarding the requests. Mr. Thomas
9 Bunn also attended the meeting on behalf of Palmdale Water District and Quartz Hill Water
10 District. Mr. Jim Markman also attended on behalf of the City of Palmdale. Mr. Markman was in
11 telephone contact with Mr. Douglas Evertz, who represents the City of Lancaster. Mr. Markman
12 had Mr. Evertz's "proxy" for purposes of the meeting. (Lemieux Decl., ¶ 3; Markman Decl., ¶
13 2.)

14 During their meeting, the parties present agreed to extend all deadlines to respond to the
15 discovery requests until September 10, 2007. The parties also agreed to extend Diamond
16 Farming's deadline to file a motion to compel, if necessary. The parties were then uncertain as to
17 what information would be obtained at the then-scheduled August 20, 2007 Status Conference
18 Hearing. The parties believed the Status Conference Hearing could better inform the parties
19 regarding the necessary timing of the discovery responses. (Lemieux Decl., ¶ 4.) Furthermore,
20 the parties tentatively agreed that if there was no Public Water Supplier motion to certify a
21 defendant class, they would agree to provide supplemental responses as to Diamond Farming
22 only, on or before March 1, 2008. (Markman Decl., ¶ 3.)

23 On September 10, 2007 the parties met and conferred telephonically. (Markman Decl., ¶
24 8.) During this meet and confer, Mr. Lemieux informed Mr. Joyce that the Public Water
25 Suppliers would seek a protective order as to the Diamond Farming discovery because the issue
26

27 ² Los Angeles County Waterworks District No. 40 and Rosamond Community Services District did not attend this
28 meeting because they had previously met and conferred and reached an agreement with counsel for Diamond
Farming to withdraw its discovery requests.

1 extends beyond the scope of any agreement between the Public Water Suppliers and Diamond
2 Farming, as evidenced by Bolthouse serving identical discovery requests on each Public Water
3 Supplier. (Lemieux Decl., ¶¶ 5-6.)

4 On September 17, 2007, Littlerock Creek Irrigation District and Palm Ranch Irrigation
5 District filed a motion for protective order, which was joined by Palmdale Water District, City of
6 Lancaster, and California Water Service Company. Furthermore, Mr. Markman suggested that
7 the parties still abide by the above referenced agreement. Mr. Joyce rejected this suggestion.
8 (Markman Decl., ¶ 7.) The parties did not come to any further agreements. (Markman Decl., ¶
9 10.)

10 Diamond Farming filed its motion to compel on September 12, 2007, 78 days after the
11 Public Water Suppliers had responded to the Discovery Requests. Furthermore, although
12 Diamond Farming sought an extension to file a motion to compel from the other Public Water
13 Suppliers, it did not request nor did Los Angeles County Waterworks District No. 40 or
14 Rosamond Community Services Districts grant an extension of time.

15 **III. ARGUMENT**

16 **A. The Court Has Broad Discretion in Managing Complex Litigation Discovery**

17 Courts have vast discretion in managing complex cases, including discovery issues.
18 (*Hernandez v. Superior Court* (2003) 112 Cal.App.4th 285, 295.) Specifically, courts managing
19 complex cases “should exercise effective, direct control over the discovery process.” (*Cottle v.*
20 *Superior Court* (1992) 3 Cal.App.4th 1367, 1395, citing Cal. Stds. Jud. Admin., §19 (h) Advis.
21 Comm. Com.) As such, the court has the power to limit the discovery to those issues that are
22 relevant to the current phase of trial.
23

24 Currently, the court and certain parties are attempting to bring all necessary parties into
25 the case. The discovery sought by Diamond Farming is not relevant until all necessary parties are
26 brought into this litigation and the prescription claim is at issue. Therefore, the court should deny
27 Diamond Farming’s motions to compel.
28

1 **B. Diamond Farming’s Discovery Requests Are Premature Because They**
2 **Address Issues Not Currently Before The Court**

3 Diamond Farming’s motions to compel are premature and unnecessary because there is no
4 pending motion for defendant class certification. By Diamond Farming’s own admission, all of its
5 discovery requests are “seeking to elicit factual information which will likely have a bearing on
6 the propriety or impropriety of class certification of a defendant class with reference specifically
7 to the claim of prescription asserted by each Public Water Supplier.” (Joyce Decl., ¶6.) Because
8 the Public Water Suppliers do not have a pending motion to certify a defendant class, Diamond
9 Farming’s motions to compel discovery are unnecessary.

10 Furthermore, even if a motion for defendant class certification was presently before the
11 court, the discovery requests exceed the scope of allowable discovery a for class certification
12 hearings. A class certification motion is a procedural matter and determined without regard to the
13 merits of the case. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 439-440.) Limited discovery
14 is permissible for class determination purposes. (*Carabini v. Superior Court* (1994) 26
15 Cal.App.4th 239, 244.) But here, Diamond Farming’s discovery requests are broad sweeping
16 discovery requests, which are not directed at class certification issues. Rather, they are aimed at
17 attacking the sufficiency of notice under a prescriptive rights claim.

18 Diamond Farming’s requests seek to put at issue the merits of the Public Water Suppliers’
19 prescriptive claims. Such discovery requests are premature because the case is not yet at issue
20 and the court has not yet determined the scope and subject matter of the next phase of trial.
21 Accordingly, Diamond Farming cannot seek individualized information regarding prescription for
22 all landowners, many of whom are not yet parties to this litigation.

23
24 **C. Diamond Farming’s Discovery Requests Are Burdensome and Oppressive**

25 The discovery requests seek information going back approximately forty years.
26 Additionally, they seek to obtain information regarding notice as to *all* landowners in the
27 adjudication area, rather than to obtain information pertaining solely to Diamond Farming. The

28 ///

1 Public Water Suppliers cannot respond to these Discovery Requests before determining the
2 relevant parties to this groundwater adjudication.

3
4 **D. Discovery Is Limited In Class Action Cases**

5 Discovery in class action lawsuits is not unlimited. Courts protect unnamed class
6 members from needless discovery because “to the extent the absent class members are compelled
7 to participate in the trial of the lawsuit, the effectiveness of the class action device is destroyed.”
8 (*Danzig v. Superior Court* (1978) 87 Cal.App.3d 604, 608-612.) Specifically, only certain types
9 of discovery are allowed without a court order. (Cal. Rules of Court, Rule 3.768(a).) The Court
10 applies the following factors to determine if discovery to an unnamed class member should be
11 allowed: (1) the timing of the request; (2) the subject matter to be covered; (3) the materiality of
12 the information being sought; (4) the likelihood that class members have such information; (5) the
13 possibility of reaching factual stipulations that eliminate the need for such discovery; (6) whether
14 class representatives are seeking discovery on the subject covered; and (7) whether discovery will
15 result in annoyance, oppression, or undue burden or expense for the members of a class. (Cal.
16 Rules of Court, Rule 3.768(d).)

17 Diamond Farming seeks discovery from parties to this case, but the discovery mostly
18 relates to the individual notice of prescription to class members and not to Diamond Farming.
19 Similarly, to the rationale stated above, this type of discovery should be limited and approved by
20 the Court, to protect the efficiency provided by a class action.

21
22 **E. Diamond Farming’s Motion to Compel Should Be Denied Because It Is**
23 **Untimely As To Los Angeles County Waterworks District No. 40 and**
24 **Rosamond Community Services District**

25 A party propounding discovery has 45 days from the service of the other party’s response
26 to bring a motion to compel. (Code Civ. Proc., §2031.310(c).) This timeframe is jurisdictional,
27 and, if exceeded, the court cannot grant the untimely motion. (*Vidal Sassoon, Inc. v. Sup. Ct.*
28 (1983) 147 Cal.App.3d 681,685.) The court, by its order of July 20, 2007, granted Diamond

1 Farming thirty days from the further ordered meet and confer. Neither Los Angeles County
2 Waterworks District No. 40 nor Rosamond Community Services District granted Diamond
3 Farming an extension of time to file a motion to compel.

4 Mr. Dunn met and conferred with Mr. Joyce in court on July 20, 2007, subsequent to the
5 Case Management Conference and court-ordered meet and confer. Therefore, Diamond
6 Farming's deadline to file a motion to compel against Los Angeles County Waterworks District
7 No. 40 and Rosamond Community Services District was August 29, 2007. Diamond Farming
8 filed its motions to compel on September 12, 2007. As such, Diamond Farming has waived its
9 right to bring a motion to compel further responses, as to Los Angeles County Waterworks
10 District No. 40 and Rosamond Community Services District.

11
12 **F. Diamond Farming Did Not Compel With The Court's Order Prior To Filing**
13 **Its Motions To Compel**

14 Diamond Farming's Motions to Compel should be denied because it failed to comply with
15 the court's order. At the July 20, 2007 meet and confer, the court ordered Diamond Farming to
16 further meet and confer and if the meet and confer did not result in an agreement between the
17 parties, Diamond Farming was ordered to schedule a conference call with the Judge prior to filing
18 a motion to compel. Therefore, Diamond Farming should be required to comply with the Judge's
19 order before filing its motion to compel.

20
21 **IV. CONCLUSION**

22 Diamond Farming's motions to compel and request for monetary sanctions should be
23 denied. The discovery requests, by Diamond Farming's own admission, are not necessary at this
24 time. Diamond Farming's motions to compel further responses must be denied as to Los Angeles
25 County Waterworks District No. 40 and Rosamond Community Services District as untimely.

26 ///

27 ///

28 The Public Water Suppliers acknowledge that similar discovery may become relevant at

1 later time in the case. When that time comes, the Court and the parties can work together on the
2 scope of permissible discovery as it relates to Diamond Farming.

3
4 Dated: October 2, 2007

BEST BEST & KRIEGER LLP

5
6 By 

7 ERIC L. GARNER
8 JEFFREY V. DUNN
9 STEFANIE D. HEDLUND
10 Attorneys for Cross-Complainants
11 ROSAMOND COMMUNITY SERVICES
12 DISTRICT and LOS ANGELES
13 COUNTY WATERWORKS DISTRICT
14 NO. 40
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LAW OFFICES OF
BEST BEST & KRIEGER LLP
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

1 DECLARATION OF JEFFREY V. DUNN

2
3 I, Jeffrey V. Dunn, declare as follows:

4
5 1. I have personal knowledge of the facts below, and if called upon to do so, I could
6 testify competently thereto in a court of law.

7
8 2. I am an attorney licensed to practice law in the State of California and a partner of
9 Best, Best & Krieger LLP, attorneys of record for Rosamond Community Services District and
10 Los Angeles County Waterworks District No. 40.

11
12 3. On May 25, 2007, Diamond Farming propounded on each Public Water Supplier
13 identical discovery requests. These requests included: Requests for Production of Documents;
14 Special Interrogatories; Form Interrogatories; and Requests for Admissions (“Discovery
15 Requests.”)

16
17 4. The Discovery Requests are directed at the Public Water Suppliers’ prescriptive
18 claims. The Discovery Requests seek to elicit information related to the notice provided to each
19 and every overlying landowner in the Antelope Valley.

20
21 5. On June 20, 2007, the Public Water Suppliers jointly sent a letter to counsel for
22 Diamond Farming requesting that it withdraw the Discovery Requests until the information
23 sought was at issue in the litigation, or tailor the Discovery Requests to the class certification
24 issue. A true and correct copy of the June 20, 2007, letter is attached as Exhibit “A.”

25
26 6. By a letter dated June 21, 2007, Diamond Farming declined to withdraw or tailor
27 its discovery. On June 26, 2007, Rosamond Community Services District and Los Angeles
28

1 County Waterworks No. 40 posted their responses. A true and correct copy of the June 21, 2007,
2 letter is attached as Exhibit "B."

3
4 7. On July 5, 2007, Diamond Farming filed an ex parte motion for a court ordered
5 meet and confer. On July 20, 2007, after the Antelope Valley Groundwater Adjudication Case
6 Management Conference, the court presided over an informal meet and confer process. No
7 agreement was reached between the parties and the court ordered Diamond Farming to continue
8 the meet and confer process and granted a thirty day extension from the time of that meet and
9 confer, for Diamond Farming to file a motion to compel. The court also informed Mr. Joyce
10 during the court ordered meet and confer to speak with the court prior to filing a motion to
11 compel. A true and correct copy of the July 20, 2007 order is attached as Exhibit "C."

12
13 8. Immediately upon conclusion of the Court's informal meet and confer process, I
14 met with Mr. Bob Joyce, attorney Diamond Farming, pursuant to the court's order. Before
15 several other attorneys who attended the hearing that morning, Mr. Joyce agreed that if the Public
16 Water Suppliers did not file a motion for defendant class certification, Diamond Farming would
17 withdraw its Discovery Requests.

18
19 9. On August 28, 2007, I sent a letter responding to Mr. Joyce's August 17, 2007,
20 letter requesting another meet and confer meeting. I reminded Mr. Joyce that he agreed to
21 withdrawn Diamond Farming's discovery requests during our July 20, 2007, courtroom meet and
22 confer meeting. A true and correct copy of the August 28, 2007, letter is attached as Exhibit "D."

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10. In an August 29, 2007, letter Mr. Joyce stated that he did not believe an agreement had been reached. Mr. Joyce did not at this time or anytime prior, seek an extension of time to file a motion to compel against my clients. A true and correct copy of the August 29, 2007, letter is attached as Exhibit "E."

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, 2007, at Irvine, California.



Jeffrey V. Dunn

EXHIBIT "A"



BEST BOST & KRIEGER
ATTORNEYS AT LAW

Jeffrey V. Dunn
(949) 263-2616
Jeffrey.Dunn@bbklaw.com
File#: 26345.00000

5 Park Plaza, Suite 1500
Irvine, CA 92614
Phone: (949) 263-2600
Fax: (949) 260-0972
bbklaw.com

June 20, 2007

VIA FACSIMILE AND US MAIL

Bob Joyce
LeBeau Thelen LLP
5001 E. Commercenter Dr. #300
Bakersfield, California 93309

Re: Antelope Valley Groundwater Adjudication

Dear Mr. Joyce:

This letter concerns Diamond Farming's discovery requests propounded after the last court hearing on May 21, 2007: 9 Special Interrogatories, 60 Requests for Admissions, Requests for Production of Documents and Form Interrogatories to each Public Water Supplier. Diamond Farming's discovery asks for detailed information about each and every landowner in the Adjudication Area. There are thousands of property owners within the Adjudication Area, and the court did not approve discovery upon the merits as to all landowners. Thus, Diamond Farming's discovery are burdensome and oppressive at this time. Moreover, the court will decide when and how discovery shall be conducted in this complex litigation matter.

Throughout the case the court has made known its intention to manage the case to achieve an orderly and efficient process for resolving case issues. The court has the authority to limit or allow discovery as appropriate; and legal counsel for a Public Water Supplier received court approval to serve discovery limited to the issue of whether existing landowner parties are aware of any additional property owners who should be subject to service of process.

At the last court hearing, Diamond Farming did not notify the court that Diamond Farming would propound discovery, and Judge Komar did not approve or otherwise authorize substantive discovery requests to be served by any party. As the court has made clear, the case is not yet at issue and there are class certification issues to resolve.

Service of process and class certification are presently before the parties and the court. Class certification motion is a procedural matter and determined without regard to the merits of a case. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 439-440. Diamond Farming's discovery requests seeks to put at issue substantive aspects of the case before the court has completed its class determination and certification process. Stated simply, the discovery requests are premature and appear intended to harass or otherwise interfere with the current efforts to complete the class certification process. In any event, discovery concerning the merits of various claims is not appropriate at this time.

Limited discovery is permissible for class determination purposes. *Carabini v. Superior Court*

Bob Joyce
June 20, 2007
Page 2

(1994) 26 Cal.App.4th 239, 244. But here, Diamond Farming's discovery requests are broad sweeping discovery requests, which are not directed at the class certification issues. Rather the discovery requests are aimed at attacking the sufficiency of notice provided by Public Water Suppliers.

Diamond Farming's objections to any class certification have been made known and are a matter of record. The court, Public Water Suppliers, and certain landowners, however, are engaged in a process that could result in court certification of a class or classes of property owners. As this issue is of paramount importance, the Diamond Farming discovery is not appropriate at this time.

For the foregoing reasons the Public Water Suppliers' request that Diamond Farming withdraw its discovery requests, or tailor discovery requests limited to the class certification issues before the court. Please advise us in writing on or before June 22, 2007 that the discovery requests are withdrawn.

Sincerely,



Jeffrey M. Dunn
of BESTBEST & KRIEGER LLP

cc: Legal Counsel for Public Water Suppliers

BEST BEST & KRIEGER LLP

A CALIFORNIA LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

RIVERSIDE
(951) 686-1450
INDIAN WELLS
(760) 568-2611

LAWYERS
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614
(949) 263-2600
(949) 260-0972 FAX
BBKLAW.COM

ONTARIO
(909) 989-8584
SAN DIEGO
(619) 525-1300
SACRAMENTO
(916) 325-4000

TELECOPIER TRANSMISSION

DATE: June 20, 2007

To:

NAME	FAX No.	PHONE No.
Bob Joyce, Esq.	(661) 325-1127	

FROM: Jeffrey V. Dunn, Esq.

RE: Antelope Valley Basin Adjudication

FILE NO.: 26345.00001	USER NO.: 1280	NO. OF PAGES, INCLUDING COVER: 3
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MESSAGE:

See attached 06/20/07, BB&K letter.

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BEST BEST & KRIEGER LLP
 A CALIFORNIA LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATION
 LAWYERS
 5 PARK PLAZA, SUITE 1500
 IRVINE, CALIFORNIA 92614
 (949) 263-2000
 (949) 260-0972 FAX
 BBKLAW.COM

ONTARIO
 (909) 625-8584
 SAN DIEGO
 (619) 525-1300
 SACRAMENTO
 (916) 325-4000

TELECOPIER TRANSMISSION

DATE: June 20, 2007

TO:	NAME	FAX NO.	PHONE NO.
	Bob Joyce, Esq.	(661) 325-1127	

FROM: Jeffrey V. Dunn, Esq.
 RE: Antelope Valley Basin Adjudication

FILE NO.: 26345.00001	USER NO.: 1280	NO. OF PAGES, INCLUDING COVER: 3
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EXHIBIT "B"

LAW OFFICES OF

LEBEAU ■ THELEN, LLP

THE ATRIUM

5001 E. COMMERCENTER DRIVE, SUITE 300
BAKERSFIELD, CALIFORNIA 93309

DAVID R. LAMPE
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THOMAS S. MCINTOSH
THOMAS A. CREAM
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LORNA H. BRUMFIELD
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MARK R. BATEMAN
ANDREW K. SHEFFIELD

MAILING ADDRESS:
P.O. BOX 12092
BAKERSFIELD, CA 93389-2092
www.lebeauthelen.com

TELEPHONE
(661) 325-8962

FACSIMILE
(661) 325-1127

June 21, 2007

Via Facsimile, Electronic Posting & U.S. Mail

Jeffrey Dunn, Esq.
Best, Best & Krieger
5 Park Plaza, Suite 1500
Irvine, CA 92614

And to All Counsel Identified on Attached Service List

Re: *Antelope Valley Groundwater Adjudication/
Mr. Dunn's Correspondence of June 20, 2007*

Gentlemen:

I note that each of you were apparently provided with a copy of Mr. Dunn's letter. I note the concluding paragraph wherein Mr. Dunn purports to speak for all as follows:

"For the foregoing reasons the Public Water Suppliers' request that Diamond Farming withdraw its discovery requests, or tailor discovery requests limited to the class certification issues before the court. Please advise us in writing on or before June 22, 2007 that the discovery request are withdrawn."

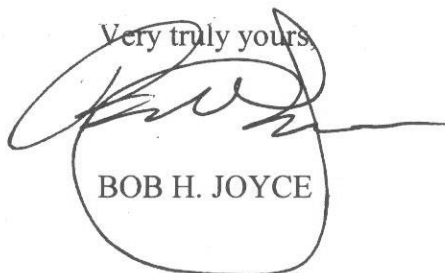
In response to said demand, we respond, "NO."

We have no legal obligation to presently disclose our thought processes or rationale but do believe that the discovery propounded has a bearing upon the class certification issues, even if they likewise will ultimately have a bearing upon the merits at trial. You should each appreciate that there is no order in place staying discovery in the action. In fact, on Friday, December 2, 2005, I expressly asked Judge Komar if there was any prohibition against the initiation of discovery, and Judge Komar responded in the negative. I am reasonably certain that each of you are aware of your responsibilities under the Code of Civil Procedure, and likewise, equally aware of the procedural remedies available to you.

Jeffrey Dunn, Esq.
And to All Counsel Identified on Attached Service List
June 21, 2007
Page 2

Each of you were properly served with the discovery requests 26 days before the date of Mr. Dunn's letter. Given your history, I assume you all collectively and consciously elected to wait until the eleventh hour to raise the issue. I hope that in the interim you have not instructed your clients to disregard that discovery or sat on your hands. I am reasonably certain that each of you or at least some of you collectively are aware of the consequences of not timely responding to discovery propounded upon your clients. I expect the responses to be timely served as required by law.

Very truly yours,



BOB H. JOYCE

BHJ:dml

cc: Jeffrey A. Green, Esq.

SERVICE LIST

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Douglas J. Evertz, Esq.
Jeffrey T. Robbins, Esq.
STRADLING, YOCCA, CARLSON &
RAUTH
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6522
(949) 725-4000; Fax: (949) 725-4100

Attorneys for City of Lancaster

John Tootle, Esq.
California Water Service Company
2632 West 237th Street
Torrance, CA 90505
(310) 257-1488 xtn. 322;
Fax: (310) 325-4605

Attorneys for California Water Service
Company

Thomas Bunn, Esq.
LAGERLOF, SENEAL, BRADLEY, et al.
301 North Lake Avenue, 10th Floor
Pasadena, California 91101-4108
(626) 793-9400; Fax: (626) 793-5900

Attorneys for Palmdale Water District and
Quartz Hill Water District

Wayne K. Lemieux, Esq.
Lemieux & O'Neill
2393 Townsgate Road, Suite 201
Westlake Village, CA 91361
Fax (805) 495-2787

Attorneys for Littlerock Creek Irrigation
District and Palm Ranch Irrigation District

James L. Markman, Esq.
RICHARDS WATSON & GERSHON
Post Office Box 1059
Brea, CA 92822-1059
(714) 990-0901; Fax: (714) 990-2308

Attorneys for City of Palmdale .

(714) 990-6230

EXHIBIT "C"

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 07/20/07

DEPT. 1

HONORABLE Jack Komar

JUDGE

M. GODDERZ

DEPUTY CLERK

HONORABLE
1.

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

J. HERNAND, CT. ASST.

Deputy Sheriff

C. MOHAMED, CT. RPTR.

Reporter

9:00 am

JCCP4408

Plaintiff

JEFFREY V. DUNN

(x)

Counsel

WILLIAM M. SLOAN

(x)

Coordination Proceeding Special
Title Rule (1550(b))

Defendant

BOB JOYCE

(x)

Counsel

ANTELOPE VALLEY GROUNDWATER CAS
*ASSIGNED TO JUDGE JACK KOMAR
IN SANTA CLARA COUNTY (8/31/05)

NATURE OF PROCEEDINGS:

CASE MANAGEMENT CONFERENCE;

Additional counsel appearing this date in the
courtroom;

DOUGLAS J. EVERTZ	(x)	MICHAEL T. FIFE	(x)
ALLAN J. GRAF	(x)	MARLENE ALLEN-HAMMARLUND	(x)
T. MARK SMITH	(x)	MALISSA HATHAWAY MCKEITH	(x)
TIMOTHY A. DeWALT	(x)	WILLIAM A. HAUCK	(x)
FREDERIC A. FUDACZ	(x)	DAVID B. ZLOTNICK	(x)
THOMAS S. BUNN III	(x)	HENRY S. WEINSTOCK	(x)
FREDERICK W. PFAEFFLE	(x)	JAMES L. MARKMAN	(x)

Additional counsel appearing via telephone conference
call;

Michael J. Holmes	Peter J. Kiel
Janet K. Goldsmith	Scott K. Kunej
Virginia A. Cahill	Michael L. Chow
Lee Leininger	

The Conference is held, on the record, Court and
counsel confer Re Cross-Complaint fo Willis, Motion
Re class members, possible appointment of Mr. Demby as
a Referee, and scheduling issues.

The Court sets the following hearings to be heard
on August 20, 2007 at 9:00 a.m., in this department;

- Class Certification Motion(s)
- Motion to Appoint Referee

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 07/20/07

DEPT. 1

HONORABLE Jack Komar

JUDGE

M. GODDERZ

DEPUTY CLERK

HONORABLE
1.

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

J. HERNAND, CT. ASST.

Deputy Sheriff

C. MOHAMED, CT. RPTR.

Reporter

9:00 am JCCP4408

Plaintiff JEFFREY V. DUNN (x)

Counsel WILLIAM M. SLOAN (x)

Coordination Proceeding Special
Title Rule (1550(b))

Defendant BOB JOYCE (x)

Counsel

ANTELOPE VALLEY GROUNDWATER CAS
*ASSIGNED TO JUDGE JACK KOMAR
IN SANTA CLARA COUNTY (8/31/05)

NATURE OF PROCEEDINGS:

Opposition due 10 days after filing on the Motion(s).

The Court strikes the Answer of Marilyn Prewoznik on behalf of the Trust.

Counsel Jeffrey V. Dunn to prepare Order Re time for filing answers by prospective class members.

LATER; off the record, in open court, court and confer Re notice, class certification motion, discovery issues.

Per request of the Court, the conference goes back on the record;

The Court states counsel to meet and confer Re discovery responses. Motion(s) to Compel are to be filed by 30 days after that conference.

The Court states the Motions that are to be heard on August 20th and notes they are to be heard principally by declarations. Declarations under penalty of perjury are to be filed in lieu of live witnesses.

Notice is deemed waived.

EXHIBIT "D"

BEST BEST & KRIEGER

ATTORNEYS AT LAW

INDIAN WELLS
(760) 568-2611

LOS ANGELES
(213) 617-8100

ONTARIO
(909) 989-8584

RIVERSIDE
(951) 686-1450

5 Park Plaza, Suite 1500
Irvine, California 92614
(949) 263-2600
(949) 260-0972 Fax
BBKlaw.com

SACRAMENTO
(916) 325-4000

SAN DIEGO
(619) 525-1300

WALNUT CREEK
(925) 977-3300

Jeffrey V. Dunn

(949) 263-2616
Jeffrey.Dunn@bbklaw.com
File No. 26345.00001

August 28, 2007

FACSIMILE AND US MAIL

Bob Joyce, Esq.
LeBeau Thelen, LLP
Post Office Box 12092
Bakersfield, California 93389-2092

Re: Antelope Valley Groundwater Adjudication

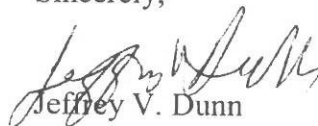
Dear Mr. Joyce:

This letter responds to your letter dated August 17, 2007, regarding your request for a meet and confer. I previously met and conferred with you regarding the discovery issues on July 20, 2007, after the scheduled Court hearing. At that time, in front of other individuals, you agreed that Diamond Farming would withdraw its discovery requests if the Public Water Suppliers did not file a motion for defendant class certification.

The Public Water Suppliers did not file a motion for defendant class certification. Therefore, we consider Diamond Farming's discovery requests to be withdrawn pursuant to our previous meet and confer.

Please feel free to contact me should you have further questions.

Sincerely,



Jeffrey V. Dunn
of BEST BEST & KRIEGER LLP

cc: James L. Markman, Esq.
John S. Tootle, Esq.
Thomas Bunn, Esq.
Douglas J. Evertz, Esq.
Wayne Lemieux, Esq.

BEST BEST & KRIEGER LLP

A CALIFORNIA LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

RIVERSIDE
(951) 686-1450

INDIAN WELLS
(760) 568-2611

LAWYERS
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614
(949) 263-2600
(949) 260-0972 FAX
BBKLAW.COM

ONTARIO
(909) 989-8584

SAN DIEGO
(619) 525-1300

SACRAMENTO
(916) 325-4000

TELECOPIER TRANSMISSION

DATE: August 28, 2007

TO:

NAME	FAX NO.	PHONE NO.
Bob Joyce, Esq.	(661) 325-1127	

FROM: Jeffrey V. Dunn, Esq.

RE: Antelope Valley Basin Adjudication

FILE NO.: 26345.00001	USER NO.: 1280	NO. OF PAGES, INCLUDING COVER: 2
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MESSAGE:

See attached 08/28/07, BB&K letter.

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Job number : 253
 Date : Aug-28 10:30
 To : 16613251127
 Number of pages : 002
 Start time : Aug-28 10:30
 End time : Aug-28 10:31
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 Status : OK

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 A CALIFORNIA LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
 LAWYERS
 5 PARK PLAZA, SUITE 1800
 IRVINE, CALIFORNIA 92614
 (949) 263-2600
 (949) 260-0972 FAX
 BBKLAW.COM

ONTARIO
 (909) 666-8584
 SAN DIEGO
 (619) 525-1300
 SACRAMENTO
 (916) 328-4000

TELECOPIER TRANSMISSION

DATE: August 28, 2007

TO:

NAME	FAX NO.	PHONE NO.
Bob Joyce, Esq.	(661) 325-1127	

FROM: Jeffrey V. Dunn, Esq.

RE: Antelope Valley Basin Adjudication

FILE NO.: 26345.00001	USER NO.: 1280	NO. OF PAGES, INCLUDING COVER: 2
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MESSAGE:

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EXHIBIT "E"

LAW OFFICES OF

LEBEAU ■ THELEN, LLP

THE ATRIUM

5001 E. COMMERCCENTER DRIVE, SUITE 300
BAKERSFIELD, CALIFORNIA 93309

MAILING ADDRESS:
P.O. BOX 12092
BAKERSFIELD, CA 93389-2092
www.lebeauthelen.com

TELEPHONE
(661) 325-8962

FACSIMILE
(661) 325-1127

August 29, 2007

BERNARD G. LE BEAU, JR.
DENNIS R. THELEN
THOMAS S. MCINTOSH
THOMAS A. CREAM
J. NILE KINNEY
BOB H. JOYCE
THOMAS P. FEHER
W. STEVEN SHAYER
ALAN J. MISH
PATRICK C. CARRICK
LORNA H. BRUMFIELD
FRANKLIN D. GORDON
MARK R. BATEMAN
ANDREW K. SHEFFIELD

OF COUNSEL:
J. SUZANNE HILL

Jeffrey V. Dunn, Esq.
Best, Best & Krieger, LLP
5 Park Plaza, Suite 1500
Irvine, CA 92614

Re: *Antelope Valley Groundwater Adjudication
Meet & Confer Re Discovery*

Dear Mr. Dunn:

In response to your belated correspondence dated August 28, 2007, your characterization of our extremely brief conversation referred to is both inaccurate and not true. I am still willing to meet and confer as ordered. Please provide available dates and times.

Very truly yours,



BOB H. JOYCE

BHJ:dml

cc: Jeffrey A. Green, Esq.
James L. Markman, Esq.
John S. Tootle, Esq.
Thomas Bunn, Esq.
Douglas J. Evertz, Esq.
Wayne Lemieux, Esq.

1 I, W. Keith Lemieux, hereby declare:

2 1. I am an attorney licensed to practice before all of the courts of the State of California, and
3 am a partner in the firm, Lemieux & O'Neill, attorneys of record for Cross-Defendants, Littlerock Creek
4 Irrigation District, Palm Ranch Irrigation District, North Edwards Water District And Desert Lakes
5 Community Services District, Little Baldy Mutual Water Company, Big Rock Mutual Water Company,
6 Llano Mutual Water Company And Llano-Del Rio Water Company in the above-entitled matter. I have
7 personal knowledge of the following facts, and if called as a witness, I could and would competently
8 testify to the following.

9 2. On May 25, 2007, Defendant Diamond Farming served discovery identified as (1)
10 Diamond Farming's First Set of Form Interrogatories; (2) Diamond Farming's First Set of Special
11 Interrogatories; (3) Diamond Farming's First Set of Requests for Admissions; and (4) Diamond Farming's
12 First Set of Request for Production of Documents. This discovery asked the Water Purveyors to produce
13 all evidence they had to support any constructive notice claim they might make against any party in the
14 Antelope Valley. Considering the number of potential parties in this case, and the fact that these requests
15 involved more than 40 years of history, these requests contemplated the identification of production of
16 potentially thousands of pages of documents.

17 3. On August 10, 2007, I met with Bob Joyce, counsel for Diamond Farming, at my offices.
18 The purpose of the meeting was to meet and confer regarding Diamond Farming's outstanding discovery
19 propounded on my clients, Littlerock Creek Irrigation District and Palm Ranch Irrigation District. Also in
20 attendance at the meeting was Thomas Bunn and Jim Markman on behalf of Palmdale Water District and
21 Quartz Hill Water District. My understanding is that Mr. John Tootle met with Mr. Joyce in person the
22 day before on behalf of his client, California Water Service Company. It is my understanding Mr.
23 Markman was in contact with Douglas Evertz, who represents City of Lancaster, and that Mr. Markman
24 had Mr. Evertz "proxy" for purposes of the meeting.

25 4. At the meeting, the parties agreed to continue all parties' obligations to respond to the
26 discovery until September 10, 2007. The parties further agreed Mr. Joyce's cutoff dates to file a motion
27 to compel would be extended by the same time period. The reason for the extension was that there was
KL.DiscDecl.doc - 2 -

1 uncertainty regarding the nature of the information that would be provided at the August 20, 2007 Status
2 Conference. The parties felt the Status Conference would better inform the parties regarding the
3 necessary timing of the discovery responses.

4 5. Subsequently, our offices received discovery from Bolthouse Farms, which substantially
5 correlated with Diamond Farming's discovery. It became apparent that discovery issues could easily
6 extend beyond the scope of any agreement between the parties and Diamond Farming, and that a court
7 order would probably be necessary.

8 6. Accordingly, on September 10, 2007, I informed Diamond Farming that based on the
9 Bolthouse discovery, we would seek a protective order as to all discovery. Mr. Joyce then indicated he
10 would be filing a motion to compel.

11 7. Subsequently, on September 17, 2007, I filed a motion for protective order on behalf of our
12 clients, Littlerock Creek Irrigation District and Palm Ranch Irrigation District against the discovery
13 propounded by Diamond Farming and Bolthouse Farms. Our motion was joined by Douglas Evertz on
14 behalf of the City of Lancaster; Tom Bunn on behalf of Palmdale Water District and Quartz Hill Water
15 District; and John Tootle on behalf of California Water Service.

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

18 Executed this 27th day of September, 2007, in Westlake Village, California.

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21 W. Keith Lemieux

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PROOF OF SERVICE

I, Karin Nielsen Bonwit, 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, 2007, I served the within document(s):

PUBLIC WATER SUPPLIERS' OPPOSITION TO MOTIONS TO COMPEL FURTHER RESPONSES TO FORM INTERROGATORIES; REQUESTS FOR ADMISSIONS; SPECIAL INTERROGATORIES; REQUEST FOR PRODUCTION OF DOCUMENTS; AND FOR MONETARY SANCTIONS; DECLARATIONS OF JEFFREY V. DUNN, W. KEITH LEMIEUX AND JAMES L. MARKMAN IN SUPPORT THEROF

- 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, 2007, at Irvine, California.


Karin Nielsen Bonwit