

1 BEST BEST & KRIEGER LLP
ERIC L. GARNER, Bar No. 130665
2 JEFFREY V. DUNN, Bar No. 131926
WENDY Y. WANG, Bar No. 228923
3 18101 VON KARMAN AVENUE, SUITE 1000
IRVINE, CALIFORNIA 92612
4 TELEPHONE: (949) 263-2600
TELECOPIER: (949) 260-0972
5 Attorneys for LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40

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6 OFFICE OF COUNTY COUNSEL
7 COUNTY OF LOS ANGELES
RICHARD D. WEISS, BAR NO. 89791
8 ACTING COUNTY COUNSEL
WARREN WELLEN, Bar No. 139152
9 PRINCIPAL DEPUTY COUNTY COUNSEL
500 WEST TEMPLE STREET
10 LOS ANGELES, CALIFORNIA 90012
TELEPHONE: (213) 974-8407
11 TELECOPIER: (213) 687-7337
12 Attorneys for LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40

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

15 ANTELOPE VALLEY GROUNDWATER
16 CASES

Judicial Council Coordination Proceeding
No. 4408

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

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar

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

DECLARATION OF JEFFREY DUNN IN
SUPPORT OF LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40'S
OPPOSITION TO CHARLES TAPIA AND
NELLIE TAPIA FAMILY TRUST'S
MOTION TO SET ASIDE DEFAULT IN
CROSS COMPLAINT, AND REQUEST
FOR DEFAULT AGAINST CROSS-
COMPLAINANT

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

Date: September 26, 2014
Time: 10:00 a.m.
Dept. 20

26 RICHARD WOOD, on behalf of himself and
all other similarly situated v. A.V. Materials,
27 Inc., et al., Superior Court of California,
County of Los Angeles, Case No. BC509546
28

DECLARATION OF JEFFREY V. DUNN

I, Jeffrey V. Dunn, declare:

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

2. I am an attorney licensed to practice law in the State of California. I am a partner of Best, Best & Krieger LLP, attorneys of record for Los Angeles County Waterworks District No. 40 (“District No. 40”).

3. During the course of this coordinated proceeding, the Court ordered the Public Water Suppliers to serve its First Amended Cross-Complaint on landowners in the Antelope Valley Groundwater Adjudication Basin (“Basin”). The Public Water Suppliers then undertook a search to identify each landowner in the Basin. In addition to the named parties identified in the Public Water Suppliers’ First Amended Cross-Complaint, an initial search was conducted to identify: (1) landowners owning over 100 acres within the Basin; (2) landowners pumping more than 25 acre feet of groundwater per year; and (3) mutual water companies located within the Basin.

4. As part of this search, Charles Tapia and Nellie Tapia Family Trust (the “Tapias”) were identified as owners of a 137.36-acre parcel located within the Basin. Attached as Exhibit “A” is a true and correct copy of a print out from Kern County Assessor’s website regarding the Tapias’ property with the assessed values redacted.

5. The Public Water Suppliers subsequently amended their Cross-Complaint and named the Tapias jointly as Roe 568. Attached as Exhibit “B” is a true and correct copy of the Public Water Suppliers’ Amendment to First Amended Cross-Complaint [Naming Roes 231 through 582], dated July 13, 2007. Due to the sheer number of cross-defendants in this action, it is the practice of my office to attempt mail service of the cross-defendants before attempting personal service. My office also retained Wildermuth Environmental, Inc. to prepare a parcel analysis to identify potential members of the Willis Class and the Wood Class. The Tapias and their address were included in the lists used to serve notice of class action to potential members of both classes. Mr. Tapia would have received these notices in 2008 or 2009.

1 6. The Public Water Suppliers made multiple attempts to serve the Tapias, including
2 *four attempts at personal service* in September 2008. The Public Water Suppliers requested the
3 Court’s permission to serve the Tapias by publication after prior service attempts had failed.
4 Declaration of Non-Service of the Tapias can be accessed from the Court’s website at:
5 <http://www.scefilings.org/document/document.jsp?documentId=18262>.

6 7. In and around April and May 2010, the Public Water Suppliers properly served the
7 Tapias by posting the Summons on the First Amended Cross-Complaint and the Tapias’ names
8 on three newspapers of general circulation in the Kern County and the Los Angeles County.
9 Attached as Exhibit “C” is a true and correct copy of the Proof of Publication of the Antelope
10 Valley Press with the Tapias’ name encircled. Attached as Exhibit “D” is a true and correct copy
11 of the Proof of Publication of the Bakersfield Californian with the Tapias’ name encircled.
12 Attached as Exhibit “E” is a true and correct copy of the Proof of Publication of the Los Angeles
13 Times with the Tapias’ name encircled.

14 8. Having not received a responsive pleading from the Tapias, my office requested
15 for default to be entered against the Tapias. As filings are electronically served and posted to the
16 Court’s website, anyone interested in the names of the named parties could have found the
17 Tapias’ names on the Court’s website by December 2010 at the latest. Attached as Exhibit “F” is
18 a true and correct copy of a printout from the Court’s website of all documents bearing the name,
19 Tapia, and with the Tapias’ names highlighted.

20 9. The Court Clerk entered the default on or about March 23, 2012. Attached as
21 Exhibit “G” is a true and correct copy of the Entry of Default.

22 10. On or about April 11, 2014, I received a phone call from Mr. Thomas Ward,
23 counsel for the Tapias. Mr. Ward requested that his clients be named as cross-defendants in the
24 Public Water Suppliers’ action, and provided title and ownership information regarding his
25 clients’ parcel on April 16, 2014. Attached as Exhibit “I” is a true and correct copy of the email,
26 dated April 16, 2014, that I received from Mr. Ward’s office.

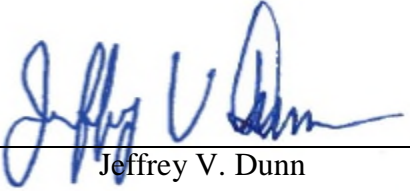
27 11. Upon being informed that a default had been entered against the Tapias, I
28 instructed an attorney at my firm, Wendy Wang, to provide a copy of the entry of default to Mr.

1 Ward. My office also reviewed the validity of the service and default against the Tapias. After
2 confirming the facts and circumstances the service and default, I instructed Ms. Wang to inform
3 Mr. Ward that District No. 40 will not stipulate to set aside the default. I have also spoken with
4 Mr. Ward regarding this matter.

5 12. In or round August 2014, I receive multiple emails from Ms. Heather Ijames
6 requesting to set aside the default against the Tapias, yet again. Ms. Ijames admits in her email,
7 dated August 14, 2014, she was aware that I had spoken with Mr. Ward and declined his request
8 to set aside the default. On or about August, 22, 2014, Ms. Ijames threatened to request for
9 sanctions unless District No. 40 “agree to stipulate” to set aside the default. Attached as Exhibit
10 “J” is a true and correct copy of the email chain that I received from Ms. Ijames.

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

13 Executed this 15th day of September, 2014, at Irvine, California.

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Jeffrey V. Dunn

1 **PROOF OF SERVICE**

2 I, Sandra K. Sandoval, declare:

3 I am a resident of the State of California and over the age of eighteen years, and not a
4 party to the within action; my business address is Best Best & Krieger LLP, 300 South Grand
5 Avenue, 25th Floor, Los Angeles, CA 90071. On September 15, 2014, I served the within
6 document(s):

7 **DECLARATION OF JEFFREY DUNN IN SUPPORT OF LOS ANGELES**
8 **COUNTY WATERWORKS DISTRICT NO. 40'S OPPOSITION TO CHARLES**
9 **TAPIA AND NELLIE TAPIA FAMILY TRUST'S MOTION TO SET ASIDE**
10 **DEFAULT IN CROSS COMPLAINT, AND REQUEST FOR DEFAULT AGAINST**
11 **CROSS-COMPLAINANT**

12 by posting the document(s) listed above to the Santa Clara County Superior Court
13 website in regard to the Antelope Valley Groundwater matter.

14 I declare under penalty of perjury under the laws of the State of California that the above
15 is true and correct. Executed on September 15, 2014, at Los Angeles, California.

16 
17
18 Sandra K. Sandoval

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LAW OFFICES OF
BEST BEST & KRIEGER LLP
18101 VON KARMAN AVENUE, SUITE 1000
IRVINE, CALIFORNIA 92612