

1 BEST BEST &KRIEGER LLP
ERIC L. GARNER, Bar No. 130665
2 JEFFREY V. DUNN, Bar No. 131926
WENDY 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 Cross-Complainant
LOS ANGELES COUNTY WATERWORKS DISTRICT NO.40
6

EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103

7 OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES
8 MARY WICKHAM, Bar No. 145664
INTERIM COUNTY COUNSEL
9 WARREN WELLEN, Bar No. 139152
PRINCIPAL DEPUTY COUNTY COUNSEL
10 5001 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
13

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF LOS ANGELES**

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

18 **Included Actions:**

19 Los Angeles County Waterworks District No. 40
v. Diamond Fanning Co., Superior Court of
California, County of Los Angeles,
20 Case No. BC 325201

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

23 Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
24 Lancaster, Diamond Fanning Co. v. Palmdale
Water Dist., Superior Court of California, County
25 of Riverside, Case Nos. RIC 353 840, RIC 344 436,
RIC 344 668
26

Judicial Council Coordination No. 4408

CLASS ACTION

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

27 **JOINT CASE MANAGEMENT**
28 **CONFERENCE REPORT**

Date: September 21, 2015
Trial Date: September 28, 2015

1 Los Angeles County Waterworks District No. 40, Littlerock Creek Irrigation District, Palm
2 Ranch Irrigation District, Desert Lake Community Services District, North Edwards Water District,
3 Llano Del Rio Water Company, Llano Mutual Water Company, Big Rock Mutual Water Company,
4 Rosamond Community Services District, the City of Lancaster, Palmdale Water District, Quartz Hill
5 Water District, the City of Palmdale, and California Water Service Company (collectively, "Public
6 Water Suppliers") hereby submit the following Case Management Conference Statement on behalf
7 of all settling parties (the "Settling Parties") who have entered into the settlement agreement known
8 as the Stipulation for Judgment and Physical Solution ("Physical Solution"):

9 **I. MEET AND CONFER**

10 At the September 4, 2015 status conference, the Court ordered the parties to meet and confer
11 regarding the presentation on evidence at the upcoming trial. On September 10, 2015, the parties
12 met and conferred pursuant to that order. No resolutions or agreements were reached with the Willis
13 Class or any other non-settling party regarding the presentation of evidence. Accordingly, the
14 Settling Parties propose the order of proof provided in Section II, below.

15 **II. ORDER OF PROOF FOR NEXT PHASE OF TRIAL**

16 The following matters need to be determined before final judgment can be entered: (1) non-
17 stipulating parties' water rights, including rights of defaulted parties; and (2) a court-imposed
18 physical solution for the entire Antelope Valley Adjudication Area ("Basin").

19 **A. Public Water Suppliers' Causes of Action Against Non-Stipulating Parties**

20 The Court should first hear the Public Water Suppliers' causes of action against non-
21 stipulating parties and the defaulted parties, including the Public Water Suppliers' prescriptive rights
22 claim and return flow claims. For judicial efficiency, the Public Water Suppliers (and other Settling
23 Parties) can introduce evidence regarding their groundwater pumping, water use, and purchase of
24 imported water (and land ownership or other related rights by the other Settling Parties) by
25 declaration prior to the commencement of the September 28, 2015 trial. The Public Water Suppliers
26 (and other Settling Parties) intend to post these declarations by September 21, 2015. Parties who
27 oppose submission of evidence by declaration can submit their objections by September 24, 2015.
28 To the extent the Court sustains those objections, the Public Water Suppliers will call their percipient

1 witnesses identified on their respective notices of witness disclosure regarding groundwater
2 pumping, water use, and purchase of imported water.

3 Dr. Douglas Littlefield will offer testimony regarding historic notice of groundwater
4 conditions and overdraft. To the extent necessary, Dr. Dennis Williams will offer testimony
5 regarding return flows. The Public Water Suppliers reserve their right to call Dr. Williams and Mr.
6 Robert Beeby to offer testimony to rebut testimony of other experts.

7 Once the Public Water Suppliers prove prescriptive rights, non-stipulating parties must prove
8 “self-help” groundwater production and that their use of groundwater has been both reasonable and
9 beneficial. (*City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 279.) To the extent any non-
10 stipulating parties are appropriators, they must also establish a prescriptive or other legal basis for
11 their groundwater use.

12 **B. Settling Parties’ Reasonable and Beneficial Use of Water, and the Proposed**
13 **Physical Solution**

14 After non-stipulating parties’ groundwater rights have been determined, the Settling Parties
15 can present evidence of their reasonable and beneficial use of water, and may call their witnesses
16 identified on their respective notices of witness disclosure regarding ownership, groundwater
17 pumping, water use, and purchase of imported water, as needed. That evidence relates to land
18 ownership, actual groundwater production during the relevant time period (2000-2004)¹, and the use
19 of that groundwater. The Settling Parties served designations of their witnesses and evidence as to
20 those matters on or before April 27, 2015 pursuant to the Court’s prior Case Management Orders.
21 Over 150 witnesses have been listed in the Settling Parties’ witness designations. No party has
22 sought to take any discovery as to those witnesses and evidence.

23 The vast majority of that information was also provided in Phase IV of the trial in this case
24 by way of stipulations, responses to Court ordered discovery, business record affidavits and
25 declarations. The Court admitted all of those stipulations, responses to Court ordered discovery,
26 business record affidavits, declarations and other exhibits into evidence per its Minute Orders dated
27

28 ¹ Another relevant time period, 2011-2012, was adjudicated by this Court at the Phase IV trial.

1 May 29 and 30, 2013 (copies of which are attached hereto as Exhibits "A" and "B")². However, as
2 the Court made clear in its Fifth Amended Case Management Order entered in the Phase IV trial (a
3 copy of which is attached hereto as Exhibit "C")³, the Court made no findings or determinations of
4 fact based on that admitted evidence other than each party's groundwater production during calendar
5 years 2011 and 2012. The Court's order also made clear that no party is precluded from offering
6 additional evidence as to those matters or from making related legal arguments. Notably, no party
7 which is objecting to the Proposed Physical Solution made any objection at the Phase IV trial to any
8 of the exhibits admitted into evidence listed in the May 29 and 30, 2013 Minute Orders.

9 Therefore, the Settling Parties, which have no objections to any of the evidence listed in the
10 May 29 and 30, 2013 Minute Orders, propose that the Court enter an order amending the current
11 Case Management Order as follows:

12 1. The evidence listed in the May 29 and 30, 2013 Minute Orders (including any
13 corrections to those Minute Orders subsequently made by the Court) concerning land ownership, the
14 amount of groundwater production during the period from January 1, 2000 to December 31, 2004,
15 and the use to which that water was put, shall be deemed accepted into evidence for all purposes for
16 this phase of the trial.

17 2. Any party seeking to cross-examine a witness(es) who submitted evidence in the
18 exhibits listed in the May 29 and 30, 2013 Minute Orders shall serve a Notice of Cross-Examination
19 by September 25, 2015. For each witness, the Notice of Examination shall identify the subject
20 matter of the cross-examination and the documents which may be used during the cross-
21 examination. The witnesses shall be produced at trial without further service of process.

22 _____
23 ² The May 29 and 30, 2013 Minute Orders were subsequently corrected to reflect evidence that was
24 admitted at the Phase 4 Trial but omitted from the May 29 and 30, 2013 Minute Orders. See the
25 Court's July 29, 2013 Minute Order (attached hereto as Exhibit "D"). Also, a *[Proposed] Order*
26 *Granting Cross-Defendants/Cross-Complainants, Members of the Antelope Valley United Mutuals*
27 *Group, Specifically Antelope Park Mutual Water Company's and Tierra Bonita Mutual Water*
28 *Company's, Request for Correction of Minute Orders Re: Evidence Admitted at Phase 4 Trial* was
filed with the Court on July 22, 2015 by posting to the Court's website as document number 10232,
a copy of which is attached as Exhibit "E". This Joint Case Management Conference Report
incorporates by reference the changes previously made by the Court and those changes now pending
before the Court, to the May 29 and 30, 2013 Minute Orders, in order to accurately reference all of
the evidence that was actually admitted at the Phase 4 Trial.

³ For completeness sake, a copy of the transcript of the Phase IV trial on May 28, 2013 is attached
hereto as Exhibit F.

1 3. Any Settling Party seeking to offer expert and non-expert testimony in addition to the
2 evidence listed in the May 29 and 30, 2013 Minute Orders shall call their witnesses in accordance
3 with the schedule set forth in the proposed Third Amended Case Management Order.⁴

4 This approach is consistent with this Court's orders entered in connection with Phase IV of
5 the trial; preserves each party's right to offer supplemental evidence and conduct cross-examination;
6 and properly avoids a multi-month trial involving direct testimony from over 150 witnesses on
7 factual evidence that has been before the parties since May 2013 and has never been the subject of
8 any discovery requests by any non-settling party during the current phase of the proceedings.

9 After the Court receives all evidence of the Settling Parties' rights to groundwater, the Court
10 can receive evidence regarding the proposed Physical Solution. The Settling Parties will call (a) Dr.
11 Williams to offer testimony concerning the proposed Physical Solution and how it provides a
12 solution to the Basin overdraft condition and how the solution benefits current and future Basin
13 groundwater users and landowners and (b) Mr. Beeby to testify on, among other issues, the
14 reasonableness of the Settling Parties' beneficial use of groundwater during the period from 2000 to
15 2004.

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 _____


28 ⁴ Note that said Order expressly provides that the Court has made no findings or determinations of fact on the matters described in Item No. 1, above.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

C. Other Matters

During the August 25-26, 2015 trial concerning Phelan Piñon Hills Community Services District ("Phelan"), the Court indicated that it would consider further evidence regarding Phelan's claim for a discount to paying replacement assessment under the physical solution. The Settling Parties believe that evidence introduced in the 2014 addressed the Court's concerns. To the extent necessary, the Settling Parties intend to call Dr. Williams and Mr. Don Bartz to offer rebuttal testimony. The Settling Parties reserve their right to call other witnesses for rebuttal and impeachment purposes.

DATED: September 17, 2015 **BEST BEST & KRIEGER LLP**



ERIC J. GARNER
JEFFREY V. DUNN
WENDY WANG
Attorneys for LOS ANGELES COUNTY DISTRICT NO. 40

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, Kerry V. Keefe, declare:

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 18101 Von Karman Avenue, Suite1000, Irvine, California 92612.

On September 17, 2015, I served the document(s) described as **JOINT CASE MANAGEMENT CONFERENCE REPORT** on the interested parties in this action by enclosing the document(s) in a sealed envelope addressed as follows:

BY MAIL: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at Best Best & Krieger LLP, 18101 Von Karman Avenue, Suite1000, Irvine, California 92612.

BY ELECTRONIC MAIL: By posting the document listed above to the Santa Clara Superior Court website: www.scefiling.org regarding the ANTELOPE VALLEY GROUNDWATER matter.

BY FEDERAL EXPRESS **UPS NEXT DAY AIR** **OVERNIGHT DELIVERY:** I deposited such envelope in a facility regularly maintained by **FEDERAL EXPRESS** **UPS** **Overnight Delivery** [specify name of service:] with delivery fees fully provided for or delivered the envelope to a courier or driver of **FEDERAL EXPRESS** **UPS** **OVERNIGHT DELIVERY** [specify name of service:] authorized to receive documents at Best Best & Krieger LLP, 18101 Von Karman Avenue, Suite1000, Irvine, California 92612 with delivery fees fully provided for.

BY FACSIMILE: I telecopied a copy of said document(s) to the following addressee(s) at the following number(s) in accordance with the written confirmation of counsel in this action.

[State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

[Federal] I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 17, 2015, at Irvine, California.


Kerry V. Keefe