

1 Eric L. Garner, Bar No. 130665
Jeffrey V. Dunn, Bar No. 131926
2 Wendy Y. Wang, Bar No. 228923
BEST BEST & KRIEGER LLP
3 18101 Von Karman Avenue, Suite 1000
Irvine, California 92612
4 Telephone: (949) 263-2600
Facsimile: (949) 260-0972
5 Attorneys for Cross-Complainant:
LOS ANGELES COUNTY WATERWORKS
6 DISTRICT NO. 40

7 Mary Wickham, Bar No. 145664
County Counsel
8 Warren Wellen, Bar No. 139152
Principal Deputy County Counsel
9 OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES
10 500 West Temple Street
Los Angeles, California 90012
11 Telephone: (213) 974-8407
Facsimile: (213) 687-7337
12 Attorneys for Cross-Complainant:
LOS ANGELES COUNTY WATERWORKS
13 DISTRICT NO. 40
[See Next Page For Additional Counsel]

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

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

16 **ANTELOPE VALLEY GROUNDWATER
17 CASES**

Included Actions:

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

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;

22 *Wm. Bolthouse Farms, Inc. v. City of Lancaster,*
Diamond Farming Co. v. City of Lancaster,
23 *Diamond Farming Co. v. Palmdale Water Dist.*,
Superior Court of California, County of Riverside,
24 Case Nos. RIC 353 840, RIC 344 436, RIC 344 668
Rebecca Lee Willis v. Los Angeles County
25 *Waterworks District No. 40, et al.*, Superior Court
of California, County of Los Angeles, Case No.
26 BC364533

27 *Richard Wood v. Los Angeles County Waterworks*
District No. 40, et al., Superior Court of California,
28 County of Los Angeles, Case No. BC391869

Judicial Council Coordination
Proceeding No. 4408

CLASS ACTION

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

**OPPOSITION TO
WATERMASTER'S MOTION FOR
ORDER INTERPRETING THE
JUDGMENT REGARDING PRE-
RAMPDOWN PRODUCTION AND
CARRY OVER WATER RIGHTS**

Hearing: January 31, 2018
Time: 9:00 a.m.
Dept.: 222

1 MURPHY & EVERTZ LLP
Douglas J. Evertz, Bar No. 123066
2 650 Town Center Drive, Suite 550
Costa Mesa, CA 92626
3 (714) 277-1700; (714) 277-1777 fax
Attorneys for City of Lancaster and Rosamond
4 Community Services District

5 OLIVAREZ MADRUGA LEMIEUX O'NEILL LLP
W. Keith Lemieux, Bar No. 161850
6 4165 E. Thousand Oaks Blvd., Ste. 350
Westlake Village, CA 91362
7 (805) 495-4770; (805) 495-2787 fax
8 Attorneys for Littlerock Creek Irrigation District,
Palm Ranch Irrigation District, Desert Lake Community Services District, North Edwards Water
9 District, Llano Del Rio Water Company, Llano Mutual Water Company, Big Rock Mutual
Water Company, and Quartz Hill Water District

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

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1 The Judgment does not authorize the Watermaster to file a motion to resolve a dispute
2 between the Parties. The Watermaster is authorized to carry forth its various duties and
3 obligations under Section 18.4 of the Judgment and Physical Solution (“Judgment” or “Physical
4 Solution”).¹

5 Here, Los Angeles County Waterworks District No. 40 (“District No. 40”), Palmdale
6 Water District, Rosamond Community Services District, Quartz Hill Water District, Littlerock
7 Creek Irrigation District, and Palm Ranch Irrigation District (“Water Suppliers”) filed their
8 motion on December 29, 2017, concerning the interpretation of the Court’s Physical Solution.
9 Thus, there was no need for or authorization by the Judgment for the Watermaster to file its
10 motion seeking the relief already sought by the Water Suppliers in their motion.

11 Allowing the Watermaster motion could cause confusion amongst the parties and
12 negatively impact the parties and the Court’s resources.

13 When a dispute arises between the Parties², they are in the best position to articulate their
14 respective legal positions. For that reason the Parties, not the Watermaster, are permitted to file
15 motions challenging the specific areas of disagreement between the Parties. A group of Parties,
16 the Water Suppliers, have already filed a motion authorized by the Judgment to obtain the Court’s
17 guidance. The subsequent Watermaster motion was not necessary or authorized by the Judgment.

18 **I. THE WATERMASTER IS NOT A PARTY TO THE JUDGMENT**

19 The Watermaster contends it can bring this motion because it is a “Party”³ to the
20 Judgment “with standing to bring this motion.” (Watermaster’s Motion at 2:13-16.) Implicit in
21

22 ¹ The Physical Solution was attached as Exhibit A to the Judgment and approved by the Court on
23 December 23, 2015.

24 ² Undefined capitalized terms used herein shall have the same meaning as the terms are defined in
the Physical Solution.

25 ³ Section 3.5.27 of the Physical Solution defines a Party as “Any Person(s) that has (have) been
26 named and served or otherwise properly joined, or has (have) become subject to this Judgment
27 and any prior judgments of this Court in this Action and all their respective heirs, successors-in-
28 interest and assigns. For purposes of this Judgment, a “Person” includes any natural person, firm,
association, organization, joint venture, partnership, business, trust, corporation, or public entity.”
(Emphasis added.)

1 the Watermaster’s contention is that this Court retains jurisdiction to hear motions brought by
2 Parties to the Judgment.⁴ (Physical Solution, §6.5 [“The Court retains and reserves full
3 jurisdiction, power and authority for the purpose of enabling the Court, upon a motion of a Party
4 or Parties noticed in accordance with the notice procedures of Paragraph 20.6 hereof, to make
5 such further or supplemental order or directions as may be necessary or appropriate to interpret,
6 enforce, administer or carry out this Judgment and to provide for such other matters as are not
7 contemplated by this Judgment and which might occur in the future, and which if not provided for
8 would defeat the purpose of this Judgment.”] [emphasis added].)

9 The Watermaster is not a “Party” under the Judgment. It is undisputed that “[t]he
10 watermaster serves as an arm of the court.” (*Water Replenishment Dist. of Southern Cal. v. City*
11 *of Cerritos* (2012) 202 Cal.App.4th 1063, 1072.) A watermaster is an extension of the judicial
12 branch and not a party to the lawsuit. To deem otherwise would make this Court a “Party” to
13 these coordinated actions as well.

14 Also, as “an arm of the court,” the Watermaster is not a “Person” as defined by the
15 Judgment that can become a Party. (Physical Solution, § 3.5.27 [“a ‘Person’ includes any natural
16 person, firm, association, organization, joint venture, partnership, business, trust, corporation, or
17 public entity.”].) The Watermaster is composed of five individual Parties. (*Id.*, §§ 3.5.52
18 [defining the Watermaster as “[t]he Person(s) appointed by the Court to administer the provisions
19 of this Judgment,” & 18.1.1 [also defining the Watermaster as “a five (5) member board”].)
20 Thus, while the individual members of the Watermaster board are “Persons” and “Parties,” the
21 Watermaster itself is not a “Person” eligible to be a “Party” under the Judgment.

22 **II. THE WATERMASTER DID NOT NEED TO BRING ANOTHER MOTION TO**
23 **SETTLE PARTY DISAGREEMENT**

24 The Watermaster’s powers and duties are set forth in Section 18.4 of the Physical
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26 ⁴ The Physical Solution provides limited exceptions to this general rule. (I.e., Physical Solution,
27 §§18.4.10 (Watermaster may bring a motion “as is necessary to enjoin any conduct prohibited by
28 this Judgment”), 18.4.12 [motion to collect assessment], and 18.7 [motion to approve rules and
regulations] .) None of these exceptions are applicable here.

1 Solution: “Subject to the continuing supervision and control of the Court, the Watermaster shall
2 have and may exercise the following express powers and duties, together with any specific
3 powers and duties set forth elsewhere in this Judgment or ordered by the Court” (Emphasis
4 added.) In other words, unless the Judgment or the Court specifically authorizes the Watermaster
5 to perform a duty, the Watermaster is not authorized to do so.

6 After the Water Suppliers filed their motion, neither the Judgment nor the Court
7 authorized the Watermaster to bring forth an additional motion to resolve disputes amongst the
8 Parties. Under the Physical Solution, the Watermaster board votes on matters within its authority,
9 such as whether the Replacement Water Assessment applies to certain pumping. (E.g., Physical
10 Solution, §18.1.2 [Watermaster voting protocol].) Any Party disagreeing with the Watermaster’s
11 decision can then bring forth a motion to challenge such decision. (*Id.*, §§ 20.3 [court review of
12 “action, decision, rule, regulation, or procedure of Watermaster or the Watermaster Engineer”], &
13 20.3.2 [“Any Party may move the Court for review of an action or decision”].)

14 Here, the Watermaster’s Motion indicates that a “unanimous consent of the Board is not
15 possible” concerning the Rampdown and the Carry Over issues. (Watermaster’s Motion at 7:22-
16 23.) As a result, the Water Suppliers filed a motion seeking the Court’s direction to interpret the
17 Physical Solution on those two issues. (Physical Solution, §6.5.)

18 By filing its additional motion, the Watermaster will have Parties respond to both its
19 motion as well as the Water Suppliers’ previously filed motion. Having to file multiple briefs
20 harms judicial efficiency and increases litigation costs. Moreover, as described below, as the
21 Watermaster is a third party to the disputes between the Parties, it may have misunderstood the
22 nature of the dispute amongst the Parties and have summarized the issues differently from the
23 Water Suppliers. Having duplicative motions that present the issues slightly differently may
24 cause confusion with the Parties and the Court as to the issues in dispute.

25 **III. ISSUES IN DISPUTE**

26 As the Water Suppliers have filed their own motion and do not wish to burden the Court
27 and other Parties with repetitive arguments here, they hereby incorporate by reference their
28 motion, dated December 29, 2017, and clarify a few issues that the Watermaster may have

1 misunderstood.

2 **A. Rampdown Is A Bargained-For Equitable Solution To An Overdraft Basin.**
3 **There Are No Pre-Rampdown “Production Rights.”**

4 Section 8 of the Physical Solution permits Parties, including the Public Water Suppliers,
5 to gradually reduce their pumping to a certain amount above their Production Rights without
6 paying a Replacement Water Assessment during the Rampdown Period. (Physical Solution, §
7 8.3.) Contrary to the Watermaster’s contention, there is no “Pre-Rampdown Production Right.”
8 (Emphasis added). The Judgment does not provide for such a right and California law does not
9 recognize such rights, which is why the Physical Solution does not define Rampdown Production
10 as a “right.” Calling the assessment-free Rampdown production a “right” confuses the issues,
11 which may be why the Watermaster finds there is a dispute as to whether the Carry Over
12 provisions, which apply only to Production Rights,⁵ also apply to Pre-Rampdown Production.⁶

13 Rather than a right recognized by law, the Rampdown provisions are a bargained-for,
14 negotiated element of the Physical Solution, by which all Stipulated Parties are bound. (Cf. *City*
15 *of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 287-288 [physical solution is “an agreed
16 upon or judicially imposed resolution of conflicting claims”]; *City of Barstow v. Mojave Water*
17 *Agency* (2000) 23 Cal.4th 1224, 1250 & 1256, fn. 17 [“the physical solution establishes a system
18 of water regulation for the stipulating parties that is independent of their water rights, if any,
19 under traditional application of riparian, overlying or appropriative priorities”; however, a
20 physical solution may not adversely affect non-stipulating parties’ water rights] [citation and
21 quotation marks omitted].)

22 Here, a Rampdown Period was a significant incentive to all Stipulating Parties, including
23 the Public Water Suppliers, to agree to the terms of the Physical Solution during a time when

24 _____
25 ⁵ Production Rights are rights to produce a certain amount of Native Safe Yield without any
Replacement Water Assessment and Replacement Obligations. (Physical Solution, §3.5.32.)

26 ⁶ By definition, “Pre-Rampdown Production” is the greater of a Party’s Production Right or its
27 reasonable beneficial use of Groundwater at a time prior to the Judgment. (Physical Solution,
§3.5.28.) In short, a Party’s Pre-Rampdown Production may be higher than its Production Right
28 or the Native Safe Yield. (Compare *id.* with Physical Solution, §3.5.32.)

1 California was going through one of the most severe droughts in recent history. The Rampdown
2 provisions allow the Parties to gradually reduce their use of water to a sustainable level (e.g.,
3 Native Safe Yield). The Public Water Suppliers' Rampdown represents a more than 50 percent
4 reduction in groundwater use by the Public Water Suppliers over a five year timeframe. (Water
5 Suppliers' Motion at 7:14-16.) The Public Water Suppliers, who have an obligation to supply
6 water to Antelope Valley residents and businesses, need the Rampdown as much or even more
7 than other Parties.

8 **B. Carry Over Provisions Apply To Native Safe Yield And Imported Water**
9 **Return Flows**

10 Without identifying the nature of the dispute or the contention of the disputing parties, the
11 Watermaster suggests that there is disagreement as to whether all Productions not subject to
12 Replacement Water Assessment (e.g., certain Production during Rampdown Period) can be
13 carried over under Section 15 of the Physical Solution. (Watermaster's Motion at 14:23-15:2 &
14 fn. 10.) To Water Suppliers' knowledge, no such disagreement exists. The purpose of the Carry
15 Over Provision is to avoid encouraging Parties to pump the maximum amount of water each year
16 or risk losing their Production Rights (i.e., Native Safe Yield)⁷ or their Rights to Imported Water
17 Return Flows. The Carry Over provisions were never intended to permit groundwater production
18 above the Native Safe Yield to be carried over. To do so would risk harming the Basin.

19 As the Water Suppliers have withdrawn without prejudice the portions of their Motion
20 concerning the applicability the Carry Over provisions to the unused Federal Reserved Water
21 Right, there does not appear to be any disagreement as to the interpretation of the Carry Over
22 provisions.⁸ As such, this portion of the Watermaster's Motion is now moot.

23 **IV. CONCLUSION**

24 For the foregoing reasons, the Water Suppliers oppose the Watermaster's Motion, and
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26 ⁷ See, Physical Solution, §3.5.22 ("The total of the Production Rights decreed in this Judgment
27 equals the Native Safe Yield").

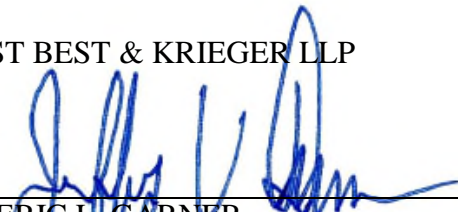
28 ⁸ The Water Suppliers expressly reserve their right to bring forth subsequent motion on the
interpretation of the Carry Over provisions.

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respectfully request the Court grants Water Suppliers' Motion.

Dated: January 18, 2018

BEST BEST & KRIEGER LLP

By: 

ERIC L. GARNER
JEFFREY V. DUNN
WENDY Y. WANG
Attorneys for Defendant
LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40

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PROOF OF SERVICE


I, Isabel Grubbs, 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, 300 S. Grand Avenue, 25th Floor, Los Angeles, California 90071. On January 18, 2018, I served the following document(s):

OPPOSITION TO WATERMASTER’S MOTION FOR ORDER INTERPRETING THE JUDGMENT REGARDING PRE-RAMPDOWN PRODUCTION AND CARRY OVER WATER RIGHTS

by posting the document(s) listed above to the Antelope Valley WaterMaster website with e-service to all parties listed on the websites Service List.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 18, 2018, at Los Angeles, California.



Isabel Grubbs