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7 a California corporation, and CRYSTAL ORGANIC
8 FARMS, a limited liability company

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF LOS ANGELES**

11
12 Coordination Proceeding Special Title
(Rule 1550 (b))

Judicial Council Coordination No. 4408

13 ANTELOPE VALLEY GROUNDWATER
14 CASES

Case No.: 1-05-CV-049053

15 Included actions:

16 Los Angeles County Waterworks District No.
17 40 vs. Diamond Farming Company
18 Los Angeles Superior Court
19 Case No. BC 325201

DIAMOND FARMING COMPANY AND
CRYSTAL ORGANIC FARMS LLC'S
CASE MANAGEMENT CONFERENCE
STATEMENT, AND JOINDER IN
BOLTHOUSE PROPERTIES, LLC'S AND
WM. BOLTHOUSE FARMS, INC.'S CASE
MANAGEMENT CONFERENCE
STATEMENT, PRELIMINARY
COMMENTS REGARDING SUB-BASINS,
COMMENTS REGARDING WILLIS'
REPLY MEMORANDUM REGARDING
MOTION TO STRIKE, COMMENTS
REGARDING MOTION FOR
CONTINUANCE OF TRIAL DATE

18 Los Angeles County Waterworks District No.
19 40 vs. Diamond Farming Company
20 Kern County Superior Court
21 Case No. S-1500-CV 254348 NFT

21 Diamond Farming Company vs. City of
22 Lancaster
23 Riverside County Superior Court
24 Lead Case No. RIC 344436 [Consolidated
25 w/Case Nos. 344668 & 353840]

DATE: August 11, 2008
TIME: 9:00 a.m.
DEPT: 1

26
27
28 AND RELATED CROSS-ACTIONS.

1 DIAMOND FARMING COMPANY and CRYSTAL ORGANIC FARMS LLC joins in BOLTHOUSE
2 PROPERTIES, LLC'S AND WM. BOLTHOUSE FARMS, INC.'S CASE MANAGEMENT
3 CONFERENCE STATEMENT, PRELIMINARY COMMENTS REGARDING SUB-BASINS,
4 COMMENTS REGARDING WILLIS' REPLY MEMORANDUM REGARDING MOTION TO
5 STRIKE, COMMENTS REGARDING MOTION FOR CONTINUANCE OF TRIAL DATE. We
6 generally agree with all observations and comments made, except to the limited extent that DIAMOND
7 FARMING COMPANY and specifically CRYSTAL ORGANIC FARMS LLC contend that the area
8 north of the Willow Springs fault line but within the adjudication boundary as established by this Court
9 in Phase 1 should be excluded from the "groundwater basin" within which the competing water rights
10 of both the Purveyors and overlyers will be adjudicated. The evidence will establish that in August of
11 2002, the Purveyors collectively proffered expert testimony that groundwater pumping north of the
12 Willow Springs fault line had no legally adverse effect on groundwater pumping south of the Willow
13 Springs fault line and likewise that groundwater pumping south of the Willow Springs fault line had no
14 legally adverse effect on groundwater pumping north of the Willow Springs fault line. After the
15 suspension of the trial in the Riverside Superior Court in August of 2002, but before the Phase 1 trial
16 in these coordinated proceedings, and thereby the establishment of the procedural adjudication boundary,
17 CRYSTAL ORGANIC FARMS, in reliance upon the position advanced by the Purveyors in the
18 Riverside Superior Court in 2002, purchased the agricultural ground which it now owns and farms, and
19 which is located north of the Willow Springs fault line. That purchase was made with the conscious
20 belief that the property was located outside of the area within which the claims of prescription were
21 being asserted.

22 Additionally, DIAMOND FARMING COMPANY and CRYSTAL ORGANIC FARMS urge
23 this Court to defer the presently scheduled October 6, 2008 trial date until after all parties have had a
24 sufficient opportunity to complete discovery, both percipient and expert. The necessity for full and
25 complete discovery is most readily evidenced by the apparent effort by the Purveyors to, collectively,
26 not only bifurcate into multiple phases the litigation of the claims at issue, but to also bifurcate discovery
27

1 so that they can withhold and/or conceal from the party litigants and this Court inherent contradictions
2 by using outside retained experts to advance technical opinions which contradict technical and factual
3 claims published by the Purveyors in the ordinary course of business.

4 The reality of the necessity for percipient discovery is made readily apparent by contrasting
5 Waterworks Districts 40's response to special interrogatories propounded by the Willis Class, specially
6 Interrogatory No. 20, and previously published reports on existing and projected water demands and
7 sources of supply for the Antelope Valley. In response to the Willis Class Special Interrogatory No. 20,
8 Los Angeles Waterworks District No. 40 responded as follows:

9 “Special Interrogatory No. 20:

10 If YOU contend that YOU have acquired a prescriptive right to use
groundwater within the Basin, when was that prescriptive right acquired?

11 Response to Special Interrogatory No. 20:

12 The District incorporates herein its Preliminary Statement and General
13 Objections as though expressly set for [sic] herein. The District objects
14 to this Interrogatory because it does not seek information for the Phase 2
15 trial nor is it reasonably calculated to lead to the discovery of admissible
16 evidence for the Phase 2 trial. Additionally, the answer to this
17 Interrogatory is the subject of testimony which has not yet been fully
18 developed. Finally, the Court has directed the parties to focus their
19 discovery requests upon the subject matter of the Phase 2 trial. Without
waiving the foregoing objections, the District responds that it has pumped
groundwater from the Basin since 1921 and the Basin has been in an
overdraft since at least 1946. The District further responds that it will
further supplement its response to this Interrogatory at a reasonable time
after the Phase 2 trial. Without waiving the foregoing objections, the
District first acquired a prescriptive right five years after pumping
groundwater from the Basin in its overdraft condition, the right has
continued and continues to the present time.”

20 It is apparent upon reading the response by Waterworks District 40 that it is claimed that the
21 Basin has been overdrafted since 1946, that that overdraft has been continuous and uninterrupted, and
22 that the prescriptive period is successive, but rolling five-year periods from 1946 up to and including
23 the present. The actual and operative five year prescriptive period has not yet been identified by any
24 Purveyor. However, in March of 1991, the Waterworks District published “Los Angeles County
25 Waterworks Districts Report on Existing and Projected Water Demands and Source of Supply for the
26 Antelope Valley.” That report was authored to support and justify the continued issuance of “Will


1 Serve” letters for new commercial and residential development. At page 12 of that 15-page report,
2 Waterworks District No. 40 states:

3 **“Current groundwater extractions are less than natural recharge**
4 **and overdrafting of the basin has stopped. Groundwater levels have**
5 **stabilized in the central part of the basin with water level increases**
6 **from 10 to 60 feet in the east and west portions of the basin.**
7 **Waterworks well records in the Lancaster area indicate that during**
8 **the last five years, due to the in lieu pumping program, the aquifer**
9 **in this area has recovered a minimum of 1.4 to 4.4 ft/yr for an**
10 **average of 2.5 ft/yr. It is estimated that 110,000 ac-ft of water has**
11 **been added to storage in this general area over the past five years.**
12 **Also as shown on Table No. 6, agricultural interests are attempting**
13 **to reduce groundwater extractions by using reclaimed water and**
14 **untreated SWP water.”¹**

15 The implications of these contradictory statements will be more fully explored and better
16 appreciated with complete, fair, and responsive discovery, both expert and percipient. Thus, the
17 necessity for continuance of trial date.

18 Dated: August 6, 2008

LeBEAU • THELEN, LLP

19 By: 
20 _____
21 BOB H. JOYCE
22 Attorneys for DIAMOND FARMING COMPANY,
23 a California corporation, and CRYSTAL ORGANIC
24 FARMS, a limited liability company

25
26 _____
27 ¹A complete copy of the report was obtained from sources other than discovery and is attached
28 hereto in full.

PROOF OF SERVICE

1 ANTELOPE VALLEY GROUNDWATER CASES
2 JUDICIAL COUNCIL PROCEEDING NO. 4408
3 CASE NO.: 1-05-CV-049053

4 I am a citizen of the United States and a resident of the county aforesaid; I am over the age
5 of eighteen years and not a party to the within action; my business address is: 5001 E. Commercenter
6 Drive, Suite 300, Bakersfield, California 93309. On August 6, 2008, I served the within
7 DIAMOND FARMING COMPANY AND CRYSTAL ORGANIC FARMS LLC'S CASE
8 MANAGEMENT CONFERENCE STATEMENT, AND JOINDER IN BOLTHOUSE
9 PROPERTIES, LLC'S AND WM. BOLTHOUSE FARMS, INC.'S CASE MANAGEMENT
10 CONFERENCE STATEMENT, PRELIMINARY COMMENTS REGARDING SUB-BASINS,
11 COMMENTS REGARDING WILLIS' REPLY MEMORANDUM REGARDING MOTION TO
12 STRIKE, COMMENTS REGARDING MOTION FOR CONTINUANCE OF TRIAL DATE

13 **(BY POSTING)** I am "readily familiar" with the Court's Clarification Order.
14 Electronic service and electronic posting completed through www.scefilings.org ; All papers filed
15 in Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

16 Los Angeles County Superior Court
17 111 North Hill Street
18 Los Angeles, CA 90012
19 Attn: **Department 1**
20 (213) 893-1014

Chair, Judicial Council of California
Administrative Office of the Courts
Attn: Appellate & Trial Court Judicial Services
(Civil Case Coordinator)
Carlotta Tillman
455 Golden Gate Avenue
San Francisco, CA 94102-3688
Fax (415) 865-4315

21 **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and
22 processing correspondence for mailing. Under that practice it would be deposited with the U.S.
23 Postal Service on that same day with postage thereon fully prepaid at Bakersfield, California, in
24 the ordinary course of business.

25 **(STATE)** I declare under penalty of perjury under the laws of the State of
26 California that the above is true and correct, and that the foregoing was executed on August 6,
27 2008, in Bakersfield, California.

28 

DONNA M. LUIS