

1 Bob H. Joyce, (SBN 84607)
2 Kevin E. Thelen, (SBN 252665)
3 LAW OFFICES OF
4 **LEBEAU • THELEN, LLP**
5 5001 East Commercenter Drive, Suite 300
6 Post Office Box 12092
7 Bakersfield, California 93389-2092
8 (661) 325-8962; Fax (661) 325-1127

6 Attorneys for DIAMOND FARMING COMPANY,
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
13 (Rule 1550 (b))

Judicial Council Coordination No. 4408

14 ANTELOPE VALLEY GROUNDWATER
15 CASES

Case No.: 1-05-CV-049053

16 Included actions:

**DECLARATION OF BOB H. JOYCE IN
SUPPORT OF OBJECTION TO CLASS
CERTIFICATION HEARING
CURRENTLY SCHEDULED FOR
AUGUST 11, 2008**

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

21 Los Angeles County Waterworks District No.
22 40 vs. Diamond Farming Company
23 Kern County Superior Court
24 Case No. S-1500-CV 254348 NFT

25 Diamond Farming Company vs. City of
26 Lancaster
27 Riverside County Superior Court
28 Lead Case No. RIC 344436 [Consolidated
w/Case Nos. 344668 & 353840]

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

AND RELATED CROSS-ACTIONS.

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1 I, BOB H. JOYCE, am an attorney at law duly licensed to practice before all of the courts of the
2 State of California and counsel of record for the Cross-Defendants, DIAMOND FARMING COMPANY
3 and CRYSTAL ORGANIC FARMS LLC. I make this Declaration in support of DIAMOND
4 FARMING COMPANY and CRYSTAL ORGANIC FARMS LLC's Objection to the presently
5 scheduled hearing for Class Certification currently set for August 11, 2008.

6 1. On July 2, 2008, this Declarant, as a attorney for the Cross-Defendants, DIAMOND
7 FARMING COMPANY and CRYSTAL ORGANIC FARMS LLC, prepared and served on each Cross-
8 Complainant PUBLIC WATER SUPPLIER a Request for Production of Documents [Set Two]. Therein,
9 documents were sought concerning the claims of prescription and Notice to landowners of those claims.

10 2. On or about August 4, 2008, each responding party, PUBLIC WATER SUPPLIERS,
11 and Cross-Complainants, served a virtually identical Objection to each of those specific Request for
12 Production of Documents as follows:

13 "The District objects to this Request because it does not seek information for the Phase
14 2 trial nor is it reasonably calculated to lead to the discovery of admissible evidence for
15 the Phase 2 trial. The Court has directed the parties to focus their discovery requests
upon the subject matter of the Phase 2 trial."

16 3. No effort was made by any responding Cross-Complainant to respond substantively to
17 those specific requests. The Objections with no "good faith" effort to respond is "bad faith." (See
18 *Michael Cembrook v. Superior Court of the City and County of San Francisco* (1961) 56 Cal.2d 423.
19 Given said Objections, this Declarant must first engage in the meet and confer process, and will then
20 have to likely file a Motion to Compel Responses to the Written Discovery, secure a hearing date and
21 secure a Court Order compelling responses, all of which cannot be accomplished within the time
22 remaining before the presently scheduled hearing for Class Certification on August 11, 2008.

23 4. As was made clear by the Appellate Court in *Louis E. Carabini, et al. vs. The Superior*
24 *Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at Class Certification is both
25 appropriate and permitted in order to ensure a fair hearing.

26 "Appellate courts have recognized the importance of such orders by creating an
27 exception to the rule denying appellate review. 'Whether the order is directly appealable
28 or we treat this as a petition for writ of mandate, the issue of the class certification order
is and should be before us.' (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9


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[196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.) Due process requires an order with such significant impact on the viability of a case not be made without a full opportunity to brief the issues and present evidence. This is true whether the issue is presented in a motion or by way of an order to show case issued by the court. In addition, each party should have an opportunity to conduct discovery on class action issues before its documents in support of or in opposition to the motion must be filed.” *Carabini, supra*, pp. 243-244.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct, and that this Declaration was executed on August 6, 2008, at Bakersfield, California.

Dated: August 6, 2008

LeBEAU • THELEN, LLP

By: 
BOB H. JOYCE
Attorneys for DIAMOND FARMING COMPANY,
a California corporation, and CRYSTAL ORGANIC
FARMS, a limited liability company

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 **DECLARATION OF BOB H. JOYCE IN SUPPORT OF OBJECTION TO CLASS**
8 **CERTIFICATION HEARING CURRENTLY SCHEDULED FOR AUGUST 11, 2008**

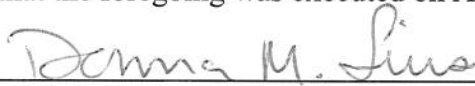
9
10 (BY POSTING) I am "readily familiar" with the Court's Clarification Order.
11 Electronic service and electronic posting completed through www.scefiling.org ; All papers filed
12 in Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

13 Los Angeles County Superior Court
14 111 North Hill Street
15 Los Angeles, CA 90012
16 Attn: **Department 1**
(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

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

21 (STATE) I declare under penalty of perjury under the laws of the State of
22 California that the above is true and correct, and that the foregoing was executed on August 6,
23 2008, in Bakersfield, California.

24 
25 _____
26 **DONNA M. LUIS**
27
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