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11 a California corporation, CRYSTAL ORGANIC
12 FARMS, a limited liability company, GRIMMWAY
13 ENTERPRISES, INC., and LAPIS LAND COMPANY, LLC

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

16 Coordination Proceeding Special Title
17 (Rule 1550 (b))

Judicial Council Coordination No. 4408

18 ANTELOPE VALLEY GROUNDWATER
19 CASES

Case No.: 1-05-CV-049053

20 Included actions:

**OPPOSITION TO THE WILLIS CLASS'
MOTION FOR COURT
APPOINTMENT OF INDEPENDENT
EXPERT WITNESS**

21 Los Angeles County Waterworks District No.
22 40 vs. Diamond Farming Company
23 Los Angeles Superior Court
24 Case No. BC 325201

Date: July 15, 2010
Time: 9:00 a.m.
Dept: TBD

25 Los Angeles County Waterworks District No.
26 40 vs. Diamond Farming Company
27 Kern County Superior Court
28 Case No. S-1500-CV 254348 NFT

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

AND RELATED CROSS-ACTIONS.

Diamond Farming Company, Inc., Crystal Organic Farms, LLC, Grimmway Enterprises, Inc.,
and LAPIS Land Company, LLC hereby file their opposition to the Willis Class' Motion for Court
Appointment of Independent Expert Witness filed June 15, 2010.

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I. ARGUMENT

The primary focus of this objection is directed to the proposed request by the Willis Class to have the experts' costs apportioned as amongst parties to the coordinated proceedings who proffer expert testimony during the Phase III trial. The Willis Class purports to be moving pursuant to Evidence Code section 730, et seq. Under Evidence Code section 731, the court can apportion the expert costs as amongst the several parties to the action. These objecting parties have not sued Ms. Willis nor the Willis Class. Ms. Willis nor the Class have sued these objecting parties. As was articulated and argued on numerous occasions during the efforts leading up to the court's order of consolidation, it was understood by all that this court did not intend to create adversity as between participants in the coordinated proceedings that did not exist under the state of the pleadings as they then existed. To the extent that the motion seeks to secure the assistance of an expert to benefit the class, it is particularly noteworthy that these objectors are not parties to that class action. Thus, Evidence Code 731 is inapplicable to these objectors.

Additionally, even if Evidence Code section 731 were applicable to these objectors, it is inequitable to limit any apportionment to solely those parties who propose to exercise their right to present evidence during the Phase III trial. As it is, many significant parties are passively allowing others to row the laboring oar and incur the expense necessary to ensure a fair and clear evidence based outcome in the upcoming Phase III trial. Those passive participants should not be further rewarded by any proposed allocation which frees them from participating in those costs.

For the foregoing reasons, the requested allocation of the expert costs as against non-parties to the Willis Class action, should be denied.

Dated: July 1, 2010

LeBEAU • THELEN, LLP

By: 

BOB H. JOYCE
Attorneys for DIAMOND FARMING COMPANY,
a California corporation, CRYSTAL ORGANIC
FARMS, a limited liability company, GRIMMWAY
ENTERPRISES, INC., and LAPIS LAND
COMPANY, LLC

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 July 1, 2010, I served the within **OPPOSITION**
7 **TO THE WILLIS CLASS' MOTION FOR COURT APPOINTMENT OF INDEPENDENT**
8 **EXPERT WITNESS**

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

12 Los Angeles County Superior Court
13 111 North Hill Street
14 Los Angeles, CA 90012
15 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

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

19 **(STATE)** I declare under penalty of perjury under the laws of the State of
20 California that the above is true and correct, and that the foregoing was executed on July 1, 2010,
21 in Bakersfield, California.

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23 LEQUETTA HANSEN
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