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6 Attorneys for DIAMOND FARMING COMPANY,
7 a California corporation

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

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

15 Included actions:

**DECLARATION OF BOB H. JOYCE IN
SUPPORT OF OBJECTION TO CLASS
CERTIFICATION HEARING
CURRENTLY SCHEDULED FOR
AUGUST 20, 2007**

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

DATE: August 20, 2007
TIME: 9:00 a.m.
DEPT: 1

19 Los Angeles County Waterworks District No.
20 40 vs. Diamond Farming Company
21 Kern County Superior Court
22 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]

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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-Defendant, DIAMOND FARMING COMPANY.
3 I make this Declaration in support of DIAMOND FARMING COMPANY's Objection to the presently
4 scheduled hearing for Class and/or Subclass Certification currently set for August 20, 2007.

5 1. On May 25, 2007, this Declarant, as a attorney for the Cross-Defendant, DIAMOND
6 FARMING COMPANY, prepared and served on each Cross-Complainant PUBLIC WATER
7 SUPPLIER the following discovery:

- 8 a. Request for Admissions [Set One] and required Declaration, attached hereto as
9 Exhibit "A";
- 10 b. Form Interrogatories [Set One], attached hereto as Exhibit "B";
- 11 c. Special Interrogatories [Set One], attached hereto as Exhibit "C"; and,
- 12 d. Request for Production of Documents [Set One], attached hereto as Exhibit
13 "D."

14 2. On June 26, 2007, each and every responding party, PUBLIC WATER SUPPLIERS,
15 and Cross-Complainants, served the same identical Objection to each and every separate Interrogatory,
16 Request for Admission, and Request for Production of Documents as follows:

17 "Objection. The request is premature, burdensome and oppressive. This request
18 seeks information concerning class members and the court has not yet completed its
19 class certification process. No class representative has yet been approved by the
20 court."

21 3. No effort was made by any responding Cross-Complainant to respond to any substantive
22 request. The Objections with no "good faith" effort to respond to any of the discovery is "bad faith."
23 (See *Michael Cembrook v. Superior Court of the City and County of San Francisco* (1961) 56 Cal.2d
24 423. Given said Objections, this Declarant must first engage in the meet and confer process, and will
25 then have to likely file a Motion to Compel Responses to the Written Discovery, secure a hearing date
26 and secure a Court Order compelling responses, all of which cannot be accomplished within the limited
27 time remaining before the presently scheduled hearing for Class and/or Subclass Certification on August
28 20, 2007.

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

“Appellate courts have recognized the importance of such orders by creating an exception to the rule denying appellate review. ‘Whether the order is directly appealable 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 [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 June 27, 2007, at Bakersfield, California.



BOB H. JOYCE

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 June 27, 2007, I served the within
7 **DECLARATION OF BOB H. JOYCE IN SUPPORT OF OBJECTION TO CLASS**
8 **CERTIFICATION HEARING CURRENTLY SCHEDULED FOR AUGUST 20, 2007**

9 (BY POSTING) I am "readily familiar" with the Court's Clarification Order.
10 Electronic service and electronic posting completed through www.scefilings.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
19 the ordinary course of business.

20 (OVERNIGHT/EXPRESS MAIL) By enclosing a true copy thereof in a sealed
21 envelope designated by United States Postal Service (Overnight Mail)/Federal Express/United
22 Parcel Service ("UPS") addressed as shown on the above by placing said envelope(s) for ordinary
23 business practices from Kern County. I am readily familiar with this business' practice of
24 collecting and processing correspondence for overnight/express/UPS mailing. On the same day
25 that the correspondence is placed for collection and mailing, it is deposited in the ordinary course
26 of business with the United States Postal Service/Federal Express/UPS in a sealed envelope with
delivery fees paid/provided for at the facility regularly maintained by United States Postal Service
(Overnight Mail/Federal Express/United Postal Service [or by delivering the documents to an
authorized courier or driver authorized by United States Postal Service (Overnight Mail)/Federal
Express/United Postal Service to receive documents]).

27 (STATE) I declare under penalty of perjury under the laws of the State of
28 California that the above is true and correct, and that the foregoing was executed on June 27,
2007, in Bakersfield, California.

Donna M. Luis

DONNA M. LUIS