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Bob H. Joyce, (SBN 84607)
Dave R. Lampe (SBN 77100)
Andrew Sheffield (SBN 220735)
LAW OFFICES OF
LEBEAU • THELEN, LLP
5001 East Commercenter Drive, Suite 300
Post Office Box 12092
Bakersfield, California 93389-2092
(661) 325-8962; Fax (661) 325-1127

Attorneys for DIAMOND FARMING COMPANY,
a California corporation

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

Coordination Proceeding Special Title
(Rule 1550 (b))

ANTELOPE VALLEY GROUNDWATER
CASES

Included actions:

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

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

Judicial Council Coordination No. 4408

Case No.: 1-05-CV-049053

**DECLARATION OF BOB H. JOYCE IN
SUPPORT OF EX PARTE
APPLICATION FOR A COURT ORDER**

DATE: July 10, 2007
TIME: 9:00 a.m.
DEPT: 17

[TELEPHONIC APPEARANCE]

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1 I, BOB H. JOYCE, am an attorney at law duly licensed to practice before all of the courts of
2 the State of California and counsel of record for the Cross-Defendant, DIAMOND FARMING
3 COMPANY. I make this Declaration in support of DIAMOND FARMING COMPANY's Ex Parte
4 Application for a Court Order directing that counsel for the Cross-Complaining PUBLIC WATER
5 SUPPLIERS, the Responding Parties, appear in person along with counsel for the Cross-Defendant
6 DIAMOND FARMING COMPANY and Propounding Party, for a court supervised meet and confer
7 regarding pre-trial written discovery and the Responding Parties' Objections to same to be held on July
8 20, 2007, concurrently with the then scheduled Case Management Conference as required by the
9 Guidelines for Complex Litigation.

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

- 13 a. Request for Admissions [Set One] and required Declaration, posted as
14 Document # 4442;
- 15 b. Form Interrogatories [Set One], posted as Document # 4440;
- 16 c. Special Interrogatories [Set One], posted as Document # 4441; and,
- 17 d. Request for Production of Documents [Set One], posted as Document # 4443.

18 2. Twenty-Six (26) days following the service of the written discovery identified in
19 paragraph No. 1 above, this Declarant, counsel for DIAMOND FARMING COMPANY, received a
20 letter dated June 20, 2007, on behalf of all Cross-Complaining Public Water Suppliers, each of whom
21 was a Responding Party to that written discovery, demanding that DIAMOND FARM COMPANY
22 withdraw the identified written discovery. A true and correct copy of that correspondence is attached
23 hereto as Exhibit "1."

24 3. On June 21, 2007, the demand made on behalf of all Public Water Suppliers was
25 responded to by this Declarant. Posted as Document # 5252, and attached hereto as Exhibit "2" is and
26 a true and correct copy of that response.

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

4 “Objection. The request is premature, burdensome and oppressive. This request
 5 seeks information concerning class members and the court has not yet completed its
 6 class certification process. No class representative has yet been approved by the
 7 court.”

8 Responses posted by each Public Water Supplier are as follows:

DOCUMENT NUMBER	PARTY	RESPONSE TO DISCOVERY REQUESTS (SET ONE)
5305	California Water Service Company	Admissions
5306	California Water Service Company	Production of Documents
5307	California Water Service Company	Form Interrogatories
5308	California Water Service Company	Special Interrogatories
5311	Littlerock Creek Irrigation District	Form Interrogatories
5312	Littlerock Creek Irrigation District	Special Interrogatories
5313	Littlerock Creek Irrigation District	Admissions
5314	Littlerock Creek Irrigation District	Production of Documents
5315	Palm Ranch Irrigation District	Form Interrogatories
5316	Palm Ranch Irrigation District	Special Interrogatories
5317	Palm Ranch Irrigation District	Admissions
5318	Palm Ranch Irrigation District	Production of Documents
5325	City of Palmdale	Special Interrogatories
5326	City of Palmdale	Admissions
5327	City of Palmdale	Form Interrogatories
5328	City of Palmdale	Production of Documents
5334	Palmdale Water District	Special Interrogatories
5334	Quartz Hill Water District	Special Interrogatories
5335	Palmdale Water District	Admissions
5335	Quartz Hill Water District	Admissions
5336	Palmdale Water District	Production of Documents

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DOCUMENT NUMBER	PARTY	RESPONSE TO DISCOVERY REQUESTS (SET ONE)
5336	Quartz Hill Water District	Production of Documents
5337	Palmdale Water District	Form Interrogatories
5337	Quartz Hill Water District	Form Interrogatories
5338	Los Angeles County Waterworks District No. 40	Form Interrogatories
5339	Rosamond Community Services District	Form Interrogatories
5340	Los Angeles County Waterworks District No. 40	Special Interrogatories
5341	Rosamond Community Services District	Special Interrogatories
5342	Los Angeles County Waterworks District No. 40	Admissions
5343	Rosamond Community Services District	Admissions
5344	Los Angeles County Waterworks District No. 40	Production of Documents
5345	Rosamond Community Services District	Production of Documents
5350	City of Lancaster	Admissions
5351	City of Lancaster	Form Interrogatories
5352	City of Lancaster	Special Interrogatories
5353	City of Lancaster	Production of Documents

5. No effort was made by any responding Cross-Complainant to respond to any substantive request. The Objections with no “good faith” effort to respond to any of the discovery is “bad faith.” (See *Michael Cembrook v. Superior Court of the City and County of San Francisco* (1961) 56 Cal.2d 423. Given said Objections, this Declarant must first engage in the meet and confer process, and will then have to likely file a Motion to Compel Responses to the Written Discovery, secure a hearing date and secure a Court Order compelling responses, all of which cannot be accomplished within

1 the limited time remaining before the presently scheduled hearing for Class and/or Subclass Certification
2 on August 20, 2007.

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

6 “Appellate courts have recognized the importance of such orders by creating an
7 exception to the rule denying appellate review. ‘Whether the order is directly
8 appealable or we treat this as a petition for writ of mandate, the issue of the class
9 certification order is and should be before us.’ (*Miller v. Woods* (1983) 148
10 Cal.App.3d 862, 871, fn. 9 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d
11 ed. 1985) Appeal, § 85, p. 106.) Due process requires an order with such significant
12 impact on the viability of a case not be made without a full opportunity to brief the
13 issues and present evidence. This is true whether the issue is presented in a motion
14 or by way of an order to show case issued by the court. In addition, each party should
15 have an opportunity to conduct discovery on class action issues before its documents
16 in support of or in opposition to the motion must be filed.” *Carabini, supra*, pp. 243-
17 244.

13 7. In response to said Objections, and on June 27, 2007, this Declarant prepared and filed
14 DIAMOND FARMING’s “Objection to Class Certification Hearing Currently Scheduled For August
15 20, 2007,” posted as Document # 5368, and “Declaration of Bob H. Joyce In Support of Objection to
16 Class Certification Hearing Currently Scheduled For August 20, 2007,” posted as Document # 5369.
17 Additionally, on June 27, 2007, this Declarant invited each Cross-Complaining Public Water Supplier,
18 through their counsel, to contact this Declarant and arrange for an informal meet and confer regarding
19 the Objections to the written discovery as required by law. Posted as Document # 5370 and attached
20 hereto as Exhibit “3,” is a true and correct copy of that correspondence dated June 27, 2007.

21 8. On the afternoon of June 27, 2007, the undersigned Declarant received from the offices
22 of Lemieux & O’Neill, counsel for Littlerock Creek Irrigation District and Palm Ranch Irrigation
23 District, correspondence offering to participate in the meet and confer process. Attached hereto as
24 Exhibit “4,” is a true and correct copy of that correspondence dated June 27, 2007.

25 9. On June 28, 2007, this Declarant attempted to reach Keith Lemieux on three occasions,
26 and that effort on that date proved unsuccessful. On Friday, June 29, 2007, this Declarant succeeded in
27 making telephonic contact with Mr. Keith Lemieux. On that date and in that conversation, Mr. Lemieux
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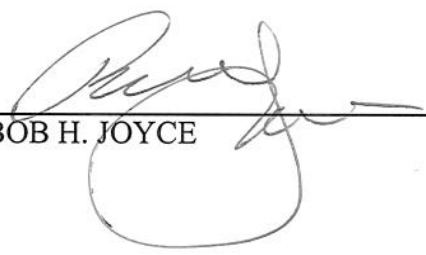
1 related that the Public Water Suppliers were primarily concerned that the written discovery propounded
2 by DIAMOND FARMING COMPANY was premature and inappropriate at this particular time but that
3 they would be discussing my request that afternoon. I advised Mr. Lemieux that I believed that if the
4 Objections were not going to be withdrawn and if legitimate discovery responses were not to be
5 forthcoming, that we agree to schedule a court supervised meet and confer to coincide with the upcoming
6 and scheduled Case Management Conference now set for July 20, 2007, in order that we may all comply
7 with the rules concerning Complex Civil Litigation. Mr. Lemieux responded that the idea made sense
8 but that he needed to talk with the balance of the Public Water Suppliers and would respond formally
9 in writing. As of the close of business on Tuesday, July 3, 2007, this Declarant had not received any
10 formal written response from Mr. Keith Lemieux nor had this Declarant received any written response
11 from counsel for any other Public Water Supplier, responding and objecting party to the written
12 discovery. No other attorney for any other Public Water Supplier had as of that date made any effort to
13 schedule or arrange for any informal meet and confer to discuss the issue.

14 10. On the morning of Thursday, July 5, 2007, this Declarant telephoned and spoke with
15 Keith Lemieux and therein was advised that he could not speak for the Public Water Suppliers as a
16 group, and that I should expect to hear from Mr. Jeff Dunn who would be communicating on behalf of
17 the group at large. Given the imminency of the presently scheduled hearing for Class Certification, and
18 the apparent reluctance of the Public Water Suppliers to engage in a meaningful meet and confer process,
19 it is the opinion of this Declarant that a court ordered and court supervised meet and confer process be
20 scheduled to coincide with the currently scheduled Case Management Conference, now set for July 20,
21 2007. It is therefore respectfully requested that this Court issue an Order directing the attorneys of
22 record for each Cross-Complaining Public Water Supplier to appear in person and before this Court on
23 July 20, 2007, at the hour of 9:00 a.m., in Department 1, at 111 North Hill Street, Los Angeles,
24 California, as well as an Order to DIAMOND FARMING COMPANY's counsel of record to likewise
25 appear on the same date and at the same time and place, and that all counsel appear and be prepared to
26 participate in a court supervised and meaningful meet and confer process regarding the discovery
27 propounded upon each Public Water Supplier by DIAMOND FARMING COMPANY on May 25, 2007.

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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 July 5, 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 July 5, 2007, I served the within

7 **DECLARATION OF BOB H. JOYCE IN SUPPORT OF EX PARTE APPLICATION FOR**
8 **A COURT ORDER**

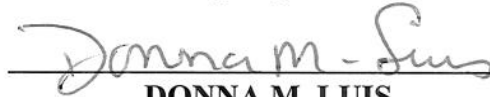
9 (BY POSTING) I am "readily familiar" with the Court's Clarification Order.
10 Electronic service and electronic posting completed through www.scefiling.org ; All papers filed
11 in Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

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 5, 2007,
21 in Bakersfield, California.

22 
23 _____
24 **DONNA M. LUIS**

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