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June 20, 2007

VIA FACSIMILE AND US MAIL

Bob Joyce
LeBeau Thelen LLP
5001 E. Commercenter Dr. #300
Bakersfield, California 93309

Re: Antelope Valley Groundwater Adjudication

Dear Mr. Joyce:

This letter concerns Diamond Farming's discovery requests propounded after the last court hearing on May 21, 2007: 9 Special Interrogatories, 60 Requests for Admissions, Requests for Production of Documents and Form Interrogatories to each Public Water Supplier. Diamond Farming's discovery asks for detailed information about each and every landowner in the Adjudication Area. There are thousands of property owners within the Adjudication Area, and the court did not approve discovery upon the merits as to all landowners. Thus, Diamond Farming's discovery are burdensome and oppressive at this time. Moreover, the court will decide when and how discovery shall be conducted in this complex litigation matter.

Throughout the case the court has made known its intention to manage the case to achieve an orderly and efficient process for resolving case issues. The court has the authority to limit or allow discovery as appropriate; and legal counsel for a Public Water Supplier received court approval to serve discovery limited to the issue of whether existing landowner parties are aware of any additional property owners who should be subject to service of process.

At the last court hearing, Diamond Farming did not notify the court that Diamond Farming would propound discovery, and Judge Komar did not approve or otherwise authorize substantive discovery requests to be served by any party. As the court has made clear, the case is not yet at issue and there are class certification issues to resolve.

Service of process and class certification are presently before the parties and the court. Class certification motion is a procedural matter and determined without regard to the merits of a case. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 439-440. Diamond Farming's discovery requests seeks to put at issue substantive aspects of the case before the court has completed its class determination and certification process. Stated simply, the discovery requests are premature and appear intended to harass or otherwise interfere with the current efforts to complete the class certification process. In any event, discovery concerning the merits of various claims is not appropriate at this time.

Limited discovery is permissible for class determination purposes. *Carabini v. Superior Court*

(1994) 26 Cal.App.4th 239, 244. But here, Diamond Farming's discovery requests are broad sweeping discovery requests, which are not directed at the class certification issues. Rather the discovery requests are aimed at attacking the sufficiency of notice provided by Public Water Suppliers.

Diamond Farming's objections to any class certification have been made known and are a matter of record. The court, Public Water Suppliers, and certain landowners, however, are engaged in a process that could result in court certification of a class or classes of property owners. As this issue is of paramount importance, the Diamond Farming discovery is not appropriate at this time.

For the foregoing reasons the Public Water Suppliers' request that Diamond Farming withdraw its discovery requests, or tailor discovery requests limited to the class certification issues before the court. Please advise us in writing on or before June 22, 2007 that the discovery requests are withdrawn.

Sincerely,

Jeffrey M. Dunn
of BEST BEST & KRIEGER LLP

cc: Legal Counsel for Public Water Suppliers

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