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9 Attorneys for DIAMOND FARMING COMPANY,
10 a California corporation

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12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 IN AND FOR THE COUNTY OF LOS ANGELES

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

Judicial Council Coordination No. 4408

17 ANTELOPE VALLEY GROUNDWATER
18 CASES

Case No.: 1-05-CV-049053

19 Included actions:

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

**DECLARATION OF BOB H. JOYCE,
ESQ. IN SUPPORT OF MOTION TO
COMPEL PUBLIC WATER
SUPPLIERS TO PROVIDE FURTHER
RESPONSES TO FORM
INTERROGATORIES [SET ONE];
REQUEST FOR ADMISSIONS
[SET ONE]; AND FOR MONETARY
SANCTIONS**

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

[Filed concurrently with Plaintiff's Notice of
Motion and Motion, Points and Authorities
and Separate Statement]

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

Date: October 12, 2007
Time: 9:00 a.m.
Dept.: 1

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1 I, Bob H. Joyce declare,

2 1. I am an attorney at law, duly admitted to practice before all the courts of the State of
3 California and I am a partner in the law firm of LeBeau • Thelen, attorneys of record herein for plaintiff,
4 DIAMOND FARMING CO., in this matter. I am familiar with the aspects of this case, including all of
5 the matters which are set forth in this Declaration. If called upon to testify at the hearing of this motion,
6 I could and would competently testify to the following based upon my own personal knowledge.

7 2. This Declaration is being submitted in support of Diamond Farming's Motion to Compel
8 Further Responses of CALIFORNIA WATER SERVICE COMPANY, CITY OF LANCASTER, CITY
9 OF PALMDALE, LITTLEROCK CREEK IRRIGATION DISTRICT, PALMDALE WATER
10 DISTRICT, PALM RANCH IRRIGATION DISTRICT, QUARTZ HILL WATER DISTRICT to Form
11 Interrogatories [Set One] and Request for Admissions [Set One] and for monetary sanctions.

12 3. This is a coordinated action involving an action originally filed by Diamond Farming
13 Company in October of 1999. Thereafter, in November 2004, the Public Water Supplier, Los Angeles
14 County Waterworks District No. 40, sought leave to file a Cross-Complaint in the Riverside County
15 Superior Court action, converting Diamond Farming Company's quiet title action into a basin-wide
16 adjudication. That Motion for Leave to file that Cross-Complaint was denied, and thereafter, two new
17 actions were initiated, one in Los Angeles County and one in Kern County, on November 29, 2004 and
18 December 1, 2004, respectively. The proposed Cross-Complaint and both new Complaints alleged
19 claims of prescription against all named defendants and all Doe defendants within the Antelope Valley,
20 therein alleging that all landowners had "actual and/or constructive notice" of those prescriptive claims.

21 4. All actions were coordinated and are now before this court. Those two new actions have
22 in essence been replaced by a Cross-Complaint and now an Amended Cross-Complaint, both alleging
23 the same factual claim on the issue of prescription, that is, that all landowners had actual and/or
24 constructive notice of those claims. Diamond Farming Company has persistently argued that as to those
25 claims of prescription that evidence of the fact of, nature of, and quality of the evidence of notice
26 necessary to support that element of the prescription claim is and would be a core issue in this litigation.
27 The discovery which is the subject of this motion is directed at those very issues.

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1 5. On or about May 25, 2007, Diamond Farming Co., served Form Interrogatories [Set One]
2 and Request for Admissions [Set One] on defendants CALIFORNIA WATER SERVICE COMPANY,
3 CITY OF LANCASTER, CITY OF PALMDALE, LITTLEROCK CREEK IRRIGATION DISTRICT,
4 PALMDALE WATER DISTRICT, PALM RANCH IRRIGATION DISTRICT, QUARTZ HILL
5 WATER DISTRICT. A true and correct copy of Diamond Farming's Form Interrogatories [Set One] is
6 attached hereto as Exhibit A. A true and correct copy of Diamond Farming's Request for Admissions
7 [Set One] is attached hereto as Exhibit B.

8 6. A review of Diamond's Request for Admissions [Set One] and the accompanying Form
9 Interrogatories [Set One] demonstrate that the discovery is directed to factual issues involving the
10 prescriptive claims made by each Public Water Supplier in their Answers and Amended Cross-
11 Complaint. Each request seeks factual admissions that will likely have a bearing upon the propriety or
12 impropriety of each Public Water Suppliers' claim of prescription.

13 7. Twenty-six (26) days following service of this discovery, the Public Water Suppliers
14 collectively demanded that the discovery be withdrawn by letter dated June 20, 2007. On June 21, 2007,
15 that demand was rejected.

16 8. Thereafter, on June 26, 2007, each Public Water Supplier, served the same substantive
17 and virtually identical objections to each and every request for admission as follows:

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

21 A true and correct copy of California Water Service Company's Response to Request for
22 Admission [Set One] is attached hereto as Exhibit C; A true and correct copy of Palmdale Water
23 District's and Quartz Hill Water District's Response to Request for Admissions [Set One] is attached
24 hereto as Exhibit D; A true and correct copy of City of Palmdale's Response to Request for Admissions
25 [Set One] is attached hereto as Exhibit E; A true and correct copy of City of Lancaster's Response to
26 Request for Admissions [Set One] is attached hereto as Exhibit F; A true and correct copy of Palm
27 Ranch Irrigation District's Response to Request for Admissions [Set One] is attached hereto as Exhibit
28 G; A true and correct copy of Littlerock Creek Irrigation District's Response to Request for Admissions

1 [Set One] is attached hereto as Exhibit H.

2 9. On June 26, 2007, each Public Water Supplier, served the same substantive and virtually
3 identical objections to each and every form interrogatory as follows:

4 “All responses to requests for admissions are objections by legal counsel.”

5 A true and correct copy of California Water Service Company’s Response to Form
6 Interrogatories [Set One] is attached hereto as Exhibit I; A true and correct copy of Palmdale Water
7 District’s and Quartz Hill Water District’s Response to Form Interrogatories [Set One] is attached hereto
8 as Exhibit J; A true and correct copy of City of Palmdale’s Response to Form Interrogatories [Set One]
9 is attached hereto as Exhibit K; A true and correct copy of City of Lancaster’s Response to Form
10 Interrogatories [Set One] is attached hereto as Exhibit L; A true and correct copy of Palm Ranch
11 Irrigation District’s Response to Form Interrogatories [Set One] is attached hereto as Exhibit M; A true
12 and correct copy of Littlerock Creek Irrigation District’s Response to Form Interrogatories [Set One] is
13 attached hereto as Exhibit N.

14 10. Shortly after receiving these boilerplate responses, I initiated an effort to informally meet
15 and confer regarding the blanket objections to the written discovery as is required. In response to my
16 attempt, I was contacted by, and then communicated with, Keith Lemieux, attorney for Palmdale Water
17 District and Quartz Hill Water District, but achieved no resolution. Not having received any response
18 from any other Public Water Supplier and having confirmed with Mr. Lemieux that he could not speak
19 on behalf of all, I then sought an Ex Parte Application for a court order setting this court-supervised meet
20 and confer.

21 11. My Ex Parte Application was held telephonically on July 10, 2007, and this court then
22 granted that application and scheduled the court-supervised meet and confer to be held concurrently with
23 the upcoming Case Management Conference on July 20, 2007.

24 12. On July 20, 2007, the court-supervised meet and confer took place. The parties were
25 unable to reach a resolution at this conference, so the court ordered me to engage in further meet and
26 confer attempts.

27 13. Pursuant to the court’s order, I contacted counsel for each of the Public Water Suppliers
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1 to whom the discovery had been served to schedule appointments to conduct the further meet and confer
2 attempts. (Attached hereto as Exhibit O is a true and correct copy of my August 3, 2007 correspondence
3 to all counsel for the Public Water Suppliers.) As of the date of the filing of this motion, I have met and
4 conferred with counsel for each Public Water Supplier with the exception of counsel for Los Angeles
5 County Waterworks District No. 40 and Rosamond Community Services District.

6 14. On August 10, 2007, at great expense to my client, I traveled over 100 miles to attend a
7 scheduled meet and confer at the office of Keith Lemieux. As a result of this meeting, counsel for
8 CALIFORNIA WATER SERVICE COMPANY, CITY OF LANCASTER, CITY OF PALMDALE,
9 LITTLEROCK CREEK IRRIGATION DISTRICT, PALMDALE WATER DISTRICT, PALMRANCH
10 IRRIGATION DISTRICT, QUARTZ HILL WATER DISTRICT each stipulated that Diamond was
11 entitled to the responses but agreed to meet and confer at a future date to discuss the timing in which the
12 responses would be provided. Attached hereto as Exhibit P is a true and correct copy of the parties
13 written stipulation.

14 15. On September 10, 2007 a telephonic meet and confer took place with counsel for
15 CALIFORNIA WATER SERVICE COMPANY, CITY OF LANCASTER, CITY OF PALMDALE,
16 LITTLEROCK CREEK IRRIGATION DISTRICT, PALMDALE WATER DISTRICT, PALMRANCH
17 IRRIGATION DISTRICT, QUARTZ HILL WATER DISTRICT. During this meeting it was confirmed
18 that the parties could not agree upon a time deadline for service of the responses to Diamond's Form
19 Interrogatories [Set One] or Request for Admissions [Set One].

20 16. As a result of the Public Water Purveyors' willful refusal to comply with the Code of
21 Civil Procedure and properly respond to discovery, Diamond Farming is being prejudiced in its defense
22 and prosecution of this matter. The unreasonable delay of discovery is prejudicing Diamond because
23 other parties have been allowed to and did serve and receive responses to discovery. The unwarranted
24 delay is also prejudicing Diamond's ability to proceed with a dispositive motion and is impairing
25 Diamond's ability to properly evaluate this case for settlement and/or trial preparation.

26 17. As a further result of the Public Water Suppliers' refusal to comply with the discovery
27 process, Diamond Farming has incurred, and will incur, reasonable expenses and attorneys' fees in
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1 connection with the motion and hearing thereon as follows:

2 1) Three (3) hours of attorney time in the research and preparation of this motion, and the
3 supporting declaration and separate statement;

4 2) Two (2) hours anticipated time to review any opposition and draft a reply thereto;

5 3) \$40.00 fee for the filing of this motion.

6 Total \$1,415.00.

7 18. Declarant's billing rate on this file is \$275.00 per hour.

8 I declare under penalty of perjury under the laws of the State of California, that the foregoing is
9 true and correct, and that this Declaration was executed on September 12, 2007, at Bakersfield,
10 California.

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14 BOB H. JOYCE, ESQ.
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