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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

**SEPARATE STATEMENT 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**

[Filed concurrently with Plaintiff's Notice of
Motion and Motion, Points and Authorities
and Declaration of Bob H. Joyce]

Date: October 12, 2007

Time: 9:00 a.m.

Dept.: 1

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1 Pursuant to Rule 3.1020 of the California Rules of Court, plaintiff submits the following Separate
2 Statement to Form Interrogatories [Set One] and Request for Admissions [Set One] for which plaintiff
3 seeks a further response. The following are the Interrogatories and Requests, verbatim, the response
4 received, verbatim, and the reasons why further responses should be compelled.

5 **FORM INTERROGATORIES**

6 **FORM INTERROGATORY 1.1:**

7 State the name, ADDRESS, telephone number and relationship to you of each PERSON who
8 prepared or assisted in the preparation of the responses to these interrogatories. (*Do not identify anyone*
9 *who simply typed or reproduced these responses.*)

10 **Defendants' Response:**

11 All responses to Requests for Admissions are objections by legal counsel.

12 **Legal Authority in Support of Further Response:**

13 Code of Civil Procedure section 2030.220 requires each response to an interrogatory to be as
14 complete and straightforward as the information reasonably available permits. The asserted response
15 is evasive and nonsensical as the interrogatory posed is not contingent upon mutual responses to
16 plaintiff's Request for Admissions. Further, the information as to who prepared or assisted in the
17 preparation of these responses is within the knowledge of these entities, therefore they must be ordered
18 to provide a further response to this interrogatory.

19 **FORM INTERROGATORY 17.1:**

20 Is your response to each Request for Admission served with these Interrogatories an unqualified
21 admission? If not, for each response that is not an unqualified admission:

22 (a) state the number of the request;

23 (b) state all the facts upon which you base your response;

24 (c) state the name, ADDRESS, and telephone numbers of all PERSONS who have knowledge
25 of those facts; and

26 (d) identify all DOCUMENTS and other tangible things that support your response and state the
27 name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

1 **Defendant's Response:**

2 All responses to requests for admissions are objections by legal counsel.

3 **Legal Authority in Support of Further Response:**

4 Defendants have a duty to answer the Form Interrogatories as completely and straightforwardly
5 as possible given the information available to them. Section 2030.220 requires interrogatory answers
6 to meet the following standard of responsiveness: "Each answer in the responses shall be as complete
7 and straightforward as the information reasonably available to the responding party permits, If an
8 interrogatory cannot be answered completely, it shall be answered to the extent possible. The duty to
9 truthfully and fully respond had been described as follows: 'Parties must state the truth the whole truth
10 , and nothing but the truth in answering written interrogatories.'" (*Union Bank v. Superior Court* (1995)
11 31 Cal. App 4th 573, 580.)

12 A proper response required defendants to respond to subsections (a), (b), (c), and (d) for each
13 Response to a Request for Admission that was not an unqualified admission. Since defendants did not
14 answer 59 out of the 60 requests, they were obligated to respond for each of the 59 Requests and should
15 therefore be ordered to respond in the manner required by the Code of Civil Procedure.

16 **REQUESTS FOR ADMISSIONS**

17 **DEFINITIONS**

18 (a) **YOU** includes you, the responding party, your agents, your employees, your consultants,
19 their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting
20 on your behalf.

21 (b) **PERSON** includes a natural person, firm, association, organization, partnership, business
22 trust, limited liability company, corporation, or public entity.

23 (c) **BASIN** means the area located within the jurisdictional boundary of the Antelope Valley
24 Groundwater Cases as defined by the Revised Order After Hearing on Jurisdictional Boundary dated
25 March 12, 2007.

26 **REQUEST NO. 1:**

27 Admit that YOU are a PERSON as defined in the definitions above.

1 **Defendant's Response:**

2 Objection. This request is not reasonably calculated to lead to the discovery of admissible
3 evidence. The request is manifestly irrelevant and calculated to harass.

4 **Legal Authority in Support of Further Response:**

5 "For discovery purposes, information is relevant if it might reasonably assist a party in
6 evaluating the case, preparing for trial, or facilitating settlement. Admissibility is not the
7 test, and information, unless privileged, is discoverable if it might reasonably lead to
8 admissible evidence. These rules are applied liberally in favor of discovery, and
(contrary to popular belief) fishing expeditions are permissible in some cases." (*Stewart
v. Colonial Western Agency, Inc.*(2001) 87 Cal. App. 4th 1006, 1013.)

9 Here, Diamond has requested that each entity admit that it is a Person as defined under Section
10 175 of the Evidence Code. This information will assist Diamond's preparation for trial by eliminating
11 the necessity to present evidence and testimony establishing this fact at trial. There is no conceivable
12 reason why the Public Water Suppliers should not be compelled to respond to this request, especially
13 if they do not plan to contest this issue at trial.

14 "when a party is served with a request for admission concerning a legal question properly
15 raised in the pleadings he cannot object simply by asserting that the request calls for a
16 conclusion of law. He should make the admission if he is able to do so and does not in
17 good faith intend to contest the issue at trial, thereby 'setting at rest a triable issue.'
[Citation] Otherwise he should set forth in detail the reasons why he cannot truthfully
admit or deny the request." (*Burke v. Superior Court of Sacramento County* (1969) 71
Cal. 2d 276, 282.)

18 **REQUEST NO. 2:**

19 Admit that YOU are a public entity.

20 **Defendant's Response:**

21 California Water Service Company: Deny, California Water Service Company, a California
22 Corporation, owns and operates a public water system.

23 City of Palmdale: Admit.

24 City of Lancaster: Lancaster admits it is a municipal corporation.

25 Palm Ranch Irrigation District: Deny.

26 Littlerock Creek Irrigation District: Deny.

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1 **Legal Authority in Support of Further Response:**

2 Despite admitting and denying this request, none of these entities verified its response as required
3 by the Code of Civil Procedure section 2033.240.

4 “The responses were provided in this case but they were not verified. Unsworn
5 responses are tantamount to no responses at all.” (*Appleton v. Superior Court* (1988) 206
6 Cal. App. 3d 632, 636.)

7 Therefore, California Water Service Company, City of Palmdale, City of Lancaster, Palm Ranch
8 Irrigation District and Littlerock Creek Irrigation District must be compelled to provide a further
9 response that is properly verified.

9 **REQUEST NO. 3:**

10 Admit that YOU did not provide notice in writing to any landowner that your use of groundwater
11 from within the BASIN was adverse to their right to use groundwater before October 29, 1999.

12 **Defendant’s Response:**

13 Objection. The request is premature, burdensome and oppressive. This request seeks
14 information concerning class members and the court has not yet completed its class certification process.
15 No class representative has yet been approved by the court.

16 **Legal Authority in Support of Further Response:**

17 Defendants have the burden of justifying their objections or their failure to fully answer the
18 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
19 (1962) 58 Cal.2d 210, 220-221.)

20 “At the hearing of such a motion the burden is on the party interrogated, in this case the
21 defendants, ‘of showing facts from which the trial court might find that the
22 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
23 is on defendants to show that their objections are valid.” (*Columbia Broadcasting
24 System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

23 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
24 merit and are otherwise too general to preclude disclosure of the requested information.

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1. Premature

Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions may be propounded.

“(a) A defendant may make a request for admission by a party without leave of court at any time.

“(b) A plaintiff may make requests for admission by a party without leave of court at any time that is 10 days after the service of the summons on, or, in unlawful detainer actions, five days after service of the summons on, or appearance by, that party, whichever occurs first.”

Code of Civil Procedure section 2019.020 provides that there is no required sequence of discovery. In general, fairness demands adherence to the statutory procedures, since they were designed to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.) Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal basis or authority to assert this objection which is designed simply to avoid providing a response, thereby keeping the landowners in the dark as to their vaguely pled claims of prescription.

The premature claim also seeks to compromise the purpose of pretrial discovery which is to obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.) “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial; to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court* (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water Suppliers to provide information about their claim of prescription. This is information that they will have to provide in any event, prior to any resolution of their claim of prescription.

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2. Burdensome

The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to respond to Request for Admissions [Set One] because these entities cannot show that the burden of providing a response will result in injustice.

“[S]ome burden is inherent in all demands for discovery. The objection of burden is valid only when that burden is demonstrated to result in injustice. Hence, the trial court is not empowered to sustain an objection in toto, when the same is predicated upon burden, unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co. v. Superior Court* (1961) 56 Cal.2d 407, 418.)

In the present action, the Public Water Suppliers have alleged prescriptive claims against more than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the enormity of their own allegations under a claim of burden is improper and cannot be sustained.

The fact alone that the response to an interrogatory may be expensive and burdensome does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court* (1961) 56 Cal.2d 407, 417-418.)

3. Oppression

“[T]o support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of Los Angeles County* (1961) 56 Cal.2d 407, 417.)

The propounding of Request for Admissions [Set One] was not served with any ill intent. Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request relates directly to the allegations raised by the Public Water Suppliers through their various complaints, cross-complaints and answers. The burden on providing a response through discovery is no greater than the burden that must be born by these two entities at trial. If they are able to meet this burden, they should be compelled to do so now when such disclosure will help foster settlement and resolution of this matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial discovery. The information sought must be produced before trial and the court is not empowered to deny

1 Diamond’s discovery rights under this unsubstantiated claim of oppression.

2 “While it is true that the trial court has a broad discretion in passing on an objection that
3 there has been harassment and oppression [Citation], such discretion is not absolute. As
4 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
5 orders barring disclosure in toto when the factual situation indicates that a just and
6 equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
7 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

6 4. Objections Based on Class Certification

7 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
8 certification has not yet been completed. This objection holds no merit as the right to discovery prior
9 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
10 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
11 is both appropriate and permitted in order to ensure a fair hearing.

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

18 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
19 information about water purveyor class members. A plain reading of the request evidences that it was
20 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
21 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
22 future undefined class, a response is still warranted.

23 “Absent some specific showing by the objecting party to justify a contrary ruling, such
24 as privilege, a representative plaintiff can be compelled to supply his adversary with the
25 information about his class which is in his possession or readily available to him and
26 which is not equally available to an adversary. A representative plaintiff cannot be
27 compelled to supply information concerning members of his class or their interests in the
28 action which is neither in his possession nor control, unless the interrogatory is directly
related to his own standing to maintain the action, to the existence of an ascertainable
class, or to the existence of that community of interest which is required to sustain a class
action. [Citation] A representative cannot be compelled to respond to interrogatories

1 about any class member's separate claim as distinguished from the common claim of the
2 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

3 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
4 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
5 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
6 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
7 [Set One].

8 **REQUEST NO. 4:**

9 Admit that YOU did not provide notice in writing to any landowner that your use of groundwater
10 from within the BASIN was adverse to their title to their real property at any time before October 29,
11 1999.

12 **Defendant’s Response:**

13 Objection. The request is premature, burdensome and oppressive. This request seeks
14 information concerning class members and the court has not yet completed its class certification process.
15 No class representative has yet been approved by the court.

16 **Legal Authority in Support of Further Response:**

17 Defendants have the burden of justifying their objections or their failure to fully answer the
18 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
19 (1962) 58 Cal.2d 210, 220-221.)

20 “At the hearing of such a motion the burden is on the party interrogated, in this case the
21 defendants, ‘of showing facts from which the trial court might find that the
22 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

23 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
24 merit and are otherwise too general to preclude disclosure of the requested information.

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1 **2. Burdensome**

2 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
3 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
4 providing a response will result in injustice.

5 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
6 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
7 empowered to sustain an objection in toto, when the same is predicated upon burden,
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11 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
12 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
13 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
14 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

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3 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
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5 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
6 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
7 [Set One].

8 **REQUEST NO. 5:**

9 Admit that YOU did not provide notice in writing to any landowner that you claimed a
10 prescriptive right to use groundwater from within the BASIN before October 29, 1999.

11 **Defendant’s Response:**

12 Objection. The request is premature, burdensome and oppressive. This request seeks
13 information concerning class members and the court has not yet completed its class certification process.
14 No class representative has yet been approved by the court.

15 **Legal Authority in Support of Further Response:**

16 Defendants have the burden of justifying their objections or their failure to fully answer the
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21 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
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23 Suppliers to provide information about their claim of prescription. This is information that they will
24 have to provide in any event, prior to any resolution of their claim of prescription.

24 **2. Burdensome**

25 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
26 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
27 providing a response will result in injustice.

1 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
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6 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
7 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
8 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
9 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
10 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

11 The fact alone that the response to an interrogatory may be expensive and burdensome
12 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
13 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
14 *(1961) 56 Cal.2d 407, 417-418.*)

15 3. Oppression

16 “[T]o support an objection of oppression there must be some showing either of an intent
17 to create an unreasonable burden or that the ultimate effect of the burden is
18 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
19 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

20 The propounding of Request for Admissions [Set One] was not served with any ill intent.
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22 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
23 cross-complaints and answers. The burden on providing a response through discovery is no greater than
24 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
25 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
26 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
27 discovery. The information sought must be produced before trial and the court is not empowered to deny
28 Diamond’s discovery rights under this unsubstantiated claim of oppression.

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v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

5 **4. Objections Based on Class Certification**

6 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
7 certification has not yet been completed. This objection holds no merit as the right to discovery prior
8 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
9 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
10 is both appropriate and permitted in order to ensure a fair hearing.

11 “Appellate courts have recognized the importance of such orders by creating an
12 exception to the rule denying appellate review. ‘Whether the order is directly appealable
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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.

17 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
18 information about water purveyor class members. A plain reading of the request evidences that it was
19 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
20 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
21 future undefined class, a response is still warranted.

22 “Absent some specific showing by the objecting party to justify a contrary ruling, such
23 as privilege, a representative plaintiff can be compelled to supply his adversary with the
24 information about his class which is in his possession or readily available to him and
25 which is not equally available to an adversary. A representative plaintiff cannot be
26 compelled to supply information concerning members of his class or their interests in the
27 action which is neither in his possession nor control, unless the interrogatory is directly
28 related to his own standing to maintain the action, to the existence of an ascertainable
class, or to the existence of that community of interest which is required to sustain a class
action. [Citation] A representative cannot be compelled to respond to interrogatories
about any class member's separate claim as distinguished from the common claim of the
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1 may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine Mut. Water*
2 *Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

3 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
4 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
5 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
6 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
7 [Set One].

8 **REQUEST NO. 6:**

9 Admit that YOU have not physically trespassed upon any landowner’s property within the
10 BASIN.

11 **Defendant’s Response:**

12 Objection. The request is premature, burdensome and oppressive. This request seeks
13 information concerning class members and the court has not yet completed its class certification process.
14 No class representative has yet been approved by the court.

15 **Legal Authority in Support of Further Response:**

16 Defendants have the burden of justifying their objections or their failure to fully answer the
17 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
18 (1962) 58 Cal.2d 210, 220-221.)

19 “At the hearing of such a motion the burden is on the party interrogated, in this case the
20 defendants, ‘of showing facts from which the trial court might find that the
21 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting*
System, Inc. v. Superior Court of Los Angeles County (1968) 263 Cal.App.2d 12, 18.)

22 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
23 merit and are otherwise too general to preclude disclosure of the requested information.

24 **1. Premature**

25 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
26 may be propounded.

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1 “(a) A defendant may make a request for admission by a party without
2 leave of court at any time.

3 “(b) A plaintiff may make requests for admission by a party without leave
4 of court at any time that is 10 days after the service of the summons on,
5 or, in unlawful detainer actions, five days after service of the summons
6 on, or appearance by, that party, whichever occurs first.”

7 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
8 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
9 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
10 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
11 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
12 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
13 keeping the landowners in the dark as to their vaguely pled claims of prescription.

14 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
15 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
16 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
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23 Suppliers to provide information about their claim of prescription. This is information that they will
24 have to provide in any event, prior to any resolution of their claim of prescription.

24 **2. Burdensome**

25 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
26 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
27 providing a response will result in injustice.

1 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
2 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
3 empowered to sustain an objection in toto, when the same is predicated upon burden,
4 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
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6 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
7 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
8 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
9 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
10 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

11 The fact alone that the response to an interrogatory may be expensive and burdensome
12 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
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16 “[T]o support an objection of oppression there must be some showing either of an intent
17 to create an unreasonable burden or that the ultimate effect of the burden is
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25 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
26 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
27 discovery. The information sought must be produced before trial and the court is not empowered to deny
28 Diamond’s discovery rights under this unsubstantiated claim of oppression.

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4 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
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17 the court. In addition, each party should have an opportunity to conduct discovery on
18 class action issues before its documents in support of or in opposition to the motion must
19 be filed.” *Carabini, supra*, pp. 243-244.

20 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
21 information about water purveyor class members. A plain reading of the request evidences that it was
22 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
23 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
24 future undefined class, a response is still warranted.

25 “Absent some specific showing by the objecting party to justify a contrary ruling, such
26 as privilege, a representative plaintiff can be compelled to supply his adversary with the
27 information about his class which is in his possession or readily available to him and
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37 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
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1 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
2 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
3 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
4 [Set One].

5 **REQUEST NO. 7:**

6 Admit that when YOU first started using groundwater from within the BASIN, that your then
7 use was at that time lawful.

8 **Defendant’s Response:**

9 Objection. The request is premature, burdensome and oppressive. This request seeks
10 information concerning class members and the court has not yet completed its class certification process.
11 No class representative has yet been approved by the court.

12 **Legal Authority in Support of Further Response:**

13 Defendants have the burden of justifying their objections or their failure to fully answer the
14 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
15 (1962) 58 Cal.2d 210, 220-221.)

16 “At the hearing of such a motion the burden is on the party interrogated, in this case the
17 defendants, ‘of showing facts from which the trial court might find that the
18 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

19 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
20 merit and are otherwise too general to preclude disclosure of the requested information.

21 **1. Premature**

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23 may be propounded.

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3 or, in unlawful detainer actions, five days after service of the summons
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7 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
8 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
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10 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
11 keeping the landowners in the dark as to their vaguely pled claims of prescription.

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13 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
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22 have to provide in any event, prior to any resolution of their claim of prescription.

23 **2. Burdensome**

24 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
25 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
26 providing a response will result in injustice.

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5 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
6 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
7 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

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24 Diamond's discovery rights under this unsubstantiated claim of oppression.

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30 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
31 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the

1 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
2 [Set One].

3 **REQUEST NO. 8:**

4 Admit that when YOU first started using groundwater from within the BASIN, that your then
5 use was not adverse to the overlying right of any landowner.

6 **Defendant’s Response:**

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

10 **Legal Authority in Support of Further Response:**

11 Defendants have the burden of justifying their objections or their failure to fully answer the
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10 Los Angeles County* (1961) 56 Cal.2d 407, 417.)

10 The propounding of Request for Admissions [Set One] was not served with any ill intent.
11 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
12 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
13 cross-complaints and answers. The burden on providing a response through discovery is no greater than
14 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
15 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
16 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
17 discovery. The information sought must be produced before trial and the court is not empowered to deny
18 Diamond’s discovery rights under this unsubstantiated claim of oppression.

19 “While it is true that the trial court has a broad discretion in passing on an objection that
20 there has been harassment and oppression [Citation], such discretion is not absolute. As
21 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
22 orders barring disclosure in toto when the factual situation indicates that a just and
23 equitable order could be made that would authorize disclosure with limitations.’” (*Coy
24 v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

23 **4. Objections Based on Class Certification**

24 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
25 certification has not yet been completed. This objection holds no merit as the right to discovery prior
26 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The
27 Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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1 is both appropriate and permitted in order to ensure a fair hearing.

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

8 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
9 information about water purveyor class members. A plain reading of the request evidences that it was
10 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
11 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
12 future undefined class, a response is still warranted.

13 “Absent some specific showing by the objecting party to justify a contrary ruling, such
14 as privilege, a representative plaintiff can be compelled to supply his adversary with the
15 information about his class which is in his possession or readily available to him and
16 which is not equally available to an adversary. A representative plaintiff cannot be
17 compelled to supply information concerning members of his class or their interests in the
18 action which is neither in his possession nor control, unless the interrogatory is directly
19 related to his own standing to maintain the action, to the existence of an ascertainable
20 class, or to the existence of that community of interest which is required to sustain a class
21 action. [Citation] A representative cannot be compelled to respond to interrogatories
22 about any class member's separate claim as distinguished from the common claim of the
23 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
24 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

20 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
21 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
22 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
23 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
24 [Set One].

25 **REQUEST NO. 9:**

26 Admit that when YOU first started using groundwater from within the BASIN, you were not
27 invading the overlying right of any landowner.

1 **Defendant's Response:**

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

5 **Legal Authority in Support of Further Response:**

6 Defendants have the burden of justifying their objections or their failure to fully answer the
7 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
8 (1962) 58 Cal.2d 210, 220-221.)

9 “At the hearing of such a motion the burden is on the party interrogated, in this case the
10 defendants, ‘of showing facts from which the trial court might find that the
11 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

12 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
13 merit and are otherwise too general to preclude disclosure of the requested information.

14 **1. Premature**

15 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
16 may be propounded.

17 “(a) A defendant may make a request for admission by a party without
18 leave of court at any time.

19 “(b) A plaintiff may make requests for admission by a party without leave
20 of court at any time that is 10 days after the service of the summons on,
21 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

22 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
23 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
24 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)

25 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
26 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
27 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
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1 keeping the landowners in the dark as to their vaguely pled claims of prescription.

2 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
3 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
4 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
5 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
6 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
7 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
8 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
9 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
10 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
11 Suppliers to provide information about their claim of prescription. This is information that they will
12 have to provide in any event, prior to any resolution of their claim of prescription.

13 2. Burdensome

14 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
15 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
16 providing a response will result in injustice.

17 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
18 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
19 empowered to sustain an objection in toto, when the same is predicated upon burden,
unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
v. Superior Court (1961) 56 Cal.2d 407, 418.)

20 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
21 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
22 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
23 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
24 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

25 The fact alone that the response to an interrogatory may be expensive and burdensome
26 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
County (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
27 (1961) 56 Cal.2d 407, 417-418.)

1 **3. Oppression**

2 “[T]o support an objection of oppression there must be some showing either of an intent
3 to create an unreasonable burden or that the ultimate effect of the burden is
4 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
5 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

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10 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
11 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
12 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
13 discovery. The information sought must be produced before trial and the court is not empowered to deny
14 Diamond’s discovery rights under this unsubstantiated claim of oppression.

15 “While it is true that the trial court has a broad discretion in passing on an objection that
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20 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

21 **4. Objections Based on Class Certification**

22 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
23 certification has not yet been completed. This objection holds no merit as the right to discovery prior
24 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
25 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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27 “Appellate courts have recognized the importance of such orders by creating an
28 exception to the rule denying appellate review. ‘Whether the order is directly appealable
29 or we treat this as a petition for writ of mandate, the issue of the class certification order
30 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
31 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
32 Due process requires an order with such significant impact on the viability of a case not
33 be made without a full opportunity to brief the issues and present evidence. This is true

1 whether the issue is presented in a motion or by way of an order to show case issued by
2 the court. In addition, each party should have an opportunity to conduct discovery on
3 class action issues before its documents in support of or in opposition to the motion must
4 be filed.” *Carabini, supra*, pp. 243-244.

5 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
6 information about water purveyor class members. A plain reading of the request evidences that it was
7 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
8 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
9 future undefined class, a response is still warranted.

10 “Absent some specific showing by the objecting party to justify a contrary ruling, such
11 as privilege, a representative plaintiff can be compelled to supply his adversary with the
12 information about his class which is in his possession or readily available to him and
13 which is not equally available to an adversary. A representative plaintiff cannot be
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20 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
21 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

22 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
23 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
24 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
25 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
26 [Set One].

27 **REQUEST NO. 10:**

28 Admit that before October 29, 1999, YOU were not asserting an adverse claim of right to use
groundwater from within the BASIN.

Defendant’s Response:

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

1 **Legal Authority in Support of Further Response:**

2 Defendants have the burden of justifying their objections or their failure to fully answer the
3 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
4 (1962) 58 Cal.2d 210, 220-221.)

5 “At the hearing of such a motion the burden is on the party interrogated, in this case the
6 defendants, ‘of showing facts from which the trial court might find that the
7 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting*
System, Inc. v. Superior Court of Los Angeles County (1968) 263 Cal.App.2d 12, 18.)

8 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
9 merit and are otherwise too general to preclude disclosure of the requested information.

10 **1. Premature**

11 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
12 may be propounded.

13 “(a) A defendant may make a request for admission by a party without
14 leave of court at any time.

15 “(b) A plaintiff may make requests for admission by a party without leave
16 of court at any time that is 10 days after the service of the summons on,
or, in unlawful detainer actions, five days after service of the summons
17 on, or appearance by, that party, whichever occurs first.”

18 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
19 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
20 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
21 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
22 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
23 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
24 keeping the landowners in the dark as to their vaguely pled claims of prescription.

25 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
26 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)

27 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
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1 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
2 to prevent delay; and to safeguard against surprise. [Citations.]" (*Britts v. Superior Court* (2006) 145
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4 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
5 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
6 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
7 Suppliers to provide information about their claim of prescription. This is information that they will
8 have to provide in any event, prior to any resolution of their claim of prescription.

9 **2. Burdensome**

10 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
11 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
12 providing a response will result in injustice.

13 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
14 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
15 empowered to sustain an objection in toto, when the same is predicated upon burden,
16 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
17 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

18 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
19 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
20 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
21 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
22 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

23 The fact alone that the response to an interrogatory may be expensive and burdensome
24 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
25 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
26 (1961) 56 Cal.2d 407, 417-418.)

27 **3. Oppression**

28 "[T]o support an objection of oppression there must be some showing either of an intent
to create an unreasonable burden or that the ultimate effect of the burden is
incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
Los Angeles County (1961) 56 Cal.2d 407, 417.)

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2 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
3 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
4 cross-complaints and answers. The burden on providing a response through discovery is no greater than
5 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
6 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
7 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
8 discovery. The information sought must be produced before trial and the court is not empowered to deny
9 Diamond's discovery rights under this unsubstantiated claim of oppression.

10 "While it is true that the trial court has a broad discretion in passing on an objection that
11 there has been harassment and oppression [Citation], such discretion is not absolute. As
12 was said in *Cembrook*, such discretion does not authorize the trial court 'to make blanket
13 orders barring disclosure in toto when the factual situation indicates that a just and
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v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

14 **4. Objections Based on Class Certification**

15 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
16 certification has not yet been completed. This objection holds no merit as the right to discovery prior
17 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
18 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
19 is both appropriate and permitted in order to ensure a fair hearing.

20 "Appellate courts have recognized the importance of such orders by creating an
21 exception to the rule denying appellate review. 'Whether the order is directly appealable
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23 is and should be before us.' (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
24 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
25 Due process requires an order with such significant impact on the viability of a case not
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27 the court. In addition, each party should have an opportunity to conduct discovery on
28 class action issues before its documents in support of or in opposition to the motion must
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26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
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1 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
2 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
3 future undefined class, a response is still warranted.

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16 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
17 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
18 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
19 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
20 [Set One].

21 **REQUEST NO. 11:**

22 Admit that before October 29, 1999, no landowner had actual notice that YOU were asserting
23 an adverse claim of right to use groundwater from within the BASIN.

24 **Defendant’s Response:**

25 Objection. The request is premature, burdensome and oppressive. This request seeks
26 information concerning class members and the court has not yet completed its class certification process.
27 No class representative has yet been approved by the court.

28 **Legal Authority in Support of Further Response:**

Defendants have the burden of justifying their objections or their failure to fully answer the
discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
(1962) 58 Cal.2d 210, 220-221.)

“At the hearing of such a motion the burden is on the party interrogated, in this case the

1 defendants, 'of showing facts from which the trial court might find that the
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5 merit and are otherwise too general to preclude disclosure of the requested information.

6 **1. Premature**

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15 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
16 to place the parties "on roughly equal footing." (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
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18 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
19 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
20 keeping the landowners in the dark as to their vaguely pled claims of prescription.

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22 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
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1 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
2 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
3 Suppliers to provide information about their claim of prescription. This is information that they will
4 have to provide in any event, prior to any resolution of their claim of prescription.

5 **2. Burdensome**

6 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
7 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
8 providing a response will result in injustice.

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10 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
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15 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
16 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
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19 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
20 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
21 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
22 whether the issue is presented in a motion or by way of an order to show case issued by
23 the court. In addition, each party should have an opportunity to conduct discovery on
24 class action issues before its documents in support of or in opposition to the motion must
25 be filed.” *Carabini, supra*, pp. 243-244.

26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
28 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
future undefined class, a response is still warranted.

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1 “Absent some specific showing by the objecting party to justify a contrary ruling, such
2 as privilege, a representative plaintiff can be compelled to supply his adversary with the
3 information about his class which is in his possession or readily available to him and
4 which is not equally available to an adversary. A representative plaintiff cannot be
5 compelled to supply information concerning members of his class or their interests in the
6 action which is neither in his possession nor control, unless the interrogatory is directly
7 related to his own standing to maintain the action, to the existence of an ascertainable
8 class, or to the existence of that community of interest which is required to sustain a class
9 action. [Citation] A representative cannot be compelled to respond to interrogatories
10 about any class member's separate claim as distinguished from the common claim of the
11 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
12 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

8 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
9 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
10 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
11 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
12 [Set One].

13 **REQUEST NO. 12:**

14 Admit that before October 29, 1999, no landowner had constructive notice that YOU were
15 asserting an adverse claim of right to use groundwater from within the BASIN.

16 **Defendant’s Response:**

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

20 **Legal Authority in Support of Further Response:**

21 Defendants have the burden of justifying their objections or their failure to fully answer the
22 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
23 (1962) 58 Cal.2d 210, 220-221.)

24 “At the hearing of such a motion the burden is on the party interrogated, in this case the
25 defendants, ‘of showing facts from which the trial court might find that the
26 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
27 is on defendants to show that their objections are valid.” (*Columbia Broadcasting
28 System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

27 Defendants will be unable to satisfy this burden because the objections asserted to this request have no

1 merit and are otherwise too general to preclude disclosure of the requested information.

2 **1. Premature**

3 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
4 may be propounded.

5 “(a) A defendant may make a request for admission by a party without
6 leave of court at any time.

7 “(b) A plaintiff may make requests for admission by a party without leave
8 of court at any time that is 10 days after the service of the summons on,
9 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

10 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
11 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
12 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
13 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
14 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
15 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
16 keeping the landowners in the dark as to their vaguely pled claims of prescription.

17 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
18 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
19 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
20 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
21 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
22 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
23 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
24 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
25 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
26 Suppliers to provide information about their claim of prescription. This is information that they will
27 have to provide in any event, prior to any resolution of their claim of prescription.

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2. Burdensome

The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to respond to Request for Admissions [Set One] because these entities cannot show that the burden of providing a response will result in injustice.

“[S]ome burden is inherent in all demands for discovery. The objection of burden is valid only when that burden is demonstrated to result in injustice. Hence, the trial court is not empowered to sustain an objection in toto, when the same is predicated upon burden, unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co. v. Superior Court* (1961) 56 Cal.2d 407, 418.)

In the present action, the Public Water Suppliers have alleged prescriptive claims against more than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the enormity of their own allegations under a claim of burden is improper and cannot be sustained.

The fact alone that the response to an interrogatory may be expensive and burdensome does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court* (1961) 56 Cal.2d 407, 417-418.)

3. Oppression

“[T]o support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of Los Angeles County* (1961) 56 Cal.2d 407, 417.)

The propounding of Request for Admissions [Set One] was not served with any ill intent. Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request relates directly to the allegations raised by the Public Water Suppliers through their various complaints, cross-complaints and answers. The burden on providing a response through discovery is no greater than the burden that must be born by these two entities at trial. If they are able to meet this burden, they should be compelled to do so now when such disclosure will help foster settlement and resolution of this matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial discovery. The information sought must be produced before trial and the court is not empowered to deny

1 Diamond’s discovery rights under this unsubstantiated claim of oppression.

2 “While it is true that the trial court has a broad discretion in passing on an objection that
3 there has been harassment and oppression [Citation], such discretion is not absolute. As
4 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
5 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

6 **4. Objections Based on Class Certification**

7 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
8 certification has not yet been completed. This objection holds no merit as the right to discovery prior
9 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
10 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
11 is both appropriate and permitted in order to ensure a fair hearing.

12 “Appellate courts have recognized the importance of such orders by creating an
13 exception to the rule denying appellate review. ‘Whether the order is directly appealable
14 or we treat this as a petition for writ of mandate, the issue of the class certification order
15 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
16 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
17 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
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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.

18 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
19 information about water purveyor class members. A plain reading of the request evidences that it was
20 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
21 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
22 future undefined class, a response is still warranted.

23 “Absent some specific showing by the objecting party to justify a contrary ruling, such
24 as privilege, a representative plaintiff can be compelled to supply his adversary with the
25 information about his class which is in his possession or readily available to him and
26 which is not equally available to an adversary. A representative plaintiff cannot be
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28 action which is neither in his possession nor control, unless the interrogatory is directly
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1 about any class member's separate claim as distinguished from the common claim of the
2 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
Mut. Water Co. v. Superior Court of Ventura County (1968) 259 Cal.App.2d 45, 54-55.)

3 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
4 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
5 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
6 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
7 [Set One].

8 **REQUEST NO. 13:**

9 Admit that as of January 1, 1985, YOU knew that the groundwater supply of the BASIN was
10 being overdrafted.

11 **Defendant’s Response:**

12 Objection. The request is premature, burdensome and oppressive. This request seeks
13 information concerning class members and the court has not yet completed its class certification process.
14 No class representative has yet been approved by the court.

15 **Legal Authority in Support of Further Response:**

16 Defendants have the burden of justifying their objections or their failure to fully answer the
17 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
18 (1962) 58 Cal.2d 210, 220-221.)

19 “At the hearing of such a motion the burden is on the party interrogated, in this case the
20 defendants, ‘of showing facts from which the trial court might find that the
21 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting*
System, Inc. v. Superior Court of Los Angeles County (1968) 263 Cal.App.2d 12, 18.)

22 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
23 merit and are otherwise too general to preclude disclosure of the requested information.

24 **1. Premature**

25 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
26 may be propounded.

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1 “(a) A defendant may make a request for admission by a party without
2 leave of court at any time.

3 “(b) A plaintiff may make requests for admission by a party without leave
4 of court at any time that is 10 days after the service of the summons on,
5 or, in unlawful detainer actions, five days after service of the summons
6 on, or appearance by, that party, whichever occurs first.”

7 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
8 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
9 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
10 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
11 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
12 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
13 keeping the landowners in the dark as to their vaguely pled claims of prescription.

14 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
15 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
16 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
17 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
18 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
19 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
20 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
21 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
22 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
23 Suppliers to provide information about their claim of prescription. This is information that they will
24 have to provide in any event, prior to any resolution of their claim of prescription.

24 **2. Burdensome**

25 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
26 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
27 providing a response will result in injustice.

1 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
2 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
3 empowered to sustain an objection in toto, when the same is predicated upon burden,
4 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
5 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

6 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
7 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
8 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
9 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
10 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

11 The fact alone that the response to an interrogatory may be expensive and burdensome
12 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
13 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
14 (1961) 56 Cal.2d 407, 417-418.)

15 3. Oppression

16 “[T]o support an objection of oppression there must be some showing either of an intent
17 to create an unreasonable burden or that the ultimate effect of the burden is
18 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
19 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

20 The propounding of Request for Admissions [Set One] was not served with any ill intent.
21 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
22 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
23 cross-complaints and answers. The burden on providing a response through discovery is no greater than
24 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
25 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
26 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
27 discovery. The information sought must be produced before trial and the court is not empowered to deny
28 Diamond’s discovery rights under this unsubstantiated claim of oppression.

“While it is true that the trial court has a broad discretion in passing on an objection that
there has been harassment and oppression [Citation], such discretion is not absolute. As
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orders barring disclosure in toto when the factual situation indicates that a just and

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2 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

3 **4. Objections Based on Class Certification**

4 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
5 certification has not yet been completed. This objection holds no merit as the right to discovery prior
6 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
7 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
8 is both appropriate and permitted in order to ensure a fair hearing.

9 “Appellate courts have recognized the importance of such orders by creating an
10 exception to the rule denying appellate review. ‘Whether the order is directly appealable
11 or we treat this as a petition for writ of mandate, the issue of the class certification order
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13 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
14 Due process requires an order with such significant impact on the viability of a case not
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16 whether the issue is presented in a motion or by way of an order to show case issued by
17 the court. In addition, each party should have an opportunity to conduct discovery on
18 class action issues before its documents in support of or in opposition to the motion must
19 be filed.” *Carabini, supra*, pp. 243-244.

20 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
21 information about water purveyor class members. A plain reading of the request evidences that it was
22 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
23 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
24 future undefined class, a response is still warranted.

25 “Absent some specific showing by the objecting party to justify a contrary ruling, such
26 as privilege, a representative plaintiff can be compelled to supply his adversary with the
27 information about his class which is in his possession or readily available to him and
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31 related to his own standing to maintain the action, to the existence of an ascertainable
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35 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
36 *Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

37 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
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1 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
2 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
3 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
4 [Set One].

5 **REQUEST NO. 14:**

6 Admit that as of January 1, 1986, YOU knew that the groundwater supply of the BASIN was
7 being overdrafted.

8 **Defendant’s Response:**

9 Objection. The request is premature, burdensome and oppressive. This request seeks
10 information concerning class members and the court has not yet completed its class certification process.
11 No class representative has yet been approved by the court.

12 **Legal Authority in Support of Further Response:**

13 Defendants have the burden of justifying their objections or their failure to fully answer the
14 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
15 (1962) 58 Cal.2d 210, 220-221.)

16 “At the hearing of such a motion the burden is on the party interrogated, in this case the
17 defendants, ‘of showing facts from which the trial court might find that the
18 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

19 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
20 merit and are otherwise too general to preclude disclosure of the requested information.

21 **1. Premature**

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23 may be propounded.

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25 leave of court at any time.

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10 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
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21 Suppliers to provide information about their claim of prescription. This is information that they will
22 have to provide in any event, prior to any resolution of their claim of prescription.

23 **2. Burdensome**

24 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
25 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
26 providing a response will result in injustice.

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28 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
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4 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
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25 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
26 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
27 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the

1 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
2 [Set One].

3 **REQUEST NO. 15:**

4 Admit that as of January 1, 1987, YOU knew that the groundwater supply of the BASIN was
5 being overdrafted.

6 **Defendant’s Response:**

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

10 **Legal Authority in Support of Further Response:**

11 Defendants have the burden of justifying their objections or their failure to fully answer the
12 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
13 (1962) 58 Cal.2d 210, 220-221.)

14 “At the hearing of such a motion the burden is on the party interrogated, in this case the
15 defendants, ‘of showing facts from which the trial court might find that the
16 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

17 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
18 merit and are otherwise too general to preclude disclosure of the requested information.

19 **1. Premature**

20 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
21 may be propounded.

22 “(a) A defendant may make a request for admission by a party without
23 leave of court at any time.

24 “(b) A plaintiff may make requests for admission by a party without leave
25 of court at any time that is 10 days after the service of the summons on,
26 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

27 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
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1 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
2 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
3 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
4 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
5 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
6 keeping the landowners in the dark as to their vaguely pled claims of prescription.

7 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
8 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
9 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
10 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
11 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
12 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
13 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
14 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
15 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
16 Suppliers to provide information about their claim of prescription. This is information that they will
17 have to provide in any event, prior to any resolution of their claim of prescription.

18 2. Burdensome

19 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
20 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
21 providing a response will result in injustice.

22 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
23 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
24 empowered to sustain an objection in toto, when the same is predicated upon burden,
25 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
26 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

27 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
28 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their

1 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
2 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

3 The fact alone that the response to an interrogatory may be expensive and burdensome
4 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura
County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
5 (1961) 56 Cal.2d 407, 417-418.)

6 **3. Oppression**

7 “[T]o support an objection of oppression there must be some showing either of an intent
8 to create an unreasonable burden or that the ultimate effect of the burden is
9 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of
Los Angeles County* (1961) 56 Cal.2d 407, 417.)

10 The propounding of Request for Admissions [Set One] was not served with any ill intent.
11 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
12 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
13 cross-complaints and answers. The burden on providing a response through discovery is no greater than
14 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
15 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
16 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
17 discovery. The information sought must be produced before trial and the court is not empowered to deny
18 Diamond’s discovery rights under this unsubstantiated claim of oppression.

19 “While it is true that the trial court has a broad discretion in passing on an objection that
20 there has been harassment and oppression [Citation], such discretion is not absolute. As
21 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
22 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.’” (*Coy
v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

23 **4. Objections Based on Class Certification**

24 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
25 certification has not yet been completed. This objection holds no merit as the right to discovery prior
26 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The
27 Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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1 is both appropriate and permitted in order to ensure a fair hearing.

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

8 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
9 information about water purveyor class members. A plain reading of the request evidences that it was
10 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
11 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
12 future undefined class, a response is still warranted.

13 “Absent some specific showing by the objecting party to justify a contrary ruling, such
14 as privilege, a representative plaintiff can be compelled to supply his adversary with the
15 information about his class which is in his possession or readily available to him and
16 which is not equally available to an adversary. A representative plaintiff cannot be
17 compelled to supply information concerning members of his class or their interests in the
18 action which is neither in his possession nor control, unless the interrogatory is directly
19 related to his own standing to maintain the action, to the existence of an ascertainable
20 class, or to the existence of that community of interest which is required to sustain a class
21 action. [Citation] A representative cannot be compelled to respond to interrogatories
22 about any class member's separate claim as distinguished from the common claim of the
23 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
24 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

20 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
21 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
22 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
23 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
24 [Set One].

25 **REQUEST NO. 16:**

26 Admit that as of January 1, 1988, YOU knew that the groundwater supply of the BASIN was
27 being overdrafted.

1 **Defendant's Response:**

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

5 **Legal Authority in Support of Further Response:**

6 Defendants have the burden of justifying their objections or their failure to fully answer the
7 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
8 (1962) 58 Cal.2d 210, 220-221.)

9 “At the hearing of such a motion the burden is on the party interrogated, in this case the
10 defendants, ‘of showing facts from which the trial court might find that the
11 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

12 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
13 merit and are otherwise too general to preclude disclosure of the requested information.

14 **1. Premature**

15 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
16 may be propounded.

17 “(a) A defendant may make a request for admission by a party without
18 leave of court at any time.

19 “(b) A plaintiff may make requests for admission by a party without leave
20 of court at any time that is 10 days after the service of the summons on,
21 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

22 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
23 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
24 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)

25 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
26 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
27 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
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1 keeping the landowners in the dark as to their vaguely pled claims of prescription.

2 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
3 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
4 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
5 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
6 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
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8 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
9 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
10 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
11 Suppliers to provide information about their claim of prescription. This is information that they will
12 have to provide in any event, prior to any resolution of their claim of prescription.

13 2. Burdensome

14 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
15 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
16 providing a response will result in injustice.

17 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
18 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
19 empowered to sustain an objection in toto, when the same is predicated upon burden,
unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
v. Superior Court (1961) 56 Cal.2d 407, 418.)

20 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
21 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
22 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
23 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
24 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

25 The fact alone that the response to an interrogatory may be expensive and burdensome
26 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
County (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
27 (1961) 56 Cal.2d 407, 417-418.)

1 **3. Oppression**

2 “[T]o support an objection of oppression there must be some showing either of an intent
3 to create an unreasonable burden or that the ultimate effect of the burden is
4 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
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17 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
18 orders barring disclosure in toto when the factual situation indicates that a just and
19 equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
20 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

21 **4. Objections Based on Class Certification**

22 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
23 certification has not yet been completed. This objection holds no merit as the right to discovery prior
24 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
25 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
26 is both appropriate and permitted in order to ensure a fair hearing.

27 “Appellate courts have recognized the importance of such orders by creating an
28 exception to the rule denying appellate review. ‘Whether the order is directly appealable
29 or we treat this as a petition for writ of mandate, the issue of the class certification order
30 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
31 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
32 Due process requires an order with such significant impact on the viability of a case not
33 be made without a full opportunity to brief the issues and present evidence. This is true

1 whether the issue is presented in a motion or by way of an order to show case issued by
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3 class action issues before its documents in support of or in opposition to the motion must
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5 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
6 information about water purveyor class members. A plain reading of the request evidences that it was
7 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
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23 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
24 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
25 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
26 [Set One].

27 **REQUEST NO. 17:**

28 Admit that as of January 1, 1989, YOU knew that the groundwater supply of the BASIN was
being overdrafted.

Defendant’s Response:

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

1 **Legal Authority in Support of Further Response:**

2 Defendants have the burden of justifying their objections or their failure to fully answer the
3 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
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8 have to provide in any event, prior to any resolution of their claim of prescription.

9 **2. Burdensome**

10 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
11 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
12 providing a response will result in injustice.

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19 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
20 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
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18 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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23 is and should be before us.' (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
24 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
25 Due process requires an order with such significant impact on the viability of a case not
26 be made without a full opportunity to brief the issues and present evidence. This is true
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28 the court. In addition, each party should have an opportunity to conduct discovery on
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26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
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2 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
3 future undefined class, a response is still warranted.

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16 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
17 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
18 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
19 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
20 [Set One].

21 **REQUEST NO. 18:**

22 Admit that as of January 1, 1990, YOU knew that the groundwater supply of the BASIN was
23 being overdrafted.

24 **Defendant’s Response:**

25 Objection. The request is premature, burdensome and oppressive. This request seeks
26 information concerning class members and the court has not yet completed its class certification process.
27 No class representative has yet been approved by the court.

28 **Legal Authority in Support of Further Response:**

Defendants have the burden of justifying their objections or their failure to fully answer the
discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
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2 defendants, ‘of showing facts from which the trial court might find that the
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5 merit and are otherwise too general to preclude disclosure of the requested information.

6 **1. Premature**

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8 may be propounded.

9 “(a) A defendant may make a request for admission by a party without
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15 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
16 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
17 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
18 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
19 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
20 keeping the landowners in the dark as to their vaguely pled claims of prescription.

21 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
22 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
23 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
24 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
25 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
26 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
27 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
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1 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
2 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
3 Suppliers to provide information about their claim of prescription. This is information that they will
4 have to provide in any event, prior to any resolution of their claim of prescription.

5 **2. Burdensome**

6 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
7 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
8 providing a response will result in injustice.

9 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
10 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
11 empowered to sustain an objection in toto, when the same is predicated upon burden,
12 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
13 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

14 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
15 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
16 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
17 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
18 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

19 The fact alone that the response to an interrogatory may be expensive and burdensome
20 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
21 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
22 (1961) 56 Cal.2d 407, 417-418.)

23 **3. Oppression**

24 “[T]o support an objection of oppression there must be some showing either of an intent
25 to create an unreasonable burden or that the ultimate effect of the burden is
26 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
27 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

28 The propounding of Request for Admissions [Set One] was not served with any ill intent.
29 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
30 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
31 cross-complaints and answers. The burden on providing a response through discovery is no greater than

1 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
2 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
3 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
4 discovery. The information sought must be produced before trial and the court is not empowered to deny
5 Diamond’s discovery rights under this unsubstantiated claim of oppression.

6 “While it is true that the trial court has a broad discretion in passing on an objection that
7 there has been harassment and oppression [Citation], such discretion is not absolute. As
8 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
9 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

10 **4. Objections Based on Class Certification**

11 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
12 certification has not yet been completed. This objection holds no merit as the right to discovery prior
13 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
14 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
15 is both appropriate and permitted in order to ensure a fair hearing.

16 “Appellate courts have recognized the importance of such orders by creating an
17 exception to the rule denying appellate review. ‘Whether the order is directly appealable
18 or we treat this as a petition for writ of mandate, the issue of the class certification order
19 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
20 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
21 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
22 whether the issue is presented in a motion or by way of an order to show case issued by
23 the court. In addition, each party should have an opportunity to conduct discovery on
24 class action issues before its documents in support of or in opposition to the motion must
25 be filed.” *Carabini, supra*, pp. 243-244.

26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
28 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
future undefined class, a response is still warranted.

///

1 “Absent some specific showing by the objecting party to justify a contrary ruling, such
2 as privilege, a representative plaintiff can be compelled to supply his adversary with the
3 information about his class which is in his possession or readily available to him and
4 which is not equally available to an adversary. A representative plaintiff cannot be
5 compelled to supply information concerning members of his class or their interests in the
6 action which is neither in his possession nor control, unless the interrogatory is directly
7 related to his own standing to maintain the action, to the existence of an ascertainable
8 class, or to the existence of that community of interest which is required to sustain a class
9 action. [Citation] A representative cannot be compelled to respond to interrogatories
10 about any class member's separate claim as distinguished from the common claim of the
11 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
12 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

8 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
9 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
10 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
11 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
12 [Set One].

13 **REQUEST NO. 19:**

14 Admit that as of January 1, 1991, YOU knew that the groundwater supply of the BASIN was
15 being overdrafted.

16 **Defendant’s Response:**

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

20 **Legal Authority in Support of Further Response:**

21 Defendants have the burden of justifying their objections or their failure to fully answer the
22 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
23 (1962) 58 Cal.2d 210, 220-221.)

24 “At the hearing of such a motion the burden is on the party interrogated, in this case the
25 defendants, ‘of showing facts from which the trial court might find that the
26 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
27 is on defendants to show that their objections are valid.” (*Columbia Broadcasting
28 System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

27 Defendants will be unable to satisfy this burden because the objections asserted to this request have no

1 merit and are otherwise too general to preclude disclosure of the requested information.

2 **1. Premature**

3 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
4 may be propounded.

5 “(a) A defendant may make a request for admission by a party without
6 leave of court at any time.

7 “(b) A plaintiff may make requests for admission by a party without leave
8 of court at any time that is 10 days after the service of the summons on,
9 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

10 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
11 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
12 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
13 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
14 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
15 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
16 keeping the landowners in the dark as to their vaguely pled claims of prescription.

17 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
18 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
19 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
20 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
21 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
22 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
23 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
24 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
25 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
26 Suppliers to provide information about their claim of prescription. This is information that they will
27 have to provide in any event, prior to any resolution of their claim of prescription.

1 **2. Burdensome**

2 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
3 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
4 providing a response will result in injustice.

5 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
6 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
7 empowered to sustain an objection in toto, when the same is predicated upon burden,
8 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
9 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

10 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
11 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
12 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
13 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
14 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

15 The fact alone that the response to an interrogatory may be expensive and burdensome
16 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
17 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
18 (1961) 56 Cal.2d 407, 417-418.)

19 **3. Oppression**

20 “[T]o support an objection of oppression there must be some showing either of an intent
21 to create an unreasonable burden or that the ultimate effect of the burden is
22 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
23 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

24 The propounding of Request for Admissions [Set One] was not served with any ill intent.
25 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
26 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
27 cross-complaints and answers. The burden on providing a response through discovery is no greater than
28 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
should be compelled to do so now when such disclosure will help foster settlement and resolution of this
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discovery. The information sought must be produced before trial and the court is not empowered to deny

1 Diamond’s discovery rights under this unsubstantiated claim of oppression.

2 “While it is true that the trial court has a broad discretion in passing on an objection that
3 there has been harassment and oppression [Citation], such discretion is not absolute. As
4 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
5 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

6 **4. Objections Based on Class Certification**

7 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
8 certification has not yet been completed. This objection holds no merit as the right to discovery prior
9 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
10 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
11 is both appropriate and permitted in order to ensure a fair hearing.

12 “Appellate courts have recognized the importance of such orders by creating an
13 exception to the rule denying appellate review. ‘Whether the order is directly appealable
14 or we treat this as a petition for writ of mandate, the issue of the class certification order
15 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
16 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
17 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.

18 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
19 information about water purveyor class members. A plain reading of the request evidences that it was
20 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
21 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
22 future undefined class, a response is still warranted.

23 “Absent some specific showing by the objecting party to justify a contrary ruling, such
24 as privilege, a representative plaintiff can be compelled to supply his adversary with the
25 information about his class which is in his possession or readily available to him and
26 which is not equally available to an adversary. A representative plaintiff cannot be
27 compelled to supply information concerning members of his class or their interests in the
28 action which is neither in his possession nor control, unless the interrogatory is directly
related to his own standing to maintain the action, to the existence of an ascertainable
class, or to the existence of that community of interest which is required to sustain a class
action. [Citation] A representative cannot be compelled to respond to interrogatories

1 about any class member's separate claim as distinguished from the common claim of the
2 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

3 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
4 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
5 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
6 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
7 [Set One].

8 **REQUEST NO. 20:**

9 Admit that as of January 1, 1992, YOU knew that the groundwater supply of the BASIN was
10 being overdrafted.

11 **Defendant’s Response:**

12 Objection. The request is premature, burdensome and oppressive. This request seeks
13 information concerning class members and the court has not yet completed its class certification process.
14 No class representative has yet been approved by the court.

15 **Legal Authority in Support of Further Response:**

16 Defendants have the burden of justifying their objections or their failure to fully answer the
17 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
18 (1962) 58 Cal.2d 210, 220-221.)

19 “At the hearing of such a motion the burden is on the party interrogated, in this case the
20 defendants, ‘of showing facts from which the trial court might find that the
21 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

22 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
23 merit and are otherwise too general to preclude disclosure of the requested information.

24 **1. Premature**

25 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
26 may be propounded.

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1 “(a) A defendant may make a request for admission by a party without
2 leave of court at any time.

3 “(b) A plaintiff may make requests for admission by a party without leave
4 of court at any time that is 10 days after the service of the summons on,
5 or, in unlawful detainer actions, five days after service of the summons
6 on, or appearance by, that party, whichever occurs first.”

7 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
8 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
9 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
10 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
11 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
12 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
13 keeping the landowners in the dark as to their vaguely pled claims of prescription.

14 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
15 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
16 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
17 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
18 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
19 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
20 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
21 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
22 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
23 Suppliers to provide information about their claim of prescription. This is information that they will
24 have to provide in any event, prior to any resolution of their claim of prescription.

24 **2. Burdensome**

25 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
26 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
27 providing a response will result in injustice.

1 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
2 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
3 empowered to sustain an objection in toto, when the same is predicated upon burden,
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5 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

6 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
7 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
8 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
9 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
10 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

11 The fact alone that the response to an interrogatory may be expensive and burdensome
12 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
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15 3. Oppression

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17 to create an unreasonable burden or that the ultimate effect of the burden is
18 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
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20 The propounding of Request for Admissions [Set One] was not served with any ill intent.
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22 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
23 cross-complaints and answers. The burden on providing a response through discovery is no greater than
24 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
25 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
26 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
27 discovery. The information sought must be produced before trial and the court is not empowered to deny
28 Diamond’s discovery rights under this unsubstantiated claim of oppression.

“While it is true that the trial court has a broad discretion in passing on an objection that
there has been harassment and oppression [Citation], such discretion is not absolute. As
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orders barring disclosure in toto when the factual situation indicates that a just and

1 equitable order could be made that would authorize disclosure with limitations.” (*Coy*
2 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

3 **4. Objections Based on Class Certification**

4 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
5 certification has not yet been completed. This objection holds no merit as the right to discovery prior
6 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
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13 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
14 Due process requires an order with such significant impact on the viability of a case not
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18 class action issues before its documents in support of or in opposition to the motion must
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20 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
21 information about water purveyor class members. A plain reading of the request evidences that it was
22 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
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35 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
36 *Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

37 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
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1 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
2 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
3 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
4 [Set One].

5 **REQUEST NO. 21:**

6 Admit that as of January 1, 1993, YOU knew that the groundwater supply of the BASIN was
7 being overdrafted.

8 **Defendant’s Response:**

9 Objection. The request is premature, burdensome and oppressive. This request seeks
10 information concerning class members and the court has not yet completed its class certification process.
11 No class representative has yet been approved by the court.

12 **Legal Authority in Support of Further Response:**

13 Defendants have the burden of justifying their objections or their failure to fully answer the
14 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
15 (1962) 58 Cal.2d 210, 220-221.)

16 “At the hearing of such a motion the burden is on the party interrogated, in this case the
17 defendants, ‘of showing facts from which the trial court might find that the
18 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
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19 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
20 merit and are otherwise too general to preclude disclosure of the requested information.

21 **1. Premature**

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23 may be propounded.

24 “(a) A defendant may make a request for admission by a party without
25 leave of court at any time.

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2 of court at any time that is 10 days after the service of the summons on,
3 or, in unlawful detainer actions, five days after service of the summons
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6 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
7 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
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10 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
11 keeping the landowners in the dark as to their vaguely pled claims of prescription.

12 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
13 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
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21 Suppliers to provide information about their claim of prescription. This is information that they will
22 have to provide in any event, prior to any resolution of their claim of prescription.

23 **2. Burdensome**

24 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
25 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
26 providing a response will result in injustice.

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3 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
4 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
5 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
6 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
7 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

8 The fact alone that the response to an interrogatory may be expensive and burdensome
9 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
10 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
11 *(1961) 56 Cal.2d 407, 417-418.*)

11 3. Oppression

12 "[T]o support an objection of oppression there must be some showing either of an intent
13 to create an unreasonable burden or that the ultimate effect of the burden is
14 incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
15 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

16 The propounding of Request for Admissions [Set One] was not served with any ill intent.
17 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
18 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
19 cross-complaints and answers. The burden on providing a response through discovery is no greater than
20 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
21 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
22 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
23 discovery. The information sought must be produced before trial and the court is not empowered to deny
24 Diamond's discovery rights under this unsubstantiated claim of oppression.

25 "While it is true that the trial court has a broad discretion in passing on an objection that
26 there has been harassment and oppression [Citation], such discretion is not absolute. As
27 was said in *Cembrook*, such discretion does not authorize the trial court 'to make blanket
28 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.'" (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

1 **4. Objections Based on Class Certification**

2 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
3 certification has not yet been completed. This objection holds no merit as the right to discovery prior
4 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
5 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
6 is both appropriate and permitted in order to ensure a fair hearing.

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

18 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
19 information about water purveyor class members. A plain reading of the request evidences that it was
20 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
21 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
22 future undefined class, a response is still warranted.

23 “Absent some specific showing by the objecting party to justify a contrary ruling, such
24 as privilege, a representative plaintiff can be compelled to supply his adversary with the
25 information about his class which is in his possession or readily available to him and
26 which is not equally available to an adversary. A representative plaintiff cannot be
27 compelled to supply information concerning members of his class or their interests in the
28 action which is neither in his possession nor control, unless the interrogatory is directly
related to his own standing to maintain the action, to the existence of an ascertainable
class, or to the existence of that community of interest which is required to sustain a class
action. [Citation] A representative cannot be compelled to respond to interrogatories
about any class member's separate claim as distinguished from the common claim of the
class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

29 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
30 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
31 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the

1 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
2 [Set One].

3 **REQUEST NO. 22:**

4 Admit that as of January 1, 1994, YOU knew that the groundwater supply of the BASIN was
5 being overdrafted.

6 **Defendant’s Response:**

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

10 **Legal Authority in Support of Further Response:**

11 Defendants have the burden of justifying their objections or their failure to fully answer the
12 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
13 (1962) 58 Cal.2d 210, 220-221.)

14 “At the hearing of such a motion the burden is on the party interrogated, in this case the
15 defendants, ‘of showing facts from which the trial court might find that the
16 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

17 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
18 merit and are otherwise too general to preclude disclosure of the requested information.

19 **1. Premature**

20 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
21 may be propounded.

22 “(a) A defendant may make a request for admission by a party without
23 leave of court at any time.

24 “(b) A plaintiff may make requests for admission by a party without leave
25 of court at any time that is 10 days after the service of the summons on,
26 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

27 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
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1 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
2 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
3 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
4 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
5 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
6 keeping the landowners in the dark as to their vaguely pled claims of prescription.

7 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
8 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
9 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
10 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
11 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
12 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
13 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
14 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
15 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
16 Suppliers to provide information about their claim of prescription. This is information that they will
17 have to provide in any event, prior to any resolution of their claim of prescription.

18 2. Burdensome

19 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
20 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
21 providing a response will result in injustice.

22 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
23 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
24 empowered to sustain an objection in toto, when the same is predicated upon burden,
25 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
26 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

27 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
28 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their

1 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
2 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

3 The fact alone that the response to an interrogatory may be expensive and burdensome
4 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
5 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
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6 3. Oppression

7 “[T]o support an objection of oppression there must be some showing either of an intent
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9 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
10 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

11 The propounding of Request for Admissions [Set One] was not served with any ill intent.
12 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
13 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
14 cross-complaints and answers. The burden on providing a response through discovery is no greater than
15 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
16 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
17 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
18 discovery. The information sought must be produced before trial and the court is not empowered to deny
19 Diamond’s discovery rights under this unsubstantiated claim of oppression.

20 “While it is true that the trial court has a broad discretion in passing on an objection that
21 there has been harassment and oppression [Citation], such discretion is not absolute. As
22 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
23 orders barring disclosure in toto when the factual situation indicates that a just and
24 equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
25 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

23 4. Objections Based on Class Certification

24 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
25 certification has not yet been completed. This objection holds no merit as the right to discovery prior
26 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
27 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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1 is both appropriate and permitted in order to ensure a fair hearing.

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

8 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
9 information about water purveyor class members. A plain reading of the request evidences that it was
10 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
11 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
12 future undefined class, a response is still warranted.

13 “Absent some specific showing by the objecting party to justify a contrary ruling, such
14 as privilege, a representative plaintiff can be compelled to supply his adversary with the
15 information about his class which is in his possession or readily available to him and
16 which is not equally available to an adversary. A representative plaintiff cannot be
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23 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
24 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

20 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
21 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
22 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
23 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
24 [Set One].

25 **REQUEST NO. 23:**

26 Admit that as of January 1, 1995, YOU knew that the groundwater supply of the BASIN was
27 being overdrafted.

1 **Defendant's Response:**

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

5 **Legal Authority in Support of Further Response:**

6 Defendants have the burden of justifying their objections or their failure to fully answer the
7 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
8 (1962) 58 Cal.2d 210, 220-221.)

9 “At the hearing of such a motion the burden is on the party interrogated, in this case the
10 defendants, ‘of showing facts from which the trial court might find that the
11 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

12 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
13 merit and are otherwise too general to preclude disclosure of the requested information.

14 **1. Premature**

15 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
16 may be propounded.

17 “(a) A defendant may make a request for admission by a party without
18 leave of court at any time.

19 “(b) A plaintiff may make requests for admission by a party without leave
20 of court at any time that is 10 days after the service of the summons on,
21 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

22 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
23 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
24 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)

25 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
26 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
27 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby

1 keeping the landowners in the dark as to their vaguely pled claims of prescription.

2 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
3 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
4 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
5 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
6 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
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8 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
9 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
10 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
11 Suppliers to provide information about their claim of prescription. This is information that they will
12 have to provide in any event, prior to any resolution of their claim of prescription.

13 2. Burdensome

14 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
15 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
16 providing a response will result in injustice.

17 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
18 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
19 empowered to sustain an objection in toto, when the same is predicated upon burden,
unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
v. Superior Court (1961) 56 Cal.2d 407, 418.)

20 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
21 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
22 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
23 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
24 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

25 The fact alone that the response to an interrogatory may be expensive and burdensome
26 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
County (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
27 (1961) 56 Cal.2d 407, 417-418.)

1 **3. Oppression**

2 “[T]o support an objection of oppression there must be some showing either of an intent
3 to create an unreasonable burden or that the ultimate effect of the burden is
4 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
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8 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
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13 discovery. The information sought must be produced before trial and the court is not empowered to deny
14 Diamond’s discovery rights under this unsubstantiated claim of oppression.

15 “While it is true that the trial court has a broad discretion in passing on an objection that
16 there has been harassment and oppression [Citation], such discretion is not absolute. As
17 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
18 orders barring disclosure in toto when the factual situation indicates that a just and
19 equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
20 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

21 **4. Objections Based on Class Certification**

22 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
23 certification has not yet been completed. This objection holds no merit as the right to discovery prior
24 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
25 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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28 exception to the rule denying appellate review. ‘Whether the order is directly appealable
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31 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
32 Due process requires an order with such significant impact on the viability of a case not
33 be made without a full opportunity to brief the issues and present evidence. This is true

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5 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
6 information about water purveyor class members. A plain reading of the request evidences that it was
7 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
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22 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
23 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
24 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
25 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
26 [Set One].

27 **REQUEST NO. 24:**

28 Admit that as of January 1, 1996, YOU knew that the groundwater supply of the BASIN was
being overdrafted.

Defendant’s Response:

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

1 **Legal Authority in Support of Further Response:**

2 Defendants have the burden of justifying their objections or their failure to fully answer the
3 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
4 (1962) 58 Cal.2d 210, 220-221.)

5 “At the hearing of such a motion the burden is on the party interrogated, in this case the
6 defendants, ‘of showing facts from which the trial court might find that the
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9 merit and are otherwise too general to preclude disclosure of the requested information.

10 **1. Premature**

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13 “(a) A defendant may make a request for admission by a party without
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19 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
20 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
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23 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
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7 Suppliers to provide information about their claim of prescription. This is information that they will
8 have to provide in any event, prior to any resolution of their claim of prescription.

9 **2. Burdensome**

10 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
11 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
12 providing a response will result in injustice.

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19 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
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13 orders barring disclosure in toto when the factual situation indicates that a just and
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v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

14 **4. Objections Based on Class Certification**

15 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
16 certification has not yet been completed. This objection holds no merit as the right to discovery prior
17 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
18 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
19 is both appropriate and permitted in order to ensure a fair hearing.

20 "Appellate courts have recognized the importance of such orders by creating an
21 exception to the rule denying appellate review. 'Whether the order is directly appealable
22 or we treat this as a petition for writ of mandate, the issue of the class certification order
23 is and should be before us.' (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
24 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
25 Due process requires an order with such significant impact on the viability of a case not
26 be made without a full opportunity to brief the issues and present evidence. This is true
27 whether the issue is presented in a motion or by way of an order to show case issued by
28 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.

26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
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1 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
2 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
3 future undefined class, a response is still warranted.

4 “Absent some specific showing by the objecting party to justify a contrary ruling, such
5 as privilege, a representative plaintiff can be compelled to supply his adversary with the
6 information about his class which is in his possession or readily available to him and
7 which is not equally available to an adversary. A representative plaintiff cannot be
8 compelled to supply information concerning members of his class or their interests in the
9 action which is neither in his possession nor control, unless the interrogatory is directly
10 related to his own standing to maintain the action, to the existence of an ascertainable
11 class, or to the existence of that community of interest which is required to sustain a class
12 action. [Citation] A representative cannot be compelled to respond to interrogatories
13 about any class member's separate claim as distinguished from the common claim of the
14 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
15 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

16 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
17 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
18 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
19 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
20 [Set One].

21 **REQUEST NO. 25:**

22 Admit that as of January 1, 1997, YOU knew that the groundwater supply of the BASIN was
23 being overdrafted.

24 **Defendant’s Response:**

25 Objection. The request is premature, burdensome and oppressive. This request seeks
26 information concerning class members and the court has not yet completed its class certification process.
27 No class representative has yet been approved by the court.

28 **Legal Authority in Support of Further Response:**

Defendants have the burden of justifying their objections or their failure to fully answer the
discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
(1962) 58 Cal.2d 210, 220-221.)

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1 “At the hearing of such a motion the burden is on the party interrogated, in this case the
2 defendants, ‘of showing facts from which the trial court might find that the
3 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

4 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
5 merit and are otherwise too general to preclude disclosure of the requested information.

6 **1. Premature**

7 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
8 may be propounded.

9 “(a) A defendant may make a request for admission by a party without
10 leave of court at any time.

11 “(b) A plaintiff may make requests for admission by a party without leave
12 of court at any time that is 10 days after the service of the summons on,
13 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

14 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
15 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
16 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
17 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
18 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
19 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
20 keeping the landowners in the dark as to their vaguely pled claims of prescription.

21 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
22 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
23 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
24 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
25 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
26 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
27 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
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1 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
2 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
3 Suppliers to provide information about their claim of prescription. This is information that they will
4 have to provide in any event, prior to any resolution of their claim of prescription.

5 **2. Burdensome**

6 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
7 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
8 providing a response will result in injustice.

9 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
10 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
11 empowered to sustain an objection in toto, when the same is predicated upon burden,
12 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
13 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

12 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
13 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
14 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
15 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
16 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

17 The fact alone that the response to an interrogatory may be expensive and burdensome
18 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
19 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
20 (1961) 56 Cal.2d 407, 417-418.)

20 **3. Oppression**

21 "[T]o support an objection of oppression there must be some showing either of an intent
22 to create an unreasonable burden or that the ultimate effect of the burden is
23 incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
24 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

24 The propounding of Request for Admissions [Set One] was not served with any ill intent.
25 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
26 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
27 cross-complaints and answers. The burden on providing a response through discovery is no greater than
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1 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
2 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
3 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
4 discovery. The information sought must be produced before trial and the court is not empowered to deny
5 Diamond’s discovery rights under this unsubstantiated claim of oppression.

6 “While it is true that the trial court has a broad discretion in passing on an objection that
7 there has been harassment and oppression [Citation], such discretion is not absolute. As
8 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
9 orders barring disclosure in toto when the factual situation indicates that a just and
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v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

10 **4. Objections Based on Class Certification**

11 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
12 certification has not yet been completed. This objection holds no merit as the right to discovery prior
13 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
14 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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16 “Appellate courts have recognized the importance of such orders by creating an
17 exception to the rule denying appellate review. ‘Whether the order is directly appealable
18 or we treat this as a petition for writ of mandate, the issue of the class certification order
19 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
20 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
21 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.

22 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
23 information about water purveyor class members. A plain reading of the request evidences that it was
24 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
25 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
26 future undefined class, a response is still warranted.

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1 “Absent some specific showing by the objecting party to justify a contrary ruling, such
2 as privilege, a representative plaintiff can be compelled to supply his adversary with the
3 information about his class which is in his possession or readily available to him and
4 which is not equally available to an adversary. A representative plaintiff cannot be
5 compelled to supply information concerning members of his class or their interests in the
6 action which is neither in his possession nor control, unless the interrogatory is directly
7 related to his own standing to maintain the action, to the existence of an ascertainable
8 class, or to the existence of that community of interest which is required to sustain a class
9 action. [Citation] A representative cannot be compelled to respond to interrogatories
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11 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
12 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

8 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
9 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
10 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
11 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
12 [Set One].

13 **REQUEST NO. 26:**

14 Admit that as of January 1, 1998, YOU knew that the groundwater supply of the BASIN was
15 being overdrafted.

16 **Defendant’s Response:**

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

20 **Legal Authority in Support of Further Response:**

21 Defendants have the burden of justifying their objections or their failure to fully answer the
22 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
23 (1962) 58 Cal.2d 210, 220-221.)

24 “At the hearing of such a motion the burden is on the party interrogated, in this case the
25 defendants, ‘of showing facts from which the trial court might find that the
26 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
27 is on defendants to show that their objections are valid.” (*Columbia Broadcasting
28 System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

27 Defendants will be unable to satisfy this burden because the objections asserted to this request have no

1 merit and are otherwise too general to preclude disclosure of the requested information.

2 **1. Premature**

3 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
4 may be propounded.

5 “(a) A defendant may make a request for admission by a party without
6 leave of court at any time.

7 “(b) A plaintiff may make requests for admission by a party without leave
8 of court at any time that is 10 days after the service of the summons on,
9 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

10 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
11 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
12 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
13 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
14 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
15 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
16 keeping the landowners in the dark as to their vaguely pled claims of prescription.

17 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
18 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
19 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
20 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
21 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
22 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
23 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
24 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
25 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
26 Suppliers to provide information about their claim of prescription. This is information that they will
27 have to provide in any event, prior to any resolution of their claim of prescription.

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2. Burdensome

The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to respond to Request for Admissions [Set One] because these entities cannot show that the burden of providing a response will result in injustice.

“[S]ome burden is inherent in all demands for discovery. The objection of burden is valid only when that burden is demonstrated to result in injustice. Hence, the trial court is not empowered to sustain an objection in toto, when the same is predicated upon burden, unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co. v. Superior Court* (1961) 56 Cal.2d 407, 418.)

In the present action, the Public Water Suppliers have alleged prescriptive claims against more than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the enormity of their own allegations under a claim of burden is improper and cannot be sustained.

The fact alone that the response to an interrogatory may be expensive and burdensome does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court* (1961) 56 Cal.2d 407, 417-418.)

3. Oppression

“[T]o support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of Los Angeles County* (1961) 56 Cal.2d 407, 417.)

The propounding of Request for Admissions [Set One] was not served with any ill intent. Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request relates directly to the allegations raised by the Public Water Suppliers through their various complaints, cross-complaints and answers. The burden on providing a response through discovery is no greater than the burden that must be born by these two entities at trial. If they are able to meet this burden, they should be compelled to do so now when such disclosure will help foster settlement and resolution of this matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial discovery. The information sought must be produced before trial and the court is not empowered to deny

1 Diamond’s discovery rights under this unsubstantiated claim of oppression.

2 “While it is true that the trial court has a broad discretion in passing on an objection that
3 there has been harassment and oppression [Citation], such discretion is not absolute. As
4 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
5 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

6 **4. Objections Based on Class Certification**

7 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
8 certification has not yet been completed. This objection holds no merit as the right to discovery prior
9 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
10 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
11 is both appropriate and permitted in order to ensure a fair hearing.

12 “Appellate courts have recognized the importance of such orders by creating an
13 exception to the rule denying appellate review. ‘Whether the order is directly appealable
14 or we treat this as a petition for writ of mandate, the issue of the class certification order
15 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
16 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
17 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.

18 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
19 information about water purveyor class members. A plain reading of the request evidences that it was
20 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
21 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
22 future undefined class, a response is still warranted.

23 “Absent some specific showing by the objecting party to justify a contrary ruling, such
24 as privilege, a representative plaintiff can be compelled to supply his adversary with the
25 information about his class which is in his possession or readily available to him and
26 which is not equally available to an adversary. A representative plaintiff cannot be
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2 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
Mut. Water Co. v. Superior Court of Ventura County (1968) 259 Cal.App.2d 45, 54-55.)

3 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
4 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
5 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
6 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
7 [Set One].

8 **REQUEST NO. 27:**

9 Admit that as of January 1, 1999, YOU knew that the groundwater supply of the BASIN was
10 being overdrafted.

11 **Defendant’s Response:**

12 Objection. The request is premature, burdensome and oppressive. This request seeks
13 information concerning class members and the court has not yet completed its class certification process.
14 No class representative has yet been approved by the court.

15 **Legal Authority in Support of Further Response:**

16 Defendants have the burden of justifying their objections or their failure to fully answer the
17 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
18 (1962) 58 Cal.2d 210, 220-221.)

19 “At the hearing of such a motion the burden is on the party interrogated, in this case the
20 defendants, ‘of showing facts from which the trial court might find that the
21 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting*
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22 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
23 merit and are otherwise too general to preclude disclosure of the requested information.

24 **1. Premature**

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Code of Civil Procedure section 2019.020 provides that there is no required sequence of discovery. In general, fairness demands adherence to the statutory procedures, since they were designed to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.) Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal basis or authority to assert this objection which is designed simply to avoid providing a response, thereby keeping the landowners in the dark as to their vaguely pled claims of prescription.

The premature claim also seeks to compromise the purpose of pretrial discovery which is to obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.) “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial; to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court* (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water Suppliers to provide information about their claim of prescription. This is information that they will have to provide in any event, prior to any resolution of their claim of prescription.

2. Burdensome

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2 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
3 empowered to sustain an objection in toto, when the same is predicated upon burden,
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7 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
8 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
9 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
10 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

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26 as privilege, a representative plaintiff can be compelled to supply his adversary with the
27 information about his class which is in his possession or readily available to him and
28 which is not equally available to an adversary. A representative plaintiff cannot be
29 compelled to supply information concerning members of his class or their interests in the
30 action which is neither in his possession nor control, unless the interrogatory is directly
31 related to his own standing to maintain the action, to the existence of an ascertainable
32 class, or to the existence of that community of interest which is required to sustain a class
33 action. [Citation] A representative cannot be compelled to respond to interrogatories
34 about any class member's separate claim as distinguished from the common claim of the
35 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
36 *Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

37 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
38

1 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
2 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
3 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
4 [Set One].

5 **REQUEST NO. 28:**

6 Admit that as of January 1, 2000, YOU knew that the groundwater supply of the BASIN was
7 being overdrafted.

8 **Defendant’s Response:**

9 Objection. The request is premature, burdensome and oppressive. This request seeks
10 information concerning class members and the court has not yet completed its class certification process.
11 No class representative has yet been approved by the court.

12 **Legal Authority in Support of Further Response:**

13 Defendants have the burden of justifying their objections or their failure to fully answer the
14 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
15 (1962) 58 Cal.2d 210, 220-221.)

16 “At the hearing of such a motion the burden is on the party interrogated, in this case the
17 defendants, ‘of showing facts from which the trial court might find that the
18 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

19 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
20 merit and are otherwise too general to preclude disclosure of the requested information.

21 **1. Premature**

22 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
23 may be propounded.

24 “(a) A defendant may make a request for admission by a party without
25 leave of court at any time.

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1 “(b) A plaintiff may make requests for admission by a party without leave
2 of court at any time that is 10 days after the service of the summons on,
3 or, in unlawful detainer actions, five days after service of the summons
4 on, or appearance by, that party, whichever occurs first.”

5 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
6 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
7 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
8 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
9 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
10 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
11 keeping the landowners in the dark as to their vaguely pled claims of prescription.

12 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
13 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
14 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
15 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
16 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
17 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
18 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
19 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
20 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
21 Suppliers to provide information about their claim of prescription. This is information that they will
22 have to provide in any event, prior to any resolution of their claim of prescription.

23 **2. Burdensome**

24 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
25 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
26 providing a response will result in injustice.

27 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
28 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
 empowered to sustain an objection in toto, when the same is predicated upon burden,

1 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
2 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

3 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
4 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
5 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
6 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
7 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

8 The fact alone that the response to an interrogatory may be expensive and burdensome
9 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
10 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
11 *(1961) 56 Cal.2d 407, 417-418.*)

11 3. Oppression

12 "[T]o support an objection of oppression there must be some showing either of an intent
13 to create an unreasonable burden or that the ultimate effect of the burden is
14 incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
15 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

16 The propounding of Request for Admissions [Set One] was not served with any ill intent.
17 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
18 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
19 cross-complaints and answers. The burden on providing a response through discovery is no greater than
20 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
21 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
22 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
23 discovery. The information sought must be produced before trial and the court is not empowered to deny
24 Diamond's discovery rights under this unsubstantiated claim of oppression.

25 "While it is true that the trial court has a broad discretion in passing on an objection that
26 there has been harassment and oppression [Citation], such discretion is not absolute. As
27 was said in *Cembrook*, such discretion does not authorize the trial court 'to make blanket
28 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.'" (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

1 **4. Objections Based on Class Certification**

2 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
3 certification has not yet been completed. This objection holds no merit as the right to discovery prior
4 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
5 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
6 is both appropriate and permitted in order to ensure a fair hearing.

7 “Appellate courts have recognized the importance of such orders by creating an
8 exception to the rule denying appellate review. ‘Whether the order is directly appealable
9 or we treat this as a petition for writ of mandate, the issue of the class certification order
10 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
11 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
12 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.

13 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
14 information about water purveyor class members. A plain reading of the request evidences that it was
15 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
16 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
17 future undefined class, a response is still warranted.

18 “Absent some specific showing by the objecting party to justify a contrary ruling, such
19 as privilege, a representative plaintiff can be compelled to supply his adversary with the
20 information about his class which is in his possession or readily available to him and
21 which is not equally available to an adversary. A representative plaintiff cannot be
22 compelled to supply information concerning members of his class or their interests in the
23 action which is neither in his possession nor control, unless the interrogatory is directly
24 related to his own standing to maintain the action, to the existence of an ascertainable
25 class, or to the existence of that community of interest which is required to sustain a class
26 action. [Citation] A representative cannot be compelled to respond to interrogatories
27 about any class member's separate claim as distinguished from the common claim of the
28 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
Mut. Water Co. v. Superior Court of Ventura County (1968) 259 Cal.App.2d 45, 54-55.)

25 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
26 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
27 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
28

1 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
2 [Set One].

3 **REQUEST NO. 29:**

4 Admit that as of January 1, 2001, YOU knew that the groundwater supply of the BASIN was
5 being overdrafted.

6 **Defendant’s Response:**

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

10 **Legal Authority in Support of Further Response:**

11 Defendants have the burden of justifying their objections or their failure to fully answer the
12 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
13 (1962) 58 Cal.2d 210, 220-221.)

14 “At the hearing of such a motion the burden is on the party interrogated, in this case the
15 defendants, ‘of showing facts from which the trial court might find that the
16 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

17 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
18 merit and are otherwise too general to preclude disclosure of the requested information.

19 **1. Premature**

20 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
21 may be propounded.

22 “(a) A defendant may make a request for admission by a party without
23 leave of court at any time.

24 “(b) A plaintiff may make requests for admission by a party without leave
25 of court at any time that is 10 days after the service of the summons on,
26 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

27 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
28

1 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
2 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
3 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
4 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
5 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
6 keeping the landowners in the dark as to their vaguely pled claims of prescription.

7 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
8 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
9 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
10 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
11 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
12 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
13 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
14 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
15 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
16 Suppliers to provide information about their claim of prescription. This is information that they will
17 have to provide in any event, prior to any resolution of their claim of prescription.

18 2. Burdensome

19 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
20 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
21 providing a response will result in injustice.

22 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
23 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
24 empowered to sustain an objection in toto, when the same is predicated upon burden,
25 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
26 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

27 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
28 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their

1 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
2 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

3 The fact alone that the response to an interrogatory may be expensive and burdensome
4 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
5 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
6 (1961) 56 Cal.2d 407, 417-418.)

6 **3. Oppression**

7 “[T]o support an objection of oppression there must be some showing either of an intent
8 to create an unreasonable burden or that the ultimate effect of the burden is
9 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
10 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

11 The propounding of Request for Admissions [Set One] was not served with any ill intent.
12 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
13 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
14 cross-complaints and answers. The burden on providing a response through discovery is no greater than
15 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
16 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
17 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
18 discovery. The information sought must be produced before trial and the court is not empowered to deny
19 Diamond’s discovery rights under this unsubstantiated claim of oppression.

20 “While it is true that the trial court has a broad discretion in passing on an objection that
21 there has been harassment and oppression [Citation], such discretion is not absolute. As
22 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
23 orders barring disclosure in toto when the factual situation indicates that a just and
24 equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
25 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

23 **4. Objections Based on Class Certification**

24 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
25 certification has not yet been completed. This objection holds no merit as the right to discovery prior
26 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
27 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
28

1 is both appropriate and permitted in order to ensure a fair hearing.

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

8 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
9 information about water purveyor class members. A plain reading of the request evidences that it was
10 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
11 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
12 future undefined class, a response is still warranted.

13 “Absent some specific showing by the objecting party to justify a contrary ruling, such
14 as privilege, a representative plaintiff can be compelled to supply his adversary with the
15 information about his class which is in his possession or readily available to him and
16 which is not equally available to an adversary. A representative plaintiff cannot be
17 compelled to supply information concerning members of his class or their interests in the
18 action which is neither in his possession nor control, unless the interrogatory is directly
19 related to his own standing to maintain the action, to the existence of an ascertainable
20 class, or to the existence of that community of interest which is required to sustain a class
21 action. [Citation] A representative cannot be compelled to respond to interrogatories
22 about any class member's separate claim as distinguished from the common claim of the
23 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
24 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

20 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
21 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
22 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
23 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
24 [Set One].

25 **REQUEST NO. 30:**

26 Admit that as of January 1, 2002, YOU knew that the groundwater supply of the BASIN was
27 being overdrafted.

1 **Defendant's Response:**

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

5 **Legal Authority in Support of Further Response:**

6 Defendants have the burden of justifying their objections or their failure to fully answer the
7 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
8 (1962) 58 Cal.2d 210, 220-221.)

9 “At the hearing of such a motion the burden is on the party interrogated, in this case the
10 defendants, ‘of showing facts from which the trial court might find that the
11 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

12 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
13 merit and are otherwise too general to preclude disclosure of the requested information.

14 **1. Premature**

15 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
16 may be propounded.

17 “(a) A defendant may make a request for admission by a party without
18 leave of court at any time.

19 “(b) A plaintiff may make requests for admission by a party without leave
20 of court at any time that is 10 days after the service of the summons on,
21 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

22 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
23 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
24 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)

25 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
26 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
27 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
28

1 keeping the landowners in the dark as to their vaguely pled claims of prescription.

2 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
3 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
4 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
5 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
6 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
7 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
8 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
9 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
10 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
11 Suppliers to provide information about their claim of prescription. This is information that they will
12 have to provide in any event, prior to any resolution of their claim of prescription.

13 2. Burdensome

14 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
15 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
16 providing a response will result in injustice.

17 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
18 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
19 empowered to sustain an objection in toto, when the same is predicated upon burden,
unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
v. Superior Court (1961) 56 Cal.2d 407, 418.)

20 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
21 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
22 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
23 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
24 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

25 The fact alone that the response to an interrogatory may be expensive and burdensome
26 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
County (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
27 (1961) 56 Cal.2d 407, 417-418.)

1 **3. Oppression**

2 “[T]o support an objection of oppression there must be some showing either of an intent
3 to create an unreasonable burden or that the ultimate effect of the burden is
4 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
5 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

6 The propounding of Request for Admissions [Set One] was not served with any ill intent.
7 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
8 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
9 cross-complaints and answers. The burden on providing a response through discovery is no greater than
10 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
11 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
12 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
13 discovery. The information sought must be produced before trial and the court is not empowered to deny
14 Diamond’s discovery rights under this unsubstantiated claim of oppression.

15 “While it is true that the trial court has a broad discretion in passing on an objection that
16 there has been harassment and oppression [Citation], such discretion is not absolute. As
17 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
18 orders barring disclosure in toto when the factual situation indicates that a just and
19 equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
20 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

21 **4. Objections Based on Class Certification**

22 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
23 certification has not yet been completed. This objection holds no merit as the right to discovery prior
24 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
25 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
26 is both appropriate and permitted in order to ensure a fair hearing.

27 “Appellate courts have recognized the importance of such orders by creating an
28 exception to the rule denying appellate review. ‘Whether the order is directly appealable
29 or we treat this as a petition for writ of mandate, the issue of the class certification order
30 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
31 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
32 Due process requires an order with such significant impact on the viability of a case not
33 be made without a full opportunity to brief the issues and present evidence. This is true

1 whether the issue is presented in a motion or by way of an order to show case issued by
2 the court. In addition, each party should have an opportunity to conduct discovery on
3 class action issues before its documents in support of or in opposition to the motion must
4 be filed.” *Carabini, supra*, pp. 243-244.

5 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
6 information about water purveyor class members. A plain reading of the request evidences that it was
7 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
8 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
9 future undefined class, a response is still warranted.

10 “Absent some specific showing by the objecting party to justify a contrary ruling, such
11 as privilege, a representative plaintiff can be compelled to supply his adversary with the
12 information about his class which is in his possession or readily available to him and
13 which is not equally available to an adversary. A representative plaintiff cannot be
14 compelled to supply information concerning members of his class or their interests in the
15 action which is neither in his possession nor control, unless the interrogatory is directly
16 related to his own standing to maintain the action, to the existence of an ascertainable
17 class, or to the existence of that community of interest which is required to sustain a class
18 action. [Citation] A representative cannot be compelled to respond to interrogatories
19 about any class member's separate claim as distinguished from the common claim of the
20 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
21 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

22 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
23 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
24 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
25 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
26 [Set One].

27 **REQUEST NO. 31:**

28 Admit that as of January 1, 2003, YOU knew that the groundwater supply of the BASIN was
being overdrafted.

Defendant’s Response:

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

1 **Legal Authority in Support of Further Response:**

2 Defendants have the burden of justifying their objections or their failure to fully answer the
3 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
4 (1962) 58 Cal.2d 210, 220-221.)

5 “At the hearing of such a motion the burden is on the party interrogated, in this case the
6 defendants, ‘of showing facts from which the trial court might find that the
7 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting*
System, Inc. v. Superior Court of Los Angeles County (1968) 263 Cal.App.2d 12, 18.)

8 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
9 merit and are otherwise too general to preclude disclosure of the requested information.

10 **1. Premature**

11 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
12 may be propounded.

13 “(a) A defendant may make a request for admission by a party without
14 leave of court at any time.

15 “(b) A plaintiff may make requests for admission by a party without leave
16 of court at any time that is 10 days after the service of the summons on,
or, in unlawful detainer actions, five days after service of the summons
17 on, or appearance by, that party, whichever occurs first.”

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19 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
20 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
21 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
22 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
23 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
24 keeping the landowners in the dark as to their vaguely pled claims of prescription.

25 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
26 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)

27 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
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1 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
2 to prevent delay; and to safeguard against surprise. [Citations.]" (*Britts v. Superior Court* (2006) 145
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4 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
5 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
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7 Suppliers to provide information about their claim of prescription. This is information that they will
8 have to provide in any event, prior to any resolution of their claim of prescription.

9 **2. Burdensome**

10 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
11 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
12 providing a response will result in injustice.

13 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
14 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
15 empowered to sustain an objection in toto, when the same is predicated upon burden,
16 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
17 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

18 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
19 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
20 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
21 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
22 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

23 The fact alone that the response to an interrogatory may be expensive and burdensome
24 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
25 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
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27 **3. Oppression**

28 "[T]o support an objection of oppression there must be some showing either of an intent
to create an unreasonable burden or that the ultimate effect of the burden is
incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
Los Angeles County (1961) 56 Cal.2d 407, 417.)

1 The propounding of Request for Admissions [Set One] was not served with any ill intent.
2 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
3 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
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5 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
6 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
7 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
8 discovery. The information sought must be produced before trial and the court is not empowered to deny
9 Diamond's discovery rights under this unsubstantiated claim of oppression.

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14 **4. Objections Based on Class Certification**

15 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
16 certification has not yet been completed. This objection holds no merit as the right to discovery prior
17 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
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19 is both appropriate and permitted in order to ensure a fair hearing.

20 "Appellate courts have recognized the importance of such orders by creating an
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23 is and should be before us.' (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
24 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
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be filed." *Carabini, supra*, pp. 243-244.

26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
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1 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
2 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
3 future undefined class, a response is still warranted.

4 “Absent some specific showing by the objecting party to justify a contrary ruling, such
5 as privilege, a representative plaintiff can be compelled to supply his adversary with the
6 information about his class which is in his possession or readily available to him and
7 which is not equally available to an adversary. A representative plaintiff cannot be
8 compelled to supply information concerning members of his class or their interests in the
9 action which is neither in his possession nor control, unless the interrogatory is directly
10 related to his own standing to maintain the action, to the existence of an ascertainable
11 class, or to the existence of that community of interest which is required to sustain a class
12 action. [Citation] A representative cannot be compelled to respond to interrogatories
13 about any class member's separate claim as distinguished from the common claim of the
14 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
15 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

16 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
17 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
18 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
19 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
20 [Set One].

21 **REQUEST NO. 32:**

22 Admit that as of January 1, 2004 YOU knew that the groundwater supply of the BASIN was
23 being overdrafted.

24 **Defendant’s Response:**

25 Objection. The request is premature, burdensome and oppressive. This request seeks
26 information concerning class members and the court has not yet completed its class certification process.
27 No class representative has yet been approved by the court.

28 **Legal Authority in Support of Further Response:**

Defendants have the burden of justifying their objections or their failure to fully answer the
discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
(1962) 58 Cal.2d 210, 220-221.)

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1 “At the hearing of such a motion the burden is on the party interrogated, in this case the
2 defendants, ‘of showing facts from which the trial court might find that the
3 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
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6 **1. Premature**

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16 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
17 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
18 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
19 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
20 keeping the landowners in the dark as to their vaguely pled claims of prescription.

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1 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
2 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
3 Suppliers to provide information about their claim of prescription. This is information that they will
4 have to provide in any event, prior to any resolution of their claim of prescription.

5 **2. Burdensome**

6 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
7 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
8 providing a response will result in injustice.

9 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
10 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
11 empowered to sustain an objection in toto, when the same is predicated upon burden,
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22 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
23 information about water purveyor class members. A plain reading of the request evidences that it was
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14 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
15 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
16 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
17 [Set One].

18 **REQUEST NO. 33:**

19 Admit that as of January 1, 2005, YOU knew that the groundwater supply of the BASIN was
20 being overdrafted.

21 **Defendant’s Response:**

22 Objection. The request is premature, burdensome and oppressive. This request seeks
23 information concerning class members and the court has not yet completed its class certification process.
24 No class representative has yet been approved by the court.

25 **Legal Authority in Support of Further Response:**

26 Defendants have the burden of justifying their objections or their failure to fully answer the
27 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
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26 Suppliers to provide information about their claim of prescription. This is information that they will
27 have to provide in any event, prior to any resolution of their claim of prescription.

1 **2. Burdensome**

2 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
3 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
4 providing a response will result in injustice.

5 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
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10 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
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12 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
13 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
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3 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
4 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
5 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
6 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
7 [Set One].

8 **REQUEST NO. 34:**

9 Admit that as of January 1, 2006, YOU knew that the groundwater supply of the BASIN was
10 being overdrafted.

11 **Defendant’s Response:**

12 Objection. The request is premature, burdensome and oppressive. This request seeks
13 information concerning class members and the court has not yet completed its class certification process.
14 No class representative has yet been approved by the court.

15 **Legal Authority in Support of Further Response:**

16 Defendants have the burden of justifying their objections or their failure to fully answer the
17 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
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24 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
25 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
26 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
27 discovery. The information sought must be produced before trial and the court is not empowered to deny
28 Diamond’s discovery rights under this unsubstantiated claim of oppression.

“While it is true that the trial court has a broad discretion in passing on an objection that
there has been harassment and oppression [Citation], such discretion is not absolute. As
was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
orders barring disclosure in toto when the factual situation indicates that a just and

1 equitable order could be made that would authorize disclosure with limitations.” (*Coy*
2 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

3 **4. Objections Based on Class Certification**

4 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
5 certification has not yet been completed. This objection holds no merit as the right to discovery prior
6 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
7 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
8 is both appropriate and permitted in order to ensure a fair hearing.

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

20 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
21 information about water purveyor class members. A plain reading of the request evidences that it was
22 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
23 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
24 future undefined class, a response is still warranted.

25 “Absent some specific showing by the objecting party to justify a contrary ruling, such
26 as privilege, a representative plaintiff can be compelled to supply his adversary with the
27 information about his class which is in his possession or readily available to him and
28 which is not equally available to an adversary. A representative plaintiff cannot be
29 compelled to supply information concerning members of his class or their interests in the
30 action which is neither in his possession nor control, unless the interrogatory is directly
31 related to his own standing to maintain the action, to the existence of an ascertainable
32 class, or to the existence of that community of interest which is required to sustain a class
33 action. [Citation] A representative cannot be compelled to respond to interrogatories
34 about any class member's separate claim as distinguished from the common claim of the
35 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
36 *Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

37 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
38

1 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
2 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
3 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
4 [Set One].

5 **REQUEST NO. 35:**

6 Admit that as of January 1, 2007, YOU knew that the groundwater supply of the BASIN was
7 being overdrafted.

8 **Defendant’s Response:**

9 Objection. The request is premature, burdensome and oppressive. This request seeks
10 information concerning class members and the court has not yet completed its class certification process.
11 No class representative has yet been approved by the court.

12 **Legal Authority in Support of Further Response:**

13 Defendants have the burden of justifying their objections or their failure to fully answer the
14 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
15 (1962) 58 Cal.2d 210, 220-221.)

16 “At the hearing of such a motion the burden is on the party interrogated, in this case the
17 defendants, ‘of showing facts from which the trial court might find that the
18 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

19 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
20 merit and are otherwise too general to preclude disclosure of the requested information.

21 **1. Premature**

22 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
23 may be propounded.

24 “(a) A defendant may make a request for admission by a party without
25 leave of court at any time.

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1 “(b) A plaintiff may make requests for admission by a party without leave
2 of court at any time that is 10 days after the service of the summons on,
3 or, in unlawful detainer actions, five days after service of the summons
4 on, or appearance by, that party, whichever occurs first.”

5 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
6 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
7 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
8 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
9 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
10 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
11 keeping the landowners in the dark as to their vaguely pled claims of prescription.

12 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
13 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
14 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
15 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
16 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
17 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
18 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
19 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
20 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
21 Suppliers to provide information about their claim of prescription. This is information that they will
22 have to provide in any event, prior to any resolution of their claim of prescription.

23 **2. Burdensome**

24 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
25 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
26 providing a response will result in injustice.

27 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
28 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
empowered to sustain an objection in toto, when the same is predicated upon burden,

1 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
2 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

3 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
4 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
5 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
6 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
7 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

8 The fact alone that the response to an interrogatory may be expensive and burdensome
9 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
10 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
11 *(1961) 56 Cal.2d 407, 417-418.*)

11 3. Oppression

12 "[T]o support an objection of oppression there must be some showing either of an intent
13 to create an unreasonable burden or that the ultimate effect of the burden is
14 incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
15 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

16 The propounding of Request for Admissions [Set One] was not served with any ill intent.
17 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
18 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
19 cross-complaints and answers. The burden on providing a response through discovery is no greater than
20 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
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22 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
23 discovery. The information sought must be produced before trial and the court is not empowered to deny
24 Diamond's discovery rights under this unsubstantiated claim of oppression.

25 "While it is true that the trial court has a broad discretion in passing on an objection that
26 there has been harassment and oppression [Citation], such discretion is not absolute. As
27 was said in *Cembrook*, such discretion does not authorize the trial court 'to make blanket
28 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.'" (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

1 **4. Objections Based on Class Certification**

2 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
3 certification has not yet been completed. This objection holds no merit as the right to discovery prior
4 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
5 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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7 “Appellate courts have recognized the importance of such orders by creating an
8 exception to the rule denying appellate review. ‘Whether the order is directly appealable
9 or we treat this as a petition for writ of mandate, the issue of the class certification order
10 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
11 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
12 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.

13 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
14 information about water purveyor class members. A plain reading of the request evidences that it was
15 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
16 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
17 future undefined class, a response is still warranted.

18 “Absent some specific showing by the objecting party to justify a contrary ruling, such
19 as privilege, a representative plaintiff can be compelled to supply his adversary with the
20 information about his class which is in his possession or readily available to him and
21 which is not equally available to an adversary. A representative plaintiff cannot be
22 compelled to supply information concerning members of his class or their interests in the
23 action which is neither in his possession nor control, unless the interrogatory is directly
24 related to his own standing to maintain the action, to the existence of an ascertainable
25 class, or to the existence of that community of interest which is required to sustain a class
26 action. [Citation] A representative cannot be compelled to respond to interrogatories
27 about any class member's separate claim as distinguished from the common claim of the
28 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
Mut. Water Co. v. Superior Court of Ventura County (1968) 259 Cal.App.2d 45, 54-55.)

25 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
26 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
27 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the

1 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
2 [Set One].

3 **REQUEST NO. 36:**

4 Admit that as of January 1, 1985, YOU believed that the groundwater supply of the BASIN was
5 being overdrafted.

6 **Defendant’s Response:**

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

10 **Legal Authority in Support of Further Response:**

11 Defendants have the burden of justifying their objections or their failure to fully answer the
12 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
13 (1962) 58 Cal.2d 210, 220-221.)

14 “At the hearing of such a motion the burden is on the party interrogated, in this case the
15 defendants, ‘of showing facts from which the trial court might find that the
16 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

17 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
18 merit and are otherwise too general to preclude disclosure of the requested information.

19 **1. Premature**

20 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
21 may be propounded.

22 “(a) A defendant may make a request for admission by a party without
23 leave of court at any time.

24 “(b) A plaintiff may make requests for admission by a party without leave
25 of court at any time that is 10 days after the service of the summons on,
26 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

27 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
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1 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
2 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
3 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
4 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
5 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
6 keeping the landowners in the dark as to their vaguely pled claims of prescription.

7 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
8 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
9 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
10 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
11 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
12 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
13 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
14 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
15 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
16 Suppliers to provide information about their claim of prescription. This is information that they will
17 have to provide in any event, prior to any resolution of their claim of prescription.

18 2. Burdensome

19 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
20 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
21 providing a response will result in injustice.

22 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
23 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
24 empowered to sustain an objection in toto, when the same is predicated upon burden,
25 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
26 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

27 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
28 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their

1 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
2 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

3 The fact alone that the response to an interrogatory may be expensive and burdensome
4 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura
County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
5 (1961) 56 Cal.2d 407, 417-418.)

6 **3. Oppression**

7 “[T]o support an objection of oppression there must be some showing either of an intent
8 to create an unreasonable burden or that the ultimate effect of the burden is
9 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of
Los Angeles County* (1961) 56 Cal.2d 407, 417.)

10 The propounding of Request for Admissions [Set One] was not served with any ill intent.
11 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
12 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
13 cross-complaints and answers. The burden on providing a response through discovery is no greater than
14 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
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17 discovery. The information sought must be produced before trial and the court is not empowered to deny
18 Diamond’s discovery rights under this unsubstantiated claim of oppression.

19 “While it is true that the trial court has a broad discretion in passing on an objection that
20 there has been harassment and oppression [Citation], such discretion is not absolute. As
21 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
22 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.’” (*Coy
v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

23 **4. Objections Based on Class Certification**

24 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
25 certification has not yet been completed. This objection holds no merit as the right to discovery prior
26 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The
27 Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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1 is both appropriate and permitted in order to ensure a fair hearing.

2 “Appellate courts have recognized the importance of such orders by creating an
3 exception to the rule denying appellate review. ‘Whether the order is directly appealable
4 or we treat this as a petition for writ of mandate, the issue of the class certification order
5 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
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8 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
9 information about water purveyor class members. A plain reading of the request evidences that it was
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20 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
21 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
22 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
23 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
24 [Set One].

25 **REQUEST NO. 37:**

26 Admit that as of January 1, 1986, YOU believed that the groundwater supply of the BASIN was
27 being overdrafted.

1 **Defendant’s Response:**

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

5 **Legal Authority in Support of Further Response:**

6 Defendants have the burden of justifying their objections or their failure to fully answer the
7 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
8 (1962) 58 Cal.2d 210, 220-221.)

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10 defendants, ‘of showing facts from which the trial court might find that the
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12 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
13 merit and are otherwise too general to preclude disclosure of the requested information.

14 **1. Premature**

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24 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
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1 keeping the landowners in the dark as to their vaguely pled claims of prescription.

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3 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
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11 Suppliers to provide information about their claim of prescription. This is information that they will
12 have to provide in any event, prior to any resolution of their claim of prescription.

13 2. Burdensome

14 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
15 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
16 providing a response will result in injustice.

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18 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
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21 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
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1 whether the issue is presented in a motion or by way of an order to show case issued by
2 the court. In addition, each party should have an opportunity to conduct discovery on
3 class action issues before its documents in support of or in opposition to the motion must
4 be filed.” *Carabini, supra*, pp. 243-244.

5 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
6 information about water purveyor class members. A plain reading of the request evidences that it was
7 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
8 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
9 future undefined class, a response is still warranted.

10 “Absent some specific showing by the objecting party to justify a contrary ruling, such
11 as privilege, a representative plaintiff can be compelled to supply his adversary with the
12 information about his class which is in his possession or readily available to him and
13 which is not equally available to an adversary. A representative plaintiff cannot be
14 compelled to supply information concerning members of his class or their interests in the
15 action which is neither in his possession nor control, unless the interrogatory is directly
16 related to his own standing to maintain the action, to the existence of an ascertainable
17 class, or to the existence of that community of interest which is required to sustain a class
18 action. [Citation] A representative cannot be compelled to respond to interrogatories
19 about any class member's separate claim as distinguished from the common claim of the
20 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
21 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

22 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
23 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
24 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
25 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
26 [Set One].

27 **REQUEST NO. 38:**

28 Admit that as of January 1, 1987, YOU believed that the groundwater supply of the BASIN was
being overdrafted.

Defendant’s Response:

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

1 **Legal Authority in Support of Further Response:**

2 Defendants have the burden of justifying their objections or their failure to fully answer the
3 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
4 (1962) 58 Cal.2d 210, 220-221.)

5 “At the hearing of such a motion the burden is on the party interrogated, in this case the
6 defendants, ‘of showing facts from which the trial court might find that the
7 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting*
System, Inc. v. Superior Court of Los Angeles County (1968) 263 Cal.App.2d 12, 18.)

8 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
9 merit and are otherwise too general to preclude disclosure of the requested information.

10 **1. Premature**

11 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
12 may be propounded.

13 “(a) A defendant may make a request for admission by a party without
14 leave of court at any time.

15 “(b) A plaintiff may make requests for admission by a party without leave
16 of court at any time that is 10 days after the service of the summons on,
or, in unlawful detainer actions, five days after service of the summons
17 on, or appearance by, that party, whichever occurs first.”

18 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
19 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
20 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
21 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
22 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
23 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
24 keeping the landowners in the dark as to their vaguely pled claims of prescription.

25 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
26 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)

27 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
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1 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
2 to prevent delay; and to safeguard against surprise. [Citations.]" (*Britts v. Superior Court* (2006) 145
3 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
4 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
5 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
6 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
7 Suppliers to provide information about their claim of prescription. This is information that they will
8 have to provide in any event, prior to any resolution of their claim of prescription.

9 2. Burdensome

10 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
11 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
12 providing a response will result in injustice.

13 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
14 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
15 empowered to sustain an objection in toto, when the same is predicated upon burden,
16 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
17 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

18 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
19 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
20 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
21 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
22 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

23 The fact alone that the response to an interrogatory may be expensive and burdensome
24 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
25 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
26 (1961) 56 Cal.2d 407, 417-418.)

27 3. Oppression

28 "[T]o support an objection of oppression there must be some showing either of an intent
to create an unreasonable burden or that the ultimate effect of the burden is
incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
Los Angeles County (1961) 56 Cal.2d 407, 417.)

1 The propounding of Request for Admissions [Set One] was not served with any ill intent.
2 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
3 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
4 cross-complaints and answers. The burden on providing a response through discovery is no greater than
5 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
6 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
7 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
8 discovery. The information sought must be produced before trial and the court is not empowered to deny
9 Diamond's discovery rights under this unsubstantiated claim of oppression.

10 "While it is true that the trial court has a broad discretion in passing on an objection that
11 there has been harassment and oppression [Citation], such discretion is not absolute. As
12 was said in *Cembrook*, such discretion does not authorize the trial court 'to make blanket
13 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.'" (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

14 **4. Objections Based on Class Certification**

15 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
16 certification has not yet been completed. This objection holds no merit as the right to discovery prior
17 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
18 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
19 is both appropriate and permitted in order to ensure a fair hearing.

20 "Appellate courts have recognized the importance of such orders by creating an
21 exception to the rule denying appellate review. 'Whether the order is directly appealable
22 or we treat this as a petition for writ of mandate, the issue of the class certification order
23 is and should be before us.' (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
24 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
25 Due process requires an order with such significant impact on the viability of a case not
26 be made without a full opportunity to brief the issues and present evidence. This is true
27 whether the issue is presented in a motion or by way of an order to show case issued by
28 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.

26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
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1 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
2 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
3 future undefined class, a response is still warranted.

4 “Absent some specific showing by the objecting party to justify a contrary ruling, such
5 as privilege, a representative plaintiff can be compelled to supply his adversary with the
6 information about his class which is in his possession or readily available to him and
7 which is not equally available to an adversary. A representative plaintiff cannot be
8 compelled to supply information concerning members of his class or their interests in the
9 action which is neither in his possession nor control, unless the interrogatory is directly
10 related to his own standing to maintain the action, to the existence of an ascertainable
11 class, or to the existence of that community of interest which is required to sustain a class
12 action. [Citation] A representative cannot be compelled to respond to interrogatories
13 about any class member's separate claim as distinguished from the common claim of the
14 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
15 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

16 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
17 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
18 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
19 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
20 [Set One].

21 **REQUEST NO. 39:**

22 Admit that as of January 1, 1988, YOU believed that the groundwater supply of the BASIN was
23 being overdrafted.

24 **Defendant’s Response:**

25 Objection. The request is premature, burdensome and oppressive. This request seeks
26 information concerning class members and the court has not yet completed its class certification process.
27 No class representative has yet been approved by the court.

28 **Legal Authority in Support of Further Response:**

Defendants have the burden of justifying their objections or their failure to fully answer the
discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
(1962) 58 Cal.2d 210, 220-221.)

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1 “At the hearing of such a motion the burden is on the party interrogated, in this case the
2 defendants, ‘of showing facts from which the trial court might find that the
3 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

4 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
5 merit and are otherwise too general to preclude disclosure of the requested information.

6 **1. Premature**

7 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
8 may be propounded.

9 “(a) A defendant may make a request for admission by a party without
10 leave of court at any time.

11 “(b) A plaintiff may make requests for admission by a party without leave
12 of court at any time that is 10 days after the service of the summons on,
13 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

14 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
15 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
16 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
17 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
18 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
19 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
20 keeping the landowners in the dark as to their vaguely pled claims of prescription.

21 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
22 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
23 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
24 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
25 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
26 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
27 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
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1 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
2 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
3 Suppliers to provide information about their claim of prescription. This is information that they will
4 have to provide in any event, prior to any resolution of their claim of prescription.

5 **2. Burdensome**

6 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
7 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
8 providing a response will result in injustice.

9 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
10 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
11 empowered to sustain an objection in toto, when the same is predicated upon burden,
12 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
13 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

14 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
15 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
16 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
17 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
18 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

19 The fact alone that the response to an interrogatory may be expensive and burdensome
20 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
21 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
22 (1961) 56 Cal.2d 407, 417-418.)

23 **3. Oppression**

24 "[T]o support an objection of oppression there must be some showing either of an intent
25 to create an unreasonable burden or that the ultimate effect of the burden is
26 incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
27 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

28 The propounding of Request for Admissions [Set One] was not served with any ill intent.
29 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
30 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
31 cross-complaints and answers. The burden on providing a response through discovery is no greater than

1 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
2 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
3 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
4 discovery. The information sought must be produced before trial and the court is not empowered to deny
5 Diamond’s discovery rights under this unsubstantiated claim of oppression.

6 “While it is true that the trial court has a broad discretion in passing on an objection that
7 there has been harassment and oppression [Citation], such discretion is not absolute. As
8 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
9 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

10 **4. Objections Based on Class Certification**

11 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
12 certification has not yet been completed. This objection holds no merit as the right to discovery prior
13 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
14 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
15 is both appropriate and permitted in order to ensure a fair hearing.

16 “Appellate courts have recognized the importance of such orders by creating an
17 exception to the rule denying appellate review. ‘Whether the order is directly appealable
18 or we treat this as a petition for writ of mandate, the issue of the class certification order
19 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
20 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
21 Due process requires an order with such significant impact on the viability of a case not
22 be made without a full opportunity to brief the issues and present evidence. This is true
23 whether the issue is presented in a motion or by way of an order to show case issued by
24 the court. In addition, each party should have an opportunity to conduct discovery on
25 class action issues before its documents in support of or in opposition to the motion must
26 be filed.” *Carabini, supra*, pp. 243-244.

27 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
28 information about water purveyor class members. A plain reading of the request evidences that it was
directed to the specific public water suppliers concerning the specific elements of each entity’s specific
claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
future undefined class, a response is still warranted.

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1 “Absent some specific showing by the objecting party to justify a contrary ruling, such
2 as privilege, a representative plaintiff can be compelled to supply his adversary with the
3 information about his class which is in his possession or readily available to him and
4 which is not equally available to an adversary. A representative plaintiff cannot be
5 compelled to supply information concerning members of his class or their interests in the
6 action which is neither in his possession nor control, unless the interrogatory is directly
7 related to his own standing to maintain the action, to the existence of an ascertainable
8 class, or to the existence of that community of interest which is required to sustain a class
9 action. [Citation] A representative cannot be compelled to respond to interrogatories
10 about any class member's separate claim as distinguished from the common claim of the
11 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
12 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

13 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
14 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
15 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
16 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
17 [Set One].

18 **REQUEST NO. 40:**

19 Admit that as of January 1, 1989, YOU believed that the groundwater supply of the BASIN was
20 being overdrafted.

21 **Defendant’s Response:**

22 Objection. The request is premature, burdensome and oppressive. This request seeks
23 information concerning class members and the court has not yet completed its class certification process.
24 No class representative has yet been approved by the court.

25 **Legal Authority in Support of Further Response:**

26 Defendants have the burden of justifying their objections or their failure to fully answer the
27 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
28 (1962) 58 Cal.2d 210, 220-221.)

“At the hearing of such a motion the burden is on the party interrogated, in this case the
defendants, ‘of showing facts from which the trial court might find that the
interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

Defendants will be unable to satisfy this burden because the objections asserted to this request have no

1 merit and are otherwise too general to preclude disclosure of the requested information.

2 **1. Premature**

3 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
4 may be propounded.

5 “(a) A defendant may make a request for admission by a party without
6 leave of court at any time.

7 “(b) A plaintiff may make requests for admission by a party without leave
8 of court at any time that is 10 days after the service of the summons on,
9 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

10 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
11 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
12 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
13 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
14 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
15 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
16 keeping the landowners in the dark as to their vaguely pled claims of prescription.

17 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
18 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
19 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
20 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
21 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
22 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
23 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
24 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
25 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
26 Suppliers to provide information about their claim of prescription. This is information that they will
27 have to provide in any event, prior to any resolution of their claim of prescription.

1 **2. Burdensome**

2 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
3 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
4 providing a response will result in injustice.

5 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
6 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
7 empowered to sustain an objection in toto, when the same is predicated upon burden,
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10 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
11 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
12 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
13 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
14 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

15 The fact alone that the response to an interrogatory may be expensive and burdensome
16 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
17 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
18 (1961) 56 Cal.2d 407, 417-418.)

19 **3. Oppression**

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21 to create an unreasonable burden or that the ultimate effect of the burden is
22 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
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26 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
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28 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
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1 Diamond’s discovery rights under this unsubstantiated claim of oppression.

2 “While it is true that the trial court has a broad discretion in passing on an objection that
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5 orders barring disclosure in toto when the factual situation indicates that a just and
6 equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
7 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

6 4. Objections Based on Class Certification

7 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
8 certification has not yet been completed. This objection holds no merit as the right to discovery prior
9 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
10 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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12 “Appellate courts have recognized the importance of such orders by creating an
13 exception to the rule denying appellate review. ‘Whether the order is directly appealable
14 or we treat this as a petition for writ of mandate, the issue of the class certification order
15 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
16 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
17 Due process requires an order with such significant impact on the viability of a case not
18 be made without a full opportunity to brief the issues and present evidence. This is true
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20 the court. In addition, each party should have an opportunity to conduct discovery on
21 class action issues before its documents in support of or in opposition to the motion must
22 be filed.” *Carabini, supra*, pp. 243-244.

18 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
19 information about water purveyor class members. A plain reading of the request evidences that it was
20 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
21 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
22 future undefined class, a response is still warranted.

23 “Absent some specific showing by the objecting party to justify a contrary ruling, such
24 as privilege, a representative plaintiff can be compelled to supply his adversary with the
25 information about his class which is in his possession or readily available to him and
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action. [Citation] A representative cannot be compelled to respond to interrogatories

1 about any class member's separate claim as distinguished from the common claim of the
2 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

3 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
4 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
5 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
6 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
7 [Set One].

8 **REQUEST NO. 41:** Admit that as of January 1, 1990, YOU believed that the groundwater supply of
9 the BASIN was being overdrafted.

10 **Defendant’s Response:**

11 Objection. The request is premature, burdensome and oppressive. This request seeks
12 information concerning class members and the court has not yet completed its class certification process.
13 No class representative has yet been approved by the court.

14 **Legal Authority in Support of Further Response:**

15 Defendants have the burden of justifying their objections or their failure to fully answer the
16 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
17 (1962) 58 Cal.2d 210, 220-221.)

18 “At the hearing of such a motion the burden is on the party interrogated, in this case the
19 defendants, ‘of showing facts from which the trial court might find that the
20 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

21 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
22 merit and are otherwise too general to preclude disclosure of the requested information.

23 **1. Premature**

24 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
25 may be propounded.

26 “(a) A defendant may make a request for admission by a party without
27 leave of court at any time.

1 “(b) A plaintiff may make requests for admission by a party without leave
2 of court at any time that is 10 days after the service of the summons on,
3 or, in unlawful detainer actions, five days after service of the summons
4 on, or appearance by, that party, whichever occurs first.”

5 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
6 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
7 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
8 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
9 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
10 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
11 keeping the landowners in the dark as to their vaguely pled claims of prescription.

12 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
13 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
14 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
15 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
16 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
17 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
18 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
19 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
20 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
21 Suppliers to provide information about their claim of prescription. This is information that they will
22 have to provide in any event, prior to any resolution of their claim of prescription.

23 **2. Burdensome**

24 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
25 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
26 providing a response will result in injustice.

27 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
28 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
29 empowered to sustain an objection in toto, when the same is predicated upon burden,

1 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
2 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

3 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
4 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
5 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
6 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
7 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

8 The fact alone that the response to an interrogatory may be expensive and burdensome
9 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
10 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
11 *(1961) 56 Cal.2d 407, 417-418.*)

11 3. Oppression

12 "[T]o support an objection of oppression there must be some showing either of an intent
13 to create an unreasonable burden or that the ultimate effect of the burden is
14 incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
15 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

16 The propounding of Request for Admissions [Set One] was not served with any ill intent.
17 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
18 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
19 cross-complaints and answers. The burden on providing a response through discovery is no greater than
20 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
21 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
22 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
23 discovery. The information sought must be produced before trial and the court is not empowered to deny
24 Diamond's discovery rights under this unsubstantiated claim of oppression.

25 "While it is true that the trial court has a broad discretion in passing on an objection that
26 there has been harassment and oppression [Citation], such discretion is not absolute. As
27 was said in *Cembrook*, such discretion does not authorize the trial court 'to make blanket
28 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.'" (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

1 **4. Objections Based on Class Certification**

2 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
3 certification has not yet been completed. This objection holds no merit as the right to discovery prior
4 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
5 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
6 is both appropriate and permitted in order to ensure a fair hearing.

7 “Appellate courts have recognized the importance of such orders by creating an
8 exception to the rule denying appellate review. ‘Whether the order is directly appealable
9 or we treat this as a petition for writ of mandate, the issue of the class certification order
10 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
11 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
12 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.

13 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
14 information about water purveyor class members. A plain reading of the request evidences that it was
15 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
16 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
17 future undefined class, a response is still warranted.

18 “Absent some specific showing by the objecting party to justify a contrary ruling, such
19 as privilege, a representative plaintiff can be compelled to supply his adversary with the
20 information about his class which is in his possession or readily available to him and
21 which is not equally available to an adversary. A representative plaintiff cannot be
22 compelled to supply information concerning members of his class or their interests in the
23 action which is neither in his possession nor control, unless the interrogatory is directly
24 related to his own standing to maintain the action, to the existence of an ascertainable
25 class, or to the existence of that community of interest which is required to sustain a class
26 action. [Citation] A representative cannot be compelled to respond to interrogatories
27 about any class member's separate claim as distinguished from the common claim of the
28 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
Mut. Water Co. v. Superior Court of Ventura County (1968) 259 Cal.App.2d 45, 54-55.)

25 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
26 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
27 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
28

1 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
2 [Set One].

3 **REQUEST NO. 42:**

4 Admit that as of January 1, 1991, YOU believed that the groundwater supply of the BASIN was
5 being overdrafted.

6 **Defendant’s Response:**

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

10 **Legal Authority in Support of Further Response:**

11 Defendants have the burden of justifying their objections or their failure to fully answer the
12 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
13 (1962) 58 Cal.2d 210, 220-221.)

14 “At the hearing of such a motion the burden is on the party interrogated, in this case the
15 defendants, ‘of showing facts from which the trial court might find that the
16 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

17 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
18 merit and are otherwise too general to preclude disclosure of the requested information.

19 **1. Premature**

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21 may be propounded.

22 “(a) A defendant may make a request for admission by a party without
23 leave of court at any time.

24 “(b) A plaintiff may make requests for admission by a party without leave
25 of court at any time that is 10 days after the service of the summons on,
26 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

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1 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
2 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
3 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
4 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
5 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
6 keeping the landowners in the dark as to their vaguely pled claims of prescription.

7 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
8 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
9 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
10 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
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13 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
14 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
15 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
16 Suppliers to provide information about their claim of prescription. This is information that they will
17 have to provide in any event, prior to any resolution of their claim of prescription.

18 2. Burdensome

19 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
20 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
21 providing a response will result in injustice.

22 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
23 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
24 empowered to sustain an objection in toto, when the same is predicated upon burden,
25 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
26 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

27 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
28 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their

1 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
2 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

3 The fact alone that the response to an interrogatory may be expensive and burdensome
4 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura
County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
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6 **3. Oppression**

7 “[T]o support an objection of oppression there must be some showing either of an intent
8 to create an unreasonable burden or that the ultimate effect of the burden is
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Los Angeles County* (1961) 56 Cal.2d 407, 417.)

10 The propounding of Request for Admissions [Set One] was not served with any ill intent.
11 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
12 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
13 cross-complaints and answers. The burden on providing a response through discovery is no greater than
14 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
15 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
16 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
17 discovery. The information sought must be produced before trial and the court is not empowered to deny
18 Diamond’s discovery rights under this unsubstantiated claim of oppression.

19 “While it is true that the trial court has a broad discretion in passing on an objection that
20 there has been harassment and oppression [Citation], such discretion is not absolute. As
21 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
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equitable order could be made that would authorize disclosure with limitations.’” (*Coy
v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

23 **4. Objections Based on Class Certification**

24 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
25 certification has not yet been completed. This objection holds no merit as the right to discovery prior
26 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The
27 Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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8 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
9 information about water purveyor class members. A plain reading of the request evidences that it was
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21 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
22 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
23 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
24 [Set One].

25 **REQUEST NO. 43:**

26 Admit that as of January 1, 1992, YOU believed that the groundwater supply of the BASIN was
27 being overdrafted.

1 **Defendant's Response:**

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

5 **Legal Authority in Support of Further Response:**

6 Defendants have the burden of justifying their objections or their failure to fully answer the
7 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
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24 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)

25 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
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27 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby

1 keeping the landowners in the dark as to their vaguely pled claims of prescription.

2 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
3 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
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10 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
11 Suppliers to provide information about their claim of prescription. This is information that they will
12 have to provide in any event, prior to any resolution of their claim of prescription.

13 2. Burdensome

14 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
15 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
16 providing a response will result in injustice.

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18 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
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21 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
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22 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
23 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
24 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
25 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
26 [Set One].

27 **REQUEST NO. 44:**

28 Admit that as of January 1, 1993, YOU believed that the groundwater supply of the BASIN was
being overdrafted.

Defendant’s Response:

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

1 **Legal Authority in Support of Further Response:**

2 Defendants have the burden of justifying their objections or their failure to fully answer the
3 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
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9 merit and are otherwise too general to preclude disclosure of the requested information.

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1 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
2 to prevent delay; and to safeguard against surprise. [Citations.]" (*Britts v. Superior Court* (2006) 145
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4 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
5 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
6 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
7 Suppliers to provide information about their claim of prescription. This is information that they will
8 have to provide in any event, prior to any resolution of their claim of prescription.

9 2. Burdensome

10 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
11 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
12 providing a response will result in injustice.

13 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
14 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
15 empowered to sustain an objection in toto, when the same is predicated upon burden,
16 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
17 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

18 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
19 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
20 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
21 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
22 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

23 The fact alone that the response to an interrogatory may be expensive and burdensome
24 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
25 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
26 (1961) 56 Cal.2d 407, 417-418.)

27 3. Oppression

28 "[T]o support an objection of oppression there must be some showing either of an intent
to create an unreasonable burden or that the ultimate effect of the burden is
incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
Los Angeles County (1961) 56 Cal.2d 407, 417.)

1 The propounding of Request for Admissions [Set One] was not served with any ill intent.
2 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
3 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
4 cross-complaints and answers. The burden on providing a response through discovery is no greater than
5 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
6 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
7 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
8 discovery. The information sought must be produced before trial and the court is not empowered to deny
9 Diamond's discovery rights under this unsubstantiated claim of oppression.

10 "While it is true that the trial court has a broad discretion in passing on an objection that
11 there has been harassment and oppression [Citation], such discretion is not absolute. As
12 was said in *Cembrook*, such discretion does not authorize the trial court 'to make blanket
13 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.'" (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

14 **4. Objections Based on Class Certification**

15 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
16 certification has not yet been completed. This objection holds no merit as the right to discovery prior
17 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
18 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
19 is both appropriate and permitted in order to ensure a fair hearing.

20 "Appellate courts have recognized the importance of such orders by creating an
21 exception to the rule denying appellate review. 'Whether the order is directly appealable
22 or we treat this as a petition for writ of mandate, the issue of the class certification order
23 is and should be before us.' (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
24 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
25 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
26 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
27 class action issues before its documents in support of or in opposition to the motion must
28 be filed." *Carabini, supra*, pp. 243-244.

26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
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1 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
2 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
3 future undefined class, a response is still warranted.

4 “Absent some specific showing by the objecting party to justify a contrary ruling, such
5 as privilege, a representative plaintiff can be compelled to supply his adversary with the
6 information about his class which is in his possession or readily available to him and
7 which is not equally available to an adversary. A representative plaintiff cannot be
8 compelled to supply information concerning members of his class or their interests in the
9 action which is neither in his possession nor control, unless the interrogatory is directly
10 related to his own standing to maintain the action, to the existence of an ascertainable
11 class, or to the existence of that community of interest which is required to sustain a class
12 action. [Citation] A representative cannot be compelled to respond to interrogatories
13 about any class member's separate claim as distinguished from the common claim of the
14 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
15 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

16 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
17 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
18 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
19 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
20 [Set One].

21 **REQUEST NO. 45:**

22 Admit that as of January 1, 1994, YOU believed that the groundwater supply of the BASIN was
23 being overdrafted.

24 **Defendant’s Response:**

25 Objection. The request is premature, burdensome and oppressive. This request seeks
26 information concerning class members and the court has not yet completed its class certification process.
27 No class representative has yet been approved by the court.

28 **Legal Authority in Support of Further Response:**

Defendants have the burden of justifying their objections or their failure to fully answer the
discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
(1962) 58 Cal.2d 210, 220-221.)

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1 “At the hearing of such a motion the burden is on the party interrogated, in this case the
2 defendants, ‘of showing facts from which the trial court might find that the
3 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

4 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
5 merit and are otherwise too general to preclude disclosure of the requested information.

6 **1. Premature**

7 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
8 may be propounded.

9 “(a) A defendant may make a request for admission by a party without
10 leave of court at any time.

11 “(b) A plaintiff may make requests for admission by a party without leave
12 of court at any time that is 10 days after the service of the summons on,
13 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

14 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
15 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
16 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
17 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
18 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
19 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
20 keeping the landowners in the dark as to their vaguely pled claims of prescription.

21 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
22 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
23 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
24 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
25 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
26 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
27 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
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1 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
2 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
3 Suppliers to provide information about their claim of prescription. This is information that they will
4 have to provide in any event, prior to any resolution of their claim of prescription.

5 **2. Burdensome**

6 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
7 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
8 providing a response will result in injustice.

9 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
10 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
11 empowered to sustain an objection in toto, when the same is predicated upon burden,
12 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
13 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

14 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
15 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
16 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
17 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
18 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

19 The fact alone that the response to an interrogatory may be expensive and burdensome
20 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
21 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
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23 **3. Oppression**

24 "[T]o support an objection of oppression there must be some showing either of an intent
25 to create an unreasonable burden or that the ultimate effect of the burden is
26 incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
27 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

28 The propounding of Request for Admissions [Set One] was not served with any ill intent.
29 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
30 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
31 cross-complaints and answers. The burden on providing a response through discovery is no greater than

1 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
2 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
3 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
4 discovery. The information sought must be produced before trial and the court is not empowered to deny
5 Diamond’s discovery rights under this unsubstantiated claim of oppression.

6 “While it is true that the trial court has a broad discretion in passing on an objection that
7 there has been harassment and oppression [Citation], such discretion is not absolute. As
8 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
9 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

10 **4. Objections Based on Class Certification**

11 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
12 certification has not yet been completed. This objection holds no merit as the right to discovery prior
13 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
14 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
15 is both appropriate and permitted in order to ensure a fair hearing.

16 “Appellate courts have recognized the importance of such orders by creating an
17 exception to the rule denying appellate review. ‘Whether the order is directly appealable
18 or we treat this as a petition for writ of mandate, the issue of the class certification order
19 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
20 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
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22 whether the issue is presented in a motion or by way of an order to show case issued by
23 the court. In addition, each party should have an opportunity to conduct discovery on
24 class action issues before its documents in support of or in opposition to the motion must
25 be filed.” *Carabini, supra*, pp. 243-244.

26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
28 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
future undefined class, a response is still warranted.

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1 “Absent some specific showing by the objecting party to justify a contrary ruling, such
2 as privilege, a representative plaintiff can be compelled to supply his adversary with the
3 information about his class which is in his possession or readily available to him and
4 which is not equally available to an adversary. A representative plaintiff cannot be
5 compelled to supply information concerning members of his class or their interests in the
6 action which is neither in his possession nor control, unless the interrogatory is directly
7 related to his own standing to maintain the action, to the existence of an ascertainable
8 class, or to the existence of that community of interest which is required to sustain a class
9 action. [Citation] A representative cannot be compelled to respond to interrogatories
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11 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
12 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

13 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
14 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
15 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
16 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
17 [Set One].

18 **REQUEST NO. 46:**

19 Admit that as of January 1, 1995, YOU believed that the groundwater supply of the BASIN was
20 being overdrafted.

21 **Defendant’s Response:**

22 Objection. The request is premature, burdensome and oppressive. This request seeks
23 information concerning class members and the court has not yet completed its class certification process.
24 No class representative has yet been approved by the court.

25 **Legal Authority in Support of Further Response:**

26 Defendants have the burden of justifying their objections or their failure to fully answer the
27 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
28 (1962) 58 Cal.2d 210, 220-221.)

“At the hearing of such a motion the burden is on the party interrogated, in this case the
defendants, ‘of showing facts from which the trial court might find that the
interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

Defendants will be unable to satisfy this burden because the objections asserted to this request have no

1 merit and are otherwise too general to preclude disclosure of the requested information.

2 **1. Premature**

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4 may be propounded.

5 “(a) A defendant may make a request for admission by a party without
6 leave of court at any time.

7 “(b) A plaintiff may make requests for admission by a party without leave
8 of court at any time that is 10 days after the service of the summons on,
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on, or appearance by, that party, whichever occurs first.”

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11 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
12 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
13 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
14 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
15 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
16 keeping the landowners in the dark as to their vaguely pled claims of prescription.

17 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
18 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
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20 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
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23 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
24 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
25 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
26 Suppliers to provide information about their claim of prescription. This is information that they will
27 have to provide in any event, prior to any resolution of their claim of prescription.

1 **2. Burdensome**

2 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
3 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
4 providing a response will result in injustice.

5 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
6 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
7 empowered to sustain an objection in toto, when the same is predicated upon burden,
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10 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
11 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
12 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
13 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
14 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

15 The fact alone that the response to an interrogatory may be expensive and burdensome
16 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
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21 to create an unreasonable burden or that the ultimate effect of the burden is
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7 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

6 4. Objections Based on Class Certification

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9 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
10 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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16 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
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18 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
19 information about water purveyor class members. A plain reading of the request evidences that it was
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21 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
22 future undefined class, a response is still warranted.

23 “Absent some specific showing by the objecting party to justify a contrary ruling, such
24 as privilege, a representative plaintiff can be compelled to supply his adversary with the
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2 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

3 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
4 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
5 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
6 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
7 [Set One].

8 **REQUEST NO. 47:**

9 Admit that as of January 1, 1996, YOU believed that the groundwater supply of the BASIN was
10 being overdrafted.

11 **Defendant’s Response:**

12 Objection. The request is premature, burdensome and oppressive. This request seeks
13 information concerning class members and the court has not yet completed its class certification process.
14 No class representative has yet been approved by the court.

15 **Legal Authority in Support of Further Response:**

16 Defendants have the burden of justifying their objections or their failure to fully answer the
17 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
18 (1962) 58 Cal.2d 210, 220-221.)

19 “At the hearing of such a motion the burden is on the party interrogated, in this case the
20 defendants, ‘of showing facts from which the trial court might find that the
21 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

22 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
23 merit and are otherwise too general to preclude disclosure of the requested information.

24 **1. Premature**

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Code of Civil Procedure section 2019.020 provides that there is no required sequence of discovery. In general, fairness demands adherence to the statutory procedures, since they were designed to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.) Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal basis or authority to assert this objection which is designed simply to avoid providing a response, thereby keeping the landowners in the dark as to their vaguely pled claims of prescription.

The premature claim also seeks to compromise the purpose of pretrial discovery which is to obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.) “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial; to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court* (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water Suppliers to provide information about their claim of prescription. This is information that they will have to provide in any event, prior to any resolution of their claim of prescription.

2. Burdensome

The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to respond to Request for Admissions [Set One] because these entities cannot show that the burden of providing a response will result in injustice.

1 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
2 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
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8 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
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15 3. Oppression

16 “[T]o support an objection of oppression there must be some showing either of an intent
17 to create an unreasonable burden or that the ultimate effect of the burden is
18 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
19 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

20 The propounding of Request for Admissions [Set One] was not served with any ill intent.
21 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
22 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
23 cross-complaints and answers. The burden on providing a response through discovery is no greater than
24 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
25 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
26 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
27 discovery. The information sought must be produced before trial and the court is not empowered to deny
28 Diamond’s discovery rights under this unsubstantiated claim of oppression.

“While it is true that the trial court has a broad discretion in passing on an objection that
there has been harassment and oppression [Citation], such discretion is not absolute. As
was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
orders barring disclosure in toto when the factual situation indicates that a just and

1 equitable order could be made that would authorize disclosure with limitations.” (*Coy*
2 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

3 **4. Objections Based on Class Certification**

4 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
5 certification has not yet been completed. This objection holds no merit as the right to discovery prior
6 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
7 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
8 is both appropriate and permitted in order to ensure a fair hearing.

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

20 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
21 information about water purveyor class members. A plain reading of the request evidences that it was
22 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
23 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
24 future undefined class, a response is still warranted.

25 “Absent some specific showing by the objecting party to justify a contrary ruling, such
26 as privilege, a representative plaintiff can be compelled to supply his adversary with the
27 information about his class which is in his possession or readily available to him and
28 which is not equally available to an adversary. A representative plaintiff cannot be
29 compelled to supply information concerning members of his class or their interests in the
30 action which is neither in his possession nor control, unless the interrogatory is directly
31 related to his own standing to maintain the action, to the existence of an ascertainable
32 class, or to the existence of that community of interest which is required to sustain a class
33 action. [Citation] A representative cannot be compelled to respond to interrogatories
34 about any class member's separate claim as distinguished from the common claim of the
35 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
36 *Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

37 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been

1 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
2 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
3 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
4 [Set One].

5 **REQUEST NO. 48:**

6 Admit that as of January 1, 1997, YOU believed that the groundwater supply of the BASIN was
7 being overdrafted.

8 **Defendant’s Response:**

9 Objection. The request is premature, burdensome and oppressive. This request seeks
10 information concerning class members and the court has not yet completed its class certification process.
11 No class representative has yet been approved by the court.

12 **Legal Authority in Support of Further Response:**

13 Defendants have the burden of justifying their objections or their failure to fully answer the
14 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
15 (1962) 58 Cal.2d 210, 220-221.)

16 “At the hearing of such a motion the burden is on the party interrogated, in this case the
17 defendants, ‘of showing facts from which the trial court might find that the
18 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

19 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
20 merit and are otherwise too general to preclude disclosure of the requested information.

21 **1. Premature**

22 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
23 may be propounded.

24 “(a) A defendant may make a request for admission by a party without
25 leave of court at any time.

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27 ///

28

1 “(b) A plaintiff may make requests for admission by a party without leave
2 of court at any time that is 10 days after the service of the summons on,
3 or, in unlawful detainer actions, five days after service of the summons
4 on, or appearance by, that party, whichever occurs first.”

5 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
6 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
7 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
8 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
9 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
10 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
11 keeping the landowners in the dark as to their vaguely pled claims of prescription.

12 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
13 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
14 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
15 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
16 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
17 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
18 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
19 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
20 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
21 Suppliers to provide information about their claim of prescription. This is information that they will
22 have to provide in any event, prior to any resolution of their claim of prescription.

23 **2. Burdensome**

24 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
25 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
26 providing a response will result in injustice.

27 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
28 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
empowered to sustain an objection in toto, when the same is predicated upon burden,

1 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
2 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

3 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
4 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
5 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
6 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
7 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

8 The fact alone that the response to an interrogatory may be expensive and burdensome
9 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
10 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
11 *(1961) 56 Cal.2d 407, 417-418.*)

11 3. Oppression

12 "[T]o support an objection of oppression there must be some showing either of an intent
13 to create an unreasonable burden or that the ultimate effect of the burden is
14 incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
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17 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
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23 discovery. The information sought must be produced before trial and the court is not empowered to deny
24 Diamond's discovery rights under this unsubstantiated claim of oppression.

25 "While it is true that the trial court has a broad discretion in passing on an objection that
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27 was said in *Cembrook*, such discretion does not authorize the trial court 'to make blanket
28 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.'" (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

1 **4. Objections Based on Class Certification**

2 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
3 certification has not yet been completed. This objection holds no merit as the right to discovery prior
4 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
5 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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7 “Appellate courts have recognized the importance of such orders by creating an
8 exception to the rule denying appellate review. ‘Whether the order is directly appealable
9 or we treat this as a petition for writ of mandate, the issue of the class certification order
10 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
11 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
12 Due process requires an order with such significant impact on the viability of a case not
13 be made without a full opportunity to brief the issues and present evidence. This is true
14 whether the issue is presented in a motion or by way of an order to show case issued by
15 the court. In addition, each party should have an opportunity to conduct discovery on
16 class action issues before its documents in support of or in opposition to the motion must
17 be filed.” *Carabini, supra*, pp. 243-244.

18 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
19 information about water purveyor class members. A plain reading of the request evidences that it was
20 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
21 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
22 future undefined class, a response is still warranted.

23 “Absent some specific showing by the objecting party to justify a contrary ruling, such
24 as privilege, a representative plaintiff can be compelled to supply his adversary with the
25 information about his class which is in his possession or readily available to him and
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class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
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29 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
30 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
31 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the

1 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
2 [Set One].

3 **REQUEST NO. 49:**

4 Admit that as of January 1, 1998, YOU believed that the groundwater supply of the BASIN was
5 being overdrafted.

6 **Defendant’s Response:**

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

10 **Legal Authority in Support of Further Response:**

11 Defendants have the burden of justifying their objections or their failure to fully answer the
12 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
13 (1962) 58 Cal.2d 210, 220-221.)

14 “At the hearing of such a motion the burden is on the party interrogated, in this case the
15 defendants, ‘of showing facts from which the trial court might find that the
16 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

17 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
18 merit and are otherwise too general to preclude disclosure of the requested information.

19 **1. Premature**

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21 may be propounded.

22 “(a) A defendant may make a request for admission by a party without
23 leave of court at any time.

24 “(b) A plaintiff may make requests for admission by a party without leave
25 of court at any time that is 10 days after the service of the summons on,
26 or, in unlawful detainer actions, five days after service of the summons
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1 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
2 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
3 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
4 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
5 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
6 keeping the landowners in the dark as to their vaguely pled claims of prescription.

7 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
8 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
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10 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
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15 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
16 Suppliers to provide information about their claim of prescription. This is information that they will
17 have to provide in any event, prior to any resolution of their claim of prescription.

18 2. Burdensome

19 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
20 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
21 providing a response will result in injustice.

22 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
23 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
24 empowered to sustain an objection in toto, when the same is predicated upon burden,
25 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
26 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

27 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
28 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their

1 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
2 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

3 The fact alone that the response to an interrogatory may be expensive and burdensome
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County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
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Los Angeles County* (1961) 56 Cal.2d 407, 417.)

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12 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
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17 discovery. The information sought must be produced before trial and the court is not empowered to deny
18 Diamond’s discovery rights under this unsubstantiated claim of oppression.

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21 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
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equitable order could be made that would authorize disclosure with limitations.’” (*Coy
v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

23 **4. Objections Based on Class Certification**

24 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
25 certification has not yet been completed. This objection holds no merit as the right to discovery prior
26 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The
27 Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
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1 is both appropriate and permitted in order to ensure a fair hearing.

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3 exception to the rule denying appellate review. ‘Whether the order is directly appealable
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5 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
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8 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
9 information about water purveyor class members. A plain reading of the request evidences that it was
10 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
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13 “Absent some specific showing by the objecting party to justify a contrary ruling, such
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23 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
24 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

20 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
21 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
22 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
23 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
24 [Set One].

25 **REQUEST NO. 50:**

26 Admit that as of January 1, 1999, YOU believed that the groundwater supply of the BASIN was
27 being overdrafted.

1 **Defendant's Response:**

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

5 **Legal Authority in Support of Further Response:**

6 Defendants have the burden of justifying their objections or their failure to fully answer the
7 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
8 (1962) 58 Cal.2d 210, 220-221.)

9 “At the hearing of such a motion the burden is on the party interrogated, in this case the
10 defendants, ‘of showing facts from which the trial court might find that the
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12 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
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14 **1. Premature**

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24 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)

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27 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
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1 keeping the landowners in the dark as to their vaguely pled claims of prescription.

2 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
3 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
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11 Suppliers to provide information about their claim of prescription. This is information that they will
12 have to provide in any event, prior to any resolution of their claim of prescription.

13 2. Burdensome

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15 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
16 providing a response will result in injustice.

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21 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
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30 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
31 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
32 Due process requires an order with such significant impact on the viability of a case not
33 be made without a full opportunity to brief the issues and present evidence. This is true

1 whether the issue is presented in a motion or by way of an order to show case issued by
2 the court. In addition, each party should have an opportunity to conduct discovery on
3 class action issues before its documents in support of or in opposition to the motion must
4 be filed.” *Carabini, supra*, pp. 243-244.

5 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
6 information about water purveyor class members. A plain reading of the request evidences that it was
7 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
8 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
9 future undefined class, a response is still warranted.

10 “Absent some specific showing by the objecting party to justify a contrary ruling, such
11 as privilege, a representative plaintiff can be compelled to supply his adversary with the
12 information about his class which is in his possession or readily available to him and
13 which is not equally available to an adversary. A representative plaintiff cannot be
14 compelled to supply information concerning members of his class or their interests in the
15 action which is neither in his possession nor control, unless the interrogatory is directly
16 related to his own standing to maintain the action, to the existence of an ascertainable
17 class, or to the existence of that community of interest which is required to sustain a class
18 action. [Citation] A representative cannot be compelled to respond to interrogatories
19 about any class member's separate claim as distinguished from the common claim of the
20 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
21 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

22 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
23 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
24 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
25 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
26 [Set One].

27 **REQUEST NO. 51:**

28 Admit that as of January 1, 2000, YOU believed that the groundwater supply of the BASIN was
being overdrafted.

Defendant’s Response:

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

1 **Legal Authority in Support of Further Response:**

2 Defendants have the burden of justifying their objections or their failure to fully answer the
3 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
4 (1962) 58 Cal.2d 210, 220-221.)

5 “At the hearing of such a motion the burden is on the party interrogated, in this case the
6 defendants, ‘of showing facts from which the trial court might find that the
7 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting*
System, Inc. v. Superior Court of Los Angeles County (1968) 263 Cal.App.2d 12, 18.)

8 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
9 merit and are otherwise too general to preclude disclosure of the requested information.

10 **1. Premature**

11 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
12 may be propounded.

13 “(a) A defendant may make a request for admission by a party without
14 leave of court at any time.

15 “(b) A plaintiff may make requests for admission by a party without leave
16 of court at any time that is 10 days after the service of the summons on,
or, in unlawful detainer actions, five days after service of the summons
17 on, or appearance by, that party, whichever occurs first.”

18 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
19 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
20 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
21 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
22 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
23 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
24 keeping the landowners in the dark as to their vaguely pled claims of prescription.

25 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
26 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)

27 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
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1 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
2 to prevent delay; and to safeguard against surprise. [Citations.]" (*Britts v. Superior Court* (2006) 145
3 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
4 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
5 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
6 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
7 Suppliers to provide information about their claim of prescription. This is information that they will
8 have to provide in any event, prior to any resolution of their claim of prescription.

9 **2. Burdensome**

10 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
11 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
12 providing a response will result in injustice.

13 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
14 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
15 empowered to sustain an objection in toto, when the same is predicated upon burden,
16 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
17 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

18 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
19 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
20 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
21 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
22 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

23 The fact alone that the response to an interrogatory may be expensive and burdensome
24 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
25 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
26 (1961) 56 Cal.2d 407, 417-418.)

27 **3. Oppression**

28 "[T]o support an objection of oppression there must be some showing either of an intent
to create an unreasonable burden or that the ultimate effect of the burden is
incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
Los Angeles County (1961) 56 Cal.2d 407, 417.)

1 The propounding of Request for Admissions [Set One] was not served with any ill intent.
2 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
3 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
4 cross-complaints and answers. The burden on providing a response through discovery is no greater than
5 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
6 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
7 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
8 discovery. The information sought must be produced before trial and the court is not empowered to deny
9 Diamond's discovery rights under this unsubstantiated claim of oppression.

10 "While it is true that the trial court has a broad discretion in passing on an objection that
11 there has been harassment and oppression [Citation], such discretion is not absolute. As
12 was said in *Cembrook*, such discretion does not authorize the trial court 'to make blanket
13 orders barring disclosure in toto when the factual situation indicates that a just and
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v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

14 **4. Objections Based on Class Certification**

15 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
16 certification has not yet been completed. This objection holds no merit as the right to discovery prior
17 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
18 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
19 is both appropriate and permitted in order to ensure a fair hearing.

20 "Appellate courts have recognized the importance of such orders by creating an
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25 Due process requires an order with such significant impact on the viability of a case not
26 be made without a full opportunity to brief the issues and present evidence. This is true
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28 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.

26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
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1 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
2 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
3 future undefined class, a response is still warranted.

4 “Absent some specific showing by the objecting party to justify a contrary ruling, such
5 as privilege, a representative plaintiff can be compelled to supply his adversary with the
6 information about his class which is in his possession or readily available to him and
7 which is not equally available to an adversary. A representative plaintiff cannot be
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11 class, or to the existence of that community of interest which is required to sustain a class
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14 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
15 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

16 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
17 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
18 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
19 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
20 [Set One].

21 **REQUEST NO. 52:**

22 Admit that as of January 1, 2001, YOU believed that the groundwater supply of the BASIN was
23 being overdrafted.

24 **Defendant’s Response:**

25 Objection. The request is premature, burdensome and oppressive. This request seeks
26 information concerning class members and the court has not yet completed its class certification process.
27 No class representative has yet been approved by the court.

28 **Legal Authority in Support of Further Response:**

Defendants have the burden of justifying their objections or their failure to fully answer the
discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
(1962) 58 Cal.2d 210, 220-221.)

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1 “At the hearing of such a motion the burden is on the party interrogated, in this case the
2 defendants, ‘of showing facts from which the trial court might find that the
3 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

4 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
5 merit and are otherwise too general to preclude disclosure of the requested information.

6 **1. Premature**

7 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
8 may be propounded.

9 “(a) A defendant may make a request for admission by a party without
10 leave of court at any time.

11 “(b) A plaintiff may make requests for admission by a party without leave
12 of court at any time that is 10 days after the service of the summons on,
13 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

14 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
15 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
16 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
17 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
18 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
19 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
20 keeping the landowners in the dark as to their vaguely pled claims of prescription.

21 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
22 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
23 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
24 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
25 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
26 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
27 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
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1 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
2 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
3 Suppliers to provide information about their claim of prescription. This is information that they will
4 have to provide in any event, prior to any resolution of their claim of prescription.

5 **2. Burdensome**

6 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
7 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
8 providing a response will result in injustice.

9 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
10 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
11 empowered to sustain an objection in toto, when the same is predicated upon burden,
12 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
13 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

14 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
15 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
16 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
17 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
18 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

19 The fact alone that the response to an interrogatory may be expensive and burdensome
20 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
21 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
22 (1961) 56 Cal.2d 407, 417-418.)

23 **3. Oppression**

24 “[T]o support an objection of oppression there must be some showing either of an intent
25 to create an unreasonable burden or that the ultimate effect of the burden is
26 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
27 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

28 The propounding of Request for Admissions [Set One] was not served with any ill intent.
29 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
30 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
31 cross-complaints and answers. The burden on providing a response through discovery is no greater than

1 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
2 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
3 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
4 discovery. The information sought must be produced before trial and the court is not empowered to deny
5 Diamond’s discovery rights under this unsubstantiated claim of oppression.

6 “While it is true that the trial court has a broad discretion in passing on an objection that
7 there has been harassment and oppression [Citation], such discretion is not absolute. As
8 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
9 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

10 **4. Objections Based on Class Certification**

11 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
12 certification has not yet been completed. This objection holds no merit as the right to discovery prior
13 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
14 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
15 is both appropriate and permitted in order to ensure a fair hearing.

16 “Appellate courts have recognized the importance of such orders by creating an
17 exception to the rule denying appellate review. ‘Whether the order is directly appealable
18 or we treat this as a petition for writ of mandate, the issue of the class certification order
19 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
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24 class action issues before its documents in support of or in opposition to the motion must
25 be filed.” *Carabini, supra*, pp. 243-244.

26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
28 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
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11 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
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13 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
14 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
15 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
16 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
17 [Set One].

18 **REQUEST NO. 53:**

19 Admit that as of January 1, 2002, YOU believed that the groundwater supply of the BASIN was
20 being overdrafted.

21 **Defendant’s Response:**

22 Objection. The request is premature, burdensome and oppressive. This request seeks
23 information concerning class members and the court has not yet completed its class certification process.
24 No class representative has yet been approved by the court.

25 **Legal Authority in Support of Further Response:**

26 Defendants have the burden of justifying their objections or their failure to fully answer the
27 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
28 (1962) 58 Cal.2d 210, 220-221.)

“At the hearing of such a motion the burden is on the party interrogated, in this case the
defendants, ‘of showing facts from which the trial court might find that the
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Defendants will be unable to satisfy this burden because the objections asserted to this request have no

1 merit and are otherwise too general to preclude disclosure of the requested information.

2 **1. Premature**

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27 have to provide in any event, prior to any resolution of their claim of prescription.

1 **2. Burdensome**

2 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
3 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
4 providing a response will result in injustice.

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6 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
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12 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
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3 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
4 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
5 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
6 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
7 [Set One].

8 **REQUEST NO. 54:**

9 Admit that as of January 1, 2003, YOU believed that the groundwater supply of the BASIN was
10 being overdrafted.

11 **Defendant’s Response:**

12 Objection. The request is premature, burdensome and oppressive. This request seeks
13 information concerning class members and the court has not yet completed its class certification process.
14 No class representative has yet been approved by the court.

15 **Legal Authority in Support of Further Response:**

16 Defendants have the burden of justifying their objections or their failure to fully answer the
17 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
18 (1962) 58 Cal.2d 210, 220-221.)

19 “At the hearing of such a motion the burden is on the party interrogated, in this case the
20 defendants, ‘of showing facts from which the trial court might find that the
21 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

22 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
23 merit and are otherwise too general to preclude disclosure of the requested information.

24 **1. Premature**

25 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
26 may be propounded.

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1 “(a) A defendant may make a request for admission by a party without
2 leave of court at any time.

3 “(b) A plaintiff may make requests for admission by a party without leave
4 of court at any time that is 10 days after the service of the summons on,
5 or, in unlawful detainer actions, five days after service of the summons
6 on, or appearance by, that party, whichever occurs first.”

6 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
7 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
8 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
9 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
10 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
11 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
12 keeping the landowners in the dark as to their vaguely pled claims of prescription.

13 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
14 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
15 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
16 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
17 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
18 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
19 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
20 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
21 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
22 Suppliers to provide information about their claim of prescription. This is information that they will
23 have to provide in any event, prior to any resolution of their claim of prescription.

24 **2. Burdensome**

25 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
26 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
27 providing a response will result in injustice.

1 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
2 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
3 empowered to sustain an objection in toto, when the same is predicated upon burden,
4 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
5 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

6 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
7 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
8 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
9 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
10 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

11 The fact alone that the response to an interrogatory may be expensive and burdensome
12 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
13 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
14 (1961) 56 Cal.2d 407, 417-418.)

15 3. Oppression

16 “[T]o support an objection of oppression there must be some showing either of an intent
17 to create an unreasonable burden or that the ultimate effect of the burden is
18 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
19 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

20 The propounding of Request for Admissions [Set One] was not served with any ill intent.
21 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
22 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
23 cross-complaints and answers. The burden on providing a response through discovery is no greater than
24 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
25 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
26 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
27 discovery. The information sought must be produced before trial and the court is not empowered to deny
28 Diamond’s discovery rights under this unsubstantiated claim of oppression.

“While it is true that the trial court has a broad discretion in passing on an objection that
there has been harassment and oppression [Citation], such discretion is not absolute. As
was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
orders barring disclosure in toto when the factual situation indicates that a just and

1 equitable order could be made that would authorize disclosure with limitations.” (*Coy*
2 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

3 **4. Objections Based on Class Certification**

4 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
5 certification has not yet been completed. This objection holds no merit as the right to discovery prior
6 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
7 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
8 is both appropriate and permitted in order to ensure a fair hearing.

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

20 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
21 information about water purveyor class members. A plain reading of the request evidences that it was
22 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
23 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
24 future undefined class, a response is still warranted.

25 “Absent some specific showing by the objecting party to justify a contrary ruling, such
26 as privilege, a representative plaintiff can be compelled to supply his adversary with the
27 information about his class which is in his possession or readily available to him and
28 which is not equally available to an adversary. A representative plaintiff cannot be
29 compelled to supply information concerning members of his class or their interests in the
30 action which is neither in his possession nor control, unless the interrogatory is directly
31 related to his own standing to maintain the action, to the existence of an ascertainable
32 class, or to the existence of that community of interest which is required to sustain a class
33 action. [Citation] A representative cannot be compelled to respond to interrogatories
34 about any class member's separate claim as distinguished from the common claim of the
35 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
36 *Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

37 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
38

1 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
2 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
3 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
4 [Set One].

5 **REQUEST NO. 55:**

6 Admit that as of January 1, 2004 YOU believed that the groundwater supply of the BASIN was
7 being overdrafted.

8 **Defendant’s Response:**

9 Objection. The request is premature, burdensome and oppressive. This request seeks
10 information concerning class members and the court has not yet completed its class certification process.
11 No class representative has yet been approved by the court.

12 **Legal Authority in Support of Further Response:**

13 Defendants have the burden of justifying their objections or their failure to fully answer the
14 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
15 (1962) 58 Cal.2d 210, 220-221.)

16 “At the hearing of such a motion the burden is on the party interrogated, in this case the
17 defendants, ‘of showing facts from which the trial court might find that the
18 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

19 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
20 merit and are otherwise too general to preclude disclosure of the requested information.

21 **1. Premature**

22 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
23 may be propounded.

24 “(a) A defendant may make a request for admission by a party without
25 leave of court at any time.

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1 “(b) A plaintiff may make requests for admission by a party without leave
2 of court at any time that is 10 days after the service of the summons on,
3 or, in unlawful detainer actions, five days after service of the summons
4 on, or appearance by, that party, whichever occurs first.”

5 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
6 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
7 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
8 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
9 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
10 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
11 keeping the landowners in the dark as to their vaguely pled claims of prescription.

12 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
13 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
14 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
15 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
16 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
17 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
18 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
19 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
20 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
21 Suppliers to provide information about their claim of prescription. This is information that they will
22 have to provide in any event, prior to any resolution of their claim of prescription.

23 **2. Burdensome**

24 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
25 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
26 providing a response will result in injustice.

27 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
28 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
empowered to sustain an objection in toto, when the same is predicated upon burden,

1 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
2 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

3 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
4 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
5 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
6 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
7 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

8 The fact alone that the response to an interrogatory may be expensive and burdensome
9 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
10 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
11 *(1961) 56 Cal.2d 407, 417-418.*)

11 3. Oppression

12 "[T]o support an objection of oppression there must be some showing either of an intent
13 to create an unreasonable burden or that the ultimate effect of the burden is
14 incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*
15 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

16 The propounding of Request for Admissions [Set One] was not served with any ill intent.
17 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
18 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
19 cross-complaints and answers. The burden on providing a response through discovery is no greater than
20 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
21 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
22 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
23 discovery. The information sought must be produced before trial and the court is not empowered to deny
24 Diamond's discovery rights under this unsubstantiated claim of oppression.

25 "While it is true that the trial court has a broad discretion in passing on an objection that
26 there has been harassment and oppression [Citation], such discretion is not absolute. As
27 was said in *Cembrook*, such discretion does not authorize the trial court 'to make blanket
28 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.'" (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

1 **4. Objections Based on Class Certification**

2 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
3 certification has not yet been completed. This objection holds no merit as the right to discovery prior
4 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
5 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
6 is both appropriate and permitted in order to ensure a fair hearing.

7 “Appellate courts have recognized the importance of such orders by creating an
8 exception to the rule denying appellate review. ‘Whether the order is directly appealable
9 or we treat this as a petition for writ of mandate, the issue of the class certification order
10 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
11 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
12 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.

13 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
14 information about water purveyor class members. A plain reading of the request evidences that it was
15 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
16 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
17 future undefined class, a response is still warranted.

18 “Absent some specific showing by the objecting party to justify a contrary ruling, such
19 as privilege, a representative plaintiff can be compelled to supply his adversary with the
20 information about his class which is in his possession or readily available to him and
21 which is not equally available to an adversary. A representative plaintiff cannot be
22 compelled to supply information concerning members of his class or their interests in the
23 action which is neither in his possession nor control, unless the interrogatory is directly
24 related to his own standing to maintain the action, to the existence of an ascertainable
25 class, or to the existence of that community of interest which is required to sustain a class
26 action. [Citation] A representative cannot be compelled to respond to interrogatories
27 about any class member's separate claim as distinguished from the common claim of the
28 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
Mut. Water Co. v. Superior Court of Ventura County (1968) 259 Cal.App.2d 45, 54-55.)

25 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
26 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
27 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
28

1 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
2 [Set One].

3 **REQUEST NO. 56:**

4 Admit that as of January 1, 2005, YOU believed that the groundwater supply of the BASIN was
5 being overdrafted.

6 **Defendant’s Response:**

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

10 **Legal Authority in Support of Further Response:**

11 Defendants have the burden of justifying their objections or their failure to fully answer the
12 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
13 (1962) 58 Cal.2d 210, 220-221.)

14 “At the hearing of such a motion the burden is on the party interrogated, in this case the
15 defendants, ‘of showing facts from which the trial court might find that the
16 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

17 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
18 merit and are otherwise too general to preclude disclosure of the requested information.

19 **1. Premature**

20 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
21 may be propounded.

22 “(a) A defendant may make a request for admission by a party without
23 leave of court at any time.

24 “(b) A plaintiff may make requests for admission by a party without leave
25 of court at any time that is 10 days after the service of the summons on,
26 or, in unlawful detainer actions, five days after service of the summons
on, or appearance by, that party, whichever occurs first.”

27 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
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1 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
2 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
3 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
4 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
5 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
6 keeping the landowners in the dark as to their vaguely pled claims of prescription.

7 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
8 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)
9 “[T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
10 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
11 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
12 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
13 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
14 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
15 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
16 Suppliers to provide information about their claim of prescription. This is information that they will
17 have to provide in any event, prior to any resolution of their claim of prescription.

18 2. Burdensome

19 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
20 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
21 providing a response will result in injustice.

22 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
23 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
24 empowered to sustain an objection in toto, when the same is predicated upon burden,
25 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
26 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

27 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
28 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their

1 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
2 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

3 The fact alone that the response to an interrogatory may be expensive and burdensome
4 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
5 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
6 (1961) 56 Cal.2d 407, 417-418.)

6 3. Oppression

7 “[T]o support an objection of oppression there must be some showing either of an intent
8 to create an unreasonable burden or that the ultimate effect of the burden is
9 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
10 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

10 The propounding of Request for Admissions [Set One] was not served with any ill intent.
11 Contrary to the Public Water Suppliers’ assertion, the requests are not unreasonable as each request
12 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
13 cross-complaints and answers. The burden on providing a response through discovery is no greater than
14 the burden that must be born by these two entities at trial. If they are able to meet this burden, they
15 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
16 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
17 discovery. The information sought must be produced before trial and the court is not empowered to deny
18 Diamond’s discovery rights under this unsubstantiated claim of oppression.

19 “While it is true that the trial court has a broad discretion in passing on an objection that
20 there has been harassment and oppression [Citation], such discretion is not absolute. As
21 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
22 orders barring disclosure in toto when the factual situation indicates that a just and
23 equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
24 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

23 4. Objections Based on Class Certification

24 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
25 certification has not yet been completed. This objection holds no merit as the right to discovery prior
26 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
27 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
28

1 is both appropriate and permitted in order to ensure a fair hearing.

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

8 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
9 information about water purveyor class members. A plain reading of the request evidences that it was
10 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
11 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
12 future undefined class, a response is still warranted.

13 “Absent some specific showing by the objecting party to justify a contrary ruling, such
14 as privilege, a representative plaintiff can be compelled to supply his adversary with the
15 information about his class which is in his possession or readily available to him and
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17 compelled to supply information concerning members of his class or their interests in the
18 action which is neither in his possession nor control, unless the interrogatory is directly
19 related to his own standing to maintain the action, to the existence of an ascertainable
20 class, or to the existence of that community of interest which is required to sustain a class
21 action. [Citation] A representative cannot be compelled to respond to interrogatories
22 about any class member's separate claim as distinguished from the common claim of the
23 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
24 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

20 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
21 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
22 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
23 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
24 [Set One].

25 **REQUEST NO. 57:**

26 Admit that as of January 1, 2006, YOU believed that the groundwater supply of the BASIN was
27 being overdrafted.

1 **Defendant's Response:**

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

5 **Legal Authority in Support of Further Response:**

6 Defendants have the burden of justifying their objections or their failure to fully answer the
7 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
8 (1962) 58 Cal.2d 210, 220-221.)

9 “At the hearing of such a motion the burden is on the party interrogated, in this case the
10 defendants, ‘of showing facts from which the trial court might find that the
11 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting
System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

12 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
13 merit and are otherwise too general to preclude disclosure of the requested information.

14 **1. Premature**

15 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
16 may be propounded.

17 “(a) A defendant may make a request for admission by a party without
18 leave of court at any time.

19 “(b) A plaintiff may make requests for admission by a party without leave
20 of court at any time that is 10 days after the service of the summons on,
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23 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
24 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)

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27 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
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1 keeping the landowners in the dark as to their vaguely pled claims of prescription.

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9 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
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11 Suppliers to provide information about their claim of prescription. This is information that they will
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13 2. Burdensome

14 The assertion of this objection is insufficient to justify the Public Water Suppliers’ refusal to
15 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
16 providing a response will result in injustice.

17 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
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v. Superior Court (1961) 56 Cal.2d 407, 418.)

20 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
21 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
22 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
23 claim. Diamond’s Request for Admissions are directed at this element. The attempt to hide behind the
24 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

25 The fact alone that the response to an interrogatory may be expensive and burdensome
26 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
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27 (1961) 56 Cal.2d 407, 417-418.)

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2 “[T]o support an objection of oppression there must be some showing either of an intent
3 to create an unreasonable burden or that the ultimate effect of the burden is
4 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
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11 should be compelled to do so now when such disclosure will help foster settlement and resolution of this
12 matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial
13 discovery. The information sought must be produced before trial and the court is not empowered to deny
14 Diamond’s discovery rights under this unsubstantiated claim of oppression.

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18 orders barring disclosure in toto when the factual situation indicates that a just and
19 equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
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21 **4. Objections Based on Class Certification**

22 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
23 certification has not yet been completed. This objection holds no merit as the right to discovery prior
24 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
25 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
26 is both appropriate and permitted in order to ensure a fair hearing.

27 “Appellate courts have recognized the importance of such orders by creating an
28 exception to the rule denying appellate review. ‘Whether the order is directly appealable
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31 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
32 Due process requires an order with such significant impact on the viability of a case not
33 be made without a full opportunity to brief the issues and present evidence. This is true

1 whether the issue is presented in a motion or by way of an order to show case issued by
2 the court. In addition, each party should have an opportunity to conduct discovery on
3 class action issues before its documents in support of or in opposition to the motion must
4 be filed.” *Carabini, supra*, pp. 243-244.

5 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
6 information about water purveyor class members. A plain reading of the request evidences that it was
7 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
8 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
9 future undefined class, a response is still warranted.

10 “Absent some specific showing by the objecting party to justify a contrary ruling, such
11 as privilege, a representative plaintiff can be compelled to supply his adversary with the
12 information about his class which is in his possession or readily available to him and
13 which is not equally available to an adversary. A representative plaintiff cannot be
14 compelled to supply information concerning members of his class or their interests in the
15 action which is neither in his possession nor control, unless the interrogatory is directly
16 related to his own standing to maintain the action, to the existence of an ascertainable
17 class, or to the existence of that community of interest which is required to sustain a class
18 action. [Citation] A representative cannot be compelled to respond to interrogatories
19 about any class member's separate claim as distinguished from the common claim of the
20 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
21 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

22 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
23 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
24 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
25 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
26 [Set One].

27 **REQUEST NO. 58:**

28 Admit that as of January 1, 2007, YOU believed that the groundwater supply of the BASIN was
being overdrafted.

Defendant’s Response:

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

1 **Legal Authority in Support of Further Response:**

2 Defendants have the burden of justifying their objections or their failure to fully answer the
3 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
4 (1962) 58 Cal.2d 210, 220-221.)

5 “At the hearing of such a motion the burden is on the party interrogated, in this case the
6 defendants, ‘of showing facts from which the trial court might find that the
7 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
is on defendants to show that their objections are valid.” (*Columbia Broadcasting*
System, Inc. v. Superior Court of Los Angeles County (1968) 263 Cal.App.2d 12, 18.)

8 Defendants will be unable to satisfy this burden because the objections asserted to this request have no
9 merit and are otherwise too general to preclude disclosure of the requested information.

10 **1. Premature**

11 Code of Civil Procedure section 2033.020 governs the time in which Request for Admissions
12 may be propounded.

13 “(a) A defendant may make a request for admission by a party without
14 leave of court at any time.

15 “(b) A plaintiff may make requests for admission by a party without leave
16 of court at any time that is 10 days after the service of the summons on,
or, in unlawful detainer actions, five days after service of the summons
17 on, or appearance by, that party, whichever occurs first.”

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20 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
21 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
22 the time requirements set forth in Code of Civil Procedure. The Public Water Suppliers have no legal
23 basis or authority to assert this objection which is designed simply to avoid providing a response, thereby
24 keeping the landowners in the dark as to their vaguely pled claims of prescription.

25 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
26 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.)

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2 to prevent delay; and to safeguard against surprise. [Citations.]" (*Britts v. Superior Court* (2006) 145
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5 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
6 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force the Public Water
7 Suppliers to provide information about their claim of prescription. This is information that they will
8 have to provide in any event, prior to any resolution of their claim of prescription.

9 **2. Burdensome**

10 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
11 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
12 providing a response will result in injustice.

13 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
14 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
15 empowered to sustain an objection in toto, when the same is predicated upon burden,
16 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
17 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

18 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
19 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
20 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
21 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
22 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

23 The fact alone that the response to an interrogatory may be expensive and burdensome
24 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
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15 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
16 certification has not yet been completed. This objection holds no merit as the right to discovery prior
17 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
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21 exception to the rule denying appellate review. 'Whether the order is directly appealable
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26 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
27 information about water purveyor class members. A plain reading of the request evidences that it was
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17 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
18 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
19 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
20 [Set One].

21 **REQUEST NO. 59:**

22 Admit that after YOU knew that the groundwater supply within the BASIN was being
23 overdrafted, that YOU issued will-serve letters for new developments within your jurisdiction.

24 **Defendant’s Response:**

25 Objection. The request is premature, burdensome and oppressive. This request seeks
26 information concerning class members and the court has not yet completed its class certification process.
27 No class representative has yet been approved by the court.

28 **Legal Authority in Support of Further Response:**

Defendants have the burden of justifying their objections or their failure to fully answer the
discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
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5 **2. Burdensome**

6 The assertion of this objection is insufficient to justify the Public Water Suppliers' refusal to
7 respond to Request for Admissions [Set One] because these entities cannot show that the burden of
8 providing a response will result in injustice.

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14 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
15 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
16 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
17 [Set One].

18 **REQUEST NO. 60:**

19 Admit that after YOU knew that the groundwater supply within the BASIN was being
20 overdrafted, that YOU issued will-serve letters for new developments within your jurisdiction that had
21 been approved on the basis of a negative declaration.

22 **Defendant’s Response:**

23 Objection. The request is premature, burdensome and oppressive. This request seeks
24 information concerning class members and the court has not yet completed its class certification process.
25 No class representative has yet been approved by the court.

26 **Legal Authority in Support of Further Response:**

27 Defendants have the burden of justifying their objections or their failure to fully answer the
28 discovery. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
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8 empowered to sustain an objection in toto, when the same is predicated upon burden,
9 unless such is the only method of rendering substantial justice. (*W. Pico Furniture Co.*
10 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

11 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
12 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
13 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
14 claim. Diamond's Request for Admissions are directed at this element. The attempt to hide behind the
15 enormity of their own allegations under a claim of burden is improper and cannot be sustained.

16 The fact alone that the response to an interrogatory may be expensive and burdensome
17 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
18 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
19 (1961) 56 Cal.2d 407, 417-418.)

20 **3. Oppression**

21 “[T]o support an objection of oppression there must be some showing either of an intent
22 to create an unreasonable burden or that the ultimate effect of the burden is
23 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
24 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

25 The propounding of Request for Admissions [Set One] was not served with any ill intent.
26 Contrary to the Public Water Suppliers' assertion, the requests are not unreasonable as each request
27 relates directly to the allegations raised by the Public Water Suppliers through their various complaints,
28 cross-complaints and answers. The burden on providing a response through discovery is no greater than
the burden that must be born by these two entities at trial. If they are able to meet this burden, they
should be compelled to do so now when such disclosure will help foster settlement and resolution of this
matter without the necessity of a trial. As stated above, these reasons are the very purpose of pre-trial

1 discovery. The information sought must be produced before trial and the court is not empowered to deny
2 Diamond’s discovery rights under this unsubstantiated claim of oppression.

3 “While it is true that the trial court has a broad discretion in passing on an objection that
4 there has been harassment and oppression [Citation], such discretion is not absolute. As
5 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
6 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

7 **4. Objections Based on Class Certification**

8 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
9 certification has not yet been completed. This objection holds no merit as the right to discovery prior
10 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
11 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification
12 is both appropriate and permitted in order to ensure a fair hearing.

13 “Appellate courts have recognized the importance of such orders by creating an
14 exception to the rule denying appellate review. ‘Whether the order is directly appealable
15 or we treat this as a petition for writ of mandate, the issue of the class certification order
16 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
17 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
18 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.

19 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
20 information about water purveyor class members. A plain reading of the request evidences that it was
21 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
22 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
23 future undefined class, a response is still warranted.

24 “Absent some specific showing by the objecting party to justify a contrary ruling, such
25 as privilege, a representative plaintiff can be compelled to supply his adversary with the
26 information about his class which is in his possession or readily available to him and
27 which is not equally available to an adversary. A representative plaintiff cannot be
compelled to supply information concerning members of his class or their interests in the
action which is neither in his possession nor control, unless the interrogatory is directly
related to his own standing to maintain the action, to the existence of an ascertainable

1 class, or to the existence of that community of interest which is required to sustain a class
2 action. [Citation] A representative cannot be compelled to respond to interrogatories
3 about any class member's separate claim as distinguished from the common claim of the
4 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
5 *Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

6 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
7 interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal
8 to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, the
9 Public Water Suppliers must be ordered to respond to Diamond Farming’s Request for Admissions
10 [Set One].

11 If you fail to comply with the provisions of Section 2033 of the Code of Civil Procedure with
12 respect to this Request for Admissions, each of the matters of which an admission is requested may be
13 deemed admitted.

14 Dated: September 12, 2007

LeBEAU • THELEN, LLP

//S//

15 By: _____
16 BOB H. JOYCE
17 Attorneys for DIAMOND FARMING COMPANY,
18 a California corporation

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