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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
SPECIAL INTERROGATORIES
[SET ONE]; AND FOR MONETARY
SANCTIONS**

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 Special Interrogatories [Set One] for which plaintiff seeks a further response. The
3 following are the requests, verbatim, the response received, verbatim, and the reasons why further
4 response should be compelled.

5 **DEFINITIONS**

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

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

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

14 (d) **WRITING** includes the original or a copy of handwriting, typewriting, printing,
15 photostating, photographing, and every other means of recording upon any tangible thing, any form of
16 communication or representation, including letters, words, pictures, sounds, and symbols, or
17 combinations thereof. (Evid. Code, § 250.)

18 **SPECIAL INTERROGATORIES**

19 **INTERROGATORY NO. 1:**

20 If YOU contend that any property owner had actual notice that your use of groundwater was
21 adverse to their overlying right, please identify each property owner.

22 **Defendant's Response**

23 Objection. This 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.

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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 interrogatories. (*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 interrogatory have
9 no merit and are otherwise too general to preclude disclosure of the requested information.

10 **1. Premature**

11 Code of Civil Procedure section 2030.020 governs the time in which interrogatories may be
12 propounded.

13 “(a) A defendant may propound interrogatories to a party to the action
14 without leave of court at any time.

15 “(b) A plaintiff may propound interrogatories to a party without leave of
16 court at any time that is 10 days after the service of the summons on, or
17 in unlawful detainer actions five days after service of the summons 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 objection 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 interrogatory will force the Public
7 Water Suppliers to provide information about their individual claims of prescription. This is information
8 that they will 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 Special Interrogatories [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 Special Interrogatories are directed at this element. The attempt to hide behind the
22 enormity of their own allegation 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 Special Interrogatories [Set One] was not served with any ill intent. Contrary to Public Water
2 Suppliers' objections, the interrogatories are not unreasonable as each of the nine questions posed relate
3 directly to the allegations raised by these public entities through their various complaints, cross-
4 complaints and answers. The burden of providing a response through discovery is no greater than the
5 burden that must be born by these entities at trial. If they are able to meet this burden, they should be
6 compelled to do so now when such disclosure will help foster settlement and resolution of this matter
7 without the necessity or expense of a trial. As stated above, these reasons are the very purpose of pre-
8 trial discovery. The information sought must be produced before trial and the court is not empowered
9 to deny 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 interrogatory in question is not posed to a class of water purveyors, nor does
27 it seek information about water purveyor class members. A plain reading of the interrogatory evidences
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1 that it was directed to the specific public water suppliers concerning the specific elements of each
2 entity's specific claim. If, and to the extent, the interrogatory can be characterized as seeking
3 information about some 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 interrogatories for the sole purpose of avoiding the disclosure of information that is
18 fatal to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter,
19 the Public Water Suppliers must be ordered to respond to Diamond Farming's Special Interrogatories
20 [Set One].

21 **INTERROGATORY NO. 2:**

22 If YOU contend that any property owner had actual notice that your use of groundwater was
23 adverse to their overlying right, please state precisely all facts which supports that contention.

24 **Defendant's Response**

25 Objection. This 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
interrogatories. (*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
defendants, 'of showing facts from which the trial court might find that the

1 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
2 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.)

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

5 **1. Premature**

6 Code of Civil Procedure section 2030.020 governs the time in which interrogatories may be
7 propounded.

8 “(a) A defendant may propound interrogatories to a party to the action
9 without leave of court at any time.

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

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

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

4 **2. Burdensome**

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

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

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

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

22 **3. Oppression**

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

27 Special Interrogatories [Set One] was not served with any ill intent. Contrary to Public Water
28 Suppliers' objections, the interrogatories are not unreasonable as each of the nine questions posed relate
29 directly to the allegations raised by these public entities through their various complaints, cross-
30 complaints and answers. The burden of providing a response through discovery is no greater than the
31 burden that must be born by these entities at trial. If they are able to meet this burden, they should be

1 compelled to do so now when such disclosure will help foster settlement and resolution of this matter
2 without the necessity or expense of a trial. As stated above, these reasons are the very purpose of pre-
3 trial discovery. The information sought must be produced before trial and the court is not empowered
4 to deny Diamond’s discovery rights under this unsubstantiated claim of oppression.

5 “While it is true that the trial court has a broad discretion in passing on an objection that
6 there has been harassment and oppression [Citation], such discretion is not absolute. As
7 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
8 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.)

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

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

15 “Appellate courts have recognized the importance of such orders by creating an
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17 or we treat this as a petition for writ of mandate, the issue of the class certification order
18 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
19 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
20 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.

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

26 “Absent some specific showing by the objecting party to justify a contrary ruling, such
27 as privilege, a representative plaintiff can be compelled to supply his adversary with the
28 information about his class which is in his possession or readily available to him and
which is not equally available to an adversary. A representative plaintiff cannot be

1 compelled to supply information concerning members of his class or their interests in the
2 action which is neither in his possession nor control, unless the interrogatory is directly
3 related to his own standing to maintain the action, to the existence of an ascertainable
4 class, or to the existence of that community of interest which is required to sustain a class
5 action. [Citation] A representative cannot be compelled to respond to interrogatories
6 about any class member's separate claim as distinguished from the common claim of the
7 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
8 *Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

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

14 **INTERROGATORY NO. 3:**

15 If YOU contend that any property owner had actual notice that your use of groundwater was
16 adverse to their overlying right, please describe each WRITING which supports that contention.

17 **Defendant's Response**

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

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

22 Defendants have the burden of justifying their objections or their failure to fully answer the
23 interrogatories. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
24 (1962) 58 Cal.2d 210, 220-221.)

25 “At the hearing of such a motion the burden is on the party interrogated, in this case the
26 defendants, ‘of showing facts from which the trial court might find that the
27 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden
28 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 interrogatory have
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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 objection 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 interrogatory will force the Public Water Suppliers to provide information about their individual claims 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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“[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 Special Interrogatories are directed at this element. The attempt to hide behind the enormity of their own allegation 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.)

Special Interrogatories [Set One] was not served with any ill intent. Contrary to Public Water Suppliers’ objections, the interrogatories are not unreasonable as each of the nine questions posed relate directly to the allegations raised by these public entities through their various complaints, cross-complaints and answers. The burden of providing a response through discovery is no greater than the burden that must be born by these 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 or expense of a trial. As stated above, these reasons are the very purpose of pre-

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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
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17 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
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19 Additionally, the interrogatory in question is not posed to a class of water purveyors, nor does
20 it seek information about water purveyor class members. A plain reading of the interrogatory evidences
21 that it was directed to the specific public water suppliers concerning the specific elements of each
22 entity’s specific claim. If, and to the extent, the interrogatory can be characterized as seeking
23 information about some future undefined class, a response is still warranted.

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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
28 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
class, or to the existence of that community of interest which is required to sustain a class

1 action. [Citation] A representative cannot be compelled to respond to interrogatories
2 about any class member's separate claim as distinguished from the common claim of the
3 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.)

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

9 **INTERROGATORY NO. 4:**

10 If YOU contend that any property owner had constructive notice that your use of groundwater
11 was adverse to their overlying right, please identify each property owner.

12 **Defendant's Response**

13 Objection. This 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 interrogatories. (*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 interrogatory have
24 no merit and are otherwise too general to preclude disclosure of the requested information.

25 **1. Premature**

26 Code of Civil Procedure section 2030.020 governs the time in which interrogatories may be
27 propounded.

1 “(a) A defendant may propound interrogatories to a party to the action
2 without leave of court at any time.

3 “(b) A plaintiff may propound interrogatories to a party without leave of
4 court at any time that is 10 days after the service of the summons on, or
5 in unlawful detainer actions five days after service of the summons on or
6 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 objection 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 interrogatory will force the Public
23 Water Suppliers to provide information about their individual claims of prescription. This is information
24 that they will 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 Special Interrogatories [Set One] because these entities cannot show that the burden of
27 providing a response will result in injustice.
28

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 Special Interrogatories are directed at this element. The attempt to hide behind the
10 enormity of their own allegation 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 Special Interrogatories [Set One] was not served with any ill intent. Contrary to Public Water
21 Suppliers’ objections, the interrogatories are not unreasonable as each of the nine questions posed relate
22 directly to the allegations raised by these public entities through their various complaints, cross-
23 complaints and answers. The burden of providing a response through discovery is no greater than the
24 burden that must be born by these entities at trial. If they are able to meet this burden, they should be
25 compelled to do so now when such disclosure will help foster settlement and resolution of this matter
26 without the necessity or expense of a trial. As stated above, these reasons are the very purpose of pre-
27 trial discovery. The information sought must be produced before trial and the court is not empowered
28 to deny Diamond’s discovery rights under this unsubstantiated claim of oppression.

29 “While it is true that the trial court has a broad discretion in passing on an objection that
30 there has been harassment and oppression [Citation], such discretion is not absolute. As
31 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
32 orders barring disclosure in toto when the factual situation indicates that a just and
33 equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
34 *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 interrogatory in question is not posed to a class of water purveyors, nor does
19 it seek information about water purveyor class members. A plain reading of the interrogatory evidences
20 that it was directed to the specific public water suppliers concerning the specific elements of each
21 entity’s specific claim. If, and to the extent, the interrogatory can be characterized as seeking
22 information about some 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 interrogatories for the sole purpose of avoiding the disclosure of information that is
31 fatal to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter,
32

1 the Public Water Suppliers must be ordered to respond to Diamond Farming’s Special Interrogatories
2 [Set One].

3 **INTERROGATORY NO. 5:**

4 If YOU contend that any property owner had constructive notice that your use of groundwater
5 was adverse to their overlying right, please state precisely all facts which supports that contention.

6 **Defendant's Response**

7 Objection. This 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 interrogatories. (*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 interrogatory have
18 no merit and are otherwise too general to preclude disclosure of the requested information.

19 **1. Premature**

20 Code of Civil Procedure section 2030.020 governs the time in which interrogatories may be
21 propounded.

22 “(a) A defendant may propound interrogatories to a party to the action
23 without leave of court at any time.

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

27 ///

28

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

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

19 **2. Burdensome**

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

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

26 In the present action, the Public Water Suppliers have alleged prescriptive claims against more
27 than 100,000 landowners whose property overlies the Antelope Valley Groundwater Basin. Notice is
28

1 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
2 claim. Diamond’s Special Interrogatories are directed at this element. The attempt to hide behind the
3 enormity of their own allegation under a claim of burden is improper and cannot be sustained.

4 The fact alone that the response to an interrogatory may be expensive and burdensome
5 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
6 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
7 (1961) 56 Cal.2d 407, 417-418.)

7 **3. Oppression**

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

11 Special Interrogatories [Set One] was not served with any ill intent. Contrary to Public Water
12 Suppliers’ objections, the interrogatories are not unreasonable as each of the nine questions posed relate
13 directly to the allegations raised by these public entities through their various complaints, cross-
14 complaints and answers. The burden of providing a response through discovery is no greater than the
15 burden that must be born by these entities at trial. If they are able to meet this burden, they should be
16 compelled to do so now when such disclosure will help foster settlement and resolution of this matter
17 without the necessity or expense of a trial. As stated above, these reasons are the very purpose of pre-
18 trial discovery. The information sought must be produced before trial and the court is not empowered
19 to deny 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 v.*
25 *Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

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

25 The Public Water Suppliers attempt to limit their obligation to respond on the grounds that class
26 certification has not yet been completed. This objection holds no merit as the right to discovery prior
27 to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The*
28

1 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at Class Certification
2 is both appropriate and permitted in order to ensure a fair hearing.

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

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

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

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

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1 **INTERROGATORY NO. 6:**

2 If YOU contend that any property owner had constructive notice that your use of groundwater
3 was adverse to their overlying right, please describe each WRITING which supports that contention.

4 **Defendant's Response**

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

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

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

12 “At the hearing of such a motion the burden is on the party interrogated, in this case the
13 defendants, ‘of showing facts from which the trial court might find that the
14 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.)

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

17 **1. Premature**

18 Code of Civil Procedure section 2030.020 governs the time in which interrogatories may be
19 propounded.

20 “(a) A defendant may propound interrogatories to a party to the action
21 without leave of court at any time.

22 “(b) A plaintiff may propound interrogatories to a party without leave of
23 court at any time that is 10 days after the service of the summons on, or
24 in unlawful detainer actions five days after service of the summons on or
appearance by, that party, whichever occurs first.”

25 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
26 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
27 to place the parties “‘on roughly equal footing.’” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
28

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

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

16 2. Burdensome

17 The assertion of this objection is insufficient to justify the Public water Suppliers’ refusal to
18 respond to Special Interrogatories [Set One] because these entities cannot show that the burden of
19 providing a response will result in injustice.

20 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
21 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
22 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.)

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

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

3. Oppression

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

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

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

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

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

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

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

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

27 Based on the foregoing, the Public Water Suppliers’ objections have no merit and have been
28 interposed to these interrogatories for the sole purpose of avoiding the disclosure of information that is
29 fatal to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter,
30 the Public Water Suppliers must be ordered to respond to Diamond Farming’s Special Interrogatories
31 [Set One].

32 **INTERROGATORY NO. 7:**

33 If you contend that YOU have acquired a prescriptive right to use groundwater within the
34 BASIN, when was that prescriptive right acquired?

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1 **Defendant's Response**

2 Objection. This 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 interrogatories. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
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9 “‘At the hearing of such a motion the burden is on the party interrogated, in this case the
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25 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
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15 The assertion of this objection is insufficient to justify the Public water Suppliers’ refusal to
16 respond to Special Interrogatories [Set One] because these entities cannot show that the burden of
17 providing a response will result in injustice.

18 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
19 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
20 empowered to sustain an objection in toto, when the same is predicated upon burden,
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23 a key element of prescription that must be proven by the Water Purveyors if they are to succeed in their
24 claim. Diamond’s Special Interrogatories are directed at this element. The attempt to hide behind the
25 enormity of their own allegation under a claim of burden is improper and cannot be sustained.

26 The fact alone that the response to an interrogatory may be expensive and burdensome
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2 “[T]o support an objection of oppression there must be some showing either of an intent
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4 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
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7 Suppliers’ objections, the interrogatories are not unreasonable as each of the nine questions posed relate
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9 complaints and answers. The burden of providing a response through discovery is no greater than the
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13 trial discovery. The information sought must be produced before trial and the court is not empowered
14 to deny Diamond’s discovery rights under this unsubstantiated claim of oppression.

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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
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25 *Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at Class Certification
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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
34 whether the issue is presented in a motion or by way of an order to show case issued by

1 the court. In addition, each party should have an opportunity to conduct discovery on
2 class action issues before its documents in support of or in opposition to the motion must
be filed.” *Carabini, supra*, pp. 243-244.

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

8 “Absent some specific showing by the objecting party to justify a contrary ruling, such
9 as privilege, a representative plaintiff can be compelled to supply his adversary with the
10 information about his class which is in his possession or readily available to him and
11 which is not equally available to an adversary. A representative plaintiff cannot be
12 compelled to supply information concerning members of his class or their interests in the
13 action which is neither in his possession nor control, unless the interrogatory is directly
14 related to his own standing to maintain the action, to the existence of an ascertainable
15 class, or to the existence of that community of interest which is required to sustain a class
16 action. [Citation] A representative cannot be compelled to respond to interrogatories
17 about any class member's separate claim as distinguished from the common claim of the
18 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine
19 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 interrogatories for the sole purpose of avoiding the disclosure of information that is
22 fatal to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter,
23 the Public Water Suppliers must be ordered to respond to Diamond Farming’s Special Interrogatories
24 [Set One].

25 **INTERROGATORY NO. 8:**

26 If in the last fifteen (15) years you have denied an application for new water service within the
27 BASIN on the basis that the available water supply was inadequate to serve the water supply needs of
28 the applicant, please describe each WRITING which evidences said denial.

Defendant's Response

Objection. This 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 interrogatories. (*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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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 objection also seeks to compromise the purpose of pretrial discovery which is to
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8 that they will 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
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12 providing a response will result in injustice.

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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
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21 claim. Diamond's Special Interrogatories are directed at this element. The attempt to hide behind the
22 enormity of their own allegation 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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21 **INTERROGATORY NO. 9:**

22 If YOU contend that all groundwater you have pumped from within the BASIN has been put to
23 a reasonable and beneficial use, please describe all uses of that groundwater.

24 **Defendant's Response**

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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:**

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Dated: September 12, 2007

LeBEAU • THELEN, LLP

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By: _____
BOB H. JOYCE
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