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9 Attorneys for DIAMOND FARMING COMPANY,  
10 a California corporation

11  
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13  
14 IN AND FOR THE COUNTY OF LOS ANGELES

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

17 ANTELOPE VALLEY GROUNDWATER  
18 CASES

19 Included actions:

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

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

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

Judicial Council Coordination No. 4408

Case No.: 1-05-CV-049053

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

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

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

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1 I, Bob H. Joyce, declare,

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

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

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

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

1           5.       On or about May 25, 2007, Diamond Farming Co., served Request for Production of  
2 Documents [Set One] on defendants, CALIFORNIA WATER SERVICE COMPANY, CITY OF  
3 LANCASTER, CITY OF PALMDALE, LITTLEROCK CREEK IRRIGATION DISTRICT,  
4 PALMDALE WATER DISTRICT, PALM RANCH IRRIGATION DISTRICT, QUARTZ HILL  
5 WATER DISTRICT. The set of Request for Production of Documents contained six (6) questions  
6 directed to the disclosure of documents that are in the possession, custody and control of these  
7 defendants relative to their claims of prescription. A true and correct copy of Diamond Farming's Request  
8 for Production of Documents [Set One] is attached hereto as Exhibit A.

9           6.       Twenty-six (26) days following service of that discovery, the Public Water Suppliers  
10 collectively demanded that the discovery be withdrawn by letter dated June 20, 2007. On June 21, 2007,  
11 that demand was rejected.

12           7.       Thereafter, on June 26, 2007, each Public Water Supplier served the same substantive,  
13 identical objection to each and every separate request as follows:

14           “Objection. The request is premature, burdensome and oppressive. This request seeks  
15 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.”

16           A true and correct copy of California Water Service Company's Response to Request for  
17 Production [Set One] is attached hereto as Exhibit B; a true and correct copy of Palmdale Water  
18 District's and Quartz Hill Water District's Response to Request for Production [Set One] is attached  
19 hereto as Exhibit C; a true and correct copy of City of Palmdale's Response to Request for Production  
20 [Set One] is attached hereto as Exhibit D; a true and correct copy of City of Lancaster's Response to  
21 Request for Production [Set One] is attached hereto as Exhibit E; a true and correct copy of Palm Ranch  
22 Irrigation District's Response to Request for Production [Set One] is attached hereto as Exhibit F; a true  
23 and correct copy of Littlerock Creek Irrigation District's Response to Request for Production [Set One]  
24 is attached hereto as Exhibit G.

25           8.       Shortly after receiving these boilerplate responses, I initiated an effort to informally meet  
26 and confer regarding the blanket objections to the written discovery as is required. In response to my  
27 attempt, I was contacted by and then communicated with Keith Lemieux, an attorney for Littlerock Creek  
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1 Irrigation District and Palm Ranch Irrigation District, but achieved no resolution. Not having received  
2 any response from any other Public Water Supplier and having confirmed with Mr. Lemieux that he could  
3 not speak on behalf of all, I then sought an Ex Parte Application for a court order setting a  
4 court-supervised meet and confer.

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

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

11 11. Pursuant to the court's order, I contacted counsel for each of the Public Water Suppliers  
12 to whom the Request for Production of Documents had been served to schedule appointments to conduct  
13 the further meet and confer attempts. (Attached hereto as Exhibit H is a true and correct copy of my  
14 August 3, 2007 correspondence to all counsel for the Public Water Suppliers.) As of the date of the filing  
15 of this motion, I have met and conferred with counsel for each Public Water Supplier with the exception  
16 of counsel for Los Angeles County Waterworks District No. 40 and Rosamond Community Services  
17 District.

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

26 13. On September 10, 2007 a telephonic meet and confer took place with counsel for  
27 CALIFORNIA WATER SERVICE COMPANY, CITY OF LANCASTER, CITY OF PALMDALE,  
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1 LITTLE ROCK CREEK IRRIGATION DISTRICT, PALMDALE WATER DISTRICT, PALMRANCH  
2 IRRIGATION DISTRICT, QUARTZ HILL WATER DISTRICT. During this meeting it was confirmed  
3 that the parties could not agree upon a time deadline for service of the responses to Diamond's Special  
4 Interrogatories [Set One.]

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

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

- 14 1) Three (3) hours of attorney time in the research and preparation of this motion, and the  
15 supporting Declaration and Separate Statement;
- 16 2) Two (2) hours anticipated time to review any opposition and draft a reply thereto;
- 17 3) \$40.00 fee for the filing of this Motion.

18 Total \$1,415.00.

19 16. Declarant's billing rate on this file is \$275.00 per hour.

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

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25 \_\_\_\_\_  
26 BOB H. JOYCE, ESQ.  
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