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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
LOS ANGELES WATERWORKS
DISTRICT NO. 40 AND ROSAMOND
COMMUNITY SERVICES DISTRICT
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. Los Angeles County Waterworks District
23 No. 40 and Rosamond Community Services District have no legal basis or authority to assert this
24 objection which is designed simply to avoid providing a response, thereby keeping the landowners in
25 the dark as to their vaguely pled claims of prescription.

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

1 [T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
2 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
3 to prevent delay; and to safeguard against surprise. [Citations.]" (*Britts v. Superior Court* (2006) 145
4 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
5 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
6 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
7 (1969) 71 Cal.2d 276, 281.) The information sought by way of this interrogatory will force Los Angeles
8 County Waterworks District No. 40 and Rosamond Community Services District to provide information
9 about their claim of prescription. This is information that they will have to provide in any event, prior
10 to any resolution of their claim of prescription.

11 2. Burdensome

12 The assertion of this objection is insufficient to justify Los Angeles County Waterworks District
13 No. 40's and Rosamond Community Services District's refusal to respond to Special Interrogatories
14 [Set One] because these two entities cannot show that the burden of providing a response will result in
15 injustice.

16 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
17 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
18 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.)

19 In the present action, Los Angeles County Waterworks District No. 40 and Rosamond
20 Community Services District have alleged prescriptive claims against more than 100,000 landowners
21 whose property overlies the Antelope Valley Groundwater Basin. Notice is a key element of
22 prescription that must be proven by the Water Purveyors if they are to succeed in their claim. Diamond's
23 Special Interrogatories are directed at this element. The attempt to hide behind the enormity of their own
24 allegation 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.)
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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 Los Angeles County Waterworks District No. 40's and Rosamond Community Services District's assertions, the interrogatories are not unreasonable as each of the nine questions posed relate directly to the allegations raised by Los Angeles County Waterworks District No. 40 and Rosamond Community Services District 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 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 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.)

4. Objections Based on Class Certification

Los Angeles County Waterworks District No. 40 and Rosamond Community Services District attempt to limit their obligation to respond on the grounds that class certification has not yet been completed. This objection holds no merit as the right to discovery prior to class certification has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The Superior Court of Orange County* (1994) 26 Cal.App.4th 239, discovery directed at class certification is both appropriate and permitted in order to ensure a fair hearing.

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

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

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

19 Based on the foregoing, Los Angeles County Waterworks District No. 40's and Rosamond
20 Community Services District’s objections have no merit and have been interposed to these requests for
21 the sole purpose of avoiding the disclosure of information that is fatal to their claim of prescription. In
22 order to facilitate settlement and a timely resolution of this matter, Los Angeles County Waterworks
23 District No. 40 and Rosamond Community Services District must be ordered to respond to Diamond
24 Farming’s Special Interrogatories [Set One].

25 **INTERROGATORY NO. 2:**

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

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

14 **1. Premature**

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

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

19 “(b) A plaintiff may propound interrogatories to a party without leave of
20 court at any time that is 10 days after the service of the summons on, or
21 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. Los Angeles County Waterworks District
27 No. 40 and Rosamond Community Services District have no legal basis or authority to assert this
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1 objection which is designed simply to avoid providing a response, thereby keeping the landowners in
2 the dark as to their vaguely pled claims of prescription.

3 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
4 obtain all of the facts relative to a claim or defense. (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782)
5 [T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
6 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
7 to prevent delay; and to safeguard against surprise. [Citations.]" (*Britts v. Superior Court* (2006) 145
8 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
9 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
10 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
11 (1969) 71 Cal.2d 276, 281.) The information sought by way of this interrogatory will force Los Angeles
12 County Waterworks District No. 40 and Rosamond Community Services District to provide information
13 about their claim of prescription. This is information that they will have to provide in any event, prior
14 to any resolution of their claim of prescription.

15 **2. Burdensome**

16 The assertion of this objection is insufficient to justify Los Angeles County Waterworks District
17 No. 40's and Rosamond Community Services District's refusal to respond to Special Interrogatories
18 [Set One] because these two entities cannot show that the burden of providing a response will result in
19 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.*
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23 In the present action, Los Angeles County Waterworks District No. 40 and Rosamond
24 Community Services District have alleged prescriptive claims against more than 100,000 landowners
25 whose property overlies the Antelope Valley Groundwater Basin. Notice is a key element of
26 prescription that must be proven by the Water Purveyors if they are to succeed in their claim. Diamond's

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1 Special Interrogatories are directed at this element. The attempt to hide behind the enormity of their own
2 allegation 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 Special Interrogatories [Set One] was not served with any ill intent. Contrary to Los Angeles
11 County Waterworks District No. 40's and Rosamond Community Services District's assertions, the
12 interrogatories are not unreasonable as each of the nine questions posed relate directly to the allegations
13 raised by Los Angeles County Waterworks District No. 40 and Rosamond Community Services District
14 through their various complaints, cross-complaints and answers. The burden on providing a response
15 through discovery is no greater than the burden that must be born by these two entities at trial. If they
16 are able to meet this burden, they should be compelled to do so now when such disclosure will help
17 foster settlement and resolution of this matter without the necessity of a trial. As stated above, these
18 reasons are the very purpose of pre-trial discovery. The information sought must be produced before
19 trial and the court is not empowered to deny Diamond's discovery rights under this unsubstantiated claim
20 of oppression.

21 “While it is true that the trial court has a broad discretion in passing on an objection that
22 there has been harassment and oppression [Citation], such discretion is not absolute. As
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25 equitable order could be made that would authorize disclosure with limitations.’” (*Coy*
26 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

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

26 Los Angeles County Waterworks District No. 40 and Rosamond Community Services District
27 attempt to limit their obligation to respond on the grounds that class certification has not yet been
28

1 completed. This objection holds no merit as the right to discovery prior to class certification has been
2 recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The Superior Court of Orange County*
3 (1994) 26 Cal.App.4th 239, discovery directed at class certification is both appropriate and permitted
4 in order to ensure a fair hearing.

5 “Appellate courts have recognized the importance of such orders by creating an
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7 or we treat this as a petition for writ of mandate, the issue of the class certification order
8 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
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10 Due process requires an order with such significant impact on the viability of a case not
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13 the court. In addition, each party should have an opportunity to conduct discovery on
14 class action issues before its documents in support of or in opposition to the motion must
15 be filed.” *Carabini, supra*, pp. 243-244.

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

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17 as privilege, a representative plaintiff can be compelled to supply his adversary with the
18 information about his class which is in his possession or readily available to him and
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23 Based on the foregoing, Los Angeles County Waterworks District No. 40's and Rosamond
24 Community Services District’s objections have no merit and have been interposed to these requests for
25 the sole purpose of avoiding the disclosure of information that is fatal to their claim of prescription. In
26 order to facilitate settlement and a timely resolution of this matter, Los Angeles County Waterworks

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1 District No. 40 and Rosamond Community Services District must be ordered to respond to Diamond
2 Farming’s Special Interrogatories [Set One].

3 **INTERROGATORY NO. 3:**

4 If YOU contend that any property owner had actual notice that your use of groundwater was
5 adverse to their overlying right, please describe each WRITING 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
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is on defendants to show that their objections are valid.” (*Columbia Broadcasting
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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.

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18 County Waterworks District No. 40 and Rosamond Community Services District to provide information
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21 **2. Burdensome**

22 The assertion of this objection is insufficient to justify Los Angeles County Waterworks District
23 No. 40's and Rosamond Community Services District's refusal to respond to Special Interrogatories
24 [Set One] because these two entities cannot show that the burden of providing a response will result in
25 injustice.

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26 of oppression.

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

4. Objections Based on Class Certification

5 Los Angeles County Waterworks District No. 40 and Rosamond Community Services District
6 attempt to limit their obligation to respond on the grounds that class certification has not yet been
7 completed. This objection holds no merit as the right to discovery prior to class certification has been
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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
13 or we treat this as a petition for writ of mandate, the issue of the class certification order
14 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
15 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
16 Due process requires an order with such significant impact on the viability of a case not
17 be made without a full opportunity to brief the issues and present evidence. This is true
18 whether the issue is presented in a motion or by way of an order to show case issued by
19 the court. In addition, each party should have an opportunity to conduct discovery on
20 class action issues before its documents in support of or in opposition to the motion must
21 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.

27 “Absent some specific showing by the objecting party to justify a contrary ruling, such
28 as privilege, a representative plaintiff can be compelled to supply his adversary with the
29 information about his class which is in his possession or readily available to him and
30 which is not equally available to an adversary. A representative plaintiff cannot be
31 compelled to supply information concerning members of his class or their interests in the
32 action which is neither in his possession nor control, unless the interrogatory is directly
33 related to his own standing to maintain the action, to the existence of an ascertainable
34 class, or to the existence of that community of interest which is required to sustain a class
35 action. [Citation] A representative cannot be compelled to respond to interrogatories
36 about any class member's separate claim as distinguished from the common claim of the

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

3 Based on the foregoing, Los Angeles County Waterworks District No. 40's and Rosamond
4 Community Services District's objections have no merit and have been interposed to these requests for
5 the sole purpose of avoiding the disclosure of information that is fatal to their claim of prescription. In
6 order to facilitate settlement and a timely resolution of this matter, Los Angeles County Waterworks
7 District No. 40 and Rosamond Community Services District must be ordered to respond to Diamond
8 Farming's Special Interrogatories [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.

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

“(b) A plaintiff may propound interrogatories to 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. Los Angeles County Waterworks District No. 40 and Rosamond Community Services District 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 interrogatory will force Los Angeles County Waterworks District No. 40 and Rosamond Community Services District 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 Los Angeles County Waterworks District No. 40's and Rosamond Community Services District's refusal to respond to Special Interrogatories [Set One] because these two 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, Los Angeles County Waterworks District No. 40 and Rosamond Community Services District 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 Los Angeles County Waterworks District No. 40's and Rosamond Community Services District's assertions, the interrogatories are not unreasonable as each of the nine questions posed relate directly to the allegations raised by Los Angeles County Waterworks District No. 40 and Rosamond Community Services District 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

1 are able to meet this burden, they should be compelled to do so now when such disclosure will help
2 foster settlement and resolution of this matter without the necessity of a trial. As stated above, these
3 reasons are the very purpose of pre-trial discovery. The information sought must be produced before
4 trial and the court is not empowered to deny Diamond’s discovery rights under this unsubstantiated claim
5 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 Los Angeles County Waterworks District No. 40 and Rosamond Community Services District
12 attempt to limit their obligation to respond on the grounds that class certification has not yet been
13 completed. This objection holds no merit as the right to discovery prior to class certification has been
14 recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The Superior Court of Orange County*
15 (1994) 26 Cal.App.4th 239, discovery directed at class certification is both appropriate and permitted
16 in order to ensure a fair hearing.

17 “Appellate courts have recognized the importance of such orders by creating an
18 exception to the rule denying appellate review. ‘Whether the order is directly appealable
19 or we treat this as a petition for writ of mandate, the issue of the class certification order
20 is and should be before us.’ (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
21 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
22 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.

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

13 Based on the foregoing, Los Angeles County Waterworks District No. 40's and Rosamond
14 Community Services District's objections have no merit and have been interposed to these requests for
15 the sole purpose of avoiding the disclosure of information that is fatal to their claim of prescription. In
16 order to facilitate settlement and a timely resolution of this matter, Los Angeles County Waterworks
17 District No. 40 and Rosamond Community Services District must be ordered to respond to Diamond
18 Farming's Special Interrogatories [Set One].

19 **INTERROGATORY NO. 5:**

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

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.

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 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
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.)

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

3 **1. Premature**

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

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

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

11 Code of Civil Procedure section 2019.020 provides that there is no required sequence of
12 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
13 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
14 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with
15 the time requirements set forth in Code of Civil Procedure. Los Angeles County Waterworks District
16 No. 40 and Rosamond Community Services District have no legal basis or authority to assert this
17 objection which is designed simply to avoid providing a response, thereby keeping the landowners in
18 the dark as to their vaguely pled claims of prescription.

19 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
20 obtain all of the facts relative to a claim or defense. (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782)
21 [T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
22 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
23 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
24 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
25 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
26 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
27 (1969) 71 Cal.2d 276, 281.) The information sought by way of this interrogatory will force Los Angeles
28

1 County Waterworks District No. 40 and Rosamond Community Services District to provide information
2 about their claim of prescription. This is information that they will have to provide in any event, prior
3 to any resolution of their claim of prescription.

4 **2. Burdensome**

5 The assertion of this objection is insufficient to justify Los Angeles County Waterworks District
6 No. 40's and Rosamond Community Services District's refusal to respond to Special Interrogatories
7 [Set One] because these two entities cannot show that the burden of providing a response will result in
8 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, Los Angeles County Waterworks District No. 40 and Rosamond
13 Community Services District have alleged prescriptive claims against more than 100,000 landowners
14 whose property overlies the Antelope Valley Groundwater Basin. Notice is a key element of
15 prescription that must be proven by the Water Purveyors if they are to succeed in their claim. Diamond's
16 Special Interrogatories are directed at this element. The attempt to hide behind the enormity of their own
17 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.)

21 **3. Oppression**

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

25 Special Interrogatories [Set One] was not served with any ill intent. Contrary to Los Angeles
26 County Waterworks District No. 40's and Rosamond Community Services District's assertions, the
27 interrogatories are not unreasonable as each of the nine questions posed relate directly to the allegations
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1 raised by Los Angeles County Waterworks District No. 40 and Rosamond Community Services District
2 through their various complaints, cross-complaints and answers. The burden on providing a response
3 through discovery is no greater than the burden that must be born by these two entities at trial. If they
4 are able to meet this burden, they should be compelled to do so now when such disclosure will help
5 foster settlement and resolution of this matter without the necessity of a trial. As stated above, these
6 reasons are the very purpose of pre-trial discovery. The information sought must be produced before
7 trial and the court is not empowered to deny Diamond’s discovery rights under this unsubstantiated claim
8 of oppression.

9 “While it is true that the trial court has a broad discretion in passing on an objection that
10 there has been harassment and oppression [Citation], such discretion is not absolute. As
11 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
12 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.)

13 4. Objections Based on Class Certification

14 Los Angeles County Waterworks District No. 40 and Rosamond Community Services District
15 attempt to limit their obligation to respond on the grounds that class certification has not yet been
16 completed. This objection holds no merit as the right to discovery prior to class certification has been
17 recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The Superior Court of Orange County*
18 (1994) 26 Cal.App.4th 239, discovery directed at class certification is both appropriate and permitted
19 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
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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, Los Angeles County Waterworks District No. 40's and Rosamond
17 Community Services District's objections have no merit and have been interposed to these requests for
18 the sole purpose of avoiding the disclosure of information that is fatal to their claim of prescription. In
19 order to facilitate settlement and a timely resolution of this matter, Los Angeles County Waterworks
20 District No. 40 and Rosamond Community Services District must be ordered to respond to Diamond
21 Farming's Special Interrogatories [Set One].

22 **INTERROGATORY NO. 6:**

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

25 **Defendant's Response**

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

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.)

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
4 is on defendants to show that their objections are valid.” (*Columbia Broadcasting
5 System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

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

8 **1. Premature**

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18 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed
19 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
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24 the dark as to their vaguely pled claims of prescription.

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

8 **2. Burdensome**

9 The assertion of this objection is insufficient to justify Los Angeles County Waterworks District
10 No. 40's and Rosamond Community Services District's refusal to respond to Special Interrogatories
11 [Set One] because these two entities cannot show that the burden of providing a response will result in
12 injustice.

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19 Community Services District have alleged prescriptive claims against more than 100,000 landowners
20 whose property overlies the Antelope Valley Groundwater Basin. Notice is a key element of
21 prescription that must be proven by the Water Purveyors if they are to succeed in their claim. Diamond's
22 Special Interrogatories are directed at this element. The attempt to hide behind the enormity of their own
23 allegation under a claim of burden is improper and cannot be sustained.

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25 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
26 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
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28 **3. Oppression**

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to create an unreasonable burden or that the ultimate effect of the burden is

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11 reasons are the very purpose of pre-trial discovery. The information sought must be produced before
12 trial and the court is not empowered to deny Diamond's discovery rights under this unsubstantiated claim
13 of oppression.

14 “While it is true that the trial court has a broad discretion in passing on an objection that
15 there has been harassment and oppression [Citation], such discretion is not absolute. As
16 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
17 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*
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18 **4. Objections Based on Class Certification**

19 Los Angeles County Waterworks District No. 40 and Rosamond Community Services District
20 attempt to limit their obligation to respond on the grounds that class certification has not yet been
21 completed. This objection holds no merit as the right to discovery prior to class certification has been
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4 the court. In addition, each party should have an opportunity to conduct discovery on
5 class action issues before its documents in support of or in opposition to the motion must
6 be filed.” *Carabini, supra*, pp. 243-244.

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

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

24 Based on the foregoing, Los Angeles County Waterworks District No. 40's and Rosamond
25 Community Services District’s objections have no merit and have been interposed to these requests for
26 the sole purpose of avoiding the disclosure of information that is fatal to their claim of prescription. In
27 order to facilitate settlement and a timely resolution of this matter, Los Angeles County Waterworks
28 District No. 40 and Rosamond Community Services District must be ordered to respond to Diamond
29 Farming’s Special Interrogatories [Set One].

30 **INTERROGATORY NO. 7:**

31 If you contend that YOU have acquired a prescriptive right to use groundwater within the
32 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*
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 interrogatory have
13 no merit and are otherwise too general to preclude disclosure of the requested information.

14 **1. Premature**

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

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

19 “(b) A plaintiff may propound interrogatories to a party without leave of
20 court at any time that is 10 days after the service of the summons on, or
21 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. Los Angeles County Waterworks District
27 No. 40 and Rosamond Community Services District have no legal basis or authority to assert this
28

1 objection which is designed simply to avoid providing a response, thereby keeping the landowners in
2 the dark as to their vaguely pled claims of prescription.

3 The premature claim also seeks to compromise the purpose of pretrial discovery which is to
4 obtain all of the facts relative to a claim or defense. (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782)
5 [T]o assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
6 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
7 to prevent delay; and to safeguard against surprise. [Citations.]" (*Britts v. Superior Court* (2006) 145
8 Cal.App.4th 1112, 1128.) A party responding to discovery requests may be required to state whether
9 or not he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
10 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
11 (1969) 71 Cal.2d 276, 281.) The information sought by way of this interrogatory will force Los Angeles
12 County Waterworks District No. 40 and Rosamond Community Services District to provide information
13 about their claim of prescription. This is information that they will have to provide in any event, prior
14 to any resolution of their claim of prescription.

15 **2. Burdensome**

16 The assertion of this objection is insufficient to justify Los Angeles County Waterworks District
17 No. 40's and Rosamond Community Services District's refusal to respond to Special Interrogatories
18 [Set One] because these two entities cannot show that the burden of providing a response will result in
19 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, Los Angeles County Waterworks District No. 40 and Rosamond
24 Community Services District have alleged prescriptive claims against more than 100,000 landowners
25 whose property overlies the Antelope Valley Groundwater Basin. Notice is a key element of
26 prescription that must be proven by the Water Purveyors if they are to succeed in their claim. Diamond's

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1 Special Interrogatories are directed at this element. The attempt to hide behind the enormity of their own
2 allegation 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.)

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.)

12 Special Interrogatories [Set One] was not served with any ill intent. Contrary to Los Angeles
13 County Waterworks District No. 40's and Rosamond Community Services District's assertions, the
14 interrogatories are not unreasonable as each of the nine questions posed relate directly to the allegations
15 raised by Los Angeles County Waterworks District No. 40 and Rosamond Community Services District
16 through their various complaints, cross-complaints and answers. The burden on providing a response
17 through discovery is no greater than the burden that must be born by these two entities at trial. If they
18 are able to meet this burden, they should be compelled to do so now when such disclosure will help
19 foster settlement and resolution of this matter without the necessity of a trial. As stated above, these
20 reasons are the very purpose of pre-trial discovery. The information sought must be produced before
21 trial and the court is not empowered to deny Diamond's discovery rights under this unsubstantiated claim
22 of oppression.

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

3. **Objections Based on Class Certification**

Los Angeles County Waterworks District No. 40 and Rosamond Community Services District
attempt to limit their obligation to respond on the grounds that class certification has not yet been

1 completed. This objection holds no merit as the right to discovery prior to class certification has been
2 recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The Superior Court of Orange County*
3 (1994) 26 Cal.App.4th 239, discovery directed at class certification is both appropriate and permitted
4 in order to ensure a fair hearing.

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

11 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
12 information about water purveyor class members. A plain reading of the request evidences that it was
13 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
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24 Community Services District’s objections have no merit and have been interposed to these requests for
25 the sole purpose of avoiding the disclosure of information that is fatal to their claim of prescription. In
26 order to facilitate settlement and a timely resolution of this matter, Los Angeles County Waterworks
27

1 District No. 40 and Rosamond Community Services District must be ordered to respond to Diamond
2 Farming’s Special Interrogatories [Set One].

3 **INTERROGATORY NO. 8:**

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

7 **Defendant's Response**

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

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

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

15 “At the hearing of such a motion the burden is on the party interrogated, in this case the
16 defendants, ‘of showing facts from which the trial court might find that the
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19 no merit and are otherwise too general to preclude disclosure of the requested information.

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26 court at any time that is 10 days after the service of the summons on, or
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3 to place the parties “on roughly equal footing.” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)
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13 to prevent delay; and to safeguard against surprise. [Citations.]” (*Britts v. Superior Court* (2006) 145
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17 (1969) 71 Cal.2d 276, 281.) The information sought by way of this interrogatory will force Los Angeles
18 County Waterworks District No. 40 and Rosamond Community Services District to provide information
19 about their claim of prescription. This is information that they will have to provide in any event, prior
20 to any resolution of their claim of prescription.

21 2. Burdensome

22 The assertion of this objection is insufficient to justify Los Angeles County Waterworks District
23 No. 40's and Rosamond Community Services District's refusal to respond to Special Interrogatories
24 [Set One] because these two entities cannot show that the burden of providing a response will result in
25 injustice.

26 “[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
27 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
28 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.*
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3 In the present action, Los Angeles County Waterworks District No. 40 and Rosamond
4 Community Services District have alleged prescriptive claims against more than 100,000 landowners
5 whose property overlies the Antelope Valley Groundwater Basin. Notice is a key element of
6 prescription that must be proven by the Water Purveyors if they are to succeed in their claim. Diamond’s
7 Special Interrogatories are directed at this element. The attempt to hide behind the enormity of their own
8 allegation under a claim of burden is improper and cannot be sustained.

9 The fact alone that the response to an interrogatory may be expensive and burdensome
10 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
11 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
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17 County Waterworks District No. 40's and Rosamond Community Services District's assertions, the
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19 raised by Los Angeles County Waterworks District No. 40 and Rosamond Community Services District
20 through their various complaints, cross-complaints and answers. The burden on providing a response
21 through discovery is no greater than the burden that must be born by these two entities at trial. If they
22 are able to meet this burden, they should be compelled to do so now when such disclosure will help
23 foster settlement and resolution of this matter without the necessity of a trial. As stated above, these
24 reasons are the very purpose of pre-trial discovery. The information sought must be produced before
25 trial and the court is not empowered to deny Diamond's discovery rights under this unsubstantiated claim
26 of oppression.

27 “While it is true that the trial court has a broad discretion in passing on an objection that
28 there has been harassment and oppression [Citation], such discretion is not absolute. As

1 was said in *Cembrook*, such discretion does not authorize the trial court ‘to make blanket
2 orders barring disclosure in toto when the factual situation indicates that a just and
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4. Objections Based on Class Certification

4 Los Angeles County Waterworks District No. 40 and Rosamond Community Services District
5 attempt to limit their obligation to respond on the grounds that class certification has not yet been
6 completed. This objection holds no merit as the right to discovery prior to class certification has been
7 recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The Superior Court of Orange County*
8 (1994) 26 Cal.App.4th 239, discovery directed at class certification is both appropriate and permitted
9 in order to ensure a fair hearing.

10 “Appellate courts have recognized the importance of such orders by creating an
11 exception to the rule denying appellate review. ‘Whether the order is directly appealable
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
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16 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek
17 information about water purveyor class members. A plain reading of the request evidences that it was
18 directed to the specific public water suppliers concerning the specific elements of each entity’s specific
19 claim. If, and to the extent, the interrogatory can be characterized as seeking information about some
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2 Community Services District's objections have no merit and have been interposed to these requests for
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4 order to facilitate settlement and a timely resolution of this matter, Los Angeles County Waterworks
5 District No. 40 and Rosamond Community Services District must be ordered to respond to Diamond
6 Farming's Special Interrogatories [Set One].

7 **INTERROGATORY NO. 9:**

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

10 **Defendant's Response**

11 Objection. This 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 interrogatories. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
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22 no merit and are otherwise too general to preclude disclosure of the requested information.

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24 to any resolution of their claim of prescription.

25 **2. Burdensome**

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27 No. 40's and Rosamond Community Services District's refusal to respond to Special Interrogatories

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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
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

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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.)

Based on the foregoing, Los Angeles County Waterworks District No. 40's and Rosamond Community Services District's objections have no merit and have been interposed to these requests for the sole purpose of avoiding the disclosure of information that is fatal to their claim of prescription. In order to facilitate settlement and a timely resolution of this matter, Los Angeles County Waterworks District No. 40 and Rosamond Community Services District must be ordered to respond to Diamond Farming's Special Interrogatories [Set One].

Dated: September 12, 2007

LeBEAU • THELEN, LLP

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By: _____
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