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9 Attorneys for DIAMOND FARMING COMPANY,  
10 a California corporation

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

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

Judicial Council Coordination No. 4408

17 ANTELOPE VALLEY GROUNDWATER  
18 CASES

Case No.: 1-05-CV-049053

19 Included actions:

**DECLARATION OF BOB H. JOYCE,  
ESQ. IN SUPPORT OF MOTION TO  
COMPEL LOS ANGELES  
WATERWORKS DISTRICT NO. 40  
AND ROSAMOND COMMUNITY  
SERVICES DISTRICT TO PROVIDE  
FURTHER RESPONSES TO FORM  
INTERROGATORIES [SET ONE];  
REQUEST FOR ADMISSIONS  
[SET ONE]; AND FOR MONETARY  
SANCTIONS**

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]

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 Los Angeles Waterworks District No. 40 and Rosamond Community Services  
9 District to Form Interrogatories [Set One] and Request for Admissions [Set One] and for monetary  
10 sanctions.

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

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21 in essence been replaced by a Cross-Complaint and now an Amended Cross-Complaint, both alleging  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

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1           5.       On or about May 25, 2007, Diamond Farming Co., served on defendants, Los Angeles  
2 County Waterworks District No. 40 and Rosamond Community Services District, Form Interrogatories  
3 [Set One] and Request for Admissions [Set One]. A true and correct copy of Diamond Farming's Form  
4 Interrogatories [Set One] is attached hereto as Exhibit A. A true and correct copy of Diamond Farming's  
5 Request for Admissions [Set One] is attached hereto as Exhibit B.

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

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

15           8.       Thereafter, on June 26, 2007, each "Public Water Supplier," including, Los Angeles  
16 County Waterworks District No. 40 and Rosamond Community Services District, served the same  
17 substantive and virtually identical objections to each and every request as follows:

18           "Objection. The request is premature, burdensome and oppressive. This request seeks  
19 information concerning class members and the court has not yet completed its class  
20 certification process. No class representative has yet been approved by the court." (A  
21 true and correct copy of Los Angeles County Waterworks District No. 40's Response to  
22 Request for Admissions [Set One] is attached hereto as Exhibit C. A true and correct  
23 copy of Rosamond Community Services District's Response to Request for Admissions  
24 [Set One] is attached hereto as Exhibit D.)

25           9.       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 one of the  
28 Public Water Suppliers, but achieved no resolution. Not having received any response from any other  
Public Water Supplier and having confirmed with Mr. Lemieux that he could not speak on behalf of all,  
I then sought an Ex Parte Application for a court order setting this court-supervised meet and confer.

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

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

7           12.     Pursuant to the court's order, I contacted counsel for each of the Public Water Suppliers  
8 to whom the Form Interrogatories [Set One] and Request for Admissions [Set One] had been served to  
9 schedule appointments to conduct the further meet and confer attempts. (Attached hereto as Exhibit E  
10 is a true and correct copy of my August 3, 2007 correspondence to all counsel for the Public Water  
11 Suppliers.) As of the date of the filing of this motion, I have met and conferred with counsel for each  
12 Public Water Supplier with the exception of counsel for Los Angeles County Waterworks District No.  
13 40 and Rosamond Community Services District.

14           13.     Despite attempts made by my secretary and by myself personally, counsel for Los Angeles  
15 County Waterworks District No. 40 and Rosamond Community Services District would not provide  
16 dates or otherwise cooperate in my attempts to further meet and confer, as ordered by this court.

17           14.     On August 10, 2007, at great expense to my client, I traveled over 100 miles to attend a  
18 scheduled meet and confer at the office of Keith Lemieux, counsel for Littlerock Creek Irrigation  
19 District. Counsel for Los Angeles County Waterworks District No. 40 and Rosamond Community  
20 Services District did not attend or participate in this meeting nor did counsel contact me or my office  
21 prior to this meeting to make alternate arrangements.

22           15.     On August 17, 2007, I sent correspondence directly to counsel for Los Angeles County  
23 Waterworks District No. 40 and Rosamond Community Services District making a second request for  
24 them to provide dates upon which the parties could meet and confer about the pending discovery.  
25 Attached hereto as Exhibit F is a true and correct copy of my August 17, 2007 correspondence.

26           16.     Counsel for Los Angeles County Waterworks District No. 40 and Rosamond Community  
27 Services District did not respond to this letter until August 28, 2007 at which time they claimed that they  
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1 believed the matter had been resolved at the July 20, 2007 court-supervised meet and confer.

2 17. On August 29, 2007, I informed counsel for Los Angeles County Waterworks District  
3 No. 40 and Rosamond Community Services District that their belief in a resolution was incorrect. I  
4 made an additional request for them to provide dates upon which they would meet and confer with me  
5 regarding the outstanding discovery. As of the date of this Declaration, counsel for Los Angeles County  
6 Waterworks District No. 40 and Rosamond Community Services District has never provided dates or  
7 otherwise accepted my invitations to meet and confer.

8 18. As a result of Los Angeles County Waterworks District No. 40's and Rosamond  
9 Community Services District's willful refusal to properly respond to discovery and their continued  
10 refusal to meet and confer, Diamond Farming is being prejudiced in its defense and prosecution of this  
11 matter. The unreasonable delay in providing responses to discovery is prejudicing Diamond's ability to  
12 proceed with a dispositive motion and its evaluation of this case for settlement and/or trial preparation.

13 19. As a further result of Los Angeles County Waterworks District No. 40's and Rosamond  
14 Community Services District's refusal to comply with the discovery process or meet and confer,  
15 Diamond Farming has incurred, and will incur, reasonable expenses and attorneys' fees in connection  
16 with the motion and hearing thereon as follows:

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

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

20 3) \$40.00 fee for the filing of this motion.

21 Total \$1,415.00.

22 20. Declarant's billing rate on this file is \$275.00 per hour.

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



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BOB H. JOYCE, ESQ.