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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SANTA CLARA**

13
14
15 **ANTELOPE VALLEY GROUNDWATER**
CASES

Judicial Council Coordination
Proceeding No. 4408

16 **NOTICE OF MOTION AND**
17 **MOTION TO TRANSFER AND TO**
18 **CONSOLIDATE FOR ALL**
19 **PURPOSES; MEMORANDUM OF**
20 **POINTS AND AUTHORITIES;**
21 **DECLARATION OF WHITNEY G.**
22 **MCDONALD**

Date: August 17, 2009
Time: 9:00 a.m.
Dept.: 17C

(Hon. Jack Komar)

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1 **TO ALL PARTIES HERETO AND THEIR ATTORNEYS OF RECORD:**
2 **PLEASE TAKE NOTICE** that on August 17, 2009, at 9:00 a.m., or as soon
3 thereafter as the matter may be heard, in Department 17C of the above-entitled court
4 located at 191 North First Street, San Jose, California, the City of Palmdale, Rosamond
5 Community Services District, Los Angeles County Waterworks District No. 40,
6 Littlerock Creek Irrigation District, Palm Ranch Irrigation District, California Water
7 Service Company, Quartz Hill Water District, City of Lancaster, and Palmdale Water
8 District (collectively “Public Water Suppliers”) will and do hereby move pursuant to
9 Rules of Court 3.504, 3.541(b) and 3.543(a), to the extent *not* previously transferred as a
10 result of the Judicial Council’s order of coordination, for an order transferring all matters
11 presently pending under Judicial Council Coordination Proceeding No. 4408 from the
12 Riverside County Superior Court and Kern County Superior Court to the Los Angeles
13 County Superior Court, the Honorable Jack Komar, judge presiding by special
14 assignment. The Public Water Suppliers will and do hereby further move pursuant to
15 CCP section 1048 for an order consolidating the previously or presently transferred
16 actions and cross-actions, as well as any as subsequent complaints or cross-complaints
17 filed in this Judicial Council Coordination Proceeding.

18 This motion is made on the following grounds:

19 1. These proceedings began as quiet title actions pending in the Riverside
20 County Superior Court, followed by two additional declaratory and injunctive relief
21 actions filed in the Los Angeles and Kern County Superior Courts. The differing venues
22 of those actions resulted in a petition to the Judicial Council for an order of coordination.
23 That petition was granted on June 17, 2005 (Exh. 1).

24 2. On July 11, 2005, the Judicial Council, acting through the Chief Justice,
25 ordered those coordinated proceedings to be venued in the Los Angeles County Superior
26 Court, where, by special assignment, they came to be pending before the Honorable Jack
27 Komar (Exh. 2).

28

1 3. Following coordination and assignment, numerous other complaints and
2 cross-complaints were filed, including two class actions. As of the filing of this motion,
3 the actions and cross-actions identified in Exhibit 3 are pending in these coordinated
4 complex proceedings commonly known as the Antelope Valley Groundwater
5 Adjudication.

6 4. Rules of Court 3.504, 3.541(b), and 3.543 authorize the Court, on its own
7 motion, or on the motion of a party, to order coordinated cases to be transferred for all
8 purposes.

9 5. Because the United States of America (“United States”) has been named as
10 a cross-defendant by the Public Water Suppliers, a special jurisdictional requirement
11 attaches, *viz.* compliance with 43 U.S.C. § 666, commonly known as the McCarran
12 Amendment. Through 43 U.S.C. § 666, the United States consents to jurisdiction by a
13 state court over the comprehensive adjudication of water rights.

14 6. To the extent not already accomplished, the Public Water Suppliers believe
15 that an order transferring and consolidating for all purposes is appropriate herein. First,
16 the complaints and cross-complaints concern common issues of law and fact. Second,
17 consolidation will allow for the entry of single statements of decision in subsequent
18 phases and a single judgment, which has numerous positive procedural implications both
19 in the trial court and in subsequent appeals, if any are taken. Third, complete
20 consolidation will further permit the Court to handle these already coordinated and
21 complex proceedings as a single action.

22 7. Pursuant to Code of Civil Procedure section 1048(a), “[w]hen actions
23 involving a common question of law or fact are pending before the court, it may order a
24 joint hearing or trial of any or all the matters in issue in the actions; it may order all the
25 actions consolidated and it may make such orders concerning proceedings therein as may
26 tend to avoid unnecessary costs or delay.”

27 8. For these reasons, and those set forth in the accompanying memorandum of
28 points and authorities and declaration of Whitney G. McDonald, the Court should order

1 all complaints and cross-complaints presently pending in Judicial Council Coordination
2 Proceeding No. 4408, as well as any subsequently filed complaints or cross-complaints,
3 transferred and consolidated for all purposes, with the service and filing procedures
4 created through prior Court orders to remain the same.

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1 This motion is based upon this notice, the accompanying memorandum of points
2 and authorities and declaration of Whitney G. McDonald, the pleadings and other
3 documents on file in this action, and upon such other oral and written evidence as the
4 Court may accept at the time of hearing this motion.

5
6 Dated: July 15, 2009

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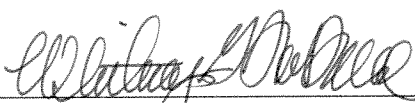
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2
3 The Public Water Suppliers respectfully submit this memorandum of points and
4 authorities in support of their motion for transfer and complete consolidation.

5
6 **I. OVERVIEW**

7 In response to U. S. Borax, *et al.*'s recent motion to dismiss the Public Water
8 Suppliers' first amended cross-complaint for failing to name allegedly indispensable
9 parties, the Public Water Suppliers agreed to bring the instant motion to transfer and
10 consolidate.

11 Orders of transfer and consolidation would cure the perceived ills complained of
12 by many parties herein, including the United States' concerns that the procedural posture
13 of these proceedings result in the comprehensive adjudication of groundwater rights in
14 the Antelope Valley Groundwater Basin ("Basin") so as to satisfy the requirements of the
15 McCarran Amendment (43 U.S.C. § 666).

16 Questions have been raised as to whether the Judicial Council's prior orders in
17 these proceedings operate to transfer all coordinated actions to the Los Angeles County
18 Superior Court. To the extent that such transfer has not already taken place, the Court is
19 specifically authorized by Rules of Court 3.504, 3.541(b), and 3.543 to order such
20 transfers, and should do so herein.

21 Code of Civil Procedure ("CCP") § 1048(a) vests broad discretion in the Court to
22 order these previously coordinated and complex actions to be consolidated for all
23 purposes. Consolidation for all purposes should be ordered for the following reasons:

24 First, apart from the unique cross-claims of the Sheldon Blum Trust against the
25 Bolthouse entities concerning rights and obligations under a lease between them, the
26 various complaints and cross-complaints all raise common questions of law and fact
27 concerning Basin groundwater, including safe yield, prescription, rights priority, and
28 whether a physical solution should be imposed, among other issues common to any

1 California groundwater adjudication. These numerous claims have been ordered
2 coordinated and deemed complex.

3 Second, as a matter of efficiency for the Court and clarity to the parties and any
4 subsequently reviewing court, complete consolidation would result in the entry of a
5 single judgment, rather than a multitude of separate judgments. All concerned would
6 benefit from single statements of decision in subsequent phases of these proceedings, and
7 from a single judgment adjudicating the respective rights of the parties to extract or use
8 groundwater from the Basin, whose boundaries were determined in an earlier phase of
9 these coordinated proceedings, and imported and recycled water, and the physical
10 solution to be imposed to assure the long term health and viability of the Basin.

11 Third, complete consolidation of these presently coordinated complex proceedings
12 will further streamline the process of resolving the groundwater rights of the numerous
13 parties, which will result in saving time and attorney's fees to the parties, conserving
14 judicial resources, promoting settlement where possible, facilitating orderly discovery,
15 enabling equitable cost allocation, and simplifying subsequent appellate review.

16 Fourth, complete consolidation should resolve the concerns of the United States
17 (and others) that these proceedings satisfy the requirements of the McCarran Amendment
18 by avoiding piecemeal litigation.

19 The Court should accordingly order all complaints and cross-complaints presently
20 pending in Judicial Council Coordination Proceeding No. 4408, as well as any complaints
21 or cross-complaints hereinafter filed in or added onto the proceeding, transferred to the
22 Los Angeles County Superior Court and consolidated for all purposes.

23
24 **II. TO THE EXTENT NOT PREVIOUSLY ACCOMPLISHED, THE COURT**
25 **SHOULD ORDER ALL ACTIONS TRANSFERRED**

26 Pursuant to Rule of Court 3.541(b)(1), "[t]he judge may, for the purpose of
27 coordination and to serve the ends of justice ... [o]rder any coordinated action transferred
28 to another court under rule 3.543." That rule, in turn, provides: "The coordination trial

1 judge may order any coordinated action or severable claim in that action transferred from
2 the court in which it is pending to another court for a specified purpose or for all
3 purposes. Transfer may be made by the court on its own motion or on the motion of any
4 party to any coordinated action.” Rule of Court 3.543(a).¹

5 Even absent these provisions, the trial court is vested with broad discretion to
6 regulate these coordinated complex proceedings. Rule of Court 3.504 thus provides:

7 (b) To the extent that the rules in this chapter conflict with provisions of
8 law applicable to civil actions generally, the rules in this chapter prevail, as
9 provided by Code of Civil Procedure section 404.7.

10 (c) If the manner of proceeding is not prescribed by chapter 3
11 (commencing with section 404) of title 4 of part 2 of the Code of Civil Procedure
12 or by the rules in this chapter, or if the prescribed manner of proceeding cannot,
13 with reasonable diligence, be followed in a particular coordination proceeding, the
14 assigned judge may prescribe any suitable manner of proceeding that appears most
15 consistent with those statutes and rules.”

16 *See also McGhan Med. Corp. v. Superior Court* (1992) 11 Cal.App.4th 804, 812 (“... it
17 is the intent of the Judicial Council to vest in the coordinating judge whatever great
18 breadth of discretion may be necessary and appropriate to ease the transition through the
19 judicial system of the logjam of cases which gives rise to coordination.”).

20 Thus to the extent not already transferred, the Court is authorized to order
21 whatever transfers are deemed necessary to allow for complete consolidation.

22
23 **III. THE COURT SHOULD ORDER COMPLETE CONSOLIDATION OF THE**
24 **CASES**

25 Pursuant to Code of Civil Procedure section 1048(a), “[w]hen actions involving a
26 common question of law or fact are pending before the court, it may order a joint hearing

27 ¹ These provisions are entirely separate from the statutory provisions concerning
28 transfer of non-complex matters (CCP § 403).

1 or trial of any or all the matters in issue in the actions; it may order all the actions
2 consolidated and it may make such orders concerning proceedings therein as may tend to
3 avoid unnecessary costs or delay.” A noticed motion may obtain the order of
4 consolidation. *See, Sanchez v. Superior Court* (1988) 203 Cal.App.3d 1391 (noticed
5 motion to consolidate two actions arising from same accident involving same parties;
6 witnesses, evidence, discovery, and questions of law and fact were common to both
7 cases).

8 “The purpose of consolidation is merely to promote trial convenience and
9 economy.” *Mueller v. J. C. Penny Co.* (1985) 173 Cal.App.3d 713, 722. “A
10 consolidation of actions does not affect the rights of the parties.” *Wouldridge v. Burns*
11 (1968) 265 Cal.App.2d 82, 86. Trial convenience and economy are promoted “by
12 avoiding duplication of procedure, particularly in the proof of issues common to both
13 actions.” *Id.*

14 Consolidation may be “complete” or “for trial only.” Under complete
15 consolidation, the pleadings are treated as merged and the court issues one set of findings
16 and one judgment. *Hamilton v. Asbestos Corp. Ltd.* (2000) 22 Cal.4th 1127, 1147-1148.
17 By comparison, consolidation for trial only keeps all pleadings, findings, and judgments
18 separate and merely allows trial of the actions to occur together for the sake of
19 convenience. *Sanchez*, 203 Cal.App.3d at 1395-1399.

20 Consolidation is entirely appropriate here where the various cases comprising
21 these coordinated actions involve the same questions of law and fact, namely determining
22 rights to groundwater, imported and recycled water within the Basin, based upon the
23 familiar law and facts applicable in any groundwater adjudication, including safe yield,
24 overdraft, prescription, rights priority, and the physical solution. *See, City of Barstow v.*
25 *Mojave Water Agency* (2000) 23 Cal.4th 1224; *City of Los Angeles v. City of San*
26 *Fernando* (1975) 14 Cal.3d 199; *City of Pasadena v. City of Alhambra* (1949) 33 Cal.2d
27 908.

28

1 The prior unchallenged order of coordination, moreover, establishes that these
2 cases necessarily involve predominating or significant common questions of law or fact.
3 CCP § 404.1.

4 Complete consolidation is warranted because all of the coordinated cases relate to
5 the same common and fundamental issue, *viz.* adjudicating the water rights of the parties
6 within the Basin, and generally involve the same parties. Although the identical parties
7 are not named in each of the respective complaints and cross-complaints, each shares the
8 same primary subject matter and will result in the same outcome. *See Jud Whitehead*
9 *Heater Co. v. Obler* (1952) 111 Cal.App.2d 861, 867 (consolidation appropriate even
10 where all parties were not the same); *see also Paduano v. Paduano* (1989) 215
11 Cal.App.3d 346, 350-51 (separate findings issued in two consolidated actions
12 inappropriate where “primary subject matter” was the same); *see also Committee for*
13 *Responsible Planning v. City of Indian Wells* (1990) 225 Cal.App.3d 191, 197, 198
14 (court may look to nature of the underlying action and the propriety of issuing a single
15 judgment when ordering complete consolidation). By completely consolidating these
16 already coordinated actions, the Court will be able to enter a single judgment that would
17 unquestionably satisfy the requirements of the McCarran Amendment.

18 In addition, the single judgment that would result from complete consolidation of
19 these matters will greatly benefit the parties and the Court in administering a physical
20 solution. With only one judgment to govern the terms of the physical solution as to all
21 parties, those parties, the Court, and the Watermaster will be able to refer to one single
22 document for guidance. Therefore, post-trial practicalities also militate in favor of
23 complete consolidation.

24 Even absent this motion, the Court may order complete consolidation *sua sponte*.
25 The Rules of Court governing complex actions indicate that “it is the intent of the
26 Judicial Council to vest in the coordinating judge whatever great breadth of discretion
27 may be necessary and appropriate to ease the transition through the judicial system of the
28 logjam of cases which gives rise to coordination.” *McGhan*, 11 Cal.App.4th at 812.

1 Thus, the court in complex coordinated actions has wide latitude in making orders to
2 satisfy its duty to “assume an active role in managing all steps of the pretrial, discovery,
3 and trial proceedings to expedite the just determination of the coordinated actions without
4 delay.” Rule of Court 3.541(b). *See also* CCP § 128(a)(3) (codifying the inherent
5 authority “[t]o provide for the orderly conduct of proceedings before it, or its officers.”).

6 Inasmuch as the circumstances calling for consolidation are so variable, and the
7 advantages and disadvantages of consolidated proceedings are so dependent on the facts
8 of each case, the trial court enjoys broad discretion in granting or denying consolidation.
9 *See, e.g., Todd-Stenberg v. Dalkon Shield Claimants Trust* (1996) 48 Cal.App.4th 976,
10 978-979 (trial court’s decision whether to consolidate actions involving common
11 questions of law or fact will not be disturbed on appeal absent clear showing of abuse of
12 discretion); *City of Los Angeles v. Klinker* (1933) 219 Cal. 198, 211.

13
14 **IV. COMPLETE CONSOLIDATION WILL SATISFY THE REQUIREMENTS**
15 **OF THE MCCARRAN AMENDMENT THAT THESE PROCEEDINGS**
16 **RESULT IN A COMPREHENSIVE ADJUDICATION OF**
17 **GROUNDWATER RIGHTS**

18 The United States Congress was specific in providing for a limited waiver of the
19 sovereign immunity of the United States from suit in the state courts. The legislative
20 history demonstrates that the McCarran Amendment’s waiver is available only for the
21 comprehensive adjudication of all water rights in a stream system. Only if the required
22 conditions are met is there a waiver of sovereign immunity enabling the exercise of
23 jurisdiction over the United States and the adjudication of federal water rights. In the
24 United States Senate Report on the McCarran Amendment, the character of the water
25 adjudications for which sovereign immunity shall be waived was described as follows:

26 “All claimants are required to appear and prove their claims; no one can refuse
27 without forfeiting his claim, and all have the same relations to the proceeding. It
28 is intended to be universal and to result in a complete ascertainment of all existing

1 rights ...”

2 S. Rep. No. 82-755, at 5 (1951) (*quoting Pacific Livestock Co. v. Oregon Water Board*,
3 (1916) 241 U.S. 441, 447-448). The United States Senate Report further described the
4 comprehensive character required adjudications that satisfy the requirements of the
5 McCarran Amendment by specifically incorporating a letter from Senator McCarran,
6 sponsor of the legislation and Chairman of the Committee reporting the Bill, in reply to
7 Senator Magnuson:

8 “S. 18 is not intended . . . to be used for any other purpose than to allow the United
9 States to be joined in a suit wherein it is necessary to adjudicate all of the rights of
10 various owners on a given stream. This is so because unless all of the parties
11 owning or in the process of acquiring water rights on a particular stream can be
12 joined as parties defendant, any subsequent decree would be of little value.”

13 *United States v. Dist. Court in and for Eagle County, Colo.* (1971) 401 U.S. 520, 525,
14 *quoting* S. Rep. No. 82-755, at 9.

15 The subsequent case law is likewise clear that the McCarran Amendment waiver is
16 only available for the comprehensive adjudication of all water rights in a stream system.
17 As the United States Supreme Court explained, the “clear federal policy” underlying the
18 consent to jurisdiction provided for under the McCarran Amendment is “the avoidance of
19 piecemeal adjudication” of water rights. *Colorado River Water Conservation Dist. v.*
20 *United States* (1976) 424 U.S. 800, 819. In accordance with this policy, the courts have
21 ruled that federal sovereign immunity is waived to allow determination of water rights of
22 the federal government only in a comprehensive adjudication. *Id.* at 819-20; *see also*
23 *Arizona v. San Carlos Apache Tribe* (1983) 463 U.S. 545, 569. A comprehensive or
24 general adjudication must involve all of the claimants to water rights along a given
25 stream system. *Dugan v. Rank* (1963) 372 U.S. 609, 618-619; *Miller v. Jennings* (5th
26 Cir. 1957) 243 F.2d 157, 159; *In re Snake River Basin Water System* (Idaho 1988) 764
27 P.2d 78, 83 (1988).
28

1 The United States Supreme Court explained that McCarran adjudications must be
2 all inclusive because “the allocation of water essentially involve the disposition of
3 property and are best conducted in unified proceedings.” *Colorado River Water*
4 *Conservation Dist.*, 424 U.S. at 819. The adjudication of rights to the use of water of a
5 river system “has no exceptions and . . . includes appropriate rights, riparian rights, and
6 reserved rights.” *Dist. Court in and for Eagle County, Colo.* 401 U.S. at 524.

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1 V. CONCLUSION

2 For these reasons, the Court should accordingly order a transfer to the Los Angeles
3 County Superior Court and a complete consolidation of all cases previously coordinated.

4
5 Dated: July 15, 2009

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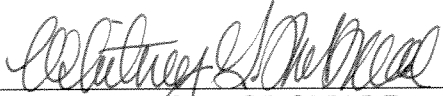
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STEVEN R. ORR
WHITNEY G. MCDONALD

By: 
WHITNEY G. MCDONALD
Attorneys for Defendant, Cross-
Complainant, and Cross-Defendant
CITY OF PALMDALE

DECLARATION OF WHITNEY G. MCDONALD

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1. I am an attorney at law duly licensed to practice law before all of the courts of the State of California, and am associated with Richards, Watson & Gershon, a Professional Corporation. I am one of the attorneys responsible for representing cross-complainant, defendant and cross-defendant City of Palmdale in these proceedings, and make this declaration on personal knowledge. If called as a witness, I could and would testify competently to the matters set forth herein.

2. Attached as Exhibit 1 is a true and correct copy of the Order Granting Petition for Coordination filed in the Orange County Superior Court on June 17, 2005.

3. Attached as Exhibit 2 is a true and correct copy of the Amended Order Assigning Coordination Trial Judge, entered by the Chair of the Judicial Council of California, the Honorable Chief Justice Ronald George, and filed in the Santa Clara County Superior Court on September 2, 2005.

4. Attached as Exhibit 3 is a list of the complaints coordinated under Judicial Council Coordination Proceeding (“JCCP”) No. 4408. Such proceedings have become commonly as the “Antelope Valley Groundwater Cases.” Through this motion, the Public Water Suppliers seek to transfer the operative complaints, and all related cross-complaints, to the Los Angeles County Superior Court, and thereafter to consolidate those complaints and cross-complaints for all purposes.

5. I have reviewed the complaints and cross-complaints on file in these proceedings.

6. There are numerous operative cross-complaints filed in the Antelope Valley Groundwater Cases. Some of those cross-complaints were filed in response to specific complaints, and many others in response to the cross-complaint of the Public Water Suppliers. Other cross-complaints, such as the City of Palmdale’s cross-complaints filed in *Los Angeles County Waterworks District No. 40 vs. Diamond Farming Co., et al.*, Kern County Superior Court Case No. S-1500-CV 254-348 and *Los Angeles County Waterworks District No. 40 vs. Diamond Farming Co., et al.*, Los Angeles County

1 Superior Court Case No. BC 325201, have been superceded by the first amended cross-
2 complaint on the Public Water Suppliers in JCCP No. 4408, and are no longer operative.

3 7. The Antelope Valley Groundwater Cases collectively seek to adjudicate the
4 rights to groundwater, imported water and recycled water in the Antelope Valley
5 Groundwater Basin, the jurisdictional boundaries of which were determined in the Phase
6 1 proceedings (“Basin”) on a comprehensive basis.

7 8. The parties to the Antelope Valley Groundwater Cases variously assert a
8 wide variety of claims and forms of relief. Many parties seek to quiet title, declaratory
9 and injunctive relief as to the right to extract and use Basin groundwater, a determination
10 of the safe yield of the Basin, that rights have been acquired or lost by prescription, that
11 certain rights enjoy priority over other rights, that money damages should be paid if
12 rights have been lost to public entities through prescription, and assert myriad other
13 types of claims typically associated with comprehensive groundwater adjudications in
14 California.

15 9. The trials to be conducted in these phased proceedings will concern
16 common questions and issues of law and fact, and will rely heavily on expert witness
17 testimony. For example, determining the safe yield of the Basin will impact resolution of
18 the claims and cross-claims of nearly every party. Whether production rights have been
19 acquired or lost by prescription, similarly, is an issue of concern to all parties. The form
20 of the physical solution to be imposed, if one were to be imposed, would, likewise, affect
21 the conduct of every party to these proceedings.

22 10. The Public Water Suppliers respectfully suggest that judicial economy is
23 served well by enabling the Court to enter a single judgment at the conclusion of these
24 proceedings, and that it should not be required to prepare a separate judgment to be
25 entered on each complaint and cross-complaint.


26 11. The Public Water Suppliers further wish to address the concerns of the
27 United States of America that the requirements of the McCarran Amendment (43 U.S.C.
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1 § 666) are satisfied, and believe that the comprehensive relief sought herein should
2 accomplish that goal.

3 12. As the Court is thoroughly familiar with the parties and claims at issue
4 herein, the Public Water Suppliers will dispense with a further, more thorough
5 explanation of the underlying facts and claims. Should any party so desire, the Public
6 Water Suppliers will supplement this declaration on reply.

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct.

9 Executed this 15th day of July, 2009.

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12 _____
13 Whitney G. McDonald

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 17 2005

ALAN SLATER, Clerk of the Court

C. Carr
BY C. CARR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

Coordination Proceeding)	
Special Title (Rule 1550(b)))	
)	
ANTELOPE VALLEY)	
GROUNDWATER CASES	)	JUDICIAL COUNCIL COORDINATION
	)	PROCEEDING NO. 4408
Included actions:)	
)	
Los Angeles County Waterworks	)	Superior Court of California
District No. 40 v. Diamond	)	County of Los Angeles
Farming Co.	)	BC 325 201
)	
Los Angeles County Waterworks	)	Superior Court of California
District No. 40 v. Diamond	)	County of Kern
Farming Co.	)	S-1500-CV 254-348
)	
Wm. Bolthouse Farms, Inc. v.	)	Superior Court of California
	)	County of Riverside - Consolidated
	)	Actions
City of Lancaster	)	(RIC 353 840
)	
Diamond Farming Co. v.	)	RIC 344 436
City of Lancaster)	
)	
Diamond Farming Co. v.)	RIC 344 668)
Palmdale Water District)	
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)	

ORDER GRANTING PETITION FOR COORDINATION

Exhibit 1

The actions filed in Los Angeles and Kern County entitled *Los Angeles County Waterworks District No 40 vs Diamond Farming*, case no. BC 325201 and Kern County Superior Court case no. S-1500-CV 254348 are deemed complex pursuant to CRC 1800.

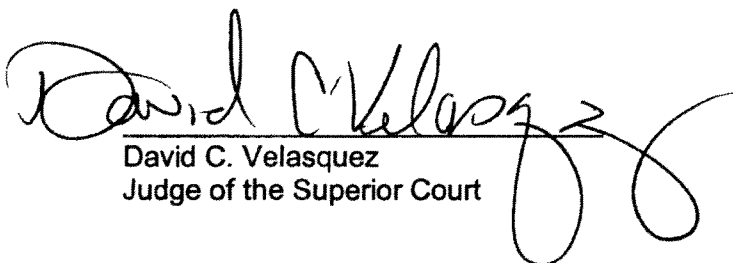
Good cause appearing that the coordination of the included actions is appropriate under the standards specified in CCP §§ 404 and 404.1, it is hereby ordered that the petition of Los Angeles County Waterworks District No. 40 for coordination of the included actions is granted; except, however, that the Riverside Superior Court retain jurisdiction over the consolidated case of *Wm. Bolthouse Farms, Inc. v. City of Lancaster*, et al., RCSC case no. RIC 344436 (the lead action); *Diamond Farming Co. v. City of Lancaster*, case no. RIC 344668; and *Diamond Farming Co. v. Palmdale Water District*, case no RIC 353840, currently in trial, solely for the purpose of granting a motion for mistrial and for hearing and determining issues related to sanctions, costs of suit and fees resulting from that mistrial. In all other respects, that consolidated action is coordinated pursuant to this order.

The court orders coordination of *Los Angeles County Waterworks District No. 40 v. Diamond Farming Company et al.*, LASC case no. BC 32501; *Los Angeles County Waterworks District No. 40 v. Diamond Farming Company et al.*, KCSC case no. S-1500-CV-25438; and the consolidated action of *Wm. Bolthouse Farms, Inc. v. City of Lancaster*, et al., RCSC case no. RIC 344436, *Diamond Farming Co. v. City of Lancaster*, case no. RIC 344668 and *Diamond Farming Co. v. Palmdale Water District*, case no. RIC 353840. The Court of Appeal, 4th Appellate District, Div. 2 (Riverside) is designated as the reviewing court with appellate jurisdiction for any petition for relief relating to any order in this proceeding.

This court recommends that the coordinated action be assigned to the Superior Court, County of Los Angeles, Complex Litigation. However, this court recommends that the Judicial Council appoint a judge from a neutral court (i.e., a sitting judge neither from Los Angeles County Superior Court nor Kern County Superior Court), or in the alternative, a retired judge to sit on assignment, to preside over this coordinated action as the coordination trial judge.

The clerk is directed to serve a copy of this order on the chair of the Judicial Council; the presiding judges of the Superior Courts of Los Angeles County, Kern County, Riverside County, and on counsel for all parties.

June 17, 2005


David C. Velasquez
Judge of the Superior Court

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 17 2005

ALAN SLATER, Clerk of the Court

C. Carr
BY C. CARR

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

ANTELOPE VALLEY GROUNDWATER CASES Plaintiff(s)	CASE NUMBER JCCP 4408
	CERTIFICATE OF SERVICE BY MAIL of ORDER GRANTING PETITION FOR COORDINATION dated 6-17-05

I, ALAN SLATER, Executive Officer and Clerk of the Superior Court, in and for the County of Orange, State of California, hereby certify; that I am not a party to the within action or proceeding; that on, 6-20-05 I served the ORDER GRANTING PETITION FOR COORDINATION, dated 6-17-05, on each of the parties herein named by depositing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Postal Service mail box at Santa Ana, California addressed as follows:

Judicial Council of California
Administrative Office of the Courts
Attn: Carlotta Tillman
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Los Angeles County Superior Court
Executive Officer/Clerk, John A. Clarke
111 North Hill Street
Los Angeles, CA 90012

Riverside County Superior Court
Executive Officer/Clerk, Jose Octavio
Guillen
4100 Main Street
Riverside, CA 92501

Kern County Superior Court
Court Executive Officer, Terry McNally
1415 Truxton Ave.
Bakersfield, CA 93301-4172

Mr. Erick L. Garner
Best, Best & Krieger, LLP
5 Park Plaza, Suite 1500
Irvine, CA 92614

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Frederick W. Pfaefle
Senior Deputy County Counsel
Office of County Counsel, County of Los
Angeles, 500 West Temple St.
Los Angeles, CA 90012

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Bakersfield, CA 93389-1127

James Markman, City Attorney, City of Palmdale,
Legal Department, 38300 North Sierra Highway,
Palmdale, Ca 93550

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Parent, 21 E. Carrillo Street, P.O. Drawer
720, Santa Barbara, Ca 93102-0720

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& Brown, Bank of America Building, 1430
Truxtun Ave., Suite 900, Bakersfield, Ca
93301-5230

Julie A. Conboy, Deputy City Attorney,
Rockard J. Delgadillo City Attorney, 111
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Room 340, Los Angeles, Ca 90051

Steven O'Neill, Law Offices of Lemieux,
2393 Townsgate Road, Suite 201,
Westlake Village, ca 91361

Douglas Evertz, Law Offices Stradling
Yocca Carlson & Rauth, 660 Newport
Center Drive, Suite 1600, Newport Beach,
Ca 92660

Thomas Bunn, Law Offices of Lagerlof,
Senecal, Bradley, Gosney & Kruse, 301
North Lake Ave., 10th Floor, Pasadena, Ca
91101-4108

John Tootle, California Water Service Co.,
2625 Del Amo Blvd., Suite 350, Torrance,
Ca 90503

John Slezak, Law Offices of Iverson,
Yoakum, Papiano & Hatch, 624 South
Grand Ave., 27th Floor, Los Angeles, Ca
90017

Henry Weinstock, Nossman, Guthner,
Knox, Elliott, 445 South Figueroa St., 31 st
Floor, Los Angeles, Ca 90071

ALAN SLATER,
Executive Officer and Clerk of the Superior Court
In and for the County of Orange

DATED: 6-20-05

By: *Christine Carr*
Christine Carr, Deputy Clerk

CHAIR, JUDICIAL COUNCIL OF CALIFORNIA
455 Golden Gate Avenue, San Francisco, CA 94102-3688

FILED

SEP 02 2005

Coordination Proceeding)
Special Title (Rule 1550(b)))
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ANTELOPE VALLEY)
GROUNDWATER CASES)
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KIRI TORRE
Chief Executive Officer/Clerk
Superior Court of California, County of Santa Clara
BY *[Signature]* ROWENA K. WALKER, DEPUTY

JUDICIAL COUNCIL
COORDINATION PROCEEDING
NO. 4408

**AMENDED ORDER ASSIGNING
COORDINATION TRIAL JUDGE**

The order heretofore made authorizing the Presiding Judge of the Superior Court of California, County of Los Angeles to assign this matter to a judge of the court to sit as coordination trial judge is hereby terminated.

THE HONORABLE JACK KOMAR of the Superior Court of California, County of Santa Clara, is hereby assigned pursuant to Code of Civil Procedure section 404.3 and rule 1540 of the California Rules of Court to sit as coordination trial judge to hear and determine the coordinated actions listed below, at the site or sites he finds appropriate. Immediately upon assignment, the coordination trial judge may exercise all the powers over each coordinated action of a judge of the court in which that action is pending.

COORDINATED ACTIONS

<u>COURT</u>	<u>NUMBER</u>	<u>SHORT TITLE</u>
Superior Court of California County of Los Angeles	BC 325 201	Los Angeles County Waterworks District No. 40 v. Diamond Farming Co.

<u>COURT</u>	<u>NUMBER</u>	<u>SHORT TITLE</u>
Superior Court of California County of Kern	S-1500-CV 254 348	Los Angeles County Waterworks District No. 40 v. Diamond Farming Co.
Superior Court of California County of Riverside (Consolidated Actions)	(RIC 353 840 ((RIC 344 436 ((RIC 344 668 (	(Wm. Bolthouse Farms, Inc. (v. City of Lancaster (Diamond Farming Co. v. (City of Lancaster (Diamond Farming Co. v. (Palmdale Water District

The coordination motion judge has designated the Court of Appeal, Fourth Appellate District, Division two as the reviewing court with appellate and writ jurisdiction. (Code of Civ. Proc., §404.2; rule 1505(a)).

Pursuant to rules 1501(17) and 1540, every paper filed in a coordinated action must be accompanied by proof of submission of a copy thereof to the coordination trial judge at the following address:


Hon. Jack Komar
Judge of the Superior Court
of California, County of Santa Clara
191 North First Street
San Jose, CA 95113

Pursuant to rule 1511, a copy of every paper required to be transmitted to the Chair of the Judicial Council must be sent to the following address:

Chair, Judicial Council of California
Administrative Office of the Courts
Attn: Appellate & Trial Court Judicial Services
(Civil Case Coordination)
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Petitioner is directed to serve a copy of this order on (1) all parties to the included coordinated actions, and (2) the clerk of each court for filing in each included action, pursuant to rule 1540.

Dated: August 31, 2005



Chief Justice of California and
Chair of the Judicial Council

CHAIR, JUDICIAL COUNCIL OF CALIFORNIA

PROOF OF SERVICE BY MAIL

JUDICIAL COUNCIL COORDINATION NUMBER: 4408	CASE NUMBER:
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1. I am over the age of 18 and not a party to this legal action.
2. I am employed in the City and County of San Francisco and my business address is

**455 Golden Gate Avenue
San Francisco, CA 94102-3688**

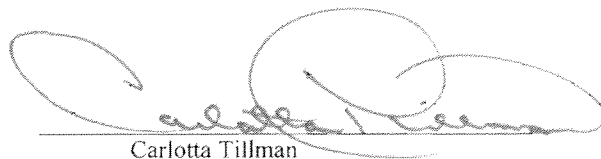
3. On August 31, 2005, I served a copy of the following documents:

- ORDER ASSIGNING COORDINATION MOTION JUDGE
- ORDER ASSIGNING COORDINATION TRIAL JUDGE
- ORDER ASSIGNING COORDINATION MOTION JUDGE AND SETTING DATE FOR HEARING
- AMENDED ORDER ASSIGNING COORDINATION MOTION JUDGE
- AMENDED ORDER ASSIGNING COORDINATION TRIAL JUDGE
- OTHER

on the interested parties listed on the attached mailing list by placing a true copy enclosed in a sealed envelope with postage fully prepaid in the outgoing mailbox in my office, in accordance with ordinary business practices for deposit with the United States Postal Service in San Francisco, California. I am readily familiar with my office's business practice for collection of and processing of correspondence for mailing, and under that practice the above document is being deposited with the United States Postal Service this date in San Francisco, California, in the ordinary course of business.

4. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 31, 2005


Carlotta Tillman

MAILING LIST

JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 4408

Mr. Erick L. Garner
Mr. Jeffrey V. Dunn
Mr. Marc S. Ehrlich
BEST, BEST & KRIEGER, LLP
5 Park Plaza, Suite 1500
Irvine, CA 92614

Raymond G. Fortner, Jr.
County Counsel
Frederick W. Pfaeffle
Senior Deputy County Counsel
OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES
500 West Temple Street
Los Angeles, CA 90012

Exhibit 3

OPERATIVE COMPLAINTS

Wm Bolthouse Farms, Inc. vs. City of Lancaster, et al., Riverside County Superior Court Case No. RIC 353840;

Diamond Farming Co., et al. vs. City of Lancaster, et al., Riverside County Superior Court Case No. RIC 344436;

Diamond Farming Co. vs. Palmdale Water District, et al., Riverside County Superior Court Case No. RIC 344668;

Los Angeles County Waterworks District No. 40 vs. Diamond Farming Co., et al., Kern County Superior Court Case No. S-1500-CV 254-348

Los Angeles County Waterworks District No. 40 vs. Diamond Farming Co., et al., Los Angeles County Superior Court Case No. BC 325201

Rebecca Lee Willis, etc. vs. Los Angeles County Waterworks District No. 40, et al., Los Angeles County Superior Court Case No. BC 364553;

Richard A. Wood, etc. vs. Los Angeles County Waterworks District No. 40, et al., Los Angeles County Superior Court Case No. BC 391869; and,

And all cross-complaints filed in the above-actions or in these coordinated proceedings.

PROOF OF SERVICE

I, Kelley Herrington, declare:

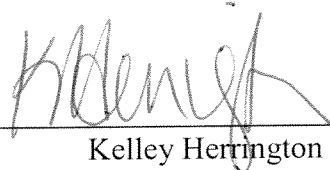
I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Richards, Watson & Gershon, 355 South Grand Avenue, 40th Floor, Los Angeles, California 90071. On July 15, 2009, I served the within documents:

NOTICE OF MOTION AND MOTION TO TRANSFER AND TO CONSOLIDATE FOR ALL PURPOSES; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF WHITNEY G. MCDONALD

- by causing facsimile transmission of the document(s) listed above from (213) 626-0078 to the person(s) and facsimile number(s) set forth below on this date before 5:00 P.M. This transmission was reported as complete and without error. A copy of the transmission report(s), which was properly issued by the transmitting facsimile machine, is attached. Service by facsimile has been made pursuant to a prior written agreement between the parties.
- by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- by placing the document(s) listed above in a sealed envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to an agent for delivery, or deposited in a box or other facility regularly maintained by , in an envelope or package designated by the express service carrier, with delivery fees paid or provided for, addressed to the person(s) at the address(es) set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by causing personal delivery by First Legal Support Services, 1511 West Beverly Boulevard, Los Angeles, California 90026 of the document(s) listed above to the person(s) at the address(es) set forth below.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 15, 2009.



Kelley Herrington