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7 Gaskell SunTower, LLC; Tumbleweed Suntower, LLC and
AV Solar Ranch 1, LLC
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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

11 ANTELOPE VALLEY
12 GROUNDWATER CASES

13 INCLUDED ACTIONS:

14 LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 v.
15 DIAMOND FARMING COMPANY, et
al., Los Angeles Superior Court Case No.
16 BC325201;

17 LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 v.
18 DIAMOND FARMING COMPANY, et
al., Kern County Superior Court Case
19 No. S-1500-CV-254-348;

20 DIAMOND FARMING COMPANY,
and W.M. BOLTHOUSE FARMS, INC.,
21 v. CITY OF LANCASTER, et al.,
Riverside Superior Court Case No. RIC
22 344436 [c/w case no. RIC 344668 and
23 355840]

Judicial Council Coordination No. 4408

**ESOLAR, INC.'S OPPOSITION TO LOS
ANGELES COUNTY WATERWORKS NO. 40
NOTICE OF MOTION AND MOTION FOR
LEGAL FINDINGS ON WATER CODE
REQUIREMENTS TO REPORT
EXTRACTIONS OF GROUNDWATER IN LOS
ANGELES COUNTY**

Case No. 1-05-CV-049053
Assigned to The Honorable Jack Komar

Hearing Date: February 14, 2012
Time: 9:00a.m.

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1 Cross-Defendant eSolar, Inc. and its wholly-owned subsidiaries Red Dawn SunTower,
2 LLC, Sierra SunTower, LLC, Gaskell SunTower, LLC, and Tumbleweed SunTower, LLC, also
3 Cross-Defendants, and Cross-Defendant AV Solar Ranch 1, LLC submit this opposition to the
4 Motion for Legal Findings on Water Code Requirements to Report Extractions of Groundwater
5 in Los Angeles County (the "Motion") filed by Los Angeles County Waterworks No. 40 on
6 January 17, 2012.

7 First, the Motion, which purports to seek a legal determination from this Court regarding
8 the scope and effect of Water Code section 4999 et seq., is procedurally improper at this time.
9 The Motion does not rely on any provisions regarding specific allowable motions (such as a
10 motion for summary judgment, demurrer, motion for judgment on pleading, etc.).

11 Second, note that the enforcement of Water Code section 4999 et seq. cannot affect
12 certain current and future rights of overlying property owners. (See *City of Barstow v. Mojave*
13 *Water Agency* (2000) 23 Cal.4th 1224, 1247-49; see also 1-11 California Water Law and Policy
14 § 11.12 [Bender 2011].)

15
16 Dated: January 31, 2012

ALSTON & BIRD LLP

17
18 By: 

EDWARD J. CASEY
Attorneys for Cross-Defendants eSolar, Inc;
Red Dawn SunTower, LLC; Sierra SunTower, LLC;
Gaskell SunTower, LLC; Tumbleweed SunTower, LLC
and AV Solar Ranch 1, LLC

1 **PROOF OF SERVICE**

2 I, Yolanda S. Ramos, declare:

3 I am employed in the County of Los Angeles, State of California. My business
4 address is Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, CA
5 90071. I am over the age of eighteen years and not a party to the action in which this
6 service is made.

7 On January 31, 2012, I served the document(s) described as ESOLAR, INC.'s
8 OPPOSITION TO LOS ANGELES COUNTY WATERWORKS NO. 40 NOTICE OF
9 MOTION AND MOTION FOR LEGAL FINDINGS ON WATER CODE
10 REQUIREMENTS TO REPORT EXTRACTATIONS OF GROUNDWATER IN LOS
11 ANGELES COUNTY on the interested parties in this action by enclosing the
12 document(s) in a sealed envelope addressed as follows:

13 BY MAIL: I am "readily familiar" with this firm's practice for the collection and
14 the processing of correspondence for mailing with the United States Postal
15 Service. In the ordinary course of business, the correspondence would be
16 deposited with the United States Postal Service at 333 South Hope Street, Los
17 Angeles, California 90071 with postage thereon fully prepaid the same day on
18 which the correspondence was placed for collection and mailing at the firm.
19 Following ordinary business practices, I placed for collection and mailing with
20 the United States Postal Service such envelope at Alston & Bird LLP, 333 South
21 Hope Street, Los Angeles, California 90071.

22 BY ELECTRONIC MAIL: By posting the document listed above to the Santa
23 Clara Superior Court website: www.scefiling.org regarding the ANTELOPE
24 VALLEY GROUNDWATER matter.

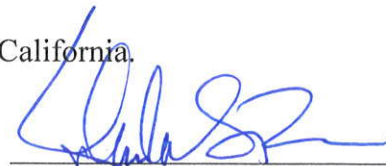
25 BY FEDERAL EXPRESS UPS NEXT DAY AIR OVERNIGHT
26 DELIVERY: I deposited such envelope in a facility regularly maintained by
27 FEDERAL EXPRESS UPS Overnight Delivery [specify name of
28 service:] with delivery fees fully provided for or delivered the envelope to a
courier or driver of FEDERAL EXPRESS UPS OVERNIGHT
DELIVERY [specify name of service:] authorized to receive documents at Alston
& Bird LLP, 333 South Hope Street, Los Angeles, California 90071 with delivery
fees fully provided for.

BY FACSIMILE: I telecopied a copy of said document(s) to the following
addressee(s) at the following number(s) in accordance with the written
confirmation of counsel in this action.

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

[Federal] I declare under penalty of perjury under the laws of the United
States of America that the foregoing is true and correct.

Executed on January 31, 2012, at Los Angeles, California.


YOLANDA S. RAMOS