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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

10
11 Coordination Proceeding
Special Title (Rule 1550(b))

12 **ANTELOPE VALLEY GROUNDWATER CASES**

13 Included Actions:

14 **Los Angeles County Waterworks District No. 40 v.**
15 **Diamond Farming Co.**
Superior Court of California, County of Los Angeles,
16 Case No. BC 325 201

17 **Los Angeles County Waterworks District No. 40 v.**
18 **Diamond Farming Co.**
Superior Court of California, County of Kern,
Case No. S-1500-CV-254-348

19 **Wm. Bolthouse Farms, Inc. v. City of Lancaster**
20 **Diamond Farming Co. v. City of Lancaster**
21 **Diamond Farming Co. v. Palmdale Water Dist.**
Superior Court of California, County of Riverside,
Case Nos. RIC 353 840, RIC 344 436, RIC 344 668
22 (Consolidated Actions)

Judicial Council Coordination
Proceeding No. 4408

Assigned to The Honorable
Jack Komar

**STATEMENT OF U.S. BORAX
ON NEXT TRIAL PHASE**

Date: August 11, 2008
Time: 9:30 a.m.
Dept: 1

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24 U.S. Borax generally agrees with statements that have been submitted regarding jurisdictional
25 prerequisites—namely the service of all necessary parties must be accomplished before trial begins.
26 A trial on issues regarding even sub-basins will substantively impact the rights of parties vis-à-vis
27 each other to the extent they are situated on either side of a contested sub-basin boundary, rendering
28 the outcome of this phase vulnerable to challenge by a party who has not yet been served.

1 U.S. Borax also generally agrees with statements that have been submitted stating there is a
2 lack of information—from the USGS, the technical workgroup, or otherwise—to effectively
3 determine whether or to what extent sub-basins definitively do or do not exist. Collecting all of the
4 necessary information to develop an accurate picture of how the basin works will likely be
5 prohibitively expensive for the parties, either individually or collectively, as part of this litigation.
6 The necessary metering and monitoring that would be required, for a substantial period of time, is far
7 more appropriately implemented as part of a physical solution. In light of the socioeconomic impacts
8 these decisions may cause, U.S. Borax encourages the parties that commenced this court adjudication
9 to further consider alternative resolutions before the court is forced to make a definitive decision that
10 will eviscerate the ability to be flexible in solving the water issues in the valley.

11 For similar reasons, also made in several other statements, U.S. Borax does not believe that a
12 trial on safe yield or overdraft is possible or appropriate at this stage.

13 To the extent a trial will be held, and based on the information reviewed, U.S. Borax's current
14 position is that the adjudication area should not be broken into sub-basins, as the water supply
15 appears to have been distributed historically throughout the basin. U.S. Borax reserves the right to
16 revise this position in the event additional information leads to a different conclusion.

17 Dated: August 6, 2008

EDGAR B. WASHBURN
WILLIAM M. SLOAN
MORRISON & FOERSTER LLP

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20 By: /s/ William M. Sloan
21 William M. Sloan
22 Attorneys for U.S. BORAX INC.
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1 **PROOF OF SERVICE**

2 I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is
3 425 Market Street, San Francisco, California 94105-2482. I am not a party to the within cause, and I
4 am over the age of eighteen years.

5 I further declare that on August 6, 2008, I served a copy of:

6 **STATEMENT OF U.S. BORAX ON NEXT TRIAL PHASE**

7 by electronically posting a true copy thereof to Santa Clara County Superior Court’s electronic filing
8 website for complex civil litigation cases (Judge Jack Komar, Dept. 17C - <http://www.scefilings.org>)
9 with respect to Judicial Council Coordination Proceeding No. 4408 (Antelope Valley Groundwater
10 matter).

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

13 Executed at San Francisco, California, on August 6, 2008.

14 Catherine L. Berté
15 (typed)

16 /s/ Catherine L. Berté
17 (signature)