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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

**U.S. BORAX RESPONSE TO
MOTION FOR PROTECTIVE
ORDER RE DISCLOSURE AND
CONFIDENTIALITY OF WELL
DATA AND OTHER PRIVATE
INFORMATION**

Date: Dec. 15, 2006
Time: 9:00 a.m.
Dept: 1

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24 U.S. Borax hereby responds to the Proposed Protective Order re: Disclosure and
25 Confidentiality of Well Data and Other Private Information. As written, the proposed protective
26 order provides that “[a]ll documents and data that are relevant to proving the hydrology, geology,
27 water use, and water quality of the Antelope Valley Groundwater Basin shall be discoverable in these
28 consolidated cases, notwithstanding any objections based on privacy, confidentiality, Water Code

1 §13752, or other limitations.” Prop. Prot. Order at ¶ 1. This provision is overly broad, particularly
2 with respect to water quality—a topic that will likely play a limited role in these cases. The
3 protective order should facilitate the exchange of necessary information to the resolution of water use
4 and water rights issues involved in this case, but it is not necessary to sweepingly extinguish
5 confidentiality and allow the discoverability of such a broad array of documents and data to achieve
6 that goal.

7 Given that this case will likely involve thousands of parties once all are joined, the ability to
8 enforce the protective order will be logistically difficult, if not impossible. Therefore, U.S. Borax
9 requests that water quality information be excluded from the scope of the protective order and that
10 the ability to object to discovery based on proprietary and trade secret privileges be preserved.
11 Parties may voluntarily disclose such information if they wish, and parties may seek to compel the
12 disclosure of such information through motions, but allowing a free-for-all on such information has
13 the distinct likelihood of causing more harm than good.

14 Therefore, U.S. Borax requests that Paragraph 1 of the proposed protective order be modified
15 to read as follows:

16 All documents and data that are relevant to proving the hydrology,
17 geology and water use of the Antelope Valley Groundwater Basin shall
18 be discoverable in these consolidated cases, notwithstanding any
19 objections based on privacy, confidentiality, Water Code §13752, or
20 other limitations. Documents and data relating to water quality are not
automatically discoverable under this order. To the extent such
documents and data are disclosed, they are subject to the protective
provisions of this order.

21 U.S. Borax further requests that Paragraph 6 of the proposed protective order be modified to
22 read as follows:

23 This Order has no effect on any document withheld based on the
24 attorney-client privilege, work-product protection, proprietary or trade
secret privileges.

25 Finally, U.S. Borax also requests that Paragraph 7 of the proposed protective order be
26 modified to read as follows:

27 This Protective Order shall be binding on all current and future parties
28 to these cases, all experts or consultants retained by the parties, all
attorneys for the parties, and all employees of any of the above. This

1 Court retains authority to enforce this order, including through the
2 imposition of sanctions provided for by law.

3 Dated: December 4, 2006

4 EDGAR B. WASHBURN
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7 By: /s/ William M. Sloan
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