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7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

10
11 Coordination Proceeding
Special Title (Rule 3.550)

12
13 **ANTELOPE VALLEY**
14 **GROUNDWATER CASES**

15 Included Actions:

16 **Los Angeles County Waterworks District No. 40**
17 **v. Diamond Farming Co.**
Los Angeles County Superior Court
Case No. BC 325 201

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

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

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4408

Los Angeles County Superior Court
Lead Case No. BC 325 201

For e-service purposes only:
Santa Clara County Superior Court
Case No. 1-05-CV-049053

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26 **U.S. BORAX, INC.'S CASE**
27 **MANAGEMENT STATEMENT**

Date: November 15, 2011
Time: 9:00 a.m.
Dept: Central Civil West, 15th Floor
Room 1515
Judge: Hon. Jack Komar

28 U.S. Borax has been actively participating in the mediation efforts supervised by Justice Robie and believes that this process is the only viable route for a sensible resolution to this complicated adjudication. The United States has been in attendance, as have most of the other major

1 stakeholders, and the parties are working toward a resolution of both allocation issues and a physical
2 solution. The parties have also been engaging in additional meetings, as requested by Justice Robie,
3 with another one set for November 18 at AVEK in Palmdale, to be followed by a further meeting
4 with Justice Robie in Sacramento on December 7.

5 Given the progress that is being made, U.S. Borax believes that a trial date would be very
6 problematic in that it will significantly detract, if not halt, the settlement effort. The parties will by
7 necessity be forced to revert to discovery and motions, and the open exchanges that have been
8 occurring of information and positions will be restrained and modified in anticipation of trial.
9 Counsel is certainly familiar with the usual rule of thumb that a trial date will focus parties on
10 settlement. However, this adjudication is far from the “usual” lawsuit and involves many parties with
11 unique interests. Right now, the difficult task of bringing the parties together to focus on settlement
12 has been accomplished—the major stakeholders are all engaged in drafting language and negotiating
13 positions, and they are appearing before Justice Robie. U.S. Borax respectfully submits that setting a
14 trial would have the opposite of the intended effect, if the desire is to have a negotiated resolution of
15 this important case. To address any concerns of keeping the parties focused, one alternative might be
16 to continue scheduling monthly appearances before the Court to report on status and reserve for each
17 hearing the Court's ability to set a trial date at that time.

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2 U.S. Borax also requests that the Court consider whether an order may be issued directing any
3 party that claims a right to pump water from the basin to come forward and assert that claim or
4 otherwise be deemed to have waived their right. Given that the parties are working towards a
5 resolution of allocation, the specter of non-participating parties emerging at the last minute is a
6 significant concern in making the last concessions that are necessary to reach a final agreement. U.S.
7 Borax understands that such a proposed order has already been transmitted by Justice Robie to the
8 Court at the request of the parties. The Court's assistance on this issue and its preferred procedural
9 approach would be both helpful and appreciated.
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11 Dated: November 10, 2011

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

14 By: 
15 William M. Sloan C
16 Attorneys for U.S. BORAX INC.

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
am over the age of eighteen years.

4 I further declare that on November 10, 2011, I served a copy of:

5 U.S. BORAX, INC.S CASE MANAGEMENT STATEMENT

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

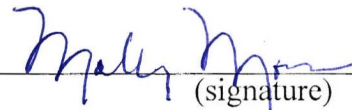
9 D BY U.S. MAIL by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully
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11 Francisco, California 94105-2482 in accordance with Morrison & Foerster LLP's ordinary business practices.
I am readily familiar with Morrison & Foerster LLP's practice for collection and processing of correspondence
12 for mailing with the United States Postal Service, and know that in the ordinary course of Morrison & Foerster
LLP's business practice the document(s) described above will be deposited with the United States Postal
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15 D BY FACSIMILE by sending a true copy from Morrison & Foerster LLP's facsimile transmission telephone
16 number 415.268.7522 to the fax number(s) set forth below, or as stated on the attached service list. The
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21 I declare under penalty of perjury under the laws of the State of California that the foregoing
22 is true and correct.

23 Executed at San Francisco, California, November 10, 2011.

24 Molly Morris
25 (typed)

26 
27 (signature)