1 2	MATTHEW J. MCKEOWN Acting Assistant Attorney General Environment and Natural Resources Division		
3			
4	United States Department of Justice Environment and Natural Resources Division 1961 Stout St., Suite 800		
5	Denver, Colorado 80294 Phone: 303/844-1364		
6	Fax: 303/844-1350		
7	Attorneys for the United States		
8	SUPERIOR COURT OF THE STATE OF CALIFORNIA		
9	COUNTY OF	SANTA CLARA	
10	LOS ANGELES COUNTY)	Case No. 1-05-CV-049053	
11	WATERWORKS DISTRICT NO. 40,) Plaintiff,)	Judicial Council Coordination Proceeding No. 4408	
12) vs.)	Kern County Superior Court Case No. S-	
13) DIAMOND FARMING COMPANY;)	1500 CV 254348	
14	BOLTHOUSE PROPERTIES, INC.;) CITY OF LANCASTER;)	Los Angeles County Superior Court Case No. BC325201	
15	CITY OF LOS ANGELES; () CITY OF PALMDALE; ()	UNITED STATES' JOINDER IN	
16	LITTLEROCK CREEK IRRIGATION) DISTRICT;)	OBJECTION TO REQUEST FOR	
17	PALMDALE WATER DISTRICT;) PALM RANCH IRRIGATION DISTRICT;)	JUDICIAL NOTICE IN SUPPORT OF MOTION FOR CLASS	
18	QUARTZ HILL WATER DISTRICT; and DOES 1 through 25,000 inclusive;)	CERTIFICATION AND STATE'S REQUEST FOR JUDICIAL NOTICE	
19) Defendants.	AND UNITED STATES' REQUEST FOR JUDICIAL NOTICE	
20)		
21			
22			
23	I. Joinder.		
24	The United States of America hereby joins in the Objection to Request for Judicial		
25	Notice in Support of Motion for Class Certification and State's Request for Judicial Notice, filed		
26	on April 5, 2007, Docket No. 538, by the State of California, Santa Monica Mountains		
27	Conservancy District, and the State of Californi	a 50 th District Agricultural Association. In	
28	UNITED STATES' JOINDER IN STATE OF CALIFORNIA'S OBJECTION TO REQUEST FOR JUDICIAL NOTICE		

1	addition to the State's arguments regarding the failure of Rosamond Community Services	
2	District and Los Angeles County Waterworks District No. 40 (the "requesting parties") to show	
3	the relevance of the documents it submitted, the United States notes the following:	
4	1. The case of <i>United States of America</i> , v. Walker River Irrigation District, United States	
5	District Court for the District of Nevada, Case No. C-125-ECR, ("Walker River") is 1)	
6	not a McCarran Amendment adjudication, and 2) not a general stream adjudication. See	
7	United States' First Amended Counterclaim, attached as Exhibit 1, at \P 1 (describing the	
8	action as a suit for the "confirmation and declaration of certain rights in the United States	
9	to the use and of storage of water in, on, under and otherwise appurtenant to certain lands	
10	in the Walker River basin owned by the United States") The Antelope Valley	
11	Groundwater Adjudication, on the other hand, is purportedly a McCarran Amendment,	
12	43 U.S.C. § 666, general stream adjudication in which cross-complainants seek	
13	declaratory and injunctive relief. See First Amended Cross-complaint of Public Water	
14	Suppliers for Declaratory and Injunctive Relief and Adjudication of Water Rights, filed	
15	March 13, 2007, at ¶¶ 17-19. The two cases are demonstrably different.	
16	2. The requesting parties presumably seek judicial notice of the United States' pleading and	
17	briefs in Walker River to establish inconsistency in the United States' position in the	
18	present case with past positions in the unrelated Walker River case. In Walker River, the	
19	United States requested class certification of all domestic well users, and the successors	
20	in interest to previously decreed rights on the Walker River. See Order in United States	
21	of America v. Walker River Irrigation District, entered on April 29,2002, at 11, 13,	
22	attached to Declaration of Keri Spaulding in Support of State of California's Objection to	
23	Request for Judicial Notice and State's Request for Judicial Notice as Exhibit B. In the	
24	Antelope Valley Groundwater Adjudication, the United States does not oppose class	
25	certification, per se. Rather, the United States opposes the public water suppliers'	
26	proposed class because it will not comprehensively include all overlying landowners, and	
27	does not present any grounds in support of the proposed notice by publication. Thus, the	
20		

28

UNITED STATES' JOINDER IN STATE OF CALIFORNIA'S OBJECTION TO REQUEST FOR JUDICIAL NOTICE

1	requesting party has not shown how the Walker River pleading and memoranda are		
2	2 relevant to the argumer	relevant to the arguments presented here.	
3	3 3. As shown by the State	of California, the United States and Walker River Paiute Tribe's	
4	4 motion for certification	of a defendant class was denied. The United States further notes	
5	5 that the Walker River F	Paiute Tribe's petition for permission to appeal the district court's	
6	6 order denying class act	order denying class action certification was denied by the Ninth Circuit Court of Appeals.	
7	7 (See below.)	(See below.)	
8	8 II. United States' Reques	t for Judicial Notice.	
9	9 Should the Court take j	udicial notice of the documents offered by Rosamond Community	
10	Services District and Los Angeles County Waterworks District No. 40, the United States		
11	respectfully requests that the Court also take judicial notice of the following:		
12	12 1. The First Amended Co	unterclaim of the United States of America, United States of	
13	13 America, v. Walker Riv	er Irrigation District, United States District Court for the District	
14	14 of Nevada, Case No. C	-125-ECR, filed July 31, 1997, attached to Declaration of R. Lee	
15	15 Leininger as Exhibit 1.		
16	16 2. Order in <i>Walker River</i>	Paiute Tribe v. Walker River Irrigation District, United States	
17	17 Court of Appeals for t	he Ninth Circuit, No. 02-80089, entered on October 16, 2002,	
18	18 attached to Declaration	n of R. Lee Leininger as Exhibit 2.	
19	19 The First Amended Counterch	The First Amended Counterclaim shows the scope of, and the relief sought, by the United	
20	20 States in the <i>Walker River</i> case	States in the <i>Walker River</i> case. The Order rejects the Walker River Paiute Tribe's appeal of the	
21	21 district court's order denying c	district court's order denying class certification.	
22	22 Respectfully submitted	this 13th day of April, 2007.	
23	23		
24	24	/s/ R. Lee Leininger R. LEE LEININGER	
25	25	Trial Attorney U. S. Department of Justice	
26		Environment and Natural Resources Division 1961 Stout St., Suite 800	
27		Denver, Colorado 80294	
28	UNITED STATES' JOINDER IN	STATE OF D REQUEST FOR JUDICIAL NOTICE - 3 -	

1	PROOF OF SERVICE		
2	I, Linda C. Shumard, declare:		
3 4	I am a resident of the State of Colorado and over the age of 18 years, and not a party to the within action. My business address is U.S. Department of Justice, Environmental and Natural Resources Section, 1961 Stout Street, 8 th Floor, Denver, Colorado 80294.		
5	On April 13, 2007, I caused the foregoing documents described as UNITED STATES' JOINDER IN STATE OF CALIFORNIA'S OBJECTION TO REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION FOR CLASS CERTIFICATION AND STATE'S		
6			
7	REQUEST FOR JUDICIAL NOTICE AND UNITED STATES' REQUEST FOR JUDICIAL NOTICE , to be served on the parties via the following service::		
8 9	■ BY ELECTRONIC SERVICE AS FOLLOWS by posting the documents(s) listed above to the Santa Clara website in regard to the Antelope Valley Groundwater matter.		
10 11	BY MAIL AS FOLLOWS (to parties so indicated on attached service list): By placing true copies thereof enclosed in sealed envelopes addressed as indicated on the attached service list.		
12 13	BY OVERNIGHT COURIER: I caused the above-referenced document(s) be delivered to FEDERAL EXPRESS for delivery to the above address(es)		
14			
15	Executed on April 13, 2007, at Denver, Colorado.		
16			
17			
18	<u>/S/</u> Linda C. Shumard		
19	Linda C. Shumard Legal Support Assistant		
20			
21			
22			
23			
24			
25			
26			
27			
28			
	UNITED STATES' JOINDER IN STATE OF CALIFORNIA'S OBJECTION TO REQUEST FOR JUDICIAL NOTICE - 4 -		