

1 MATTHEW J. MCKEOWN  
Acting Assistant Attorney General  
2 Environment and Natural Resources Division

3 R. LEE LEININGER  
United States Department of Justice  
4 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
	WATERWORKS DISTRICT NO. 40,	)	
11		)	Judicial Council Coordination Proceeding
	Plaintiff,	)	No. 4408
12		)	
	vs.	)	Kern County Superior Court Case No. S-
13		)	1500 CV 254348
	DIAMOND FARMING COMPANY;	)	
14	BOLTHOUSE PROPERTIES, INC.;	)	Los Angeles County Superior Court Case
	CITY OF LANCASTER;	)	No. BC325201
15	CITY OF LOS ANGELES;	)	
	CITY OF PALMDALE;	)	
16	LITTLEROCK CREEK IRRIGATION	)	<b>UNITED STATES' JOINDER IN</b>
	DISTRICT;	)	<b>STATE OF CALIFORNIA'S</b>
17	PALMDALE WATER DISTRICT;	)	<b>OBJECTION TO REQUEST FOR</b>
	PALM RANCH IRRIGATION DISTRICT;	)	<b>JUDICIAL NOTICE IN SUPPORT OF</b>
18	QUARTZ HILL WATER DISTRICT;	)	<b>MOTION FOR CLASS</b>
	and DOES 1 through 25,000 inclusive;	)	<b>CERTIFICATION AND STATE'S</b>
19		)	<b>REQUEST FOR JUDICIAL NOTICE</b>
	Defendants.	)	<b>AND UNITED STATES' REQUEST</b>
20		)	<b>FOR JUDICIAL NOTICE</b>

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 California 50<sup>th</sup> District Agricultural Association. In  
28

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 *United States of America, 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 ¶ 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  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

I, Linda C. Shumard, declare:

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<sup>th</sup> Floor, Denver, Colorado 80294.

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 REQUEST FOR JUDICIAL NOTICE AND UNITED STATES' REQUEST FOR JUDICIAL NOTICE**, to be served on the parties via the following service::

- 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.
- 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.
- BY OVERNIGHT COURIER: I caused the above-referenced document(s) be delivered to FEDERAL EXPRESS for delivery to the above address(es)

Executed on April 13, 2007, at Denver, Colorado.

/S/ \_\_\_\_\_  
Linda C. Shumard  
Legal Support Assistant