

1 **HANNA AND MORTON LLP**
2 **EDWARD S. RENWICK** (State Bar No. 29325)
3 444 South Flower Street, Suite 1500
4 Los Angeles, California 90071-2916
5 Telephone: (213) 628-7131
6 Facsimile: (213) 623-3379

7
8 Attorneys for Cross-Defendant
9 **WAGAS LAND COMPANY LLC**

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

11 **ANTELOPE VALLEY**
12 **GROUNDWATER CASES**

13 **Included Actions:**

14 Los Angeles County Waterworks District
15 No. 40 v. Diamond Farming Co., Superior
16 Court of California, County of Los Angeles
17 Case No. BC325201; Los Angeles County
18 Waterworks District No. 40 v. Diamond
19 Farming Co., Superior Court of California,
20 County of Kern Case No. S-1500-
21 CV254348; Wm. Bolthouse Farms, Inc. v.
22 City of Lancaster; Diamond Farming Co. v.
23 City of Lancaster; Diamond Farming Co. v.
24 Palmdale Water Dist., Superior Court of
25 California, County of Riverside,
26 Consolidated Actions, Case Nos.
27 RIC353840, RIC344436, RIC344668.

Judicial Council Coordination Proceeding
No. 4408

For filing purposes only:
Santa Clara Case No. 1-05-CV-049053

Assigned to the Hon. Jack Komar

EX PARTE APPLICATION OF WAGAS
LAND COMPANY, LLC FOR RELIEF
FROM EXPERT DISCLOSURE
DEADLINE; MEMORANDUM IN
SUPPORT OF APPLICATION

Date: June 25, 2008
Time: 8:15 a.m.
Dept: 17

EX PARTE APPLICATION

FOR RELIEF FROM EXPERT DISCLOSURE DEADLINE

Wagas Land Company LLC (“WAGAS”) hereby moves this Court for relief from the deadline for disclosure of expert witness information, as provided in the Court’s May 27, 2008 Amended Order after Case Management Conference.

Pursuant to the attached Memorandum in Support of Application for Relief from Disclosure Deadline, WAGAS request that the court allow WAGAS a 60-day extension, until noon on August 26, 2008, to make its required expert disclosures.

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

1 **MEMORANDUM IN SUPPORT OF EX PARTE APPLICATION FOR RELIEF FROM**
2 **EXPERT DISCLOSURE DEADLINE**

3
4 **I. INTRODUCTION**

5 Pursuant to the Court' direction at the May 22, 2008 case management conference
6 hearing, its May 27, 2008 Amended Order after Case Management Conference and subsequently
7 at the June 11, 2008 ex parte hearing, WAGAS Land Company LLC hereby requests relief from
8 the June 27, 2008 expert disclosure deadline. WAGAS request a 60-day extension of this
9 deadline for itself, until August 26, 2008. This request is based on the practical problem WAGAS
10 faces in working out arrangements with other similarly situated landowners to retain experts in
11 the absence of detailed knowledge of precisely which areas of specialization will be required.

12 **II. COMPLIANCE WITH CALIFORNIA RULE OF COURT 3.1202©**

13 As described in more detail below, this ex parte request is based upon the impossibility of
14 WAGAS meeting the June 27, 2008 deadline. The Court has made it clear that the appropriate
15 avenue through which to address an inability to meet the deadline is an ex parte request, and, in
16 fact, it is not possible to avoid missing this deadline without an ex parte request. (See May 27,
17 2008 Amended Order after Case Management Conference.) The inability to meet a deadline has
18 been held sufficient to constitute immediate harm. (See *Black Historical Society v. City of San*
19 *Diego* (2005) 134 Cal.App.4th 670, 676.)

20 **III. IT IS A PRACTICAL IMPOSSIBILITY FOR WAGAS TO MEET THE JUNE 27,**
21 **2008 DEADLINE**

22 The Court has indicated that the Phase II trial, scheduled for October 6, 2008, will address
23 basin characteristics, including subbasins, safe yield and overdraft. These issues are relevant
24 because overdraft is a key element of the purveyors' claims of prescription, and subbasins and
25 safe yield are component issues relevant to whether overdraft exists.

26 Until recently, the Court had imposed a stay on all discovery relating to any issues other
27 than the certification of the proposed landowner classes. Because of the lack of discovery it
28 makes it difficult for a landowner to know exactly what particular expertise a consultant or

1 consultants will require. Accordingly, WAGAS, which has limited resources, has deferred
2 retaining an expert or experts until it was certain that it was retaining a consultant whose expertise
3 was appropriate and until it could work out an arrangement to share the cost of a consultant or
4 consultants with other similarly situated landowners. WAGAS is now attempting to make such
5 an arrangement. However, it will be unable to do so by the June 27, 2008 deadline.

6
7
8 Dated: June 20, 2008

HANNA AND MORTON LLP
EDWARD S. RENWICK

9
10 By: 
11 Edward S. Renwick

12 Attorneys for Cross-Defendant
13 WAGAS Land Company LLC
14
15
16
17
18
19
20
21
22
23
24
25
26
27
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 am employed in the County of Los Angeles, State of California, I am over the age of 18 and not a party to the within action; my business address is: 444 South Flower Street, Suite 1500, Los Angeles, California 90071.

On June 24, 2008, I served the foregoing document described as:


EX PARTE APPLICATION OF WAGAS LAND COMPANY LLC FOR RELIEF FROM EXPERT DISCLOSURE DEADLINE; MEMORANDUM IN SUPPORT OF APPLICATION

On the interested parties in this action.

By posting it on the website at 11 a.m. on June 24, 2008. This posting was reported as complete and without error.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed in Los Angeles, California, on June 24, 2008.


Sylvia Cantos