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9 2001 Trust, Forrest G. Godde, Forrest G. Godde as Trustee of the Forrest G. Godde Trust, Lawrence
10 A. Godde, Lawrence A. Godde and Godde Trust, Kootenai Properties, Inc., Gailen Kyle, Gailen
11 Kyle as Trustee of the Kyle Trust, James W. Kyle, James W. Kyle as Trustee of the Kyle Family
12 Trust, Julia Kyle, Wanda E. Kyle, Eugene B. Nebeker, R and M Ranch, Inc., Edgar C. Ritter Paula
13 E. Ritter, Paula E. Ritter as Trustee of the Ritter Family Trust, Trust, Hines Family Trust , Malloy
14 Family Partners, Consolidated Rock Products, Calmat Land Company, Marygrace H. Santoro as
15 Trustee for the Marygrace H. Santoro Rev Trust, Marygrace H. Santoro, Helen Stathatos, Savas
16 Stathatos, Savas Stathatos as Trustee for the Stathatos Family Trust, Dennis L. & Marjorie E.
17 Groven Trust, Scott S. & Kay B. Harter, Habod Javadi, Eugene V., Beverly A., & Paul S. Kindig,
18 Paul S. & Sharon R. Kindig, Jose Maritorena Living Trust, Richard H. Miner, Jeffrey L. & Nancee J.
19 Siebert, Barry S. Munz, Terry A. Munz and Kathleen M. Munz, Beverly Tobias, Leo L. Simi, White
20 Fence Farms Mutual Water Co. No. 3., William R. Barnes & Eldora M. Barnes Family Trust of
21 1989, Healy Enterprises, Inc., John and Adrienne Reca, Sahara Nursery, Sal and Connie L. Cardile,
22 Gene T. Bahlman, **collectively known as the Antelope Valley Ground Water Agreement**
23 **Association ("AGWA")**

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF SANTA CLARA**

17 ANTELOPE VALLEY)	Judicial Council Coordination Proceeding
18 GROUNDWATER CASES)	No. 4408
19 Included Actions:)	Santa Clara Case No. 1-05-CV-049053
20 Los Angeles County Waterworks District No.)	Assigned to The Honorable Jack Komar
21 40 v. Diamond Farming Co. Superior Court of)	
22 California County of Los Angeles, Case No. BC)	ANTELOPE VALLEY GROUNDWATER
23 325 201 Los Angeles County Waterworks)	AGREEMENT ASSOCIATION'S CASE
24 District No. 40 v. Diamond Farming Co.)	MANAGEMENT STATEMENT
25 Superior Court of California, County of Kern,)	
26 Case No. S-1500-CV-254-348Wm. Bolthouse)	
27 Farms, Inc. v. City of Lancaster Diamond)	
28 Farming Co. v. City of Lancaster Diamond)	
Farming Co. v. Palmdale Water Dist. Superior)	
Court of California, County of Riverside,)	
consolidated actions, Case No. RIC 353 840,)	
RIC 344 436, RIC 344 668)	

1 The Antelope Valley Groundwater Agreement Association (AGWA) submits this Case
2 Management Statement.

3 **SMALL PUMPERS CLASS**

4 Michael D. McLachlan's letter of May 14, 2008 states that the proposed small pumpers class
5 would consist of at least 7,500 members, based on his conversation with counsel for Los Angeles
6 County. Before a small pumpers class is certified in this matter, there should be an evidentiary
7 showing that the members of the class are so numerous that they cannot be individually named and
8 served. The purveyors have identified improved parcels within the Antelope Valley; however, the
9 number of *parties* that might be associated with those parcels is speculative. (See Declaration of
10 William E. Leever Jr., ¶¶ 12.) Through the records of the County Assessor's offices, the purveyors
11 can identify how many separate owners are associated with these parcels in order to demonstrate
12 whether individually naming and serving those persons cannot be accomplished in this matter.

13 **COURT APPOINTED EXPERT**

14 AGWA supports Mr. McLachlan's recommendation that this Court appoint an expert
15 witness, pursuant to Evidence Code section 730 *et seq.*, to represent the interests of the small
16 pumpers in this litigation. This is appropriate given the substantial resources being expended by the
17 purveyors in evaluating the Basin's hydrology and the allegations of a purveyor bias among the
18 experts presently retained in this matter. (See also May 13, 2008 Letter of Richard G. Zimmer to All
19 Counsel.) Should the Court certify a small pumpers class in this matter, that group will represent the
20 vast majority of pumpers in the Basin – all pumping landowners not already parties to this action
21 with parcels smaller than 100 acres in size. Since most farms are composed of multiple parcels, the
22 high 100 acre parcel limitation could result in parties in the small pumpers class that pump water on
23 farms that are several hundred acres in size, so that the class will be composed of a large number of
24 various types of people and entities, from small domestic users to large farming operations. For this
25 reason, the small pumpers class, similar to the Santa Maria Valley Water Conservation District in the
26 Santa Maria Basin Adjudication, will be expected to carry the primary burden of defending the
27 pumpers' interests in this litigation.

1 While AGWA supports Mr. McLachlan's recommendation as to a court appointed expert,
2 and the funding of the same by the purveyors, AGWA objects to the Court placing any initial
3 financial constraints on the appointed expert. This expert must be free to conduct whatever technical
4 studies he or she may believe necessary, and must be freely able to prepare for and engage in any
5 trial. It should be noted that the expert's studies may include independent evaluation and modeling
6 of the Basin's characteristics apart from a review of what has been produced by other experts in this
7 case. There is little actual historical hydrological data available in the Antelope Valley Basin, and
8 the experts may be relying on estimates that are as much art as they are science. For this reason, a
9 court appointed expert should not be limited financially. If any limitation is necessary, this
10 limitation should only be framed with reference to the sums expended by the purveyors for their
11 experts in this matter.

12 **PHASING OF TRIAL**

13 As described in its May 5, 2008 Objection to Purveyor's Case Management Statements,
14 while AGWA wishes to have this case resolved as soon as responsibly possible, the Court must take
15 care in setting trial so as not to disadvantage the landowners in this case. Trial should not be set
16 until the landowner experts – including any experts retained by the class(es) or appointed by this
17 Court – have had time to fully evaluate the Basin's hydrology and prepare for trial.¹

18 AGWA additionally joins Diamond Farming Company's Case Management Statement, as to
19 the phasing of trial in this matter. AGWA agrees with Diamond Farming Company that the initial
20 phase of trial should include the adjudication of all water rights in the Basin, which would
21 necessarily involve evidence concerning the characteristics and hydrology of the area within the
22 adjudication boundary. Including substantive issues in the initial trial phase will increase the
23 chances of settlement in the case while minimizing, to the extent possible, the litigation costs of the
24 parties to the proceeding.


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27 ¹ For this reason, AGWA respectfully disagrees with the proposed trial phasing scheme described in
28 the United States' Case Management Statement.

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Dated: May 20, 2008

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

By: 
MICHAEL T. FIFE
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PROOF OF SERVICE

**STATE OF CALIFORNIA,
COUNTY OF SANTA BARBARA**

I am employed in the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action; my business address is: 21 E. Carrillo Street, Santa Barbara, California 93101.

On May 20, 2008, I served the foregoing document described as:

**ANTELOPE VALLEY GROUNDWATER AGREEMENT ASSOCIATION'S
CASE MANAGEMENT STATEMENT**

on the interested parties in this action.

By posting it on the website at 4:30 p.m. a.m. on May 20, 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 Santa Barbara, California, on May 20, 2008.

Rachel Roberts
TYPE OR PRINT NAME

Rachel Roberts
SIGNATURE