

1 William J. Brunick, Esq. [SB No. 46289]
2 **BRUNICK, McELHANEY & BECKETT**
3 1839 Commercenter West, P.O. Box 6425
4 San Bernardino, California 92412-6425
5 Telephone: (909) 889-8301
6 Facsimile: (909) 388-1889

*Exempt from filing fee pursuant to
Gov't. Code Section 6103*

7 Attorneys for Cross-Complainant,
8 ANTELOPE VALLEY-EAST KERN WATER AGENCY

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**
12

13 Coordination Proceeding
14 Special Title (Rule 1550(b))

Judicial Council Coordination Proceeding
No. 4408

15 **ANTELOPE VALLEY**
16 **GROUNDWATER CASES**

Santa Clara Case No.
1-05-CV-049053
The Honorable Jack Komar, Dept.17

17 **Included Actions:**

ANTELOPE VALLEY-EAST KERN
WATER AGENCY'S CASE
MANAGEMENT STATEMENT

18 Los Angeles County Waterworks District
19 No. 40 vs. Diamond Farming Company, a
20 corporation, Superior Court of California,
21 County of Los Angeles, Case No.
22 BC325201;

Date: November 25, 2008
Time: 10:00 a.m.
Dept.: 17C

23 Los Angeles County Waterworks District
24 No. 40 vs. Diamond Farming Company, a
25 corporation., Superior Court of California,
26 County of Kern, Case No. S-1500-CV-254-
27 348;

28 Wm. Bolthouse Farms, Inc. vs. City of
Lancaster, Diamond Farming Company, a
corporation, vs. City of Lancaster, Diamond
Farming Company, a corporation vs.
Palmdale Water District, Superior Court of
California, County of Riverside, Case Nos.
RIC 353840, RIC 344436, RIC 344668.

1 Pursuant to this Court's ORDER AFTER PHASE TWO TRIAL ON HYDROLOGIC
2 NATURE OF ANTELOPE VALLEY, dated November 6, 2008, the Antelope Valley-East Kern
3 Water Agency (AVEK) hereby submits the following narrative Case Management Statement.

4 **I. Introduction**

5 The purpose of this trial is to adjudicate the claims of all parties who assert a right to
6 groundwater within the Antelope Valley basin based upon the various causes of action and
7 defenses stated by the parties in the various complaints, cross-complaints and answers on file.

8 **II. Jurisdiction**

9 Prior to entering into the next phase of litigation, all necessary parties to the litigation
10 should be served, unless they have already appeared and submitted to the Court's jurisdiction.
11 Los Angeles Waterworks District No. 40 should provide the parties with a list of all parties
12 named, the status of service for each party, and a statement as to whether or not the party has
13 answered or appeared. Appropriate notices should be given to members of the small pumpers
14 class and the non-pumper class. All unserved or non- appearing fictitious defendants should be
15 dismissed without prejudice from the action. All non-appearing named and served defendants
16 should answer, or be given notice of default. Those defendants who have a notice of default
17 entered against them should have a prove-up hearing set after the completion of the trial phase
18 in order to ensure that any physical solution adopted by the court is applied to the defaulting
19 defendants in the same manner as to answering parties.

20 **III. Mandatory Settlement Conference**

21 This court should hold a mandatory settlement conference on a date and time acceptable
22 to the court, and continuing thereafter from day to day as needed. All interested parties should
23 submit mandatory settlement conference briefs to the court in advance of the MSC. The briefs
24 should be limited in length, and the parties should stipulate to waive any right to challenge the
25 Judge based upon discussions or communications at the MSC.

26 **IV. Trial Issues and Order of Presentation**

27 Throughout this litigation, the court has attempted to separate the adjudication into
28 distinct Phases tailored to address specific issues, or related groups of issues. In so doing the

1 court has limited the parties to conducting narrowly focused discovery addressing these specific
2 phases. While the purpose of separating the trial into phases appears beneficial, in application
3 it has resulted in increased costs and delay. Specifically, separate phases have resulted in the
4 need to take multiple depositions of each expert witness, and propound duplicitous written
5 discovery requests, all at significant expense to the parties.

6 It is suggested Phase III of this trial should be a complete and final adjudication of all the
7 remaining issues. This case should no longer be divided into separate phases. All parties should
8 move forward and address all the issues in this final phase of the trial. Trial should proceed in
9 the order outlined below.

10 **1. Safe Yield**

11 The trial should proceed with the determination of the basin's annual safe yield.

12 **2. Federal Reserve Right**

13 After the Court has determined the annual safe yield of the basin, the United States and
14 the parties should present evidence as to the United States' federal reserve right. The federal
15 reserve right if any should be subtracted from the native safe yield prior to any other
16 determination or division of rights.

17 **3. Overdraft**

18 The parties should thereafter present evidence of the existence, duration, and magnitude
19 of the overdraft in the basin, if any.

20 **4. Appropriative and Prescriptive Rights**

21 If the existence of a condition of overdraft is shown, the parties should present evidence
22 in support or opposition to any claims of appropriative or prescriptive rights to groundwater.

23 **5. Physical Solution**

24 The parties should present evidence proposing a physical solution; a physical solution
25 which addresses the issues of transferability, rampdown, a Watermaster, separate management
26 areas, and continuing jurisdiction of the court.

27 **V. Manner and Presentation of Evidence**

28 The parties should meet and agree upon a discovery schedule allowing all parties the

1 opportunity to proceed to trial in a timely manner.

2 All exhibits with respect to each phase of the trial should be pre-marked and shown to
3 opposing counsel at a separate meet and confer conference. All expert and percipient witnesses
4 with respect to each issue of the trial should be identified in a list shown to opposing counsel
5 at the conference. Anticipated evidence objections, and any motions in limine in respect thereto,
6 should be filed within a specified period after the conference, and should be heard in advance
7 of the trial. The parties should agree in advance as to the number series for exhibits.

8 Physical rebuttal evidence should be shown to opposing counsel at the initiation of
9 rebuttal for each issue at trial.

10 Dated: November 21, 2008

BRUNICK, McELHANEY & BECKETT

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By: W. J. Brunick
WILLIAM J. BRUNICK
Attorneys for Cross-Complainant,
ANTELOPE VALLEY-EAST KERN
WATER AGENCY

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1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA** }
3 **COUNTY OF SAN BERNARDINO** }

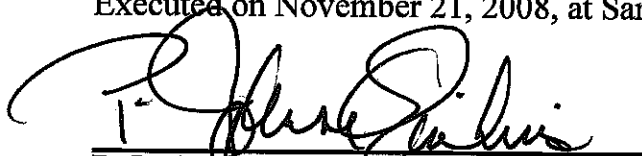
4 I am employed in the County of the San Bernardino, State of California. I am over
5 the age of 18 and not a party to the within action; my business address is 1839 Commercenter
6 West, San Bernardino, California.

7 On November 21, 2008, I served the foregoing document(s) described as:
8 **ANTELOPE VALLEY-EAST KERN WATER AGENCY'S CASE MANAGEMENT**
9 **STATEMENT** on the interested parties in this action served in the following manner:

10 **XX BY ELECTRONIC SERVICE AS FOLLOWS** by posting the document(s) listed
11 above to the Santa Clara website in the action of the *Antelope Valley Groundwater*
12 *Litigation*, Judicial Council Coordination Proceeding No. 4408, Santa Clara Case No.
13 1-05-CV-049053.

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

16 Executed on November 21, 2008, at San Bernardino, California.

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18 _____
19 P. Jo Anne Quihuis
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