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

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9 ANTELOPE VALLEY-EAST KERN WATER AGENCY

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

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

Judicial Council Coordination Proceeding
No. 4408

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

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

17 **Included Actions:**

NOTICE OF EX PARTE APPLICATION
FOR PERMISSION TO FILE A REPLY
BRIEF IN EXCESS OF TEN PAGES /
SUPPORTING DECLARATION
[Rules of Court, Rule 3.1113(c)]

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

Judge: Hon. Jack Komar

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

Trial Date: February 10, 2014 (Phase V)
Time: 9:00 a.m.

23 Wm. Bolthouse Farms, Inc. vs. City of
24 Lancaster, Diamond Farming Company, a
25 corporation, vs. City of Lancaster, Diamond
26 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 the provisions of Rule 3.1113, subdivision (c), of the California Rules of Court, the
2 Antelope Valley - East Kern Water Agency hereby applies, ex parte, for permission to file a Reply Brief
3 in excess of ten pages in support of its Motion for Summary Adjudication.

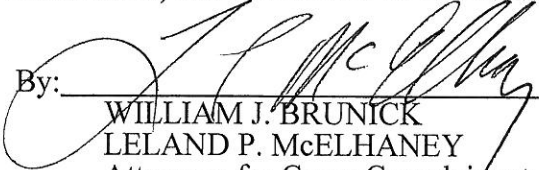
4 Rule 3.113, subdivision (b) provides that normally, "No reply or closing memorandum may
5 exceed 10 pages." Subdivision (c), however, provides that, "A party may apply to the court ex parte but
6 with written notice of the application to the other parties, at least 24 hours before the memorandum is
7 due, for permission to file a longer memorandum. The application must state reasons why the argument
8 cannot be made within the stated limit."

9 Pursuant to the Court's governing Case Management Order for the Phase V trial, the deadline
10 for posting AVEK's Reply Brief in support of its Motion for Summary Adjudication is January 3, 2013.
11 Accordingly this ex parte application is timely made more than 24 hours before the memorandum is due.

12 The attached supporting declaration also states the reasons why the arguments to be made in
13 AVEK's reply brief cannot be made within the stated 10-page limit.

14 Dated: December 30, 2013

BRUNICK, McELHANEY & KENNEDY

15
16 By:  _____
17 WILLIAM J. BRUNICK
18 LELAND P. McELHANEY
19 Attorneys for Cross-Complainant,
20 ANTELOPE VALLEY-EAST KERN WATER AGENCY

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1 SUPPORTING DECLARATION

2 Leland P. McElhaney declares and states:

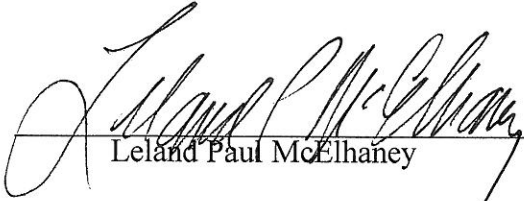
3 1. I am an attorney at law duly licensed to practice in all State of California courts, and a principal
4 in the law firm of Brunick, McElhaney & Kennedy, counsel of record in this action for the Antelope
5 Valley - East Kern Water Agency. I have personal knowledge of all of the matters set forth herein and,
6 if called as a witness, I could and would testify competently thereto.

7 2. On Friday, December 27, 2013, the PWS posted a 21-page Opposition brief, two supporting
8 declarations, and other related pleadings. Based upon the number and complexity of issues addressed
9 and/or raised therein, it is my considered opinion that more than ten pages will be required to adequately
10 reply thereto. My preliminary assessment indicates that a Reply Brief of at least fifteen (15) pages will
11 be required to adequately reply to all of the arguments and claims asserts in the Opposition pleadings.

12 3. Accordingly, AVEK respectfully requests that the Court grant permission for AVEK to post and
13 file a Reply Brief up to 15 pages in length.

14 4. The deadline for posting AVEK’s Reply Brief in support of its Motion for Summary
15 Adjudication is January 3, 2013. This ex parte application is timely made, with written notice of the
16 application to the other parties, more than 24 hours before the memorandum is due -- thereby complying
17 with the requirements of California Rules of Court, Rule 3.113, subdivision (c).

18 I declare under penalty of perjury under the laws of the State of California that the foregoing is
19 true and correct, and that this declaration was executed in San Bernardino, California, on December 30,
20 2013.

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22 Leland Paul McElhaney
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PROOF OF SERVICE

STATE OF CALIFORNIA }
COUNTY OF SAN BERNARDINO }

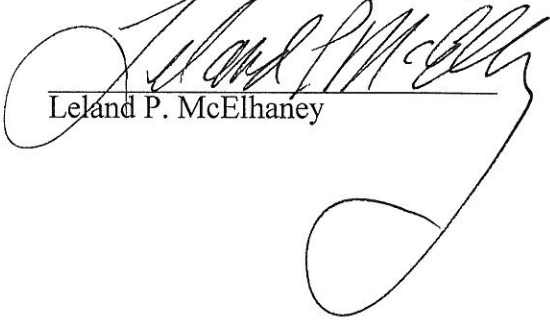
I am employed in the County of San Bernardino, State of California. I am over the age of 18 and not a party to the within action; my business address is 1839 Commercenter West, San Bernardino, California 92408-3303.

On December 30, 2013, I served the foregoing document described as: **NOTICE OF EX PARTE APPLICATION FOR PERMISSION TO FILE A REPLY BRIEF IN EXCESS OF TEN PAGES / SUPPORTING DECLARATION** on the interested parties in this action in the following manner:

■ **BY ELECTRONIC SERVICE AS FOLLOWS:** by posting the document listed above to the Santa Clara website in the action of the *Antelope Valley Groundwater Litigation*, Judicial Council Coordination Proceeding No. 4408, Santa Clara Case No. 1-05-CV-049053.

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

Executed on December 30, 2013, at San Bernardino, California.



Leland P. McElhaney