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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

11 ANTELOPE VALLEY GROUND 12 WATER CASES 13 Included Actions: 14 Los Angeles County Waterworks District 15 No. 40 v. Diamond Farming Co. 16 Los Angeles County Superior Court 17 Case No. BC 325201 18 Los Angeles county Waterworks District 19 No. 40 v. Diamond Farming Co. 20 Kern County Superior Court 21 Case No. S-1500-CV-254-348 22 Wm. Bolthouse Farms, Inc. V. City of Lancaster, Diamond Farming Co. V. City of Lancaster, Diamond Farming Co. V. Palmdale Water District Riverside County Superior Court Consolidated Actions: Case Nos. RIC 353 840, RIC 344 436, RIC 344 668) Judicial Council Coordination No. 4408) For filing purposes only:) Santa Clara County Case No. 1-05-CV-) 049053)) CASE MANAGEMENT STATEMENT) BY DEFENDANT RANDALL) BLAYNEY)) Date: November 25, 2008) Time: 10:30 a.m.) Dept.: Santa Clara - Dept. 17) Judge: Honorable Jack Komar
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23 Pursuant to this Court's ORDER AFTER PHASE TWO TRIAL ON HYDROLOGIC
24 NATURE OF ANTELOPE VALLEY entered on November 5, 2008, Defendant RANDALL
25 BLAYNEY, hereby submits the following narrative Case Management Statement to address
26 service of class notices in these coordinated proceedings.

27 At the onset of this litigation, defendant Blayney was encouraged, as were other
28 individual parties, to appear and file generic answers to the complaint which had been

1 served in these coordinated proceedings. At that time, defendant Blayney and his counsel
2 were advised that, fairly soon thereafter, parties such as defendant Blayney would be
3 permitted to opt out of the everyday litigation by joining defendant or plaintiff class actions.
4 Defendant Blayney and counsel were further advised that filing an answer was nonetheless
5 necessary to avoid the entry of defaults and to ensure that the Court obtained personal
6 jurisdiction over all potentially interested parties.

7 On or about September 22, 2008, defendant Blayney filed his generic Answer and
8 tendered payment for his first appearance fees as well as e-filing fees. Notwithstanding his
9 general appearance, the generic Answer expressly alleged “I do not intend to participate at
10 trial or other proceedings unless ordered by the Court to do so.” However, defendant
11 Blayney will be appearing via court call at the Case Management Conference on November
12 25, 2008 and incurring attorney fees.

13 On September 2, 2008, the Court certified the “Small Pumpers Class” defined as
14 property owners “that have been pumping less than 25 acre-feet per year on their property
15 during any year from 1946 to present.” Defendant Blayney believes he was and remains
16 a member of the “Small Pumpers Class”


17 Throughout this litigation, defendant Blayney has been assured that he would not be
18 required to actively participate in the action or suffer a prejudicial default once the various
19 classes including “Small Pumpers Class” were certified. Defendant Blayney was assured
20 that once the classes were certified and class notice served, he would be afforded the
21 opportunity to opt in to the Small Pumpers Class, his Answer would be stricken without
22 prejudice to his rights as a class member; and his right would be defended and determined
23 through the class process. Instead litigation has proceeded on the merits. Most recently,
24 the Court concluded the phase two trial regarding hydrologic nature of the Antelope Valley.

25 It is imperative that the class notices be served as soon as possible so that defendant
26 Blayney and others similarly situated, can be afforded the promised opportunity to opt in to
27 the Small Pumpers Class and enjoy the benefit of the class action without the vulnerability
28 of interlocutory or final judgments being set aside, and, perhaps most importantly, stop

1 incurring the ongoing expense of having generally appeared. Indeed, defendant Blayney
2 had concerns that this litigation cannot proceed further on the merits, lest adjudications -
3 particularly those in favor of class members, are impaired or invalidated due to one-way due
4 intervention or other due process errors. (*Fireside Bank v. Superior Court* (2007) 40 Cal.
5 4th 1069, 1080-1087 [155 P.3d 268] error to grant judgment on the pleadings before class
6 was certified and notice served because absent class members might elect to stay in a class
7 after favorable merits ruling but opt out after unfavorable ones, accord *Home Savings &*
8 *Loan Association v. Superior Court* (1974) 42 Cal. App. 3d 1006, 1010-1011 [117 Cal.Rptr.
9 485].)

10 For these reasons, defendant Blayney respectfully requests that the Court direct that
11 the class notices be served forthwith and, in any event, prior to any further adjudications
12 regarding the merits of the parties' claims and defenses.

13 DATED: November 20, 2008 ANDREW D. STEIN & ASSOCIATES

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15 BY: 
16 ANDREW D. STEIN, ESQ.
17 Attorneys for defendant,
18 RANDALL BLAYNEY

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22 Blayney CMC Stmt.wpd