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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

10  
11 ANTELOPE VALLEY GROUNDWATER  
CASES  
12 Included Actions:  
13 Los Angeles County Waterworks District No.  
14 40 v. Diamond Farming Co.  
Los Angeles County Superior Court Case No.  
15 BC 325201  
16 Los Angeles County Waterworks District No.  
17 40 v. Diamond Farming Co.  
Kern County Superior Court  
Case No. S-1500-CV-254-348  
18 Wm. Bolthouse Farms, inc. v. City of  
19 Lancaster, Diamond Farming Co. v. City of  
Lancaster, Diamond Farming Co. v. Palmdale  
20 Water Dist.  
Riverside County Superior Court  
21 Consolidated actions  
Case Nos. RIC 353840, RIC 344436, RIC  
22 344668

Judicial Council Coordination No. 4408  
Assigned to Hon. Jack Komar, Dept. 1  
  
For filing purposes only:  
Santa Clara County Case No. 1-05-CV-049053

**CASE MANAGEMENT STATEMENT BY  
DEFENDANT CLINTON C. HUTH**

Trial Date: October 6, 2008

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25 Pursuant to this Court's ORDER AFTER PHASE TWO TRIAL ON HYDROLOGIC  
26 NATURE OF ANTELOPE VALLEY entered on November 5, 2008, Defendant CLINTON C.  
27 HUTH, hereby submits the following Case Management Statement to address service of class  
28 notices in these coordinated proceedings.

1 At the onset of this litigation, Defendant HUTH was encouraged, as were other individual  
2 parties, to appear and file generic answers to the complaint which had been served in these  
3 coordinated proceedings. At that time, Defendant HUTH and his counsel were advised that, fairly  
4 soon thereafter, parties such as Defendant HUTH would be permitted to opt out of the everyday  
5 litigation by joining Defendant or Plaintiff class actions. Defendant HUTH and counsel were  
6 further advised that filing an answer was nonetheless necessary to avoid the entry of defaults and  
7 to ensure that the Court obtained personal jurisdiction over all potentially interested parties.

8 On or about November 5, 2008, Defendant HUTH filed his generic Answer and tendered  
9 payment for his first appearance fees as well as e-filing fees. Notwithstanding his general  
10 appearance, the generic Answer expressly alleged “I do not intend to participate at trial or other  
11 proceedings unless ordered by the Court to do so.” However, Defendant will be appearing via  
12 court call at the Case Management Conference on November 25, 2008, and incurring attorneys’  
13 fees in connection therewith.

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

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

26 It is imperative that the class notices be served as soon as possible so that the Defendant  
27 and others similarly situated can be afforded the promised opportunity to opt in to the Small  
28 Pumpers Class and enjoy the benefit of the class action without the vulnerability of interlocutory

1 or final judgment being set aside, and, perhaps most importantly, stop incurring expense of having  
2 generally appeared. Indeed, Defendant had concerns that this litigation cannot proceed further on  
3 the merits, lest adjudication – particularly those in favor of class members, are impaired or  
4 invalidated due to one-way intervention or other due process errors. (*Fireside Bank v. Superior*  
5 *Court* (2007) 30 Cal.4<sup>th</sup> 1069, 1080-1087 [155 P.3d 268] error to grant judgment on the pleadings  
6 before class was certified and notice served because absent class members might elect to stay in a  
7 class 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 [Cal.Rptr.485])

9 For these reasons, Defendant respectfully requests that the Court direct that the class  
10 notices be served forthwith and, in any event, prior to any further adjudications regarding the  
11 merits of the parties’ claim and defenses.

12 DATED: NOVEMBER 5, 2008 HEWITT & TRUSZKOWSKI

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15 By: \_\_\_\_\_  
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