

Exhibit D

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8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES - CENTRAL DISTRICT**
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11 Coordination Proceeding
12 Special Title (Rule 1550(b))

) Judicial Council Coordination Proceeding
) No. 4408

13 **ANTELOPE VALLEY**
14 **GROUNDWATER CASES**

) (For Filing Purposes Only: Santa Clara
) County Case No.: 1-05-CV-049053)

15 Included Actions:

) Assigned for All Purposes To:
) Judge: Hon. Jack Komar

16 *Los Angeles County Waterworks District*
17 *No. 40 v.*

) (Filing Fees Exempt, Per Gov't Code § 6103)

18 *Diamond Farming Co., et al.*
19 Los Angeles County Superior Court, Case
20 No. BC 325 201

) **[PROPOSED] CASE MANAGEMENT**
) **ORDER FOR PHASE SIX TRIAL**
)

21 *Los Angeles County Waterworks District*
22 *No. 40 v.*

23 *Diamond Farming Co., et al.*
24 Kern County Superior Court, Case No.
25 S-1500-CV-254-348

) **Phase Six Trial:**
) Date: February 9, 2015
) Time: 9:00 a.m.
) Dept.: Stanley Mosk Courthouse
) 111 N. Hill Street, Rm. 222
) Los Angeles, California

26 *Wm. Bolthouse Farms, Inc. v. City of*
27 *Lancaster*
28 *Diamond Farming Co. v. City of Lancaster*
29 *Diamond Farming Co. v. Palmdale Water*
30 *Dist.*

31 Riverside County Superior Court,
32 Consolidated Action, Case Nos. RIC 353
33 840, RIC 344 436, RIC 344 668

34 **AND RELATED CROSS-ACTIONS**
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1 IT IS HEREBY ORDERED:

2 1. The Phase Six Trial will commence at 9:00 a.m. on February 9, 2015 in Room 222
3 of the Superior Court of the County of Los Angeles, located at 111 North Hill Street, Los Angeles,
4 California or such other location as ordered by the Court. The trial will continue for one week, with
5 this Order superseding the Court's prior Case Management Order for Phases Five and Six.

6 2. The Phase Six Trial is limited to the Second, Fourth, Sixth, and Eighth Causes of
7 Action as set forth in the cross-complaint filed on or about December 31, 2008 by Phelan Piñon
8 Hills Community Services District (Phelan Piñon Hills). The status of surplus water is deferred to
9 a later proceeding, which will then allow for determinations on more particularized issues
10 involving inverse condemnation claims (to the extent such claims have already been pleaded in this
11 case) and the extent to which Phelan Piñon Hills is specifically subject to a replacement or
12 replenishment water assessment based solely upon Phelan Piñon Hills' production from its Well 14
13 being in excess of the sum of its water or production right. Phelan Piñon Hills' Third, Fifth, and
14 Seventh Causes of Action are likewise deferred to a later proceeding; losing on any one of the
15 causes of action in Phase Six does not preclude Phelan Piñon Hills from being heard on its Third,
16 Fifth, and Seventh Causes of Action.

17 3. The Court sets the following schedule for the Phase Six Trial:

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PHASE SIX SCHEDULE	
DATE	EVENT
08/18/14	Deadline to file and serve Notice of Intention to Participate in Phase Six Trial and Designation of Percipient Witnesses
09/19/14	Deadline for Participating Parties (those that filed Notice of Intention) to serve responses to requests for discovery pursuant to Discovery Order for Phase Six
10/20/14	Deadline to file and serve Motion for Summary Judgment or Summary Adjudication

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1	11/26/14	Deadline to serve designation of expert witnesses
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3	12/15/14	Deadline to file and serve Opposition to Motion for Summary
4		Judgment or Summary Adjudication
5	12/17/14	Deadline to serve designation of supplemental experts
6		
7	12/23/14	Deadline to file and serve Reply to Motion for Summary Judgment or
8		Summary Adjudication
9	01/05/15	Hearing on Motion for Summary Judgment or Summary Adjudication
10		
11	01/09/15	Discovery cut-off (expert depositions excepted)
12		
13	01/23/15	Discovery cut-off for completing expert witness depositions
14		
15	01/26/15	Deadline to file and serve witness and exhibit lists
16		
17	01/26/15	Deadline to file and serve Motion <i>In Limine</i>
18		
19	02/02/15	Deadline to file and serve Trial Brief
20		
21	02/02/15	Deadline to file and serve Opposition to Motion <i>In Limine</i>
22		
23	02/02/15	Participating parties exchange trial exhibits and jury instructions
24		
25	02/05/15	Deadline to file and serve Reply to Motion <i>In Limine</i>
26		
27	02/09/15	PHASE SIX TRIAL
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4. Any party intending to participate in Phase Six must post a Notice of Intention to Participate by August 18, 2014. Excuse from this requirement may be given upon a showing of good cause.

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1 5. Written discovery, including requests for admission, form interrogatories, document
2 production requests, etc., may commence pursuant to Discovery Order for Phase Six once approved
3 and signed by the Court. Parties are directed to coordinate these efforts with similarly situated parties.

4 6. Expert witnesses shall be designated by the dates noted in the schedule above.
5 Expert witness designations shall comply with all Code of Civil Procedure requirements and
6 include a statement as to the expert witness's deposition availability. The expert witness
7 designation shall include a copy of any discoverable reports concurrently with his or her
8 designation.

9 7. All parties designating expert or non-expert witnesses for the Phase Six Trial are
10 directed to meet and confer in person and/or by telephone by September 2, 2014 to develop a
11 schedule for the taking of depositions of all designated witnesses. Counsel for Phelan Piñon Hills
12 Community Services District is directed to provide telephone conference information to the parties
13 participating in Phase Six by posting the same to the Court's website by August 27, 2014. Similar
14 telephone conference(s) shall take place in the same manner for the supplemental expert witnesses,
15 if necessary.

16 8. A party that identified itself as participating in Phase Six but fails to participate in the
17 telephone scheduling conferences or who refuses to schedule its witnesses for deposition shall be deemed
18 to have waived the right to coordinate scheduling, and may thereafter have their witness' deposition set at
19 the convenience of participating scheduling parties on 15 days' notice pursuant to the Court's Electronic
20 Filing and Service Order. To the extent that parties are unable to reach agreement as to any deposition, the
21 Court will conduct a telephonic meet and confer to be scheduled at the earliest time convenient to the
22 Court.

23 9. The parties shall produce all documents relevant to that witnesses' testimony at least one (1)
24 business day prior to the witness' deposition.

25 10. The parties are directed to utilize the assistance of a Liaison Committee as a means of
26 attempting to resolve issues quickly and informally, and to streamline the presentations at trial. The
27 existence of this committee, however, shall not deprive any other party from raising issues or concerns to the
28 other parties participating in Phase Six.

1 11. All designated witnesses shall be available and prepared to provide deposition
2 testimony, absent other agreement, as noted in the above schedules. The parties shall make every effort
3 to complete the depositions of the initially designated expert witnesses in time for the depositions of the
4 supplemental experts to take place before the discovery cut-off directed above.

5 12. More than one deposition may be scheduled to take place on the same day, but only if
6 such depositions will not occur simultaneously.

7 13. All expert witness deponents are directed to produce their file on this matter, and any
8 other requested materials for inspection at least three (3) business days before the date set for the
9 deposition at the expert's place of business or such location as the parties may agree. Such materials may
10 be produced in electronic format.

11 14. The parties are directed to meet and confer concerning any discovery dispute before
12 contacting the Court and before filing any discovery motion. If such attempts prove unsuccessful, the Court
13 will conduct a further meet and confer, either by telephone or in person as the Court may direct. The parties
14 will provide the Court with a letter in advance setting forth the text of any written discovery requests and
15 responses thereto that are in dispute, or other information that will assist the Court in conducting the meet
16 and confer. The parties should contact the Court's clerk to schedule any such meet and confer. The Court
17 expects that all discovery disputes will be resolved through the meet and confer process. Any party may
18 thereafter apply *ex parte* for an order shortening time and specially setting a motion to compel for hearing by
19 providing notice thereof pursuant to the Electronic Filing and Service Order.

20 15. The parties, when posting witness and exhibit lists, shall provide the name of each witness,
21 a short summary of testimony expected to be elicited, and a testimony time estimate. The exhibit list shall be
22 sufficiently specific as to enable the other parties to identify the exhibit prior to trial. Exhibits shall be
23 sequentially numbered for each party, starting with the Arabic number 1. The parties shall continue with the
24 numbering system utilized in Phase Four.

25 16. The parties shall coordinate with one another to determine the actual date and time of the
26 witnesses' testimony at trial. Any other documents not previously produced, but which are intended to be
27 used at trial, shall be made available as soon as practicable.

28 17. Allied parties are strongly encouraged to file joint briefs.

1 18. Any motion to exclude witnesses or exhibits, or other motions *in limine*, will be heard at
2 the commencement of the Phase Six Trial. Any such moving papers, opposition papers, including
3 evidentiary objections, or evidentiary objections to evidence submitted in opposition, and reply
4 papers shall be filed and posted as noted in the timeline, above.

5 19. Should any party elect to use a third party provider to assist in the projection or
6 presentation of evidence, that party shall permit said third party provider to contract with any other party
7 for the use the same services provided. Third party providers, in any event, shall work together to
8 coordinate the use of equipment.

9 20. The parties shall also coordinate having a court reporter for all Phase Six court
10 proceedings, with the parties participating in Phase Six equally sharing the costs for the reporter's
11 courtroom services. Each party bears its own costs for obtaining a transcript of any Phase Six court
12 proceeding.

13 21. Any party desiring to monitor the Phase Six Trial by telephone may do so through
14 CourtCall, but will not be allowed to question witnesses or participate in oral argument via Courtcall. No
15 party or other person may electronically or otherwise record such proceedings.

16 22. The Court shall be provided with courtesy copies of all exhibits, except those pertaining to
17 impeachment, preferably in three-ring notebooks with numbered dividers, as noted in the timeline, above.
18 Counsel are directed to coordinate this project with one another.

19 23. Prior to the commencement of each day of trial, counsel shall confer as to the order
20 of the next day's witnesses, and shall advise the Court of the same at the commencement of that
21 day of trial.

22 24. The Court will consider whether to request closing trial briefs as the Phase Six trial
23 proceeds.

24 Dated: _____, 2014

The Honorable Jack Komar
Judge of the Superior Court

3 **PROOF OF SERVICE**

4 I, Marie Young,

5 I am employed in the County of Orange, State of California. I am over the age of 18 and
6 not a party to the within action. My business address is 18881 Von Karman Avenue, Suite 1700,
Irvine, CA 92612.

7 On August 6, 2014, I served the within document(s) described as **[PROPOSED] CASE**
8 **MANAGEMENT ORDER FOR PHASE SIX TRIAL**, as follows:

9 ☒ (ELECTRONIC SERVICE) By posting the document(s) listed above to the Santa Clara
10 County Superior Court website in regard to Antelope Valley Groundwater matter pursuant to the
Court's Clarification Order. Electronic service and electronic posting completed through
www.scefilng.org.


11 ☐ (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope
12 addressed as set forth above. I placed each such envelope for collection and mailing following
ordinary business practices. I am readily familiar with this Firm's practice for collection and
13 processing of correspondence for mailing. Under that practice, the correspondence would be
deposited with the United States Postal Service on that same day, with postage thereon fully
14 prepaid at Irvine, California, in the ordinary course of business. I am aware that on motion of the
party served, service is presumed invalid if postal cancellation date or postage meter date is more
than one day after date of deposit for mailing in affidavit.

15 ☐ (BY OVERNIGHT DELIVERY) I deposited in a box or other facility regularly maintained
16 by Overnight Express, an express service carrier, or delivered to a courier or driver authorized by
said express service carrier to receive documents, a true copy of the foregoing document(s) in a
17 sealed envelope or package designated by the express service carrier, addressed as set forth above,
with fees for overnight delivery paid or provided for.

18 Executed on August 6, 2014, at Irvine, California.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct.

21 Marie Young
22 (Type or print name)

23 
24 (Signature)