

Joseph D. Hughes, SBN 169375
Ravi S. Patel, SBN 301258
KLEIN, DENATALE, GOLDNER,
COOPER, ROSENLIB & KIMBALL, LLP
4550 California Ave., Second Floor
Bakersfield, CA 93309
Telephone: 661-395-1000
Facsimile: 661-326-0418
Email: jhughes@kleinlaw.com
rpatel@kleinlaw.com

Attorneys for H&N Development, Co. West, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

**ANTELOPE VALLEY
GROUNDWATER CASES**

Included Actions:

Los Angeles County Waterworks District No.
40 v. Diamond Farming Co., Superior Court of
California, County of Los Angeles, Case No.
BC 325201;

Los Angeles County Waterworks District No.
40 v. Diamond Farming Co., Superior Court of
California, County of Kern, Case No. S-1500-
CV-254-348;

Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
Lancaster, Diamond Farming Co. v. Palmdale
Water Dist., Superior Court of California,
County of Riverside, Case Nos. RIC 353 840,
RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

CLASS ACTION

Santa Clara Case No. A-05-CV-049053
Assigned to The Honorable Jack Komar,
Department I

**PROVE-UP TRIAL BRIEF OF CROSS-
DEFENDANT H&N DEVELOPMENT CO.
WEST, INC.**

Phase 6 Trial Date: September 28, 2015
Time: 10:00 a.m.
Dept.: 1
Judge: Hon. Jack Komar

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

The cross-defendant **H&N DEVELOPMENT CO. WEST, INC. (H&N Development)**, submits the following Trial Brief for the Phase 6 Trial.

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1 **1. PARTY:** H&N Development is an active California corporation, which
2 was formerly known as H AND N DEVELOPMENT CO. INC. H&N Development is a party to
3 the Stipulation for Entry of Judgment and Physical Solution (Signature Page 59 of 136).

4 **2. PROPERTY:** H&N Development's property is composed of about 431.81
5 acres within the Antelope Valley Area of Adjudication located in the County of Kern and is
6 identified by APNs: 359-031-07 (78.48 acres), 359-032-20 (79.09 acres), 359-032-21 (79.09
7 acres), 359-032-08 (14.09 acres), 359-032-13 (77.88 acres), and 359-032-14 (103.18 acres)
8 **(Property).**

9 **3. CLAIMS TO GROUNDWATER PRODUCTION WITHIN THE**
10 **AREA OF ADJUDICATION:** H&N Development claims the right to produce and use
11 groundwater within the boundaries of its Property. The amount of groundwater produced from
12 the Property, measured in acre feet, for the following calendar years is as follows:

<u>Year</u>	<u>Amount (AF)</u>
2000	2,758
2001	2,758
2002	2,758
2003	2,758
2004	3,263
2011	1,695.25
2012	1,904.25

21 **4. USE:** The groundwater produced from the Property for the calendar years
22 listed above was used for the irrigation of annual and permanent crops. APNs 359-032-20 and
23 359-032-21 were farmed with carrots and/or onions in years 2000-2003. APNs 359-031-07, 359-
24 032-08, 359-032-13 and 359-032-14 were farmed with alfalfa in years 2000-2003. All of the
25 parcels were farmed with alfalfa in year 2004. All the parcels were planted with pistachio trees in
26 years 2011 and 2012.

27 **5. EVIDENCE:** The Court found in the Phase 4 Trial that H&N
28 Development pumped groundwater for use on the Property in the amount of 1,695.25 acre feet in

1 2011 and 1,904.25 acre feet in 2012. Additionally, H&N Development offered the declarations of
2 Norik Naraghi and Rod Stiefvater (Exhibit 4-H&N-2) and the related stipulation with the Public
3 Water Suppliers (Exhibit 4-H&N-1) during the Phase 4 Trial, both of which were admitted into
4 evidence without objection, to establish H&N Development's ownership of the Property as well
5 as the amount of groundwater produced from the Property and the use to which that groundwater
6 was put during years 2011 and 2012. H&N Development will rely on this evidence for this Phase
7 6 Trial, absent a direction from the Court, because this evidence has already been received by the
8 Court without objection.

9 H&N Development posted on December 21, 2012 (Court Website, Document No.
10 5526) its responses to the Discovery Order for Phase 4 Trial showing, among other things, the
11 amount of groundwater produced from the Property during the years 2000-2004, and the uses to
12 which that groundwater was put. H&N Development will offer a declaration to establish those
13 facts as necessary, subject to proper objection and cross-examination.

14 **6. ADDITIONAL CLAIMS, EVIDENCE AND DEFENSES:** H&N
15 Development, like many of the stipulating parties, will not assert certain claims and defenses
16 otherwise available to it during this Phase 6 Trial, including defenses to the claims of prescription
17 made by the Public Water Suppliers, due to the Stipulation for Entry of Judgment and Physical
18 Solution to which H&N Development is a party. H&N Development requests the opportunity and
19 reserves the right to present evidence in support of its additional claims and defenses if the court
20 does not enter the proposed judgment and physical solution as a final judgment in this case.

21 Dated: September 24, 2015

KLEIN, DeNATALE, GOLDNER
COOPER, ROSENLIB & KIMBALL, LLP

22
23 By:


24 Joseph D. Hughes,
Attorneys for H&N Development

Case No. JCCP4408

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF KERN

I am employed in the County of Kern, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 4550 California Ave., Second Floor, Bakersfield, CA 93309. My email address is syates@kleinlaw.com.

On September 24, 2015, I served the following document described as


**PROVE-UP TRIAL BRIEF OF CROSS-DEFENDANT
H&N DEVELOPMENT CO. WEST, INC.**

on the interested parties in this action as follows:

BY ELECTRONIC MAIL Pursuant to California Rules of Court, rule 2.251, I posted the document listed above to the Santa Clara Court website regarding the Antelope Valley Groundwater matter.

Executed on September 24, 2015, at Bakersfield, California.

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


Shontice Yates