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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF SANTA CLARA**

11 **ANTELOPE VALLEY GROUNDWATER**  
12 **CASES:**

13 Included Actions:

14 Los Angeles County Waterworks District No.  
40 v. Diamond Farming Co.  
Superior Court of California  
15 County of Los Angeles, Case No. BC325201

16 Los Angeles County Waterworks District No.  
40 v. Diamond Farming Co.  
Superior Court of California  
17 County of Kern, Case No. S-1500-CV-254-  
18 348

19 Wm. Bolthouse Farms, Inc. v. City of  
Lancaster  
20 Diamond Farming Co. v. City of Lancaster  
Diamond Farming Co. v. Palmdale Water Dist.  
21 Superior Court of California  
County of Riverside, consolidated actions  
22 Case Nos. RIC 353840, RIC 344436,  
RIC 344668  
23

Judicial Council Coordination  
Proceeding No. 4408

Santa Clara Case No. 1-05-CV-049053  
Assigned to the Honorable Jack Komar

**ANAVERDE LLC'S MOTION IN LIMINE**  
**NO. 1 REGARDING EXCLUDING**  
**PROSPECTIVE WITNESSES FROM THE**  
**COURTROOM DURING TESTIMONY;**  
**POINTS AND AUTHORITIES**

Phase 2 Trial: October 6, 2008  
Location: Dept. 1  
Time: 9 a.m.

24 **MOTION IN LIMINE No. 1**

25 Cross-defendant, Anaverde LLC, moves this Court for an order excluding witnesses from  
26 the courtroom unless the witness is testifying. Anaverde, LLC, hereby moves the Court for an in  
27 limine order as follows:  
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That all prospective witnesses who are not a party to the action be excluded from the courtroom prior to examination.

The motion in limine will be made on the grounds that an order excluding said witnesses is authorized under Evidence Code section 777 and is necessary to prevent prospective witnesses from hearing the testimony of other witnesses.

Said motion will be made and based on the points and authorities, and upon such oral and documentary evidence that may be presented at the hearing of said motions. This motion is further based on Evidence Code section 777.

DATED: September 30, 2008

Respectfully submitted,

MALISSA HATHAWAY McKEITH  
JOSEPH SALAZAR, JR.  
JACQUELINE MITTELSTADT  
KIMBERLY A. HUANGFU  
LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/  
JACQUELINE MITTELSTADT  
Attorneys for ANAVERDE, LLC.

I.

MEMORANDUM OF POINTS AND AUTHORITIES

Evidence Code section 777 states as follows:

(a) Subject to subdivisions (b) and (c), the court may exclude from the courtroom any witness not at the time under examination so that such witnesses cannot hear the testimony of other witnesses.

(b) A party to the action cannot be excluded under this section.

(c) If a person other than a natural person is a party to the action, an officer or employee designated by its attorney is entitled to be present.

Evidence Code section 777 should be applied in this case to exclude any prospective witness who is not under examination and who is not a party to the action from the courtroom. There is a risk that prospective witnesses who have not yet been called to testify will be unfairly educated and informed as to matters on which said witnesses will be interrogated. In light of sound authority authorizing exclusion of witnesses not presently testifying, and the prejudice should non-testifying witnesses be present, Cross-Defendant, ANAVERDE LLC, requests that the Court order all witnesses be excluded from the courtroom during trial.

DATED: September 30, 2008

Respectfully submitted,

MALISSA HATHAWAY McKEITH  
JOSEPH SALAZAR, JR.  
JACQUELINE MITTELSTADT  
KIMBERLY A. HUANGFU  
LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/  
JACQUELINE MITTELSTADT  
Attorneys for ANAVERDE, LLC.

**PROOF OF SERVICE**

I declare that:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 221 North Figueroa Street, Suite 1200, Los Angeles, California 90012.

On September 30, 2008, I served **ANAVERDE LLC'S MOTION IN LIMINE NO. 1 REGARDING EXCLUDING PROSPECTIVE WITNESSES FROM THE COURTROOM DURING TESTIMONY; POINTS AND AUTHORITIES** by posting to the Santa Clara Superior Court website in regard to the Antelope Valley Groundwater matter.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct, executed on September 30, 2008.

/s/\_\_\_\_\_  
Maritza Estrada