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Exempt from Filing Fee Pursuant
to Gov't. Code § 6103

Attorneys for Cross-Defendant/Cross-Complainants,
ANTELOPE VALLEY EAST – KERN WATER AGENCY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

**ANTELOPE VALLEY
GROUNDWATER CASES**

Including **Consolidated** Actions:

**Los Angeles County Waterworks District No.
40 v. Diamond Farming Co.**
Superior Court of California, County of Los
Angeles, Case No. BC 325 201

**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,
consolidated actions, Case Nos. RIC 353 840,
RIC 344 436, RIC 344 668

AND RELATED ACTIONS.

Judicial Council Coordination Proceeding No. 4408

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar
Department 17C

**AMENDED NOTICE OF MOTION AND
MOTION TO DISQUALIFY BEST BEST &
KRIEGER AS LEGAL COUNSEL IN
ANTELOPE VALLEY GROUNDWATER
CASES**

DATE: October 18, 2016

TIME: 9:00 a.m.

DEPT: Room 222

**Stanley Mosk Courthouse
Los Angeles, California**

Judge: Hon. Jack Komar
Complaint Filed: 9/22/2005
Trial Date:

1 NOTICE IS HEREBY GIVEN that on October 18, 2016 at 9:00 a.m., or as soon thereafter as the
2 matter may be heard, in Room 222 of Los Angeles County Superior Court, located at 111 N. Hill St, Los
3 Angeles, CA 90012, Antelope Valley East – Kern Water Agency (“AVEK”) will, and hereby does,
4 move the above-titled court or an order disqualifying Best Best & Krieger (“BB&K”) and its attorneys
5 from representing or providing any legal assistance to the Los Angeles County Water Works District
6 No. 40 (“District 40”), and/or any other party or potential party, in this coordinated proceeding titled
7 Antelope Valley Groundwater (“AVG”) cases, Santa Clara Superior Court Case No. 1-05-CV-049053,
8 JCCP No. 4880 (“Action”).

9 This motion is based on the grounds that BB&K has breached its duty of loyalty to AVEK by
10 simultaneously representing clients with competing and adversarial interests in the AVG litigation in
11 contravention of California Rules of Professional Conduct, rule 3-310(C), and the case law interpreting
12 that rule. BB&K served as AVEK’s general counsel almost continuously from 1986-2016. Commencing
13 in 2004 and continuing until the present time, BB&K has provided legal representation to District 40 in
14 the AVG litigation during which it advocated on behalf of District 40 for positions that were adversarial
15 to AVEK.

16 BB&K was aware that there were potential and actual conflicts of interest in its concurrent
17 representation of AVEK and District 40. BB&K did not obtain AVEK’s informed written consent to
18 that concurrent representation as required by rule 3-310(C) and other provisions of California law.

19 This motion is based on California Code of Civil Procedure section 128(a)(5), which grants
20 California courts the authority “[t]o control in furtherance of justice, the conduct of its ministerial
21 officers, and of all other persons in any manner connected with a judicial proceeding before it, in every
22 matter pertaining thereto.” This statutory authority extends to disqualifying counsel from litigated
23 matters where appropriate to maintain the integrity and respect of the legal profession.


24 The instant motion is made and based upon this notice of motion and motion, the respective
25 declarations of Frank S. Donato, Leland P. McElhaney and James J. Banks, the memorandum in support
26 of this motion. All of which are served and filed contemporaneously herewith. Said motion is further
27 made and based upon the records and files in this action, on any matter of which the court may take
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1 judicial notice, and upon any other evidence, documentary or oral, that may be presented at the hearing
2 on this motion.

3 Respectfully submitted,

4 DATED: September 14, 2016

BANKS & WATSON

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6 By: 
7 W. DAVID CORRICK
8 Attorneys for ANTELOPE VALLEY EAST –
9 KERN WATER AGENCY
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1 **BANKS & WATSON**

2 **CASE NAME: ANTELOPE VALLEY GROUNDWATER CASES**

3 **COURT: Santa Clara County Superior Court**

4 **CASE NO: CGC-13-533134 (JCCP No. 4408)**

5 **PROOF OF SERVICE**

6 STATE OF CALIFORNIA)
7) ss.
8 COUNTY OF SACRAMENTO)

9 At the time of service, I was over 18 years of age and not a party to this action. My business
10 address is 901 F Street, Suite 200, Sacramento, California 95814. My electronic address is jyoshida@bw-
11 firm.com.

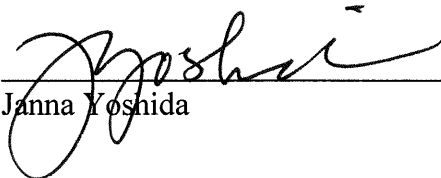
12 On September 14, 2016, I served a copy of:

13 **AMENDED NOTICE OF MOTION AND MOTION TO DISQUALIFY BEST BEST & KRIEGER**
14 **AS LEGAL COUNSEL IN ANTELOPE VALLEY GROUNDWATER CASES**

15 on the interested parties in this action served in the following manner:

16 (✓) **BY ELECTRONIC FILING** – I caused the document(s) listed above to be transmitted via
17 Odyssey File & Serve to all parties appearing on the electronic services list for the Antelope
18 Valley Groundwater matter; proof of electronic filing through Odyssey File & Serve is then
19 printed and maintained in our office. Electronic service is complete at the time of transmission.

20 I declare under penalty of perjury under the laws of the State of California that the foregoing is
21 true and correct. Executed on September 14, 2016, at Sacramento, California.

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Janna Yoshida