

MICHAEL T. FIFE (State Bar No. 203025)
BRADLEY J. HERREMA (State Bar No. 228976)
BROWNSTEIN HYATT FARBER SCHRECK, LLP
21 East Carrillo Street
Santa Barbara, California 93101
Telephone No: (805) 963-7000
Facsimile No: (805) 965-4333

Attorneys for: B.J. Calandri, John Calandri, John Calandri as Trustee of the John and B.J. Calandri 2001 Trust, Forrest G. Godde, Forrest G. Godde as Trustee of the Forrest G. Godde Trust, Lawrence A. Godde, Lawrence A. Godde and Godde Trust, Kootenai Properties, Inc., Gailen Kyle, Gailen Kyle as Trustee of the Kyle Trust, James W. Kyle, James W. Kyle as Trustee of the Kyle Family Trust, Julia Kyle, Wanda E. Kyle, Eugene B. Nebeker, R and M Ranch, Inc., Edgar C. Ritter Paula E. Ritter, Paula E. Ritter as Trustee of the Ritter Family Trust, Trust, Hines Family Trust, Malloy Family Partners, Consolidated Rock Products, Calmat Land Company, Marygrace H. Santoro as Trustee for the Marygrace H. Santoro Rev Trust, Marygrace H. Santoro, Helen Stathatos, Savas Stathatos, Savas Stathatos as Trustee for the Stathatos Family Trust, Dennis L. & Marjorie E. Groven Trust, Scott S. & Kay B. Harter, Habod Javadi, Eugene V., Beverly A., & Paul S. Kindig, Paul S. & Sharon R. Kindig, Jose Maritoren Living Trust, Richard H. Miner, Jeffrey L. & Nancee J. Siebert, Barry S. Munz, Terry A. Munz and Kathleen M. Munz, Beverly Tobias, Leo L. Simi, White Fence Farms Mutual Water Co. No. 3., William R. Barnes & Eldora M. Barnes Family Trust of 1989, Del Sur Ranch, LLC, Healy Enterprises, Inc., John and Adrienne Reza, Sahara Nursery, Sal and Connie L. Cardile, Gene T. Bahlman, **collectively known as the Antelope Valley Ground Water Agreement Association ("AGWA")**

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

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
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-254-348Wm. 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 No. RIC 353 840,
RIC 344 436, RIC 344 668

Judicial Council Coordination Proceeding
No. 4408

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

**REQUEST FOR ORDER PROTECTING
PHASE 2 FINDINGS**

Date: September 23, 2008
Time: 8:15 am
Dept: 1

1 The Antelope Valley Groundwater Agreement Association (“AGWA”) hereby requests the
2 Court to issue an Order on the Court’s own Motion protecting the findings and orders the Court may
3 make in the upcoming Phase 2 Trial from future challenge by parties who have not yet appeared and
4 from future challenge by the United States. In the alternative, AGWA requests the Court to provide
5 guidance at the September 23, 2008 hearing as to whether the Court would prefer AGWA to make
6 such a Motion ex parte.

7 The Court has ordered that the Phase 2 Trial, adjudicating whether the Antelope Valley Area
8 of Adjudication (“Basin”) contains sub-basins, to begin in two weeks – on October 6, 2008. (Case
9 Management Order for Phase 2 Trial, September 9, 2008). However, while the Court has certified
10 two separate classes in this matter (Plaintiff Willis’ Second Order Modifying Definition of Plaintiff
11 Class, September 2, 2008; Order Certifying Small Pumpers Class Action, September 2, 2008), a
12 notice of class action has not been mailed or published, meaning that potential class members have
13 not been given the opportunity to opt out of the classes if they wish to be personally represented.
14 Nor have the Public Water Suppliers completed personal service on those parties outside the two
15 classes.¹ (Declaration of Jeffrey V. Dunn re Status of Service of Process, September 12, 2008.)

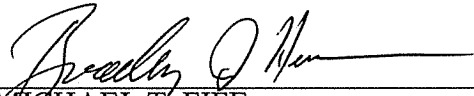
16 The parties have spent countless hours and dollars on the progression of the case to this
17 point, and will spend much more in the coming weeks preparing for and commencing the trial.
18 While AGWA does not have any objection to the Phase 2 Trial going forward on October 6, it does
19 not wish to see that effort wasted because all of the parties to the case have not been given notice or
20 served prior to that time. Accordingly, AGWA requests this Court to issue an Order on its own
21 Motion declaring that those parties who have not received notice or been served will not be able to
22 challenge the outcome of the Phase 2 Trial and declaring that the United States, through its consent

23
24 ¹ There seems to be a degree of confusion by the purveyors about personal service as they state that,
25 “The Court also ordered personal service upon parties known to pump more than 25 acre feet
26 annually according to reports filed with the State of California pursuant to Water Code Section
27 5001.” (Declaration 2:15-17.) In fact, the Court’s September 2, 2008 Order certifying the small
28 pumper’s class describes the class as consisting of, “All private (i.e., non-governmental) persons and
entities that own real property within the Basin, as adjudicated, and that have been pumping less than
25 acre-feet per year on their property during any year from 1946 to the present.” (Order 1:27-2:1.)
The class description says nothing about reports filed with the State of California. This suggests that
there are yet more parties that require personal service on which the purveyor have not yet even
made a first attempt at service.

1 to an October 6, 2008 Phase 2 Trial date, has waived its right to later object to the outcome of the
2 Phase 2 Trial based on the lack of comprehensiveness at the time of the Trial.

3
4 Dated: September 22, 2008

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

5
6
7 By: 
8 MICHAEL T. FIFE
9 BRADLEY J. HERREMA
10 ATTORNEYS FOR AGWA
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

**STATE OF CALIFORNIA,
COUNTY OF SANTA BARBARA**

I am employed in the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action; my business address is: 21 E. Carrillo Street, Santa Barbara, California 93101.

On September 22, 2008, I served the foregoing document described as:

REQUEST FOR ORDER PROTECTING PHASE 2 FINDINGS

on the interested parties in this action.

By posting it on the website at 1:00 p.m. on September 22, 2008.
This posting was reported as complete and without error.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed in Santa Barbara, California, on September 22, 2008.



TYPE OR PRINT NAME



SIGNATURE