

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 Maritorena 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 Reca, 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 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 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 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

CASE MANAGEMENT STATEMENT

Date: August 17, 2009
Time: 9:00 a.m.
Dept: 17C, Santa Clara Superior Court

1 The Antelope Valley Groundwater Agreement Association ("AGWA") hereby submits this
2 Case Management Statement as to the issues to be determined during the Court's August 17, 2009
3 hearings and Trial Setting Conference. AGWA wishes to address the following issues pending
4 before the court:

5
6 **I. Motion by Plaintiff Richard Wood for Order Allocating Costs of Court-Appointed
Expert Witness**

7 Plaintiff Richard Wood moves the Court for an order allocating the costs of work done by a
8 Court-appointed expert in determining whether certain landowners within the Basin properly fall
9 within the Wood Class definition or are outside the class and must, therefore, be individually named
10 and served by the Public Water Suppliers. As AGWA has repeatedly pointed out in these
11 proceedings, the entire existence of the class structure in this case serves only to benefit the Public
12 Water Suppliers, in alleviating their burden of individually naming and serving each landowner
13 within the Basin. The work conducted by the Court-appointed expert is no different and benefits
14 only the Public Water Suppliers. Accordingly, the costs of this work should similarly be allocated
15 according to the benefit conferred by the work, and the Public Water Suppliers should bear the
16 entirety of those costs.

17
18 **II. Motion by Plaintiff Rebecca Willis for Appointment of Expert Witness**

19 Rebecca Willis and the Willis Class have again moved this Court for an order appointing an
20 expert witness who would be available to the Court for the determination of the safe yield of the
21 Basin. As previously stated in AGWA's April 13, 2009 Opposition to Motions for Appointment of
22 Expert by Wood Class and Willis Class, the Court should consider the option highlighted in the
23 filing by the City of Palmdale on the issue of a jury trial filed on February 10, 2009. In that filing,
24 the City of Palmdale describes a reference procedure under Water Code sec. 2000, et seq., for water
25 adjudications through which the State Water Resources Control Board acts as a technical referee and
26 conducts an investigation and analysis of technical information for the benefit of the Court. The
27
28

1 State Board has the expertise to conduct such an investigation and is a neutral body with no ties to
2 any of the litigants in the case. Such a reference would help to resolve the inequities with respect to
3 technical analysis in this case, and may, as described by the City of Palmdale, also resolve the issue
4 of the availability of a jury trial.

5
6 **III. Motion by City of Lancaster, et al. to Stay Proceeding for Six Months, or alternatively,
Continue Trial Setting Conference**

7 AGWA is a party to the motion to stay these proceedings and respectfully requests that the
8 Court order the stay. AGWA continues to believe that the issues raised in these proceedings can
9 only be resolved through settlement and that further litigation only wastes the parties' time and
10 money.

11
12 AGWA anticipates that, as indicated by the opposition filed by the Wood Class, the
13 Lancaster's Motion will be opposed only by the large public entities whose participation in the case
14 is financed by ample amounts of taxpayer money and by the classes whose participation in the case
15 will be subsidized by those same entities. It is also notable that both the Wood and Willis Class have
16 indicated that they will not hire their own experts to participate in the next phase of trial, yet oppose
17 any effort to avoid such a trial in the name of settlement.

18
19 **IV. Motion by California Water Service Company for Limited Relief from Notice
Requirements**

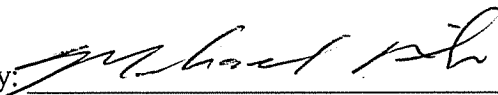
20 The California Water Service Company ("Cal Water") moves the Court for relief from any
21 requirement of providing notice of this case to its customers, who Cal Water claims have transferred
22 their legal rights and any claims to pump groundwater from the Basin to Cal Water. Cal Water
23 argues its predecessors acquired two mutual water companies and that Cal Water has acquired all
24 related real property rights of the mutual water companies and their shareholders, so that Cal Water
25 acquired their rights to pump groundwater. (See Cal Water Motion, pages 3-4.)

26
27 If the Court grants Cal Water's Motion, then the Court must find that Cal Water exercises
28

1 both appropriative rights in addition to overlying rights acquired from Cal Water's Antelope Valley
2 Lancaster District customers. While there is nothing inherently wrong about a single entity
3 possessing different types of water rights, Cal Water itself notes that it is in a "comprehensive
4 adjudication of the groundwater rights within the Antelope Valley Basin." (Cal Water Motion, page
5 1, lines 3-4). In this comprehensive adjudication, Cal Water claims it has acquired prescriptive
6 rights against all other parties, including overlying landowners. (See Cal Water's Complex Answer
7 to Cross-Complaint of Bolthouse Properties, filed February 2, 2007, ¶¶ 5, 7.) Accordingly, under
8 Cal Water's theory, it would be asserting prescriptive rights against itself.
9

10
11
12 Dated: August 4, 2009

BROWNSTEIN HYATT FARBER SCHRECK,
LLP

13
14
15 By: 

16 MICHAEL T. FIFE
17 BRADLEY J. HERREMA
18 ATTORNEYS FOR AGWA
19
20
21
22
23
24
25
26
27
28

BROWNSTEIN HYATT FARBER SCHRECK, LLP
21 East Carrillo Street
Santa Barbara, CA 93101

1
2
3
4
5
6
7
8
9
10
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 August 4, 2009, I served the foregoing document described as:

CASE MANAGEMENT STATEMENT

on the interested parties in this action.

By posting it on the website at 4:00 p.m. on August 4, 2009.
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 August 4, 2009.

MARIA KLACHKO-BLAIR
TYPE OR PRINT NAME


SIGNATURE