

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: Gene T. Bahlman, William R. Barnes & Eldora M. Barnes Family Trust of 1989, Thomas M. and Julie Bookman, B.J. Calandri, John Calandri, John Calandri as Trustee of the John and B.J. Calandri 2001 Trust, Calmat Land Company, Cameo Ranching Co., Sal and Connie L. Cardile, Consolidated Rock Products, Del Sur Ranch LLC, Forrest G. Godde, Forrest G. Godde as Trustee of the Forrest G. Godde Trust, Lawrence A. Godde, Lawrence A. Godde and Godde Trust, Gorrindo Family Trust, Leonard and Laura Griffin, Healy Enterprises, Inc., Hines Family Trust, Habod Javadi, Juniper Hills Water Group, Eugene V., Beverly A., & Paul S. Kindig, Paul S. & Sharon R. Kindig, 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, Malloy Family Partners, Maritorena Living Trust, Jose Richard H. Miner, Barry S. Munz, Terry A. Munz and Kathleen M. Munz, Eugene B. Nebeker, R and M Ranch, Inc., John and Adrienne Reca, Edgar C. Ritter, Paula E. Ritter, Paula E. Ritter as Trustee of the Ritter Family Trust, Sahara Nursery, Marygrace H. Santoro as Trustee for the Marygrace H. Santoro Rev Trust, Marygrace H. Santoro, Mabel Selak, Jeffrey L. & Nancee J. Siebert, Helen Stathatos, Savas Stathatos, Savas Stathatos as Trustee for the Stathatos Family Trust, Tierra Bonita Ranch Company, Beverly Tobias, Vulcan Lands, Inc., **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-254-348Wm. 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

ANTELOPE VALLEY GROUNDWATER
AGREEMENT ASSOCIATION'S
REQUEST FOR JUDICIAL NOTICE OF
RWQCB ORDERS

Phase 3 Trial Date:
Date: January 4, 2011
Time: 9:00 am
Dept.: 1

AGWA'S REQUEST FOR JUDICIAL NOTICE RE RWQCB ORDERS

Pursuant to California Evidence Code sections 453 and 452(c), the Antelope Valley Groundwater Agreement Association (“AGWA”) respectfully requests that the Court take judicial notice of records and official acts of a public entity of the State of California, the Regional Water Quality Control Board, Lahontan Region, attached as Exhibits A through D to the Declaration of Michael T. Fife in Support of Request for Judicial Notice (“Fife Decl.”).

Pursuant to Evidence Code section 453, the court “shall take judicial notice of any matter specified in Section 452 if a party requests it, gives the adverse party sufficient notice, and gives the Court information to enable it to take judicial notice.” By this request, AGWA gives the adverse parties sufficient notice and gives the Court information to enable it to take judicial notice.

Judicial notice of orders of the Regional Water Quality Control Board (“RWQCB”) is appropriate under Evidence Code section 452(c), which provides that judicial notice may be taken of “[o]fficial acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.” Records, reports, and orders of administrative agencies are “official acts” of which a court may take judicial notice. (*Rodas v. Spiegel* (2001) 87 Cal.App.4th 513; see also *Divers Environmental Conservation Organization v. SWRCB* (2006) 145 Cal.App.4th 246 (taking judicial notice of orders of the State Water Resources Control Board).)

The RWQCB orders attached to the Declaration of Michael T. Fife as Exhibits A through D, demonstrate that the RWQCB found the Los Angeles County Sanitation District Nos. 14 and 20 to be violating discharge requirements and groundwater quality standards, particularly for nitrate, due to the discharge to the groundwater basin of treated municipal wastewater. This is relevant to this proceeding because the purveyors, through the testimony of Mr. Scalmanini, have identified such wastewater as a component of the Total Sustainable Yield of the Basin. However, on cross-examination, Mr. Scalmanini was unable to answer questions about these RWQCB orders. (Fife Decl., ¶ 8.) The fact that some portion of municipal return flows have contaminated the Basin raises a legal question as to whether these return flows can be considered a part of the Total Sustainable Yield of the Basin.

1 Based on the foregoing, AGWA respectfully requests that the Court take judicial notice of the
2 orders attached as Exhibits A through D to the Declaration of Michael T. Fife filed in support of this
3 request.

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6 Dated: January 28, 2011

BROWNSTEIN HYATT FARBER SCHRECK, LLP



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8 By: _____
9 MICHAEL T. FIFE
10 BRADLEY J. HERREMA
11 ATTORNEYS FOR AGWA
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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 January 28, 2011, I served the foregoing document described as:

**ANTELOPE VALLEY GROUNDWATER AGREEMENT ASSOCIATION'S REQUEST
FOR JUDICIAL NOTICE OF RWQCB ORDERS**

on the interested parties in this action.

By posting it on the website before 5:00 PM on January 28, 2011.
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 January 28, 2011.

MARIA KLACHKO-BLAIR
TYPE OR PRINT NAME

SIGNATURE