

**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 and Julie Barnes, William R. Barnes & Eldora M. Barnes Family Trust of 1989, Thomas M. Bookman, B.J. Calandri, John Calandri, John Calandri as Trustee of the John and B.J. Calandri 2001 Trust, Son Rise Farms, Calmat Land Company, Sal and Connie L. Cardile, Efren and Luz Chavez, Consolidated Rock Products, Del Sur Ranch LLC, Steven Godde as Trustee of the Forrest G. Godde Trust, Lawrence A. Godde, Lawrence A. Godde and Godde Trust, Robert and Phillip Gorrindo, Gorrindo Family Trust, Laura Griffin, Healy Farms, Healy Enterprises, Inc., 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, Maritorena Living Trust, Jose and Marie Maritorena, Richard H. Miner, Barry S. Munz, Terry A. Munz and Kathleen M. Munz, Eugene B. Nebeker, R and M Ranch, Inc., Richard and Michael Nelson, Robert Jones, John and Adrienne Reca, Edgar C. Ritter, Paula E. Ritter, Paula E. Ritter as Trustee of the Ritter Family Trust, Sahara Nursery, Mabel Selak, Jeffrey L. & Nancee J. Siebert, Dr. Samuel Kremen, Tierra Bonita Ranch Company, Beverly Tobias, Triple M Property FKA and 3M Property Investment Co., Vulcan Materials Co. and Vulcan Lands Inc., Willow Springs Company, Donna and Nina Wilson, Ramin Zomorodi, Genz Development and Castle Ranch Estate, **collectively known as the Antelope Valley Groundwater Agreement Association (“AGWA”)**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES**

**ANTELOPE VALLEY  
GROUNDWATER CASES**

) Judicial Council Coordination Proceeding  
) No. 4408  
)

Included Actions:

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

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

) **TRIAL SETTING CONFERENCE  
STATEMENT**  
)

) **Date: November 9, 2012**  
) **Time: 9:00 a.m.**  
) **Dept.: 1**  
)

1 The Antelope Valley Groundwater Agreement Association (“AGWA”) partially joins in  
2 the Trial Setting Conference Statement And Request For Jury Trial On Prescription Claims filed  
3 by Bolthouse Farms, dated November 3, 2012.

4 AGWA does not believe it is possible to resolve this adjudication through litigation. Over  
5 the past several years many parties have expressed the opinion that the only way this case will be  
6 resolved is through settlement, and AGWA believes this remains true. Thus, planning the next  
7 phase of trial is not about trying to find a way to bring the case to conclusion through trial, but is  
8 rather about trying to identify the set of issues for which Court resolution will provide a  
9 meaningful impetus toward settlement.

10 AGWA agrees with Bolthouse that the issue of amounts and rights to return flows from  
11 imported water is a threshold issue that must be tried before any other issues such as prescription.  
12 It will not be possible to determine whether prescriptive rights exist until it is determined what  
13 portion of the Total Safe Yield is constituted by return flows from imported water, and it will not  
14 be possible to determine whether pumping by any of the purveyor parties has established  
15 prescriptive rights until it is determined whether and to what extent such pumping was drawing  
16 from the Native Yield or from return flows from imported water.

17 A trial on amounts and rights to return flows from imported water will involve limited  
18 factual discovery that can be accomplished prior to February 11, 2012. Furthermore, this issue  
19 concerns the largest single claim on the Total Safe Yield and resolution of the issue will have the  
20 greatest impact on the progress of settlement discussions. Additionally, should the next phase of  
21 trial proceed as suggested by AGWA, the Court would not need to appoint a designated expert for  
22 the Wood Class.

23 In contrast to Bolthouse, AGWA believes that Court resolution of issues concerning the  
24 claimed Federal reserved right would also be beneficial to the settlement process. AGWA has  
25 previously articulated the legal issues associated with the claimed reserved right in the factual  
26 situation of the Antelope Valley. (A copy of AGWA’s previous brief on this subject is attached  
27 here as Exhibit “A.”) The Public Water Suppliers’ Trial Setting Conference Statement dated  
28 October 8, 2012, identified this issue as the first issue that should next be tried, and AGWA joins

1 in this recommendation.

2 A trial on the claimed Federal reserved right will involve limited factual discovery that  
3 can be accomplished prior to February 11, 2012. Like the issue of return flows from imported  
4 water, resolution of this issue could also have a significant impact on the progress of settlement  
5 discussions.

6  
7 Dated: November 5, 2012

BROWNSTEIN HYATT FARBER SCHRECK, LLP

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10 By: 

11 MICHAEL T. FIFE  
12 BRADLEY J. HERREMA  
13 ATTORNEYS FOR AGWA  
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