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LOS ANGELES COUNTY WATERWORKS

DISTRICT NO. 40

**EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
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COUNTY WATERWORKS DISTRICT NO. 40

SUPERIOR COURT OF THE STATE OF CALIFORNIA**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 325201;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, Case Nos.
RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053

Assigned to The Honorable Jack Komar

**DECLARATION OF Eugene B. Nebeker Not
IN LIEU OF DEPOSITION TESTIMONY
FOR PHASE 4 TRIAL**

DECLARATION

I, Eugene B. Nebeker _____, declare:

1. I am _____ for _____, a party to this action. I was deposed on January 10, 2012. However, ~~In lieu of deposition testimony for the Phase 4 trial,~~ I am providing this declaration. This declaration applies only to the categories I have filled in. The items left blank or crossed out do not apply to me. I have personal knowledge of each fact herein and would testify competently thereto under oath.

Property Ownership and Parcel Size

2. Eugene B. Nebeker with others _____ owns property that overlies the Antelope Valley Area of Adjudication as decided by this Court. The land is in Los Angeles _____ County and is identified by the following APN/APNs: 3260-010-109, 3260-010-108, 3260-010-022, and 3260-025-032. If additional room is needed, please identify the APN/APNs in Exhibit A.] A true and correct copy of Exhibit A is attached hereto and incorporated herein.

3. The above _____ claims groundwater rights only as to the properties listed in Paragraph 2 and Exhibit A.

4. For each APN/APNs identified above, the total acreage by parcel is as follows: 3260-010-109: 480 acres, 3260-010-108: 60 acres, 3260-010-022: 60 acres and 3260-025-032: 80 acres [If additional room is needed, please identify the APN/APNs and parcel size in Exhibit B.] A true and correct copy of Exhibit B is attached hereto and incorporated herein.

For Items 5, 6, and 7

APN 3260-010-109 was purchased in 1920

APN 3260-010-108 was purchased in 1929

APN 3260-010-022 was purchased in 1953

APN 3260-025-032 was purchased in 1949

Since these purchase dates, Eugene B. Nebeker was a beneficiary or descendent of the purchasers in his immediate family. He personally appeared on the title of all four parcels in

approximately 1994.

In a similar manner, since the purchase date of APN 3260-010-108, the descendents of the original purchaser of a one-half interest, Peter Pfeiffer, eventually became owners of this one-half interest. Since January 1, 2000, Bill Daggett and Richard L. Peters appeared on the ownership with Eugene B. Nebeker. Mr. Peters died in 2007 and his interest passed along to the Estate of Richard L. Peters. This estate distributed in 2009 and the ownership was divided among Phil Peters, Walter Peters, Annette Chesley and Ria Halcomb.

More information is provided in the Deposition of Eugene B. Nebeker on January 10, 2013

5. For each APN/APNs identified above _____ owned the property during the following timer period:

6. The following are all individuals/entities appearing on the title for the above identified APN/APNS from Jan 1, 2000 to the present:

7. For each individual/entity identified in paragraph 6 that individual/entity appeared on the title during the following time :

Leases

8. _____ (declarant or party affiliated with declarant) leases property that _____ own and that overlies the Antelope Valley Area of Adjudication as decided by this court and identified by the following APNS:

9. The total acreage by parcel is:

10. The property is currently leased to:

11. The property was leased on the following dates:

12. The lease provides that _____ may claim groundwater rights from the use of water on the leased property. Attached to this declaration is a true and correct copy of the lease.

[If additional room is needed, please list APN/APNs, acreage by APN, Lessee by APN and dates for each Lessee by APN for each parcel in Exhibit C.] A true and correct copy of Exhibit C is attached hereto and incorporated herein.

13. _____ leases property from _____ which overlies the Antelope Valley Area of Adjudication as decided by this court and is identified by the following APNS:

14. The total acreage by parcel is:

15. The Lease provides that _____ may claim groundwater rights from use of water on leased property. Attached to this declaration is a true and correct copy of the lease.

[If additional room is needed, please attach APN/APNs, Name of the Lessor and acreage by APN for each parcel list in Exhibit D to this declaration.] A true and correct copy of Exhibit D is attached hereto and incorporated herein.

16. _____ claims groundwater rights only as to the leasehold interests listed in Paragraph 15 and Exhibit D.

17. _____ claims groundwater rights only as to the properties listed in Paragraph 2 and Exhibit A and as to the leasehold interests listed in Paragraph 8 and Exhibit C.

18. To the best of my knowledge, only _____ claims groundwater rights as to the leased parcel(s) identified in paragraph 15 and Exhibit D.

Water Meter Records

19. _____ measures the groundwater production on the above referenced properties by water meters. Exhibit E contains the records for these water meters for the following years:

A true and correct copy of Exhibit E is attached hereto and incorporated herein.

20. Exhibit F sets forth the total yearly production amounts by metered water well on the above referenced properties for the years 2000-2004, 2011, and 2012. A true and correct copy of Exhibit F is attached hereto and incorporated herein.

State Water Project Purchases

21. _____ purchases State Water Project water from a State Water Contractor for use by _____ on the properties referenced above. Exhibit G contains true and correct copies of the invoices for delivery of State Water Project Water to the properties referenced above.

22. Exhibit H sets forth the total yearly State Water Project water deliveries to the properties referenced above for the years 2000-2004, 2011, and 2012. A true and correct copy of Exhibit H is attached hereto and incorporated herein.

Pump Tests/ Electric Records

23. In order to calculate groundwater pumped and used on the properties referenced above, Eugene B. Nebeker _____ relied on pump tests and electric records. Exhibit I contains true and correct copies of the pump test records and electrical records for wells on the properties

referenced above. The electric records attached to this declaration as Exhibit I do not include electric use on the properties referenced above for anything other than pumping groundwater with the exception of two small tailwater return pumps that are not used often.

24. Exhibit J sets forth the amount of total yearly groundwater that _____ estimates was pumped and used on the properties referenced above for the years 2000-2004, 2011, and 2012 based on the attached pump test records and electrical records for the wells on the properties referenced above. A true and correct copy of Exhibit J is attached hereto and incorporated herein.

25. Pump tests were performed on the following dates: Information is provided in the Deposition of Eugene B. Nebeker on January 10, 2013

26. _____ is not producing pump test records for the following dates _____ because:

27. I am not aware of any other pump tests having been performed on the properties referenced above.

Pump Tests/Diesel Records

28. In order to calculate groundwater pumped and used on the properties referenced above, _____ relied on pump tests and diesel fuel records. Exhibit K contains true and correct copies of the records pertaining to pump tests and diesel fuel purchases for the properties referenced above. The diesel fuel records attached to this declaration as Exhibit K do not include diesel fuel used on the properties referenced above for anything other than pumping groundwater.

29. Exhibit L sets forth the amounts of total yearly groundwater pumped and used on the properties referenced above for the years 2000-2004, 2011, and 2012. A true and correct copy of Exhibit L is attached hereto and incorporated herein.

30. Pump tests were performed on the following dates:

31. _____ is not producing pump test records for the following dates _____ because:

32. I am not aware of any other pump tests having been performed on the properties referenced above.

Crop Duties and Irrigated Acres

33. In order to calculate water use on the properties referenced above, Eugene B. Nebeker used Crop Water requirements prepared by the University of California Cooperative Extension and has been provided in the deposition of Eugene B. Nebeker on December 8, 2010 _____ ~~relies on the amount of acres in irrigation on the properties referenced above multiplied by the crop duty identified in the Summary Expert Report, Appendix D-3: Table 4, a true and correct copy of which is attached to this declaration as Exhibit M.~~

34. The total amount of irrigated acres and type of crops on the properties referenced above by APN for the years 2000-2004, 2011 and 2012 are described in Exhibit N. A true and correct copy of Exhibit N is attached hereto and incorporated herein.

Other Sources of Water

35. On the properties referenced above, Eugene B. Nebeker _____ received water from sources other than groundwater pumped within the Basin or State Water Project Water. Exhibit O sets forth the source of the water and the amounts received for the years 2000-2004, 2011, and 2012. This data has been posted to the Court website or provided at the deposition of Eugene B. Nebeker on January 10, 2013.

Use of Water *(Complete for each APN. If water for used for multiple purposes, identify the amount of water for each use.)*

36. Eugene B. Nebeker _____ used _____ acre feet of water on

APN#_____ in 2000. The water was used for the following: This data has been posted to the Court website and submitted at the time of the deposition of Eugene B. Nebeker on January 10, 2013_____.

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use. In lieu of answering this question, a crop map may be attached that shows the date, crop type, irrigated acreage and parcels.]

37. Eugene B. Nebeker_____ used _____ acre feet of water on APN#_____ in 2001. The water was used for the following: This data has been posed to the Court website_____.

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use. In lieu of answering this question, a crop map may be attached that shows the date, crop type, irrigated acreage and parcels.]

38. _____ used _____ acre feet of water on APN#_____ in 2002. The water was used for the following:

_____.

39. _____ used _____ acre feet of water on APN#_____ in 2003. The water was used for the following:

_____.

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use. In lieu of answering this question, a crop map may be attached that shows the date, crop type, irrigated acreage and parcels.]

40. _____ used _____ acre feet of water on APN#_____ in 2004. The water was used for the following:

_____.

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use. In lieu of answering this question, a crop map may be attached that shows the date, crop type,

irrigated acreage and parcels.]

41. Eugene B. Nebeker _____ used _____ acre feet of water on
APN# _____ Nebeker Ranch in 2011. The water was used for the following: This data has
been posted to the Court
website. _____.

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use.
In lieu of answering this question, a crop map may be attached that shows the date, crop type,
irrigated acreage and parcels.]

42. _____ used _____ acre feet of water on APN# _____ in 2012. The
water was used for the following:

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use.
In lieu of answering this question, a crop map may be attached that shows the date, crop type,
irrigated acreage and parcels.]

43. Other than what is declared hereinabove, Eugene B. Nebeker _____ did not
produce or use water within the Antelope Valley Area of Adjudication for 2000-2004, 2011, and
2012.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct. Executed this 25th day of January 2013, at Los Angeles,
California.

Eugene B. Nebeker

EXHIBIT "A"

EXHIBIT "B"

[illegible]

[illegible]

EXHIBIT "C"

[illegible]

[illegible]

EXHIBIT "D"

[illegible]

EXHIBIT "E"

EXHIBIT "G"

EXHIBIT "H"

|

EXHIBIT "T"

Edison bills and Edison pump tests furnished at the time of deposition of Eugene B. Nebeker on January 10, 2013.

EXHIBIT "J"

This information has been posted to the Court website.

EXHIBIT "K"

EXHIBIT "L"

EXHIBIT "M"

Appendix D-3: Table 4
Applied Crop Water Duties and Irrigation Efficiency Values
 (DU = 80%)

Antelope Valley Area of Adjudication

Crop	ET _c ¹ (in)	P _e ² (in)	ET _{AW} ³ (in)	DU ⁴ (%)	AW _c ⁵ (in)	AW _{er} ⁶ (in)	AW _{pr} ⁷ (in)	AW _T ⁸ (in) (ft)	E _{ir} ⁹ (%)	
Alfalfa	62.10	1.77	60.33	80	75.42	0	2.0	77.42	8.5	81
Carrots	27.47	0.00	27.47	80	34.33	8	8.5	46.83	3.9	85
Grain	22.64	1.42	21.52	80	26.90	8	4.0	30.90	2.6	83
Melons/Squash	23.91	0.00	23.91	80	29.88	0	4.0	33.88	2.8	82
Onions	37.57	0.00	37.67	80	46.98	3	4.8	53.68	4.5	83
Orchard (Deciduous)	47.38	8.00	47.38	80	59.22	0	0.0	59.22	4.8	80
Pasture	68.19	1.77	64.42	80	80.53	0	0.0	80.53	6.7	80
Potatoes	24.02	0.00	24.02	80	30.03	0	4.0	34.03	2.8	82
Silage	27.31	0.00	27.31	80	34.14	0	4.0	38.14	3.2	82
Sugar Beets	40.55	0.00	40.55	80	50.68	0	4.0	54.68	4.6	81
Vineyard (Grapes)	35.33	0.00	35.33	80	44.18	0	0.0	44.18	3.7	80

¹ ET_c = K_c * ET_o, where ET_o = average ET_o for specified periods, based on data from Victorville CIMIS Station, 1994-2003; K_c values from Univ. California Cooperative Extension

² P_e = effective precipitation offsetting ET_c, up to 1/2 of the average precipitation, in Dec. - Feb., inclusive

³ ET_{AW} = evapotranspiration of applied water = ET_c - P_e

⁴ DU = irrigation distribution uniformity

⁵ AW_c = applied water for crop requirement = ET_{AW} * DU

⁶ AW_{er} = applied water for erosion control

⁷ AW_{pr} = applied water for field preparation and pre-irrigation

⁸ AW_T = applied crop water duty = AW_c + AW_{er} + AW_{pr}

⁹ E_{ir} = overall irrigation efficiency for beneficial uses = (ET_{AW} + AW_{er} + AW_{pr}) / AW_T

This information was provided at the deposition of Eugene B. Nebeker on January 10, 2013

EXHIBIT "O"