

**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

) **AGWA’s STATEMENT OF MEET AND  
CONFER STATUS; MOTION TO AMEND  
CASE MANAGEMENT ORDER**  
)

) **Hearing Date: March 1, 2013**  
) **Time: 9:00 am**  
)

On January 16, 2013, the Court adopted a First Amended Case Management Order (“CMO”), which was subsequently amended again on February 15, 2013. This CMO gave the landowners two weeks (until January 31, 2013) to complete and submit declarations and proposed stipulations regarding their historical pumping. The form for these declarations was prepared by the purveyors in response to the large number of depositions required by the anticipated Phase IV testimony. The stated goal of the declarations was to provide detailed information about pumping beyond what was required by the Phase IV Discovery Order in order to reduce the number of depositions and perhaps simplify the Phase IV trial itself. At great expense, AGWA complied with the aggressive time schedule and submitted declarations by the deadline.

The CMO ordered a meet and confer to take place at 9:00 am on February 15, 2013, for the purpose of scheduling depositions. At approximately 4:00 pm on February 14, 2013, the purveyors notified AGWA of their intent to depose nearly every AGWA member. No explanation was given for the rejection of the AGWA declarations. At the case management conference on February 15, 2013, AGWA requested that the Court direct the purveyors to meet and confer with AGWA and the Court so directed.

**A. Status of Meet and Confer**

On February 19, 2013, a meet and confer conference call was held. Los Angeles County Counsel did not join the conference, so after a brief conversation by the counsel in attendance, the meet and confer was rescheduled to the following morning. At the next call, the purveyors in attendance reiterated their intent to take the scheduled depositions and refused to provide any feedback as to the alleged deficiencies in the declarations and proposed stipulations that result in the need for depositions. This refusal extends even to the smallest AGWA parties who are using less than 10 acre-feet per year. At the end of the meet and confer, Los Angeles County Waterworks agreed to reconsider depositions of the smallest AGWA parties. A follow-up conference was scheduled for February 22, 2013. On February 21, 2012, County Counsel cancelled the follow-up call and indicated that none of the depositions would be taken off calendar. Again, no explanation was provided that would allow AGWA to cure any deficiencies in the declarations.

AGWA understood the intent of the declaration process to be an open exchange of information in order to reduce the burden of the trial process. The declaration and stipulation process was the invention of the purveyors and was endorsed by the Court, which imposed an aggressive time schedule for compliance on the landowners, particularly AGWA, given the large number of parties in the group. However, it turns out that the intent of the process was actually a litigation tactic by the purveyors to obtain additional information prior to taking the depositions. It is not clear at this time whether the purveyors will enter into stipulations with any party. This type of behavior is inappropriate from public agencies.

**B. Motion to Amend Case Management Order**

**1. Amendment Regarding Location of Depositions**

On January 10, 2013 AGWA filed an objection to the notices of deposition by the purveyors. The primary objection to the depositions was that the sheer number of depositions made preparation for trial nearly impossible and created an undue and unnecessary burden. The declaration process proposed by the purveyors was meant to ameliorate this problem. Unfortunately, little has changed since AGWA's objection was filed.

The court can, for "good cause shown," make whatever orders are appropriate to protect any party from "unwarranted annoyance, embarrassment, or oppression, or undue burden and expense." (Code Civ. Proc., § 2025.420(b).) The order may include, but is not limited to, one or more of the following directions:

- (1) That the deposition not be taken at all;
- (2) That the deposition be taken at a different time;
- ...
- (4) That the deposition be taken at a place other than that specified in the deposition notice, if it is within a distance permitted by sections 2025.250 and 2025.260 [75 miles from the party deponent's residence or in the county where the action is pending at a place within 150 miles of the deponent's residence, or further upon proper motion, respectively];
- (5) That the deposition be taken only on certain specified terms and conditions;

(6) That the deponent's testimony be taken by written, instead of oral, examination;

(7) That the method of discovery be interrogatories to a party instead of an oral deposition.

(Code Civ. Proc., § 2025.420(b)(1)-(7).)

In order to reduce the burden of the depositions, AGWA requests that the Court amend the Second Amended Case Management Order to specify that upon request of a party, that party's deposition may be taken at a place within the Los Angeles County portion of the Antelope Valley. A proposed order amending the current Case Management Order accordingly is filed concurrently with this pleading. Since it is not clear what additional information the landowner deponents have to offer the purveyors, it is unduly burdensome to force them to leave work and make a long trip from Antelope Valley to Los Angeles to participate in a non-substantive deposition whose only purpose appears to harass them. The one AGWA deposition that occurred on January 10, 2013, was conducted by LA County counsel whose office is located in downtown Los Angeles. It is AGWA's understanding that other AGWA depositions will also be conducted by LA County counsel. Given the circumstances, it is patently unjust to place all of the burden of these depositions on the landowners. At a meeting of the Liaison Committee held on February 22, 2013, this proposal was agreed-to by the members of the committee in attendance.

## **2. Amendment to Clarify Case Management Order**

The amended Case Management Order for the Phase 4 Trial provides that by Thursday, February 28, 2013, "[s]tipulations or objections to declarations of the parties [are] to be filed." The Court has set an Order to Show Cause hearing to take place on March 15, 2013, concerning "[a]pproval of stipulations of the parties on evidence relevant to Phase Four Trial." However, the mechanics and effect of this process require clarification.

AGWA has submitted numerous declarations in the form of stipulations. These declarations are made by the landowners themselves and provide under oath all of the information that would be provided as trial testimony. If no party has a particularized objection to the contents of these declarations, then on March 15 the Court should approve the declaration as uncontested

1 testimony of the parties. AGWA requests the Court clarify that any party who wishes to object to  
2 a submitted declaration must state good cause why the declaration should not be accepted by the  
3 Court without the necessity of deposition or testimony at trial. A proposed order amending the  
4 current Case Management Order accordingly is filed concurrently with this pleading.

5 At a meeting of the Liaison Committee held on February 22, 2013, the need for such  
6 clarification was agreed-to by the members of the committee in attendance.

7  
8  
9  
10 Dated: February 26, 2013

BROWNSTEIN HYATT FARBER SCHRECK, LLP



11  
12 By: \_\_\_\_\_

MICHAEL T. FIFE  
BRADLEY J. HERREMA  
ATTORNEYS FOR AGWA

**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 February 26, 2013, I served the foregoing document described as:

**AGWA's STATEMENT OF MEET AND CONFER STATUS; MOTION TO  
AMEND CASE MANAGEMENT ORDER**

on the interested parties in this action.

By posting it on the website by 5:00 p.m. on February 26, 2013.

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 February 26, 2013.

**LINDA MINKY  
TYPE OR PRINT NAME**

  
**SIGNATURE**