7

8

9

10

11

12

13

14

15

16

17

18

19

21

22

23

24

25

26

27

28

ANTELOPE VALLEY

**GROUNDWATER CASES** 

1 MICHAEL T. FIFE (State Bar No. 203025) BRADLEY J. HERREMA (State Bar No. 228976) 2 BROWNSTEIN HYATT FARBER SCHRECK, LLP 21 East Carrillo Street 3 Santa Barbara, California 93101 Telephone No: (805) 963-7000 4 Facsimile No: (805) 965-4333 5

Attorneys for: Gene T. Bahlman, William 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., John Javadi and Sahara Nursery, Juniper Hills Water Group, 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, Mabel Selak, Jeffrey L. & Nancee J. Siebert, Dr. Samuel Kremen and 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 Wilson, collectively known as the Antelope Valley Groundwater **Agreement Association ("AGWA")** 

# SUPERIOR COURT OF THE STATE OF CALIFORNIA

# FOR THE COUNTY OF LOS ANGELES

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 20 District No. 40 v. Diamond Farming Co. Date: Superior Court of California, County of Kern, Time: Case No. S-1500-CV-254-348 Wm. Bolthouse Dept: 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

# **OBJECTION OF AGWA TO PUBLIC** PARTIES' JOINT STIPULATION

March 25, 2013

9:00 a.m.

Mosk Courthouse, Room 222

1

SB 641653 v1:037966.0001

The Antelope Valley Groundwater Agreement Association ("AGWA") hereby objects to the Joint Stipulation of Facts for Trial Pursuant to Case Management Order for Phase IV Trial ("Stipulation") filed March 15, 2013 by and amongst the State of California, the City of Los Angeles, by and through its Department of Airports, Los Angeles World Airports ("LAWA"), the County Sanitation Districts of Los Angeles County Nos. 14 and 20 ("LA County Sanitation") and Antelope Valley-East Kern Water Agency ("AVEK") (collectively, the "Public Parties").

AGWA has not yet had the opportunity to depose any of the stipulating parties, and specifically objects to the portions of the Stipulation identified below on the following grounds:

# I. State of California

The California Department of Parks and Recreation ("Parks") alleges that it "owns, operates and/or controls" property within the Antelope Valley Adjudication Area. (Stipulation, ¶ 19.) Based on the Stipulation and information submitted in response to the Court's Phase IV Discovery Order, it is unclear how much property Parks actually owns, versus how much it operates or controls. Further explanation is needed as to the property actually owned by the Department.

### II. LAWA

The Stipulation states that LAWA "leases properties that it owns that overlie the groundwater basin...," (Stipulation, ¶ 64), but does not identify the lessees of such property, and it cannot be determined whether the lessees are also claiming some rights. Although Exhibit C to the Declaration of Vivian D. Howell submitted January 31, 2013 contains copies of lease documents related to leased parcels, the Stipulation does not identify whether or not LAWA retained the groundwater rights under all of these leases. The Stipulation also fails to identify how much LAWA's water use is groundwater, and how much is recycled water or surface water.

# III. LA County Sanitation

Based on its information submitted in Phase IV, LA County Sanitation may claim pumping acreage for an entire parcel, even where only a portion of the identified parcel was actually farmed, as demonstrated in the Declaration of Ray Tremblay in Lieu of Deposition Testimony for Phase IV, filed January 31, 2013 ("Tremblay Decl."). For example, it appears SB 641653 v1:037966.0001

from the Stipulation and its reference to Mr. Tremblay's Declaration that where there is any farming at all on a LA County Sanitation –owned parcel, LA County Sanitation may claim the full acreage for the parcel and multiplies this full acreage by crop water duties, thus improperly assuming higher water usage on the property than may have actually occurred due to farming. (E.g., Exhibits B through J and Attachment 2 to Tremblay Decl.) Where Attachment 2 to the Tremblay Decl. lists crops farmed, these are not correlated with the assessor's parcel numbers provided in Exhibits A1 and A2, and the total acreage for each crop is not apportioned by parcel numbers. AGWA cannot confirm whether or not LA County Sanitation claims the entire acreage under production or only a portion of their acreage under production, thus necessitating that AGWA take the deposition of LA County Sanitation witnesses.

AGWA further objects to the Stipulation based on the amount of return flows claimed by LA County Sanitation, (see Response of LA County Sanitation to Discovery Order for Phase IV Trial, pp. 5-6), as the percentage allocation of return flows applied by LA County Sanitation appears unreasonably high and improperly assumes the return flow calculations contained in the Summary Expert Report for Phase 3 Trial, Section IV and Appendix G, without any independent verification these percentages are accurate. The Court did not make any factual findings related to return flows in the Phase 3 trial. It is also unclear from LA County Sanitation's information how it claims return flows from recycled water where LA County Sanitation is presently under direction from the State Regional Water Quality Control Board, Lahontan Region, not to allow recycled waters to return to the Basin, in accordance with Waste Discharge Requirements. Further deposition testimony on this claimed percentage is necessary to clarify.

Finally, the Stipulation fails to state the source of water and how much groundwater is actually used. LA County Sanitation claims "in-lieu" of pumping groundwater rights, without providing any evidence that the surface water it is taking actually replaces the groundwater it is pumping. (See Tremblay Decl., ¶¶ 41-42.) AGWA cannot verify that the surface water in lieu of groundwater proportionately replaces groundwater that would be pumped otherwise with taking the deposition of LA County Sanitation witnesses.

# BROWNSTEIN HYATT FARBER SCHRECK, LLP 21 East Carrillo Street Santa Barbara, CA 93101-2706

# Dated: March 22, 2013 BROWNSTEIN HYATT FARBER SCHRECK, LLP wheel wit 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 March 22, 2013, I served the foregoing document described as:

# OBJECTION OF AGWA TO PUBLIC PARTIES' JOINT STIPULATION

on the interested parties in this action.

By posting it on the website by 5:00 p.m. on March 22, 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 March 22, 2013.

LINDA MINKY TYPE OR PRINT NAME

