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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-254-348 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

) Judicial Council Coordination Proceeding
) No. 4408
)

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

) **SUPPLEMENTAL REPLY TO**
) **OPPOSITION TO MOTION IN LIMINE OF**
) **AGWA FOR ORDER EXCLUDING**
) **EVIDENCE OF MODELING BY**
) **DESIGNATED EXPERT DENNIS**
) **WILLIAMS; DECLARATION OF RYAN C.**
) **DRAKE**

) Trial Date: February 10, 2014
) Time: 9:00 a.m.
) Dept: Room 222
)

1 The Antelope Valley Groundwater Agreement Association (“AGWA”) respectfully
2 submits this supplemental reply in response to the Public Water Suppliers’ (“PWS”) Opposition
3 to Motion in Limine of AGWA for Order Excluding Evidence of Modeling by Designated Expert
4 Dennis Williams (“PWS Opposition”), filed on January 31, 2014.

5 The PWS Opposition states that the “MODFLOW electronic files comprise an estimated
6 seventeen (17) gigabytes of data.” (PWS Opposition, at 3:5-6.) The PWS Opposition further
7 states that on January 30, 2014, Los Angeles County Waterworks District No. 40 sent Dr.
8 Williams’ modeling files to AGWA via overnight mail. (PWS Opposition, at 3:17-18.)

9 AGWA received the modeling files on January 31, 2014. The files received contain 13.5
10 gigabytes of data, not 17 gigabytes. (Declaration of Ryan C. Drake filed concurrently with this
11 Supplemental Reply (“Drake Decl.”), at ¶ 3.) Upon receiving the files, counsel for AGWA
12 sought out a groundwater hydrologist to review the modeling files. (Drake Decl., at ¶ 4.) On
13 February 5, 2014, counsel for AGWA transmitted the files to hydrologist Todd Umstot, senior
14 hydrologist for Daniel B. Stephens & Associates, Inc., and asked Mr. Umstot to review whether
15 the modeling files were complete in order to review and run the model utilized by Dr. Williams.
16 (Drake Decl., at ¶ 5.)

17 Mr. Umstot reviewed the modeling files given to AGWA, and noted multiple files
18 missing. (See Email from Todd Umstot to Ryan C. Drake, attached as Exhibit “A” to Drake
19 Decl.”) For example, Mr. Umstot explained that the USGS model included in the files only
20 contains input data, and no output data. (See Exhibit “A” to Drake Decl.) Mr. Umstot stated
21 there was no documentation that relates to certain calibration files, “and there are many PEST
22 input and output files missing.” (Exhibit “A” to Drake Decl.) Mr. Umstot also noted additional
23 files missing and the lack of documentation describing the model files. (Exhibit “A” to Drake
24 Decl.)

25 AGWA has acted with the utmost diligence to attempt to review the modeling performed
26 by Dr. Williams and cannot yet even determine whether it has all of the relevant files. In light of
27 this, the assertion by the PWS in their Opposition that AGWA has been given sufficient time to
28 analyze the model and ask meaningful questions in a follow-up deposition is absurd. Under these

1 facts, AGWA would be unduly prejudiced by the introduction of evidence of the modeling and
2 testimony related to the modeling performed by Dr. Williams, and the Court should grant
3 AGWA's Motion in Limine to exclude such evidence.

4
5 Dated: February 6, 2014

BROWNSTEIN HYATT FARBER SCHRECK, LLP

6
7 By: 

8 MICHAEL T. FIFE
9 BRADLEY J. HERREMA
10 ATTORNEYS FOR AGWA
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Declaration of Ryan C. Drake

I, Ryan C. Drake, hereby declare as follows:

1. I am an attorney duly licensed to practice law in the State of California, and am an associate in the law firm of Brownstein Hyatt Farber Schreck LLP, counsel of record for the Antelope Valley Groundwater Agreement Association ("AGWA") in the above-entitled matter. I make this declaration of my own personal knowledge, except for those matters stated on information and belief, and as to those matters, I believe them to be true.

2. AGWA received a set of modeling files on a cd and flash drive from Los Angeles County Waterworks District No. 40 on January 31, 2014.

3. Upon examining the files, I and my firm's IT department determined the files contained 13.5 gigabytes of data.

4. Immediately upon receiving the modeling files, I inquired whether any of AGWA's prior hydrologist experts could review the modeling files on short notice.

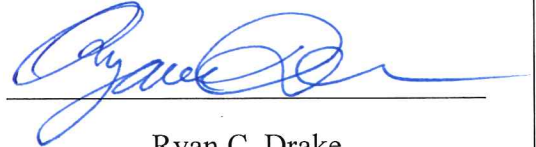
5. On February 5, 2014, I transmitted the files via Federal Express to hydrologist Todd Umstot, senior hydrologist for Daniel B. Stephens & Associates, Inc., and asked Mr. Umstot to review whether the modeling files were complete in order to review and run the model utilized by Dr. Dennis Williams.

6. Mr. Umstot reviewed the modeling files given to AGWA, and noted multiple files missing in an email response to me dated February 6, 2014, at approximately 3:33 pm. (See Email from Todd Umstot to Ryan C. Drake, attached hereto as Exhibit "A.")

7. In his email discussing his preliminary review of the modeling files, attached as Exhibit "A," Mr. Umstot explained that the USGS model included in the files only contains input data, and no output data. Mr. Umstot stated there was no documentation that relates to certain calibration files, "and there are many PEST input and output files missing." Mr. Umstot also noted additional files missing and the lack of documentation describing the model files.

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Dated this 6th day of February, 2014, at Santa Barbara, California.

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**EXHIBIT A TO THE
DECLARATION OF
RYAN C. DRAKE**

Drake, Ryan

From: Umstot, Todd <tumstot@dbstephens.com>
Sent: Thursday, February 06, 2014 3:33 PM
To: Drake, Ryan
Subject: GSSI Model Files

Ryan,

- I received five MODFLOW models. One appears to be from the USGS and the other four are from Geoscience Support Services, Inc. (GSSI).
- The four models from GSSI have both input and output files for MODFLOW
- The USGS model only has the input files. The directory for the USGS output files (AVAA_GW_MODEL\Received_USGS_17_Mar-2012\AV05\output\) is empty.
- I can run all five of the models but I get slightly different results at a few cells of 10 or more feet for the GSSI models. I don't have the USGS output files to make a comparison.
- GSSI used the program PEST to calibrate their models and provided one of the output files in the directory AVAA_GW_MODEL_2\PEST Record Files\ . Each "REC" file represents a different model calibration. However, there is no documentation that relates the PEST calibration files to the model files and there are many PEST input and output files missing. For example, if you open the text file "AV05_PEST_R1.REC" there are references on lines 20, 26, 34, 36, 6738, 11633 and 11635 to the files pestgv.bat, PVAL.TPL, TARGPEST.INS, TARGPEST.OUT, AV05.SEN, AV05.RES and AV05.SEO, respectively, that have not been provided. There should be at least a separate set of "SEN", "RES" and "SEO" output files for each "REC" file. Additionally, each "REC" file represents a model calibration and so there should be a set of MODFLOW input and output files for each calibration attempt.
- The MODFLOW-NWT program used to run the models in the "AVAA_GW_MODEL\Received_USGS_17_Mar-2012\AV05\bin" is missing. The program was blocked by an antivirus program. I obtained a version of MODFLOW-NWT from the USGS website and it runs the models but I'm not sure if the Antelope Valley MODFLOW-NWT version is different as the USGS often modifies MODFLOW for each project.
- There is no documentation describing the model files.

Kind Regards,

Todd

Todd Umstot

Senior Hydrogeologist

Daniel B. Stephens & Associates, Inc.

Hydrology | Engineering | Geoscience

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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: 1020 State Street, Santa Barbara, California 93101.

On February 6, 2014, I served the foregoing document described as:

**SUPPLEMENTAL REPLY TO OPPOSITION TO MOTION IN LIMINE OF AGWA FOR
ORDER EXCLUDING EVIDENCE OF MODELING BY DESIGNATED EXPERT
DENNIS WILLIAMS; DECLARATION OF RYAN C. DRAKE**

on the interested parties in this action.

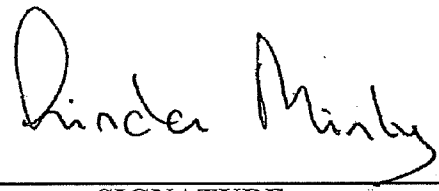
By posting it on the website by 5:00 p.m. on February 6, 2014.

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 6, 2014.

**LINDA MINKY
TYPE OR PRINT NAME**



SIGNATURE