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10 LITTLE ROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT,
11 NORTH EDWARDS WATER DISTRICT, DESERT LAKE COMMUNITY SERVICES DISTRICT,
12 LLANO DEL RIO WATER CO., LLANO MUTUAL WATER CO., BIG ROCK MUTUAL WATER
13 CO.

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**
11

12 Coordinated Proceeding
13 Special Title (Rule 1550(b))

14 ANTELOPE VALLEY GROUNDWATER
15 CASES

16 Included Actions:

17 Los Angeles County Waterworks District No. 40
18 v. Diamond Farming Co. Los Angeles County
19 Superior Court Case No. BC 325201;

20 Los Angeles County Waterworks District No. 40
21 v. Diamond Farming Co., Kern County Superior
22 Court, Case No. S-1500-CV-234348;

23 Wm. Bolthouse Farms, Inc. v. City of Lancaster
24 Diamond Farming Co. v. City of Lancaster v.
25 Palmdale Water District, Riverside County
26 Superior Court, Consolidated Actions, Case Nos.
27 RIC 353840, RIC 344436, RIC 344668

28 AND RELATED CROSS-ACTIONS

Judicial Council Coordination No. 4408

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar – Dept. 12

**EX PARTE APPLICATION FOR AN
ORDER MODIFYING THE ORDER RE:
MOTION FOR AN ORDER AUTHORIZING
COURT-APPOINTED EXPERT WORK,
ENTERED DECEMBER 11, 2012;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
CHRISTINE CARSON**

**[Declaration of Dollie Kostopoulos, [Proposed]
Orders filed herewith]**

DATE: June 27, 2013

TIME: 9:00 a.m.

DEPT.: Telephonic Appearance

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on June 27, 2013 at 9:00 a.m., or as soon thereafter as the matter
3 may be heard before the Honorable Jack Komar, Cross-complainants, LITTLE ROCK CREEK
4 IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT, NORTH EDWARDS WATER
5 DISTRICT and DESERT LAKE COMMUNITY SERVICES DISTRICT (“Moving parties”) will and
6 hereby do make an *ex parte* application for an order Modifying the Order Re: Motion for an Order
7 Authorizing Court-appointed Expert Work, entered on December 11, 2012 so that each of the parties
8 required to pay under that order will pay proportionately based on their proportionate share of 2011-2012
9 groundwater pumping; alternatively, Moving parties will move for an order shortening time. Moving
10 parties will move *ex parte* for such order based on the following:

- 11 1. More than twenty-four (24) hours before the *ex parte* hearing, counsel gave notice of this *ex*
12 *parte* motion, the location and time, the specific relief to be requested, and asked whether
13 counsel would appear and object via posting to the designated website for this case to the
14 attorneys who have appeared as counsel of record. (See Exhibit A to Carson Declaration.)
- 15 2. The Order Re: Motion for An Order Authorizing Court-appointed Expert Work provides that
16 all of the following public water suppliers from the largest to the smallest will pay the exact
17 same amount for the court-appointed expert’s bills: Rosamond Community Services District,
18 Los Angeles County Waterworks District No. 40, Littlerock Creek Irrigation District, Palm
19 Ranch Irrigation District, North Edwards Water District, Desert Lake Community Services
20 District, California Water Service Company, Quartz Hill Water District, the Palmdale Water
21 District, and Phelan Pinon Hills Community Services District. Moving parties move to change
22 the proportion paid by the foregoing PWS parties to be proportionate to their share of the
23 2011-2012 groundwater pumping. (See Carson Declaration, Exhibit C.)
- 24 3. The latest bill has each of such parties paying approximately \$711.36. This is a prohibitively
25 large sum for small water districts such as Desert Lake Community Services District, North

1 Edwards Water District, Littlerock Creek Irrigation District, Palm Ranch Irrigation District.
2 Additional bills from the expert are forthcoming shortly. Therefore, this motion could not be
3 heard as a regular noticed motion.

4 This *ex parte* application and motion is made pursuant to Rules 3.1200-3.1207 of the California
5 Rules of Court and is based on the notice and application, the attached memorandum of points and
6 authorities and Declarations of Dollie Kostopoulos and Christine Carson, and exhibits thereto, the
7 [Proposed] Orders, the pleadings and papers on file herein, and on such further argument and material as
8 the Court may consider at the hearing on this matter.

9
10 DATED: June 25, 2013

LEMIEUX & O'NEILL

11 By: 
12 _____

CHRISTINE CARSON

13 Attorneys for Littlerock Creek Irrigation District, Palm
14 Ranch Irrigation District,
15 North Edwards Water District, Desert Lake Community
16 Services District, Llano del Rio Water Co., Llano Mutual
17 Water Company, Big Rock Mutual Water Company
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. STATEMENT OF FACTS

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4 More than twenty-four (24) hours prior to the hearing on this ex parte application, Moving parties,
5 through counsel, informed all counsel appearing in this matter that moving parties would appear *ex parte*
6 at 9:00 a.m. in this Department at the telephonic Case Management Conference to request that the court
7 approve an ex parte application to modify the Order Re: Motion for an Order Authorizing Court-
8 appointed Expert Work. Moving parties' counsel asked whether counsel would appear and object.
9 (Carson Declaration ¶ 3, Exhibit A.) As of this date, Moving Parties' counsel has not received any
10 notices of intent to object. (*Id.*)

11 Presently, the Order Re: Motion for An Order Authorizing Court-appointed Expert Work provides
12 that all of the following public water suppliers from the largest to the smallest will pay the exact same
13 amount for the court-appointed expert's bills: Rosamond Community Services District, Los Angeles
14 County Waterworks District No. 40, Littlerock Creek Irrigation District, Palm Ranch Irrigation District,
15 North Edwards Water District, Desert Lake Community Services District, California Water Service
16 Company, Quartz Hill Water District, the Palmdale Water District, and Phelan Pinon Hills Community
17 Services District. (Carson Declaration, Exhibit B.)

18 The latest bill has each of such parties paying approximately \$711.36. This is a prohibitively large
19 sum for small water districts such as Desert Lake Community Services District and North Edwards Water
20 District. (Kostopoulos Declaration, ¶¶ 2-4.) Additional bills from the expert are forthcoming shortly and
21 are due only fifteen (15) days after receipt. Therefore, this motion could not be heard as a regular noticed
22 motion. (Carson Declaration ¶ 4.) Moving parties move to change the proportion paid by the foregoing
23 PWS parties mentioned in the Order to be proportionate to their share of 2011-2012 groundwater
24 pumping.

1 **II. ARGUMENT**

2 **A. THIS REQUEST SHOULD BE HEARD ON SHORTENED NOTICE**

3 More than twenty-four (24) hours prior to this appearance, moving parties informed all counsel
4 appearing in this matter that they would appear *ex parte* at 9:00 a.m. in this Department at the telephonic
5 Case Management Conference for the attached proposed order, and asked counsel whether they would
6 appear and object. (Carson Declaration, Exhibit A.) The following attorneys indicated they will stipulate:
7 Doug Evertz representing Rosamond, and Wes Miliband representing Phelan Pinon Hills will stipulate.
8 John Tootle, representing CalWater, indicated he will stipulate. Steve Orr indicated Palmdale will
9 stipulate if the other Public Water Suppliers do. (Carson Declaration, ¶¶ 2-5.)

10 As of this date, moving parties have not received a response from any other parties.

11 This application could not be brought by a regular noticed motion because invoices are being
12 billed presently for the expert's work and will be due fifteen (15) days from receipt. (Carson Declaration,
13 ¶ 4.)

14 **B. A MORE EQUITABLE DISTRIBUTION OF EXPERT COSTS --**
15 **PROPORTIONATE TO EACH PARTY'S GROUNDWATER PUMPING--IS**
16 **WARRANTED.**

17 Presently, the Order Re: Motion for An Order Authorizing Court-appointed Expert Work provides
18 that all of the following public water suppliers from the largest to the smallest will pay the exact same
19 amount for the court-appointed expert's bills: Rosamond Community Services District, Los Angeles
20 County Waterworks District No. 40, Littlerock Creek Irrigation District, Palm Ranch Irrigation District,
21 North Edwards Water District, Desert Lake Community Services District, California Water Service
22 Company, Quartz Hill Water District, the Palmdale Water District, and Phelan Pinon Hills Community
23 Services District. (Exhibit B to Carson Declaration.)

24 The latest bill has each of such parties paying approximately \$711.36. This is a prohibitively large
25 sum for small water districts such as Desert Lake Community Services District, North Edwards Water

1 District, Littlerock Creek Irrigation District, and Palm Ranch Irrigation District. Additional bills from the
2 expert are forthcoming shortly and will be due within 15 days of receipt. Therefore, this motion could not
3 be heard as a regular noticed motion. (Kostopoulos Declaration, ¶¶ 2-4; Carson Declaration, ¶¶ 2-10.)

4 Moving parties move to change the proportion paid by the PWS parties listed in the Order to be
5 proportionate to their share of 2011-2012 groundwater pumping. (Carson Declaration, Exhibit C.)

6 Attached to the Carson Declaration as Exhibit "D" is a true and correct copy of the latest
7 [Proposed] Statement of Decision for the Phase IV Trial. As the Court can see, there is a great disparity
8 in the number of acre feet of groundwater pumped by the largest PWS parties versus the smallest. The
9 revenue and budget of the larger entities is significantly higher. For a small water district such as Desert
10 Lake Community Services District with a small number of connections and rate-payers paying an equal
11 share of the expert bills is a hardship. (Carson Declaration, ¶ 11.) Desert Lake pumped only 27.49 acre
12 feet in 2012, whereas Los Angeles District 40 pumped 20,618.99 acre feet of groundwater in 2012.
13 (Carson Declaration, Exhibit D.)

14 A more fair and equitable break-down is proposed as follows:

15 "The amount of the court appointed expert bill owed by each of the following parties
16 listed below will be calculated as follows: total acre feet of pumping of the following
17 parties for 2011-2012 as determined from the Phase IV trial will be added together for a
18 total (the "Total"). Each of the following parties will pay a proportionate share of the
court appointed expert bill according to each party's percentage of such total pumping
Total.

19 The Court orders the following parties to tender payment of checks payable to "Cardno
20 Entrix", to the Law Offices of Michael D. McLachlan, APC within fifteen (15) days of
21 posting of the notice of payments being due: Rosamond Community Services, Los
22 Angeles County Waterworks District No. 40, Littlerock Creek Irrigation District, Palm
23 Ranch Irrigation District, North Edwards Water District, Desert Lake Community
Services District, California Water Service Company, Quartz Hill Water District,
Palmdale Water District and Phelan Pinon Hills Community Services District."

24 (Exhibit C to Carson Declaration.)
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III. CONCLUSION

For all of the foregoing reasons, the Court should amend the Order to reflect the following:

“The amount of the court appointed expert bill owed by each of the following parties listed below will be calculated as follows: total acre feet of pumping of the following parties for 2011-2012 as determined from the Phase IV trial will be added together for a total (the “Total”). Each of the following parties will pay a proportionate share of the court appointed expert bill according to each party’s percentage of such total pumping Total.

“The Court orders the following parties to tender payment of checks payable to “Cardno Entrix”, to the Law Offices of Michael D. McLachlan, APC within fifteen (15) days of posting of the notice of payments being due: Rosamond Community Services, Los Angeles County Waterworks District No. 40, Littlerock Creek Irrigation District, Palm Ranch Irrigation District, North Edwards Water District, Desert Lake Community Services District, California Water Service Company, Quartz Hill Water District, Palmdale Water District and Phelan Pinon Hills Community Services District.

“To the extent any of the above-referenced parties has already paid in excess of its proportionate share, such party will be entitled to a credit toward its future obligations.”

(Exhibit C to Carson Declaration.)

DATED: June 25, 2013

LEMIEUX & O'NEILL

By: 

CHRISTINE CARSON

Attorneys for Littlerock Creek Irrigation District, Palm Ranch Irrigation District, North Edwards Water District, Desert Lake Community Services District, Llano del Rio Water Co., Llano Mutual Water Company, Big Rock Mutual Water Company

**DECLARATION OF CHRISTINE CARSON
IN SUPPORT OF *EX PARTE* APPLICATION FOR AN ORDER
MODIFYING THE ORDER RE: MOTION FOR AN ORDER AUTHORIZING COURT
APPOINTED EXPERT WORK**

I, CHRISTINE CARSON, declare as follows:

1. I am an attorney at law duly licensed to practice before this and all courts of the State of California. I am an attorney with the law firm of Lemieux & O'Neill, attorneys of record for LITTLEROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT, NORTH EDWARDS WATER DISTRICT, DESERT LAKE COMMUNITY SERVICES DISTRICT, LLANO DEL RIO WATER COMPANY, LLANO MUTUAL WATER COMPANY, and BIG ROCK MUTUAL WATER COMPANY. I have personal knowledge of the facts set forth herein, and if called to testify to the facts stated herein, I could and would competently testify thereto.

2. On or about December 11, 2012, the court entered the Order re: Motion for An Order Authorizing Court-Appointed Expert Work.

3. More than twenty-four hours prior to the subject *ex parte* hearing, this office gave notice of this *ex parte* application, the location and time, via posting to the designated website for this case; the parties have agreed that posting to this website constitutes service. The court approved the use of the website for this purpose. By posting the Ex Parte notice, counsel was notified of the specific relief to be requested. Counsel was asked whether counsel would appear and object. A true and correct copy of the notice posted to the website for this case is attached hereto as Exhibit "A" and incorporated herein by reference.

4. This application could not be brought by a regular noticed motion because Cardno-Entrix has begun generating invoices, and the parties listed in the Court's December 11, 2012 order must pay invoices within 15 days of notice. Moving parties have paid the invoice circulated on June 5, 2013. I have been informed that additional bills are being mailed.

///

1 5. The following counsel indicated they will stipulate to relief requested in the ex parte
2 notice: Doug Evertz representing Rosamond, and Wes Miliband representing Phelan Pinion Hills, and
3 John Tootle, for CalWater. Steve Orr indicated Palmdale will stipulate if the other Public Water Suppliers
4 do.

5 6. As of the time of executing this Declaration, Moving Parties have not received a response
6 from any other parties.

7 7. The Order Re: Motion for An Order Authorizing Court-appointed Expert Work, dated
8 December 11, 2012, provides that all of the following public water suppliers from the largest to the
9 smallest will pay the exact same amount for the court-appointed expert's bills: Rosamond Community
10 Services District, Los Angeles County Waterworks District No. 40, Littlerock Creek Irrigation District,
11 Palm Ranch Irrigation District, North Edwards Water District, Desert Lake Community Services District,
12 California Water Service Company, Quartz Hill Water District, the Palmdale Water District, and Phelan
13 Pinon Hills Community Services District.

14 8. The latest bill has each of such parties paying approximately \$711.36. This is a
15 prohibitively large sum for small water districts such as Desert Lake Community Services District, North
16 Edwards Water District, Littlerock Creek Irrigation District, and Palm Ranch Irrigation District.
17 Additional bills from the expert are forthcoming shortly. Moving parties move to change the proportion
18 paid by the foregoing PWS parties, listed in the December 11, 2012 Order, to be proportionate to their
19 share of 2011-2012 groundwater pumping.

20 9. Attached hereto as Exhibit "B" is a true and correct copy of the court's December 11, 2012
21 Order Re: Motion for an Order Authorizing Court-appointed Expert Work.

22 10. Attached hereto as Exhibit "C" is a true and correct copy of our [Proposed] Amended
23 Order Re: Motion for an Order Authorizing Court-Appointed Expert Work.

24 11. Attached hereto as Exhibit "D" is a true and correct copy of the latest Second Amended
25 [Proposed] Statement of Decision for the Phase IV Trial. There is a great disparity in the number of acre

1 feet of groundwater pumped by the largest PWS parties versus the smallest. On information and belief,
2 the revenue and budget of the larger entities is significantly higher. For small water districts, with a small
3 number of connections and rate-payers, paying an equal share of the expert bills is a hardship.

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

6 Executed this 25th day of June, 2013 in Westlake Village, California.

7 

8 _____
9 Christine Carson, Declarant

June 25, 2013

To Attorneys of Record (*via Lexis-Nexis*):

RE: Antelope Valley Groundwater Cases: Ex Parte Notice

At 9:00 a.m. on June 27, 2013, LITTLEROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT, NORTH EDWARDS WATER DISTRICT and DESERT LAKE COMMUNITY SERVICES DISTRICT will make an *ex parte* application for an order Modifying the Order Re: Motion for an Order Authorizing Court-appointed Expert Work, entered on December 11, 2012 so that each of the parties required to pay under that order will pay proportionately--based on their proportionate share of 2011-2012 groundwater pumping, instead of each paying an equal share regardless of size, pumping or number of connections.

District will move *ex parte* for such order at the telephonic case management conference in the same department and same location as the telephonic Case Management Conference scheduled for June 27, 2013 in this case.

Please notify this office as to whether you will telephonically appear to object.

This *ex parte* application and motion is made pursuant to Rules 3.1200-3.1207 of the California Rules of Court. This motion and application will be based upon the memorandum of points and authorities and Declaration of Christine Carson and exhibits, Declaration of Dollie Kostopoulos, on the pleadings and papers on file herein, the [Proposed] Orders, and on such further argument and material as the Court may consider at the hearing on this matter.

Please contact me if you have any questions.

Very truly yours,

LEMIEUX & O'NEILL



Christine M. Carson

EXHIBIT A
PAGE 1 OF 1

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER
CASES

RICHARD A. WOOD, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

v.

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et al.

Defendants.

Judicial Council Coordination
Proceeding No. 4408

(Santa Clara Case No. 1-05-CV-049053,
Honorable Jack Komar)

Case No.: BC 391869

~~[amended proposed]~~ ORDER RE:
MOTION FOR AN ORDER
AUTHORIZING COURT-
APPOINTED EXPERT WORK

ORDER RE: MOTION FOR AN ORDER AUTHORIZING COURT-
APPOINTED EXPERT WORK

1 On November 9, 2012, the Court heard argument on Richard Wood's Motion for
2 an Order Authorizing the Court-Appointed Expert Witness Work (the "Motion"). After
3 considering the pleadings filed by all parties and the argument of counsel, the Court
4 hereby lifts the stay on the Court-Appointed expert witness work as detailed in the
5 written estimate which is Exhibit 5 to the Motion (dated January 18, 2012). The Court-
6 appointed expert will generate a report detailing the work conducted and the resulting
7 analysis and data generated. Such report or reports will be posted to the court website for
8 this matter by either Class counsel or designated liason counsel for the public water
9 suppliers.

10
11 Expert Communication and Liason Counsel.

12 It is anticipated that the expert will need to communicate with counsel and class
13 members in the conduct of his work. Such communications will occur in writing where
14 practicable and posted to the case website. Jeffrey Dunn or other attorney representative
15 for the public water suppliers, and a designated landowner attorney, shall be copied on
16 such communications.

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18 Payment

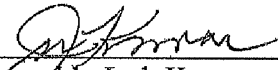
19 The bills of the court-appointed expert will be sent to Class counsel, who will file
20 notice of such bills within ten days of receipt. Such payments will be made on a per
21 capita basis in equal amounts on each bill from the court-appointed expert.

22 The Court orders the following parties to tender payment of checks, payable to
23 "Cardno Entrix," to the Law Offices of Michael D. McLachlan, APC within fifteen (15)
24 days of posting of the notice of payments being due: Rosamond Community Services
25 District, Los Angeles County Waterworks District No. 40, Littlerock Creek Irrigation
26 District, Palm Ranch Irrigation District, North Edwards Water District, Desert Lake
27 Community Services District, California Water Service Company, Quartz Hill Water
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1 District, the Palmdale Water District, and Phelan Pinon Hills Community Services
2 District.

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6 IT IS SO ORDERED.

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8 Dated: 12-11-2012


9 Honorable Jack Komar
10 Judge of the Superior Court
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ORDER RE: MOTION FOR AN ORDER AUTHORIZING COURT-
APPOINTED EXPERT WORK

EXHIBIT B
PAGE 3 OF 3

1 WAYNE K. LEMIEUX (SBN 43501)
2 W. KEITH LEMIEUX (SBN 161850)
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4 4165 E. Thousand Oaks Blvd., Suite 350
5 Westlake Village, CA 91362
6 Telephone: (805) 495-4770
7 Facsimile: (805) 495-2787

8 Attorneys for Defendants/Cross-Complainants
9 LITTLEROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT,
10 NORTH EDWARDS WATER DISTRICT, DESERT LAKE COMMUNITY SERVICES DISTRICT,
11 LLANO DEL-RIO WATER CO., LLANO MUTUAL WATER CO., BIG ROCK MUTUAL WATER
12 CO.

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **IN AND FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

15 Coordinated Proceeding
16 Special Title (Rule 1550(b))

Judicial Council Coordination No. 4408

17 ANTELOPE VALLEY GROUNDWATER
18 CASES

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar – Dept. 12

19 Included Actions:

**[PROPOSED] AMENDED ORDER
RE: MOTION FOR AN ORDER
AUTHORIZING COURT-APPOINTED
EXPERT WORK**

20 Los Angeles County Waterworks District No. 40
21 v. Diamond Farming Co. Los Angeles County
22 Superior Court Case No. BC 325201;

23 Los Angeles County Waterworks District No. 40
24 v. Diamond Farming Co., Kern County Superior
25 Court, Case No. S-1500-CV-234348;

26 Wm. Bolthouse Farms, Inc. v. City of Lancaster
27 Diamond Farming Co. v. City of Lancaster v.
28 Palmdale Water District, Riverside County
Superior Court, Consolidated Actions, Case Nos.
RIC 353840, RIC 344436, RIC 344668

AND RELATED CROSS-ACTIONS

On December 11, 2012, the court entered the Order Re: Motion for an Order Authorizing Court Appointed Expert Work. The court hereby amends its order to read as follows:

On November 9, 2012, the Court heard argument on Richard Wood's Motion for an Order Authorizing the Court-Appointed Expert Witness Work (the "Motion"). After considering the pleadings filed by all parties and the argument of counsel, the Court hereby lifted the stay on the Court-Appointed expert witness work as detailed on the written estimate which is Exhibit 5 to the Motion (dated January 18, 2012). The Court-appointed expert will generate a report detailing the work conducted and the resulting analysis and data generated. Such report or reports will be posted to the court website for this matter by either Class counsel or designated liaison counsel for the public water suppliers.

Expert Communication and Liaison Counsel

It is anticipated that the expert will need to communicate with counsel and class members in the conduct of the work. Such communications will occur in writing where practicable and posted to the case website. Jeffrey Dunn or other attorney representative for the public water suppliers, and a designated landowner attorney, shall be copied on such communications.

Payment

The bills of the court-appointed expert will be sent to Class counsel, who will file notice of such bills within ten (10) days of receipt. The amount of the court appointed expert bill owed by each of the following parties will be calculated as follows: total acre feet of groundwater pumping of the following parties for 2011-2012 as determined from the Phase IV trial will be added together for a total (the "Total"). Each of the below parties will pay a proportionate share of the court appointed expert bill according to each party's percentage of such total groundwater pumping Total.

The Court orders the following parties to tender payment of checks payable to "Cardno Entrix", to the Law Offices of Michael D. McLachlan, APC within fifteen (15) days of posting of the notice of payments being due: Rosamond Community Services, Los Angeles County Waterworks District No. 40, Littlerock Creek Irrigation District, Palm Ranch Irrigation District, North Edwards Water District, Desert

1 Lake Community Services District, California Water Service Company, Quartz Hill Water District,
2 Palmdale Water District and Phelan Pinon Hills Community Services District.

3 To the extent any of the above-referenced parties has already paid in excess of its proportionate
4 share, such party will be entitled to a credit toward its future obligations.

5 IT IS SO ORDERED.

6
7 DATE: _____, 2013

The HONORABLE JACK KOMAR
Judge of the Superior Court

24
25 EXHIBIT C
26 PAGE 3 OF 3

1 BEST BEST & KRIEGER LLP
ERIC L. GARNER, Bar No. 130665
2 JEFFREY V. DUNN, Bar No. 131926
STEFANIE MORRIS, Bar No. 239787
3 18101 VON KARMAN AVENUE, SUITE 1000
IRVINE, CALIFORNIA 92612
4 TELEPHONE: (949) 263-2600
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5 Attorneys for Cross-Complainant
LOS ANGELES COUNTY WATERWORKS
6 DISTRICT NO. 40

7 OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES
8 JOHN F. KRATTLI, Bar No. 82149
COUNTY COUNSEL
9 WARREN WELLEN, Bar No. 139152
PRINCIPAL DEPUTY COUNTY COUNSEL
10 500 WEST TEMPLE STREET
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11 TELEPHONE: (213) 974-8407
TELECOPIER: (213) 687-7337

12 Attorneys for Cross-Complainant LOS ANGELES
13 COUNTY WATERWORKS DISTRICT NO. 40

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES – CENTRAL DISTRICT
16

17 ANTELOPE VALLEY GROUNDWATER
18 CASES

Included Actions:
19 Los Angeles County Waterworks District No.
40 v. Diamond Farming Co., Superior Court of
20 California, County of Los Angeles, Case No.
BC 325201;

21 Los Angeles County Waterworks District No.
22 40 v. Diamond Farming Co., Superior Court of
California, County of Kern, Case No. S-1500-
23 CV-254-348;

24 Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
25 Lancaster, Diamond Farming Co. v. Palmdale
Water Dist., Superior Court of California,
26 County of Riverside, Case Nos. RIC 353 840,
RIC 344 436, RIC 344 668
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EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE SECTION
6103

Judicial Council Coordination No. 4408

CLASS ACTION

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

**SECOND AMENDED [PROPOSED]
STATEMENT OF PARTIAL DECISION
FOR PHASE IV TRIAL**

SECOND AMENDED [PROPOSED] STATEMENT OF PARTIAL DECISION FOR PHASE IV TRIAL

EXHIBIT

PAGE

OF

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The Phase IV trial began on May 28, 2013, in Department 322 of this Court. Over the course of three days, the parties who participated in the Phase IV trial, with the exception of the Wood Class, presented evidence of their respective groundwater pumping during 2011 and 2012. The matter having been submitted, the court now renders its finding of facts in this Phase IV statement of decision.

FINDING OF FACTS

Based on the evidence submitted by the parties who participated in Phase IV, the court finds that the following amounts of groundwater were pumped from the Antelope Valley Groundwater Adjudication Area during 2011 and 2012 by the following parties:

CLAIMANT	2011 Pumping (acre-feet)	2012 Pumping (acre-feet)
Adams Bennett Investments, LLC	0	0
Antelope Park Mutual Water Company	244.7	172.8
Antelope Valley Joint Union High School District	65.94	71.74
Antelope Valley Water Storage LLC	1198	2281
Aqua J Mutual Water Company	42.5	47.3
AV Solar Ranch I, LLC	129	147
AVEK	11463	2792
Averydale Mutual Water Company	247.9	268
Baxter Mutual Water Company	44.9	44.6
Big Rock Mutual Water Company	0	0
Billie and Randall Dickey	0	0
Bleich Flat Mutual Water Company	21.9	24.8
Blum Trust	0	0
Bolthouse Properties LLC/Farms	16720.22	16891.55
Boron Community Service District	228	233
Burrows/300 A40 H LLC	100	100
California Water Service Co.	623	640
City of Lancaster	489.68	523
City of Los Angeles, Department of Airports	5156	4531
Colorado Mutual Water Company	24.1	27.7
Copa De Oro Land Company	0	0
County Sanitation Districts of Los Angeles #14 and 20	575	551

Craig Van Dam	55	57
Crystal Organic LLC	1591.769	1986.096
Del Sur Ranch LLC	0	0
Desert Lakes Community Service District	58	27.49
Diamond Farming Co. LLC	1641.285	1491.989
Donna and Lee Wilson	10	10
Efren Chavez	25.7	25.7
Eldorado Mutual Water Company	272	280.1
eSolar Inc.; Red Dawn Suntower LLC	0	0
eSolar Inc.; Tumbleweed Suntower LLC	0	0
eSolar, Inc.; Sierra Sun Tower, LLC	5.76	5.76
Evergreen Mutual Water Company	66.4	72.6
Frank and Yvonne Lane 1993 Family Trust, Little Rock Sand and Gravel, Inc., George and Charlene Lane Family Trust [Does not include water pumped on land leased to Granite Construction]	1356	948
Gailen and Julie Kyle, R & M Ranch	9108	9442
Gary Van Dam, Gertrude Van Dam, Delmar Van Dam	9840	10023
Gene Bahlman	5.25	5.25
Gorrindo Resourceful LLC	624	0
Granite Construction Company (Little Rock Sand and Gravel, Inc.)	400	400
Grimmway Enterprises, Inc.	0	0
H & N Development Co. West Inc.	1695.25	1904.25
Jane Healy and Healy Enterprises Inc.	0	0
Jeffrey and Nancee Siebert	200	200
John and Adrienne Reca	519.5	483.4
John Calandri, B.J. Calandri, Sunrise Farms	4091	3515
Jose Maritorena, Marie Maritorena, Jean Maritorena, Maritorena Farms, the Jose Maritorena Living Trust	3624.8	3976.3
Juniper Hills Water Group	18	18
Los Angeles County Waterworks District 40	16583.24	20618.99
Land Projects Mutual Water Company	621	624
Landale Mutual Water Company	139.7	175.8
Landinv Inc	1212	862.14
Lapis Land Co., LLC	0	0
Laura Griffin	1170	1170
Lawrence J. Schilling and the L&M Schilling 1992 Family Trust	3.4	3.8

1	Little Rock Creek Irrigation District	1367	1473.37
2	Littlerock Aggregate Co., Inc., Holliday Rock Co., Inc.	145	166
3	Llano Del Rio Water Company	598.2	547.1
4	Llano Mutual Water Company	0	0
5	Mabel Selak	0	0
6	Miracle Improvement Corp. (Golden Sands Mobile Home Park)	46.7	44.1
7	Nebeker Ranch	63	111
8	North Edwards Water District	104.52	101.32
9	Northrop Grumman Systems Corporation	1.5	1
10	NRG Solar Alpine, LLC	1.49	126.92
11	Palm Ranch Irrigation District	916	1545
12	Palmdale Water District	7024.67	7542.85
13	Phelan Pinon Hills Community Services District	1053.14	1035.26
14	Quartz Hill Water District	1433.8	1524.9
15	Richard Miner	930.8	1248
16	Richard Nelson, Willow Springs Co.	168.2	193.1
17	Rosamond Community Services District	2994	2987.56
18	Rosamond Ranch LLP	1	1
19	Sahara Nursery	25.37	18.98
20	Sal and Connie Cardile	0.712	0.712
21	Service Rock Products, L.P.	561	445
22	SGS Antelope Valley Development, LLC	0	0
23	Shadow Acres Mutual Water Company	55.7	49.5
24	Sheep Creek Water Co.	0	0
25	Southern California Edison Company	30.49	5
26	St. Andrews Abbey	149	201
27	State of California -- Department of Military California Highway Patrol 50th District Agricultural Association Department of Veteran Affairs Department of Corrections and Rehabilitation State Lands Commission	0	0
28	State of California Department of Transportation	15.47	15.64
	State of California Department of Water Resources	54.05	54.05
	State of California Department of Parks and Recreation	1.58	1.3
	Steve Godde and Forrest G. Godde 1998 Trust	1299	1624

Sundale Mutual Water Company	430.7	457.8
Sunnyside Mutual Water Company	73.5	77.3
Tejon Ranchcorp and Tejon Ranch Company	1603	2770
Terry Munz	5	5
Thomas Bookman	236.6	308.4
Tierra Bonita Mutual Water Company	43	38.5
Tierra Bonita Ranch	607	403
Triple M Property Co.	1	1
U.S. Borax	924	1146
United States: Edwards AFB and Plant 42	1246.09	1450.59
Vulcan Materials Co., Vulcan Lands Inc., Consolidated Rock Products Co., Calmat Land Co., and Allied Concrete & Materials	634.91	403.29
WAGAS Land Company LLC	951.5	1016.8
WDS California II, LLC	2244	2550
West Side Park Mutual Water Company	294	267.5
White Fence Farms Mutual Water Company	782.8	783.3
Totals	121,429.39	120,415.30

All parties who participated in the Phase IV trial, with the exception of the Wood Class, have also stipulated to the above amounts of groundwater pumped. A copy of the stipulation is attached hereto as Exhibit "A". Notwithstanding the stipulation, the court finds that the evidence presented during the Phase IV trial supports each party's 2011 and 2012 groundwater production amount as stated herein.

GRANITE CONSTRUCTION COMPANY

During the Phase IV trial, the Public Water Suppliers indicated that they dispute the amount of groundwater pumped by Granite Construction Company ("Granite") at its Littlerock Quarry. In response, Granite agreed to install a meter for each of its wells at its Littlerock Quarry within 30 days after the Phase IV trial to measure groundwater pumping for a period of one year. At the conclusion of the one year period Granite and the Public Water Suppliers will compare the meter readings against Granite's 2011 and 2012 product volumes to estimate Granite's groundwater use in 2011 and 2012, and report the findings to the court if such findings differ materially from 400 acre-feet per year. For that reason, the court reserves jurisdiction to amend this decision based on the meter readings as to the amount of groundwater pumped by Granite in

2011 and 2012. In the meantime, the agreement of the parties and the finding of the court is that Granite Construction is deemed to have pumped 400 acre feet of groundwater in 2011 and 2012, respectively.

THE WOOD CLASS

During the Phase IV trial, the Court-appointed expert had not completed its analysis of groundwater pumping by the Wood Class. It did not present any evidence in the Phase IV trial. Consequently, the Court defers the determination of the Wood Class groundwater pumping in 2011 and 2012 to a later time to be determined.

Dated:

JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

I, Kerry V. Keefe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 5 Park Plaza, Suite 1500, Irvine, California, 92614. On June 21, 2013, I served the within document(s):

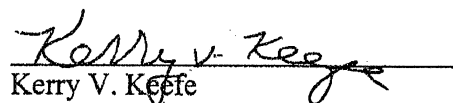
SECOND AMENDED [PROPOSED] STATEMENT OF PARTIAL DECISION FOR PHASE IV

- ☒ by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- ☐ by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on June 21, 2013, at Irvine, California.


Kerry V. Keefe

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA,)
3) ss.
4 COUNTY OF VENTURA)

5 I am employed in the County of Ventura, State of California. I am over the age of 18 and not a
6 party to the within action. My business address is 4165 E. Thousand Oaks Blvd., Suite 350, Westlake
Village, California 91362.

7 On **June 25, 2013**, I posted the following document(s) to the website <http://www.scefiling.org>, a
8 dedicated link to the Antelope Valley Groundwater Cases, and upon which the parties have agreed this
posting constitutes service.

9 **EX PARTE APPLICATION FOR AN ORDER MODIFYING THE ORDER RE: MOTION FOR**
10 **AN ORDER AUTHORIZING COURT-APPOINTED EXPERT WORK, ENTERED DECEMBER**
11 **11, 2012; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF**
CHRISTINE CARSON

12 By electronically serving through <http://www.scefiling.org>, and addressed to all parties appearing
13 on the <http://www.scefiling.org> electronic service list, the file transmission was reported as complete and
14 a copy of the <http://www.scefiling.org> Filing/Service Receipt will be maintained with a copy of the
document in our office.

15 I am readily familiar with the business practice for collection and processing of pleadings and
16 discovery for electronic service with <http://www.scefiling.org>, and that the pleadings and discovery shall
be electronically served this same day in the ordinary course of business.

17 I declare under penalty of perjury under the laws of the State of California that the above is true
18 and correct.

19 Executed on June 25, 2013, in Westlake Village, California.

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22 Kathi Miers
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