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EXEMPT FROM FILING FEES  
UNDER GOVERNMENT CODE  
SECTION 6103

Attorneys for Defendants and Cross-Defendants County Sanitation Districts Nos. 14 and 20 of  
Los Angeles County

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – CENTRAL DISTRICT

**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 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 FOR ALL PURPOSES TO:  
Judge: Honorable Jack Komar

**OBJECTIONS TO AGWA REQUEST FOR  
JUDICIAL NOTICE OF RWQCB ORDERS**

Date: January 3, 2011 (Phase 3 Trial Date)  
Time: 9:00 a.m.  
Place: Dept. 1

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that COUNTY SANITATION DISTRICTS NOS. 14 AND 20  
OF LOS ANGELES COUNTY (“Districts”) object to Antelope Valley Groundwater Agreement

1 Association's Request for Judicial Notice of Regional Water Quality Control Board ("RWQCB")  
2 Orders dated January 28, 2011 ("Judicial Notice Request"), as follows:

3       The Districts object to AGWA's request for judicial notice based on a lack of relevancy.  
4 The Districts acknowledge that judicial notice is proper for documents such as Orders of the  
5 RWQCB. (Cal. Evid. Code § 452(c).) However, in order for the court to take judicial notice of  
6 the RWQCB Orders, the Orders must have relevancy. (*Barratt American, Inc. v. City of San*  
7 *Diego* (2004) 117 Cal.App.4th 809, 812; *People ex rel. Lockyer v. Shamrock Foods Co.*, (2000)  
8 24 Cal.4th 415, 422; *People v. Rowland* (1992) 4 Cal.4th 238, 268; *Tuck v. Thuesen* (1970) 10  
9 Cal.App.3d 193, 199 [overruled on other grounds].) AGWA's Judicial Notice Request does not  
10 have the requisite relevancy and as such, should be denied.

11       AGWA's Judicial Notice Request cites to the testimony of the public water suppliers and  
12 particularly Mr. Scalmanini that recycled water was included as a component of the Total  
13 Sustainable Yield of the Basin. (Judicial Notice Request, p. 2, ll. 21-22.) AGWA then argues  
14 that the use of recycled water return flows to the Basin that are in violation of effluent discharge  
15 requirements "raises a legal question as to whether these return flows can be considered a part of  
16 the Total Sustainable Yield of the Basin." (Judicial Notice Request, p. 2, ll. 24-26.) AGWA cites  
17 to the attached RWQCB Orders for the notion that the RWQCB finds the Districts to be violating  
18 discharge requirements for nitrate. (Judicial Notice Request, p. 2, ll. 17-20 and Fife Declaration,  
19 p.3, ll. 1-3.) Unfortunately, this statement by AGWA and the declaration by Mr. Fife are in  
20 error.

21       The RWQCB Orders sought to be judicially noticed include two orders for the Lancaster  
22 Water Reclamation Plant (District 14), identified as Exhibits A and C. In those orders, the  
23 RWQCB made no findings that District 14 was violating discharge requirements for nitrate and  
24 in fact made no finding that District 14 was in violation of any water quality effluent  
25 requirements. As such, there is no relevancy for this Request for Judicial Notice and should be  
26 denied.

27       AGWA also seeks to judicially notice two orders for the Palmdale Water Reclamation  
28 Plant (District 20), identified as Exhibits B and D. In those orders, the RWQCB did find District

1 20 to be in violation of its discharge requirements for nitrate at the time of the order in 2004 by  
2 exceeding or threatening to exceed the applicable water quality objective for nitrate. (Exhibit B  
3 at Finding 4.) However, the Orders also required that District 20 “cease the discharge of  
4 nitrogen to groundwater that created the condition of pollution” by June 18, 2010. (Exhibit D at  
5 Finding 4.) The Districts met this deadline by changing its discharge practices to ensure no  
6 irrigation in excess of the agronomic and nitrogen needs of the crops and building seasonal  
7 storage to allow for further use of recycled water. (Exhibit D, Findings 3, 4 and 6.)  
8 Furthermore, the Districts have embarked on a program costing in excess of \$300 million to  
9 further treat the recycled water to ensure its use to meet the water quality requirements of the  
10 RWQCB but also to meet the water supply requirements of the Antelope Valley. (Exhibit D,  
11 Finding 3.) Since the RWQCB Orders are not relevant to whether the Districts are currently  
12 discharging in compliance with applicable water quality requirements, the court should deny this  
13 Request for Judicial Notice.

14 AGWA has not demonstrated the relevancy of these RWQCB Orders to justify the Court  
15 to grant its Request for Judicial Notice. The Districts respectfully request the Court to deny the  
16 request.

17  
18 Dated: February 11, 2011

ELLISON, SCHNEIDER & HARRIS L.L.P.

19  
20 By: \_\_\_\_\_  
21 CHRISTOPHER M. SANDERS  
22 Attorneys for Defendants  
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1 **PROOF OF SERVICE**

2 I declare that:

3 I am employed in the County of Sacramento, State of California. I am over the age of  
4 eighteen years and am not a party to the within action. My business address is ELLISON,  
5 SCHNEIDER & HARRIS, L.L.P.; 2600 Capitol Avenue, Ste 400; Sacramento, California  
6 95816; telephone (916) 447-2166.

7 On February 11, 2011, I served the County Sanitation Districts' **OBJECTIONS TO**  
8 **AGWA REQUEST FOR JUDICIAL NOTICE OF RWQCB ORDERS** by electronic posting  
9 to the Santa Clara Superior Court E-Filing website,  
10 <http://www.scefiling.org/cases/casehome.jsp?caseId=19>.

11 I declare under penalty of perjury that the foregoing is true and correct and that this  
12 declaration was executed on February 11, 2011, at Sacramento, California.

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Patty Slomski  
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