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11 **Copa De Oro Land Company**

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **COUNTY OF LOS ANGELES**

14 **Coordination Proceeding Special Title**  
15 **(Rule 1550(b))**

16 **ANTELOPE VALLEY GROUNDWATER**  
17 **CASES**

18 **Included Actions:**

19 **Los Angeles County Waterworks District**  
20 **No. 40 v. Diamond Farming Co., Superior**  
21 **Court of California, County of Los Angeles,**  
22 **Case No. BC 325 201;**

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

27 **Wm. Bolthouse Farms, Inc. v. City of**  
28 **Lancaster, Diamond Farming Co. v.**  
29 **Lancaster, Diamond Farming Co. v.**  
30 **Palmdale Water Dist., Superior Court of**  
31 **California, County of Riverside, Case No.**  
32 **RIC 353 840, RIC 344 436, RIC 344 668**

**JUDICIAL COUNCIL COORDINATION**  
**PROCEEDING NO. 4408**

**Case No. BC 391869**  
**Assigned to Hon. Jack Komar**

**(Santa Clara Case No. 01-05-CV-049053)**

**CROSS-DEFENDANT COPA DE ORO**  
**LAND COMPANY'S TRIAL BRIEF RE**  
**SETTLEMENT AND PROPOSED**  
**PHYSICAL SOLUTION**

**[Phase 6 Trial]**

**Date: September 28, 2015**  
**Time: 9:00 a.m.**  
**Dept.: Room 222, 2nd Floor**  
**Location:**

**Los Angeles Superior Court**  
**111 N. Hill Street**  
**Los Angeles, CA 90012**

## INTRODUCTION

Cross-defendant Copa de Oro Land Company's ("Copa de Oro") submits the following trial brief regarding the prove-up of the global settlement and proposed physical solution. Copa de Oro is a signatory to the global settlement and proposed physical solution that this Court will consider in the next phase of trial. (Stipulation for Entry of Judgment and Physical Solution, filed March 4, 2015, at signature page 39.) Copa de Oro has been allocated a production right as part of that settlement and proposed physical solution.

According to this Court's Second Amended Case Management Order, filed March 27, 2015, the trial will include taking evidence regarding "[p]rove-up by Stipulating Parties" such as Copa de Oro. As discussed further below, Copa de Oro intends to prove-up its participation in the settlement through evidence already in the record concerning property ownership and past water use for Copa de Oro's property. If necessary, Copa de Oro will also introduce the testimony of its expert witness, Vera H. Nelson, P.E., who will testify on the use of water on Copa de Oro's property, specifically agricultural use of the property and evidence of historical groundwater production.

### **EVIDENCE IN THE RECORD REGARDING PROPERTY OWNERSHIP AND WATER USE BETWEEN 2000-2004 FOR COPA DE ORO'S PROPERTY**

Evidence regarding ownership of and water use on Copa de Oro's property has been admitted into the evidentiary record for all purposes. (See 6-COPA-1 to 6-COPA-10; see also Minute Order filed September 4, 2015 (granting Copa de Oro's motion to move property ownership and past water use information into the evidentiary record).)<sup>1</sup> The water use numbers for Copa de Oro's property concern the five years prior to the adjudication (e.g. 2000-2004). (See 6-COPA-5.) These water use numbers relate to proving up Copa de Oro's participation in the settlement because, if the parties had not settled and agreed to imposition of a physical solution, these numbers would be evidence that Copa de Oro's water rights were

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<sup>1</sup> All of Copa de Oro's pre-marked exhibits are available at <http://www.scefiling.org/document/document.jsp?documentId=113122>

1 preserved through self-help against any prescription claim by the public water suppliers during  
2 the five years prior to the adjudication. (*City of Santa Maria v. Adam* (2012) 211 Cal.App.4th  
3 266, 279.) Copa de Oro is informed and believes that expert witnesses offered to support the  
4 settlement and proposed physical solution will rely on water use numbers in the 2000-2004  
5 time period when they opine that the settlement is reasonable and this Court should adopt the  
6 proposed physical solution.

7 Regarding the property ownership and past water use information for Copa de Oro that  
8 is already in the evidentiary record, all parties have either stipulated to the truth of it or were  
9 deemed to have admitted it by this Court's order dated April 30, 2013. (See 6-COPA-4 (order  
10 approving stipulations with Copa de Oro and ordering that a failure to respond to Copa de  
11 Oro's requests for admissions shall be deemed admissions of the matters specified in the  
12 requests).) The effect of these stipulations and admissions is that ownership and past water use  
13 numbers for 2000-2004 for Copa de Oro's property are conclusively established against these  
14 parties. (See Code Civ. Proc., § 2033.410, subd. (a); see *St. Mary v. Sup. Ct.* (2014) 223  
15 Cal.App.4th 762, 7736.) The water use numbers for Copa de Oro's property are:

Year	Water Use (Acre Feet)
2000	708
2001	829
2002	842
2003	867
2004	626

22 (See 6-COPA-5.) No additional evidence is necessary to establish these points at trial  
23 and no contrary evidence is admissible from any party who stipulated to or admitted them.  
24 (Code Civ. Proc., §§ 2033.310-2033.410; *Murillo v. Sup Ct. (People)* (2006) 143 Cal.App.4th  
25 730, 736.)

1                   **PRESENTATION OF ADDITIONAL EXPERT TESTIMONY IF NECESSARY**

2                   If necessary, Copa de Oro is also prepared to introduce the testimony of its disclosed  
3 expert witness, Vera H. Nelson, PE, who would testify on the use of water on Copa de Oro's  
4 property, specifically, agricultural use of the property and evidence of historical groundwater  
5 production. Ms. Nelson's testimony would follow her expert report and expert declaration,  
6 which were served on other parties on January 31, 2013 prior to the Phase 4 proceedings.<sup>2</sup> In  
7 addition, Copa de Oro has served a supplemental declaration that reflects Ms. Nelson's limited  
8 additional technical work to confirm 2002 water use on Copa de Oro's property. Ms. Nelson  
9 also completed that work in 2013.<sup>3</sup>

10  
11 Dated: September 22, 2015

Respectfully submitted,  
BARTKIEWICZ, KRONICK & SHANAHAN  
A Professional Corporation

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13  
14 By: /s/ Andrew J. Ramos  
15 Andrew J. Ramos

16 Attorneys for Cross-Defendant  
17 Copa de Oro Land Company  
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28 <sup>2</sup> Available at <http://www.scefilng.org/document/document.jsp?documentId=76508>

<sup>3</sup> Available at <http://www.scefilng.org/document/document.jsp?documentId=115011>

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**PROOF OF SERVICE**

I, Andrew J. Ramos, declare:

I am a citizen of the United States and a resident of Sacramento County. I am over the age of 18, not a party to this action and am employed at Bartkiewicz, Kronick & Shanahan, 1011 Twenty-Second Street, Sacramento, California 95816. On September 22, 2015, I served, in the manner described below, the following document:

**CROSS-DEFENDANT COPA DE ORO LAND COMPANY’S TRIAL BRIEF**

I posted this document to the Court’s World Wide Website at [www.scefiling.org](http://www.scefiling.org).

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

Executed at Sacramento, California on September 22, 2015.

/s/ Andrew J. Ramos  
Andrew J. Ramos