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Exempt from filing fee
Government Code § 6103

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7 Services District

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11 ANTELOPE VALLEY GROUNDWATER
12 CASES

13 Included Actions:

14 Los Angeles County Waterworks District
15 No. 40 v. Diamond Farming Co.
16 Superior Court of California, County of
17 Los Angeles, Case No. BC325201;

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

22 Wm. Bolthouse Farms, Inc. v. City of
23 Lancaster, Diamond Farming Co. v. City of
24 Lancaster, Diamond Farming Co. v. Palmdale
25 Water Dist., Superior Court of California
26 County of Riverside, consolidated actions; Case
27 Nos. RIC 353 840, RIC 344 436, RIC 344 668.

LASC Case No. BC 325201

Judicial Council Coordination
Proceeding No. 4408

CLASS ACTION

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

**NOTICE OF MOTION AND MOTION *IN*
LIMINE OF ROSAMOND COMMUNITY
SERVICES DISTRICT FOR ORDER:
(1) EXCLUDING ANY EVIDENCE OR
ARGUMENT THAT THE DISTRICT IS
NOT ENTITLED TO PRODUCE
RETURN FLOWS FROM ITS
IMPORTED WATER, AND (2)
EXCLUDING ANY EVIDENCE OR
TESTIMONY CONTRARY TO OR
INCONSISTENT WITH THE RETURN
FLOW FORMULA ADOPTED BY THE
COURT IN THE PHASE III TRIAL;
DECLARATION OF DOUGLAS J.
EVERTZ**

DATE: May 13, 2013
TIME: 9:00 a.m.
DEPT: 1

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

2 **PLEASE TAKE NOTICE** that on May 13, 2013, at 9:00 a.m., or as soon thereafter as the
3 matter can be heard, in Department 1 of the above-entitled Court, located at 111 North Hill Street, Los
4 Angeles, California, defendant Rosamond Community Services District ("District") will, and hereby
5 does move this Court *in limine* for an order (1) excluding any evidence or argument that the district is
6 not entitled to produce return flows from its imported water, and (2) excluding any evidence or
7 testimony contrary to or inconsistent with the return flow formula adopted by the Court in the Phase
8 III Trial ("Motion").

9 This Motion is made pursuant to Evidence Code sections 350, 352, 720, 800, 801 and 803, and
10 the Court's inherent power to regulate the order of proof and conserve judicial resources. This Motion
11 is made on the following grounds:

12 **1. As a matter of law, the purchaser of imported water is entitled to all return flows**
13 **stemming therefrom.** The Rosamond Community Services District (the "District") is informed and
14 believes that certain parties intend to present evidence and argument at the Phase IV Trial that the
15 District and other importers of State Water Project water are not entitled to the prior right to quantities
16 of groundwater attributable to return flows of the imported water. Any such argument has been
17 soundly rejected by the Courts and must be rejected as a matter of law. (*City of Santa Maria v. Adam,*
18 *et al.*, 211 Cal.App.4th 266, 301-302 (2012); *City of Los Angeles v. City of San Fernando*, 14 Cal.3d
19 199, 260-262 (1975).)

20 **2. Absent a properly noticed motion for reconsideration or other request, any**
21 **attempt to present evidence regarding return flow percentages contrary to findings made by this**
22 **Court in the Phase III Trial should be excluded.** The imported water that constitutes return flows
23 was an element of the formula adopted and incorporated by the Court in its safe yield calculation for
24 the Court's Phase III Statement of Decision. The simplified formula adopted by the Court, which was
25 based upon the expert witness testimony of Joseph Scalmanini, is that 39.1% of all imported water
26 utilized for municipal and industrial purposes augments the Basin. Any evidence or opinions
27 inconsistent with this formula, which served as the basis for this Court's Phase III Statement of
28 Decision, must be excluded.

1
2 This Motion is based upon this Notice of Motion and Motion, the attached Memorandum of
3 Points and Authorities, the Declaration of Douglas J. Evertz, and all other pleadings and papers on file
4 herein, and as such evidence and oral argument as may be presented at or before the time of the
5 hearing of this Motion.

6
7 DATED: March 28, 2013

MURPHY & EVERTZ LLP

8
9 By:


Douglas J. Evertz

Attorneys for CITY OF LANCASTER and ROSAMOND
COMMUNITY SERVICES DISTRICT

1 **MEMORANDUM OF POINT AND AUTHORITIES**

2 **I. INTRODUCTION.**

3 Rosamond Community Services District ("District") produces native groundwater and
4 imports State Water Project ("SWP") water for reasonable and beneficial uses, including domestic
5 uses within its service area. The District claims all return flows from its SWP purchases.

6 On July 13, 2011, this Court issued its comprehensive Statement of Decision following the
7 Phase III Trial, finding that the total safe yield should initially be set at 110,000 acre feet per year -- a
8 figure testified to by the Public Water Suppliers' expert witness, Joseph Scalmanini. The amount of
9 imported water that constitutes return flow was an element of the formula testified to by Mr.
10 Scalmanini at the Phase III Trial. The formula testified to by Mr. Scalmanini, and necessarily adopted
11 by the Court, was a recursive 28.1%, which equals 39.1% of all imported water utilized for municipal
12 and industrial purposes.

13 As set forth in the District's responses to the Court-Ordered Phase IV Discovery and the
14 Declaration of Steve A. Perez in Lieu of Deposition Testimony for the Phase IV Trial, the District has
15 purchased, and will continue to purchase, imported SWP water. Accordingly, multiplying the
16 District's annual purchases of SWP water by the return flow percentage of 39.1% is the amount of
17 return flow which is attributable to the District's importation of water and, both as a matter of law and
18 based upon the Court's findings in the Phase III Trial, is the amount of return flow the District has an
19 absolute right to pump. No evidence, opinion or argument to the contrary should be presented at the
20 Phase IV Trial.

21 **II. THE DISTRICT, AS A MATTER OF LAW, IS ENTITLED TO ALL RETURN**
22 **FLOWS ASSOCIATED WITH PURCHASED IMPORTED WATER. ANY**
23 **EVIDENCE OR ARGUMENT TO THE CONTRARY MUST BE EXCLUDED.**

24 As set forth in the District's Responses to the Court-Ordered Phase IV Discovery and the
25 Declaration of Steve A. Perez in Lieu of Deposition Testimony for Phase IV Trial, copies of which are
26 attached to the accompanying Declaration of Douglas J. Evertz as Exhibits "A" and "B," the District
27 has and continues to purchase imported water from the Antelope Valley East Kern Water Agency
28

1 (“AVEK”) for direct use by the District’s customers. In addition, the District purchases imported
2 water from AVEK and banks such water in the Antelope Valley Water Bank.

3 In *City of Los Angeles v. City of San Fernando*, 14 Cal.3d 199 (1975), the Court was presented
4 with the issue of whether the plaintiff City of Los Angeles could claim a prior right to groundwater
5 attributable to return flow from water it purchased from the Metropolitan Water District of Southern
6 California - - a SWP contractor like AVEK. The Court unequivocally held that the purchaser of
7 imported water has the prior right to all return flows that otherwise augment the native supply. The
8 Court held:

9 “In sum, we conclude . . . plaintiff and defendants Glendale and
10 Burbank each has a prior right to return waters in the San Fernando
11 Basin attributable to its deliveries of imported water to users within
12 its own territory in that basin. The imported water to which we refer
13 is the Owens water delivered by plaintiff and the MWD water
14 delivered by plaintiff and each of those defendants. The right to
15 return waters attributable to such deliveries is an undivided right to a
16 quantity of water in the groundwater reservoir equal to the net
17 amount to which the reservoir is augmented by such deliveries.”

18 (14 Cal.3d at 262.)

19 Following the *San Fernando* decision, the Court in *City of Santa Maria v. Adam*, 211
20 Cal.App.4th 266 (2012) recently held that one who purchases and brings water into a watershed
21 retains a prior right to such waters even after it is used. (*Id.* at 301.) The Court held that “the practical
22 reason for the rule is that the importer should be credited with the ‘fruits of his endeavors in bringing
23 into the basin water that would not otherwise be there.’” (*Id.*) The *Santa Maria* Court held:

24 “As described by our Supreme Court, the right to return flows of
25 imported water is an undivided right to a quantity of water in the
26 ground reservoir equal to the net amount by which the reservoir is
27 augmented by such deliveries. [Citation.] Thus, the importers of
28 SWP water may retain a right to the volume of water made available

1 through their efforts. That right is separate from others usufructuray
2 rights in the Basin's native supply."
3 (211 Cal.App.4th at 302.)

4 Following *San Fernando* and *Santa Maria*, this Court should rule as a matter of law that the
5 District has a prior right to quantities of groundwater attributable to return flows of imported water,
6 and any evidence or argument to the contrary must be rejected.

7 **III. NEW "EVIDENCE" OF RETURN FLOW PERCENTAGES FROM IMPORTED**
8 **WATER SHOULD BE EXCLUDED FROM THE PHASE IV TRIAL, AS THIS COURT**
9 **PREVIOUSLY CONSIDERED AND RULED UPON SUCH MATTERS.**

10 This Court, in its Phase III Statement of Decision, concluded the total safe yield of the Basin is
11 110,000 acre feet per year. This ruling is consistent with the January 12, 2011 trial testimony of
12 Joseph C. Scalmanini.¹ As part of his analysis, Mr. Scalmanini concluded the annual native safe yield
13 of the Basin is 82,300 acre feet (Scalmanini Exhibit No. 93) and that the supplemental yield associated
14 with return flows from importing water was 28,200 acre feet (Scalmanini Exhibit No. 95). Mr.
15 Scalmanini's exhibits and prior testimony conclude that 39.1% of all water imported by the District
16 and other Public Water Suppliers for municipal and industrial uses returns to and augments the
17 Basin's supply. Mr. Scalmanini's opinions and testimony were an element of the formula adopted by
18 the Court and incorporated into the safe yield calculations set forth in the Court's Phase III Statement
19 of Decision. The District is informed and believes that despite the Court's prior ruling, certain parties
20 may seek to introduce evidence at the Phase IV Trial regarding what percentage of imported water
21 constitutes return flows.

22 Code of Civil Procedure section 1008 sets forth rules and procedures that must be followed to
23 obtain reconsideration of any order of the Court. Any motion for reconsideration must be based upon
24 "new or different facts, circumstances or law. . ." (Code Civ. Proc., §1008(a)(b).) Code of Civil
25

26 ¹ Mr. Scalmanini's Phase III Trial testimony dated January 12, 2011 (Volume 3, pages 320-398) and
27 Scalmanini trial Exhibit Nos. 62, 63, 65, 67, 68, 70, 71, 72, 73, 75, 76, 77, 78, 79, 93, 95 and 96 are
28 being filed by Los Angeles County Waterworks District No. 40 as part of a request for judicial notice
accompanying County Waterworks District No. 40's own motion in limine on this issue. The District
incorporates County Waterworks District No. 40's request for judicial notice herein by reference.

1 Procedure section 1008 further provides that any such motion must be filed before the same judge and
2 made within ten (10) days after service upon the party of the notice of entry of the order. No such
3 request for reconsideration has been made by any party to this proceeding.

4 The District recognizes that although parties may move for reconsideration only as authorized
5 by Code of Civil Procedure section 1008, the statute does not limit the Court's inherent power to
6 reevaluate its prior rulings on its motions and enter a different order at any time before entry of final
7 judgment. (*Le Francois v. Goel*, 35 Cal.4th 1094, 1107 (2005).) However, the Court must act on its
8 own motion, either as a result of its own second thoughts or in response to a party's request. (*Id.* at
9 1108.) Similarly, before reconsidering an earlier ruling on its own motion, the Court must notify the
10 parties that it is considering taking that action and must solicit briefing and conduct a hearing. (*Id.* at
11 1108.)

12 Here, there has been no formal request for reconsideration by any party pursuant to Code of
13 Civil Procedure section 1008 and this Court has provided no indication that it is intending to
14 reconsider any prior ruling or finding associated with the Phase III Trial. This Court should therefore
15 exclude any new testimony, opinions or arguments at the Phase IV Trial as to the nature and extent of
16 any percentage of imported water that constitutes return flows augmenting the Basin. This Court
17 previously found that 39.1% of all water imported for municipal and industrial uses augments the
18 native supply.

19 **IV. CONCLUSION.**

20 For all the foregoing reasons and authorities, the District respectfully requests that the Motion
21 be granted.

22 DATED: March 28, 2013

MURPHY & EVERTZ LLP

23
24 Bv:


25 Douglas J. Evertz
26 Attorneys for CITY OF LANCASTER and ROSAMOND
27 COMMUNITY SERVICES DISTRICT
28

DECLARATION OF
DOUGLAS J. EVERTZ

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EXHIBIT "A"

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Exempt from filing fee
Government Code § 6103

Attorneys for Defendants
City of Lancaster and Rosamond Community
Services District

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

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LASC Case No. BC 325201

Judicial Council Coordination
Proceeding No. 4408

CLASS ACTION

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

**ROSAMOND COMMUNITY SERVICES
DISTRICT'S RESPONSES TO COURT
ORDERED PHASE IV DISCOVERY**

DATE: February 11, 2013
TIME: 9:00 a.m.
DEPT: 1, Room 534

PROPOUNDING PARTY: Court

RESPONDING PARTY: Rosamond Community Services District

SET NO.: One

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17 The responses contained herein are made in a good faith effort to supply as much factual
18 information and as much specification of legal contentions as are presently known and available but
19 should in no way lead to the prejudice of Responding Party in relation to further discovery, research,
20 or analysis.

Each response is made subject to all objections as to competence, relevance, materiality, propriety, admissibility, attorney-client privilege, attorney work product doctrine, and the deliberative process privilege, as well as any or all other objections and grounds which would require exclusion of evidence. Responding Party reserves the right to make any and all such objections at trial and at any other proceeding relating to this action.

1 The specific responses and objections given below are submitted without prejudice to, and
2 without waiving, any of these objections even though the general objections are not expressly set forth
3 in each response.

4 **RESPONSES**

5 **ARTICLE I. FOR ALL PARTIES CLAIMING AN OVERLYING GROUNDWATER**
6 **RIGHT, INCLUDING PUBLIC WATER AND OTHER PRODUCERS WHO ALSO**
7 **CLAIM A PRESCRIPTIVE RIGHT UNDER CATEGORY II BELOW**

8 1. For each parcel of real property the responding party owns or occupies or otherwise
9 controls in the Antelope Valley Adjudication Area, please state with particularity the following
10 information:

11
12 **REQUEST I.1(A):**

13 The Kern County Treasurer Tax Collector's "Assessor Tax Number" or the Los Angeles
14 County Office of the Assessor "Assessor's Identification Number" of the parcel. If the identifying
15 parcel number has changed since 1999, please state both the current and previous number and the date
16 the new identifying parcel number was assigned.

17
18 **RESPONSE TO REQUEST I.1(A):**

19 The Rosamond Community Services District ("District") owns parcels within its jurisdiction.
20 For the purposes of this response, the District identifies only those parcels that utilize water wells. See
21 attached Exhibit "A."

22
23 **REQUEST I.1(B):**

24 All record title owners of the parcel from 2000 to the present.

25
26 **RESPONSE TO REQUEST I.1(B):**

27 The District.

1 **REQUEST I.1(C):**

2 Whether a groundwater well existed on the parcel in any or all of calendar years 2000, 2001,
3 2002, 2003, 2004, 2011 or 2012.

4
5 **RESPONSE TO REQUEST I.1(C):**

6 A groundwater well existed on each parcel referenced in Exhibit "A" during 2000, 2001, 2002,
7 2003, 2004, 2011, and 2012.

8
9 **REQUEST I.1(D):**

10 Whether a groundwater well was operated on the parcel in any or all of calendar years 2000,
11 2001, 2002, 2003, 2004, 2011 or 2012.

12
13 **RESPONSE TO REQUEST I.1(D):**

14 A groundwater well was operated on each parcel as referenced in Exhibit "A."

15
16 **REQUEST I.1(E):**

17 The amount of groundwater produced from the parcel for calendar years 2000, 2001, 2002,
18 2003, 2004, 2011, and/or 2012.

19
20 **RESPONSE TO REQUEST I.1(E):**

21 See attached Exhibit "A."

22
23 **REQUEST I.1(F):**

24 The use(s) to which the groundwater produced from the parcel was put on said parcel in any or
25 all of calendar years 2000, 2001, 2002, 2003, 2004, 2011, or 2012.

26
27 **RESPONSE TO REQUEST I.1(F):**

28 All water produced was used for municipal, domestic and industrial uses.

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1 **REQUEST I.1(G):**

2 If groundwater produced from another parcel was used on the parcel during any or all calendar
3 years 2000, 2001, 2002, 2003, 2004, 2011, or 2012, please state the Kern County Treasurer Tax
4 Collector's "Assessor Tax Number" or the Los Angeles County Office of the Assessor "Assessor's
5 Identification Number" of the parcel(s) from which the subject groundwater was produced and
6 identify the owner thereof.

7
8 **RESPONSE TO REQUEST I.1(G):**

9 The groundwater produced by the District was delivered to the customers of the District.

10
11 **REQUEST I.1(H):**

12 The use(s) to which the parcel was put during calendar years 2011 and 2012.

13
14 **RESPONSE TO REQUEST I.1(H):**

15 The parcels were used to produce and distribute water to the District's customers.

16
17 **REQUEST I.1(I):**

18 The crop type, if any, grown on the parcel during each of the calendar years 2000, 2001, 2002,
19 2003, 2004, 2011, and 2012.

20
21 **RESPONSE TO REQUEST I.1(I):**

22 No crops were grown on the parcels owned by the District.

23
24 **REQUEST I.1(J):**

25 If the responding party contends the parcel has groundwater rights based upon something other
26 than groundwater production or use, please state the amount of that claim for each of the calendar
27 years 2000, 2001, 2002, 2003, 2004, 2011, and 2012, and its legal and factual basis therefor.

1 **RESPONSE TO REQUEST I.1(J):**

2 The District asserts groundwater rights based on prescriptive rights, the rights of its customers,
3 rights to return flows, appropriative rights, and Water Code sections 106 and 106.5.
4

5 **REQUEST I.1(K):**

6 State the amount of water rights claimed as the reasonable and beneficial use for each such
7 parcel.
8

9 **RESPONSE TO REQUEST I.1(K):**

10 See Exhibit "A" and responses to Sections II and III.
11

12 **REQUEST I.1(K):**

13 At the responding party's election any other facts that the responding party contends will assist
14 the Court in determining the amount of groundwater produced from each parcel of land owned or
15 controlled by the responding party in any or all calendar years 2000, 2001, 2002, 2003, 2004, 2011
16 and 2012.
17

18 **RESPONSE TO REQUEST I.1(K):**

19 In response to this request, the District offers all responses to any requests in this discovery, all
20 documents included with this response, and all evidence admitted in the prior phases of trial. In
21 addition, see the Summary Expert Report from the Public Water Suppliers submitted prior to the
22 Phase III trial.
23

24 2. For each parcel of real property the responding party owned in the Antelope Valley
25 Adjudication Area during calendar years 2000, 2001, 2002, 2003, 2004, 2011 or 2012, please state
26 with particularity the following information:
27
28

1 **REQUEST I.2(A):**

2 Whether the responding party leased any or all of the parcel.
3

4 **RESPONSE TO REQUEST I.2(A):**

5 The District did not lease any of its parcels.
6

7 **REQUEST I.2(B):**

8 The name of the lessee.
9

10 **RESPONSE TO REQUEST I.2(B):**

11 The District did not lease any of its parcels.
12

13 **REQUEST I.2(C):**

14 If the parcel was leased, the Kern County Treasurer Tax Collector's "Assessor Tax Number"
15 or the Los Angeles County Office of the Assessor "Assessor's Identification Number" of the parcel.
16 If the identifying parcel number has changed since 1999, please state both the current and previous
17 number and the date the new identifying parcel number was assigned.
18

19 **RESPONSE TO REQUEST I.2(C):**

20 The District did not lease any of its parcels.
21

22 **REQUEST I.2(D):**

23 How, if at all, the lease or other written agreement allocated credits for the groundwater
24 produced by the lessee.
25

26 **RESPONSE TO REQUEST I.2(D):**

27 The District did not lease any of its parcels.
28

1 **REQUEST I.2(E):**

2 How much, if any, groundwater was produced by the lessee and delivered to another parcel. If
3 so, the Kern County Treasurer Tax Collector's "Assessor Tax Number" or the Los Angeles County
4 Office of the Assessor "Assessor's Identification Number" of the parcel for the year(s) in which such
5 groundwater was produced and delivered.
6

7 **RESPONSE TO REQUEST I.2(E):**

8 The District did not lease any of its parcels.
9

10 **REQUEST I.2(F):**

11 If known, the use(s) to which groundwater was put on the leased parcel for calendar years
12 2011 and 2012.
13

14 **RESPONSE TO REQUEST I.2(F):**

15 The District did not lease any of its parcels.
16

17 3. For all parcels of land identified in response to Request No. 1 above, please state with
18 particularity the following information:
19

20 **REQUEST I.3(A):**

21 All materials constituting the responding party's *prima facie* showing of the amount of
22 groundwater produced from each parcel of land owned or controlled by the responding party in
23 calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012.
24

25 **RESPONSE TO REQUEST I.3(A):**

26 Meter readings summarized in attached Exhibit "A."
27
28

1 **REQUEST 1.3(B):**

2 All materials constituting the responding party's *prima facie* showing of the use(s) to which
3 the responding party put each parcel of land controlled by the responding party in calendar years 2011
4 and 2012.

5
6 **RESPONSE TO REQUEST 1.3(B):**

7 These materials would include, but not limited to: all service agreements between the District
8 and its customers; all studies, reports, budgets, and board minutes. The parcels identified in these
9 responses were used to produce groundwater for distribution to the District's customers. Those
10 customers used that water for municipal, domestic and industrial purposes.

11
12 **REQUEST 1.3(C):**

13 At the responding party's election, any additional materials that will assist the Court in
14 determining the amount of groundwater produced from each parcel of land by the responding party in
15 any or all calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012.

16
17 **RESPONSE TO REQUEST 1.3(C):**

18 The District offers all responses to any requests in this discover, all documents included with
19 this response, and all evidence admitted in prior phases of trial. Additionally, see the Summary Expert
20 Report from the Public Water Suppliers submitted prior to the Phase III trial.

21
22 **ARTICLE II. FOR ALL PARTIES CLAIMING A NON-OVERLYING RIGHT,**
23 **INCLUDING APPROPRIATIVE, PRESCRIPTIVE OR OTHERWISE**

- 24 1. Please state with particularity the following information:
25
26
27
28

1 **REQUEST II.1(A):**

2 The amount of groundwater the responding party produced in each of the calendar years 2000,
3 2001, 2002, 2003, 2004, 2011, and 2012 over and above any water claimed to have been pumped as
4 an overlying owner.

5
6 **RESPONSE TO REQUEST II.1(A):**

7 See attached Exhibit "A."

8
9 **REQUEST II.1(B):**

10 The Kern County Treasurer Tax Collector's "Assessor Tax Number" or the Los Angeles
11 County Office of the Assessor "Assessor's Identification Number" of the parcel(s) from which the
12 subject groundwater was produced and identify the owner thereof. If the identifying parcel number
13 has changed since 1999, please state both the current and previous number and the date the new
14 identifying parcel number was assigned.

15
16 **RESPONSE TO REQUEST II.1(B):**

17 See attached Exhibit "A."

18
19 **REQUEST II.1(C):**

20 The well identification number(s) for each well that the responding party used to produce
21 groundwater in each of calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012.

22
23 **RESPONSE TO REQUEST II.1(C):**

24 See attached Exhibit "A."

25
26 **REQUEST II.1(D):**

27 The amount of groundwater produced from each well identified on the responding party's
28 parcels in calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012.

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1 **RESPONSE TO REQUEST II.1(D):**

2 See attached Exhibit "A."

4 **REQUEST II.1(E):**

5 The methodology used in determining the amount of groundwater produced on the responding
6 party's parcels in each of calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012, *e.g.* pump
7 tests, meter records).

9 **RESPONSE TO REQUEST II.1(E):**

10 Meter records.

12 **REQUEST II.1(F):**

13 For all groundwater pumping in each of the calendar years 2000, 2001, 2002, 2003, 2004,
14 2011 and 2012 for parcels in Los Angeles County, copies of notices of groundwater extraction filed
15 with the State Water Resources Control Board pursuant to Water Code section 4999 *et seq.* for each
16 year filed.

18 **RESPONSE TO REQUEST II.1(F):**

19 Not applicable. The District produces water in Kern County.

21 **REQUEST II.1(G):**

22 State whether the groundwater produced during the identified years was used for any purpose
23 other than municipal supply. If so, state the use(s) to which such water was put in each of the calendar
24 years 2000, 2001, 2002, 2003, 2004, 2011, and 2012.

26 **RESPONSE TO REQUEST II.1(G):**

27 All groundwater was used for municipal, domestic and industrial purposes.

1 **REQUEST II.1(H):**

2 The amount of groundwater produced that was used for outdoor irrigation.

3
4 **RESPONSE TO REQUEST II.1(H):**

5 The District objects to this request, as the question calls for the rendering of an expert opinion.
6 This information has previously been disclosed and adjudicated in the third phase of the trial. Without
7 waiving these objections, the District responds as follows:

8 Reference is made to the expert materials previously provided to parties and the court which
9 reflect the following information:

10 The amount of groundwater used by the District's customers for outdoor irrigation was an
11 element of the formula that was adopted and incorporated by the court in its calculation of the safe
12 yield for the Antelope Valley Adjudication Area in its Phase III decision. This amount, the underlying
13 percentages, and the application of those elements to the return flow from imported water, have thus
14 already been determined by the court.

15 In support thereof the District incorporates by this reference the court's Phase III decision, the
16 testimony of expert witness Joseph Scalmanini and Scalmanini trial exhibits 87, 88, 92, 93, and 96.

17 The amount of groundwater that was used for outdoor irrigation varies based upon the amount
18 of groundwater delivered to the District's customers. The ratio outdoor irrigation to total water
19 purchased by the District's customers is described in the Summary Expert Report, Antelope Valley
20 Area of Adjudication, paragraph 5.1.2 and Appendix D.3.3; Appendix E, 3.2.1.1. See also Table E3-
21 1, from Appendix E.

22 See attached Exhibit "A" for imported water for the years 1999, 2000, 2001, 2002, 2003, 2004,
23 2011 and 2012 and the consequence of multiplying that number by the simplified return flow
24 percentage of 39.1%.

25 **ARTICLE III. FOR ALL PARTIES CLAIMING RETURN FLOW CREDITS**

26 1. Please state with particularity the following information:
27
28

1 **REQUEST III.1(A):**

2 The amount of the responding party's groundwater pumping that constitutes the production of
3 return flows from **water imported** into the Basin.

4
5 **RESPONSE REQUEST III.1(A):**

6 Zero.

7
8 **REQUEST III.1(B):**

9 The amount of return flows from **imported water** the responding party claims to have had a
10 right to pump for each of calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012.

11
12 **RESPONSE TO REQUEST III.1(B):**

13 The District claims to have the right to pump all return flow from all water it imported. The
14 District objects to this request, as this question calls for the rendering of an expert opinion. This
15 information has previously been disclosed and adjudicated in the third phase of the trial. Without
16 waiving these objections, the District responds as follows:

17 Reference is made to the expert materials previously provided to parties and the court which
18 reflect the following information:

19 The amount of imported water that constitutes return flow was an element of the formula that
20 was adopted and incorporated by the court in its calculation of the safe yield for the Antelope Valley
21 Adjudication Area in its Phase III decision. This amount, the underlying percentages, and the
22 application of those elements to the return flow from imported water, have thus already been
23 determined by the court.

24 In support thereof, the District incorporates by this reference the court's Phase III decision, the
25 testimony of expert witness Joseph Scalmanini and Scalmanini trial exhibits 62, 63, 65, 66, 67, 68, 70,
26 71, 72, 73, 75, 76, 77, 78, 79, 93, 94, 95, and 96.

27 The amount of return flow is also described in the Summary Expert Report, Antelope Valley
28 Area of Adjudication, paragraph 4.2.3 and Appendix D.4.2; Appendix E, 3.2.1.1. The formula is set

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1 forth in Appendix F.3. The simplified formula adopted by the court, and expert witnesses Joseph
2 Scalmanini was a recursive 28.1%, which equals 39.1% of all imported water.

3 See the attached Exhibit "A" for imported water for the years 1999, 2000, 2001, 2002, 2003,
4 2004, 2011 and 2012. The consequence of multiplying that number by the simplified return flow
5 percentage of 39.1% is the amount of return flow which attributable to the District's importation of
6 water all of which the District has the right to pump.

7
8 **REQUEST III.1(C):**

9 The methodology used for determining the amount of return flows from **imported water** the
10 responding party claims to have had a right to pump for each of calendar years 2000, 2001, 2002,
11 2003, 2004, 2011 and 2012.

12
13 **RESPONSE TO REQUEST III.1(C):**

14 The District objects to this request, as the question calls for the rendering of an expert opinion.
15 This information has previously been disclosed and adjudicated in the third phase of the trial. Without
16 waiving these objections, the District responds as follows:

17 Reference to the expert materials previously provided to parties and the court reflect the
18 following information:

19 The methodology used was to multiply the amount of water imported against the return flow
20 percentage, as described in response to request III.1(B).

21 See attached Exhibit "A" for imported water for the years 2000, 2001, 2002, 2003, 2004, 2011
22 and 2012 and the consequence of multiplying that number by the simplified return flow percentage of
23 39.1%.

24
25 **REQUEST III.1(D):**

26 The total amount of **water imported** by the responding party in each of calendar years 2000,
27 2001, 2002, 2003, 2004, 2011 and 2012.

1 **RESPONSE TO REQUEST III.1(D):**

2 See attached Exhibit "A."

4 **REQUEST III.1(E):**

5 Water quality information and water constituents for any and all **imported water** for which
6 the responding party claims a right in each of calendar years 2000, 2001, 2002, 2003, 2004, 2011 and
7 2012.

9 **RESPONSE TO REQUEST III.1(E):**

10 The District relies upon Antelope Valley East Kern Water Agency to treat imported water so
11 that it meets all California and federal water quality standards. All additional water quality questions
12 apropos imported water should be directed to the Antelope Valley East Kern Water Agency.

14 **REQUEST III.1(F):**

15 Identify the use(s) to which **imported water** was(were) put in each of calendar years 2000,
16 2001, 2002, 2003, 2004, 2011 and 2012.

18 **RESPONSE TO REQUEST III.1(F):**

19 Municipal, domestic and industrial.

21 **REQUEST III.1(G):**

22 The date(s) on which any and all **imported water** was imported to the Basin in each of
23 calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012.

25 **RESPONSE TO REQUEST III.1(G):**

26 See attached Exhibit "A."

1 **REQUEST III.1(H):**

2 The geological conditions below the parcels for which the responding party claims return flow
3 credits/rights from **imported water** in each of calendar years 2000, 2001, 2002, 2003, 2004, 2011 and
4 2012.

5
6 **RESPONSE TO REQUEST III.1(H):**

7 The District objects to this request, as the question calls for the rendering of an expert opinion.
8 This information has previously been disclosed and adjudicated in the third phase of the trial. Without
9 waiving these objections, the District responds as follows:

10 Reference is made to the expert materials previously provided to parties and the court which
11 reflect the following information:

12 The geologic conditions were an element of the formula that was adopted and incorporated by
13 the court in its calculation of the safe yield for the Antelope Valley Adjudication Area in its Phase III
14 decision. The geologic conditions were also incorporated by the court in its Phase II decision. The
15 District incorporates by this reference the court's Phase II and Phase III decisions, the testimony of
16 expert witnesses Kenneth Utley and Joseph Scalmanini; and the trial exhibits of those experts.

17 The District claims that return flow rights are owned by the party that imports the water and
18 are not dependent on where in the Antelope Valley Adjudication Area the imported water is used.
19 Imported water is delivered to the customers of the District who use it throughout the service area of
20 the District.

21 The geology of the Antelope Valley Adjudication Area and the service area of the District is
22 described in Summary Expert Report, Antelope Valley Area of Adjudication, part III, and also in
23 Appendix B and Section 2.

24
25 **REQUEST III.1(I):**

26 The distance to the groundwater aquifer from the point any and all claimed **imported water**
27 was deposited and the soil types under the deposition point.

1 **RESPONSE TO REQUEST III.1(f)::**

2 The District objects to this request, as the question calls for the rendering of an expert opinion.
3 This information has previously been disclosed and adjudicated in the third phase of the trial. Without
4 waiving these objections, the District responds as follows:

5 Reference is made to the expert materials previously provided to parties and the court which
6 reflect the following information:

7 The District delivered water to its customers throughout its service area. Those customers
8 used this water on their parcels. Some of this water was therefore deposited on those parcels, some of
9 this water ran off onto other parcels, some of this water was transported to other areas of the Antelope
10 Valley Adjudication Area by the Sanitation Districts of Los Angeles County, and thereafter deposited,
11 or recycled and delivered to other areas of the Antelope Valley Adjudication Area that uses recycled
12 water.

13 The distance to the groundwater aquifer therefore varies based upon where this water was
14 used.

15 The geologic conditions were an element of the formula that was adopted and incorporated by
16 the court in its calculation of the safe yield for the Antelope Valley Adjudication Area in its Phase III
17 decision. The geologic conditions were also incorporated by the court in its Phase II decision. The
18 District incorporates by this reference the court's Phase II and Phase III decisions, the testimony of
19 expert witnesses Kenneth Utley and Joseph Scalmanini; and the trial exhibits of those experts.

20 The District claims that return flow rights are owned by the party that imports the water and
21 are not dependent on where in the Antelope Valley Adjudication Area the imported water is used.
22 Imported water is delivered to the customers of the District who use it throughout the service area of
23 the District.

24 The geology of the Antelope Valley Adjudication Area and the service area of the District is
25 described in Summary Expert Report, Antelope Valley Area of Adjudication, part III, and also in
26 Appendix B and Section 2.

1 **REQUEST III.1(J):**

2 The amount of time the responding party contends the claimed return flows took to reach the
3 groundwater aquifer from the time of importation to the Antelope Valley.
4

5 **RESPONSE TO REQUEST III.1(J):**

6 The District objects to this request, as the question calls for the rendering of an expert opinion.
7 This information has previously been disclosed and adjudicated in the third phase of the trial. Without
8 waiving these objections, the District responds as follows:

9 Reference is made to the expert materials previously provided to parties and the court which
10 reflect the following information:

11 The amount of time return flow takes to reach the groundwater aquifer was an element of the
12 formula that was adopted and incorporated by the court in its calculation of the safe yield for the
13 Antelope Valley Adjudication Area in its Phase III decision. The District incorporates by this
14 reference the court's Phase III decision, the testimony of expert witness Mark J. Wildermouth; and
15 Wildermouth trial exhibits 63-70.

16 This time varies based upon many factors. See Summary Expert Report, Antelope Valley
17 Area of Adjudication, Appendix D.4.2 and Appendix F.2 and Appendix F.3.2.
18

19 **REQUEST III.1(K):**

20 Any physical evidence in the responding party's custody, control or possession that return
21 flows augmented the Basin. If such information is in the possession of others, and not produced by
22 the responding party, please provide the contact information of such party.
23

24 **RESPONSE TO REQUEST III.1(K)::**

25 The District objects to this request, as the question calls for the rendering of an expert opinion.
26 This information has previously been disclosed and adjudicated in the third phase of the trial. Without
27 waiving these objections, the District responds as follows:

28 Reference is made to the expert materials previously provided to parties and the court which

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1 reflect the following information:

2 The Antelope Valley Adjudication Area has been dramatically overdrafted since 1945. The
3 reduction in the decline of groundwater levels since the importation of water through the State Water
4 Project starting in the 1970s is physical evidence that return flow has augmented the basin. Each and
5 every well log that shows the decline in the reduction of groundwater levels and the increase of
6 groundwater levels is physical evidence of the augmentation of groundwater. At the Phase III trial,
7 expert witness Mark Wildermouth presented summary evidence of these well logs. The District
8 incorporates by this reference the court's Phase III decision, the testimony of expert witnesses Mark J.
9 Wildermouth, and Wildermouth trial exhibits 33- 45; together with the testimony of Joseph
10 Scalamanini and Kenneth Utley in Phase III. Additionally, see Appendix B and Sections 2 and 4 of
11 the Summary Expert Report.

12
13 **REQUEST III.1(L):**

14 The geographic location(s) claimed by the responding party that return flows enter the
15 groundwater aquifer.

16
17 **RESPONSE TO REQUEST III.1(L):**

18 The District claims to have the right to pump all return flow from all water it imported.

19 The District objects to this request, as the question calls for the rendering of an expert opinion.
20 This information has previously been disclosed and adjudicated in the third phase of the trial. Without
21 waiving these objections, the District responds as follows:

22 Reference is made to the expert materials previously provided to parties and the court which
23 reflect the following information:

24 The District delivered water to its customers throughout its service area. Those customers
25 used this water on their parcels. Some of this water therefore entered the groundwater aquifer below
26 parcels, some of this water ran off onto other parcels, and entered the aquifer below those parcels,
27 some of this water was transported to other areas of the Antelope Valley Adjudication Area by the
28 Sanitation Districts of Los Angeles County, and thereafter deposited, or recycled and delivered to

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1 other areas of the Antelope Valley Adjudication Area that uses recycled water. Apropos the
2 previously described water, some followed local geologic conditions and entered the aquifer at
3 locations other than directly below the parcel where the water was used or deposited. The Antelope
4 Valley Adjudication Area is a closed basin therefore all water calculated to return from the
5 importation of water entered the aquifer.

6 Where the water enters the aquifer therefore varies based upon where this water was used.

7 The geologic conditions were an element of the formula that was adopted and incorporated by
8 the court in its calculation of the safe yield for the Antelope Valley Adjudication Area in its Phase III
9 decision. The geologic conditions were also incorporated by the court in its Phase I and Phase II
10 decisions. The District incorporates by this reference the court's Phase I, II and III decisions; the
11 testimony of expert witnesses Kenneth Utley and Joseph Scalmanini; and the trial exhibits of those
12 experts.

13
14 **REQUEST III.1(M):**

15 The portion, if any, that the responding party's claimed return flows water entered a municipal
16 sewer system.

17
18 **RESPONSE TO REQUEST III.1(M):**

19 The District claims to have the right to pump all return flow from all water it imported.

20 The District objects to this request, as the question calls for the rendering of an expert opinion.
21 This information has previously been disclosed and adjudicated in the third phase of the trial. Without
22 waiving these objections, the District responds as follows:

23 Reference is made to the expert materials previously provided to parties and the court which
24 reflect the following information:

25 The amount imported water that constitutes return flow, a subset of which is return flow that
26 enters a municipal sewer system, was an element of the formula that was adopted and incorporated by
27 the court in its calculation of the safe yield for the Antelope Valley Adjudication Area in its Phase III
28 decision. This amount, the underlying percentages, and the application of those elements to the return

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1 flow from imported water, have thus been determined by the court. The District incorporates by this
2 reference the court's Phase III decision, the testimony of expert witness Joseph Scalmanini and his
3 trial exhibits, in particular Scalmanini trial exhibits 71, 72, 73, 79, 94, 95, and 96.

4 The amount of return flow is also described in the Summary Expert Report, Antelope Valley
5 Area of Adjudication, paragraph 4.2.3 and Appendix D.4.2; Appendix E, 3.2.1.1; Appendix F.2. The
6 formula is set forth in Appendix F.3. The simplified formula, adopted by the court and expert
7 witnesses Joseph Scalmanini, was a recursive 28.1%, which equals 39.1% of all imported water.

8 See attached Exhibit "A" for imported water for the years 1999, 2000, 2001, 2002, 2003, 2004,
9 2011 and 2012 and the consequence of multiplying that number by 39.1%.

10
11 **REQUEST III.1(N):**

12 The geographic location(s) that municipal wastewater from local public wastewater systems
13 augment the Basin?

14
15 **RESPONSE TO REQUEST III.1(N):**

16 See Summary Expert Report, Antelope Valley Area of Adjudication, Appendix F.2, which lists
17 the locations as:

18 Lancaster WRP - Paiute Ponds

19 Lancaster WRP - treatment ponds

20 Lancaster WRP area - agric.

21 Palmdale WRP - treatment ponds

22 Palmdale WRP - land application

23 Palmdale WRP area - agric.

24
25 **ARTICLE IV. FOR THE FEDERAL PARTIES**

26 1. The United States shall produce a statement on its claims to water based on federal law
27 consistent with security concerns.

1 **REQUEST IV.1(A):**

2 The amount of its claimed Federal Reserved Right in acre feet of water per year.
3

4 **RESPONSE TO REQUEST IV.1(A):**

5 Not applicable.
6

7 **REQUEST IV.1(B):**

8 A statement containing the legal theory upon which its claims to federal reserved water rights
9 are based, including citations of pertinent legal or case authorities and Congressional acts.
10

11 **RESPONSE TO REQUEST IV.1(B):**

12 Not applicable.
13

14 **REQUEST IV.1(C):**

15 The factual basis for its claim including a reference to pertinent legal or case authorities and
16 Congressional acts.
17

18 **RESPONSE TO REQUEST IV.1(C):**

19 Not applicable.
20

21 **REQUEST IV.1(D):**

22 For lands within Edwards Air Force Base and Air Force Plant 42 that were purchased or
23 otherwise acquired from non-federal sources, the United States will provide detailed information on
24 the acquisitions.
25

26 **RESPONSE TO REQUEST IV.1(D):**

27 Not applicable.
28

1 **REQUEST IV.1(E):**

2 A statement on the quantity of water reserved necessary to satisfy the purpose(s) of the
3 reservation.

4
5 **RESPONSE TO REQUEST IV.1(E):**

6 Not applicable.
7

8 **REQUEST IV.1(F):**

9 Whether the claimed reservation of groundwater by the Federal Government is expressed or
10 implied.

11
12 **RESPONSE TO REQUEST IV.1(F):**

13 Not applicable.
14

15 **REQUEST IV.1(G):**

16 The identity of all lands set aside for the reservation by the Federal Government, including the
17 Kern County Treasurer Tax Collector's "Assessor Tax Number" or the Los Angeles County Office of
18 the Assessor "Assessor's Identification Number" of the parcel(s).

19
20 **RESPONSE REQUEST IV.1(G):**

21 Not applicable.
22

23 **REQUEST IV.1(H):**

24 Whether the Federal Government claims any portion of Edwards Air Force Base is an original
25 reservation of land that never entered the public domain. If so, describe such portion(s) and why it
26 (they) never entered the public domain.
27
28

1 **RESPONSE TO REQUEST IV.1(H):**

2 Not applicable.

4 **REQUEST IV.1(I):**

5 Please provide specific acquisitions of property and the dates of such acquisitions.

7 **RESPONSE TO REQUEST IV.1(I):**

8 Not applicable.

10 **REQUEST IV.1(J):**

11 The amount of surplus groundwater, if any, the Federal Government contends remained in the
12 ANTELOPE VALLEY ADJUDICATION AREA at the time of the reservations of land by the
13 Federal Government for Edwards Air Force Base and the factual basis for such claim.

15 **RESPONSE TO REQUEST IV.1(J)::**

16 Not applicable.

18 **REQUEST IV.1(L):**

19 The amount of ground water used on he reserved lands in each of calendar years 2000, 2001,
20 2002, 2003, 2004, 2011 and 2012.

22 **RESPONSE TO REQUEST IV.1(L):**

23 Not applicable.

25 **REQUEST IV.1(M):**

26 The amount of groundwater used on Edwards Air Force Base that are not part of the reserved
27 lands in each of calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012.

1 **RESPONSE TO REQUEST IV.1(M):**

2 Not applicable.

4 **REQUEST IV.1(N):**

5 The amount of groundwater used to irrigate and operate Muroc Lake Golf Course in each of
6 calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012.

8 **RESPONSE TO REQUEST IV.1(N):**

9 Not applicable.

11 **REQUEST IV.1(O):**

12 The amount of water used on Edwards Air Force Base by all persons and entities other than the
13 Federal Government in each of calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012.

15 **RESPONSE TO REQUEST IV.1(O):**

16 Not applicable.

18 **ARTICLE V. FOR ALL RESPONDING PARTIES**

19 **REQUEST V.1:**

20 1. For each of the items above, please identify the person(s) most qualified to testify on its
21 behalf to the facts alleged and materials produced.

23 ///

25 ///

27 ///

1 **RESPONSE TO REQUEST V.1:**

2 The persons most qualified to testify on behalf of the District to the facts alleged and produced
3 are Steve Perez, General Manager, Rosamond Community Services District and John Houghton,
4 Assistant General Manager. Mr. Perez and Mr. Houghton will not be designated as expert witnesses
5 pursuant to Code of Civil Procedure section 2034.260 and accordingly will not be qualified to offer
6 expert opinions regarding any matter.

7
8 DATED: December 20, 2012 MURPHY & EVERTZ LLP

9
10 By: 

11 Douglas J. Evertz, Attorney for Defendants
12 City of Lancaster and Rosamond Community Services
13 District
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28

VERIFICATION

STATE OF CALIFORNIA)
COUNTY OF _____)

I, Steve A. Perez, declare:

I am the General Manager of the Rosamond Community Services District in the above-entitled matter. I have read the foregoing **ROSAMOND COMMUNITY SERVICES DISTRICT'S RESPONSES TO COURT ORDERED PHASE IV DISCOVERY** and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare (or certify) under penalty of perjury that the foregoing is true and correct.

Executed on 12/18, 2012, at Rosamond, California.

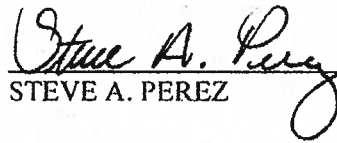

STEVE A. PEREZ

EXHIBIT “A”

Rosamond Community Services District
Water Usage Data for 2000, 2001, 2002, 2003, 2004, 2011, 2012

2000				
Well Nam	APN	Well ID #	GW Pumped in 2000	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	221.7 ac/ft	35th St. West Turnout
				1,333 ac/ft
Well # 6	258-160-36-5	1510018 - 007	341 ac/ft	Sierra Hwy Vault
				305 ac/ft
Well # 7	473-022-20-0	1510018 - 008	253 ac/ft	Total 1,638 ac/ft
Well # 8	375-010-20-4	1510018 - 009	646 ac/ft	
Total			1,461.7 ac/ft	
2001				
Well Nam	APN	Well ID #	GW Pumped in 2001	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	245.5 ac/ft	35th St. West Turnout
				677 ac/ft
Well # 6	258-160-36-5	1510018 - 007	324 ac/ft	Sierra Hwy Vault
				304 ac/ft
Well # 7	473-022-20-0	1510018 - 008	237 ac/ft	Total 981 ac/ft
Well # 8	375-010-20-4	1510018 - 009	1,362 ac/ft	
Total			2,168.5 ac/ft	
2002				
Well Nam	APN	Well ID #	GW Pumped in 2002	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	182 ac/ft	35th St. West Turnout
				530 ac/ft
Well # 6	258-160-36-5	1510018 - 007	279 ac/ft	Sierra Hwy Vault
				315 ac/ft
Well # 7	473-022-20-0	1510018 - 008	225 ac/ft	Total 845 ac/ft
Well # 8	375-010-20-4	1510018 - 009	1,637 ac/ft	
Total			2,323 ac/ft	
2003				
Well Nam	APN	Well ID #	GW Pumped in 2003	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	232 ac/ft	35th St. West Turnout
				936 ac/ft
Well # 6	258-160-36-5	1510018 - 007	338 ac/ft	Sierra Hwy Vault
				283 ac/ft
Well # 7	473-022-20-0	1510018 - 008	158 ac/ft	Total 1,219 ac/ft
Well # 8	375-010-20-4	1510018 - 009	1,041 ac/ft	
Total			1,769 ac/ft	

Rosamond Community Services District
Water Usage Data for 2000, 2001, 2002, 2003, 2004, 2011, 2012

2004				
Well Nam	APN	Well ID #	GW Pumped in 2003	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	298 ac/ft	35th St. West Turnout
				901 ac/ft
Well # 6	258-160-36-5	1510018 - 007	323 ac/ft	Sierra Hwy Vault
				292 ac/ft
Well # 7	473-022-20-0	1510018 - 008	161 ac/ft	Total 1,193 ac/ft
Well # 8	375-010-20-4	1510018 - 009	1,213 ac/ft	
		Total	1,995 ac/ft	
2011				
Well Nam	APN	Well ID #	GW Pumped in 2011	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	229 ac/ft	35th St. West Turnout
				240 ac/ft
Well # 8	375-010-20-4	1510018 - 009	1,334 ac/ft	Sierra Hwy Vault
				96 ac/ft
Well # 9	375-113-19-8	1510018 - 002	1,431 ac/ft	Total 336 ac/ft
		Total	2,994 ac/ft	
2012 as of 12/18				
Well Nam	APN	Well ID #	GW Pumped in 2012	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	405 ac/ft	35th St. West Turnout
				17 ac/ft
Well # 8	375-010-20-4	1510018 - 009	777 ac/ft	Sierra Hwy Vault
				17 ac/ft
Well # 9	375-113-19-8	1510018 - 002	1,678 ac/ft	Total 34 ac/ft
		Total	2,860 ac/ft	

2010 - RCSD Banked 595.6 ac/ft in the Antelope Valley Water Bank (AVWB)

2011 - RCSD banked 1,017 ac/ft in the AVWB

2011 - RCSD Ordered an additional 1,000 ac/ft and began banking 500 ac/ft of this order in the AVWB on 12/18/12, the remaining 500 ac/ft will be delivered as soon as AVEK can release it. All banked water has been purchased from our State Water Contractor Antelope Valley East Kern Water Agency AVEK

1 **PROOF OF SERVICE**

2 **ANTELOPE VALLEY GROUNDWATER CASES**

3 Judicial Council Coordination, Proceeding No. 4408

4 Santa Clara Case No. 1-05-CV 049053

5 Assigned to the Honorable Jack Komar

6 Los Angeles County Superior Court, Central, Dept. 1

7 I am a resident of the State of California, over 18 years of age and not a party to this action. I
8 am employed in the County of Orange, State of California. My business address is 650 Town Center
9 Drive, Suite 550, Costa Mesa, California 92626.

10 On December 21, 2012, I served the within document(s):

11 **ROSAMOND COMMUNITY SERVICES DISTRICT'S RESPONSES TO COURT**
12 **ORDERED PHASE IV DISCOVERY**

13 ☒ by posting the document(s) listed above to the website <http://www.scefilings.org>, a
14 dedicated link to the Antelope Valley Groundwater Cases; Santa Clara Case
15 No. 1-05-CV 049053, Assigned to the Honorable Jack Komar, said document(s) is
16 electronically served/distributed therewith.

17 ☐ By transmitting via e-mail the document(s) listed above to the e-mail address(es) and/or
18 fax number(s) set forth below on this date.

19 ☐ by placing the document(s) listed above in a sealed Overnight Express envelope/package for
20 overnight delivery at Costa Mesa, California addressed as set forth below.

21 ☐ by causing personal delivery by Nationwide Legal of the document(s) listed above, to the
22 person(s) at the address(es) set forth below.

23 I am readily familiar with Murphy & Evertz, LLP's practice for collecting and processing
24 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on
25 the same day that the correspondence is placed for collection and mailing, it is deposited in the
26 ordinary course of business with the United States Postal Service, in a sealed envelope with postage
27 fully prepaid.

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

Executed on December 21, 2012, at Costa Mesa, California.


Stephanie Patis

EXHIBIT “B”

BEST BEST & KRIEGER LLP
ERIC L. GARNER, Bar No. 130665
JEFFREY V. DUNN, Bar No. 131926
STEFANIE D. HEDLUND, Bar No. 239787
18101 VON KARMAN AVENUE, SUITE 1000
IRVINE, CALIFORNIA 92612
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Attorneys for Cross-Complainant
LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40

**EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103**

OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES
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COUNTY COUNSEL
WARREN WELLEN, Bar No. 139152
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Attorneys for Cross-Complainant **LOS ANGELES**
COUNTY WATERWORKS DISTRICT NO. 40

SUPERIOR COURT OF THE STATE OF CALIFORNIA
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 325201;

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, 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 to The Honorable Jack Komar

**DECLARATION OF STEVE A. PEREZ ON
BEHALF OF ROSAMOND COMMUNITY
SERVICES DISTRICT IN LIEU OF
DEPOSITION TESTIMONY FOR PHASE 4
TRIAL**

DECLARATION

I, Steve A. Perez, declare:

1. I am the General Manager for the Rosamond Community Services District ("District"), a party to this action. In lieu of deposition testimony for the Phase 4 trial, I am providing this declaration. This declaration applies only to the categories I have filled in. The items left blank or crossed out do not apply to me. I have personal knowledge of each fact herein and would testify competently thereto under oath.

Property Ownership and Parcel Size

2. The District owns property that overlies the Antelope Valley Area of Adjudication as decided by this Court.

The land is located within Kern County. For the purposes of this declaration, the District identifies only those parcels that utilize water wells. The Assessor Parcel Numbers are: 258-110-09-7; 258-160-36-5; 473-022-20-0; 375-010-20-4; and 375-113-19-8.

3. The District produces water from these parcels for distribution to its customers.

4. For each APN/APNs identified above, the total acreage by parcel is as follows:

Not applicable.

If additional room is needed, please identify the APN/APNs and parcel size in Exhibit B.]
A true and correct copy of Exhibit B is attached hereto and incorporated herein.

5. For each APN/APNs identified above the City owned the property during the following time period:

6. The following are all individuals/entities appearing on the title for the above identified APN/APNS from Jan 1, 2000 to the present:

The District

7. For each individual/entity identified in paragraph 6 that individual/entity appeared on the title during the following time:

Leases (Not applicable.)

8. _____ (declarant or party affiliated with declarant) leases property that _____ own and that overlies the Antelope Valley Area of Adjudication as decided by this court and identified by the following APNS:

9. The total acreage by parcel is:

10. The property is currently leased to:

11. The property was leased on the following dates:

12. The lease provides that _____ may claim groundwater rights from the use of water on the leased property. Attached to this declaration is a true and correct copy of the lease.

[If additional room is needed, please list APN/APNs, acreage by APN, Lessee by APN and dates for each Lessee by APN for each parcel in Exhibit C.] A true and correct copy of Exhibit C is attached hereto and incorporated herein.

13. _____ leases property from _____ which overlies the Antelope Valley Area of Adjudication as decided by this court and is identified by the following APNS:

14. The total acreage by parcel is:

15. The Lease provides that _____ may claim groundwater rights from use of water on leased property. Attached to this declaration is a true and correct copy of the

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1 lease.

2
3 [If additional room is needed, please attach APN/APNs, Name of the Lessor and acreage
4 by APN for each parcel list in Exhibit D to this declaration.] A true and correct copy of Exhibit D
5 is attached hereto and incorporated herein.

6 16. _____ claims groundwater rights only as to the leasehold
7 interests listed in Paragraph 15 and Exhibit D.

8 17. _____ claims groundwater rights only as to the properties
9 listed in Paragraph 2 and Exhibit A and as to the leasehold interests listed in Paragraph 8 and
10 Exhibit C.

11 18. To the best of my knowledge, only _____ claims groundwater rights as
12 to the leased parcel(s) identified in paragraph 15 and Exhibit D.

13 **Water Meter Records**

14 19. The District measures the groundwater production on the above referenced
15 properties by water meters. Exhibit E contains the records for these water meters for the
16 following years:

17 2000, 2001, 2002, 2003, 2004, 2011 and 2012

18 A true and correct copy of Exhibit E is attached hereto and incorporated herein.

19 20. Exhibit E sets forth the total yearly production amounts by metered water well on
20 the above referenced properties for the years 2000-2004, 2011, and 2012 (through 12/18/12). A
21 true and correct copy of Exhibit E is attached hereto and incorporated herein.

22 **State Water Project Purchases**

23 21. The District purchases State Water Project water from a State Water Contractor for
24 use by its customers on the properties referenced above. The District purchased the following
25 amounts of water from AVEK:

26 2000 1,638 ac/ft.

27 2001 981 ac/ft.

28 2002 845 ac/ft.

1 2003 1219 ac/ft.

2 2004 1193 ac/ft.

3 2011 336 ac/ft.

4 2012 34 ac/ft.

5 In 2011, the District also banked 1,017 ac/ft. in the Antelope Valley Water Bank. In
6 2012, the District ordered an additional 1,000 ac/ft. and began banking this order in December
7 2012.

8 22. Exhibit E sets forth the total yearly State Water Project water deliveries to the
9 properties referenced above for the years 2000-2004, 2011, and 2012. A true and correct copy of
10 Exhibit E is attached hereto and incorporated herein.

11 **Pump Tests/ Electric Records** (Not applicable.)

12 23. In order to calculate groundwater pumped and used on the properties referenced
13 above, _____ relied on pump tests and electric records. Exhibit I contains true and
14 correct copies of the pump test records and electrical records for wells on the properties
15 referenced above. The electric records attached to this declaration as Exhibit I do not include
16 electric use on the properties referenced above for anything other than pumping groundwater.

17 24. Exhibit J sets forth the amount of total yearly groundwater that _____
18 estimates was pumped and used on the properties referenced above for the years 2000-2004,
19 2011, and 2012 based on the attached pump test records and electrical records for the wells on the
20 properties referenced above. A true and correct copy of Exhibit J is attached hereto and
21 incorporated herein.

22 25. Pump tests were performed on the following dates:

23 _____.

24 26. _____ is not producing pump test records for the following
25 dates _____ because:

26 _____.

27 27. I am not aware of any other pump tests having been performed on the properties
28 referenced above.

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Pump Tests/Diesel Records (Not applicable.)

28. In order to calculate groundwater pumped and used on the properties referenced above, _____ relied on pump tests and diesel fuel records. Exhibit K contains true and correct copies of the records pertaining to pump tests and diesel fuel purchases for the properties referenced above. The diesel fuel records attached to this declaration as Exhibit K do not include diesel fuel used on the properties referenced above for anything other than pumping groundwater.

29. Exhibit L sets forth the amounts of total yearly groundwater pumped and used on the properties referenced above for the years 2000-2004, 2011, and 2012. A true and correct copy of Exhibit L is attached hereto and incorporated herein.

30. Pump tests were performed on the following dates:

31. _____ is not producing pump test records for the following dates _____ because:

32. I am not aware of any other pump tests having been performed on the properties referenced above.

Crop Duties and Irrigated Acres (Not applicable.)

33. In order to calculate water use on the properties referenced above, _____ relies on the amount of acres in irrigation on the properties referenced above multiplied by the crop duty identified in the Summary Expert Report, Appendix D-3: Table 4, a true and correct copy of which is attached to this declaration as Exhibit M.

34. The total amount of irrigated acres and type of crops on the properties referenced above by APN for the years 2000-2004, 2011 and 2012 are described in Exhibit N. A true and correct copy of Exhibit N is attached hereto and incorporated herein.

Other Sources of Water (Not applicable.)

35. On the properties referenced above, _____ received water from sources other than groundwater pumped within the Basin or State Water Project Water. Exhibit

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O sets forth the source of the water and the amounts received for the years 2000-2004, 2011, and 2012.

Use of Water (Complete for each APN. If water for used for multiple purposes, identify the amount of water for each use.) Water production/use by the District for the relevant years is set forth in Exhibit E. Such water was delivered to the District's customers and used for municipal, industrial and domestic purposes.

36. _____ used _____ acre feet of water on APN# _____ in 2000. The water was used for the following:

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use. In lieu of answering this question, a crop map may be attached that shows the date, crop type, irrigated acreage and parcels.]

37. _____ used _____ acre feet of water on APN# _____ in 2001. The water was used for the following:

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use. In lieu of answering this question, a crop map may be attached that shows the date, crop type, irrigated acreage and parcels.]

38. _____ used _____ acre feet of water on APN# _____ in 2002. The water was used for the following:

39. _____ used _____ acre feet of water on APN# _____ in 2003. The water was used for the following:

[State the crop type and number of acres of that crop. If not used for irrigation, describe the use. In lieu of answering this question, a crop map may be attached that shows the date, crop type, irrigated acreage and parcels.]

40. _____ used _____ acre feet of water on APN# _____ in 2004.

1 The water was used for the following:

2 _____
3 [State the crop type and number of acres of that crop. If not used for irrigation, describe
4 the use. In lieu of answering this question, a crop map may be attached that shows the date, crop
5 type, irrigated acreage and parcels.]

6 41. _____ used _____ acre feet of water on APN# _____ in 2011.

7 The water was used for the following:

8 _____
9 [State the crop type and number of acres of that crop. If not used for irrigation, describe
10 the use. In lieu of answering this question, a crop map may be attached that shows the date, crop
11 type, irrigated acreage and parcels.]

12 42. _____ used _____ acre feet of water on APN# _____ in 2012.

13 The water was used for the following:

14 _____
15 [State the crop type and number of acres of that crop. If not used for irrigation, describe
16 the use. In lieu of answering this question, a crop map may be attached that shows the date, crop
17 type, irrigated acreage and parcels.]

18 43. Other than what is declared hereinabove, the District did not produce or use water
19 within the Antelope Valley Area of Adjudication for 2000-2004, 2011, and 2012.

20
21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct. Executed this 28th day of January 2013, at Rosamond,
23 California.

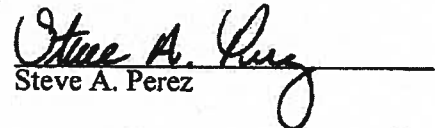
24
25 
Steve A. Perez

EXHIBIT “E”

Rosamond Community Services District
Water Usage Data for 2000, 2001, 2002, 2003, 2004, 2011, 2012

2000				
Well Name	APN	Well ID #	GW Pumped In 2000	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	221.7 ac/ft	35th St. West Turnout
				1,333 ac/ft
Well # 6	258-160-36-5	1510018 - 007	341 ac/ft	Sierra Hwy Vault
				305 ac/ft
Well # 7	473-022-20-0	1510018 - 008	253 ac/ft	Total 1,638 ac/ft
Well # 8	375-010-20-4	1510018 - 009	646 ac/ft	
Total			1,461.7 ac/ft	
2001				
Well Name	APN	Well ID #	GW Pumped In 2001	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	245.5 ac/ft	35th St. West Turnout
				677 ac/ft
Well # 6	258-160-36-5	1510018 - 007	324 ac/ft	Sierra Hwy Vault
				304 ac/ft
Well # 7	473-022-20-0	1510018 - 008	237 ac/ft	Total 981 ac/ft
Well # 8	375-010-20-4	1510018 - 009	1,362 ac/ft	
Total			2,168.5 ac/ft	
2002				
Well Name	APN	Well ID #	GW Pumped In 2002	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	182 ac/ft	35th St. West Turnout
				530 ac/ft
Well # 6	258-160-36-5	1510018 - 007	279 ac/ft	Sierra Hwy Vault
				315 ac/ft
Well # 7	473-022-20-0	1510018 - 008	225 ac/ft	Total 845 ac/ft
Well # 8	375-010-20-4	1510018 - 009	1,637 ac/ft	
Total			2,323 ac/ft	
2003				
Well Name	APN	Well ID #	GW Pumped In 2003	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	232 ac/ft	35th St. West Turnout
				936 ac/ft
Well # 6	258-160-36-5	1510018 - 007	338 ac/ft	Sierra Hwy Vault
				283 ac/ft
Well # 7	473-022-20-0	1510018 - 008	158 ac/ft	Total 1,219 ac/ft
Well # 8	375-010-20-4	1510018 - 009	1,041 ac/ft	
Total			1,769 ac/ft	

Rosamond Community Services District
Water Usage Data for 2000, 2001, 2002, 2003, 2004, 2011, 2012

2004				
Well Nam	APN	Well ID #	GW Pumped In 2003	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	298 ac/ft	35th St. West Turnout
				901 ac/ft
Well # 6	258-160-36-5	1510018 - 007	323 ac/ft	Sierra Hwy Vault
				292 ac/ft
Well # 7	473-022-20-0	1510018 - 008	161 ac/ft	
Well # 8	375-010-20-4	1510018 - 009	1,213 ac/ft	Total 1,193 ac/ft
		Total	1,995 ac/ft	
2011				
Well Nam	APN	Well ID #	GW Pumped In 2011	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	229 ac/ft	35th St. West Turnout
				240 ac/ft
Well # 8	375-010-20-4	1510018 - 009	1,334 ac/ft	Sierra Hwy Vault
				96 ac/ft
Well # 9	375-113-19-8	1510018 - 002	1,431 ac/ft	
		Total	2,994 ac/ft	Total 336 ac/ft
2012 as of 12/18				
Well Nam	APN	Well ID #	GW Pumped In 2012	ACF Purchased From AVEK
Well # 5	258-110-09-7	1510018 - 006	405 ac/ft	35th St. West Turnout
				17 ac/ft
Well # 8	375-010-20-4	1510018 - 009	777 ac/ft	Sierra Hwy Vault
				17 ac/ft
Well # 9	375-113-19-8	1510018 - 002	1,678 ac/ft	
		Total	2,860 ac/ft	Total 34 ac/ft

2010 - RCSD Banked 595.6 ac/ft in the Antelope Valley Water Bank (AVWB)

2011 - RCSD banked 1,017 ac/ft in the AVWB

2011 - RCSD Ordered an additional 1,000 ac/ft and began banking 500 ac/ft of this order in the AVWB on 12/18/12, the remaining 500 ac/ft will be delivered as soon as AVEK can release it. All banked water has been purchased from our State Water Contractor Antelope Valley East Kern Water Agency AVEK

PROOF OF SERVICE

ANTELOPE VALLEY GROUNDWATER CASES

Judicial Council Coordination, Proceeding No. 4408

Santa Clara Case No. 1-05-CV 049053

Assigned to the Honorable Jack Komar

Los Angeles County Superior Court, Central, Dept. 1

I am a resident of the State of California, over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 650 Town Center Drive, Suite 550, Costa Mesa, California 92626.

On January 30, 2013, I served the within document(s):

DECLARATION OF STEVE A. PEREZ ON BEHALF OF ROSAMOND COMMUNITY SERVICES DISTRICT IN LIEU OF DEPOSITION TESTIMONY FOR PHASE 4 TRIAL

☒ by posting the document(s) listed above to the website <http://www.scefilling.org>, a dedicated link to the Antelope Valley Groundwater Cases; Santa Clara Case No. 1-05-CV 049053, Assigned to the Honorable Jack Komar, said document(s) is electronically served/distributed therewith.

☐ By transmitting via e-mail the document(s) listed above to the e-mail address(es) and/or fax number(s) set forth below on this date.

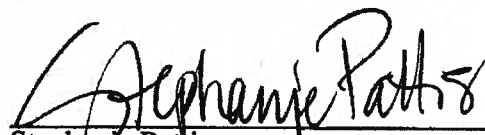
☐ by placing the document(s) listed above in a sealed Overnight Express envelope/package for overnight delivery at Costa Mesa, California addressed as set forth below.

☐ by causing personal delivery by Nationwide Legal of the document(s) listed above, to the person(s) at the address(es) set forth below.

I am readily familiar with Murphy & Evertz, LLP's practice for collecting and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on January 30, 2013, at Costa Mesa, California.


Stephanie Patis

1 **PROOF OF SERVICE**

2 **ANTELOPE VALLEY GROUNDWATER CASES**

Judicial Council Coordination, Proceeding No. 4408

3 Santa Clara Case No. 1-05-CV 049053

4 Assigned to the Honorable Jack Komar

5 Los Angeles County Superior Court, Central, Dept. 1

6 I am a resident of the State of California, over 18 years of age and not a party to this action. I
7 am employed in the County of Orange, State of California. My business address is 650 Town Center
8 Drive, Suite 550, Costa Mesa, California 92626.

9 On March 29, 2013, I served the within document(s):

10 **NOTICE OF MOTION AND MOTION *IN LIMINE* OF ROSAMOND COMMUNITY**
11 **SERVICES DISTRICT FOR ORDER: (1) EXCLUDING ANY EVIDENCE OR**
12 **ARGUMENT THAT THE DISTRICT IS NOT ENTITLED TO PRODUCE RETURN**
13 **FLOWS FROM ITS IMPORTED WATER, AND (2) EXCLUDING ANY EVIDENCE OR**
14 **TESTIMONY CONTRARY TO OR INCONSISTENT WITH THE RETURN FLOW**
15 **FORMULA ADOPTED BY THE COURT IN THE PHASE III TRIAL; DECLARATION**
16 **OF DOUGLAS J. EVERTZ**



18 by posting the document(s) listed above to the website <http://www.scefiling.org>, a
19 dedicated link to the Antelope Valley Groundwater Cases; Santa Clara Case
20 No. 1-05-CV 049053, Assigned to the Honorable Jack Komar, said document(s) is
21 electronically served/distributed therewith.

22 I am readily familiar with Murphy & Evertz, LLP's practice for collecting and processing
23 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service
24 on the same day that the correspondence is placed for collection and mailing, it is deposited in the
25 ordinary course of business with the United States Postal Service, in a sealed envelope with postage
26 fully prepaid.

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

Executed on March 29, 2013, at Costa Mesa, California.

23 
24 Stephanie Pattis