

EXHIBIT “J”

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7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SANTA CLARA

10 COORDINATION PROCEEDING
SPECIAL TITLE (Rule 1550(b))

) Judicial Council Coordination Proceeding No.
4408

11 ANTELOPE VALLEY GROUNDWATER
12 CASES

) CASE NO. 1-05-CV-049053

13 INCLUDED ACTIONS:

14 LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 v.
15 DIAMOND FARMING COMPANY, et al.,
Los Angeles Superior Court Case No.
16 BC325201

) **BOLTHOUSE PROPERTIES, LLC'S
AND WM. BOLTHOUSE FARMS, INC.'S
OBJECTION TO STATEMENT OF
DECISION RE PHASE III TRIAL
SUBMITTED BY LOS ANGELES
COUNTY AND OTHER WATER
PURVEYORS**

17 LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 v.
18 DIAMOND FARMING COMPANY, et al.,
Kern County Superior Court Case No. S-
19 1500-CV-254348

) [C.C.P. §632, 634]

20 DIAMOND FARMING COMPANY, and
W.M. BOLTHOUSE FARMS, INC., v.
21 CITY OF LANCASTER, et al.,
Riverside Superior Court
22 Case No. RIC 344436 [c/w case no. RIC
344668 and 353840]

) Phase 3 Trial Date:
January 4, 2011

23 ROSAMOND COMMUNITY SERVICES
24 DISTRICT,

25 CROSS-COMPLAINANT,

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1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that pursuant to California *Code of Civil Procedure*, Sections
3 632 and 634, BOLTHOUSE PROPERTIES, LLC and WM. BOLTHOUSE FARMS, INC.
4 (hereinafter "Bolthouse"), hereby object to the Statement of Decision Re Phase III Trial
5 submitted by Los Angeles County and other Water Purveyors on June 6, 2011, on the grounds
6 that the Purveyors' Statement of Decision fails to set forth the "factual and legal basis for its
7 decision as to each of the principal controverted issues at trial" and omits material and
8 subsidiary issues of fact and evidence as requested in Bolthouse's Proposal Re: Content of
9 Statement of Decision filed on May 24, 2011, incorporated herein by reference, and as clarified
10 on "Exhibit A" attached hereto, and on the grounds that the Purveyors' Statement of Decision
11 is ambiguous as to the scope of the Phase III Trial and makes findings on issues not set for trial
12 as set forth in the Order After Hearing Held on November 18, 2010.

13 **PURVEYORS' STATEMENT OF DECISION FAILS TO SET FORTH THE FACTUAL**
14 **AND LEGAL BASIS FOR THE DECISION**

15 *Code of Civil Procedure*, Section 632 requires that the Court issue a "Statement of
16 Decision explaining the factual and legal basis for its decision as to each of the principal
17 controverted issues at trial." "The Trial Court must make findings on material subsidiary
18 issues of fact." *Midwest Television, Inc. v. Scott, Lancaster Mills and Atha, Inc.* (1988) 205
19 Cal.App.3d 442, 457. The Court in *Midwest*, stated the following:

20 "A material issue of fact is one which is relevant and essential to
21 the judgment and closely and directly related to the trial court's
22 determination of the ultimate issue in the case." *Midwest, supra*,
at p. 457

23 The Purveyors' Statement of Decision contains for the most part conclusions of law and
24 summary conclusions of facts without setting forth the factual and legal basis for findings on
25 material factual subsidiary issues as requested in the Proposal Re: Content of Statement of
26 Decision filed by Bolthouse on May 24, 2011, clarified in Exhibit A attached hereto.

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1 **THE PURVEYORS' STATEMENT OF DECISION IS AMBIGUOUS AND INCLUDES**
2 **MATTERS OR ISSUES NOT TRIED BY THE COURT IN PHASE III**

3 "A Statement of Decision is limited to the issues litigated in the case." *Colony Ins. Co.*
4 *v. Crusader Ins. Co.* (2010) 188 Cal.App.4th 743, 750-751. Accordingly, it would be
5 fundamentally unfair to include in the Statement of Decision, matters not designated for trial,
6 after the trial is completed. The Phase III Trial was limited to safe yield and current overdraft.
7 Including any other issues in the Statement of Decision would be inappropriate and
8 fundamentally unfair to the parties.

9 The Court and counsel had numerous discussions regarding the scope of the Phase III
10 Trial. Bolthouse, Tejon and Diamond Farming, were among the parties specifically engaged in
11 this discussion. These parties expressed concerns regarding the scope of the Phase III Trial.
12 Bolthouse agrees with Tejon as set forth in its Objections of Tejon Ranchcorp to Proposed
13 Statement of Decision Re Phase III Trial that "the only issues to be decided in the Phase III
14 Trial are (a) current *safe yield*, (b) whether the aquifer is currently in *overdraft*. To resolve this
15 discussion and ambiguity regarding the scope of the Phase III Trial, the Court issued its Order
16 After Hearings Held on November 18, 2010, setting forth the scope of the Phase III Trial as
17 follows:

18 "The trial will commence on January 4, 2011 at 9:00 a.m. in
19 Department 1 of the Los Angeles County Superior Court to hear
20 evidence of the *safe yield* of the Antelope Valley aquifer and to
21 further hear evidence as to *whether the aquifer is in a state of*
overdraft such that the court should exercise equitable powers to
protect the aquifer from detriment caused by any such overdraft."
(Emphasis added.)

22 The Tentative Decision Phase Three Trial ("Tentative Decision") sets forth the proper
23 scope of the Phase III Trial as follows:

24 "The first issues to be decided in the declaratory relief cause of
25 action are the issues of overdraft and safe yield. The remaining
26 causes of action and issues are to be tried in a subsequent phase
or phases."

27 Bolthouse agrees with Tejon as set forth in its objections, that so-called "native safe
28 yield", "supplemental safe yield" and "return flows" are beyond the scope of the Phase III

1 Trial. The description of the issues tried in Phase III set forth above, combined with other
2 language in the Purveyors' Statement of Decision, are ambiguous and suggest that issues
3 beyond current safe yield and current overdraft were tried. As such, the Purveyors' Statement
4 of Decision should be clarified to make clear that the only issues tried in Phase III were the
5 current safe yield of the Antelope Valley aquifer and whether the aquifer is currently in a state
6 of overdraft such that the Court should exercise equitable powers to protect the aquifer.

7 **A. No Evidence To Support Factual Finding Of 50 Year Overdraft.**

8 Bolthouse incorporates by reference the argument by Tejon that the evidence does not
9 support a finding of overdraft for the last fifty (50) years. Further, as noted above, historical
10 overdraft was not an issue for determination in the Phase III Trial and should not be reflected in
11 the Statement of Decision.

12 **B. Evaluation Of Management Areas Was Not At Issue In The Phase III Trial.**

13 The discussion between Bolthouse, Tejon and Diamond Farming at the November 18th
14 hearing regarding the scope of the Phase III Trial related to whether the Phase III Trial would
15 involve evidence of differences in pumping and hydrologic effect in various areas of the
16 Antelope Valley and aquifer for purposes of prescription or management of the basin. The
17 Court confirmed that differences in pumping and effect in various areas of the Antelope Valley
18 aquifer for purposes of prescription and or management of the basin was not an issue for the
19 Phase 3 trial and issued its November 18, 2010 Order limiting the Phase III issues to safe yield
20 and current overdraft.

21 Based upon the comments of the Court at the hearing, and the November 18th Order,
22 experts were not called by Bolthouse, Diamond, the Purveyor parties and others to testify
23 regarding the affects of pumping in one area versus pumping in other areas. The expert
24 testimony was for the most part directed to safe yield and overdraft. Making findings as to
25 potential affect of pumping in one area or another, or a to the effect of pumping in one area or
26 another is inappropriate since this issue has not been litigated and since parties specifically did
27 not call experts at trial regarding these issues based upon the court's comments and orders.
28 Accordingly, all references to the effect of pumping in one area of the basin versus other areas

1 of the basin should be excluded from the Statement of Decision, including but not limited to the
2 following statements:

3 "Some areas seemingly have fairly small or nominal hydro-
4 conductivity but must be included in this phase of the
5 adjudication. Pumping in those parts of the Basin may be shown
6 to have *de minimis* effect on other parts of the Basin while
7 pumping in other areas within the basin appears to have very
8 large impacts on adjacent parts of the Basin. All areas were
9 included within the Adjudication Area because they all have
10 some level of hydraulic connectivity, some more and some less."
11 (Page 3, Lines 12 through 17.)

12 And

13 "Hydraulic connectivity between some portions of the Basin and
14 other portions is so slight as to be almost (apparently)
15 nonexistent. Pumping in those areas may have little or no effect
16 on other areas of the Basin." (Page 7, Lines 18 through 20)

17 **C. The So Called Native Safe Yield, Supplemental Safe Yield And Return Flows Were**
18 **Not Litigated And Have Been Improperly Added By Los Angeles County And The**
19 **Purveyors To The Statement Of Decision.**

20 As noted above, the issues identified by the Court for the Phase III Trial included
21 current safe yield and current overdraft. So called native safe yield, supplemental safe yield
22 and return flows were not identified as issues to be tried in Phase III and were not litigated by
23 the parties for the purposes of Phase III. The parties did not call experts on these issues nor
24 were these concepts or findings identified by the Court as Phase III issues. The Tentative
25 Decision Phase III Trial prepared by the Court correctly limits the scope of Phase III to safe
26 yield and overdraft.

27 In its Tentative Decision, consistent with its prior Order regarding the issues to be tried
28 in Phase III, the Court made no findings regarding so called native safe yield, supplemental
safe yield and return flows, and the parties never agreed to the meaning of these terms added to
the Purveyors' Statement of Decision. The Court heard testimony by numerous different
experts, using different terminology, in order to determine the safe yield of the basin and to
evaluate current overdraft in the basin based upon the definition of safe yield and overdraft set
forth in *San Fernando*. *San Fernando* does not use the terms native safe yield and/or

1 supplemental safe yield, and return flows are part of the safe yield as defined by *San Fernando*.
2 Accordingly, the Purveyors' Statement of Decision should be limited to this Court's finding as
3 to the safe yield of the basin and whether the basin is currently in overdraft. Accordingly, Page
4 8, Lines 6 through 19 should be excluded from the Purveyors' Statement of Decision.

5 **D. Vague And Argumentative References To Findings Regarding The Expert**
6 **Testimony Of The Purveyor Experts Should Be Excluded.**

7 On Page 8, Lines 20 through 25, the Purveyor Parties request language be included that
8 "The Court finds that the opinion testimony and evidence presented by the Public Water
9 Suppliers⁴, the City of Los Angeles and the United States to be credible and that the opinion
10 testimony and evidence presented by the Landowner Group parties to not be as credible as to
11 the safe yield and overdraft issues.", is vague and non-specific. Based upon this language, it is
12 impossible to tell what testimony the Court found to be credible and what testimony the Court
13 found not credible as between Purveyor and Landowner experts. The argumentative
14 conclusion also assumes that all testimony by all Purveyor experts was more credible than all
15 testimony by all Landowner experts. Finally, the introductory comment stating that the
16 findings are based upon a preponderance of the evidence, is vague since the reference to a
17 finding by a preponderance of the evidence is non specific to any particular finding.
18 Accordingly, Page 8, lines 20 through 25 should be excluded from the Purveyors' Statement of
19 Decision.

20 **CONCLUSION**

21 The Statement of Decision should include explanation of the factual and legal basis for
22 the decision, including all material and subsidiary issues of fact supporting the decision as
23 requested on Exhibit "A.". The Statement of Decision should be limited to issues identified by
24 the Court before trial, which would be tried in Phase III, including the current safe yield and
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28 ⁴ As previously noted, Rosamond Community services District is a public water producer but it did not align itself
with the Public Water Producers. Instead, Rosamond Community Services District and the City of Lancaster
aligned themselves and supported the Landowner Group parties.

1 whether the basin is currently in overdraft. Other discussion and arguments should be
2 eliminated from the Statement of Decision as discussed herein.

3 DATED: June 21, 2011

Respectfully submitted,

4 CLIFFORD & BROWN

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By: 

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RICHARD G. ZIMMER, ESQ.

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T. MARK SMITH, ESQ.

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Attorneys for

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BOLTHOUSE PROPERTIES, LLC and

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WM. BOLTHOUSE FARMS, INC.

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EXHIBIT “A”

Antelope Valley Groundwater Cases
Judicial Counsel Coordination Proceeding No. 4408
Santa Clara County Superior Court Case No. 1-05-CV-049053

EXHIBIT "A"

It is requested that the Statement of Decision include the factual and legal basis for all findings of the Court, including all material and subsidiary issues of fact, upon which the Phase 3 Statement of Decision is based, including but not limited to the following:

1. That the Statement of Decision be limited to "the safe yield of the Antelope Valley Aquifer" and "whether the Aquifer is in a state of overdraft such that the Court should exercise equitable powers to protect the Aquifer from detriment caused by any such overdraft" as set forth in the Order After Hearing Held on November 18, 2010 setting forth the scope of the Phase 3 Trial.
2. The legal definition of safe relied upon by the Court to determine the existence of current overdraft of the Antelope Valley Aquifer.
3. The legal definition of overdraft relied upon by the Court to determine the existence of current overdraft of the Antelope Valley Aquifer.
4. All material and subsidiary issues of fact relied upon by the Court to determine safe yield.
5. All material and subsidiary issues of fact relied upon by the Court to determine that the Antelope Valley Aquifer is currently in overdraft.
6. The legal definition the Court used to determine whether the Aquifer is in a state of temporary surplus.
7. All material and subsidiary issues of fact relied upon by the Court to determine whether the Aquifer is in a state of temporary surplus.
8. The testimony of each testifying expert which the Court relied upon to establish all material and subsidiary issues of fact relied upon by the Court to determine the safe yield of the Antelope Valley Aquifer.

- 1 9. The testimony of each testifying expert which the Court relied upon to establish
- 2 all material and subsidiary issues of fact relied upon by the Court to determine
- 3 that the Antelope Valley Aquifer is currently in overdraft.
- 4 10. The testimony of each testifying expert which the Court relied upon to establish
- 5 all material and subsidiary issues of fact relied upon by the Court to make its
- 6 findings regarding temporary surplus.
- 7 11. All material and subsidiary issues of fact relied upon by the Court to determine
- 8 that "Reliable estimates of long-term extractions from the basin have exceeded
- 9 reliable estimates of the Basin's recharge by significant margins, and empirical
- 10 evidence of overdraft in the basin corroborates that conclusion," as set forth on
- 11 Page 3, Lines 23-25.
- 12 13. The testimony of each testifying expert which the Court relied upon to establish
- 13 all material and subsidiary issues of fact relied upon by the Court to determine
- 14 "Reliable estimates of long-term extractions from the basin have exceeded
- 15 reliable estimates of the basin's recharge by significant margins, and empirical
- 16 evidence of overdraft in the basin corroborates that conclusion," as set forth on
- 17 Page 3, Lines 23-25.
- 18 14. All material and subsidiary issues of fact relied upon by the Court to determine
- 19 that "The Basin has sustained has sustained a significant loss of groundwater
- 20 storage since 1951," as set forth on Page 3, Lines 25-26.
- 21 15. The testimony of each testifying expert which the Court relied upon to establish
- 22 all material and subsidiary issues of fact relied upon by the Court to determine
- 23 that "The Basin has sustained has sustained a significant loss of groundwater
- 24 storage since 1951," as set forth on Page 3, Lines 25-26.
- 25 16. All material and subsidiary issues of fact relied upon by the Court to determine
- 26 that "While pumping in recent years has reduced and moderated the margin
- 27 between pumping and recharge as cultural conditions have changed and
- 28 precipitation has increased with the appearance of "wetter" parts of the historical

1 cycle, pumping in some areas of the aquifer is continuing to cause harm to the
2 basin," as set forth on Page 3, Line 26 to Page 4, Line 1.

3 17. The testimony of each testifying expert which the Court relied upon to establish
4 all material and subsidiary issues of fact relied upon by the Court to determine
5 that "While pumping in recent years has reduced and moderated the margin
6 between pumping and recharge as cultural conditions have changed and
7 precipitation has increased with the appearance of "wetter" parts of the historical
8 cycle, pumping in some areas of the aquifer is continuing to cause harm to the
9 basin," as set forth on Page 3, Line 26 to Page 4, Line 1.

10 18. All material and subsidiary issues of fact facts relied upon by the Court to
11 determine that "The evidence is persuasive that current extractions continue to
12 exceed recharge and therefore that the Basin continues to be in a state of
13 overdraft, although by a much reduced amount," as set forth on Page 4, Lines 1-
14 3.

15 19. The testimony of each testifying expert which the Court relied upon to establish
16 all material and subsidiary issues of fact relied upon by the Court to determine
17 that "The evidence is persuasive that current extractions continue to exceed
18 recharge and therefore that the Basin continues to be in a state of overdraft,
19 although by a much reduced amount," as set forth on Page 4, Lines 1-3.

20 20. All material and subsidiary issues of fact relied upon by the Court to determine
21 that "Since 1951³, there is evidence of substantial pumping (principally
22 agricultural in the early years of the period), with continuous lowering of water
23 levels and subsidence extending to the present time, with intervals of only slight
24 rises in water levels in some areas," as set forth on Page 4, Lines 3-6.

25 21. The testimony of each testifying expert which the Court relied upon to establish
26 all material and subsidiary issues of fact relied upon by the Court to determine
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28 ³ Precipitation and well records prior to that year are to intermittent to be relied upon.
BOLTHOUSE PROPERTIES, LLC'S AND WM. BOLTHOUSE FARMS, INC.'S EXHIBIT "A" TO OBJECTION TO STATEMENT OF
DECISION RE PHASE III TRIAL SUBMITTED BY LOS ANGELES COUNTY AND OTHER WATER PURVEYORS

1 that "Since 1951, there is evidence of substantial pumping (principally
2 agricultural in the early years of the period), with continuous lowering of water
3 levels and subsidence extending to the present time, with intervals of only slight
4 rises in water levels in some areas," as set forth on Page 5, Lines 8 through 12.

5 22. All material and subsidiary issues of fact relied upon by the Court to determine
6 that "In the areas of increased pumping, in particular in the Palmdale and
7 Lancaster areas, there is a continual lowering of water levels such that it may
8 have a serious effect on water rights in other areas, causing cones of depression,
9 altering natural water flow gradients, causing the lowering of water levels in
10 adjacent areas, and causing subsidence and loss of aquifer storage capacity," as
11 set forth on Page 4, Line 7-11.

12 23. The testimony of each testifying expert which the Court relied upon to establish
13 all material and subsidiary issues of fact relied upon by the Court to determine
14 that "In the areas of increased pumping, in particular in the Palmdale and
15 Lancaster areas, there is a continual lowering of water levels such that it may
16 have a serious effect on water rights in other areas, causing cones of depression,
17 altering natural water flow gradients, causing the lowering of water levels in
18 adjacent areas, and causing subsidence and loss of aquifer storage capacity," as
19 set forth on Page 4, Line 7-11.

20 24. All material and subsidiary issues of fact relied upon by the Court to determine
21 that "Given population growth, and land use changes, the Antelope Valley is at
22 risk of an even more serious continuing overdraft in the future," as set forth on
23 Page 4, Lines 11-12.

24 25. The testimony of each testifying expert which the Court relied upon to establish
25 all material and subsidiary issues of fact relied upon by the Court to determine
26 that "Given population growth, and land use changes, the Antelope Valley is at
27 risk of an even more serious continuing overdraft in the future," as set forth on
28 Page 4, Lines 11-12.

1 26. All material and subsidiary issues of fact relied upon by the Court to determine
2 that "While the lowering of current water levels has slowed, and water levels in
3 some wells in some areas have risen in recent years, significant areas within the
4 Basin continue to show declining levels, some slightly so, but many show a
5 material lowering of water levels," as set forth on Page 4, Lines 13-15.

6 27. The testimony of each testifying expert which the Court relied upon to establish
7 all material and subsidiary issues of fact relied upon by the Court to determine
8 that "While the lowering of current water levels has slowed, and water levels in
9 some wells in some areas have risen in recent years, significant areas within the
10 Basin continue to show declining levels, some slightly so, but many show a
11 material lowering of water levels," as set forth on Page 4, Lines 13-15.

12 28. All material and subsidiary issues of fact relied upon by the Court to determine
13 that "Thus, the Antelope Valley Adjudication Area has been in a state of
14 overdraft for more than 50 years, and based on estimates of extraction and
15 recharge, corroborated by physical evidence of conditions in the Basin as a
16 whole including loss of groundwater in storage, land subsidence and changes in
17 the amount and direction of groundwater flow to Edwards Air Force Base.
18 While the annual amount of overdraft has lessened in recent years with
19 decreased pumping and increased precipitation and recharge, the effects of
20 overdraft remain and are in danger of being exacerbated with increased pumping
21 and the prospective cyclical precipitation fluctuations shown by the historical
22 record," as set forth on Page 4, Lines 17-24.

23 29. The testimony of each testifying expert which the Court relied upon to establish
24 all material and subsidiary issues of fact relied upon by the Court to determine
25 that "Thus, the Antelope Valley Adjudication Area has been in a state of
26 overdraft for more than 50 years, and based on estimates of extraction and
27 recharge, corroborated by physical evidence of conditions in the Basin as a
28 whole including loss of groundwater in storage, land subsidence and changes in

1 the amount and direction of groundwater flow to Edwards Air Force Base.
2 While the annual amount of overdraft has lessened in recent years with
3 decreased pumping and increased precipitation and recharge, the effects of
4 overdraft remain and are in danger of being exacerbated with increased pumping
5 and the prospective cyclical precipitation fluctuations shown by the historical
6 record,” as set forth on Page 4, Lines 17-24.

7 30. All material and subsidiary issues of fact relied upon by the Court to determine
8 that “The physical evidence establishes that there was significant subsidence
9 occurring throughout the Antelope Valley Adjudication Area ranging from two
10 to six feet or more in certain areas caused by such pumping and that measurable
11 water levels fell in a substantial part of the Valley,” as set forth on Page 4, Lines
12 24-27.

13 31. The testimony of each testifying expert which the Court relied upon to establish
14 all material and subsidiary issues of fact relied upon by the Court to determine
15 that “The physical evidence establishes that there was significant subsidence
16 occurring throughout the Antelope Valley Adjudication Area ranging from two
17 to six feet or more in certain areas caused by such pumping and that measurable
18 water levels fell in a substantial part of the Valley,” as set forth on Page 4, Lines
19 24-27.

20 32. All material and subsidiary issues of fact relied upon by the Court to determine
21 that “While some of the ongoing subsidence may be attributable to residual
22 subsidence (from earlier periods of shortfall) a preponderance of the evidence
23 establishes that ongoing and continued subsidence is caused, in part, by ongoing
24 groundwater extractions in excess of the Basin’s safe yield,” as set forth on Page
25 4, Line 27 through Page 5, Line 3.

26 33. The testimony of each testifying expert which the Court relied upon to establish
27 all material and subsidiary issues of fact relied upon by the Court to determine
28 that “While some of the ongoing subsidence may be attributable to residual

1 subsidence (from earlier periods of shortfall) a preponderance of the evidence
2 establishes that ongoing and continued subsidence is caused, in part, by ongoing
3 groundwater extractions in excess of the Basin's safe yield," as set forth on Page
4 4, Line 27 through Page 5, Line 3.

5 34. All material and subsidiary issues of fact relied upon by the Court to determine
6 that "One Landowner Group expert selected two shorter base periods (the total
7 time span of which was considerably less than the 50 year period used by the
8 Public Water Suppliers' experts which the Court believes is more credible), each
9 having different estimated average natural recharge based upon different
10 precipitation averages from each base period," as set forth on Page 5, Lines 15-
11 18.

12 35. The testimony of each testifying expert which the Court relied upon to establish
13 all material and subsidiary issues of fact relied upon by the Court to determine
14 that "One Landowner Group expert selected two shorter base periods (the total
15 time span of which was considerably less than the 50 year period used by the
16 Public Water Suppliers' experts which the Court believes is more credible), each
17 having different estimated average natural recharge based upon different
18 precipitation averages from each base period," as set forth on Page 5, Lines 15-
19 18.

20 36. All material and subsidiary issues of fact relied upon by the Court to determine
21 that "A period of precipitation fluctuations from 1951 to 2005 satisfies that
22 standard. Shorter periods do not and the Court does not find those shorter base
23 periods to produce accurate results. The Court accepts the base period selected
24 by the Public Water Supplier experts as the more credible and accurate
25 representation of long-term conditions in the Basin," as set forth on Page 5,
26 Lines 23-27.

27 37. The testimony of each testifying expert which the Court relied upon to establish
28 all material and subsidiary issues of fact relied upon by the Court to determine

1 that "A period of precipitation fluctuations from 1951 to 2005 satisfies that
2 standard. Shorter periods do not and the Court does not find those shorter base
3 periods to produce accurate results. The Court accepts the base period selected
4 by the Public Water Supplier experts as the more credible and accurate
5 representation of long-term conditions in the Basin," as set forth on Page 5,
6 Lines 23-27.

7 38. All material and subsidiary issues of fact relied upon by the Court to determine
8 that "The pumping extractions are not seriously in dispute by any of the experts
9 who testified. All seem to agree that pumping currently is estimated to range
10 from 130,000 to 150,000 acre feet a year," as set forth on Page 5, Line 28
11 through Page 6, Line 2.

12 39. The testimony of each testifying expert which the Court relied upon to establish
13 all material and subsidiary issues of fact relied upon by the Court to determine
14 that "The pumping extractions are not seriously in dispute by any of the experts
15 who testified. All seem to agree that pumping currently is estimated to range
16 from 130,000 to 150,000 acre feet a year," as set forth on Page 5, Line 28
17 through Page 6, Line 2.

18 40. All material and subsidiary issues of fact relied upon by the Court to determine
19 that "Other sources of recharge to the Basin, including artificial recharge-water
20 introduced into the Basin from external sources are not in dispute," as set forth
21 on Page 6, Lines 5-7.

22 41. The testimony of each testifying expert which the Court relied upon to establish
23 all material and subsidiary issues of fact relied upon by the Court to determine
24 that "Other sources of recharge to the Basin, including artificial recharge-water
25 introduced into the Basin from external sources are not in dispute," as set forth
26 on Page 6, Lines 5-7.
27
28

- 1 42. All material and subsidiary issues of fact relied upon by the Court to determine
2 that "The nature of the agricultural duties has changed as well," as set forth on
3 Page 6, Line 11.
- 4 43. The testimony of each testifying expert which the Court relied upon to establish
5 all material and subsidiary issues of fact relied upon by the Court to determine
6 that "The nature of the agricultural duties has changed as well," as set forth on
7 Page 6, Line 11.
- 8 44. All material and subsidiary issues of fact relied upon by the Court to determine
9 that "The type of irrigation used by farmers has become more efficient and less
10 water is needed per acre (depending on the crops grown) with more efficient
11 uses of water," as set forth on Page 6, Lines 11-13.
- 12 45. The testimony of each testifying expert which the Court relied upon to establish
13 all material and subsidiary issues of fact relied upon by the Court to determine
14 that "The type of irrigation used by farmers has become more efficient and less
15 water is needed per acre (depending on the crops grown) with more efficient
16 uses of water," as set forth on Page 6, Lines 11-13.
- 17 46. All material and subsidiary issues of fact relied upon by the Court to determine
18 that "But there has also been an increase as well as a change in the nature of the
19 type of agriculture in the Valley in material quantities in recent years," as set
20 forth on Page 6, Lines 13-15.
- 21 47. The testimony of each testifying expert which the Court relied upon to establish
22 all material and subsidiary issues of fact relied upon by the Court to determine
23 that "But there has also been an increase as well as a change in the nature of the
24 type of agriculture in the Valley in material quantities in recent years," as set
25 forth on Page 6, Lines 13-15.
- 26 48. All material and subsidiary issues of fact relied upon by the Court to determine
27 that "The evidence presented and observable conditions in the valley are
28 inconsistent with those conclusions" as set forth on Page 7, Lines 11-12.

- 1 49. The testimony of each testifying expert which the Court relied upon to establish
2 all material and subsidiary issues of fact relied upon by the Court to determine
3 that "The evidence presented and observable conditions in the valley are
4 inconsistent with those conclusions" as set forth on Page 7, Lines 11-12.
- 5 50. All material and subsidiary issues of fact relied upon by the Court to determine
6 that "If there were a surplus, even in the shortened base periods used by the
7 Landowner Group experts, there would not be land subsidence, nor declining
8 water levels" as set forth on Page 7, Lines 11-13.
- 9 51. The testimony of each testifying expert which the Court relied upon to establish
10 all material and subsidiary issues of fact relied upon by the Court to determine
11 that "If there were a surplus, even in the shortened base periods used by the
12 Landowner Group experts, there would not be land subsidence, nor declining
13 water levels" as set forth on Page 7, Lines 11-13.
- 14 52. All material and subsidiary issues of fact relied upon by the Court to determine
15 that "The Basin's physical conditions are inconsistent with those Landowner
16 Group estimates that there is and has been a surplus of water in the Basin and
17 the Court finds these opinions unreliable" as set forth on Page 7, Lines 13-15.
- 18 53. The testimony of each testifying expert which the Court relied upon to establish
19 all material and subsidiary issues of fact relied upon by the Court to determine
20 that "The Basin's physical conditions are inconsistent with those Landowner
21 Group estimates that there is and has been a surplus of water in the Basin and
22 the Court finds these opinions unreliable" as set forth on Page 7, Lines 13-15.
- 23 54. All material and subsidiary issues of fact relied upon by the Court to determine
24 that "Weighing the various opinions, however, the Court finds by a
25 preponderance of the evidence that setting a total safe yield at a conservative
26 110,000 acre feet per year will permit management of the Basin in such a way as
27 to preserve the rights of all parties in accordance with the Constitution and laws
- 28

1 of the State of California" as set forth on Page 7, Line 26 through Page 8, Line
2 1.

3 55. The testimony of each testifying expert which the Court relied upon to establish
4 all material and subsidiary issues of fact relied upon by the Court to determine
5 that "Weighing the various opinions, however, the Court finds by a
6 preponderance of the evidence that setting a total safe yield at a conservative
7 110,000 acre feet per year will permit management of the Basin in such a way as
8 to preserve the rights of all parties in accordance with the Constitution and laws
9 of the State of California" as set forth on Page 7, Line 26 through Page 8, Line
10 1.

11 56. All material and subsidiary issues of fact relied upon by the Court to determine
12 that "It should not be assumed that the safe yield management number may not
13 change as climate circumstances and pumping may change, or as the empirical
14 evidence based on experience in managing the Basin suggests it is either too
15 high or too low" as set forth on Page 8, Line 27 through Page 9, Line 2.

16 57. The testimony of each testifying expert which the Court relied upon to establish
17 all material and subsidiary issues of fact relied upon by the Court to determine
18 that "It should not be assumed that the safe yield management number may not
19 change as climate circumstances and pumping may change, or as the empirical
20 evidence based on experience in managing the Basin suggests it is either too
21 high or too low" as set forth on Page 8, Line 27 through Page 9, Line 2.

22 58. If over Landowner objections, the Court includes in the Statement of Decision
23 the "Native Safe Yield" issue added by the Purveyor parties on page 8, starting
24 on line 6, all material and subsidiary issues of fact relied upon by the Court to
25 determine "Native Safe Yield."

26 59. If over Landowner objections, the Court includes in the Statement of Decision
27 the "Native Safe Yield" issue added by the Purveyor parties on page 8, starting
28 on line 6, the testimony of each testifying expert which the Court relied upon to

1 establish all material and subsidiary issues of fact relied upon by the Court to
2 determine "Native Safe Yield."

3 60. If over Landowner objections, the Court includes in the Statement of Decision
4 the "Supplemental Safe Yield" issue added by the Purveyor parties on page 8,
5 starting on line 6, all material and subsidiary issues of fact relied upon by the
6 Court to determine "Supplemental Safe Yield."

7 61. If over Landowner objections, the Court includes in the Statement of Decision
8 the "Supplemental Safe Yield" issue added by the Purveyor parties on page 8,
9 starting on line 6, the testimony of each testifying expert which the Court relied
10 upon to establish all material and subsidiary issues of fact relied upon by the
11 Court to determine "Supplemental Safe Yield."

12 62. If over Landowner objections, the Court includes in the Statement of Decision
13 the "Return Flows" issue added by the Purveyor parties on page 8, starting on
14 line 6, all material and subsidiary issues of fact relied upon by the Court to
15 determine "Return Flows."

16 63. If over Landowner objections, the Court includes in the Statement of Decision
17 the "Return Flows" issue added by the Purveyor parties on page 8, starting on
18 line 6, the testimony of each testifying expert which the Court relied upon to
19 establish all material and subsidiary issues of fact relied upon by the Court to
20 determine "Return Flows."

