

1 **BEST BEST & KRIEGER LLP**

ERIC L. GARNER, Bar No. 130665

2 JEFFREY V. DUNN, Bar No. 131926

DANIEL S. ROBERTS, Bar No. 205535

3 STEFANIE D. HEDLUND, Bar No. 239787

5 PARK PLAZA, SUITE 1500

4 IRVINE, CALIFORNIA 92614

TELEPHONE: (949) 263-2600

5 TELECOPIER: (949) 260-0972

Attorneys for Cross-Complainants

6 ROSAMOND COMMUNITY SERVICES

DISTRICT and LOS ANGELES COUNTY

7 WATERWORKS DISTRICT NO. 40

8 **OFFICE OF COUNTY COUNSEL**

COUNTY OF LOS ANGELES

9 RAYMOND G. FORTNER, JR., Bar No. 42230

COUNTY COUNSEL

10 MICHAEL L. MOORE, Bar No. 175599

PRINCIPAL DEPUTY COUNTY COUNSEL

11 500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

12 TELEPHONE: (213) 974-1951

TELECOPIER: (213) 458-4020

13 Attorneys for Cross-Complainant LOS ANGELES

COUNTY WATERWORKS DISTRICT NO. 40

14 [See Next Page For Additional Counsel]

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

18 **ANTELOPE VALLEY**  
19 **GROUNDWATER CASES**

20 **Included Actions:**

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

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

25 Wm. Bolthouse Farms, Inc. v. City of  
26 Lancaster, Diamond Farming Co. v. City of  
Lancaster, Diamond Farming Co. v.  
27 Palmdale Water Dist., Superior Court of  
California, County of Riverside, Case Nos.  
28 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

**PUBLIC WATER SUPPLIERS' MOTION  
IN LIMINE NO. 1**

Trial:

Date: October 6, 2008

Time: 9:00 a.m.

Dept.: 1

1 LUCE, FORWARD, HAMILTON & SCRIPPS LLP

2 Douglas J. Evertz, Bar No. 123066  
3 250 Main Street, Suite 600  
4 Irvine, CA 92614  
(949) 737-3700 (916) 251-5830 fax  
Attorneys for City of Lancaster

5 RICHARDS WATSON & GERSHON

6 James L. Markman, Bar No. 43536  
7 Steven Orr, Bar No. 136615  
8 355 S. Grand Avenue, 40<sup>th</sup> Floor  
Los Angeles, CA 90071-3101  
(213) 626-8484 (213) 626-0078 fax  
Attorneys for City of Palmdale

9 LEMIEUX & O'NEILL

10 Wayne Lemieux, Bar No. 43501  
11 2393 Townsgate Road, Ste. 201  
Westlake Village, CA 91361  
(805) 495-4770 (805) 495-2787 fax  
Attorneys for Littlerock Creek Irrigation District and  
12 Palm Ranch Irrigation District

13 LAGERLOF SENECALE GOSNEY & KRUSE

14 Thomas Bunn III, Bar No. 89502  
15 301 North Lake Avenue, 10<sup>th</sup> Floor  
Pasadena, CA 91101-4108  
(626) 793-9400 (626) 793-5900 fax  
Attorneys for Palmdale

16 CHARLTON WEEKS LLP

17 Bradley T. Weeks, Bar No. 173745  
18 1007 West Avenue M-14, Suite A  
Palmdale, CA 93551  
(661) 265-0969 (661) 265-1650 fax  
Attorneys for Quartz Hill Water District

19 CALIFORNIA WATER SERVICE COMPANY

20 John Tootle, Bar No. 181822  
21 2632 West 237<sup>th</sup> Street  
Torrance, CA 90505  
22 (310) 257-1488; (310) 325-4605-fax  
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MOTION IN LIMINE

California Water Service Company, City of Lancaster, City of Palmdale, Littlerock Creek Irrigation District, Los Angeles County Water Works District No. 40, Palmdale Water District, Palm Ranch Irrigation District, Quartz Hill Water District, and Rosamond Community Services District (collectively, "Public Water Suppliers") respectfully request an order in limine to exclude certain cumulative and unduly-time consuming evidence which the Public Water Suppliers believe will be offered by Diamond Farming and its related entity, Crystal Organic Farms (collectively, "Diamond Farming").

This motion is based on the attached Memorandum of Points and Authorities and such other evidence as may be introduced at the time of the hearing, and is made on the ground that the Public Water Suppliers believe that Diamond Farming will seek testimony from the Public Water Suppliers' expert witness, Mr. Joseph Scalmanini, to have him repeat his testimony and opinions he already provided during the Phase 1 proceedings concerning the Adjudication Area boundary concerning the Willow Springs Fault.

Dated: September 30, 2008

BEST BEST & KRIEGER LLP

By 

ERIC L. GARNER  
JEFFREY V. DUNN  
DANIEL S. ROBERTS  
STEFANIE D. HEDLUND  
Attorneys for Cross-Complainants  
ROSAMOND COMMUNITY SERVICES  
DISTRICT and LOS ANGELES  
COUNTY WATERWORKS DISTRICT  
NO. 40

MEMORANDUM OF POINTS AND AUTHORITIES

By this motion, the Public Water Suppliers seek to prevent and exclude cumulative and unduly-time consuming evidence which the Public Water Suppliers believe will be offered by Diamond Farming and its related entity, Crystal Organic Farms (collectively, "Diamond Farming") at the Phase 2 proceedings. Instead of designating their expert witness to testify, Diamond Farming merely designated the Public Water Suppliers' expert witness, Mr. Scalmanini, to testify on behalf of Diamond Farming. Diamond Farming has not engaged Mr. Scalmanini to offer testimony and he has not agreed to testify for Diamond Farming.

Moreover, Diamond Farming will ask Mr. Scalmanini to repeat his Phase 1 testimony and opinion of the Willow Springs Fault. He has already testified on this subject and his testimony is a matter of record in the Phase 1 proceedings. He has not done any additional work or analysis to change his opinion and testimony. He has no additional opinion or change to his opinion concerning the Willow Springs Fault.

It is well-established that cumulative testimony may be excluded under Evidence Code section 352. (*Cubic Corp v. Marty* (1986) 185 Cal.App.3d 438, 455; *O'Neill v. Novartis Consumer Health, Inc.* (2007) 147 Cal.App.4<sup>th</sup> 1388, 1404.) To allow Diamond Farming or any other party to have the Public Water Suppliers' witness repeat his opinion and its basis is unnecessarily cumulative. This is particularly true given the Court has already decided that the Willow Springs Fault is not a basin boundary line, and that the area north of the Willow Springs Fault is included in the Adjudication Area.

Diamond Farming should not be allowed to obtain cumulative testimony from another party's expert witness at great expense to the parties who retained him, and to all the parties who

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1 participate in the Phase 2 proceedings. The Public Water Suppliers therefore respectfully request  
2 an order excluding any opinion testimony and accompanying analysis already provided on the  
3 record in the Phase 1 proceedings.

4  
5 Dated: September 30, 2008

BEST BEST & KRIEGER LLP

6  
7 By 

ERIC L. GARNER  
JEFFREY V. DUNN  
DANIEL S. ROBERTS  
STEFANIE D. HEDLUND  
Attorneys for Cross-Complainants  
ROSAMOND COMMUNITY SERVICES  
DISTRICT and LOS ANGELES  
COUNTY WATERWORKS DISTRICT  
NO. 40

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**PROOF OF SERVICE**

I, Roberta Hoffner, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 5 Park Plaza, Suite 1500, Irvine, California 92614. On September 30, 2008, I served the within document(s):

**PUBLIC WATER SUPPLIERS' MOTION *IN LIMINE* NO. 1**



by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.



by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.



by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.



by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.



I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.

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

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

Executed on September 30, 2008, at Irvine, California.

  
Roberta Hoffner