

BEST BEST & KRIEGER LLP  
ERIC L. GARNER, Bar No. 130665  
JEFFREY V. DUNN, Bar No. 131926  
STEFANIE HEDLUND MORRIS, Bar No. 239787  
18101 VON KARMAN AVENUE, SUITE 1000  
IRVINE, CALIFORNIA 92612  
TELEPHONE: (949) 263-2600  
TELECOPIER: (949) 260-0972  
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  
JOHN F. KRATTLI, Bar No. 82149  
COUNTY COUNSEL  
WARREN WELLEN, Bar No. 139152  
PRINCIPAL DEPUTY COUNTY COUNSEL  
500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012  
TELEPHONE: (213) 974-8407  
TELECOPIER: (213) 687-7337

Attorneys for Cross-Complainant LOS ANGELES  
COUNTY WATERWORKS DISTRICT NO. 40

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

**ANTELOPE VALLEY  
GROUNDWATER CASES**

Included Actions:  
Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co., Superior  
Court of California, County of Los  
Angeles, Case No. BC 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

**REQUEST FOR JUDICIAL NOTICE OF  
TRIAL TESTIMONIES, EXHIBITS, AND  
DECISION IN PHASE THREE RE  
RETURN FLOWS**

## REQUEST FOR JUDICIAL NOTICE

### I. INTRODUCTION

Pursuant to Evidence Code Sections 452 and 453, Los Angeles County Waterworks District No. 40 ("District No. 40") requests that the Court take judicial notice of the following documents for use during Phase Four of the trial:

#### Transcripts of Joseph Scalmanini's Trial Testimony and Related Exhibits

1. Pages 283-284 and 320-398 of the transcript of Joseph Scalmanini's trial testimony on January 12, 2011, true and correct copies of which are attached hereto as Exhibit "A".
2. Exhibit 62 of Joseph Scalmanini's trial testimony on January 12, 2011, titled "Historical M&I Water Requirements Antelope Valley Area of Adjudication," a true and correct copy of which is attached hereto as Exhibit "B".
3. Exhibit 63 of Joseph Scalmanini's trial testimony on January 12, 2011, titled "Tabulated Historical M&I Water Requirements Antelope Valley Area of Adjudication," a true and correct copy of which is attached hereto as Exhibit "C".
4. Exhibit 65 of Joseph Scalmanini's trial testimony on January 12, 2011, titled "Historical Total Water Requirements Antelope Valley of Adjudication," a true and correct copy of which is attached hereto as Exhibit "D".
5. Exhibit 66 of Joseph Scalmanini's trial testimony on January 12, 2011, titled "Tabulated Historical Total Water Requirements Antelope Valley Area of Adjudication," a true and correct copy of which is attached hereto as Exhibit "E".
6. Exhibit 67 of Joseph Scalmanini's trial testimony on January 12, 2011, titled "Historical Groundwater Pumping Antelope Valley Area of Adjudication," a true and correct copy of which is attached hereto as Exhibit "F".
7. Exhibit 68 of Joseph Scalmanini's trial testimony on January 12, 2011, titled "Calculation of Agricultural Groundwater Pumpage Antelope Valley Area of Adjudication," a true and correct copy of which is attached hereto as Exhibit "G".
8. Exhibit 70 of Joseph Scalmanini's trial testimony on January 12, 2011, titled

1 “Boundaries of SWP Contractors with Table A Amounts Antelope Valley Area of Adjudication,”  
2 a true and correct copy of which is attached hereto as Exhibit “H”.

3 9. Exhibit 71 of Joseph Scalmanini’s trial testimony on January 12, 2011, titled  
4 “Historical Supplemental (SWP) Water Use Antelope Valley Area of Adjudication,” a true and  
5 correct copy of which is attached hereto as Exhibit “I”.

6 10. Exhibit 72 of Joseph Scalmanini’s trial testimony on January 12, 2011, titled  
7 “Historical Local and Supplemental (SWP) Water Use Antelope Valley Area of Adjudication,” a  
8 true and correct copy of which is attached hereto as Exhibit “J”.

9 11. Exhibit 73 of Joseph Scalmanini’s trial testimony on January 12, 2011, titled  
10 “Tabulated Historical Local & Supplemental (SWP) Antelope Valley Area of Adjudication,” a  
11 true and correct copy of which is attached hereto as Exhibit “K”.

12 12. Exhibit 75 of Joseph Scalmanini’s trial testimony on January 12, 2011, titled  
13 “Tabulation of Historical Recycled Water Disposition Antelope Valley Area of Adjudication,” a  
14 true and correct copy of which is attached hereto as Exhibit “L”.

15 13. Exhibit 76 of Joseph Scalmanini’s trial testimony on January 12, 2011, titled  
16 “Historical Total Water Use Antelope Valley Area of Adjudication,” a true and correct copy of  
17 which is attached hereto as Exhibit “M”.

18 14. Exhibit 77 of Joseph Scalmanini’s trial testimony on January 12, 2011, titled  
19 “Tabulation of Historical Total Water Use Antelope Valley Area of Adjudication,” a true and  
20 correct copy of which is attached hereto as Exhibit “N”.

21 15. Exhibit 78 of Joseph Scalmanini’s trial testimony on January 12, 2011, titled  
22 “Native Sustainable Yield,” a true and correct copy of which is attached hereto as Exhibit “O”.

23 16. Exhibit 79 of Joseph Scalmanini’s trial testimony on January 12, 2011, titled  
24 “Native and Supplemental Sustainable Yield,” a true and correct copy of which is attached hereto  
25 as Exhibit “P”.

26 17. Pages 418-419 and 500-514 of the transcript of Joseph Scalmanini’s trial  
27 testimony on January 13, 2011, true and correct copies of which are attached hereto as Exhibit  
28 “Q”.

18. Exhibit 93 of Joseph Scalmanini's trial testimony on January 13, 2011, titled "Native Safe Yield," a true and correct copy of which is attached hereto as Exhibit "R".

19. Exhibit 95 of Joseph Scalmanini's trial testimony on January 13, 2011, titled "Supplemental Safe Yield," a true and correct copy of which is attached hereto as Exhibit "S".

Transcripts of Mark J. Wildermuth's Trial Testimony

20. Pages 79-85 and 154-156 of the transcript of Mark J. Wildermuth's trial testimony on January 4, 2011, true and correct copies of which are attached hereto as Exhibit "T".

21. Pages 24-46 and 116-119 of the transcript of Mark J. Wildermuth's trial testimony on January 5, 2011, true and correct copies of which are attached hereto as Exhibit "U".

22. Pages 39-42 and 64-67 of the transcript of Mark J. Wildermuth's trial testimony on January 31, 2011, true and correct copies of which are attached hereto as Exhibit "V".

23. Pages 16-18, 25-27, 56-69, 125-129 and 166-169 of the transcript of Mark J. Wildermuth's trial testimony on February 1, 2011, true and correct copies of which are attached hereto as Exhibit "W".

24. Pages 90-94 of the transcript of Mark J. Wildermuth's trial testimony on March 25, 2011, true and correct copies of which are attached hereto as Exhibit "X".

Transcript of Joel E. Kimmelshue's Trial Testimony and Related Exhibits

25. Pages 121-168 of the transcript of Joel E. Kimmelshue's trial testimony on March 15, 2011, true and correct copies of which are attached hereto as Exhibit "Y".

26. Exhibit A-94 of Joel E. Kimmelshue's trial testimony on March 15, 2011, titled "Annual Return Flow," a true and correct copy of which is attached hereto as Exhibit "Z".

27. Exhibit A-95 of Joel E. Kimmelshue's trial testimony on March 15, 2011, titled "Annual Urban Applied Water and Return Flow," a true and correct copy of which is attached hereto as Exhibit "AA".

Transcript of Steven Bachman's Trial Testimony and Related Exhibit

28. Pages 132-140 and 149-153, 162-165, 177-179 and 194-195 of the transcript of Steven Bachman's trial testimony on March 16, 2011, true and correct copies of which are attached hereto as Exhibit "BB".

29. Exhibit B-73 of Steven Bachman's trial testimony on March 16, 2011, titled "Lag Time for Return Flows," a true and correct copy of which is attached hereto as Exhibit "CC".

Transcripts of N. Thomas Sheahan's Trial Testimony

30. Pages 26-28, 95-97, 140-146, 165-168, 187-189 and 195-196 of the transcript of N. Thomas Sheahan's trial testimony on March 22, 2011, true and correct copies of which are attached hereto as Exhibit "DD".

31. Pages 2-9, 138-148 and 156-160 of the transcript of N. Thomas Sheahan's trial testimony on March 23, 2011, true and correct copies of which are attached hereto as Exhibit "EE".

Transcripts of Ericson John List's Trial Testimony

32. Pages 193-199, 215-219 of the transcript of Ericson John List's trial testimony on March 23, 2011, true and correct copies of which are attached hereto as Exhibit "FF".

33. Pages 1-9 of the transcript of Ericson John List's trial testimony on March 24, 2011, true and correct copies of which are attached hereto as Exhibit "GG".

Statement of Decision

34. Phase Three Statement of Decision, dated July 13, 2011, a true and correct copy of which is attached hereto as Exhibit "HH".

Exhibits "A" through "HH" relate to return flows in the Antelope Valley Water Basin. Exhibits "A" through "GG" are either trial testimonies excerpts or exhibits presented during Phase Three. Exhibit "HH" is this Court's Phase Three Statement of Decision, which contains return flows findings. The items contained in this Request are part of the Court's records.

1 **II. THE COURT SHOULD TAKE JUDICIAL NOTICE OF RECORDS OF THIS**  
2 **ACTION**

3 Courts may take judicial notice of “[r]ecords of [] any court of this state.” (Evid. Code  
4 §452, subd. (d); see, *People v. Buckley* (1986) 185 Cal. App. 3d 512, 525 [judicial notice taken of  
5 preliminary hearing transcript]; *Knoff v. San Francisco* (1969) 1 Cal. App. 3d 184, 200 [grand  
6 jury testimony transcripts “were subjects of which the trial court could properly take judicial  
7 notice.”].) Moreover, California courts have long established that “[a] court may judicially notice  
8 its own records and proceedings in the same case.” (*San Francisco v. Carraro* (1963) 220 Cal.  
9 App. 2d 509, 527; see also, *Nulaid Farmers Assn. v. La Torre* (1967) 252 Cal. App. 2d 788, 791  
10 [“It is settled that a court may take judicial notice of its own records . . .”].)


11 The exhibits attached hereto include: (1) Phase Three trial testimony; (2) Phase Three trial  
12 exhibits; and (3) the Phase Three Statement of Decision. These documents are court records, for  
13 which judicial notice may be taken. (Evid. Code §452, subd. (d).)

14 Under Section 453 of the Evidence Code, this request for judicial notice is conditionally  
15 mandatory and must be granted if sufficient notice is given to the adverse party and if the court is  
16 furnished with sufficient information to enable it to take notice of the matter. (*People v. Maxwell*  
17 (1978) 78 Cal. App. 3d 124, 130-31.) By this request, District No. 40 gives the Court and adverse  
18 parties sufficient notice and information to enable it to take judicial notice of those records  
19 attached hereto as Exhibits “A” through “HH.”

20 Dated: March 29, 2013

BEST BEST & KRIEGER LLP

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22  
23 By

  
ERIC L. GARNER  
JEFFREY V. DUNN  
STEFANIE HEDLUND MORRIS  
Attorneys for Cross-Complainant  
LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40

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**PROOF OF SERVICE**

I, Kerry V. Keefe, 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 March 29, 2013, I served the within document(s):

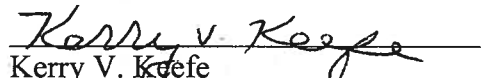
**REQUEST FOR JUDICIAL NOTICE OF TRIAL TESTIMONIES, EXHIBITS, AND DECISION IN PHASE THREE RE RETURN FLOWS**

- ☒ 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 March 29, 2013, at Irvine, California.

  
Kerry V. Keefe