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DISTRICT NO. 40

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

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

ANTELOPE VALLEY GROUNDWATER
CASES

Judicial Council Coordination Proceeding
No. 4408

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;

CLASS ACTION

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

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;

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40'S
SUPPLEMENTAL REQUEST FOR
JUDICIAL NOTICE OF PHASE THREE
TRIAL TESTIMONIES AND EXHIBITS

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

Trial Date: February 10, 2014 (Phase V)

RICHARD WOOD, on behalf of himself and
all other similarly situated v. A.V. Materials,
Inc., et al., Superior Court of California,
County of Los Angeles, Case No. BC509546

[Concurrently filed with Motion in Limine
Number One]

1 **I. INTRODUCTION**

2 Pursuant to Evidence Code Sections 452 and 453, Los Angeles County Waterworks
3 District No. 40 ("District No. 40") requests that the Court take judicial notice of the following
4 documents for use in support of District No. 40's Motion in Limine and during Phase 5 trial:

5 Exhibits attached to District No. 40's Request for Judicial Notice, Dated March 29, 2013

6 1. Exhibits accompanying District No. 40's Request for Judicial Notice of trial
7 testimony, exhibits and Statement of Decision from Phase 3 of the trial ("March 2013 RJN"),
8 which was posted and filed on or about March 29, 2013 and is accessible at
9 www.scefilings.org/document/document.jsp?documentId=79042.¹

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

11 2. Pages 30-31 of the transcript of Joseph Scalmanini's trial testimony on January
12 10, 2011, true and correct copies of which are attached hereto as Exhibit "II".

13 3. Exhibit 12 of Joseph Scalmanini's trial testimony on January 10, 2011, titled
14 "Sustainable Yield," a true and correct copy of which is attached hereto as Exhibit "JJ".

15 4. Pages 514-516 of the transcript of Joseph Scalmanini's trial testimony on
16 January 13, 2011, true and correct copies of which are attached hereto as Exhibit "KK".

17 Transcripts of Court Proceeding in Phase 5

18 5. Pages 17-18 and 24-26 of the transcript of Court hearing in this matter on
19 October 16, 2013, true and correct copies of which are attached hereto as Exhibit "LL".

20 **II. THE COURT SHOULD TAKE JUDICIAL NOTICE OF RECORDS OF THIS**
21 **ACTION**

22 Courts may take judicial notice of "[r]ecords of [] any court of this state." (Evid. Code
23 §452, subd. (d); see, *People v. Buckley* (1986) 185 Cal. App. 3d 512, 525 [judicial notice taken of
24 preliminary hearing transcript]; *Knoff v. San Francisco* (1969) 1 Cal. App. 3d 184, 200 [grand
25 jury testimony transcripts "were subjects of which the trial court could properly take judicial

26
27 ¹ At the January 15, 2014 hearing regarding discovery and District No. 40's *ex parte* application to quash deposition
28 of Mr. Joseph Scalmanini, the Court indicated that it will take the March 2013 RJN under consideration. In an effort
to reduce duplicative filings, District No. 40 hereby incorporates the March 2013 RJN by reference and requests the
Court to allow the use of exhibits accompanying the March 2013 RJN for use in Phase 5 trial.

1 notice.”). Moreover, California courts have long established that “[a] court may judicially notice
2 its own records and proceedings in the same case.” (*San Francisco v. Carraro* (1963) 220 Cal.
3 App. 2d 509, 527; *see also, Nulaid Farmers Assn. v. La Torre* (1967) 252 Cal. App. 2d 788, 791
4 [“It is settled that a court may take judicial notice of its own records . . .”].)

5 The exhibits attached hereto and accompanying the March 2013 RJN include: (1) Phase
6 Three trial testimony; (2) Phase Three trial exhibits; and (3) the Phase Three Statement of
7 Decision. These documents are court records, for which judicial notice may be taken. (Evid.
8 Code §452, subd. (d).)

9 Under Section 453 of the Evidence Code, this request for judicial notice is conditionally
10 mandatory and must be granted if sufficient notice is given to the adverse party and if the court is
11 furnished with sufficient information to enable it to take notice of the matter. (*People v. Maxwell*
12 (1978) 78 Cal. App. 3d 124, 130-31.) By this request, District No. 40 gives the Court and adverse
13 parties sufficient notice and information to enable it to take judicial notice of those records
14 attached hereto as Exhibits “AA” through “LL.”
15

16 Dated: January 24, 2014

BEST BEST & KRIEGER LLP

17 By: 

18 ERIC L. GARNER
19 JEFFREY V. DUNN
20 WENDY Y. WANG

21 Attorneys for Cross-Complainant
22 LOS ANGELES COUNTY WATERWORKS
23 DISTRICT NO. 40
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PROOF OF SERVICE

I, Sandra K. Sandoval, 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, 300 South Grand Avenue, 25th Floor, Los Angeles, CA 90071. On January 24, 2014, I served the within document(s):

**LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40'S
SUPPLEMENTAL REQUEST FOR JUDICIAL NOTICE OF PHASE THREE
TRIAL TESTIMONIES AND EXHIBITS**



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.



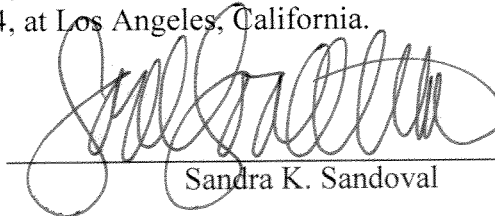
by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.



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

I 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 January 24, 2014, at Los Angeles, California.


Sandra K. Sandoval