Bob H. Joyce, (SBN 84607)
Dave R. Lampe (SBN 77100)
Andrew Sheffield (SBN 220735)
LAW OFFICES OF
LEBEAU • THELEN, LLP
5001 East Commercenter Drive, Suite 300
Post Office Box 12092
Bakersfield, California 93389-2092
(661) 325-8962; Fax (661) 325-1127

Attorneys for DIAMOND FARMING COMPANY, a California corporation

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding Special Title (Rule 1550 (b)) ANTELOPE VALLEY GROUNDWATER CASES Included actions: Los Angeles County Waterworks District No. 40 vs. Diamond Farming Company Los Angeles Superior Court Case No. BC 325201 Los Angeles County Waterworks District No. 40 vs. Diamond Farming Company Kern County Superior Court Case No. S-1500-CV 254348 NFT Diamond Farming Company vs. City of Lancaster Riverside County Superior Court Lead Case No. RIC 344436 [Consolidated w/Case Nos. 344668 & 353840]	Judicial Council Coordination No. 4408 Case No.: 1-05-CV-049053 **DIAMOND FARMING COMPANY'S NOTICE OF MOTION AND MOTION IN LIMINE FOR AN ORDER ESTABLISHING THE EVIDENTIARY STANDARD FOR NOTICE OF HOSTILITY NECESSARY FOR PROOF OF PRESCRIPTION BY THE PUBLIC WATER SUPPLIERS** Date: May 21, 2007 Time: 9:00 a.m. Dept: 1

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I. AUTHORITY FOR THIS MOTION

Cross-defendant, DIAMOND FARMING COMPANY, ("DIAMOND"), brings this Motion In Limine for an order of this Court affirming that the Public Water Suppliers must present evidence of notice of hostility and adversity necessary to the prescriptive claims of each Cross-complainant to establish that it was constitutionally sufficient due process notice to all defendants. They need not prove that actual notice was provided, but must prove that they attempted to provide actual notice. When "notice" is required, the Constitution imposes upon the government,, the burden to prove that the means or procedure used to impart that notice was ". . . reasonably calculated to ensure that such notice will be given."[1]

This Motion is brought as an alternative to, and in connection with DIAMOND's "Notice of Motion and Motion to Strike the Class Allegations as to the First Cause of Action of the First Amended Cross-complaint of the Public Water Suppliers, or, In the Alternative, Motion to Deny Certification of Any Defendant Class as to the First Cause of Action of that Cross-complaint." If this Motion In Limine is granted, then that Motion is moot. The claims of prescription may be litigated classwide, on this evidentiary standard. The evidentiary standard will have an uniform and area wide application, in that the method and/or manner of imparting notice will be assessed *ex ante*, rather than *post hoc*. The focus will be upon the methods employed by each Public Water Supplier to impart notice of its adverse claim to all defendants, rather than a focus unique to what each owner or its predecessor knew, when they knew it, and whether or not it was sufficient actual knowledge or invoked a duty of further inquiry.

Under the common law, in suits between private citizens, the prescriptive period cannot commence to run until the owner has actual knowledge of the adverse claim of right, or the means of knowledge and proof of facts imposing a legal duty of inquiry. Thereafter, the adverse claim is perfected if the owner, with knowledge (actual or legally imputed), acquiesced and neglected their own title for the statutory period. If this Motion is denied, then this Court must grant Diamond's Motion to Strike the Class Allegations as to the First Cause of Action of the First Amended Cross-complaint of the Public

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1 See *Gary Kent Jones v. Linda K. Flowers, et al.,* (2006) U.S. 3451; *Larry Dean Dusenbery v. United States* (2001) 534 U.S. 161, 167; *United States of America v. One Toshiba Color Television* (2000) 213 F.3d 147, 155.

Water Suppliers, or, In the Alternative, Motion to Deny Certification of Any Defendant Class as to the First Cause of Action of that Cross-complaint. When one or more legal or factual issues predominates requiring individual adjudication, class certification is not proper.

A motion in limine is not specifically authorized or governed by any California statute. Consideration of such a motion, however, is authorized under Code of Civil Procedure section 128(a)(3), (8), which provides that every court has the power to provide for the orderly conduct of proceedings before it and to amend and control its process and orders to make them conform to law and justice. Additionally, Evidence Code section 350 allows the admission of relevant evidence only, and Evidence Code section 352 authorizes the exclusion of unduly prejudicial evidence, and Evidence Code section 402(b) authorizes the hearing and determination of the admissibility of evidence out of the presence or hearing of the jury. California courts have acknowledged the use of motions in limine. (See *People v. Morris* (1991) 53 Cal. 3d 152, 188; *Clemens v. American Warranty Corp.* (1987) 193 Cal. App. 3d 444, 451; *Lemer v. Boise Cascade, Inc.* (1980) 107 Cal. App. 3d 1, 9-12.)

There is no decision outlining procedural guidelines for a motion in limine. However, numerous cases discuss the use of pretrial motions to assess evidence before presenting it to the jury. (See, e.g., *Cherrigan v. City etc. of San Francisco* (1968) 262 Cal. App. 2d 643, 646 ; *Sacramento, etc. Drainage Dist. ex rel. State Reclamation Bd. v. Reed* (1963) 215 Cal. App. 2d 60, 66-68, modified, 217 Cal. App. 2d 611.) A court has inherent equity, supervisory and administrative powers, as well as inherent power to control litigation and conserve judicial resources. (*Cottle v. Superior Court* (1992) 3 Cal. App. 4th 1367, 1377.) Courts can conduct hearings and formulate rules of procedure where justice so demands. (*Walker v. Superior Court* (1991) 53 Cal.3d 257, 267-268; *Peat, Marwick, Mitchell & Co. v. Superior Court* (1988) 200 Cal.App.3d 272, 287.)

II. INTRODUCTION

The Public Water Suppliers assert that their prescriptive rights need not be and cannot be, scrutinized any differently than if they were themselves a private citizen. They thus plead that ". . . for more than five years and before the date of this cross-complaint, they have pumped water from the Basin for reasonable and beneficial purposes, and done so under a claim of right in an actual, open, notorious,

exclusive, continuous, hostile and adverse manner. The Public Water Suppliers further allege that each cross-defendant had actual and/or constructive notice of these activities, [i.e., the pumping] either of which is sufficient to establish the Public Water Suppliers' prescriptive rights." Proof of that "pumping" conjoined with proof that all overlying landowners had notice of that "pumping," is not sufficient.[2] The proof required of each public entity must be proof of acts or declarations, or both, that were intended and reasonably calculated, to impart actual knowledge of its "claim of right," "adversity" and "hostility" to each affected landowner. Permissive use alone is not sufficient to establish a prescriptive title. The Public Water Suppliers' "pumping" was *ab initio* permissive and lawful. Where the use is in the first instance permissive and lawful, it requires more than continued use for the statutory period.

> "Where possession and use is permissive at the beginning, one cannot acquire title by adverse possession unless he gives clear and actual notice to the owner of the adverse nature of his subsequent possession. *Southern Pacific Co. v. City & County of San Francisco*, 62 Cal.2d 50, 56." *(Axel V. Johnson, et al., vs. Ocean Shore Railroad Company* (1971) 16 Cal.App.3d 429.)

The public entities argue that their claims of prescriptive rights do not implicate the Constitution. They are wrong! Private rights and private responsibilities devolve from the common law and are concededly inalienable rights, reaffirmed by the Constitution. However, those who exercise the powers of the sovereign, do so with the consent of the governed. This Court is the guardian of that compact and the shield against the temptation towards tyranny. The government is not necessarily entitled to the same property rights as a private citizen. The Public Water Suppliers' asserted claims of title acquired by prescription must be scrutinized through the prism of the Constitution.[3]

> "The petitioners herein are the sole owners of each of their respective properties and as such hold their rights to be protected in the exclusive enjoyment of every portion thereof under the express guaranty of both the state and federal constitutions, which declare that 'no person shall be deprived of life, liberty or property without due process of law.' (Const., sec. 13, art. I; U.S. Const., art. V, Amendments.) These constitutional guaranties are among the most sacred inheritances of the American people, derived as

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2 In *Wright v. Goleta Water District* (1985) 174 Cal.App.3d 74, at page 90, that court held that cooperation in or knowledge of a public entities taking of water for a public purpose did not equate with or constitute knowledge that individual overlying rights were in jeopardy.

3 "In such cases the purposes of the constitutional clause, rather than the limits established by a rule of statutory or common law allocating rights and responsibilities between private parties, must fix the extent of a public entity's responsibility." *Holtz v. Superior Court* (1970) 3 Cal.3d 296; at p. 302.

> they are from those earlier English constitutions going back to Magna Carta and being reaffirmed in those succeeding petitions, declarations, and bills of right which form the fundamental background of the British constitution." *Jacobsen v. Superior Court* (1923) 192 Cal. 319, 325.

In the First Amended Cross-complaint, the Public Water Suppliers assert that the common law priorities between them and all named overlying Defendants, as well as all Class Members (all other overlying landowners) have been reversed due to a superior right acquired by prescription. No Public Water Supplier has claimed that it has physically invaded or trespassed upon any real property of any overlying landowner. None have asserted that they have in any way interfered with any landowner's use and enjoyment of its property. It is not claimed by any Public Water Supplier that it has, by its pumping or any other conduct, interfered with or limited in any way the exercise of the overlying right nor prevented groundwater pumping by any overlying landowner.

By content, the First Amended Cross-complaint confirms that, historically and currently, groundwater pumping for agricultural irrigation coexisted with and occurred concurrently with groundwater pumping for municipal and industrial use. At the outset, there was no manifest shortage and therefore no overlying landowner could have complained about the groundwater pumping of any Public Water Supplier/Appropriator. (*Wright* v. *Goleta* (1985) 174 Cal.App.3d 74.) At the outset, the pumping by the Cross-complainant Public Water Suppliers was permissive and lawful. It is only at some, as yet undefined, point in time thereafter that the pumping by any Cross-complainant could possibly have become adverse. After the onset of adversity and before that continued use could ripen by prescription into a priority right, the adverse user must have communicated to the affected landowner that its continued use was thereafter under an adverse claim of right, and hostile to the owner's title.

The order sought by this Motion is now necessary for two reasons. First, the California State Constitution and our Federal Constitution imposes upon each Cross-complainant, the burden to prove that it made a good faith effort to provide all affected overlying landowners constitutionally sufficient due process notice of its adverse claim. (See fn. 1.) Secondly, in their First Cause of Action, the Public Water Suppliers seek to litigate the asserted prescriptive rights as against a nominally represented Defendant Class. The alternative is to litigate the issue of notice on a parcel by parcel, owner by owner

basis. Thus, a common and uniform evidentiary standard of notice universally applicable to the whole class must now be established. Constitutionally sufficient notice is traditionally evaluated by the court on an *ex ante* and not a *post hoc* basis. The assessment focuses upon the sufficiency of the method, manner, or procedure used to impart notice and is not constitutionally dependent upon the result achieved. Actual notice is not required. The means, method or procedure employed need only be such as one desirous of actually informing might have reasonably adopted to give notice. This Court's affirmance of the constitutionally required standard of notice will permit certification of the First Cause of Action of the Amended Complaint as against the Defendant Class, since the issues of proof will concern the acts and declarations of each Public Water Supplier, and the constitutional sufficiency of those acts and declarations, rather than multiple mini-trials wherein the state of mind, state of knowledge, the timing of the acquisition of that knowledge and its legal effect, on a parcel by parcel, owner by owner basis, would otherwise be required.

III. COMMON LAW PRESCRIPTION AND NOTICE

For well over a century, the California Supreme Court has held that prescription follows upon a presumption that the adversely affected landowner, with knowledge of the adverse claim, by acquiescence, impliedly granted an easement or license to the prescripting party.

> "Title by prescription is created in such cases only where the conduct of the party who submits to the use by another cannot be accounted for on any other hypotheses than that which raises the presumption of the grant of an easement. The conduct of the party claiming the benefit of the presumption must in all cases have been such in itself as to give the other party the right to complain." (*Lakeside Ditch Company* v. *Henry A. Crane, et al.* (1889) 80 Cal. 181; pp. 183-184.)

In *Peck* v. *Howard* (1946) 73 Cal.App.2d 308, at pages 325-326, the Second District Court of Appeals observed:

> "The law will not allow the property of one person to be taken by another, without any conveyance or consideration, upon slight presumptions or probabilities." (*Niles* v. *Los Angeles*, 125 Cal. 572, 576.) (*Peck, supra.*)
> That court, further held:
>
> "That owners are not affected by acts which do not bring to them knowledge of the assertion of an adverse right, and that the use by the adverse claimant was not hostile unless there was an actual clash with the rights of the actual owners, and that before a right by prescription is established the acts by which such establishment is sought must

operate as an invasion of the rights of the parties against whom it is set up, was the holding in *Anaheim Water Co.* v. *Semi-Tropic Water Co.*, 64 Cal. 185, 192 [30 P. 623]; *City of San Diego* v. *Cuyamaca Water Co.*, 209 Cal. 105, 133 [287 P. 475]; *Churchill* v. *Louie*, 135 Cal. 608, 611 [67 P. 1052]; *Skelly* v. *Cowell*, 37 Cal.App. 215, 218 [173 P. 609]; *Faulkner* v. *Rondoni*, 104 Cal. 140, 147 [37 P. 883]; *Pabst* v. *Finmand*, 190 Cal. 124, 128, 129 [211 P. 11.]. To the same effect, was the holding in the well considered case of *Jobling* v. *Tuttle*, 75 Kan. 351 [89 P. 699, 9 L.R.A.N.S. 960, 965, 966], and *Dondero* v. *O'Hara* [***39] , 3 Cal.App. 633 [86 P. 985]."

Knowledge of the adverse claim of right is the predicate to the commencement of prescription.

"To constitute adverse possession, the occupation must be open, visible, notorious, and exclusive, and must be retained under a claim of right to hold the land against him who was seized; and the person against whom it is held must have knowledge, or the means of knowledge, of such occupation and claim of right. Such knowledge or the means by which such knowledge may be attained, must be brought home to the person who was seized or possessed of the land; because the statute proceeds on the ground that he, knowing that a cause of action exists in his favor for the intrusion, yet acquiesces in it, and does not attempt to regain the possession of his land in the mode provided by law. (Ang. Lim., Secs. 391, 398; 2 Wash. on Real Prop. 490.) A clandestine entry or possession will not set the statute in motion, because the owner of the land cannot be said to have acquiesced in the wrongful entry or possession. The owner will not be condemned to lose his land because he has failed to sue for its recovery, when he had no notice that it was held or claimed adversely; but the statute cuts off his remedy only when he has neglected to commence his action beyond the period assigned for it." *William Thompson v. F.L.A. Pioche* (1872) 44 Cal. 508.

Thus, prescription is only perfected against one who has knowledge of the adverse claim of right by the user, and who thereafter knowingly acquiesces and/or neglects his title for the statutory period.[4]

IV. UNDER THE COMMON LAW STANDARD, EACH PUBLIC WATER SUPPLIER CLAIMING A PRESCRIPTIVE RIGHT MUST PROVE THAT EACH LANDOWNER AND THUS EACH MEMBER OF THE "DEFENDANT CLASS" HAD KNOWLEDGE, ACTUAL OR LEGALLY IMPLIED, OF THE ADVERSE CLAIM OF RIGHT

Cross-complaints seek to reverse the common law priority of all overlying landowners, and thus, have the burden to prove every element necessary to that claim of prescription. Before pumping could ripen by prescription into a priority right, the owners of land having overlying rights must have been first

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4 See, e.g., *John W. Clarke, Jr., v. Frank H. Clarke* (1901) 133 Cal. 667; *W. Jarvis Barlow v. George K. Frink* (1915) 171 Cal. 165; *Southern Pacific Company v. City and County of San Francisco* (1964) 62 Cal.2d 50; *Alice C. Jones v. Carrie Tierney-Sinclair* (1945) 71 Cal.App.2d 366; *N. V. Jaffray v. Leo J. Mies, et al.,* (1947) 80 Cal.App.2d 291; *M. R. Dooling, et al., v. Herman A. Dabel, et al.,* (1947) 82 Cal.App.2d 417; *Basil Burton Beagle v. Eunice D. Hanks, et al.,* (1954) 125 Cal.App.2d 298; *Lonnie Case, et al., v. Walter J. Uridge* (1960) 180 Cal.App.2d 1; *Louis C. Guerra, et al., v. David Packard, et al.,* (1965) 236 Cal.App.2d 272.

notified that the pumping by the one claiming the right based upon prescription ". . . is hostile to his claim, or the statute does not operate on his right." (See, *Unger* v. *Mooney, et al.* (1883) 63 Cal. 586; P. 592.)

The last cited case involved the analogous situation of co-tenants where one, through a claim of adverse possession, sought to oust the title held by the other co-tenant. The court held that the co-tenant's possession was *ab initio* lawful and possession alone could not support the claim. Cross-complainants' pumping of groundwater was *ab initio*, lawful also.

> "Hence there must be some conduct of the occupying tenant evidenced by acts or declarations, or both, in its nature and essence hostile to the title of the tenant out of possession, and imparting knowledge of such hostility to the latter, to affect his right." [Emphasis added.] (*Unger*, *supra*, at p. 592.)

Knowledge of the adverse and hostile claim of right must be first imparted to an affected landowner before the prescriptive period can commence to run. It is only after notice and inaction and thus acquiescence for the statutory period that the prescriptive claim can be perfected.

> "This right [notice] of the injured party is a cardinal fact that must exist, else all statutes of limitation and all rules of prescription or of presumption, of license or grant, would be but rules of spoilation or robbery." [Bracket insert added.] (See *Sullivan* v. *Zeiner* (1893) 98 Cal. 346; pp. 351-352.)

Proof of "pumping" alone, even if the common supply is "overdrafted," is not sufficient. Each owner must know of the hostile claim, and knowingly acquiesce and neglect his title.

> "The law will presume that the land belongs to the owner of the paper title, and that the use was by permission or silent acquiescence. If this presumption is overcome by evidence showing the use to have been hostile, and that the owner new of such hostile claim, and took no steps to protect his property, for a period of five years, then the presumption changes. No injustice is done to the owner, if he knows the claim to be hostile, and that title is being asserted against him, but neglects for five years to avail himself of the right which the law gives him." [Emphasis added.] *(Clark v. Clark* (1901) 133 Cal. 667, 670-671.)

> "It is not sufficient that the claim of right exist only in the mind of the person claiming it. It must in some way be asserted in such manner that the owner may know of the claim." [Emphasis added.] *(Rochex & Rochex, Inc. v. Southern Pacific Company* (1932) 128 Cal.App. 474, 479-480.)

The cross-complaining public entities do not intend to prove that any landowner had actual and/or constructive notice of its "claim of right" or its "claim of hostility and adversity" or that title was being asserted against them. They will offer proof of "overdraft" and proof of their pumping, and then

on that proof alone assert that each landowner was charged with a duty to discover their hostile and adverse claim of right. If that is not their intent, then let them make an "offer of proof."

V. THE PUBLIC WATER SUPPLIERS MUST PROVE THAT BY THEIR ACTS OR DECLARATIONS THAT THEY IMPARTED CONSTITUTIONALLY SUFFICIENT DUE PROCESS NOTICE OF THE ADVERSE CLAIM OF RIGHT

The California Supreme Court in *City of Los Angeles* v. *City of San Fernando* (1975) 14 Cal.3d 199, at page 1311 makes clear " . . . if the other party is not on notice that the overdraft exists, such adverse taking does not cause the commencement of the prescriptive period." That court continued:

> "The findings that the takings from the basin were open and notorious and were continuously asserted to be adverse does not establish that the owners were on notice of adversity in fact caused by the actual commencement of overdraft." [Emphasis added.] (*City of Los Angeles*, *supra*, at p. 1311.)

When notice from the government is a person's due, the means employed must be such as one desirous of actually informing might reasonably adopt to accomplish it. *(Jones vs. Flowers* (2006) U.S. 3451; citing *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306.) Each Cross-complainant is a political subdivision of the government, and as such bound by the Federal and California State Constitution. The assessment of the adequacy of a particular method and manner or form of notice when required of the government, requires a balancing of the "interest of the state" against "the individual interest sought to be protected by the Fourteenth Amendment." *(Mullane, supra*, at 314.) In this case, this Court will be called upon to evaluate the adequacy of the method, manner and procedure by which each Cross-complainant imparted notice before extinguishing each property owner's interest. The purpose of this Motion is to secure an order of this Court confirming that the proof of the notice required for prescription must satisfy the constitutional standard of due process.

Knowledge is a product of learning and notice is a tool to teach. The notice must be of such nature as reasonably to convey the required information, and it must afford a reasonable time for those interested to make their objection. The means employed must be such as one desirous of actually informing might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected, or, where conditions do not reasonably permit such notice, that the form chosen

is not substantially less likely to bring home notice than other of the feasible and customary substitutes. (See *Mullan*e at 314- 315.) Unless the Public Water Suppliers can show that the affected landowners are "**not reasonably identifiable, constructive notice alone does not satisfy the mandate of Mullane.**" (*Mennonite Board of Missions vs. Adams* (1983) 462 U.S. 791 at 798.)

In *Walker v. City of Hutchison* (1956) 352 U.S. 112, the court held that statutory constructive notice by publication failed to meet the requirements of due process. There a city exercised its power of eminent domain over a landowner's property and the Supreme Court held that such notice failed to meet the *Mullane* standard, and ordered that notice "reasonably intended to and calculated to inform" must be given to any landowner whose address is readily known from the public record.

In *Schroeder v. City of New York* (1962) 371 U.S. 208, the court applied the *Mullane* standard, holding that a riparian property owner was not given adequate due process notice of the City's eminent domain proceedings to divert upstream waters, when notice was attempted only by postings and publication. It was held that some good faith effort to give actual notice to property owners was required, if their names were reasonably ascertainable from public records. In both *Walker, supra*, and *Schroeder, supra*, the suits were filed after the statute of limitations had run, the plea of the statute was sustained by the trial court, but the absence of due process notice resulted in a reversal by the Supreme Court.[5]

The Public Water Suppliers' pleading that all landowners had "actual and/or constructive" notice of their "pumping" is not sufficient to carry the day for class certification of the claim of prescriptive rights. It is not an offer to prove that all landowners had "actual and/or constructive" notice of their "claim of right," "claim of hostility," or "claim of adversity," and certainly does not demonstrate "acts

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5 "The majority opinion in the New York Court of Appeals seems additionally to have drawn support from an assumption that the effect of the city's diversion of the river must have been apparent to the appellant before the expiration of the three-year period within which the statute required that her claim be filed. 10 N.Y. 2d, at 526-527, 180 N. E. 2d, at 569-570. [Constructive notice.] There was no such allegation in the pleadings, upon which the case was decided by the Trial Court. But even putting this consideration aside, knowledge of a change in the appearance of the river [here, the gradual lowering of well water levels] is far short of notice that the city had diverted it and that the appellant had a right to be heard on a claim for compensation for damages resulting from the diversion. That was the information which the city was constitutionally obliged to make at least a good faith effort to give personally to the appellant – an obligation which the mailing of a single letter would have discharged. (*Schroeder, supra*, pp. 213-214. [Bracket inserted.])

or declarations or both" which by their nature evidence constitutionally sufficient due process notice of the adverse claim to all members of the proposed class.

Here, the public entities asserting prescriptive rights should be ordered to prove that their acts or declarations satisfy the Constitutional due process standard of notice. Under the Fifth and Fourteenth Amendments to the Federal Constitution, and Article 1, Section 19 of our State Constitution, the government is enjoined from taking private property without just compensation, and from depriving any person of property without due process of law. These governmental entities consciously elected to not avail themselves of the right vested in them by Article 1, Section 19. Instead, they seek, by judgment, to affirm their theft of private property without compensation upon a claim of prescription. DIAMOND does not suggest that they must prove that notice was actually received, but only that the acts or declarations which they claim imparted notice of the adverse claim of right was such that this Court can conclude they consciously made a constitutionally sufficient good faith attempt to provide actual notice to all defendants.[6]

Dated: April 12, 2007

LeBEAU • THELEN, LLP

By: _____
BOB H. JOYCE
Attorneys for DIAMOND FARMING COMPANY, a California corporation

6 See *Larry Dean Dusenbery vs. United States* (2002) 534 U.S. 161, at p. 170.

PROOF OF SERVICE

ANTELOPE VALLEY GROUNDWATER CASES
JUDICIAL COUNCIL PROCEEDING NO. 4408
CASE NO.: 1-05-CV-049053

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within action; my business address is: 5001 E. Commercenter Drive, Suite 300, Bakersfield, California 93309. On April 12, 2007, I served the within **DIAMOND FARMING COMPANY'S NOTICE OF MOTION AND MOTION IN LIMINE FOR AN ORDER ESTABLISHING THE EVIDENTIARY STANDARD FOR NOTICE OF HOSTILITY NECESSARY FOR PROOF OF PRESCRIPTION BY THE PUBLIC WATER SUPPLIERS**

■ **(BY POSTING)** I am "readily familiar" with the Court's Clarification Order. Electronic service and electronic posting completed through www.scefiling.org ; All papers filed in Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

Los Angeles County Superior Court
111 North Hill Street
Los Angeles, CA 90012
Attn: **Department 1**

Chair, Judicial Council of California
Administrative Office of the Courts
Attn: Appellate & Trial Court Judicial Services
(Civil Case Coordinator)
Carlotta Tillman
455 Golden Gate Avenue
San Francisco, CA 94102-3688
Fax (415) 865-4315

☐ **(BY MAIL)** 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 at Bakersfield, California, in the ordinary course of business.

☐ **(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the addressee(s). Executed on _____, 2007, at Bakersfield, California.

■ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct, and that the foregoing was executed on April 12, 2007, in Bakersfield, California.

Donna M. Luis

DONNA M. LUIS