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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

**DECLARATION OF BOB H. JOYCE,
ESQ. IN SUPPORT OF MOTION TO
COMPEL LOS ANGELES
WATERWORKS DISTRICT NO. 40
AND ROSAMOND COMMUNITY
SERVICES DISTRICT TO PROVIDE
FURTHER RESPONSES TO REQUEST
FOR PRODUCTION OF DOCUMENTS
[SET ONE]; AND FOR MONETARY
SANCTIONS**

Date: October 12, 2007
Time: 9:00 a.m.
Dept.: 1

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1 I, Bob H. Joyce, declare,

2 1. I am an attorney at law, duly admitted to practice before all the courts of the State of
3 California and I am a partner in the law firm of LeBeau • Thelen, attorneys of record herein for plaintiff,
4 DIAMOND FARMING CO., in this matter. I am familiar with the aspects of this case, including all of
5 the matters which are set forth in this Declaration. If called upon to testify at the hearing of this motion,
6 I could and would competently testify to the following based upon my own personal knowledge.

7 2. This Declaration is being submitted in support of Diamond Farming's Motion to Compel
8 Further Responses of Los Angeles Waterworks District No. 40 and Rosamond Community Services
9 District to Request for Production of Documents [Set One] and for Monetary Sanctions.

10 3. This is a coordinated action involving an action originally filed by Diamond Farming
11 Company in October of 1999. Thereafter, in November 2004, the Public Water Supplier, Los Angeles
12 County Waterworks District No. 40, sought leave to file a Cross-Complaint in the Riverside County
13 Superior Court action, converting Diamond Farming Company's quiet title action into a basin-wide
14 adjudication. That Motion for Leave to file that Cross-Complaint was denied, and thereafter, two new
15 actions were initiated, one in Los Angeles County and one in Kern County, on November 29, 2004 and
16 December 1, 2004, respectively. The proposed Cross-Complaint and both new Complaints alleged
17 claims of prescription against all named defendants and all Doe defendants within the Antelope Valley,
18 therein alleging that all landowners had "actual and/or constructive notice" of those prescriptive claims.

19 4. All actions were coordinated and are now before this court. Those two new actions have
20 in essence been replaced by a Cross-Complaint and now an Amended Cross-Complaint, both alleging
21 the same factual claim on the issue of prescription, that is, that all landowners had actual and/or
22 constructive notice of those claims. Diamond Farming Company has persistently argued that as to those
23 claims of prescription that evidence of the fact of, nature of, and quality of the evidence of notice
24 necessary to support that element of the prescription claim is and would be a core issue in this litigation.
25 The discovery which is the subject of this motion is directed at those very issues.

26 5. On or about May 25, 2007, Diamond Farming Co., served on defendants, Los Angeles
27 County Waterworks District No. 40 and Rosamond Community Services District, a Request for
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1 Production of Documents [Set One]. The set of Request for Production of Documents contained six
2 (6) questions directed to the disclosure of documents that are in the possession, custody and control of
3 these two defendants. A true and correct copy of Diamond Farming's Request for Production of
4 Documents [Set One] is attached hereto as Exhibit A.

5 6. A review of Diamond's Request for Production of Documents [Set One] demonstrates
6 that in large part the discovery is directed to factual issues involving the prescriptive claims made by
7 each Public Water Supplier in their Answers and amended class action Cross-Complaint. The Request
8 for Production of Documents seeks to elicit factual information which will likely have a bearing upon
9 the propriety or impropriety of class certification of a defendant class and the propriety of the claim of
10 prescription asserted by each Public Water Supplier.

11 7. Twenty-six (26) days following service of that discovery, the "Public Water Suppliers"
12 collectively demanded that the discovery be withdrawn by letter dated June 20, 2007. On June 21, 2007,
13 that demand was rejected.

14 8. Thereafter, on June 26, 2007, each "Public Water Supplier," including, Los Angeles
15 County Waterworks District No. 40 and Rosamond Community Services District, served the same
16 substantive and virtually identical objection to each and every separate request as follows:

17 "Objection. The request is premature, burdensome and oppressive. This request seeks
18 information concerning class members and the court has not yet completed its class
19 certification process. No class representative has yet been approved by the court." (A
20 true and correct copy of Los Angeles County Waterworks District No. 40's Response to
21 Request for Production of Documents [Set One] is attached hereto as Exhibit B. A true
22 and correct copy of Rosamond Community Services District's Response to Request for
23 Production of Documents [Set One] is attached hereto as Exhibit C.)

24 9. Shortly after receiving these boilerplate responses, I initiated an effort to informally meet
25 and confer regarding the blanket objections to the written discovery as is required. In response to my
26 attempt, I was contacted by and then communicated with Keith Lemieux, an attorney for one of the
27 Public Water Suppliers, but achieved no resolution. Not having received any response from any other
28 Public Water Supplier and having confirmed with Mr. Lemieux that he could not speak on behalf of all,
I then sought an Ex Parte Application for a court order setting this court-supervised meet and confer.

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1 10. My Ex Parte Application was held telephonically on July 10, 2007, and this court then
2 granted that application and scheduled the court-supervised meet and confer to be held concurrently with
3 the upcoming Case Management Conference on July 20, 2007.

4 11. On July 20, 2007, the court-supervised meet and confer took place. The parties were
5 unable to reach a resolution at this conference, so the court ordered me to engage in further meet and
6 confer attempts.

7 12. Pursuant to the court's order, I contacted counsel for each of the Public Water Suppliers
8 to whom the Request for Production of Documents had been served to schedule appointments to conduct
9 the further meet and confer attempts. (Attached hereto as Exhibit D is a true and correct copy of my
10 August 3, 2007 correspondence to all counsel for the Public Water Suppliers.) As of the date of the
11 filing of this Motion, I have met and conferred with counsel for each Public Water Supplier with the
12 exception of counsel for Los Angeles County Waterworks District No. 40 and Rosamond Community
13 Services District.

14 13. Despite attempts made by my secretary and by myself personally, counsel for Los Angeles
15 County Waterworks District No. 40 and Rosamond Community Services District would not provide
16 dates or otherwise cooperate in my attempts to further meet and confer as ordered by this court.

17 14. On August 10, 2007, at great expense to my client, I traveled over 100 miles to attend the
18 meet and confer conference that took place at the office of Keith Lemieux, counsel for Littlerock Creek
19 Irrigation District. Counsel for Los Angeles County Waterworks District No. 40 and Rosamond
20 Community Services District did not attend this meeting nor did counsel contact me or my office prior
21 to this meeting to make alternate arrangements.

22 15. On August 17, 2007, I sent correspondence directly to counsel for Los Angeles County
23 Waterworks District No. 40 and Rosamond Community Services District making a second request for
24 them to provide dates upon which the parties could meet and confer about the pending discovery.
25 Attached hereto as Exhibit E is a true and correct copy of my August 17, 2007 correspondence.

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1 16. Counsel for Los Angeles County Waterworks District No. 40 and Rosamond Community
2 Services District did not respond to this letter until August 28, 2007, at which time they claimed that they
3 believed the matter had been resolved at the July 20, 2007 court-supervised meet and confer.

4 17. On August 29, 2007, I informed counsel for Los Angeles County Waterworks District
5 No. 40 and Rosamond Community Services District that their belief in a resolution was incorrect. I
6 made an additional request for them to provide dates upon which they would meet and confer with me
7 regarding the outstanding discovery. As of the date of this Declaration, counsel for Los Angeles County
8 Waterworks District No. 40 and Rosamond Community Services District has never provided dates or
9 otherwise accepted my invitations to meet and confer.

10 18. As a result of Los Angeles County Waterworks District No. 40's and Rosamond
11 Community Services District's willful refusal to properly respond to discovery and their continued
12 refusal to meet and confer, Diamond Farming is being prejudiced in its defense and prosecution of this
13 matter. The unreasonable delay of discovery is prejudicing Diamond's ability to proceed with a
14 dispositive motion and its evaluation of this case for settlement and/or trial preparation.

15 19. As a further result of Los Angeles County Waterworks District No. 40's and Rosamond
16 Community Services District's refusal to comply with the discovery process or meet and confer,
17 Diamond Farming has incurred, and will incur, reasonable expenses and attorneys' fees in connection
18 with the motion and hearing thereon as follows:

- 19 1) Three (3) hours of attorney time in the research and preparation of this motion, and the
20 supporting Declaration and Separate Statement;
- 21 2) Two (2) hours anticipated time to review any opposition and draft a reply thereto;
- 22 3) \$40.00 fee for the filing of this Motion.

23 Total \$1,415.00.

24 20. Declarant's billing rate on this file is \$275.00 per hour.

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I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct, and that this Declaration was executed on September 12, 2007, at Bakersfield, California.



BOB H. JOYCE, ESQ.