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8 Attorneys for DIAMOND FARMING COMPANY,
9 a California corporation, and CRYSTAL ORGANIC
10 FARMS, a limited liability company

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF LOS ANGELES**

13 Coordination Proceeding Special Title
14 (Rule 1550 (b))

15 ANTELOPE VALLEY GROUNDWATER
16 CASES

17 Included actions:

18 Los Angeles County Waterworks District No.
19 40 vs. Diamond Farming Company
20 Los Angeles Superior Court
Case No. BC 325201

21 Los Angeles County Waterworks District No.
22 40 vs. Diamond Farming Company
23 Kern County Superior Court
Case No. S-1500-CV 254348 NFT

24 Diamond Farming Company vs. City of
25 Lancaster
26 Riverside County Superior Court
27 Lead Case No. RIC 344436 [Consolidated
28 w/Case Nos. 344668 & 353840]

AND RELATED CROSS-ACTIONS.

Judicial Council Coordination No. 4408

Case No.: 1-05-CV-049053

**OBJECTION TO “[PROPOSED]
ORDER RE: JURISDICTION OVER
TRANSFEREES OF PROPERTY”**

Date: January 14, 2008
Time: 9:00 a.m.
Dept. 1

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1 DIAMOND FARMING COMPANY has consistently and in numerous earlier pleadings and
2 objections filed with this Court proposed and reiterated that the only appropriate mechanism available
3 which would ensure ongoing satisfaction of and retention of jurisdiction over the Federal Government
4 pursuant to the McCarran Act would be a *lis pendens* as authorized by California Code of Civil
5 Procedure section 405 et seq. There can be no dispute but that the claims of prescription asserted by the
6 purveyor parties are clearly a “real property claim” as defined in California Code of Civil Procedure
7 section 405.4. Additionally, the *lis pendens* statutes as articulated by the Legislature in the Code of Civil
8 Procedure set forth both a reasoned and well-articulated procedure for the protection of ongoing
9 jurisdiction of the court over the *res* involved in this litigation, i.e. *in rem* jurisdiction over the involved
10 property. Both the purpose and the effect of a *lis pendens* has been considered and clarified by the
11 appellate courts of this State. By way of example, see *Lewis v. Superior Court* (1994) 30 Cal.App.4th
12 1850. A *lis pendens* serves the salutary purpose of preventing a “...property owner from frustrating any
13 judgment that might eventually be entered by transferring his or her interest in the property while the
14 action was still pending.” See *Lewis, supra*, at page 1860. The proposed order is an extremely poor
15 substitute for the statutorily authorized procedure, the *lis pendens*.

16 First, the Proposed Order appears to address only “voluntary” transfers. See specifically
17 Paragraph 3 of the Proposed Order. The Proposed Order does not address, resolve, nor preserve
18 continuing jurisdiction over real property involuntarily transferred as a consequence of death,
19 bankruptcy, foreclosure, or any of the other myriad ways that title to real property can be effected and/or
20 transferred involuntarily. It is extremely unlikely that all class members would each, individually, follow
21 the court’s mandate as suggested in the Proposed Order, and the implicit contempt power held by the
22 court would not likely be sufficient to invalidate a transfer nor defeat the bonafide purchaser or
23 transferee status of a transferee thus losing jurisdiction over the involved *res*, the real property in
24 question.

25 In conclusion, ultimately, this Court must be conscious of the need to maintain jurisdiction
26 throughout these proceedings, and more importantly, ensure that it can ultimately enter a judgment that
27 would be sufficiently comprehensive so as to preserve and protect jurisdiction under the McCarran Act.
28 The probable noncompliance by parties and/or class members presents an unreasonable risk that

1 jurisdiction over some if not a significant portion of the real property within the adjudication boundaries
2 will be lost, thus divesting this Court of jurisdiction over a major and necessary party, the Federal
3 Government.

4 Dated: January 10, 2008

LeBEAU • THELEN, LLP

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6
7 By: 

BOB H. JOYCE
Attorneys for DIAMOND FARMING COMPANY,
a California corporation, and CRYSTAL ORGANIC
FARMS, a limited liability company

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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 January 10, 2008, I served the within

OBJECTION TO "[PROPOSED] ORDER RE: JURISDICTION OVER TRANSFEREES OF PROPERTY"

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

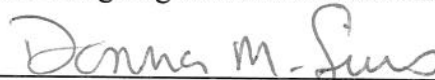
Los Angeles County Superior Court
111 North Hill Street
Los Angeles, CA 90012
Attn: **Department 1**
(213) 893-1014

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.

☐ (OVERNIGHT/EXPRESS MAIL) By enclosing a true copy thereof in a sealed envelope designated by United States Postal Service (Overnight Mail)/Federal Express/United Parcel Service ("UPS") addressed as shown on the above by placing said envelope(s) for ordinary business practices from Kern County. I am readily familiar with this business' practice of collecting and processing correspondence for overnight/express/UPS mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service/Federal Express/UPS in a sealed envelope with delivery fees paid/provided for at the facility regularly maintained by United States Postal Service (Overnight Mail/Federal Express/United Postal Service [or by delivering the documents to an authorized courier or driver authorized by United States Postal Service (Overnight Mail)/Federal Express/United Postal Service to receive documents].

☒ (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 January 10, 2008, in Bakersfield, California.


DONNA M. LUIS