

1 LATHAM & WATKINS LLP
Paul N. Singarella (Bar No. 155393)
2 paul.singarella@lw.com
John C. Heintz (Bar No. 258375)
3 john.heintz@lw.com
Lucas I. Quass (Bar No. 280770)
4 lucas.quass@lw.com
355 South Grand Avenue, Suite 100
5 Los Angeles, California 90071-1560
Telephone: +1.213.485.1234
6 Facsimile: +1.213.891.8763

7 Attorneys for Cross-Defendant Clan Keith Real
Estate Investments LLC, dba Leisure Lake Mobile
8 Estates

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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
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. BC 509546

LASC Case No.: BC 325201
Judicial Council Coordination Proceeding
No. 4408
Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar, Judge of
the Santa Clara Superior Court
**RESPONSE TO WATERMASTER'S
MOTION FOR ORDER INTERPRETING
THE JUDGMENT REGARDING
PRERAMPDOWN PRODUCTION**
Hearing: January 31, 2018
Time: 9:00 a.m.
Dept.: Stanley Mosk Court House, Room 222
[Filed concurrently with Declaration of Lucas I.
Quass.]

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Clan Keith Real Estate Investments LLC, DBA Leisure Lake Mobile Estates (“Clan
4 Keith”) is a party to the Judgment and Physical Solution that this Court entered on December 23,
5 2015 (“Judgment and Physical Solution”). Clan Keith submits this Response to the Antelope
6 Valley Watermaster’s Motion for an Order Interpreting the Judgment and Physical Solution filed
7 on January 2, 2018. The Watermaster’s Motion asks this Court to decide “[w]hether or not only
8 those Parties listed on Exhibit 4 to the Judgment have a prerampdown production right other than
9 their production right.”¹ In other words, the Watermaster has asked this Court to determine if
10 other parties not listed in Exhibit 4 of the Judgment and Physical Solution are entitled to
11 rampdown their production of groundwater. For the reasons set forth below, Clan Keith
12 respectfully requests that the Court interpret the Judgment and find that Clan Keith, a party to the
13 Judgment, has a pre-rampdown production right.

14 **II. BACKGROUND**

15 Clan Keith owns and operates the Leisure Lake Mobile Estates property, a 55+
16 community with 211 homes (“Leisure Lake”). Leisure Lake’s community consists of
17 approximately 138 acres of real property overlying the Antelope Valley Groundwater Basin.
18 Under the Judgment and Physical Solution, Clan Keith has a Production Right² of 64 acre-feet a
19 year. (Judgment p. 2:5-15.) Clan Keith’s Production Right was secured through Section 5.1.10
20 of the Judgment and Physical Solution, which is applicable to Non-Stipulating Parties.³ Clan
21 Keith is one of eight Non-Stipulating Parties referred to in the Court’s Judgment and Statement

22 _____
23 ¹ This Response is limited to the first question raised in the Watermaster’s Motion concerning
Rampdown.

24 ² Section 3.5.32 of the Judgment and Physical Solution defines the term “Production Right” as
25 “[t]he amount of Native Safe Yield that may be Produced each Year free of any Replacement
26 Water Assessment and Replacement Obligation.” The Judgment and Physical Solution was
attached as Exhibit A to the Judgment. The Judgment is attached to the Declaration of Lucas I.
Quass (“Quass Decl.”) as Exhibit “A”. Relevant portions of the Judgment and Physical Solution
are attached to the Quass Declaration as Exhibit “B”.

27 ³ Section 3.5.24 of the Judgment and Physical Solution defines “Non-Stipulating Party” as
28 “[a]ny Party who had not executed a Stipulation for Entry of this Judgment prior to the date of
approval of this Judgment by the Court.”

1 of Decision⁴ as Supporting Landowner Parties.⁵ (Judgment p. 2:5-17; Statement of Decision pp.
2 12-13.)

3 **III. CLAN KEITH IS ENTITLED TO RAMPDOWN**

4 Clan Keith is a Non-Stipulating Party to the Judgment and Physical Solution. (Quass
5 Decl. ¶6; Judgment p. 2:5-15; Statement of Decision p. 12:2-10.) Non-Stipulating Parties are not
6 included in Exhibit 4 of the Judgment and Physical Solution. The obligations of Non-Stipulating
7 Parties are explained in Section 5.1.10 of the Judgment and Physical Solution, which provides in
8 pertinent part as follows:

9 Any claim to a right to Produce Groundwater from the Basin by a
10 Non-Stipulating Party shall be subject to procedural or legal
11 objection by any Stipulating Party. Should the Court, after taking
12 evidence, rule that a Non-Stipulating Party has a Production Right,
13 the Non-Stipulating Party shall be subject to all provisions of this
14 Judgment, including reduction in Production^[6] necessary to
implement the Physical Solution and the requirements to pay
assessments, but shall not be entitled to benefits provided by
Stipulation, including but not limited to Carry Over pursuant to
Paragraph 15 and Transfers pursuant to Paragraph 16.... [emphasis
added.]

15 On September 25, 2015, Clan Keith submitted its evidence of historical groundwater to
16 the Court from 2003 to 2015. (Quass Decl. ¶¶7-8.) On September 29, 2015, this Court admitted
17 Clan Keith’s evidence of historical groundwater use. (Quass Decl. ¶8.)

18 After considering Clan Keith’s extensive evidence of groundwater use, this Court found
19 that Clan Keith’s use of groundwater was reasonable, beneficial, supported by substantial
20 evidence and undisputed. (Statement of Decision pp. 12:28, 13:1-7.) Based on the evidence

21 _____
22 ⁴ Relevant portions of this Court’s December 23, 2015 Statement of Decision are attached to the
Quass Declaration as Exhibit “C”.

23 ⁵ A Supporting Landowner Party is a party to the Judgment who was not a signatory to the
24 Proposed Judgment and Physical Solution. Supporting Landowner Parties asserted claims to
25 produce groundwater from the Basin and entered into trial stipulations with certain parties
representing a majority of the total groundwater production in the Basin (Statement of Decision
p. 12:2-10.)

26 ⁶ The phrase “reduction in Production,” as expressed by Section 5.1.10, simply means
27 Rampdown. (See Judgment and Physical Solution §18.5.2 [providing that the “Watermaster
28 Engineer shall **ensure that reductions of Groundwater Production to the Native Safe Yield**
(Rampdown) take place pursuant to the terms of this Judgment and any orders by the Court.”]
[emphasis added].)

1 submitted by Clan Keith, the Court granted Clan Keith a Production Right of 64 acre-feet per
2 year. (Statement of Decision pp. 12:19-20, 13:8-11; Judgment p. 2:5-15.)

3 ***Thus, as a Non-Stipulating Party, ruled to have a Production Right by this Court, Clan***
4 ***Keith is subject to the Rampdown provisions in the Judgment.***

5 Section 8.3 of the Judgment and Physical Solution provides the mechanism by which Pre-
6 Rampdown Production will be reduced to the Production Right during the seven year Rampdown
7 Period. Specifically, Section 8.3 provides:

8 During the first two Years of the Rampdown Period no Producer⁷
9 will be subject to a Replacement Water Assessment. During Years
10 three through seven of the Rampdown Period, the amount that each
11 Party may Produce from the Native Safe Yield will be
12 progressively reduced, as necessary, in equal annual increments,
13 from its Pre-Rampdown Production to its Production Right. Except
14 as is determined to be exempt during the Rampdown period
15 pursuant to the Drought Program provided for in Paragraph 8.4,
16 any amount Produced over the required reduction shall be subject
17 to Replacement Water Assessment. The Federal Reserved Water
18 Right is not subject to Rampdown.

14 (Emphasis added.) Section 3.5.28 of the Judgment and Physical Solution defines the term “Pre-
15 Rampdown Production” as “[t]he reasonable and beneficial use of Groundwater, excluding
16 Imported Water Return Flows, at a time prior to this Judgment, or the Production Right,
17 whichever is greater.” (Emphasis added.)

18 Again, as a Non-Stipulating Party subject to all provisions of the Judgment, Clan Keith,
19 is entitled to reduce its Pre-Rampdown Production to its Production Right.

20
21
22
23
24
25
26

27 ⁷ Section 3.5.30 of the Judgment and Physical Solution defines the term “Producer(s)” as “[a]
28 Party who Produces Groundwater.” Among other places, Clan Keith’s status as a “Producer” is
established in the trial court’s Statement of Decision. (Statement of Decision pp. 12-13.)


1 **IV. CONCLUSION**

2 For the foregoing reasons, Clan Keith respectfully requests that the Court find that Clan
3 Keith is entitled to Rampdown its groundwater production in equal annual increments in years
4 three through seven of the Physical Solution's Rampdown period.

5 Dated: January 18, 2018

Respectfully submitted,

6 LATHAM & WATKINS LLP
7 Paul N. Singarella
8 John C. Heintz
9 Lucas I. Quass

10 By 
11 Lucas I. Quass
12 Attorneys for Cross-Defendant Clan Keith
13 Real Estate LLC, dba Leisure Lake Mobile
14 Estates

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to this action. My business address is Latham & Watkins LLP, 355 South Grand Avenue, Los Angeles, CA 90071-1560.

On **January 18, 2018**, I served the following document described as:

**RESPONSE TO WATERMASTER'S MOTION FOR ORDER
INTERPRETING THE JUDGMENT REGARDING
PRERAMPDOWN PRODUCTION**

By posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.

The party on whom this electronic mail has been served has agreed in writing to such form of service pursuant to agreement.

I declare that I am employed in the office of a member of the Bar of, or permitted to practice before, this Court at whose direction the service was made and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **January 18, 2018**, at Los Angeles, California.


Cleveland Styles