

EDWARD J. CASEY (State Bar No. 119571)
NEAL P. MAGUIRE (State Bar No. 234531)

ALSTON & BIRD LLP

333 South Hope Street, Sixteenth Floor

Los Angeles, California 90071

Telephone: (213) 576-1000

Facsimile: (213) 576-1100

Email: ed.casey@alston.com

neal.maguire@alston.com

Attorneys for Cross-Defendants

Northrop Grumman Corporation, SGS Antelope Valley, LLC, Sempra

Energy, eSolar, Inc., Red Dawn SunTower, LLC,

Sierra SunTower, LLC, Gaskell SunTower, LLC,

AV Solar Ranch 1, LLC, Southern California Edison Company, and

Defendant and Cross-Defendant LV Ritter Ranch LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ANTELOPE VALLEY
GROUNDWATER CASES,

Included Actions:

Los Angeles County Waterworks District

No. 40 v. Diamond Fanning Co.

Los Angeles County Superior Court

Case No. BC 325201

Los Angeles County Waterworks District

No. 40 v. Diamond Farming Co.

Kern County Superior Court

Case No. S-1500-CV -254-348

Wm. Bolthouse Farms, Inc. v. City of

Lancaster, Diamond Farming Co. v. City

of Lancaster, Diamond Fanning Co. v.

Palmdale Water Dist.

Riverside County Superior Court

Consolidated actions

Case Nos. RIC 353 840, RIC 344 436,

RIC 344 668

Judicial Council Coordination No. 4408

For filing purposes only:

Case No.: 1-05-CV-049053

LASC Case No. BC 325201

Assigned to the Honorable Jack Komar

**TRIAL SETTING CONFERENCE
STATEMENT**

Date: July 9, 2012

Time: 9:00 a.m.

Dept.: 316, Room 1515

1 This Trial Setting Conference Statement is submitted by the following parties: (1) Cross-
2 Defendant Northrop Grumman Corporation, (2) Cross-Defendants SGS Antelope Valley, LLC and
3 Sempra Energy, (3) Cross-Defendants eSolar, Inc., Red Dawn SunTower, LLC, Sierra SunTower,
4 LLC and Gaskell SunTower, LLC, (4) Cross-Defendant AV Solar Ranch 1, LLC, (5) Defendant and
5 Cross-Defendant LV Ritter Ranch LLC, and (6) Cross-Defendant Southern California Edison
6 Company (collectively, the "Alston Parties").

7 **I. BACKGROUND INFORMATION CONCERNING THE ALSTON PARTIES**

8 Each of the Alston parties owns a substantial amount of land overlying the Antelope Valley
9 Groundwater ("Basin"). During the period from 2000 to 2004, the Alston Parties and/or their
10 predecessor owners of the subject properties produced varying amounts of groundwater, from
11 approximately three acre feet ("AF") to 480 AF. Although that amount of groundwater production is
12 substantially less than the amounts of groundwater produced by other parties in this action, the water
13 rights associated with the groundwater production of the Alston Parties is important to their
14 respective business operations.

15 The Alston Parties or their predecessor owners of the subject properties have filed Statements
16 of Claims Water Rights. The Alston Parties, through their counsel of record, have participated in the
17 settlement discussions and mediation presided over by Justice Robie. The Alston Parties generally
18 support the proposed allocation of water rights in the tentative settlement that is being discussed with
19 Justice Robie, subject, of course, to the detailed terms of a Stipulated Judgment. However, the
20 Alston Parties are concerned with the pace of the settlement process.

21 **II. THE NEXT PHASE OF TRIAL**

22 If the parties (or the vast majority of them) can reach agreement on a proposed Stipulated
23 Judgment, then the Alston Parties would advocate for a streamlined evidentiary hearing to establish
24 the facts necessary for the Court to make a decision on whether to enter the proposed Stipulated
25 Judgment. In fact, the Alston Parties would urge the Court to focus the hearing, in that situation, on
26 whether the physical solution set forth in the proposed Stipulated Judgment is equitable and meets
27 the applicable test under Article X, Section 2 of the California Constitution.

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1 If the parties cannot reach agreement on a proposed Stipulated Judgment, then the Alston
2 Parties question whether other legal and factual issues should be resolved before holding an
3 evidentiary hearing on the amount of groundwater production during the period from 2000 to 2004.
4 For example, the Alston Parties are unaware of any determination by this Court, after briefing on the
5 issue, as to whether the appropriate five year period for establishing water rights is the period from
6 2000 to 2004. Also, the Alston Parties are unaware of any determination by this Court, after briefing
7 on the issue, of the rights of landowners to produce groundwater for new uses on their overlying
8 land. (See generally *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224, 1247-49; see
9 also 1-11 California Water Law and Policy § 11.12 [Bender 2011].) (This issue is sometimes
10 referred to as “unexercised overlying rights.”)

11 If, however, the Court determines that the next phase of trial should be an evidentiary hearing
12 on the amount of groundwater production during the period from 2000 to 2004, the Alston Parties
13 suggest that each party be allowed to submit evidence in support of their case in chief by written
14 declarations. Thereafter, any party wishing to cross-exam another party’s declarant may elect to do
15 so at a evidentiary hearing to be set by the Court. Such a procedure should streamline the process
16 and avoid the taking of live testimony on the amount of groundwater production by each and every
17 groundwater producer if the parties believe that live testimony is not necessary from every
18 groundwater producer. In addition, the Alston Parties would recommend that the parties attempt to
19 stipulate to the amount of water that each type of crop would typically need for farming purposes in
20 the Antelope Valley, so that redundant expert testimony can be avoided.

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1 Finally, if the Court determines that the next phase of trial should be an evidentiary hearing
2 on the amount of groundwater production during the period from 2000 to 2004 and requires all
3 evidence and testimony to be proffered at an evidentiary hearing and not by way of written
4 declaration, each of the Alston Parties can present their case in chief in one to two hours per Alston
5 Party.

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7 DATED: July 2, 2012

EDWARD J. CASEY
NEAL P. MAGUIRE
ALSTON & BIRD LLP

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11 Edward J. Casey
12 Attorneys for Cross-Defendants
13 Northrop Grumman Corporation, SGS Antelope Valley, LLC,
14 Sempra Energy, eSolar, Inc., Red Dawn SunTower, LLC,
15 Sierra SunTower, LLC, Gaskell SunTower, LLC,
16 AV Solar Ranch 1, LLC, Southern California Edison Company,
17 and Defendant and Cross-Defendant LV Ritter Ranch LLC
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PROOF OF SERVICE

I, Yolanda S. Ramos, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, CA 90071. I am over the age of eighteen years and not a party to the action in which this service is made.

On July 2, 2012, I served the document(s) described as TRIAL SETTING CONFERENCE STATEMENT on the interested parties in this action by enclosing the document(s) in a sealed envelope addressed as follows:

☐ BY MAIL: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California 90071.

☒ BY ELECTRONIC MAIL: By posting the document listed above to the Santa Clara Superior Court website: www.scefiling.org regarding the ANTELOPE VALLEY GROUNDWATER matter.

☐ BY FEDERAL EXPRESS ☐ UPS NEXT DAY AIR ☐ OVERNIGHT DELIVERY: I deposited such envelope in a facility regularly maintained by ☐ FEDERAL EXPRESS ☐ UPS ☐ Overnight Delivery [specify name of service:] with delivery fees fully provided for or delivered the envelope to a courier or driver of ☐ FEDERAL EXPRESS ☐ UPS ☐ OVERNIGHT DELIVERY [specify name of service:] authorized to receive documents at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California 90071 with delivery fees fully provided for.

☐ BY FACSIMILE: I telecopied a copy of said document(s) to the following addressee(s) at the following number(s) in accordance with the written confirmation of counsel in this action.

☒ [State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ [Federal] I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 2, 2012, at Los Angeles, California.


YOLANDA S. RAMOS