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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**
10

11 ANTELOPE VALLEY
GROUNDWATER CASES

12 INCLUDED ACTIONS:

13 LOS ANGELES COUNTY
14 WATERWORKS DISTRICT NO. 40 v.
DIAMOND FARMING COMPANY, et
15 al., Los Angeles Superior Court Case No.
BC325201;

16 LOS ANGELES COUNTY
17 WATERWORKS DISTRICT NO. 40 v.
DIAMOND FARMING COMPANY, et
18 al., Kern County Superior Court Case
No. S-1500-CV-254-348;

19 DIAMOND FARMING COMPANY,
20 and W.M. BOLTHOUSE FARMS, INC.,
v. CITY OF LANCASTER, et al.,
21 Riverside Superior Court Case No. RIC
344436 [c/w case no. RIC 344668 and
22 355840]
23

Judicial Council Coordination No. 4408

**RESPONSE TO DECEMBER 12, 2012
DISCOVERY ORDER FOR PHASE 4 TRIAL**

Case No. 1-05-CV-049053
Assigned to The Honorable Jack Komar

Trial Date: February 11, 2013
Time: 9:00 a.m.

1 Cross-Defendant SGS Antelope Valley Development LLC, a subsidiary of Sempra
2 Energy, responds to the Court's December 12, 2012 Discovery Order for Phase 4 Trial
3 ("Discovery Order") as follows.

4 **I. Reservation of Rights**

5 SGS Antelope Valley Development LLC ("SGS") objects to the Discovery Order's
6 abbreviated discovery period. Until the December 11, 2012, case management conference before
7 the Court, there was no determination as to the scope of the Phase 4 trial. Prior to the December
8 11th case management conference, parties submitted various proposals regarding the scope of
9 the Phase 4 trial, some of which proposed a trial on discrete issues such as return flows or
10 prescription and would not have included a "prove-up" of parties' water rights claims. While
11 SGS hereby responds in accordance with its utmost ability based on its prior review of its water
12 rights claim and the basis for that claim, SGS reserves the right to supplement this response as
13 additional information becomes available.

14 **II. Response to Section I.1 of the Discovery Order**

15 **A.** SGS owns, occupies, or otherwise controls approximately 1,368.42 acres of land
16 in Kern County identified by the following Assessor Identification Numbers:

17 APN:

18 359-121-02-00-3
19 359-121-03-00-6
20 359-121-04-00-9
21 359-121-05-00-2
22 359-121-11-00-9
23 359-121-13-00-5
24 359-121-17-00-7
25 359-121-19-00-3
26 359-121-20-00-5
27 359-121-24-00-7
28 359-121-40-00-3
359-121-41-00-6
359-121-45-00-8
359-121-46-00-1
359-121-47-00-4
359-121-48-00-7
359-121-49-00-0
359-121-50-00-2
359-350-20-00-5

1 359-121-14-00-8
2 359-121-21-00-8
3 359-121-22-00-1
4 359-121-23-00-4
5 359-121-39-00-1
6 359-121-42-00-9
7 359-121-43-00-2
8 359-020-07-00-2
9 359-110-04-00-9
10 359-110-07-00-8
11 359-110-08-00-1
12 359-110-09
13 359-110-12-00-2
14 359-110-13-00-5
15 359-110-14-00-8
16 359-110-15-00-1
17 359-110-16-00-4
18 359-110-17-00
19 359-110-19-00-3
20 359-110-20-00-5
21 359-110-21-00-8
22 359-110-22
23 359-350-19
24 359-162-11-00-8

25 (the "SGS Property").

26 **B.** SGS became the record title owner for the parcels comprising the SGS Property
27 during the period from 2009 to 2012. SGS purchased approximately 980 acres of the SGS
28 Property from the heirs of Hashem Naraghi. SGS is informed that Mr. Naraghi owned that
property from at least 1999 until he died.

29 **C.** SGS is informed that up to five groundwater wells remain on the SGS Property
30 and existed from 2000-04.

31 **D.** SGS is informed that up to five groundwater wells were operated on the SGS
32 Property from 2000-04.

33 **E.** SGS is informed that (i) groundwater was produced during the period from 1999-
34 2004 for agricultural irrigation of primarily carrots and some onions, (ii) per a lease, Diamond
35 Farms farmed in at least 1999 approximately 235 acres of the SGS Property, and (iii) Robert
36 Guetzlaff, an individual hired as a caretaker by Mr. Naraghi, farmed thereafter approximately 40
37
38

1 acres of land on the SGS Property. Utilizing a multiplier of 4.89 acre feet of water per acre of
2 land farmed for onions and a multiplier of 3.0 acre feet of water per acre of land farmed for
3 carrots, SGS estimates, based on information currently and reasonably available to it, that the
4 amount of water pumped from the well(s) described above in Section II.C-D is:

5	Year	AFY
6	2000	132
7	2001	132
8	2002	132
9	2003	132
10	2004	132
11	2011	n/a
12	2012	n/a

13 F. The water described above in Section II.E was utilized for agricultural irrigation
14 and domestic use.

15 G. SGS does not produce groundwater off-site.

16 H. The SGS Property was not used for any business or domestic purposes in 2011
17 and 2012. SGS plans to construct and operate a solar photovoltaic electrical power generation
18 facility with a capacity of up to 300 megawatts.

19 I. The SGS Property is not currently utilized for agriculture.

20 J. In addition to rights associated with past and current pumping, SGS reserves its
21 right to assert its "unexercised overlying rights" associated with prospective overlying uses that
22 are reasonable and beneficial. As held in *City of Los Angeles v. City of San Fernando* (1975) 14
23 Cal.3d 199, 293, fn. 100, "prescriptive rights would not necessarily impair the private
24 defendants' rights to ground water for new overlying uses for which the need had not yet come
25 into existence during the prescriptive period." (See also *City of Barstow v. Mojave Water Agency*
26 (2000) 23 Cal.4th 1224, 1247-49; 1-11 California Water Law and Policy § 11.12 [Bender 2011].)

27 K. SGS claims 132 af as the reasonable and beneficial use for its property plus any
28 amount required pursuant to Section II.J above.

1 **III. Response to Section I.2 of the Discovery Order**

2 A. SGS does not lease the SGS Property.

3 **IV. Response to Section I.3 of the Discovery Order**

4 A. SGS can make available grant deeds confirming its ownership of the SGS
5 Property. In addition, SGS identifies the following documents relating to the facts set forth
6 above: (i) a pesticide permit issued to Diamond Farms dated as of May 1999, (ii) a report dated
7 December 2009 from Rottman Drilling Co. entitled "Report for 5 Wells at Kelly Ranch,
8 Rosamond, CA"; (iii) a document dated August 2011 and entitled "Geocheck Physical Setting
9 Source Map Findings"; (iv) photographs of Mr. Guetzlaff's operations; and (v) a Memorandum
10 of Water Service Agreement dated as of February 1999 between Mr. Naraghi and the Antelope
11 Valley-East Kern Water Agency.

12 B. See Section IV.A above.

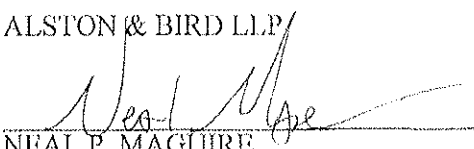
13 **V. Response to Section V of the Discovery Order**

14 Josh Teigiser is the SGS representative most qualified to testify to the above facts.

15
16 Dated: December 21, 2012

ALSTON & BIRD LLP

17
18 By:


NEAL P. MAGUIRE

Attorneys for Cross-Defendant SGS Antelope Valley
Development LLC

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3 **PROOF OF SERVICE**

4 I, Yolanda S. Ramos, declare:

5 I am employed in the County of Los Angeles, State of California. My business
6 address is Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, CA
7 90071. I am over the age of eighteen years and not a party to the action in which this
8 service is made.

9 On December 21, 2012, I served the document(s) described as **RESPONSE TO**
10 **DECEMBER 12, 2012 DISCOVERY ORDER FOR PHASE 4 TRIAL** on the
11 interested parties in this action as follows:

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

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

24 ☐ BY FEDERAL EXPRESS ☐ UPS NEXT DAY AIR ☐ OVERNIGHT
25 DELIVERY: I deposited such envelope in a facility regularly maintained by ☐
26 FEDERAL EXPRESS ☐ UPS ☐ Overnight Delivery [specify name of
27 service:] with delivery fees fully provided for or delivered the envelope to a
28 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 under the laws of the United
States of America that the foregoing is true and correct.

Executed on December 21, 2012, at Los Angeles, California.


YOLANDA S. RAMOS