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Attorneys for Cross-Defendants
eSolar, Inc. and Tumbleweed SunTower,
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 FARMING COMPANY, et
al., Los Angeles Superior Court Case No.
BC325201;

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

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

Judicial Council Coordination No. 4408

**ESOLAR, INC. AND TUMBLEWEED
SUNTOWER, LLC'S APPLICATION FOR
APPROVAL OF STIPULATION CONCERNING
LAND OWNERSHIP AND PRIOR
GROUNDWATER PRODUCTION;
[PROPOSED] ORDER**

Case No. 1-05-CV-049053

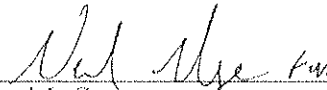
Assigned to The Honorable Jack Komar

Trial Date: May 28, 2013
Time: 9:00 a.m.

1 Pursuant to the Court's March 1, 2013 Minute Order, eSolar, Inc. and Tumbleweed
2 SunTower, LLC submit this Application for Approval of Stipulation Concerning Land
3 Ownership and Prior Groundwater Production. The proposed Stipulation is attached to this
4 application.

5
6 DATED: March 15, 2013

EDWARD J. CASEY
NEAL MAGUIRE
ALSTON & BIRD LLP

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9 _____
Edward J. Casey
Attorneys for Cross-Defendants
ESOLAR, INC. AND TUMBLEWEED
SUNTOWER, LLC
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1 Los Angeles County Waterworks District No. 40, Quartz Hill Water District, Littlerock
2 Creek Irrigation District, Palm Ranch Irrigation District, Palmdale Water District, the City of
3 Palmdale, the City of Lancaster, and Rosamond Community Services District (the "PWAs") and
4 eSolar, Inc. and Tumbleweed SunTower, LLC ("Landowner") (collectively, the "Stipulating
5 Parties") enter into this Stipulation Between Certain Public Water Agencies And Landowner
6 Concerning Land Ownership, Prior Groundwater Production And Proposed Allocation Of
7 Groundwater Rights; And Order Thereon ("Stipulation") through their respective counsel of
8 record. This Stipulation is based on the matters set forth in Section I, below.

9 **I.**

10 **RECITALS**

11 A. Landowner owns land overlying the Antelope Valley Groundwater Basin (the
12 "AV Basin"). (For purposes of this Stipulation, the term "AV Basin" shall mean the Antelope
13 Valley Groundwater Basin as determined and defined by the Honorable Jack Komar in his
14 March 12, 2007 Revised Order After Hearing on Jurisdictional Boundaries.)

15 B. Landowner served its (i) Response To December 12, 2012 Discovery Order for
16 Phase 4 Trial and the Non-Expert Witness Designation ("Discovery Response") and (ii)
17 Stipulation In Lieu Of Deposition Testimony For Phase 4 Trial ("Declaration") on all parties in
18 the instant action.

19 **II.**

20 **TERMS OF THE STIPULATION**

21 A. Based on the Landowner's Discovery Response and Declaration, the PWAs have
22 no objection to the Court making the following findings of fact:

23 (1) Landowner currently owns approximately land overlying the AV Basin,
24 which land is comprised of Assessor Parcel No. ("APN") 3262-001-005 (the "Subject
25 Property").

26 (2) As of January 1, 2013, Landowner currently uses the Subject Property as
27 follows: It is anticipated that the property will be utilized in the near future for the construction
28 and operation of a solar power generation facility.

1 (3) Landowner used the Subject Property during calendar years 2011 and
2 2012 as follows: It is anticipated that the property will be utilized in the near future for the
3 construction and operation of a solar power generation facility.

4 (4) Landowner produced the following quantities of groundwater from the
5 AV Basin during calendar years 2011 and 2012: 0 acre-feet per year ("AFY") in 2011 and 0
6 AFY in 2012.

7 (5) Landowner or its predecessor in interest to the Subject Property produced
8 the following quantities of groundwater from the AV Basin during the period from January 1,
9 2000 through December 31, 2004 (the "2000-04 Time Period"): 569 AFY in 2000, 569 AFY in
10 2001, 569 AFY in 2002, 569 AFY in 2003, and 569 AFY in 2004, for a total of 2,845 acre-feet
11 ("AF").

12 (6) Landowner or its predecessor used the groundwater described in this
13 Section II-A for "reasonable and beneficial" uses on the Subject Property. For purposes of this
14 Stipulation, the term "reasonable and beneficial" shall have the meaning as understood in Article
15 X, Section 2 of the California Constitution.

16 March ____, 2013 ALSTON & BIRD, LLP

17
18 By: _____
19 EDWARD J. CASEY
20 Attorneys for eSolar, Inc. and Tumbleweed SunTower, LLC

21 March ____, 2013 BEST BEST & KRIEGER LLP

22
23 By: _____
24 JEFFREY V. DUNN
25 Attorneys for Los Angeles County Waterworks District No. 40

26 March ____, 2013 CHARLTON WEEKS LLP

27
28 By: _____
BRADLEY T. WEEKS
Attorneys for Quartz Hill Water District

1 March _____, 2013

LEMIEUX & O'NEILL

2
3 By: _____

4 WAYNE K. LEMIEUX

5 Attorneys for Littlerock Creek Irrigation District and Palm Ranch
6 Irrigation District

7 March _____, 2013

LAGERLOF, SENEAL, GOSNEY & KRUSE

8
9 By: _____

10 THOMAS BUNN III

Attorneys for Palmdale Water District

11 March _____, 2013

RICHARDS, WATSON & GERSHON

12
13 By: _____

14 STEVEN R. ORR

Attorneys for City of Palmdale

15
16 March _____, 2013

MURPHY & EVERTZ LLP

17
18 By: _____

19 DOUGLAS J. EVERTZ

20 Attorneys for City of Lancaster and Rosamond Community
21 Services District

1 **PROPOSED ORDER**

2 On March 15, 2013, eSolar, Inc. and Tumbleweed SunTower, LLC filed their Application
3 for Approval of Stipulation Concerning Land Ownership and Prior Groundwater Production (the
4 "Application"). Having read and considered all papers filed in connection with the Stipulation
5 attached to the Application, and having received no objections thereto,

6 **IT IS HEREBY ORDERED THAT:** the facts set forth in Section II of the Stipulation
7 are deemed admitted.

8
9 **IT IS SO ORDERED.**

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11 DATED: _____

Honorable Jack Komar
Judge of the Santa Clara County Superior
Court

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14 Respectfully submitted by:

15 NEAL MAGUIRE
16 ALSTON & BIRD LLP

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18 _____
Attorneys for Cross-Defendant
19 eSolar, Inc. and Tumbleweed SunTower, LLC

1 **PROOF OF SERVICE**

2 I, Yolanda S. Ramos, declare:

3 I am employed in the County of Los Angeles, State of California. I am over the
4 age of 18 and not a party to the within action. My business address is Alston & Bird LLP, 333
5 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.

6 On March 15, 2013, I served the document(s) described as ESOLAR, INC. AND
7 TUMBLEWEED SUNTOWER, LLC'S APPLICATION FOR APPROVAL OF STIPULATION
8 CONCERNING LAND OWNERSHIP AND PRIOR GROUNDWATER PRODUCTION;
[PROPOSED] ORDER on the interested parties in this action by enclosing the document(s) in a
sealed envelope addressed as follows:

9 ☐ BY MAIL: I am "readily familiar" with this firm's practice for the collection and the
10 processing of correspondence for mailing with the United States Postal Service. In the
11 ordinary course of business, the correspondence would be deposited with the United
12 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.

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

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

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

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

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

24 Executed on March 15, 2013, at Los Angeles, California.

25 
26 YOLANDA S. RAMOS
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