

1 EDGAR B. WASHBURN (BAR NO. 34038)

Email: EWashburn@mofo.com

2 WILLIAM M. SLOAN (BAR NO. 203583)

Email: WSloan@mofo.com

3 **MORRISON & FOERSTER LLP**

425 Market Street

4 San Francisco, California 94105-2482

Telephone: 415.268.7000

5 Facsimile: 415.268.7522

6 Attorneys for U.S. BORAX INC.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES

11 Coordination Proceeding
Special Title (Rule 1550(b))

12 **ANTELOPE VALLEY GROUNDWATER CASES**

13 Included **CONSOLIDATED** Actions:

14 **Los Angeles County Waterworks District No. 40 v.**
15 **Diamond Farming Co.**

16 Superior Court of California, County of Los Angeles,
Case No. BC 325 201

17 **Los Angeles County Waterworks District No. 40 v.**
18 **Diamond Farming Co.**

19 Superior Court of California, County of Kern,
Case No. S-1500-CV-254-348

20 **Wm. Bolthouse Farms, Inc. v. City of Lancaster**
Diamond Farming Co. v. City of Lancaster
Diamond Farming Co. v. Palmdale Water Dist.

21 Superior Court of California, County of Riverside,
Case Nos. RIC 353 840, RIC 344 436, RIC 344 668
22 (Consolidated Actions)

Judicial Council Coordination
Proceeding No. 4408

Los Angeles County Superior Court
Lead Case No. BC 325201

Assigned to: Hon. Jack Komar
Dept. 12

**U.S. BORAX'S OBJECTION AND
STATEMENT FOR MARCH 13,
2012 CASE MANAGEMENT
CONFERENCE**

Date: March 13, 2012
Time: 9:00 a.m.
Dept: 1515

For Court's Use Only:
Santa Clara County
Case No. 1-05-CV-049053
(For E-Posting/E-Service Purposes Only)

1 U.S. Borax objects to the statements that have been submitted proposing schedules and
2 subject matter for the next phase of trial. As indicated in the Court's March 2, 2012 minute order, the
3 parties requested and the Court granted a continuance of the trial setting conference until April 17,
4 2012. Now, however, some parties have submitted proposals for the next phase of trial. U.S. Borax
5 understood that the reason for the requested continuance was because the appropriate framing of the
6 next phase of trial may be influenced based on any settlement that is still being negotiated.

7
8 If the Court is going to entertain discussion on the issues to be tried at the next phase, U.S.
9 Borax submits that a trial should be set on the Public Water Suppliers' first and sixth causes of action
10 from their operative first amended complaint:

11
12 **(1) whether or not the Public Water Suppliers have taken**
13 **groundwater rights from each and every overlying landowner by**
14 **prescription, as claimed in the Public Water Suppliers' complaint,**
15 **and,**


16 **(2) how much of the safe yield (set by the Court at the last phase of**
17 **trial "at a conservative 110,000 acre feet a year") is attributable to**
18 **return flows from imported State Water Project water, and who**
19 **possesses the right to recapture those return flows.**

20 Both of these issues were defined by the Public Water Suppliers as separate causes of action,
21 and they would greatly assist in bringing this entire adjudication to resolution.

22 Dated: March 12, 2012

23 EDGAR B. WASHBURN
24 WILLIAM M. SLOAN
25 MORRISON & FOERSTER LLP

26 By:

27 
28 William M. Sloan
Attorneys for U.S. BORAX INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California 94105-2482. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on March 12, 2012, I served a copy of:

CASE MANAGEMENT STATEMENT OF U.S. BORAX INC.

☒ **BY ELECTRONIC SERVICE** by electronically posting a true copy thereof to Santa Clara County Superior Court's electronic filing website for complex civil litigation cases (Judge Jack Komar, Dept. 17C - <http://www.scefiling.org>) with respect to Judicial Council Coordination Proceeding No. 4408 (Antelope Valley Groundwater matter).

☐ **BY U.S. MAIL** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as follows, for collection and mailing at Morrison & Foerster LLP, 425 Market Street, San Francisco, California 94105-2482 in accordance with Morrison & Foerster LLP's ordinary business practices. I am readily familiar with Morrison & Foerster LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service, and know that in the ordinary course of Morrison & Foerster LLP's business practice the document(s) described above will be deposited with the United States Postal Service on the same date that it (they) is (are) placed at Morrison & Foerster LLP with postage thereon fully prepaid for collection and mailing.

☐ **BY FACSIMILE** by sending a true copy from Morrison & Foerster LLP's facsimile transmission telephone number 415.268.7522 to the fax number(s) set forth below, or as stated on the attached service list. The transmission was reported as complete and without error. The transmission report was properly issued by the transmitting facsimile machine. I am readily familiar with Morrison & Foerster LLP's practice for sending facsimile transmissions, and know that in the ordinary course of Morrison & Foerster LLP's business practice the document(s) described above will be transmitted by facsimile on the same date that it (they) is (are) placed at Morrison & Foerster LLP for transmission.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California, March 12, 2012.

Patti Pomerantz
(typed)


(signature)