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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
11

12 **ANTELOPE VALLEY**
13 **GROUNDWATER CASES**

Included Actions:
14 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Superior
15 Court of California, County of Los
Angeles, Case No. BC 325201;

16 Los Angeles County Waterworks District
17 No. 40 v. Diamond Farming Co., Superior
Court of California, County of Kern, Case
18 No. S-1500-CV-254-348;

19 Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
20 Lancaster, Diamond Farming Co. v.
Palmdale Water Dist., Superior Court of
21 California, County of Riverside, Case Nos.
RIC 353 840, RIC 344 436, RIC 344 668
22

Judicial Council Coordination No. 4408

CLASS ACTION

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

**RESPONSE TO PUBLIC WATER
SUPPLIER NOTICE OF DEPOSITION OF
BRUCE N. NELSON AND REQUEST FOR
PRODUCTION OF DOCUMENTS**

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sf-3272303

1 U.S. Borax, Inc. ("U.S. Borax") hereby objects and responds to the Public Water Supplier
2 Notice of Deposition of Bruce N. Nelson and attached Requests for Production ("Deposition
3 Notice"), served on March 22, 2013, as follows:

4 **GENERAL OBJECTIONS**

5 U.S. Borax objects to the Deposition Notice to the extent it purports to require the
6 deposition to continue from day-to-day thereafter, excluding weekends and holidays, until
7 completed. In the event that the Public Water Suppliers are legitimately unable to complete the
8 deposition of Mr. Nelson, the deposition will continue at a date and time that is mutually
9 agreeable to all parties, their counsel, and the witness.

10 U.S. Borax objects to the Deposition Notice to the extent it purports to impose obligations
11 that exceed the permissible scope of discovery as set forth in the California Code of Civil
12 Procedure.

13 U.S. Borax objects to the Requests for Production to the extent they seek privileged or
14 confidential information including, but not limited to, information encompassed by the attorney-
15 client privilege, the attorney work product doctrine, or any other applicable privilege or
16 immunity. U.S. Borax's responses are not intended to, nor should they be construed as, a waiver
17 or relinquishment of any part of the protections afforded by the attorney-client privilege, the
18 attorney work product doctrine, or any other applicable privilege or immunity.

19 U.S. Borax objects to the Deposition Notice on the grounds that the materials or
20 categories of materials to be produced are not specified with reasonable particularity.

21 U.S. Borax objects to the Requests for Production to the extent they contain vague or
22 ambiguous terms, as such Requests are overbroad, unduly burdensome and oppressive, and not
23 reasonably calculated to lead to the discovery of admissible evidence.

24 U.S. Borax objects to the Requests for Production to the extent they seek information that
25 cannot be located after a reasonable search of its records reasonably believed most likely to
26 contain the responsive information on the ground that any such requirement would be unduly
27 burdensome and oppressive.
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1 The information that U.S. Borax produces in response to the Requests for Production is
2 being produced solely for the purposes of this action. Such information is subject to all
3 objections regarding relevance, authenticity, materiality, propriety, admissibility and any other
4 objections that would require exclusion of the information, if such information were offered as
5 evidence at trial, all of which objections are expressly reserved and may be raised at the time of
6 trial.

7 U.S. Borax's decision to provide information notwithstanding the objectionable nature of
8 any of the Requests should not be construed as a stipulation or admission that the information is
9 relevant or admissible, a waiver of U.S. Borax's general or specific objections, or an agreement
10 that requests for similar discovery will be treated in a similar manner.

11 To the extent U.S. Borax identifies documents as responsive to any Request, it does not
12 constitute an admission that U.S. Borax agrees with any characterizations, disputed facts, or other
13 information contained in these document requests.

14 To the extent U.S. Borax adopts or uses any terms or definitions defined in the Deposition
15 Notice, it does so solely for convenience in responding to this Deposition Notice. U.S. Borax
16 does not accept or concede that any of the terms or definitions is appropriate, descriptive, or
17 accurate.

18 U.S. Borax objects to the definition of "You" and "Your" as vague, ambiguous, overly
19 broad, and unduly burdensome. For the purposes of this response, "You" and "Your" shall mean
20 the witness, Bruce N. Nelson.

21 U.S. Borax states that its responses and objections to the Deposition Notice and each
22 Request will be based solely on the information available to it at the time of this response. U.S.
23 Borax specifically reserves the right to supplement, amend, or modify its objections, responses,
24 and production.

25 These General Objections are incorporated by this reference into each and every response
26 to the Requests for Production herein.

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OBJECTIONS AND RESPONSES

Request for Production Number 1:

All DOCUMENTS that refer or relate to any opinions YOU intend to offer at the trial of this matter, including but not limited to all DOCUMENTS or WRITINGS YOU reviewed in connection with forming YOUR opinions, or in any way considered or relied upon in forming any opinions YOU intend to offer at trial.

Response to Request for Production Number 1:

U.S. Borax objects to this Request to the extent it is vague, overbroad, and unduly burdensome. U.S. Borax objects to this Request to the extent it seeks privileged or confidential information including, but not limited to, information encompassed by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S. Borax objects to this Request on the grounds that the phrases “refer or relate to” and “considered or relied upon” are vague and ambiguous, overbroad, and unduly burdensome.

Request for Production Number 2:

All DOCUMENTS that refer or relate to YOUR opinions regarding the groundwater pumping by any party to this case.

Response to Request for Production Number 2:

U.S. Borax objects to this Request to the extent it is vague, overbroad, and unduly burdensome. U.S. Borax objects to this Request to the extent it seeks privileged or confidential information including, but not limited to, information encompassed by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S. Borax objects to this Request on the grounds that the phrases “refer or relate to” and “groundwater pumping” are vague and ambiguous, overbroad, and unduly burdensome. U.S. Borax objects to this Request to the extent it seeks documents that are not in Mr. Nelson’s possession, custody, or control, or the documents sought are equally available to or already in the possession of the requesting parties.

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2 **Request for Production Number 3:**

3 All DOCUMENTS that refer or relate to YOUR opinions regarding the reasonable and
4 beneficial use of water by any party to this case.

5 **Response to Request for Production Number 3:**

6 U.S. Borax objects to this Request to the extent it is vague, overbroad, and unduly
7 burdensome. U.S. Borax objects to this Request to the extent it seeks privileged or confidential
8 information including, but not limited to, information encompassed by the attorney-client
9 privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S.
10 Borax objects to this Request on the grounds that the phrases “refer or relate to” and “reasonable
11 and beneficial use” are vague and ambiguous, overbroad, and unduly burdensome. U.S. Borax
12 objects to this Request to the extent it seeks documents that are not in Mr. Nelson’s possession,
13 custody, or control, or the documents sought are equally available to or already in the possession
14 of the requesting parties.

15
16 **Request for Production Number 4:**

17 All reports and written analyses YOU prepared in connection with YOUR work as an
18 expert in this matter.

19 **Response to Request for Production Number 4:**

20 U.S. Borax objects to this Request to the extent it seeks privileged or confidential
21 information including, but not limited to, information encompassed by the attorney-client
22 privilege, the attorney work product doctrine, or any other applicable privilege or immunity.
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24 **Request for Production Number 5:**

25 All DOCUMENTS that evidence the work YOU have performed in forming YOUR
26 opinions in this case, including but not limited to invoices, time records and billing statements.
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1 **Response to Request for Production Number 5:**

2 U.S. Borax objects to this Request as vague, ambiguous terms, overbroad, and unduly
3 burdensome and not reasonably calculated to lead to the discovery of admissible evidence. U.S.
4 Borax objects to this Request to the extent it seeks privileged or confidential information
5 including, but not limited to, information encompassed by the attorney-client privilege, the
6 attorney work product doctrine, or any other applicable privilege or immunity.
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8 **Request for Production Number 6:**

9 YOUR current curriculum vitae ("C.V."), and all C.V.s YOU have prepared in the last 5
10 years.

11 **Response to Request for Production Number 6:**

12 U.S. Borax does not object to this Request.
13

14 **Request for Production Number 7:**

15 All DOCUMENTS that refer or relate to any communications YOU have had with the
16 party that designated YOU and/or their current or former attorneys regarding YOUR work as an
17 expert in this case and/or the opinions YOU have formed.
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19 **Response to Request for Production Number 7:**

20 U.S. Borax objects to this Request to the extent it seeks privileged or confidential
21 information including, but not limited to, information encompassed by the attorney-client
22 privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S.
23 Borax objects to this Request on the grounds that the phrase "refer or relate to" is vague and
24 ambiguous, overbroad, and unduly burdensome.
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1 **Request for Production Number 8:**

2 All DOCUMENTS or WRITINGS that refer or relate to any communications YOU have
3 had with any person regarding YOUR work as an expert in this case and/or the opinions YOU
4 have formed.

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6 **Response to Request for Production Number 8:**

7 U.S. Borax objects to this Request as vague, ambiguous terms, overbroad, and unduly
8 burdensome and not reasonably calculated to lead to the discovery of admissible evidence. U.S.
9 Borax objects to this Request to the extent it seeks privileged or confidential information
10 including, but not limited to, information encompassed by the attorney-client privilege, the
11 attorney work product doctrine, or any other applicable privilege or immunity. U.S. Borax
12 objects to this Request on the grounds that the phrase “refer or relate to” is vague and ambiguous,
13 overbroad, and unduly burdensome.

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15 **Request for Production Number 9:**

16 All deposition, trial, arbitration and/or hearing transcripts in YOUR possession, custody or
17 control, wherein, YOU have previously testified as an expert witness in any legal proceeding or
18 deposition.

19 **Response to Request for Production Number 9:**

20 U.S. Borax objects to this Request as not reasonably calculated to lead to the discovery of
21 admissible evidence. U.S. Borax objects to this Request to the extent it seeks privileged or
22 confidential information including, but not limited to, information encompassed by the attorney-
23 client privilege, the attorney work product doctrine, or any other applicable privilege or
24 immunity. U.S. Borax objects to this Request to the extent it seeks documents that are not in Mr.
25 Nelson’s possession, custody, or control, or the documents sought are equally available to or
26 already in the possession of the requesting parties.

1 **Request for Production Number 10:**

2 All DOCUMENTS or WRITINGS that refer or relate to YOUR expected testimony at
3 trial, including, but not limited to, agricultural practices, distribution of crops and their water use,
4 irrigation methods, return flows from agricultural practices, mineral extraction, and mineral
5 production.

6 **Response to Request for Production Number 10:**

7 U.S. Borax objects to this Request to the extent it seeks privileged or confidential
8 information including, but not limited to, information encompassed by the attorney-client
9 privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S.
10 Borax objects to this Request on the grounds that the undefined phrases “refer or relate to,”
11 “agricultural practices,” “distribution of crops and their water use,” “irrigation methods,” “return
12 flows from agricultural practices,” “mineral extraction,” and “mineral production,” are vague and
13 ambiguous, overbroad, and unduly burdensome.

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15 **Request for Production Number 11:**

16 YOUR agreement with the party that designated YOU and/or any other party or their
17 attorney in this case.

18 **Response to Request for Production Number 11:**

19 U.S. Borax objects to this Request as not reasonably calculated to lead to the discovery of
20 admissible evidence. U.S. Borax objects to this Request to the extent it seeks privileged or
21 confidential information including, but not limited to, information encompassed by the attorney-
22 client privilege, the attorney work product doctrine, or any other applicable privilege or
23 immunity.

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25 **Request for Production Number 12:**

26 All drafts YOU prepared or that were prepared at YOUR direction that relate to YOUR
27 opinions in this case.

1 **Response to Request for Production Number 12:**

2 U.S. Borax objects to this Request as overbroad, unduly burdensome, and not reasonably
3 calculated to lead to the discovery of admissible evidence. U.S. Borax objects to this Request to
4 the extent it seeks privileged or confidential information including, but not limited to, information
5 encompassed by the attorney-client privilege, the attorney work product doctrine, or any other
6 applicable privilege or immunity. U.S. Borax objects to this Request on the grounds that the
7 phrase “prepared at YOUR direction” is vague and ambiguous, overbroad, and unduly
8 burdensome.

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10 **Request for Production Number 13:**

11 All communications between YOU and any other party or attorney in this case.

12 **Response to Request for Production Number 13:**

13 U.S. Borax objects to this Request as overbroad, unduly burdensome, and not reasonably
14 calculated to lead to the discovery of admissible evidence. U.S. Borax objects to this Request
15 because the materials or categories of materials to be produced are not specified with reasonable
16 particularity. U.S. Borax objects to this Request to the extent it seeks privileged or confidential
17 information including, but not limited to, information encompassed by the attorney-client
18 privilege, the attorney work product doctrine, or any other applicable privilege or immunity.

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20 **Request for Production Number 14:**

21 All communications between another party or attorney in this case.

22 **Response to Request for Production Number 14:**

23 U.S. Borax objects to this Request as overbroad, unduly burdensome, and not reasonably
24 calculated to lead to the discovery of admissible evidence. U.S. Borax objects to this Request
25 because the materials or categories of materials to be produced are not specified with reasonable
26 particularity. U.S. Borax objects to this Request to the extent it seeks privileged or confidential
27 information including, but not limited to, information encompassed by the attorney-client
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1 privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S.
2 Borax objects to this Request because it seeks documents that are not in Mr. Nelson's possession,
3 custody, or control, or the documents sought are equally available to or already in the possession
4 of the requesting parties.

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6 **Request for Production Number 15:**

7 All DOCUMENTS that relate to any other party or attorney in this case.

8 **Response to Request for Production Number 15:**

9 U.S. Borax objects to this Request as overbroad, unduly burdensome, and not reasonably
10 calculated to lead to the discovery of admissible evidence. U.S. Borax objects to this Request
11 because the materials or categories of materials to be produced are not specified with reasonable
12 particularity. U.S. Borax objects to this Request to the extent it seeks privileged or confidential
13 information including, but not limited to, information encompassed by the attorney-client
14 privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S.
15 Borax objects to this Request because it seeks documents that are not in Mr. Nelson's possession,
16 custody, or control, or the documents sought are equally available to or already in the possession
17 of the requesting parties.

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19 **Request for Production Number 16:**

20 All DOCUMENTS that relate to this case.

21 **Response to Request for Production Number 16:**

22 U.S. Borax objects to this Request as overbroad, unduly burdensome, and not reasonably
23 calculated to lead to the discovery of admissible evidence. U.S. Borax objects to this Request
24 because the materials or categories of materials to be produced are not specified with reasonable
25 particularity. U.S. Borax objects to this Request to the extent it seeks privileged or confidential
26 information including, but not limited to, information encompassed by the attorney-client
27 privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S.
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1 Borax objects to this Request because it seeks documents that are not in Mr. Nelson's possession,
2 custody, or control, or the documents sought are equally available to or already in the possession
3 of the requesting parties.
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6 **Request for Production Number 17:**

7 All reference materials YOU used to formulate YOUR opinions in this case.

8 **Response to Request for Production Number 17:**

9 U.S. Borax objects to this Request as overbroad, unduly burdensome, and not reasonably
10 calculated to lead to the discovery of admissible evidence. U.S. Borax objects to this Request
11 because the materials or categories of materials to be produced are not specified with reasonable
12 particularity. U.S. Borax objects to this Request to the extent it seeks privileged or confidential
13 information including, but not limited to, information encompassed by the attorney-client
14 privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S.
15 Borax objects to this Request on the grounds that the terms "reference materials" and "formulate"
16 are vague and ambiguous, overbroad, and unduly burdensome.
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18 **Request for Production Number 18:**

19 All opinions that relate the adjudication proceedings.

20 **Response to Request for Production Number 18:**

21 U.S. Borax objects to this Request as overbroad, unduly burdensome, and not reasonably
22 calculated to lead to the discovery of admissible evidence. U.S. Borax objects to this Request
23 because the materials or categories of materials to be produced are not specified with reasonable
24 particularity. U.S. Borax objects to this Request to the extent it seeks privileged or confidential
25 information including, but not limited to, information encompassed by the attorney-client
26 privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S.
27 Borax objects to this Request on the grounds that the terms "opinions" and "adjudication
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1 proceedings” are vague and ambiguous, overbroad, and unduly burdensome. U.S. Borax objects
2 to this Request because it seeks documents that are not in Mr. Nelson’s possession, custody, or
3 control, or the documents sought are equally available to or already in the possession of the
4 requesting parties.

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6 **Request for Production Number 19:**

7 All reports that relate to the adjudication proceedings.

8 **Response to Request for Production Number 19:**

9 U.S. Borax objects to this Request as overbroad, unduly burdensome, and not reasonably
10 calculated to lead to the discovery of admissible evidence. U.S. Borax objects to this Request
11 because the materials or categories of materials to be produced are not specified with reasonable
12 particularity. U.S. Borax objects to this Request to the extent it seeks privileged or confidential
13 information including, but not limited to, information encompassed by the attorney-client
14 privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S.
15 Borax objects to this Request on the grounds that the terms “reports” and “adjudication
16 proceedings” are vague and ambiguous, overbroad, and unduly burdensome. U.S. Borax objects
17 to this Request because it seeks documents that are not in Mr. Nelson’s possession, custody, or
18 control, or the documents sought are equally available to or already in the possession of the
19 requesting parties.

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21 **Request for Production Number 20:**

22 All data that is in YOUR possession that relates to the adjudication proceedings in the
23 same electronic format that YOU customarily keep that data.

24 **Response to Request for Production Number 20:**


25 U.S. Borax objects to this Request as overbroad, unduly burdensome, and not reasonably
26 calculated to lead to the discovery of admissible evidence. U.S. Borax objects to this Request
27 because the materials or categories of materials to be produced are not specified with reasonable
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1 particularity. U.S. Borax objects to this Request to the extent it seeks privileged or confidential
2 information including, but not limited to, information encompassed by the attorney-client
3 privilege, the attorney work product doctrine, or any other applicable privilege or immunity. U.S.
4 Borax objects to this Request on the grounds that the terms “data” and “adjudication proceedings”
5 are vague and ambiguous, overbroad, and unduly burdensome. U.S. Borax objects to this
6 Request because it seeks documents that are not in Mr. Nelson’s possession, custody, or control,
7 or the documents sought are equally available to or already in the possession of the requesting
8 parties.

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10 Dated: April 12, 2013

WILLIAM M. SLOAN
MORRISON & FOERSTER LLP

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12
13 By:


WILLIAM M. SLOAN

Attorneys for U.S. BORAX INC.

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I further declare that on April 12, 2013, I served a copy of the attached **RESPONSE TO PUBLIC WATER SUPPLIER NOTICE OF DEPOSITION OF BRUCE N. NELSON AND REQUEST FOR PRODUCTION OF DOCUMENTS** by electronically posting a true copy thereof to Santa Clara County Superior Court's electronic filing website for complex civil litigation cases with respect to Judicial Council Coordination Proceeding No. 4408 (Antelope Valley Groundwater matter).

Executed at San Francisco, California, on April 12, 2013.

Satti Pomerantz
(signature)