

1 WILLIAM M. SLOAN (BAR NO. 203583)
Email: WSloan@mofo.com
2 ALEJANDRO L. BRAS (BAR NO. 280558)
Email: ABras@mofo.com
3 **MORRISON & FOERSTER LLP**
4 425 Market Street
San Francisco, California 94105-2482
Telephone: 415.268.7000
5 Facsimile: 415.268.7522
6 Attorneys for U.S. BORAX INC.

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

10
11 Coordination Proceeding
Special Title (Rule 3.550)

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

15 Included Actions:

16 **Los Angeles County Waterworks District No. 40**
17 **v. Diamond Farming Co.**
Los Angeles County Superior Court
Case No. BC 325 201

18 **Los Angeles County Waterworks District No. 40**
19 **v. Diamond Farming Co.**
Kern County Superior Court
20 Case No. S-1500-CV-254-348

21 **Wm. Bolthouse Farms, Inc. v. City of Lancaster**
22 **Diamond Farming Co. v. City of Lancaster**
23 **Diamond Farming Co. v. Palmdale Water District**
Riverside County Superior Court
Case Nos. RIC 353 840, RIC 344 436, RIC 344 668
24 (Consolidated Actions)

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4408

Los Angeles County Superior Court
Lead Case No. BC 325 201

For e-service purposes only:
Santa Clara County Superior Court
Case No. 1-05-CV-049053

25
26
27
28
**STIPULATION OF FACTS RELATED
TO U.S. BORAX INC.**

IT IS HEREBY STIPULATED AND AGREED by and between the Parties hereto, by their respective counsel, that, for the purpose of trial in this action, the facts listed below are undisputed and may be treated by the court as facts proved in open court.

The Parties may, during the trial of this matter, call witnesses and offer evidence for the purpose of proving any additional facts as the Parties may see fit or as requested by the Court.

By this stipulation, the Parties are not agreeing to any water rights, and they reserve the right to present further evidence and make any and all legal arguments regarding the relevance of the water use described herein to any rights that may be adjudicated in future phases of this action. Additionally, in making the stipulation, the Parties do not waive any legal arguments concerning the effect or import of any of the following undisputed facts, and each Party reserves the right to offer any legal arguments concerning those facts, or any part of those facts, in future phases of trial as allowed by the Court.

The undisputed facts are as follows:

1. U.S. Borax, Inc. ("Borax") used 3512 acre feet of water in 2011, and 3478 acre feet of water in 2012, as described below:

	2011	2012
Total	3512	3478
Water wells 30,33,34,43	828	1064
State Water Project Quantity	1873	1617
Extraction wells*	124	82
Groundwater from Outside Adjudication Area*	144	203
Cogeneration Facility Steam*	150	119
Demineralized Cogeneration Facility Water	24	24
Conservation, recycle, recovery*	369	369

* The Parties reserve the right to challenge the factual and legal basis for the inclusion of these subcategories as part of the overall total use amount, and particularly disputes the applicability of California Water Code section 1010 to these subcategories, but does not dispute the accuracy of the numbers representing the amount of water calculated for each of these sources.

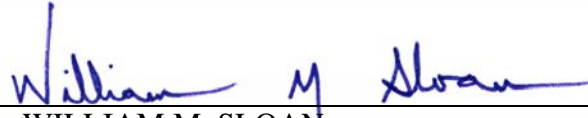
1 2. To the extent that any of Borax's water use is later discovered to include water that
2 was used outside of the Antelope Valley Adjudication Area, the Parties reserve the right to dispute
3 that amount of Borax's claim.

4 3. Bruce N. Nelson will not testify at the Phase 4 trial beyond the scope of the facts
5 above and what was set forth in the Declaration of Bruce N. Nelson in Lieu of Deposition for Phase 4
6 Trial, filed January 31, 2013 by Borax, with the exception of potential rebuttal testimony.

1 Dated: April 15, 2013

WILLIAM M. SLOAN
MORRISON & FOERSTER LLP

2
3
4 By:


WILLIAM M. SLOAN

Attorneys for U.S. BORAX INC.

5
6 Dated: April __, 2013

LAGERLOF SENEAL GOSNEY & KRUSE

7
8 By:

THOMAS BUNN III

Attorneys for PALMDALE WATER
DISTRICT

9
10 Dated: April __, 2013

CALIFORNIA WATER SERVICE COMPANY

11
12
13 By:

JOHN TOOTLE

Attorney and Corporate Counsel for
CALIFORNIA WATER SERVICE
COMPANY

14
15 Dated: April __, 2013

MURPHY & EVERTZ LLP

16
17
18 By:

DOUGLAS J. EVERTZ

Attorneys for CITY OF LANDCASTER and
ROSAMOND COMMUNITY WATER
DISTRICT

1 Dated: April __, 2013

WILLIAM M. SLOAN
ALEJANDRO L. BRAS
MORRISON & FOERSTER LLP

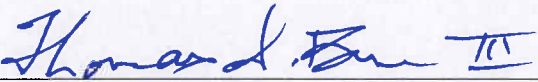
4 By: _____

WILLIAM M. SLOAN
Attorneys for U.S. BORAX INC.

6 Dated: April 15, 2013

LAGERLOF SENEAL GOSNEY & KRUSE

8 By: _____


THOMAS BUNN III

Attorneys for PALMDALE WATER
DISTRICT

11 Dated: April __, 2013

CALIFORNIA WATER SERVICE COMPANY

13 By: _____

JOHN TOOTLE
Attorney and Corporate Counsel for
CALIFORNIA WATER SERVICE
COMPANY

16 Dated: April __, 2013

MURPHY & EVERTZ LLP

18 By: _____

DOUGLAS J. EVERTZ
Attorneys for CITY OF LANCASTER and
ROSAMOND COMMUNITY WATER
DISTRICT

1 Dated: April __, 2013

WILLIAM M. SLOAN
ALEJANDRO L. BRAS
MORRISON & FOERSTER LLP

2
3
4 By: _____
WILLIAM M. SLOAN
Attorneys for U.S. BORAX INC.

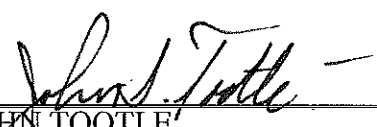
5
6 Dated: April __, 2013

LAGERLOF SENECA L GOSNEY & KRUSE

7
8 By: _____
THOMAS BUNN III
Attorneys for PALMDALE WATER
DISTRICT

9
10
11 Dated: April __, 2013

CALIFORNIA WATER SERVICE COMPANY

12
13 By:  _____
JOHN TOOTLE
Attorney and Corporate Counsel for
CALIFORNIA WATER SERVICE
COMPANY

14
15
16 Dated: April __, 2013

MURPHY & EVERTZ LLP

17
18 By: _____
DOUGLAS J. EVERTZ
Attorneys for CITY OF LANDCASTER and
ROSAMOND COMMUNITY WATER
DISTRICT

1 Dated: April __, 2013

WILLIAM M. SLOAN
ALEJANDRO L. BRAS
MORRISON & FOERSTER LLP

4 By: _____

WILLIAM M. SLOAN
Attorneys for U.S. BORAX INC.

6 Dated: April __, 2013

LAGERLOF SENECALE GOSNEY & KRUSE

8 By: _____

THOMAS BUNN III
Attorneys for PALMDALE WATER
DISTRICT

11 Dated: April __, 2013

CALIFORNIA WATER SERVICE COMPANY

13 By: _____

JOHN TOOTLE
Attorney and Corporate Counsel for
CALIFORNIA WATER SERVICE
COMPANY

16 Dated: April 15, 2013

MURPHY & EVERTZ LLP

18 By: _____


DOUGLAS J. EVERTZ
Attorneys for CITY OF LANDCASTER and
ROSAMOND COMMUNITY WATER
DISTRICT

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 April 15, 2013, I served a copy of:

STIPULATION OF FACTS RELATED TO 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, April 15, 2013.

Patti Pomerantz
(typed)


(signature)