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Attorneys for the United States

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding) Judicial Council Coordination
Special Title (Rule 1550(b))) Proceeding No. 4408

ANTELOPE VALLEY GROUNDWATER CASES

Included actions:

Los Angeles County Waterworks District No. 40 v.)
Diamond Farming Co., et al.) FEDERAL DEFENDANTS'
Los Angeles County Superior Court, Case No. BC 325) RESPONSE TO MOTION TO
201) STAY PROCEEDINGS FOR SIX
MONTHS, OR, IN THE
ALTERNATIVE, CONTINUE
TRIAL SETTING CONFERENCE

Los Angeles County Waterworks District No. 40 v.)
Diamond Farming Co., et al.)
Kern County Superior Court, Case No. S-1500-CV-)
254-348)

Wm. Bolthouse Farms, Inc. v. City of Lancaster)
Diamond Farming Co. v. City of Lancaster)
Diamond Farming Co. v. Palmdale Water District)
Riverside County Superior Court, Consolidated Action,)
Case nos. RIC 353 840, RIC 344 436, RIC 344 668)

AND RELATED CROSS ACTIONS

1 The United States respectfully submits its response to the City of Lancaster's, *et*
2 *al.* Notice of Motion and Motion to Stay Proceedings for Six Months, or, in the
3 Alternative Continue Trial Setting Conference; Declaration of James R. Williams
4 (hereinafter the "*Stay Mtn.*"), filed July 15, 2009. The United States opposes the motion.
5 At this point in the proceedings, commencing the trial for determining the Antelope
6 Valley Groundwater Basin's safe yield and overdraft with findings of fact and conclusions
7 of law after an evidentiary hearing would best serve all the parties. Accordingly, the case
8 should not be stayed or the Phase III trial postponed.

9 As the movants point out, an integral part of any settlement will be the
10 determination of the total sustainable yield of the Basin. *Stay Mtn.* at 2. However, the
11 Basin safe yield has been the subject of formal and informal negotiation for years without
12 resolution. Thus, a Court determination of the Basin's safe yield amount may actually aid
13 settlement and advance resolution of this case by providing a reasoned analysis of the safe
14 yield from which the parties can then make realistic negotiating decisions. Further, the
15 Basin safe yield, together with a determination of overdraft, provides the factual context
16 necessary to settle all other issues regarding the parties' relative rights to groundwater.
17 Such a determination may expedite a negotiated physical solution and the eventual
18 administration of water rights.

19 The status of this adjudication also weighs against a stay. After many years of
20 effort, all water right holders and claimants have been or soon will be joined in the
21 litigation. Consequently, rulings on important broad issues such as safe yield and
22 overdraft may proceed without risk to the due process of non-joined water right holders.
23 In addition, consolidation of the various cross actions (currently at issue under another
24 pending motion) in the near future should simplify procedures by resulting in a decree
25 binding on all parties. In other words, the adjudication is well-situated to make significant
26 progress over the next six to nine months.

27 While the United States is optimistic that this adjudication will settle and a binding
28 decree incorporating a physical solution will be achieved, it does not believe an immediate

1 stay is the means to realize these goals. In sum, a stay at this point is not warranted or
2 beneficial.

3 Respectfully submitted this 4th day of August, 2009.

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5 JOHN C. CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources Division
6

7 /s/
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PROOF OF SERVICE

I, Linda Shumard, declare:

I am a resident of the State of Colorado and over the age of 18 years, and not a party to the within action. My business address is U.S. Department of Justice, Environmental and Natural Resources Section, 1961 Stout Street, 8th Floor, Denver, Colorado 80294.

On August 4, 2009, I caused the foregoing documents described as; **FEDERAL DEFENDANTS' RESPONSE TO MOTION TO STAY PROCEEDINGS FOR SIX MONTHS, OR, IN THE ALTERNATIVE, CONTINUE TRIAL SETTING CONFERENCE** , to be served on the parties via the following service:

☒

BY ELECTRONIC SERVICE AS FOLLOWS by posting the document(s) listed above to the Santa Clara website in regard to the Antelope Valley Groundwater matter.

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BY MAIL AS FOLLOWS (to parties so indicated on attached service list): By placing true copies thereof enclosed in sealed envelopes addressed as indicated on the attached service list.

☐

BY OVERNIGHT COURIER: I caused the above-referenced document(s) be delivered to FEDERAL EXPRESS for delivery to the above address(es).

Executed on August 4, 2009, at Denver, Colorado.

/s/ Linda Shumard
Linda Shumard
Legal Support Assistant