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GOVERNMENT CODE SECTION 6103

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

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

) Judicial Council Coordination  
) Proceeding No. 4408  
)

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

) **FEDERAL DEFENDANTS'**  
) **STATEMENT ON PHASE III**  
) **TRIAL ISSUES**  
)

15 Included actions:

16 Los Angeles County Waterworks District No. 40 v.  
Diamond Farming Co., et al.

17 Los Angeles County Superior Court, Case No. BC  
325 201

18 Los Angeles County Waterworks District No. 40 v.  
Diamond Farming Co., et al.

19 Kern County Superior Court, Case No. S-1500-CV-  
20 254-348

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

24 **AND RELATED CROSS ACTIONS**  
25  
26

27 Pursuant to the amended order and notice dated March 11, 2010, Cross-Defendant United  
28 States of America respectfully submits this statement of triable issues for the Phase III trial on

1 the Status of the Aquifer and the Issue of Overdraft commencing on Monday, September 27,  
2 2010,

3 Safe yield and overdraft have been defined by the California courts for over three  
4 decades:

5 Definitions: "Safe yield" is defined as "the maximum quantity of water which can  
6 be withdrawn annually from a ground water supply under a given set of  
7 conditions without causing an undesirable result." "Undesirable result" is a  
8 gradual lowering of the ground water levels leading eventually to depletion of the  
9 supply. "A ground water basin is in a state of surplus when the amount of water  
being extracted from is less than the maximum that could be withdrawn without  
adverse effects on the basins' long term supply.... Overdraft commences whenever  
extractions increase, or the withdrawable maximum decreases, or both, to the  
point where the surplus ends."

10 *Wright v. Goleta Water Dist.*, 174 Cal.App.3d 74, 81, 219 Cal.Rptr. 740, 745, n. 2  
11 (1985)(quoting *City of Los Angeles v. City of San Fernando*, 14 Cal.3d 199, 278, 123 Cal.Rptr.  
12 1, 537 P.2d 1250 (1975)); see also *Central and West Basin Water Replenishment District v.*  
13 *Southern California Water Co.*, 109 Cal.App.4th 891, 899, 135 Cal.Rptr.2d 486, 491  
14 (2003)(same).

15 Calculations of safe yield and overdraft, therefore, are determined by the amount of water  
16 entering the basin aquifer and the amount of water extracted from the aquifer. The amount of  
17 water entering the aquifer derives from three sources of aquifer recharge: natural recharge,  
18 imported water and return flow. A determination of each of these components will yield a value  
19 of what is "withdrawable" from the aquifer. Certain parties, including cross-complainants, have  
20 alleged that water imported and stored in the basin aquifer should not be available for extraction  
21 from other parties. Thus, the withdrawable amount should be distinguished from the amount of  
22 water that is capable of being extracted from all sources. In other words, while a rate of  
23 extraction of water may be sustained from all sources of aquifer recharge, the safe yield of the  
24 basin should be determined from available sources of water in the aquifer.

25 With these principles in mind, the United States suggests the following issues be tried in  
26 order to determine the basin safe yield and overdraft:

1. Safe Yield

a. the Average Natural Recharge of the basin. Average natural recharge defined as the total amount of water that, on average, annually enters the Antelope Valley basin aquifer from natural sources including stream infiltration and bedrock seepage;

b. the Total Sustainable Yield of the basin. Total sustainable yield defined as the average natural recharge plus return flows from native and imported water sources capable of sustaining well pumping of the aquifer indefinitely without causing an undesirable result, including adverse effects on the aquifer's long term supply and/or physical damage (i.e., subsidence) to the land surface;

c. the Native Safe Yield of the basin. Native safe yield defined as the average natural recharge plus return flows from native water sources capable of sustaining well pumping of the aquifer indefinitely without causing an undesirable result, including adverse effects on the aquifer's long term supply and/or physical damage (i.e., subsidence) to the land surface.

2. Overdraft

a. Whether the amount of water being extracted from the Antelope Valley basin aquifer exceeds the native safe yield.

Respectfully submitted this 15th day of March, 2010.

/s/  
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R. LEE LEININGER  
JAMES J. DUBOIS  
United States Department of Justice

## **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, 8<sup>th</sup> Floor, Denver, Colorado 80294.

On March 15, 2010, I caused the foregoing documents described as; **FEDERAL DEFENDANTS' STATEMENT ON PHASE III TRIAL ISSUES** , to be served on the parties via the following service:

☒

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

☐

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 March 15, 2010, at Denver, Colorado.

/s/ Linda Shumard  
Linda Shumard  
Legal Support Assistant