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EXEMPT FROM FILING FEES  
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' CASE**  
) **MANAGEMENT STATEMENT**

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

22 Diamond Farming Co. v. City of Lancaster

23 Diamond Farming Co. v. Palmdale Water District

24 Riverside County Superior Court, Consolidated  
Action, Case nos. RIC 353 840, RIC 344 436, RIC  
344 668

25 **AND RELATED CROSS ACTIONS**  
26

27 Cross-Defendant United States of America respectfully submits this narrative case  
28 management conference statement in advance of the Case Management Conference on

1 November 9, 2012. In preparation for the Phase IV trial scheduled to commence on February 11,  
2 2013, the United States first notes that, despite all parties' best efforts, this case has not settled  
3 and is unlikely to settle in the near future. The parties, therefore, must focus on trial  
4 preparations. In order to prepare for trial, a definitive list of triable issues is necessary. In the  
5 Court's *Minute Order Re: Continuance of Trial Setting Conference*, dated March 2, 2012, the  
6 parties were advised to submit statements "with suggestions as to what should be involved in the  
7 next phase of trial, in terms of prescription issues, allocation issues, storage issues, return flows,  
8 and the like, as well as time estimates for the next phase of trial."

9 As the United States stated in its response to the Court's request last Spring, any eventual  
10 settlement must satisfy the McCarran Amendment, 43 U.S.C. § 666, and result in a  
11 comprehensive determination of all rights to water. To ensure that all rights to water are  
12 determined, the next phase of trial should commence with claims of prescription and defenses of  
13 self-help. Certain claims to water are likely to be significantly curtailed or potentially even  
14 eliminated if allegations of prescription made by the Cross-Complainants are proven. Once these  
15 correlative rights based on state law are determined, the Court should then proceed with a  
16 determination of the United States' claims to water for Edwards Air Force Base and Air Force  
17 Plant 42 based on the federal reserved water rights doctrine. The federal reserved water right  
18 issue logically follows the prescriptive phase of trial because without determination of all parties  
19 correlative rights, this Court will lose jurisdiction over the United States. Accordingly, the  
20 United States suggests a Phase IV trial to determine the parties' correlative water rights to the  
21 Basin safe yield, including claims of prescription and defenses of self-help, followed by a phase  
22 to determine the United States' federal reserved rights claims.

23 The United States proposes the following schedule for litigation in Phase IV of the  
24 parties' correlative water rights to the Basin safe yield, including claims of prescription and  
25 defenses of self-help:

26 1. Immediate: Require parties to comply with information requested in the Minute Entry  
27  
28

1 dated October 12, 2012, no later than November 26, 2012:

2 statements of current pumping (up to 2012), and average annual  
3 pumping (since 2000). The statements may include, but shall not  
4 be limited to, such information as type of pumping, sources of  
5 pumping, water uses, how long the pumping has occurred, claims  
of prescription, return flow, location of property where the  
pumping occurs/occurred. The statements shall be under penalty of  
perjury.

6 2. Commence written discovery for the purpose of disclosing facts related to the Phase IV  
7 trial issues.

8 3. January 21, 2013: Exchange of exhibits to be used at trial.


9 4. January 28, 2013: Ope

10 ning trial briefs due.

11 5. February 11, 2013: Trial commences.

12 Estimated trial time is four to six weeks.

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14 Respectfully submitted this 5th day of November, 2012.

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17 R. LEE LEININGER  
18 JAMES J. DUBOIS  
19 United States Department of Justice  
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## **PROOF OF SERVICE**

I, Amber Petrie, 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, Environment and Natural Resources Section, 999 18th Street, South Terrace - Suite 370, Denver, Colorado 80202.

On November 5, 2012, I caused the foregoing document(s) described as: **FEDERAL DEFENDANTS' CASE MANAGEMENT STATEMENT** 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.

☐

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 November 5, 2012 at Denver, Colorado.

/s/ Amber Petrie  
Amber Petrie  
Legal Assistant