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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'**  
) **OBJECTION TO THE CITY OF**  
) **PALMDALE'S PROPOSED**  
) **COURT ORDERED DISCOVERY**  
) **FOR PHASE 4 TRIAL**

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

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27 The United States objects to the City of Palmdale's proposed *Court Ordered Discovery*  
28 *for Phase 4 Trial* filed November 16, 2012 in response to the Court's Minute Order dated

1 November 9, 2012. The proposal does not comply with the Court's Minute Order. In the section  
2 of Palmdale's proposed court-ordered discovery titled "FOR THE FEDERAL PARTIES", page  
3 6, there is a proposed set of interrogatories propounded against the United States. While the  
4 November 9, 2012 Minute Order does ask parties to produce information on their production of  
5 water for the period 2000-2004, and 2011-2012,<sup>1/</sup> it segregates claims based on federal law and  
6 "requests a statement by the Federal government of its basis for its federal rights." The Minute  
7 Order does not permit discovery on the federal rights at this stage. *Id.* at 2.

8 Therefore, the United States respectfully asks the Court to strike the portion of the  
9 proposed discovery order regarding federal parties and instead enter an Order directing the  
10 Federal government to provide a statement of its basis for its federal rights. The United States  
11 proposes this alternative language, which is included in the proposed Court order accompanying  
12 this objection:

13  
14 On or before December 9, 2012, the United States shall post to the Court's website  
15 (www.sceffiling.org) a statement containing the legal theory upon which its claims  
16 to federal reserved water rights are based, including citations of pertinent legal or  
17 case authorities. In addition, the United States will state the factual basis for its  
18 claim including referencing pertinent reservation documents. For lands within  
19 Edwards Air Force Base and Air Force Plant 42 that were purchased or otherwise  
20 acquired from non-federal sources, the United States will provide information on  
21 the acquisitions. The United States will also provide a statement on the quantity  
22 of water reserved necessary to satisfy the purpose(s) of the reservation.

23 This language is not only consistent with the Court's Minute Order, but also a more  
24 practical and pragmatic way to proceed. By first providing a statement, the United States  
25 believes the parties will have a better understanding of these unique federal law based water  
26 rights. A more complete understanding by the parties may limit the number of objections against  
27 the federal rights and thereby streamline the trial on these rights. Furthermore, by providing a  
28 statement before the December 11, 2012 Case Management Conference, the parties challenging

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26 <sup>1/</sup> The United States, as the largest single landowner in the Antelope Valley, will comply with  
27 the proposed discovery related to pumping by overlying landowners and produce relevant historical  
28 pumping records.

1 the government's entitlement to a federal reserved right (*see e.g.*, Trial Setting Conference  
2 Statement of Tejon Ranchcorp and Granite Construction Co., dated November 6, 2012, at 3-4)  
3 may withdraw their objection. At the least, the parties disputing the existence of a federal  
4 reserved water right will be in a better position to fully articulate their objection at the December  
5 11, 2012 conference. This will assist the Court in determining what pre-trial procedures are  
6 necessary, including whether summary judgment on matters of law is appropriate. This, too,  
7 should make the trial process more efficient and streamlined.

8 The United States understands that certain parties may still wish to propound discovery  
9 regarding the federal rights even after reviewing our statement, but, at this point, litigation should  
10 proceed as directed in the Minute Order with a statement by the Federal government of its basis  
11 for its federal rights.

12 Accordingly, the United States asks the Court strike the portion of the City of Palmdale's  
13 proposed *Court Ordered Discovery for Phase 4 Trial* titled "FOR THE FEDERAL PARTIES",  
14 and enter the accompanying proposed order regarding procedure for federal rights.

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17 Respectfully submitted this 19<sup>th</sup> day of November 2012.

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21 R. LEE LEININGER  
22 JAMES J. DUBOIS  
23 United States Department of Justice  
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**PROOF OF SERVICE**

I, Laurie B. Himebaugh, 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 19, 2012, I caused the foregoing document(s) described as: **FEDERAL DEFENDANTS' OBJECTION TO THE CITY OF PALMDALE'S PROPOSED COURT ORDERED DISCOVERY FOR PHASE 4 TRIAL** to be served on the parties via the following service:

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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.

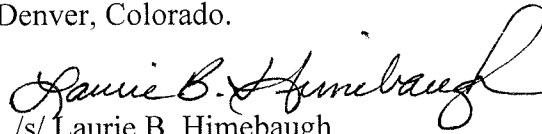
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BY MAIL AS FOLLOWS (to parties so indicated on attached service list): By placing true copies thereof enclosed in sealed envelopes addressed as indicated on the attached service list.

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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 19, 2012 at Denver, Colorado.



/s/ Laurie B. Himebaugh

Laurie B. Himebaugh  
Paralegal Specialist