1 2 3 4 5	RYAN S. BEZERRA, State Bar No. 178048 KATRINA C. GONZALES, State Bar No. 258 BARTKIEWICZ, KRONICK & SHANAHAN A PROFESSIONAL CORPORATION 1011 TWENTY-SECOND STREET SACRAMENTO, CALIFORNIA 95816-4907 TELEPHONE: (916) 446-4254 TELECOPIER: (916) 446-4018 E-MAIL: rsb@bkslawfirm.com	3412 N	
6 7	Attorneys for Cross-Defendant Copa De Oro Land Company	*	
8	SUPERIOR COURT OF THE STATE OF CALIFORNIA		
9	COUNTY OF LOS ANGELES		
10 11 12	Coordination Proceeding Special Title (Rule 1550(b))	JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 4408 Case No. BC 391869	
13	ANTELOPE VALLEY GROUNDWATER CASES	Assigned to Hon. Jack Komar (Santa Clara Case No. 01-05-CV-049053)	
15 16 17	Included Actions: Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., Superior Court of California, County of Los Angeles, Case No. BC 325 201;	COPA DE ORO LAND COMPANY'S TRIAL SETTING CONFERENCE STATEMENT BY FAX	
18 19 20	Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., Superior Court of California, County of Kern, Case No. S-1500-CV-254-348;	Date: November 9, 2012 Time: 9 a.m. Dept: 316, Room 1515 Judge: Hon. Jack Komar	
21 22 23	Wm. Bolthouse Farms, Inc. v. City of Lancaster, Diamond Farming Co. v. Lancaster, Diamond Farming Co. v. Palmdale Water Dist., Superior Court of California, County of Riverside, Case No.	-	
24	RIC 353 840, RIC 344 436, RIC 344 668		
25			
26		(*)	
27			
28		8792/P110712kcg	

## TRIAL SETTING CONFERENCE STATEMENT

Cross-defendant Copa de Oro Land Company ("Copa de Oro") respectfully submits this trial setting conference statement for the conference on November 9, 2012.

### I. INTRODUCTION

At the previous trial setting conference held on October 12, 2012, the Court ordered the parties to, before November 9, 2012, indicate their position regarding the Court's proposal that each party disclose information regarding its current pumping and average annual pumping since the year 2000, including information regarding the nature and sources of pumping, water uses, how long such pumping has occurred on its property and the location of the property where pumping occurs or has occurred. While Copa de Oro believes that engaging in discovery at this time may hamper the parties' progress in reaching a settlement, it is prepared to produce such information to the Court should the Court decide to order the disclosure of pumping-related information.

If the Court decides to move forward with ordering the disclosure of the information described above and setting the next phase of trial, it should establish a streamlined procedure that would significantly limit the burden on the Court and the parties of producing, litigating and evaluating the pumping and water use information that the hundreds of parties would need to present. Such a procedure should include the following steps:

- (1) Require that each party submit to the Court information to document and support its claimed water rights, including evidence of the use of surface water and claims to return flows, by a date certain;
- (2) Provide a 45-day time period within which a party may object to another party's water right claims, as presented in the information submitted to the Court under step (1);
- (3) Provide a 120-day time period within which parties may conduct discovery <u>relating</u> specifically and only to water right claims at issue as a result of objections;
- (4) Provide parties that are involved in such water right disputes sufficient time to prepare for trial; and

(5) Litigate only <u>water right claims at issue as a result of objections</u> in the next phase of trial.

Adopting such a procedure would be consistent with the Court's authority to manage complex and coordinated cases. (See Cal. Rules of Ct., rules 3.541(b), 3.750(b)(10); Lu v. Superior Court (1997) 55 Cal.App.4th 1264, 1267-1271.)

### II. STREAMLINED PROCEDURE FOR NEXT PHASE OF TRIAL

Pursuant to the Court's authority over this complex case (Cal. Rules of Ct., rule 3.541(b), 3.750), Copa de Oro respectfully requests that the Court establish a streamlined procedure to actively manage discovery and the next phase of litigation by setting for trial only those issues that relate to specific disputes regarding a party's water right claims. Copa de Oro proposes the following procedure:

Deadline	Action	
A date certain	Each party must submit to the Court evidence to support its claimed water right, including evidence of the following: current pumping or other water use (up to 2012); average annual pumping or other water use (beginning no later than 2000); type of water use; sources of used water; claims of prescription, claims to return flows and other water right claims; and location of the property/properties where pumping or water use occurs or has occurred.	
45 days after Court- ordered deadline for submitting pumping- related information	Each party may submit to the Court objections regarding another party's claimed water rights and pumping-related information	
120 days after close of objection period	Discovery relating only to disputed water right claims and disputed pumping-related information	
6 months after close of discovery period	Begin next phase of trial to litigate disputed water rights claims and issues relating to those disputes.	

Under this approach, if a party's water right claim were not disputed, then the Court could find that amount of the water use on which the party bases its claim to be undisputed and

	II .		
1	therefore factually determined. If necessary, the parties then could make any further lega		
2	arguments to determine the legal status of a party's water right claim. Such a process coul		
3	simplify trial in this matter significantly and potentially eliminate the need for dozens – or eve		
4	hundreds – of trial days that otherwise could be co	hundreds – of trial days that otherwise could be consumed by parties presenting live testimon	
5	to provide factual support for their water right claims.		
6	Dated: November 8, 2012 Respec	etfully submitted,	
7	DAKI	KIEWICZ, KRONICK & SHANAHAN	
8	A Prof	essional Corporation	
9	By:	legonnes atrina C Gonzales	
11		autina 9 conzares	
12	· · · · · · · · · · · · · · · · · · ·	eys for Copa de Oro Land Company	
13	.3		
14	4		
15	.5		
16	.6		
17	.7	26	
18	.8		
19	9		
20	0	ž.	
21	21		
22	22		
23	23		
24	4		
25	5		
26	6		
27	77		
28	8		

# PROOF OF SERVICE I, Alissa Mackrill, declare as follows: I am a citizen of the United States and a resident of States.

I am a citizen of the United States and a resident of Sacramento County. I am over the age of 18, not a party to this action and am employed at Bartkiewicz, Kronick & Shanahan, 1011 Twenty-Second Street, Sacramento, California 95816. On November 8, 2012, I served, in the manner described below, the following document:

# COPA DE ORO LAND COMPANY'S TRIAL SETTING CONFERENCE STATEMENT

I posted this document to the Court's World Wide Website located at www.scefiling.org.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Sacramento, California on November 8, 2012.

Alissa Mackrill

8792/P110712kcg