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2 **KATRINA C. GONZALES, State Bar No. 258412**
3 **BARTKIEWICZ, KRONICK & SHANAHAN**
4 **A PROFESSIONAL CORPORATION**
5 **1011 TWENTY-SECOND STREET**
6 **SACRAMENTO, CALIFORNIA 95816-4907**
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9 **E-MAIL: rsb@bkslawfirm.com**

10 **Attorneys for Cross-Defendant**
11 **Copa De Oro Land Company**

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES**

14 **Coordination Proceeding Special Title**
15 **(Rule 1550(b))**

16 **ANTELOPE VALLEY GROUNDWATER**
17 **CASES**

18 **Included Actions:**

19 **Los Angeles County Waterworks District**
20 **No. 40 v. Diamond Farming Co., Superior**
21 **Court of California, County of Los Angeles,**
22 **Case No. BC 325 201;**

23 **Los Angeles County Waterworks District**
24 **No. 40 v. Diamond Farming Co., Superior**
25 **Court of California, County of Kern, Case**
26 **No. S-1500-CV-254-348;**

27 **Wm. Bolthouse Farms, Inc. v. City of**
28 **Lancaster, Diamond Farming Co. v.**
29 **Lancaster, Diamond Farming Co. v.**
30 **Palmdale Water Dist., Superior Court of**
31 **California, County of Riverside, Case No.**
32 **RIC 353 840, RIC 344 436, RIC 344 668**

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4408

Case No. BC 391869
Assigned to Hon. Jack Komar

(Santa Clara Case No. 01-05-CV-049053)

RESPONSE OF CROSS-DEFENDANT
COPA DE ORO LAND COMPANY TO
THE COURT'S DISCOVERY ORDER
FOR PHASE 4 TRIAL

1 Cross-Defendant Copa de Oro Land Company, a California general partnership ("Copa
2 de Oro"), responds to the Court's December 12, 2012 discovery order for the next phase of trial
3 ("Phase 4 Trial") by providing the requested information and materials as follows:

4 **CATEGORY I**

5 For all parties claiming an overlying groundwater right, including public water and
6 other producers who also claim a prescriptive right under Category II below:

7 **REQUEST NO. 1:**

8 For each parcel of real property the responding party owns or occupies or otherwise
9 controls in the Antelope Valley Adjudication Area, please state with particularity the following
10 information:

11 **REQUEST NO. 1(A):**

12 The Kern County Treasurer Tax Collector's "Assessor Tax Number" or the Los
13 Angeles County Office of the Assessor "Assessor's Identification Number" of the parcel. If the
14 identifying parcel number has changed since 1999, please state both the current and previous
15 number and the date the new identifying parcel number was assigned.

16 **RESPONSE TO REQUEST NO. 1(A):**

17 Copa de Oro owns the following parcels in the Antelope Valley Adjudication Area:
18 Kern County Assessor's Tax Number 359-032-01-00-1 (Assessor's Parcel Number 359-032-
19 01) ("Parcel 1") and Kern County Assessor's Tax Number 359-032-17-00-8 (Assessor's Parcel
20 Number 359-032-17) ("Parcel 2").

21 **REQUEST NO. 1(B):**

22 All record title owners of the parcel from 2000 to the present.

23 **RESPONSE TO REQUEST NO. 1(B):**

24 The record title owner of Parcel 1 from 2000 to present has been Copa de Oro or a
25 corporate entity affiliated with Copa de Oro. To the best of Copa de Oro's knowledge, the
26 record title owner of Parcel 2 was Peter Yong See Cho in 2006. Copa de Oro has no
27 knowledge as to whether Mr. Cho owned Parcel 2 prior to 2006. Copa de Oro has owned
28 Parcel 2 from 2006 to present.

1 **REQUEST NO. 1(C):**

2 Whether a groundwater well existed on the parcel in any or all of calendar years 2000,
3 2001, 2002, 2003, 2004, 2011 or 2012.

4 **RESPONSE TO REQUEST NO. 1(C):**

5 To the best of Copa de Oro's knowledge, there is one groundwater well on the border of
6 Parcel 1 and Parcel 2 (collectively, the "Property") that existed in all of calendar years 2000,
7 2001, 2002, 2003, 2004, 2011 and 2012.

8 **REQUEST NO. 1(D):**

9 Whether a groundwater well was operated on the parcel in any or all of calendar years
10 2000, 2001, 2002, 2003, 2004, 2011 or 2012.

11 **RESPONSE TO REQUEST NO. 1(D):**

12 To the best of Copa de Oro's knowledge, no groundwater well was operated on the
13 Property in any of calendar years 2000, 2001, 2002, 2003, 2004, 2011 or 2012.

14 **REQUEST NO. 1(E):**

15 The amount of groundwater produced from the parcel for calendar years 2000, 2001,
16 2002, 2003, 2004, 2011 and/or 2012.

17 **RESPONSE TO REQUEST NO. 1(E):**

18 To the best of Copa de Oro's knowledge, no groundwater was produced from the
19 Property for calendar years 2001, 2002, 2003, 2004, 2011 or 2012. Copa de Oro intends to
20 designate an expert to testify concerning water use on the Property in calendar years 2000,
21 2001, 2002, 2003 and 2004.

22 **REQUEST NO. 1(F):**

23 The use(s) to which the groundwater produced from the parcel was put on said parcel in
24 any or all of calendar years 2000, 2001, 2002, 2003, 2004, 2011, or 2012.

25 **RESPONSE TO REQUEST NO. 1(F):**

26 To the best of Copa de Oro's knowledge, no groundwater was produced from the
27 Property in any of calendar years 2000, 2001, 2002, 2003, 2004, 2011 or 2012, and therefore
28 there are no uses to which such groundwater could have been put on the Property during those

1 years. Copa de Oro intends to designate an expert to testify concerning water use on the
2 Property in calendar years 2000, 2001, 2002, 2003 and 2004.

3 **REQUEST NO. 1(G):**

4 If groundwater produced from another parcel was used on the parcel during any or all
5 calendar years 2000, 2001, 2002, 2003, 2004, 2011, or 2012, please state the Kern County
6 Treasurer Tax Collector's "Assessor Tax Number" or the Los Angeles County Office of the
7 Assessor "Assessor's Identification Number" of the parcel(s) from which the subject
8 groundwater was produced and identify the owner thereof.

9 **RESPONSE TO REQUEST NO. 1(G):**

10 To the best of Copa de Oro's knowledge, no groundwater produced on another parcel
11 was used on the Property during any of calendar years 2000, 2001, 2002, 2003, 2004, 2011 or
12 2012.

13 **REQUEST NO. 1(H):**

14 The use(s) to which the parcel was put during each of calendar years 2011, and 2012.

15 **RESPONSE TO REQUEST NO. 1(H):**

16 The Property was fallow during calendar years 2011 and 2012.

17 **REQUEST NO. 1(I):**

18 The crop type, if any, grown on the parcel during each of the calendar years 2000, 2001,
19 2002, 2003, 2004, 2011, and 2012.

20 **RESPONSE TO REQUEST NO. 1(I):**

21 Copa de Oro has no knowledge of the crop types that were grown on the Property
22 during any of calendar years 2000, 2001, 2002, 2003, 2004, 2011 or 2012. Copa de Oro
23 intends to designate an expert to testify concerning the crop types that were grown on the
24 Property during 2000, 2001, 2002, 2003 and 2004.

25 **REQUEST NO. 1(J):**

26 If the responding party contends the parcel has groundwater rights based upon
27 something other than groundwater production or use, please state the amount of that claim for
28

each of the calendar years 2000, 2001, 2002, 2003, 2004, 2011, and 2012, and its legal and factual basis therefor.

RESPONSE TO REQUEST NO. 1(J):

Copa de Oro owns the Property and all related overlying rights to use groundwater. Copa de Oro also bases its claims to groundwater rights upon the use of surface water delivered to the Property by the Antelope Valley-East Kern Water Agency ("AVEK") in lieu of groundwater production on the Property pursuant to Water Code section 1005.4. AVEK records indicate that AVEK delivered water to the Property beginning in 1977 and through the 2000-2004 period. According to these records, which are attached as Exhibit A, the amounts of water AVEK delivered to the Property in 2000, 2001, 2002, 2003 and 2004 were as follows:

Calendar Year	Amount (acre-feet)
2000	708
2001	829
2002	842
2003	867
2004	626

In addition, AVEK records show that the amount of water delivered to the Property has been as high as 2,960 acre-feet, which deliveries occurred in 1981. Copa de Oro intends to designate an expert to testify regarding water used on the Property in the 2000-2004 period and groundwater production at the Property to support agricultural uses before AVEK water deliveries began in 1977.

REQUEST NO. 1(K):

State the amount of water rights claimed as the reasonable and beneficial use for each such parcel.

RESPONSE TO REQUEST NO. 1(K):

Copa de Oro claims overlying rights for the Property. If these rights are quantified, Copa de Oro claims, as its overlying right, at least the maximum water use during the quantification period. If that period were found to be 2000-2004, Copa de Oro claims at least 867 acre-feet per year.

1 **REQUEST NO. 1(L):**

2 At the responding party's election, any other facts that the responding party contends
3 will assist the Court in determining the amount of groundwater produced from each parcel of
4 land owned or controlled by the responding party in any or all calendar years 2000, 2001, 2002,
5 2003, 2004, 2011 and 2012.

6 **RESPONSE TO REQUEST NO. 1(L):**

7 As stated above, to the best of Copa de Oro's knowledge, groundwater was not
8 produced on the Property during these years. Accordingly, Copa de Oro does not have any
9 additional facts within the scope of this Request to present at this time. Copa de Oro reserves
10 the right to present evidence of additional facts at any future trial that, pursuant to the Court's
11 December 12, 2012 Case Management Order for Phase 4 Trial ("Case Management Order"),
12 will determine the existence and effect of any prescription, including any additional facts to
13 support the affirmative defense of self-help.

14 **REQUEST NO. 2:**

15 For each parcel of real property the responding party owned in the Antelope Valley
16 Adjudication Area during calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012, please
17 state with particularity the following information:

18 **REQUEST NO. 2(A):**

19 Whether the responding party leased any or all of the parcel.

20 **RESPONSE TO REQUEST NO. 2(A):**

21 Copa de Oro did not lease Parcel 1 during any of calendar years 2000, 2001, 2002,
22 2003, 2004, 2011 or 2012. Copa de Oro does not have knowledge about whether Parcel 2 was
23 leased prior to Copa de Oro's acquisition of that parcel in 2006. Parcel 2 was not leased in
24 2011 or 2012.

25 **REQUEST NO. 2(B):**

26 The name of the lessee.

27 **RESPONSE TO REQUEST NO. 2(B):**

28 Not applicable. See Response to Request No. 2(A).

1 **REQUEST NO. 2(C):**

2 If the parcel was leased, the Kern County Treasurer Tax Collector's "Assessor Tax
3 Number" or the Los Angeles County Office of the Assessor "Assessor's Identification
4 Number" of the parcel. If the identifying parcel number has changed since 1999, please state
5 both the current and previous number and the date the new identifying parcel number was
6 assigned.

7 **RESPONSE TO REQUEST NO. 2(C):**

8 Not applicable. See Response to Request No. 2(A).

9 **REQUEST NO. 2(D):**

10 How, if at all, the lease or other written agreement allocated credits for the groundwater
11 produced by the lessee.

12 **RESPONSE TO REQUEST NO. 2(D):**

13 Not applicable. See Response to Request No. 2(A).

14 **REQUEST NO. 2(E):**

15 How much, if any, groundwater was produced by the lessee and delivered to another
16 parcel. If so, the Kern County Treasurer Tax Collector's "Assessor Tax Number" or the Los
17 Angeles County Office of the Assessor "Assessor's Identification Number" of the parcel for the
18 year(s) in which such groundwater was produced and delivered.

19 **RESPONSE TO REQUEST NO. 2(E):**

20 Not applicable. See Response to Request No. 2(A).

21 **REQUEST NO. 3:**

22 For all parcels of land identified in the response to Request No. 1 above, please state
23 with particularity the following information:

24 **REQUEST NO. 3(A):**

25 All materials constituting the responding party's prima facie showing of the amount of
26 groundwater produced from each parcel of land owned or controlled by the responding party in
27 calendar years 2000, 2001, 2002, 2003, 2004, 2011 and 2012.
28

1 **RESPONSE TO REQUEST NO. 3(A):**

2 Copa de Oro intends to designate an expert to testify concerning water use on the
3 Property during the 2000-2004 period and that expert's materials will be disclosed pursuant to
4 the Case Management Order.

5 Copa de Oro intends to present the following materials as evidence that legal use of
6 groundwater pursuant to Water Code section 1005.4 occurred on the Property during calendar
7 years 2000, 2001, 2002, 2003 and 2004:

- 8 1. Deeds demonstrating Copa de Oro's ownership of the Property;
- 9 2. AVEK delivery records to the Property (see Exhibit A);
- 10 3. Photographs of the groundwater well located on the Property;
- 11 4. Photographs of the AVEK turnout on the Property;
- 12 5. A recorded 1977 Turnout Easement applicable to the Property and granted to
- 13 AVEK;
- 14 6. A recorded 1978 Memorandum of Lease between Dr. Sidney S. Wasserman,
- 15 Melvin Stueve and I and I Farms, Incorporated; and
- 16 7. A recorded 1982 easement Grant Deed from Land Research Investments to
- 17 Melvin M. Stueve, Kathleen J. Stueve, Sidney E. Wasserman and Evelyn
- 18 Wasserman.

19 **REQUEST NO. 3(B):**

20 All materials constituting the responding party's prima facie showing of the use(s) to
21 which the responding party put each parcel of land controlled by the responding party in
22 calendar years 2011 and 2012.

23 **RESPONSE TO REQUEST NO. 3(B):**

24 The Property was fallow in 2011 and 2012. If necessary, Copa de Oro intends to
25 present evidence to confirm this fact.

1 **REQUEST NO. 3(C):**

2 At the responding party's election, any additional materials that will assist the Court in
3 determining the amount of groundwater produced from each parcel of land by the responding
4 party in any or all calendar years 2000, 2001, 2002, 2004, 2011 and 2012.

5 **RESPONSE TO REQUEST NO. 3(C):**

6 As discussed above, to the best of Copa de Oro's knowledge, groundwater was not
7 produced from the Property in any or all calendar years 2000, 2001, 2002, 2004, 2011 and
8 2012. As also discussed above, Copa de Oro intends to designate an expert to testify
9 concerning water use on the Property.

10 **CATEGORY V**

11 For all responding parties:

12 **REQUEST NO. 1:**

13 For each of the items above, please identify the person(s) most qualified to testify on its
14 behalf to the facts alleged and the materials produced.

15 **RESPONSE TO REQUEST NO. 1:**

16 For all matters stated above, Elliot Joelson, Vice-President of Eldan Holdings, Inc.,
17 general partner of Copa de Oro.

18 Dated: December 21, 2012

Respectfully submitted,

19 BARTKIEWICZ, KRONICK & SHANAHAN
20 A Professional Corporation

21 By: 

Katrina C. Gonzales

22
23 Attorneys for Cross-Defendant Copa de Oro Land
24 Company

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VERIFICATION

I, Elliot Joelson, declare that I am the Vice-President of Eldan Holdings, Inc., a California Corporation that is the General Partner of Copa de Oro Land Company, a California General Partnership. I supervised the preparation of the above RESPONSE OF CROSS-DEFENDANT COPA DE ORO LAND COMPANY TO THE COURT'S DISCOVERY ORDER FOR PHASE 4 TRIAL and know the contents thereof. Those matters stated in those responses that are within my own personal knowledge are true to the best of my knowledge. As to the remainder of the matters stated in those responses, I believe them to be true based on my supervision of their preparation.

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

Executed at Beverly Hills, California on December ²⁰/~~21~~, 2012.

Copa de Oro Land Company, a California General Partnership

By: Eldan Holdings, Inc., a California Corporation, its
General Partner

By: 
Elliot Joelson, Vice President

EXHIBIT A

BOARD OF DIRECTORS

GEORGE M. LANE
Division 4
President

KEITH DYAS
Division 2
Vice President

CHARLIE O'LOUGHIN
Division 1

FRANK S. DONATO
Division 3

ANDY D. RUTLEDGE
Division 5

MARLON BARNES
Division 6

DAVID RIZZO
Division 7



OFFICERS

DAN FLORY
General Manager

HOLLY H. HUGHES
Secretary-Treasurer

July 28, 2011

Bartkiewicz, Kronick & Shanahan
1011 22nd Street
Sacramento, CA 95816-4907

Attn: Ryan Bezzera

**Re: Public Records Act Request – Kern County Property
Gaskell Road & 110th St W-120th St W
APNs 359-032-01 and 359-032-17
("Copa de Oro" Project)**

Dear Mr. Bezzera,

In follow-up to your Public Records Request letter to AVEK dated July 12, 2011 and our conversation from today, I have included our historical untreated water deliveries for the mentioned property. The last deliveries made through our two (2) 11.6R turnout meters located on the property were in 2004. Since 1977, we have delivered 28,133 Acre-Feet of water coming from the State Water Project, Calif. Aqueduct to the site.

Please allow us another 10-15 days to collect the remainder of what documents are available as requested. This will include any contracts for water deliveries by AVEK to the property and any correspondence concerning the site's AVEK water. We have no records related to groundwater pumping on the property.

Sincerely,

Tom Barnes
Resources Manager
AVEK Water Agency

AVEK Customer Water Use Report - 1976 thru 2010
Water Deliveries (Acre-Feet) - Location of AVEK Turnouts

LOCATION: 115th St West & Gaskell Rd.

YEAR	Acre-Ft	Acre-Ft
2010	0	0
2009	0	0
2008	0	0
2007	0	0
2006	0	0
2005	0	0
2004	0	626
2003	0	867
2002	0	842
2001	0	829
2000	0	708
1999	0	635
1998	0	208
1997	0	805
1996	0	182
1995	0	447
1994	0	204
1993	0	234
1992	0	117
1991	0	0
1990	0	899

AVEK Customer Water Use Report - 1976 thru 2010
Water Deliveries (Acre-Feet) - Location of AVEK Turnouts

LOCATION: 115th St West & Gaskell Rd.

YEAR	Acre-Ft	Acre-Ft
1989	637	767
1988	641	595
1987	634	657
1986	584	276
1985	746	505
1984	806	478
1983	0	1,535
1982	0	1,757
1981	1,838	1,122
1980	1,768	1,084
1979	1,136	701
1978	646	1,010
1977	606	---
1976	---	---
TOTAL:	10,043	18,090

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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 December 21, 2012, I served, in the manner described below, the following document:

Alissa D. Mackrill