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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF LOS ANGELES**

**ANTELOPE VALLEY**  
**GROUNDWATER CASES**

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 Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. Superior Court of California, County of Kern, Case No. S-1500-CV-254-348Wm. Bolthouse Farms, Inc. v. City of Lancaster Diamond Farming Co. v. City of Lancaster Diamond Farming Co. v. Palmdale Water Dist. Superior Court of California, County of Riverside, consolidated actions, Case No. RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination Proceeding  
No. 4408

**Santa Clara Case No. 1-05-CV-049053**  
Assigned to The Honorable Jack Komar

**ANTELOPE VALLEY GROUNDWATER**  
**AGREEMENT'S CASE MANAGEMENT**  
**STATEMENT**

CASE MANAGEMENT STATEMENT

1 The Antelope Valley Groundwater Agreement Association ("AGWA") hereby submits its  
2 Case Management Statement for the May 6, 2010 Case Management Conference and joins in the  
3 Request of Grimmway Enterprises Inc., Lapis Land Company, LLC, Crystal Organics, LLC, and  
4 Diamond Farming Company to Modify the March 22, 2010 Case Management Order, filed April 30,  
5 2010 (the "Grimmway Request").

6 AGWA requests that the Court deny the Federal Defendants' Request to Clarify and Amend  
7 the March 22 Case Management Order, filed on April 15, 2010 ("Federal Defendants' Request").  
8 The California Rule of Civil Procedure section 2034 procedures for expert disclosure adequately  
9 facilitate disclosure of the subject of expert testimony and can realistically be met by the July 15  
10 deadline asked for in the Grimmway Request. Application of the Federal Rules of Civil Procedure  
11 Rule 26 ("Rule 26") expert report requirements would be overly burdensome at this point in the  
12 parties' trial preparation. Should the Court decide to apply the Rule 26 disclosure requirement, the  
13 court must extend the deadline for such disclosure past July 15 to allow for the parties to comply  
14 with Rule 26's more exacting disclosure requirements.

15 **I. APPLICATION OF RULE 26 IS UNNECESSARY AND OVERLY BURDENSOME**

16 All parties agree that the upcoming Phase 3 trial to as to the present condition of the Basin  
17 will largely focus on highly technical expert evidence. AGWA is aware of the expert evidence  
18 problems that permeated the Phase 2 trial, and does not wish such problems to arise in Phase 3.  
19 However, application of the Rule 26 expert disclosure process would be overly burdensome. Since  
20 most of the problems associated with the Phase 2 trial preparations stemmed from allegations that  
21 parties had not properly complied with disclosure rules, there mere imposition of a more  
22 burdensome standard will not in itself solve these problems.

23 Under C.C.P. section 2034, testifying experts are to file an expert witness declaration which  
24 includes "a brief narrative statement of the general substance of the testimony that the expert is  
25 expected to give." (Code Civ. Proc., § 2034.260(c)(2).) The brief narrative is intended to supply  
26 basic information of what an expert will say at trial and allow the parties to fully explore the relevant  
27 subject area at the expert's deposition. (*Bonds v. Roy* (1999) 20 Cal.4th 140, 146-47.) The  
28 California rules do not require full statements and disclosures of all opinions and data utilized to

1 reach those opinions; instead, the expert represents that he or she will submit to a meaningful  
2 deposition concerning the specific testimony her or she will give, including any opinion and its  
3 basis. (Code Civ. Proc. § 2034.260(c)(4).) Thus, the California rules provide for disclosure of the  
4 same information that Federal Defendants seek.

5 Requiring the parties to follow the detailed requirements of Rule 26 at this point will likely  
6 cause the parties to miss the July 1 expert disclosure deadline set by the Court or the July 15  
7 deadline asked for in the Grimmway Request. Under the detailed requirements for testifying expert  
8 disclosures contained in Rule 26(a)(2)(B), the parties must provide reports that are “a complete  
9 statement of all opinions the witnesses will express and the basis and reasons for them.” (*Id.*)  
10 Additionally, the parties must include all information relied upon by their experts in forming their  
11 opinions, as well as all exhibits that will be relied upon. (*Id.*) Given that the July 1 deadline for  
12 disclosures that the Court has set is less than two months away, even if all experts had substantially  
13 completed their analyses, it is unlikely that the exacting Rule 26 expert report requirements could be  
14 met by the July 15 deadline asked for in the Grimmway Request, let alone the July 1 deadline  
15 previously set by the Court.

16 **II. THE COURT SHOULD EXTEND THE DISCLOSURE DEADLINE AND EXPERT**  
17 **DEPOSITION PERIOD AS REQUESTED BY GRIMMWAY, ET AL.**

18 AGWA joins in the Request of Grimmway Enterprises Inc., Lapis Land Company, LLC,  
19 Crystal Organics, LLC, and Diamond Farming Company to Modify the March 22, 2010 Case  
20 Management Order, filed April 30, 2010, to extend the deadline for expert disclosures under  
21 California Code of Civil Procedure section 2034.210 until July 15, 2010, to extend the deadline for  
22 supplemental disclosures until July 29, 2010 and to set the period for expert depositions for July 19  
23 through September 13, 2010.

24 If the Court feels that the added disclosure requirements contained in Rule 26 are necessary  
25 to facilitate more efficient expert disclosure, then AGWA requests that the Court extend the  
26 requested July 15, 2010 deadline for expert disclosures in order to provide sufficient time for parties  
27 to comply with Rule 26. Due to the highly technical nature of the evidence that will be involved in  
28 this phase of trial, it is simply unrealistic to expect that Rule 26 disclosures could be prepared by

1 July 15. Should the Court find application of Rule 26 appropriate, AGWA requests that the Court  
2 extend the expert disclosure deadline to August 15, 2010, at the very earliest.

3 **III. CONCLUSION**

4 AGWA respectfully requests that the Court deny the Federal Defendants' request to amend  
5 the March 22, 2010 Case Management Order and confirm that the parties shall comply with the  
6 provisions of the California Code of Civil Procedure with regard to expert disclosure and exchange  
7 of information. AGWA requests the deadlines for disclosures be extended as described in the  
8 Grimmway Request.

9  
10 Dated: May 3, 2010

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

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12  
13 By: 

14 MICHAEL J. FIFE  
15 BRADLEY J. HERREMA  
16 ATTORNEYS FOR AGWA  
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I am employed in the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action; my business address is: 21 E. Carrillo Street, Santa Barbara, California 93101.

On May 3, 2010, I served the foregoing document described as:

## ANTELOPE VALLEY GROUNDWATER AGREEMENT'S CASE MANAGEMENT STATEMENT

on the interested parties in this action.

By posting it on the website at 2:00 p.m. on May 3, 2010. This posting was reported as complete and without error.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed in Santa Barbara, California, on May 3, 2010.

## APRIL ROBITAILLE

**TYPE OR PRINT NAME**

  
SIGNATURE