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*Exempt from filing fee pursuant to  
Gov't. Code Section 6103*

11 Attorneys for Cross-Complainant,  
12 ANTELOPE VALLEY-EAST KERN WATER AGENCY

13  
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**  
16

17 Coordination Proceeding  
18 Special Title (Rule 1550(b))

19 **ANTELOPE VALLEY**  
20 **GROUNDWATER CASES**

21 **Included Actions:**

22 Los Angeles County Waterworks District  
23 No. 40 vs. Diamond Farming Company, a  
24 corporation, Superior Court of California,  
25 County of Los Angeles, Case No.  
26 BC325201;

27 Los Angeles County Waterworks District  
28 No. 40 vs. Diamond Farming Company, a  
corporation., Superior Court of California,  
County of Kern, Case No. S-1500-CV-254-  
348;

Wm. Bolthouse Farms, Inc. vs. City of  
Lancaster, Diamond Farming Company, a  
corporation, vs. City of Lancaster, Diamond  
Farming Company, a corporation vs.  
Palmdale Water District, Superior Court of  
California, County of Riverside, Case Nos.  
RIC 353840, RIC 344436, RIC 344668.

Judicial Council Coordination Proceeding  
No. 4408

**Santa Clara Case No.**  
**1-05-CV-049053**  
The Honorable Jack Komar, Dept.17

**ANTELOPE VALLEY-EAST KERN  
WATER AGENCY'S TRIAL SETTING  
CONFERENCE STATEMENT**

Date: July 9, 2012  
Time: 9:00 a.m.  
Room: 1515 (Los Angeles)

1 The Antelope Valley-East Kern Water Agency (AVEK) hereby submits its Trial Setting  
2 Conference Statement for the hearing on July 9, 2012 in Department 1515 of the Los Angeles  
3 County Superior Court:

4 I.

5 INTRODUCTION

6 The parties have not yet succeeded in achieving a settlement, notwithstanding extended  
7 mediation with the assistance of Justice Robie. AVEK remains hopeful that settlement can be  
8 achieved through further mediation efforts under the direction of Justice Robie.

9 A further mediation session is set in Sacramento on September 11, 2012. A drafting  
10 committee meeting was held at AVEK on June 22, 2012 and a further meeting at AVEK has  
11 been tentatively set for September 5, 2012.

12 Justice Robie has invested considerable time and effort in an attempt to narrow the issues.  
13 He has been successful in doing so. Hopefully, he will be successful with an additional  
14 mediation session. Discovery should be postponed until after the September 11<sup>th</sup> mediation with  
15 Justice Robie.

16 II.

17 PHASE 4 TRIAL

18 The next phase of trial should be as follows:

- 19 1. Claims of Prescription by the Public Water Purveyors. (This is District 40's First  
20 Cause of Action).
- 21 2. Claims of Appropriative Rights by the Public Water Purveyors and others. (This  
22 is District 40's Second Cause of Action).
- 23 3. Claims of Entitlement to Return Flows. (This is District 40's Third Cause of  
24 Action).

25 Pre-trial preparation for trial of these causes of action should include the following:

- 26 1. September, 2012 (after September 11, 2012 mediation session with Justice Robie): Trial  
27 Management Conference for determination of preliminary issues (e.g., relevant pumping  
28 dates, legal significance of Phase III trial rulings, etc.);

2. September, 2012 (after September 11, 2012 mediation session with Justice Robie) -  
January, 2013: written discovery and lay witness depositions;
3. January, 2013: deadline for filing dispositive motions;
4. February, 2013: expert witness depositions;
5. March, 2013: deadline for filing *in limine* motions and other pre-trial motions
6. April, 2013: hearing on dispositive motions; and,
7. April/May, 2013: determination of *in limine* motions, and trial (30-day trial time estimate).

A Phase 5 Trial, if needed, should address the Federal Reserve Right, and claims of municipal priority, storage and unreasonable use (Waterworks 40's Fourth, Fifth and Seventh Cause of Action). If a Phase 6 Trial is needed, it would address the Physical Solution and appointment of a Watermaster

### III.

### CONCLUSION

Differences over claims of prescription, appropriative rights and return flows have proven to be major stumbling blocks to settlement. Resolution of these issues in the Phase 4 trial will further facilitate settlement.

Dated: June 29, 2012

**BRUNICK, McELHANEY & KENNEDY**

By: 

WILLIAM J. BRUNICK  
Attorneys for Cross-Complainant,  
ANTELOPE VALLEY-EAST KERN  
WATER AGENCY


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I am employed in the County of the San Bernardino, State of California. I am over the age of 18 and not a party to the within action; my business address is 1839 Commercenter West, San Bernardino, California.

■ **BY ELECTRONIC SERVICE AS FOLLOWS** by posting the document(s) listed above to the Santa Clara website in the action of the *Antelope Valley Groundwater Litigation*, Judicial Council Coordination Proceeding No. 4408, Santa Clara Case No. 1-05-CV-049053.

Executed on July 2, 2012, at San Bernardino, California.

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P. Jo Anne Quihuis