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Leland P. McElhaney, Esq. [SB No. 39257]  
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8 Attorneys for Cross-Complainant,  
ANTELOPE VALLEY-EAST KERN WATER AGENCY  
9

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

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

12 Coordination Proceeding  
13 Special Title (Rule 1550(b))

Judicial Council Coordination Proceeding  
No. 4408

14 **ANTELOPE VALLEY**  
15 **GROUNDWATER CASES**

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

16 **Included Actions:**

17 Los Angeles County Waterworks District  
18 No. 40 vs. Diamond Farming Company, a  
corporation, Superior Court of California,  
19 County of Los Angeles, Case No.  
BC325201;

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

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

**ANTELOPE VALLEY-EAST KERN**  
**WATER AGENCY'S SUPPLEMENTAL**  
**BRIEF IN SUPPORT OF ITS MOTION**  
**FOR SUMMARY ADJUDICATION**  
[Code Civ. Proc. §437c]

Date: January 27, 2014  
Time: 9:00 a.m.  
Dept.: To be determined  
Judge: Hon. Jack Komar

Trial Date: February 10, 2014  
(Phase V)  
Time: 9:00 a.m.

1 **TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:**

2 Attached as Exhibit 1 hereto and, by this reference incorporated in full herein, is the  
3 declaration of Kathy Kunysz of the Metropolitan Water District of Southern California, attesting  
4 to the following undisputed facts:

- 5 • MWD was organized for the purpose of providing imported water supplies to its member  
6 agencies;
- 7 • From 1950 through 1968, MWD did not own or operate any groundwater wells within  
8 its service boundaries for the purpose of recovering the return flows from its imported  
9 water in the Upper Los Angeles River Area ("ULARA");
- 10 • From 1950 through 1968, MWD did not spread or bank imported water within the  
11 ULARA; and,
- 12 • From 1950 through 1968, MWD did not adopt or hold a position as to whether it had the  
13 right to recapture or use return flows resulting from water it delivered to its member  
14 agencies in the ULARA.

15 Because *City of Los Angeles v. City of San Fernando*, 14 Cal.3d 199, was commenced  
16 in 1955 and the trial concluded in 1968, the foregoing facts extant during that time period are  
17 required for a complete understanding of the circumstances surrounding that decision. (See  
18 Remand Procedure Order No. 1, Exhibit 14 of AVEK's Request for Judicial Notice ["The  
19 complaint . . . was filed on September 30, 1955; "final arguments ended July 20, 1967;" "On  
20 March 14, 1968, comprehensive findings of fact and conclusions of law were signed and filed  
21 . . . The Judgment was entered the following day, March 15, 1968"]], .

22 Accordingly, AVEK also files concurrently herewith its *Amended* Statement of  
23 Undisputed Facts, which includes references to the foregoing additional evidence in the  
24 evidentiary statements specific to undisputed facts numbered 40, 43, 44 and 45 (the additional  
25 evidence is indicated therein in bold print).

26 Therefore, it is established or reasonably can be inferred from the foregoing and the other  
27 facts cited in support of AVEK's motion for summary adjudication that, during the time period  
28 when *City of San Fernando* was at issue and litigated, MWD did not intend or claim the right

1 to recapture or use return flows from the imported water it delivered to its member agencies  
2 within the ULARA, and it also lacked the capability of doing do.

3 Dated: December 4, 2013

4 **BRUNICK, McELHANEY & KENNEDY**

5  
6 By: 

7 WILLIAM J. BRUNICK  
8 LELAND P. McELHANEY  
9 Attorneys for Cross-Complainant,  
10 ANTELOPE VALLEY-EAST KERN  
11 WATER AGENCY  
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# **EXHIBIT 1**

## DECLARATION OF KATHLEEN KUNYSZ

I, Kathleen Kunysz, declare and state:

1. I have been employed by The Metropolitan Water District of Southern California ("MWD") since March 1987. I am currently a program manager and have held this position since January 2002. For the last eleven years, I have been responsible for managing matters related to groundwater resources. I have personal knowledge of all of the matters set forth herein and, if called as a witness, I could and would testify competently thereto.

2. MWD was organized for the purpose of providing imported water supplies to its member agencies located in the counties of San Diego, Orange, Los Angeles, Riverside, San Bernardino, and Ventura, in southern California. MWD imports water to its service area from the Colorado River and from the State Water Project.

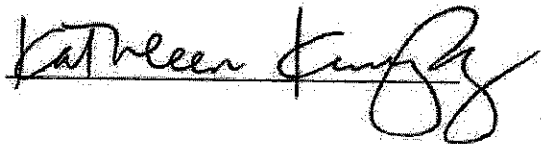
3. In response to a Public Record Act request and a deposition notice, both attached as Exhibit A, MWD staff, including myself, diligently searched MWD's records for any responsive public records. In the regular course of its business, MWD maintains records of its property holdings and operations.

4. Based on a diligent search of MWD's records, MWD did not find any records evidencing that MWD owned or operated any groundwater wells within its service boundaries for the purpose of recovering the return flows from its imported water in the Upper Los Angeles River Area groundwater basins between 1950 and 1968. I am informed and believe that the groundwater rights in the Upper Los Angeles River Area groundwater basins ("ULARA") were adjudicated in the case of *City of Los Angeles v. City of San Fernando, et al.*, originally filed in 1955 and finally decided on appeal in 1975 (opinion published at 14 Cal. 3d 199 (1975)).

5. Based on a diligent search of MWD's records, MWD did not find any records evidencing that MWD spread or banked its imported water within the ULARA during the period from 1950 through 1968.

6. Based on a diligent search of MWD's records, MWD did not find any records evidencing that MWD adopted or held a position on whether it had rights to recapture or use return flows resulting from water it delivered to its member agencies in the ULARA from 1950 through 1968.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed in Los Angeles, California, on December 4, 2013.

A handwritten signature in cursive script, appearing to read "Kathleen Murphy", written over a horizontal line.

**From:** Lee McElhaney [<mailto:lmcelhaney@bmbllawoffice.com>]  
**Sent:** Monday, October 07, 2013 9:39 AM  
**To:** Vanderhorst, Joseph A  
**Subject:** City of Los Angeles v. City of San Fernando 14 Cal.3d 199

Mr. Vanderhorst:

You may recall that I represent the Antelope Valley – East Kern Water Agency in litigation involving the groundwater in the Antelope Valley. You and I have had a couple of e-mail communications in the past relating to my efforts to better understand the Supreme Court's decision in the *San Fernando* case, as it relates to the right to recapture and use return flows resulting from imported water. I know, of course, that MWD was not a party to the *San Fernando* case, although certain of its member agencies (Los Angeles, Burbank, Glendale, and San Fernando) were.

I would like to meet with you at your earliest convenience to discuss the facts relating to MWD which existed at the time the *San Fernando* case was decided -- I am available for that purpose Wednesday, Thursday or Friday of this week, at your office and at your convenience. To facilitate that discussion, I would also like to request copies of the following documentation:

- 1) Maps depicting MWD's service area(s) during the period from 1955 – 1968;
- 2) Maps depicting the location of water production wells in the County of Los Angeles owned or operated by MWD from 1955 - 1968, if any;
- 3) Maps depicting the location of areas in the County of Los Angeles, if any, where MWD spread or injected water during the period from 1955 – 1968;
- 4) Maps depicting MWD's service area(s) today;
- 5) Maps depicting the location of water production wells in the County of Los Angeles which are owned or operated by MWD today;
- 6) Maps depicting the location of areas in the County of Los Angeles, if any, where MWD spreads or injects water today; and
- 7) Non-privileged MWD documents, if any exist, that relate to the right to recapture return flows from imported water MWD delivers to its member agencies.

As noted, I would like to meet with you as soon as possible, even if only some of the documentation described above is available by that time.

Regards,

1 William J. Brunick, Esq. [SB No. 46289]  
Leland P. McElhaney, Esq. [SB No. 39257]  
2 **BRUNICK, McELHANEY & KENNEDY PLC**  
1839 Commercenter West  
3 San Bernardino, California 92408-3303

*Exempt from filing fee pursuant to  
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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**  
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13 Coordination Proceeding  
14 Special Title (Rule 1550(b))

Judicial Council Coordination Proceeding  
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15 **ANTELOPE VALLEY**  
16 **GROUNDWATER CASES**

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

17 **Included Actions:**

**ANTELOPE VALLEY-EAST KERN**  
**WATER AGENCY'S NOTICE OF**  
**DEPOSITIONS, SET ONE**

18 Los Angeles County Waterworks District  
19 No. 40 vs. Diamond Farming Company, a  
20 corporation, Superior Court of California,  
County of Los Angeles, Case No.  
BC325201;

Trial Date: February 27, 2014  
Time: 9:00 a.m.  
Dept.: TBD

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

24 Wm. Bolthouse Farms, Inc. vs. City of  
25 Lancaster, Diamond Farming Company, a  
26 corporation, vs. City of Lancaster, Diamond  
27 Farming Company, a corporation vs.  
Palmdale Water District, Superior Court of  
California, County of Riverside, Case Nos.  
RIC 353840, RIC 344436, RIC 344668.  
28



1 TO ALL PARTIES TO THIS ACTION AND THEIR RESPECTIVE COUNSEL OF  
2 RECORD:

3 PLEASE TAKE NOTICE THAT, on the dates and at the times indicated below, at  
4 Veritext Court Reporting, located at 550 South Hope Street, #1775, Los Angeles, CA 90071,  
5 and pursuant to the provisions of Code of Civil Procedure §§ 2025.010 et seq., cross-  
6 complainant, Antelope Valley - East Kern Water Agency, will take the depositions, upon oral  
7 examination, of the following parties/persons:

- 8 • December 13, 2013, 10:00 a.m., Waterworks District #40;
- 9 • December 16, 2013, 1:00 p.m., Quartz Hill Water District;
- 10 • December 18, 2013, 11:00 a.m., MWD;
- 11 • December 18, 2013, 2:00 p.m., Palmdale Water District;
- 12 • December 19, 2013, 10:00 a.m., Palm Ranch Irrigation District;
- 13 • December 19, 2013, 2:00 p.m., Littlerock Creek Irrigation District; and
- 14 • December 20, 2013, 10:00 a.m., Rosamond Community Services District.

15 Deponents, Waterworks District No. 40, Quartz Hill Water District, Palm Ranch  
16 Irrigation District, and Rosamond Community Services District are each required to designate  
17 and produce at the deposition those of its officers, directors, managing agents, employees, or  
18 agents who are most qualified to testify on its behalf as to the following matters to the extent of  
19 any information known or reasonably available to the deponent:

- 20 1. What facts support [deponent's] claimed right to use return flows from State Water  
21 Project water AVEK sells and delivers to [deponent]?
- 22 2. What writings support [deponent's] claimed right to use return flows from State Water  
23 Project water AVEK sells and delivers to [deponent]?
- 24 3. What verbal or written communication did [deponent] have with AVEK, if any,  
25 regarding the right to recapture or use return flows from State Water Project water  
26 AVEK sells and delivers to [deponent]?
- 27 4. Does [deponent] believe it has pumped water which included return flows from State  
28 Water Project water AVEK delivered within the area of adjudication?

- 1 5. Does [deponent] believe it has not pumped water which included return flows from State  
2 Water Project water AVEK delivered within the area of adjudication?
- 3 6. Excluding only the pleadings in this action and confidential communications between  
4 attorney and client, is [deponent] aware of any writing in which [deponent] has stated  
5 that return flows from State Water Project water AVEK delivers within the area of  
6 adjudication is a source of water available to [deponent]?
- 7 7. What is the total amount of money [deponent] has paid during the period from January  
8 1, 1974 through December 31, 2012, to AVEK for State Water Project water AVEK has  
9 sold and delivered to [deponent]?
- 10 8. Has [deponent] made any payments directly to the State of California or to any of its  
11 subdivisions (other than State Water Contractors) for any of the State Water Project  
12 Water [deponent] has received?
- 13 9. Does [deponent] have any information indicating that AVEK has assigned or transferred  
14 to any other person AVEK's claimed right to the return flows resulting from the State  
15 Water Project water AVEK delivers to its customers within the area of adjudication?
- 16 10. Does [deponent] have any information indicating that AVEK has abandoned or otherwise  
17 relinquished its claimed right to the return flows resulting from the State Water Project  
18 water AVEK has delivered to any of its customers within the area of adjudication?
- 19 11. From 1950 to present, what facilities were constructed or purchased by [deponent] to  
20 import foreign water into the area of adjudication?
- 21 12. What spreading basins, if any, does [deponent] currently own or operate in the area of  
22 adjudication of the purpose of spreading and storing foreign water?
- 23 13. What actions have you taken and what capital funds have you expended to allow water  
24 foreign to the area of adjudication to be spread or stored within the area of adjudication?
- 25 14. What in-lieu spreading activities have you participated in within the area of adjudication?
- 26 15. What access do you have to other sources of foreign water besides AVEK?
- 27 16. Within the last five years, have you exported to your customers located outside the area  
28 of adjudication in this action water you purchased from AVEK?

- 1 17. The quantity of water purchased from AVEK that you have exported to your customers  
2 located outside the area of adjudication in this action during the last five years, by  
3 calendar year.
- 4 18. Within the last five years, have you exported to customers located outside the area of  
5 adjudication in this action water you pumped from wells located within the area of  
6 adjudication in this action?
- 7 19. The quantity of water pumped from wells located within the area of adjudication in this  
8 action that you have exported to your customers located outside the area of adjudication  
9 in this action during the last five years, by calendar year.
- 10 20. The addresses of all customers who are located outside the area of adjudication in this  
11 action to whom you have delivered water during the last five years that was purchased  
12 from AVEK.
- 13 21. The addresses of all customers outside the area of adjudication in this action to whom  
14 you have delivered water during the last five years that was pumped from wells located  
15 within the area of adjudication.
- 16 Deponents, Palmdale Water District and Littlerock Irrigation District are each required  
17 to designate and produce at the deposition those of its officers, directors, managing agents,  
18 employees, or agents who are most qualified to testify on its behalf as to the following matters  
19 to the extent of any information known or reasonably available to the deponent:
- 20 1. What facts support [deponent's] claimed right to use return flows from State Water  
21 Project water it imports?
- 22 2. What writings support [deponent's] claimed right to use return flows from State Water  
23 Project it imports?
- 24 3. Does deponent deliver State Water Project water or pumped water to its customers  
25 located outside the area of the adjudication in this action?
- 26 4. Does [deponent] believe it has pumped water which included return flows from State  
27 Water Project water AVEK delivered within the area of adjudication?
- 28

- 1 5. Excluding only the pleadings in this action and confidential communications between  
2 attorney and client, is [deponent] aware of any writing in which [deponent] has stated  
3 that return flows from State Water Project water AVEK delivers within the area of  
4 adjudication is a source of water available to [deponent]?
- 5 6. Does [deponent] have any information indicating that AVEK has assigned or transferred  
6 to any other person AVEK's claimed right to the return flows resulting from the State  
7 Water Project water AVEK delivers to its customers within the area of adjudication?
- 8 7. Does [deponent] have any information indicating that AVEK has abandoned or otherwise  
9 relinquished its claimed right to the return flows resulting from the State Water Project  
10 water AVEK has delivered to any of its customers within the area if adjudication?
- 11 8. Within the last five years, have you exported to your customers located outside the area  
12 of adjudication in this action State Water Project water?
- 13 9. The quantity of State Water Project water deponent has exported to its customers located  
14 outside the area of adjudication in this action during the last five years, by calendar year.
- 15 10. Within the last five years, has deponent exported to its customers located outside the area  
16 of adjudication in this action water it pumped from wells located within the area of  
17 adjudication in this action?
- 18 11. The quantity of water pumped from wells located within the area of adjudication in this  
19 action that deponent has exported to its customers located outside the area of  
20 adjudication in this action during the last five years, by calendar year.
- 21 12. The addresses of all of deponent's customers who are located outside the area of  
22 adjudication in this action to whom it has delivered water State Water Project water.
- 23 21. The addresses of all of deponent's customers outside the area of adjudication in this  
24 action to whom deponent has delivered water during the last five years that was pumped  
25 from wells located within the area of adjudication.

26 Deponent, Metropolitan Water District of Southern California (MWD) is required to  
27 designate and produce at the deposition those of its officers, directors, managing agents,  
28

1 employees, or agents who are most qualified to testify on its behalf as to the following matters  
2 to the extent of any information known or reasonably available to the deponent:

3 1. Whether MWD owned or operated water production wells anywhere within the Upper  
4 Los Angeles River Area during the period from 1950 through 1968, and whether MWD has any  
5 record of having done so?

6 2. Whether MWD spread or banked water anywhere within the Upper Los Angeles River  
7 Area during the period from 1950 through 1968, and whether MWD has any record of having  
8 done so?

9 3. During the period from 1950 through 1968, did MWD manifest an intention to recapture  
10 or use return flows from imported water it delivered to MWD's member agencies within the  
11 Upper Los Angeles River Area, and whether MWD's records manifest such intent on MWD's  
12 part?

13 4. During the period from 1950 through 1968, did MWD understand and believe that all  
14 rights to the return flows from imported water it delivered to its member agencies belonged to  
15 its member agencies?

16 5. During the period from 1941 through 1968, did MWD understand or believe that it  
17 retained any right to recapture or use return flows resulting from water it delivered to its member  
18 agencies in the Upper Los Angeles River Area?

19 DOCUMENT PRODUCTION: Pursuant to Code of Civil Procedure §§ 2025.220 and  
20 2025.270, each deponent is required to produce at and during the aforesaid taking of its  
21 deposition, all writings and documents which answer or contain information relating to the  
22 specific questions addressed above to that deponent. "Writings" includes, but is not limited to,  
23 any printed, typewritten, or handwritten matter, including without limitation, letters,  
24 memoranda, telegrams, cables, facsimiles, reports, charts, graphs, business records, personal  
25 records, maps, pamphlets, handwritten notes, minutes of meetings, notes of meetings or  
26 conversations, catalogues, written agreements, and any carbon or photostatic copies of such  
27 material. "Documents" include information stored by a computer or on a computer disc, or other  
28 form of computer memory storage, as well as any electronic recording, tape recording,

1 photograph, video, film, microfilm, microfiche, or similar recording of words, images, sounds,  
2 pictures, or information of any kind; and any and all drafts, amendments or supplements to any  
3 of the foregoing, whether prepared by deponent or by any other person

4 A copy of the subpoena duces tecum for the referenced deposition of MWD is attached  
5 as Exhibit A hereto.

6  
7 Dated: November 22, 2013

BRUNICK, McELHANEY & KENNEDY

8  
9 By: 

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

## EXHIBIT A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): William J. Brunick, Esq. (SB #46289) Leland P. McElhanev (SB #39257) <b>BRUNICK, McELHANEV &amp; KENNEDY PLC</b> 1839 Commercenter West San Bernardino, California 92408-3303 TELEPHONE NO.: (909) 889-8301 FAX NO. (Optional): (909) 388-1889 E-MAIL ADDRESS (Optional): bbrunick@bmblawoffice.com ATTORNEY FOR (Name): Cross-Complainant, Antelope Valley-East Kern Water Agency		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles 90012-3014 BRANCH NAME: Central		
PLAINTIFF/PETITIONER: ANTELOPE VALLEY GROUNDWATER LITIGATION DEFENDANT/RESPONDENT:		
DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS		
		CASE NUMBER: JCCP 4408

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):  
 Metropolitan Water District of Southern California Telephone: (213) 217-6000  
 700 N. Alameda Street, Los Angeles, California 90012-2944

1. YOU ARE ORDERED TO APPEAR IN PERSON TO TESTIFY AS A WITNESS in this action at the following date, time, and place:

Date: December 18, 2013 Time: 11:00 a.m. Address: Veritext Court Reporting, 550 S. Hope Street, Ste. 1775, Los Angeles, CA 90071

- ☒ As a deponent who is not a natural person, you are ordered to designate one or more persons to testify on your behalf as to the matters described in Item 4. (Code Civ. Proc., § 2025.230.)
  - ☒ You are ordered to produce the documents and things described in item 3.
  - ☒ This deposition will be recorded stenographically ☒ through the instant visual display of testimony and by ☐ audiotape ☐ videotape.
  - ☐ This videotape deposition is intended for possible use at trial under Code of Civil Procedure section 2025.620(d).
- The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
  - The documents and things to be produced and any testing or sampling being sought are described as follows:  
 All non-privileged documents which contain information relating to the following matters:  
☒ Continued on Attachment 3.
  - If the witness is a representative of a business or other entity, the matters upon which the witness is to be examined are described as follows:  
☒ Continued on Attachment 4.
  - IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.
  - At the deposition, you will be asked questions under oath. Questions and answers are recorded stenographically at the deposition; later they are transcribed for possible use at trial. You may read the written record and change any incorrect answers before you sign the deposition. You are entitled to receive witness fees and mileage actually traveled both ways. The money must be paid, at the option of the party giving notice of the deposition, either with service of this subpoena or at the time of the deposition. Unless the court orders or you agree otherwise, if you are being deposed as an individual, the deposition must take place within 75 miles of your residence or within 150 miles of your residence if the deposition will be taken within the county of the court where the action is pending. The location of the deposition for all deponents is governed by Code of Civil Procedure section 2025.250.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF \$500 AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: November 22, 2013

William J. Brunick, Esq./Leland P. McElhanev

(TYPE OR PRINT NAME)

(Proof of service on (reverse))

(TITLE)

Page 1 of 2

DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE  
 AND PRODUCTION OF DOCUMENTS AND THINGS



### ATTACHMENT 3

1. Whether MWD owned or operated water production wells anywhere within the Upper Los Angeles River Area during the period from 1950 through 1968?
2. Whether MWD spread or banked water anywhere within the Upper Los Angeles River Area during the period from 1950 through 1968?
3. During the period from 1950 through 1968, did MWD manifest an intention to recapture or use return flows from imported water it delivered to MWD's member agencies within the Upper Los Angeles River Area?
4. During the period from 1950 through 1968, did MWD understand and believe that all rights to the return flows from imported water it delivered to its member agencies belonged to its member agencies?
5. During the period from 1950 through 1968, did MWD understand or believe that it retained any right to recapture or use return flows resulting from water it delivered to its member agencies in the Upper Los Angeles River Area?

#### ATTACHMENT 4

ALL NON-PRIVILEGED DOCUMENTS WHICH CONTAIN INFORMATION RELATING TO THE FOLLOWING MATTERS:

1. Whether MWD owned or operated water production wells anywhere within the Upper Los Angeles River Area during the period from 1950 through 1968?
2. Whether MWD spread or banked water anywhere within the Upper Los Angeles River Area during the period from 1950 through 1968?
3. During the period from 1950 through 1968, did MWD manifest an intention to recapture or use return flows from imported water it delivered to MWD's member agencies within the Upper Los Angeles River Area?
4. During the period from 1950 through 1968, did MWD understand and believe that all rights to the return flows from imported water it delivered to its member agencies belonged to its member agencies?
5. During the period from 1950 through 1968, did MWD understand or believe that it retained any right to recapture or use return flows resulting from water it delivered to its member agencies in the Upper Los Angeles River Area?

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA  
3 COUNTY OF SAN BERNARDINO }

4 I am employed in the County of the San Bernardino, State of California. I am over  
5 the age of 18 and not a party to the within action; my business address is 1839 Commercenter  
West, San Bernardino, California 92408-3303.

6 On November 22, 2013, I served the foregoing document(s) described as:  
7 ANTELOPE VALLEY-EAST KERN WATER AGENCY'S NOTICE OF  
8 DEPOSITIONS, SET ONE on the interested parties in this action served in the following  
manner:

9 ■ 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*  
10 *Litigation*, Judicial Council Coordination Proceeding No. 4408, Santa Clara Case No.  
1-05-CV-049053.

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

13 Executed on November 22, 2013, at San Bernardino, California.

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16 P/ Jo Anne Quihuis  
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1 PROOF OF SERVICE

2 **STATE OF CALIFORNIA** }

3 **COUNTY OF SAN BERNARDINO** }

4 I am employed in the County of the San Bernardino, State of California. I am over

5 the age of 18 and not a party to the within action; my business address is 1839 Commercenter

6 West, San Bernardino, California 92408-3303.

7 On December 4, 2013, I served the foregoing document(s) described as:

8 **ANTELOPE VALLEY-EAST KERN WATER AGENCY'S SUPPLEMENTAL BRIEF**

9 **IN SUPPORT OF ITS MOTION FOR SUMMARY ADJUDICATION** on the interested

10 parties in this action served in the following manner:

11 ■ **BY ELECTRONIC SERVICE AS FOLLOWS** by posting the document(s)

12 listed above to the Santa Clara website in the action of the *Antelope Valley Groundwater*

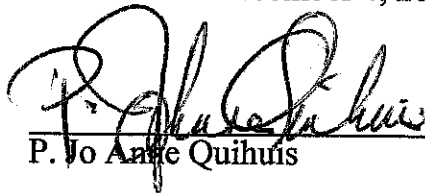
13 *Litigation*, Judicial Council Coordination Proceeding No. 4408, Santa Clara Case No.

14 1-05-CV-049053.

15 X (STATE) I declare under penalty of perjury under the laws of the State of California

16 that the above is true and correct.

17 Executed on December 4, 2013, at San Bernardino, California.

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20 P. Jo Anne Quihuis

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