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

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8 Attorneys for Cross-Complainant,  
9 ANTELOPE VALLEY-EAST KERN WATER AGENCY

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

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

Judicial Council Coordination Proceeding  
No. 4408

15 **ANTELOPE VALLEY GROUNDWATER**  
16 **CASES**

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

17 **Included Actions:**

**AVEK'S OPPOSITION TO EX PARTE**  
**APPLICATION TO QUASH TRIAL**  
**SUBPOENA, ETC.**

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

Date: January 30, 2014  
Time: 8:30 a.m.  
Place: Telephonically (Courtcall)

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

Judge: Hon. Jack Komar

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

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

1 Metropolitan Water District's *ex parte* application to quash AVEK's trial subpoena is  
2 procedurally improper. Although it is captioned as an *ex parte* application for an order shortening time,  
3 because it seeks a hearing on the merits of its motion to quash at the same time, or immediately  
4 following the hearing on the *ex parte* application, it is, in effect and fact, an *ex parte* application for an  
5 order quashing AVEK's trial subpoena.

6 The relief requested by MWD, however, must be sought by way of a noticed motion; an *ex parte*  
7 application is improper. (See *City of Los Angeles v. Superior Court* (2003) 111 Cal.App.4th 883, 888,  
8 overruled, in part, on other grounds; *Lee v. Swansboro Country Property Owners Assn.* (2007) 151  
9 Cal.App.4th 575, 583 [*Lee v. Swansboro*].) In its moving papers, MWD itself cites to *Lee v. Swansboro*,  
10 wherein the party noticing the motion to quash "gave defendant and the court a full week to consider  
11 the matter" and, for that reason, the court concluded that the motion "was 'reasonably made' as required  
12 by section 1987.1." (Ibid.)

13 While an order shortening time for hearing the motion may be obtained by way of an *ex parte*  
14 application, an order quashing a trial subpoena must sought by noticed motion. Otherwise, AVEK would  
15 be denied the opportunity to provide a meaningful written opposition to the motion following the  
16 issuance of an order shortening time.

17 Moreover, MWD's moving papers do no demonstrate the existence of any emergency which  
18 would warrant granting the motion on essentially an *ex parte* application, without affording AVEK a  
19 reasonable opportunity to provide an appropriate written opposition to that part of the motion which  
20 seeks to quash AVEK's trial subpoena.

21 The motion could reasonably be heard on February 4, 5, 6, 7 or 10, which would be reasonable,  
22 given that trial on the issue of return flow ownership will not commence until February 18, 2014, at the  
23 earliest.

24 Dated: January 29, 2014

**BRUNICK, McELHANEY & KENNEDY**

25  
26 By: 

WILLIAM J. BRUNICK

LELAND P. McELHANEY

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 92408-3303.

On January 29, 2014, I served the foregoing document(s) described as: **AVEK'S OPPOSITION TO EX PARTE APPLICATION TO QUASH TRIAL SUBPOENA, ETC.** in the following manner:

■ **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.

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

Executed on January 29, 2014, at San Bernardino, California.

  
P. Jo Anne Quihuis