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**EXEMPT FROM FILING FEE  
(Government Code § 6103)**

6 Attorneys for Defendant/Cross-Defendant,  
7 BORON COMMUNITY SERVICES  
8 DISTRICT

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF LOS ANGELES**

11  
12 Coordination Proceeding  
13 Special Title (Rule 3.550(c))

**Judicial Council Coordination  
Proceeding No. 4408**

14 ANTELOPE VALLEY GROUNDWATER CASES

**Santa Clara Case No. 1-05-CV-049053**

15 Included Actions:

16 Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co.  
17 Superior Court of California, County of Los  
Angeles, Case No. BC 325201;

18 Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co.  
19 Superior Court of California, County of Kern, Case  
20 No. S-1500-CV-254348

21 Wm. Bolthouse Farms, Inc. v. City of Lancaster,  
Diamond Farming Co. v. City of Lancaster,  
22 Diamond Farming Co. v. Palmdale Water Dist.,  
Superior Court of California, County of Riverside,  
23 Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

**NOTICE OF *EX PARTE*  
APPLICATION AND *EX PARTE*  
APPLICATION OF BORON  
COMMUNITY SERVICES DISTRICT  
FOR APPROVAL OF STIPULATION  
FOR PHASE 4 TRIAL REGARDING  
BORON COMMUNITY SERVICES  
DISTRICT'S GROUNDWATER  
PRODUCTION AND BENEFICIAL  
USE; DECLARATION OF JAMES A.  
WORTH**

[Assigned for All Purposes to the  
Honorable Jack Komar]

Action Filed: October 26, 2005

24  
25  
26 AND RELATED ACTIONS.

27 ///

1                   **NOTICE OF EX PARTE APPLICATION FOR APPROVAL OF STIPULATION**

2                   **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

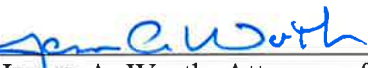
3                   PLEASE TAKE NOTICE that on March 25, 2013, at 9:00 a.m. or as soon thereafter as the  
4 matter may be heard in Department 1 of the Los Angeles County Superior Court, Central District,  
5 located at 111 North Hill Street, Los Angeles, California 90012, defendant/cross-defendant BORON  
6 COMMUNITY SERVICES DISTRICT ("Boron") will apply, pursuant to the Court's March 1, 2013  
7 minute order, for an order approving Boron's Stipulation for Phase 4 Trial Regarding Boron  
8 Community Services District's Groundwater Production and Beneficial Use ("Stipulation") and  
9 establishing the facts referenced in the Stipulation. The Stipulation has been executed by Boron and  
10 Boron will apply to the Court pursuant to Code of Civil Procedure sections 187 and 404.7, California  
11 Rules of Court, rules 3.504(c), 3.1203 and 3.1204 and the Court's orders in this coordinated action.  
12 Boron will apply to the Court based on the following that are submitted herewith or are posted on the  
13 Court's Website located at [www.scefiling.org](http://www.scefiling.org):

- 14                   1.       This Notice of *Ex Parte* Application;
- 15                   2.       The attached *Ex Parte* Application;
- 16                   3.       The attached Declaration of James A. Worth;
- 17                   4.       The Proposed Stipulation for Phase 4 Trial Regarding Boron Community Services  
18                   District's Groundwater Production and Beneficial Use;
- 19                   5.       Defendant/Cross-Defendant Boron Community Services District Response to  
20                   Discovery Order for Phase 4 Trial ("Boron Response to Discovery Order") submitted  
21                   to the Court and posted on the Court's website on December 21, 2012;
- 22                   6.       The Declaration of Peter A. Lopez on Behalf of Boron Community Services District  
23                   in Lieu of Deposition Testimony for Phase 4 Trial submitted to the Court and posted  
24                   on the Court's website on January 31, 2013;
- 25                   7.       The Signature Page re Declaration of Peter A. Lopez on Behalf of Boron Community  
26                   Services District in Lieu of Deposition Testimony for Phase 4 Trial submitted to the  
27                   Court and posted on the Court's website on February 15, 2013;

- 1           8.     Notice of Errata and Supplemental Declaration of Peter A. Lopez on Behalf of Boron  
2                 Community Services District in Lieu of Deposition Testimony for Phase 4 Trial  
3                 submitted to the Court and posted on the Court's website on February 15, 2013; and  
4           9.     Any evidence or argument presented at the hearing on this Application.

7 DATED: March 15, 2013

McMURTREY, HARTSOCK & WORTH

9  
10 By:   
11 James A. Worth, Attorneys for Defendant/  
12 Cross-Defendant, BORON  
13 COMMUNITY SERVICES DISTRICT

14                   **EX PARTE APPLICATION FOR APPROVAL OF STIPULATION**

15           Code of Civil Procedure section 187 authorizes the Court to adopt "any suitable process or  
16 mode of proceeding ... which may appear most conformable to the spirit of this Code" where a  
17 course of proceeding is not specifically identified by statute. Code of Civil Procedure section  
18 404.7 and California Rules of Court, rule 3.504(c), implement this general concept in coordinated  
19 cases by, collectively, authorizing the Court to "prescribe any suitable manner of proceeding"  
20 consistent with the Code of Civil Procedure and the Rules of Court. As stated in *McGhan Medical*  
21 *Corp. v. Superior Court* (1992) 11 Cal.App.4<sup>th</sup> 804, 812:

22                   [I]t is the intent of the Judicial Council to vest in the coordinating judge  
23 whatever great breadth of discretion may be necessary and appropriate to  
24 ease the transition through the judicial system of the logjam of cases  
25 which gives rise to coordination.

26           In these coordinated actions involving thousands of parties, the Court has exercised its  
27 discretion by establishing a procedure in which parties may present sworn declarations stating  
28 evidence that they would intend to present at trial and seek stipulations with the parties to whom  
they are adverse. Upon the completion of such stipulations, the Court has authorized stipulating


1 parties to seek the Court's approval of those stipulations and a hearing to determine whether any  
2 other party has any basis for requiring proof of the stipulated facts at trial.

3 Boron used the Court's procedures to present, Defendant/Cross-Defendant Boron  
4 Community Services District Response to Discovery Order for Phase 4 Trial ("Boron Response to  
5 Discovery Order") submitted to the Court and posted on the Court's website on December 21, 2012;  
6 The Declaration of Peter A. Lopez on Behalf of Boron Community Services District in Lieu of  
7 Deposition Testimony for Phase 4 Trial submitted to the Court and posted on the Court's website on  
8 January 31, 2013; The Signature Page re Declaration of Peter A. Lopez on Behalf of Boron  
9 Community Services District in Lieu of Deposition Testimony for Phase 4 Trial submitted to the  
10 Court and posted on the Court's website on February 15, 2013; and the Notice of Errata and  
11 Supplemental Declaration of Peter A. Lopez on Behalf of Boron Community Services District in  
12 Lieu of Deposition Testimony for Phase 4 Trial submitted to the Court and posted on the Court's  
13 website on February 15, 2013. No party has objected to any of the facts or exhibits stated in any of  
14 the above (See attached Declaration of James A. Worth, ¶ 3).

15 Consistent with the Court's authority in coordinated cases, and the Court's orders in this  
16 action, the Court therefore should approve the Stipulation and establish the facts stated in the  
17 Stipulation as proven in this action.

18  
19 DATED: March 15, 2013

McMURTREY, HARTSOCK & WORTH

21  
22 By:   
23 James A. Worth, Attorneys for Defendant/  
24 Cross-Defendant, BORON  
COMMUNITY SERVICES DISTRICT

25 **DECLARATION OF JAMES A. WORTH**

26 I, James A. Worth, declare as follows:

27 1. I am an attorney at law and partner with the law firm of McMurtrey, Hartsock &  
28 Worth, attorneys of record in this matter for Boron Community Services District ("Boron"). I am

1 familiar with this action and would and could competently testify in a court of law to the facts stated  
2 below, which are personally known to me and/or based on information and belief.

3 2. I was responsible for posting to the Court's website at [www.scefiling.org](http://www.scefiling.org), (1)  
4 Defendant/Cross-Defendant Boron Community Services District Response to Discovery Order for  
5 Phase 4 Trial ("Boron Response to Discovery Order") submitted to the Court and posted on the  
6 Court's website on December 21, 2012; (2) The Declaration of Peter A. Lopez on Behalf of Boron  
7 Community Services District in Lieu of Deposition Testimony for Phase 4 Trial submitted to the  
8 Court and posted on the Court's website on January 31, 2013; (3) The Signature Page re Declaration  
9 of Peter A. Lopez on Behalf of Boron Community Services District in Lieu of Deposition Testimony  
10 for Phase 4 Trial submitted to the Court and posted on the Court's website on February 15, 2013;  
11 and (4) the Notice of Errata and Supplemental Declaration of Peter A. Lopez on Behalf of Boron  
12 Community Services District in Lieu of Deposition Testimony for Phase 4 Trial submitted to the  
13 Court and posted on the Court's website on February 15, 2013.

14 3. No party has objected to any of the facts or exhibits stated in any of the above filings.

15 4. I am providing notice to all parties in this action of the attached *ex parte* application  
16 by arranging for the posting of that application on the Court's website at [www.scefiling.org](http://www.scefiling.org) on  
17 March 15, 2013.

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

20 Executed this 15<sup>th</sup> day of March, 2013, at Bakersfield, California.

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22   
23 JAMES A. WORTH  
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2  
3 **PROOF OF SERVICE**

4 **STATE OF CALIFORNIA, COUNTY OF KERN**

5 I, GUADALUPE GONZALEZ, declare: I am and was at the time of the service hereunder mentioned, over the age of eighteen (18) years and not a party to the within cause. My business address is 2001 22nd Street, Suite 100, Bakersfield, California 93301.

6 On March 15, 2013, I served the document(s) titled:

7 **NOTICE OF *EX PARTE* APPLICATION AND *EX PARTE***  
8 **APPLICATION OF BORON COMMUNITY SERVICES DISTRICT**  
9 **FOR APPROVAL OF STIPULATION FOR PHASE 4 TRIAL**  
10 **REGARDING BORON COMMUNITY SERVICES DISTRICT'S**  
11 **GROUNDWATER PRODUCTION AND BENEFICIAL USE;**  
12 **DECLARATION OF JAMES A. WORTH**

13 to be served on the parties in this action as follows:

14 **XXX (BY ELECTRONIC TRANSMISSION)** I caused such document(s) listed above to be posted to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.

15 \_\_\_\_\_ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing of documents for mailing. Under that practice, it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid at Bakersfield, California, in the ordinary course of business.

17 \_\_\_\_\_ **(BY FACSIMILE TRANSMISSION)** A transmission report was properly issued by the sending facsimile machine, and the transmission was reported as completed and without error.

19 \_\_\_\_\_ **(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the addressee(s).

21 \_\_\_\_\_ **(BY OVERNIGHT COURIER)** I caused such envelope with delivery fees fully prepaid to be sent by overnight courier.

22 Executed on March 15, 2013, at Bakersfield, California.

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

25 \_\_\_\_\_ **(FEDERAL)** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

26  
27  
28   
GUADALUPE GONZALEZ