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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DISTRICT

**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
325201;

Los Angeles County Waterworks District No. 40
v. Diamond Farming Co., Superior Court of
California, County of Kern, Case No. S-1500-CV-
254-348; and

Wm. Bolthouse Farms, Inc. v. City of Lancaster,
Diamond Farming Co. v. Lancaster, Diamond
Farming Co. v. Palmdale Water Dist., Superior
Court of California, County of Riverside, Case
No. RIC 353 840, RIC 344 436, RIC 344 668.

Judicial Council Coordination No. 4408

Santa Clara Case No. 1-05-CV-049053
Assigned to Hon. Jack Komar

**FIRST AMENDED PROTECTIVE
ORDER**

[CRC Rules 2.550; 2.551]

Phase 4 Trial Date: May 28, 2013

I. FINDINGS

A. In order to fairly conduct discovery, trials, and settlement negotiations in this consolidated and coordinated proceeding, it is necessary for the parties to disclose and exchange confidential, trade secret, and other private information.

- 1 B. The parties have an overriding interest in maintaining the confidentiality of such
2 information and protecting such information from unrestricted disclosure which
3 overcomes the right of the public access to the entire record in this coordinated and
4 consolidated proceeding.
- 5 C. A substantial probability exists that the overriding interest will be prejudiced if certain
6 information is not kept confidential and certain court records are not kept sealed.
- 7 D. On March 8, 2007 the Court entered a Protective Order Re Disclosure of Private
8 Information Other Than Well Report (the March 8, 2007 Order.) This Order supersedes
9 and replaces the May 8, 2007 Order.
- 10 E. This protective is narrowly tailored to protect the overriding interest while ensuring
11 public access.

12 II. ORDER

13 NOW THEREFORE, the Court Orders as follows:

14 1. Definitions:

15 The following definitions shall govern the construction of this Order unless the context
16 otherwise requires.

17 (a) CONFIDENTIAL information. "CONFIDENTIAL information" means
18 any information regardless of format or medium that a party has a right to protect from
19 unrestricted disclosure.

20 (b) Disclosing party. "Disclosing party" means the party who discloses
21 CONFIDENTIAL information.

22 (c) Information. "Information" means discovery information obtained
23 through court ordered discovery, the use of interrogatories, requests for admission,
24 requests for production of documents and things, depositions, subpoenas or other
25

1 information obtained under the California Civil Discovery Act.

2 (d) Notice. "Notice" means reasonable notice under the circumstances. The
3 manner and amount of notice shall be governed by the particular circumstances.

4 (e) Person. "Person" means person as defined in Evidence Code § 175.

5 (f) Trade secret. "Trade secret" means trade secret as defined by Civil Code §
6 3426.1(d)(1).

7
8 **2. Scope and Intent.**

9 (a) This Order shall be binding on all current and future parties to these
10 coordinated and consolidated proceedings.

11 (b) All information designated "CONFIDENTIAL" by the disclosing party shall
12 be subject to this Order.

13 (c) The purpose and intent of this Order is to protect CONFIDENTIAL
14 information. Nothing in this Order shall be construed to change existing law or shift
15 existing burdens.

16 (d) As a general proposition, all information that is relevant to proving the
17 hydrology, geology, water use, and water quality of the Antelope Valley Groundwater
18 Basin is discoverable unless privileged.

19
20 **3. Designation of CONFIDENTIAL Information.**

21 (a) Any disclosing party may designate information, or any portion of such
22 information, as CONFIDENTIAL by placing the word "CONFIDENTIAL"
23 conspicuously on the information.

24 (b) Any disclosing party may designate information, or any portion of such
25 information, as "CONFIDENTIAL – COUNSEL ONLY" on the information. By
26 designating information as "CONFIDENTIAL – COUNSEL ONLY, the disclosing party
27
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warrants that the designation is made in good faith and on reasonable belief that the information so designated is CONFIDENTIAL as defined above and that disclosure of such information to another party or party representative would reveal or jeopardize extremely sensitive information.

4. Oral Deposition Testimony.

A party may designate as CONFIDENTIAL, information disclosed during oral deposition by stating so on the record or in writing within 10 days from receipt of the transcript. Where CONFIDENTIAL documents are entered into the record of a deposition or where CONFIDENTIAL information is disclosed during deposition, such portion of the deposition containing CONFIDENTIAL information shall be separately bound and marked "CONFIDENTIAL" or "CONFIDENTIAL – COUNSEL ONLY" as the case may be, in a conspicuous place.

5. Objection To Designation.

A party may at any time object to the designation of information as CONFIDENTIAL and move the Court for an order declaring that such information not be designated CONFIDENTIAL.

6. Information Which Is Not CONFIDENTIAL.

Notwithstanding the designation of information as CONFIDENTIAL, such information shall not be CONFIDENTIAL, nor shall disclosure be limited in accordance with this Order where such information is:

- (a) At the time of disclosure, lawfully in the public domain by publication or otherwise;
- (b) Subsequent to disclosure, through no act or failure to act on the part of the receiving party, lawfully entered the public domain by publication or otherwise;

1 (c) Provided to a party by a third party who obtained the information by legal
2 means and without any obligation of confidence to the disclosing party; or

3 (d) Developed by employees or agents of the receiving party independently of
4 and without reference to any information communicated by the disclosing party.

5 **7. CONFIDENTIAL Information Obtained From Third Parties.**

6 If CONFIDENTIAL information is obtained from a third party, the third party may adopt
7 the benefits and burdens of this Order. Likewise, any party may designate material or
8 information obtained from a third party as CONFIDENTIAL.
9

10 **8. Inadvertent Disclosure.**

11 A party does not waive its right to designate as CONFIDENTIAL information which is
12 inadvertently disclosed without the appropriate designation.

13 **9. Documents Filed With The Court.**

14 If a party files documents with the Court which contain material designated
15 CONFIDENTIAL, such documents shall be filed in a sealed envelope or other appropriate sealed
16 container on which shall be the case caption and the words "**SEALED BY COURT ORDER**" in
17 a conspicuous place.
18

19 **10. Dissemination to Third Parties.**

20 (a) CONFIDENTIAL information shall be disclosed only to the parties to this
21 proceeding, their experts, consultants and counsel. Information designated as
22 "CONFIDENTIAL – COUNSEL ONLY" shall only be disclosed to counsel of record,
23 and their retained, non-party consultants. Before any person receives access to
24 information designated CONFIDENTIAL - COUNSEL ONLY, each shall execute a copy
25 of the form attached hereto as **Exhibit A**.
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11. **Use of CONFIDENTIAL Information During Trial.**

If, at the time of trial, a party intends to introduce into evidence any CONFIDENTIAL information, notice of that intention must be given to the Court and to counsel for the disclosing party. The Court may then take such steps as it deems reasonable and necessary to maintain the proprietary and/or confidential nature of such information. A party may offer into evidence CONFIDENTIAL information necessary for rebuttal or impeachment only after giving notice to the disclosing party.

12. **Duty of Care.**

(a) All persons bound by this Order shall have the duty to use reasonable care and precaution to prevent violations thereof.

(b) If CONFIDENTIAL information is disclosed to any person other than as allowed by this Order, the person responsible for the disclosure must immediately bring all pertinent facts relating to such disclosure to the attention of counsel for the aggrieved party and make every effort to prevent further disclosure. \

13. **Return/Destruction of Documents.**

Within six months after final termination of this proceeding, including all appeals, each party shall be responsible for either destroying or returning to the disclosing party all original and/or copies of all CONFIDENTIAL information produced during the course of this action and subject to this Order, including all excerpts thereof.

14. **Duration of Order.**

The terms of this Order shall survive and remain in full force and effect after the termination of this proceeding, and the Court shall retain jurisdiction over the parties and their attorneys for the purpose of enforcing the terms of this Order.

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15. Order to the Clerk.

The Clerk of the Court is ordered to show a copy of this Order to anyone desiring access to any of the papers on file with the Court and to deny access to all information marked "CONFIDENTIAL."

Dated: _____, 2013

Judge of the Superior Court

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[CRC Rules 2.550; 2.551]

Phase 4 Trial Date: May 28, 2013

EXHIBIT A

I, the undersigned, _____, hereby acknowledge that I have read the
attached First Amended Protective Order in the these consolidated and coordinated proceedings
generally referred to as ANTELOPE VALLEY GROUNDWATER CASES, Judicial Council
Coordinated Proceeding No. 4408 and I understand and agree to be bound by the terms thereof.

I further agree to submit to the jurisdiction of the Superior Court for the County of Los
Angeles - Central District for resolution of any dispute(s) concerning information received under
the Order.

Dated: _____, 2013

Signature: _____

Retained By: _____