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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;

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

**DECLARATION OF ROBERT G.  
KUHS IN SUPPORT OF PHASE 6  
DISCOVERY ORDER**

Date: December 11, 2013  
Time: 9:00 a.m.  
Dept.: 1

I, ROBERT G. KUHS, declare as follows:

1. I am an attorney with Kuhs & Parker, counsel for Tejon Ranchcorp and Granite Construction Company in this proceeding. If called as a witness I could and would competently testify to the facts set forth herein.

2. Attached as **Exhibit A** is the proposed DISCOVERY ORDER FOR PHASE 6

TRIAL adapted and modified after extensive meet and confer efforts with all parties as set forth herein.

3. On July 29, 2013, the court held a Case Management Conference. After extensive discussion, the Court issued its Order After Case Management Conference dated August 15, 2013, a true and correct copy of which is attached as **Exhibit B**. The Court ordered in relevant part:

“In order to assist in framing up Phase V trial issues, the purveyor parties claiming prescription are ordered to identify the legal theory, timeframe, factual and legal basis for **each purveyor** claim as against **each landowner**, along with any other purveyor claim to groundwater, such as purveyor overlying rights.”

The Court also ordered as follows:

“Finally, the parties are ordered to meet and confer regarding the form of court ordered discovery to clarify the legal theory, timeframe and factual and legal basis supporting the prescription claims of each purveyor as against each landowner, along with any other purveyor claimed groundwater, such as purveyor overlying rights. Once agreed to by the parties and ordered by the Court, the court ordered discovery will be subject to a separate order.”

4. By Minute Order issued September 5, 2013, a copy of which is attached as **Exhibit C**, the Court ordered in relevant part:

“Mr. Dunn and the Public Water Suppliers (“PWS”) shall prepare an order directing them to provide specific information concerning prescription claims, for each, including the period of claimed overdraft upon which they rely, the amount of imported water brought in during that period, the amount of claimed return flows, the amount of their water claimed to be pumped as overlying owners, and other related information to their claims. Mr. Dunn and the PWS are to confer with the Land Owner Group to discuss other information that the group would find helpful.”

The Court requests that Mr. Dunn prepare the proposed order after today’s hearing, to be posted on line at [www.scefiling.org](http://www.scefiling.org), with responses, comments or objections due within five days thereafter.”

5. Several purveyors did file statements of claims, but the statements are not verified and do not include “the factual and legal basis for each purveyor claim as

1 against each landowner” as ordered by the Court on August 14, 2013.

2 6. Notwithstanding the Court’s order, the Public Water Suppliers did not  
3 prepare a draft discovery order. Consequently, I, along with other landowners, began  
4 drafting a proposed discovery order for the prescription trial, then designated as Phase  
5 5. On September 3, 2013, I caused to be posted to the Court’s website as document  
6 number 7068 a [Proposed] Discovery Order for Phase 5 Trial, a copy of the letter  
7 accompanying the posting is attached hereto as **Exhibit D**.

8 7. On September 9, 2013, a meet and confer conference was held by  
9 telephone to discuss the Proposed Discovery Order. During that telephone call I  
10 received extensive comments from Jeff Dunn and from several other landowners and  
11 water suppliers.

12 8. On October 24, 2013, I posted to the Court’s website as document  
13 number 7300, a revised Discovery Order, incorporating many of the comments  
14 received during the September 9, 2013 telephone meet and confer conference.

15 9. During the October 25, 2013 Case Management Conference, I inquired  
16 of the Court as to the status of the Proposed Discovery Order. The Court directed the  
17 parties to meet and confer once again regarding the Proposed Discovery Order and set  
18 the matter for hearing on December 11, 2013.

19 10. On November 25, 2013 I posted the latest version of the Proposed  
20 Discovery Order for Phase 6 Trial as document number 7589, along with a letter dated  
21 the same date, document number 7697, inviting all interested parties to participate in a  
22 conference call on December 9, 2013 to discuss the contents of the proposed order.


23 11. On December 9, 2013 at 11:00 a.m. I hosted a conference call to meet  
24 and confer regarding the Proposed Discovery Order for Phase 6 Trial. During the  
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1 telephone call, I received comments from several counsel for Public Water Suppliers  
2 objecting to the Proposed Discovery Order in its entirety, however, I did not receive  
3 any substantive comments to the Proposed Discovery Order.

4 12. The Proposed Discovery Order is the most efficient and cost effective  
5 way for dozens of landowners threatened with claims of prescription to understand the  
6 factual basis underlying such claims.

7  
8 13. Pursuant to the Case Management Order for Phase 5 and Phase 6 Trials  
9 dated October 22, 2013, there is a "hiatus" on Phase 6 discovery from February 1,  
10 2014 until March 1, 2014. If the Public Water Suppliers are not ordered to respond to  
11 the Discovery Order for Phase 6 Trial prior to February 1, 2014, parties will not have  
12 sufficient time to prepare for the Phase 6 Trial.

13 I declare under penalty of perjury under the laws of the State of California that the  
14 foregoing is true and correct. Executed this 10<sup>th</sup> day of December, 2013, at Bakersfield,  
15 California.  
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19 Robert G. Kuhs