

Robert G. Kuhs, SBN 160291
Bernard C. Barmann, Jr., SBN 149890
Kuhs & Parker
P. O. Box 2205
1200 Truxtun Avenue, Suite 200
Bakersfield, CA 93303
Telephone: (661) 322-4004
Facsimile: (661) 322-2906
E-Mail: rgkuhs@kuhsparkerlaw.com

Attorneys for Tejon Ranchcorp

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

**NOTICE OF MOTION AND
MOTION FOR ORDER
APPROVING [Proposed]
DISCOVERY ORDER FOR PHASE 6
TRIAL; DECLARATION OF
ROBERT G. KUHS; AND POINTS
AND AUTHORITIES IN SUPPORT
THEREOF**

Date: January 27, 2014
Time: 10:00 a.m.
Dept: TBA

Trial Date: August 11, 2014

I. NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND RESPECTIVE ATTORNEYS OF RECORD:

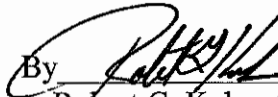
NOTICE IS HEREBY GIVEN that on January 27, 2014 at 10:00 a.m., or as soon

thereafter as the matter may be heard, in Department TBA of the above-entitled court, TEJON RANCHCORP ("Tejon") will move this court for an order approving the [Proposed] Discovery Order for Phase 6 Trial, substantially in the form attached hereto as **Exhibit A**.

This motion is based on this Notice of Motion and Motion, on the Declaration of Robert G. Kuhs in part II hereof, the Points and Authorities in part III hereof, such oral and documentary evidence as may be presented at the hearing on the motion and on the papers and records on file herein.

Dated: January 10, 2014

KUHS & PARKER

By 
Robert G. Kuhs, Attorneys for
Tejon Ranchcorp

II. DECLARATION OF ROBERT G. KUHS

I, ROBERT G. KUHS, declare as follows:

1. I am an attorney with Kuhs & Parker, counsel for Tejon Ranchcorp 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:

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

6 The Court also ordered as follows:

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

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

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

25 The Court requests that Mr. Dunn prepare the proposed order after
26 today’s hearing, to be posted on line at www.scefilings.org, with
27 responses, comments or objections due within five days thereafter.”

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

6. Notwithstanding the Court’s order, the Public Water Suppliers did not prepare a
draft discovery order. Consequently, I, along with other landowners, began drafting a proposed
discovery order for the prescription trial, then designated as Phase 5. On September 3, 2013, I
caused to be posted to the Court’s website as document number 7068 a [Proposed] Discovery

Order for Phase 5 Trial, a copy of the letter accompanying the posting is attached hereto as
Exhibit D.

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

8. On October 24, 2013, I posted to the Court's website as Document No. 7300, a revised Discovery Order, incorporating many of the comments received during the September 9, 2013 telephone meet and confer conference.

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

10. On November 25, 2013 I posted the latest version of the Proposed Discovery Order for Phase 6 Trial as Document No. 7589, along with a letter dated the same date, Document No. 7697, inviting all interested parties to participate in a conference call on December 9, 2013 to discuss the contents of the proposed order.

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

12. The Court issued a Minute Order dated January 7, 2014 instructing counsel to file the instant motion approving the Proposed Discovery Order for Phase 6 and ordered the parties to meet and confer by January 17, 2014. I posted notice on the court's website giving notice to

1 all counsel of a third meet and confer conference on January 14, 2014 at 4:00 p.m. and invited
2 counsel to submit additional comments in writing, a true and correct copy of which is attached as
3 **Exhibit E.**

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct. Executed this th10 day of January, 2014, at Bakersfield,
6 California.

7
8 
9 Robert G. Kuhs

10 **III. POINTS AND AUTHORITIES**


11 The Court has the power to provide for the orderly conduct of proceedings before it.
12 (Code Civ. Proc., § 128(a)(3).)

13 The Proposed Discovery Order is the most efficient and cost effective way for dozens of
14 landowners threatened with claims of prescription to understand the factual and legal basis
15 underlying such claims.
16

17 Tejon respectfully request that this Court, consistent with its August 15, 2013 Order After
18 Case Management Conference, and Minute Order of September 5, 2013,
19 order all parties claiming prescriptive rights in the Antelope Valley Area of Adjudication to
20 respond to the Discovery Order for Phase 6 Trial within 30 days of entry of the order.
21

22 Dated: January 10, 2014

KUHS & PARKER

23
24 By 
25 Robert G. Kuhs, Attorney for
26 Tejon Ranchcorp
27
28