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Attorneys for DIAMOND FARMING COMPANY,  
a California corporation

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding Special Title  
(Rule 1550 (b))  
  
ANTELOPE VALLEY GROUNDWATER  
CASES  
  
Included actions:  
  
Los Angeles County Waterworks District No.  
40 vs. Diamond Farming Company  
Los Angeles Superior Court  
Case No. BC 325201  
  
Los Angeles County Waterworks District No.  
40 vs. Diamond Farming Company  
Kern County Superior Court  
Case No. S-1500-CV 254348 NFT  
  
Diamond Farming Company vs. City of  
Lancaster  
Riverside County Superior Court  
Lead Case No. RIC 344436 [Consolidated  
w/Case Nos. 344668 & 353840]

Judicial Council Coordination No. 4408

Case No.: 1-05-CV-049053

**CROSS-COMPLAINT FOR  
EQUITABLE AND MONETARY  
RELIEF AGAINST ROSAMOND  
COMMUNITY SERVICES DISTRICT,  
LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40,  
PALMDALE WATER DISTRICT, AND  
QUARTZ HILL WATER DISTRICT**

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**General Allegations:**

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2 1. Rosamond Community Services District (hereinafter “Rosamond”) is a County Water  
3 District voted into being in 1966 , and operating under Division 12 of the California Water Code to  
4 provide water for domestic, irrigation, and fire flow, collection and treatment of waste and storm water,  
5 maintenance of street lights, graffiti abatement and parks and recreation.

6 2. Los Angeles County Waterworks District 40 (hereinafter “District 40”) is a public agency  
7 governed by the Los Angeles County board of Supervisors operating under Division 16 of the California  
8 Water Code. District 40 was established on November 4, 1993 to provide water service to the public  
9 within the Antelope Valley.

10 3. Palmdale Water District (hereinafter “Palmdale”) was formed as a public irrigation  
11 district in 1918 and operates under Division 11 of the California Water Code and is producing water  
12 from the Antelope Valley Water Supply and selling it to its customers.

13 4. Quartz Hill Water District (hereinafter “Quartz Hill”) is a county water district organized  
14 and operating under Division 12 of the California Water Code and is producing water from the Antelope  
15 Valley Water Supply and selling it to its customers.

16 5. Cross-Complainant Diamond Farming, Inc. (hereinafter “Diamond”) is a California  
17 Corporation that owns and leases overlying land within the Antelope Valley. Diamond owns and  
18 operates water wells that draw water from beneath the land for use on the lands for irrigation. Diamond  
19 and its predecessors in interest, are currently, and have historically, pumped water from beneath the land  
20 for farming.

21 6. Cross-Complainant is ignorant of the true names and capacities of cross-defendants sued  
22 herein as ROES 1-200, inclusive, and therefore sue these cross-defendants by such fictitious names.  
23 Cross-Complainant will amend this Cross-Complaint to allege their true names and capacities when  
24 ascertained. Each reference in this Cross-Complaint to "Purveyors," "the Purveyors," or a specifically  
25 named cross-defendant, refers also to all cross-defendants sued under fictitious names.

26 7. Cross-Complainant, is informed and believes, and thereon alleges, that Rosamond,  
27 District 40, Palmdale and Quartz Hill (collectively “the Purveyors”) began pumping appropriated surplus  
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1 water from the Antelope Valley to provide water for their municipal and industrial water customers. At  
2 the onset of pumping by the Purveyors, the same was lawful and did not immediately nor prospectively  
3 invade or impair any overlying right.

4 8. Over time, the urban areas within the Antelope Valley continued to expand and grow both  
5 in land area and population, and thus, over time the Purveyors increased, and today, continue to increase  
6 their demand for water. Cross-Complainant, is informed and believes, and thereon alleges, that at some  
7 as yet unidentified historical point, the aggregate extractions of groundwater from the Antelope Valley  
8 began to exceed the safe yield of the Valley. Despite the potential for damage to the water supply and  
9 the rights of owners of real property within the Valley, the Purveyors, with knowledge continued to  
10 extract groundwater from the common supply, and increased and continue to increase their extractions  
11 of groundwater over time. The Purveyors continued the act of pumping with the knowledge that the  
12 continued extractions were damaging, long term, the Antelope Valley and the rights of the property  
13 owners, including Diamond, whose land was overlying and within the Antelope Valley.

14 9. Cross-Complainant, is informed and believes, and thereon alleges, that the Purveyors  
15 pumped and continue to pump water in excess of the safe yield with the knowing intent and belief that  
16 they could take by claim of prescription, without compensation, the water rights of all landowners  
17 overlying the Antelope Valley. Despite the knowing intent to take the overlying property landowners'  
18 rights, no Purveyor took any steps calculated and intended to inform or otherwise notify any landowner  
19 of their adverse and hostile claim or that their pumping of groundwater was an invasion of the  
20 landowners' property rights.

21 10. During the material time that each Purveyor was pumping, none physically trespassed  
22 upon nor invaded any overlying property. No Purveyor stopped, restricted, interfered with or physically  
23 or by regulation reduced Diamond's or any overlying landowner's right and ability to pump groundwater  
24 from the Antelope Valley. No Purveyor ever took any affirmative action reasonably calculated to  
25 inform or notify any overlying landowner that the Purveyor intended to take by prescription the overlying  
26 water rights.

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1           11.     Between 1960 and 1980, the Antelope Valley East Kern Water Agency (hereinafter  
2 “AVEK”) was created to import water from northern California to southern California. As part of its  
3 operations, AVEK, in addition to other water importers, have brought and now brings imported water  
4 to the Antelope Valley. This imported water was at all material times available for purchase by the  
5 Purveyors. Based upon information and belief, it is alleged that the Purveyors consciously chose to not  
6 purchase all of the available higher priced imported water to meet their water needs and instead chose  
7 to continue to pump and to increase their extractions of groundwater from the Antelope Valley, because,  
8 despite the damage to the Valley, groundwater was cheaper than the imported water.

9           12.     In late 2004, the Los Angeles County Board of Supervisors unanimously voted to  
10 authorize District 40 to file and prosecute the present legal actions which seek a judicial declaration that  
11 District 40 has obtained, without compensation and without due process notice, the overlying  
12 landowner’s appurtenant water rights through the common law doctrine of prescription. Based on this  
13 authorization, District 40 filed these actions.

14           13.     For the five years immediately preceding the filing of its Quiet Title actions, Diamond  
15 Farming did not have actual knowledge that any Purveyor’s pumping of groundwater was adverse to or  
16 hostile to its present and/or future priority rights.

17           14.     For the five years immediately preceding the filing of Diamond’s Quiet Title actions, no  
18 landowner had actual knowledge that any Purveyor’s pumping of groundwater was adverse to or hostile  
19 to its present and/or future priority rights.

20           15.     In January 2006, the Purveyors identified herein jointly filed the present Cross-Complaint  
21 in place of the original Complaint seeking to obtain a judicial declaration that they had obtained the  
22 overlying landowner’s water rights, without compensation, within the Antelope Valley through the  
23 common law doctrine of prescription.

24           16.     None of the purveyors have invoked the power of eminent domain nor paid any  
25 compensation to Diamond or any other overlying owner of land located within Antelope Valley for the  
26 property rights they have allegedly and knowingly taken.

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1 **First Cause of Action**

2 (Declaratory Relief Against Los Angeles County Waterworks District 40 to Determine Validity and  
3 Applicability of Statute)

4 17. Cross-Complainant refers to and incorporates, as though fully set forth herein, paragraphs  
5 1 through 16, inclusive, of this Cross-Complaint.

6 18. In or about 1951, the Legislature of the State of California enacted Sections 55000 et seq.  
7 of the Water Code, known as the County Waterworks District Law, hereinafter referred to as the  
8 "Waterworks Statutes." In 1953, the legislature added section 55370. This section, since its adoption has  
9 been, and now is, in full force and effect. This statute provides as follows:

10 "A district may acquire property by purchase, gift, devise, exchange, descent, and  
11 eminent domain. The title to all property which may have been acquired for a district  
shall be vested in the district."

12 19. District 40 contends that section 55370 of the Water Code does not apply to, or limit in  
13 any manner, its acquisition of any overlying landowner's water rights within the Antelope Valley and  
14 that, despite its status as a public entity, Article 1, Section 19 of the California Constitution, and the 5th  
15 Amendment to the Federal Constitution, it is nonetheless empowered to acquire private property for  
16 public use through the common law doctrine of prescription, without due process and without  
17 compensation.

18 20. Diamond contends that the statute is constitutional, and when conjoined with the  
19 California state and Federal Constitutions, limits the method, manner and mode by which District 40  
20 may acquire private property for a public use and the rights appurtenant thereto. By virtue of the actions  
21 of District 40 and the Board of Supervisors as set forth above, an actual controversy has arisen and now  
22 exists between District 40 and Diamond concerning their respective rights, duties, and responsibilities  
23 under that statute and both Constitutions.

24 21. Diamond desires a declaration of its rights with respect to the constitutionality and  
25 application or nonapplication of the statute and asks the court to make a declaration of such rights,  
26 duties, and responsibilities, and to make a declaration as to the validity and constitutionality of the  
27 statute. Diamond seeks a declaration that the effort of the district is, without compensation, ultra vires  
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1 and unconstitutional. Such a declaration is necessary and appropriate at this time in order that  
2 Diamond's property rights be protected and to ensure that District 40 proceeds according to the law and  
3 Constitution of the state and the Federal Constitution. There are no administrative remedies available  
4 to Diamond.

5 22. A timely declaration by this court is urgent for the following reasons: by way of this  
6 action District 40 is seeking to adjudicate, enjoin and take the property rights of Diamond and thousands  
7 of other parties who own property overlying the Antelope Valley, absent a timely declaration by this  
8 court prior to or at the time District 40 seeks an adjudication, an injustice will result from the improper  
9 awarding of property rights to District 40 should this statute be later found to apply to District 40.

10 23. Diamond and numerous other private parties will suffer irreparable and lasting injury  
11 unless declaratory relief is granted.

12 **Second Cause of Action**

13 (Declaratory Relief Against Palmdale Water District to Determine Validity of Statute)

14 24. Cross-Complainant refers to and incorporates, as though fully set forth herein, paragraphs  
15 1 through 16, inclusive, of this Cross-Complaint.

16 25. In or about 1943, the Legislature of the State of California enacted Sections 20500 et seq.  
17 of the Water Code, known as the Irrigation District Law, hereinafter referred to as the "Irrigation  
18 Statutes." In 1943, the legislature added section 22456. This section, since its adoption has been, and  
19 now is, in full force and effect. This statute provides as follows:

20 "The district may exercise the right of eminent domain to take any property necessary to  
21 carry out its purposes."

22 26. Palmdale contends that section 22456 of the Water Code does not act to limit, in any  
23 manner, the mode or method of acquiring an overlying landowner's water rights within the Antelope  
24 Valley and that, despite its status as a public entity, Article 1, Section 19 of the California Constitution,  
25 and the 5th Amendment to the Federal Constitution, it is nonetheless empowered to acquire private  
26 property for public use through the common law doctrine of prescription, without due process and  
27 without compensation.

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1 27. Diamond contends that the statute is constitutional, and when conjoined with the  
2 California state and Federal Constitutions, limits the method, manner and mode by which Palmdale may  
3 acquire private property for a public use and the rights appurtenant thereto by declaring that the only  
4 legal right of the district to take possession of land without consent of the owners is under its power of  
5 eminent domain. By virtue of Palmdale's actions as set forth above, an actual controversy has arisen and  
6 now exists between Palmdale and Diamond concerning their respective rights, duties, and  
7 responsibilities under that statute and both Constitutions.

8 28. Diamond desires a declaration of its rights with respect to the constitutionality and  
9 application or nonapplication of the statute and asks the court to make a declaration of such rights,  
10 duties, and responsibilities, and to make a declaration as to the validity and constitutionality of the  
11 statute. Diamond seeks a declaration that the effort of the district is, without compensation, ultra vires  
12 and unconstitutional. Such a declaration is necessary and appropriate at this time in order that  
13 Diamond's property rights be protected and to ensure that Palmdale proceeds according to the law and  
14 Constitution of the state and the Federal Constitution. There are no administrative remedies available  
15 to Diamond.

16 29. A timely declaration by this court is urgent for the following reasons: by way of this  
17 action Palmdale is seeking to adjudicate, enjoin and take the property rights of Diamond and thousands  
18 of other parties who own property overlying the Antelope Valley, absent a timely declaration by this  
19 court prior to or at the time Palmdale seeks an adjudication, injustice will result from the improper  
20 awarding of property rights to Palmdale should this statute be later found to limit the method by which  
21 Palmdale may forcibly acquire property rights.

22 30. Diamond and numerous other private parties will suffer irreparable and lasting injury  
23 unless declaratory relief is granted.

### 24 **Third Cause of Action**

25 (Declaratory Relief Against Rosamond and Quartz Hill to Determine Validity of Statute)

26 31. Cross-Complainant refers to and incorporates, as though fully set forth herein, paragraphs  
27 1 through 16, inclusive, of this Cross-Complaint.

1           32.     In or about 1949, the Legislature of the State of California enacted Sections 30000 et seq.  
2 of the Water Code, known as the County Water District Law, hereinafter referred to as the "County  
3 Water Statutes." In 1975, the legislature amended section 31040. This amended statute became operative  
4 on July 1, 1976 and since then, has been, and now is, in full force and effect. This section provides as  
5 follows:

6           “A district may take any property necessary to carry out the business of the district by  
7 grant, purchase, gift, devise, condemnation, or lease with or without the privilege of  
purchase.”

8           33.     Rosamond and Quartz Hill contend that section 31040 of the Water Code does not act  
9 to limit, in any manner, the mode or method by which they may acquire an overlying landowner’s water  
10 rights within the Antelope Valley and that, despite their status as public entities, Article 1, Section 19  
11 of the California Constitution, and the 5th Amendment to the Federal Constitution, they are nonetheless  
12 empowered to take private property for public use through the common law doctrine of prescription,  
13 without due process and without compensation.

14           34.     Diamond contends that the statute is constitutional, and when conjoined with the  
15 California state and Federal Constitutions, limits the method, manner and mode by which Rosamond and  
16 Quartz Hill may acquire private property for a public use and the rights appurtenant thereto by declaring  
17 that the only legal right of the districts to take possession of property without consent of the owners is  
18 under its power of eminent domain. By virtue of Rosamond’s and Quartz Hill’s actions as set forth  
19 above, an actual controversy has arisen and now exists between Rosamond, Quartz Hill and Diamond  
20 concerning their respective rights, duties, and responsibilities under that statute and both Constitutions.

21           35.     Diamond desires a declaration of its rights with respect to the constitutionality and  
22 application or nonapplication of the statute and asks the court to make a declaration of such rights,  
23 duties, and responsibilities, and to make a declaration as to the validity and constitutionality of the  
24 statute. Diamond seeks a declaration that the effort of the district is, without compensation, ultra vires  
25 and unconstitutional. Such a declaration is necessary and appropriate at this time in order that Diamond’s  
26 property rights be protected and to ensure that Rosamond and Quartz Hill proceed according to the law

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1 and Constitution of the state and the Federal Constitution. There are no administrative remedies available  
2 to Diamond.

3 36. A timely declaration by this court is urgent for the following reasons: by way of this  
4 action Rosamond and Quartz Hill are seeking to adjudicate, enjoin and take the property rights of  
5 Diamond and thousands of other parties who own property overlying the Antelope Valley, absent a  
6 timely declaration by this court prior to or at the time Rosamond and Quartz Hill seek an adjudication,  
7 injustice will result from the improper awarding of property rights to Rosamond and/or Quartz Hill  
8 should this statute be later found to apply.

9 37. Diamond and numerous other private parties will suffer irreparable and lasting injury  
10 unless declaratory relief is granted.

#### 11 **Fourth Cause of Action**

12 (Declaratory Relief Against District 40, Palmdale, Rosamond and Quartz Hill to Determine  
13 Applicability of California Constitution.)

14 38. Cross-Complainant refers to and incorporates, as though fully set forth herein, paragraphs  
15 1 through 37, inclusive, of this Cross-Complaint.

16 39. Article 1 Section 19 of the California Constitution provides as follows:

17 “Private property may be taken or damaged for public use only when just compensation,  
18 ascertained by a jury unless waived, has first been paid to, or into court for, the owner.  
19 The Legislature may provide for possession by the condemnor following commencement  
20 of eminent domain proceedings upon deposit in court and prompt release to the owner  
21 of money determined by the court to be the probable amount of just compensation.”

22 40. The purveyors contend that, even though they are political subdivisions who are vested  
23 with the power of eminent domain, they are nonetheless legally permitted to take private property for  
24 public use without first paying just compensation.

25 41. Diamond contends that the use of the word “only” within Article 1 Section 19 is a clear  
26 temporal limitation on the Purveyor’s lawful ability to take private property for the public benefit to only  
27 those instances where just compensation has first been paid. By virtue of the purveyor’s actions as set  
28 forth above, an actual controversy has arisen and now exists between the purveyors and Diamond  
concerning their respective rights, duties, and responsibilities.

1 42. Diamond desires a declaration of its rights with respect to the application or  
2 nonapplication of Article 1 Section 19 to the purveyors and asks the court to make a declaration of such  
3 rights, duties, and responsibilities. Such a declaration is necessary and appropriate at this time in order  
4 that Diamond's property rights may be protected and to insure that the municipal purveyors proceed  
5 according to the California Constitution. There are no administrative remedies available to Diamond.

6 43. A timely declaration by this court is urgent for the following reasons: by way of this  
7 action the purveyors are seeking to adjudicate, enjoin and take the property rights of Diamond and  
8 thousands of other parties who own property overlying the water supply without first paying just  
9 compensation therefor, absent a timely declaration by this court, injustice will result from the improper  
10 taking of the Diamond's property rights should Article 1 section 19 of the California Constitution be  
11 found to apply.

12 44. Diamond and numerous other private parties will suffer irreparable and lasting injury  
13 unless declaratory relief is granted.

14 **Fifth Cause of Action**

15 (Declaratory Relief Against District 40, Palmdale, Rosamond and Quartz Hill to Determine  
16 Applicability of Constitutional Article.)

17 45. Cross-Complainant refers to and incorporates, as though fully set forth herein, paragraphs  
18 1 through 44, inclusive, of this Cross-Complaint.

19 46. Article 1 Section 19 of the California Constitution provides as follows:

20 "Private property may be taken or damaged for public use only when just compensation,  
21 ascertained by a jury unless waived, has first been paid to, or into court for, the owner.  
22 The Legislature may provide for possession by the condemnor following commencement  
of eminent domain proceedings upon deposit in court and prompt release to the owner  
of money determined by the court to be the probable amount of just compensation."

23 47. The purveyors contend that, even though they are political subdivisions who are vested  
24 with the power of eminent domain, they are nonetheless legally allowed to take private property for  
25 public use through prescription or adverse possession and without compensation.

26 48. Diamond contends that the use of the word "only" within Article 1 Section 19 is a clear  
27 limitation on the Purveyor's authority and the manner in which they may take private property for the  
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1 public benefit. That this limitation forecloses the ability of any governmental entity to take or acquire  
2 private property for a public use under a theory of prescription or adverse possession. By virtue of the  
3 purveyor's actions as set forth above, an actual controversy has arisen and now exists between the  
4 purveyors and Diamond concerning their respective rights, duties, and responsibilities.

5 49. Diamond desires a declaration of its rights with respect to the application or  
6 nonapplication of Article 1 Section 19 to the purveyors' prescription claims and asks the court to make  
7 a declaration of such rights, duties, and responsibilities. Such a declaration is necessary and appropriate  
8 at this time in order that Diamond's property rights may be protected and to insure that the municipal  
9 purveyors may proceed according to the California Constitution. There are no administrative remedies  
10 available to Diamond.

11 50. A timely declaration by this court is urgent for the following reasons: by way of this  
12 action the purveyors are seeking to adjudicate and enjoin the property rights of Diamond and thousands  
13 of other parties by avoiding the due process protections provided to these landowners under Code of  
14 Civil Procedure sections 1230.010 through 1237.040. Absent a timely declaration by this court, injustice  
15 will result from the improper use and adjudication of the cross-defendants' property rights should Article  
16 1 section 19 of the California Constitution be found to apply.

17 51. Diamond and numerous other private parties will suffer irreparable and lasting injury  
18 unless declaratory relief is granted.

19 **Sixth Cause of Action**

20 (Declaratory Relief Against District 40, Palmdale, Rosamond and Quartz Hill to Determine  
21 Applicability of Constitution.)

22 52. Cross-Complainant refers to and incorporates, as though fully set forth herein, paragraphs  
23 1 through 51, inclusive, of this Cross-Complaint.

24 53. Article I Section 7 of the California Constitution provides in pertinent part as follows:  
25 "A person may not be deprived of life, liberty, or property without due process of law or  
26 denied equal protection of the laws; . . ."

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1 The 5<sup>th</sup> Amendment to the Constitution as applied by the 14<sup>th</sup> Amendment in relevant part  
2 provides:

3 “No person shall . . . be deprived of life, liberty, or property, without due process of law;  
4 nor shall private property be taken for public use, without just compensation.”

5 54. The purveyors contend that, even though they are political subdivisions who are uniquely  
6 invested with the power of eminent domain, they are allowed to surreptitiously take private property for  
7 public use by prescription or adverse possession without providing substantive or procedural due process  
8 of law to each overlying landowner. The Purveyors contend that prescription commences with  
9 “overdraft,” and that presumed or constructive notice is sufficient.

10 55. Diamond contends that the Article I, Section 7, of the State Constitution, and the 5<sup>th</sup>  
11 Amendment as applied by the 14<sup>th</sup> Amendment of the Federal Constitution, mandates that governmental  
12 entities must provide substantive and procedural due process of law when taking private property for a  
13 public use. Diamond contends that the prescriptive period cannot commence until the governmental  
14 entity takes affirmative action designed and intended to give notice and inform the overlying landowners  
15 of the governmental entity’s adverse and hostile claim. Diamond further contends that this limitation  
16 forecloses the ability of any governmental agency to take or acquire private property for a public use  
17 when constitutionally sufficient due process notice has not been provided to the land owner. By virtue  
18 of the purveyor’s actions as set forth above, an actual controversy has arisen and now exists between the  
19 purveyors and Diamond concerning their respective rights, duties, and responsibilities.

20 56. Diamond desires a declaration of its rights with respect to the application or  
21 nonapplication of Article I Section 7 and the 5<sup>th</sup> Amendment to the U.S. Constitution to the purveyors’  
22 prescription claims and asks the court to make a declaration of such rights, duties, and responsibilities.  
23 Such a declaration is necessary and appropriate at this time in order that Diamond’s property rights may  
24 be protected and to insure that the municipal purveyors may proceed according to the California  
25 Constitution. There are no administrative remedies available to Diamond.

26 57. A timely declaration by this court is urgent for the following reasons: by way of this  
27 action the purveyors are seeking to adjudicate and enjoy the property rights of Diamond and thousands  
28 of other parties by avoiding the due process protections provided to these landowners under Article I

1 Section 7, the 5<sup>th</sup> and 14<sup>th</sup> Amendments and Code of Civil Procedure sections 1230.010 through  
2 1237.040. Absent a timely declaration by this court, injustice will result from the improper use and  
3 adjudication of Diamond's property rights should the foregoing constraints and statutory mandate be  
4 found applicable.

5 58. Diamond and numerous other private parties will suffer irreparable and lasting injury  
6 unless declaratory relief is granted.

7 **Seventh Cause of Action**

8 (Declaratory Relief Against District 40, Palmdale, Rosamond and Quartz Hill.)

9 59. Cross-Complainant refers to and incorporates, as though fully set forth herein, paragraphs  
10 1 through 16, inclusive, of this Cross-Complaint.

11 60. Diamond Farming, Inc. is the owner and/or lessee of real property located in both Kern  
12 County and Los Angeles County. Diamond's properties overly the Antelope Valley. Located on  
13 Diamond's property are water wells which produce water from the Supply. Diamond and or its  
14 predecessors in interest, have continually produced water from these wells without restriction and in  
15 quantities as were needed to perform its farming and irrigation operations from year to year.

16 61. Based on information and belief, it is alleged that Purveyors all pump groundwater from  
17 the Antelope Valley and then sell it to other individuals and entities who reside within Kern County and  
18 Los Angeles Counties.

19 62. An actual controversy has arisen and now exists between Diamond and the Purveyors  
20 concerning their respective rights and duties in that the Purveyors contend that they have been pumping  
21 water during a continuous 5 year period during which the common supply has been in a state of  
22 overdraft; that this pumping has resulted in a reversal of the common law legal priority granted to  
23 overlying land owners pursuant to the common law doctrine of prescription. Whereas, Diamond  
24 disputes this contention and contends that by continuing to pump groundwater from the wells on its land,  
25 and by continuing to thus meet all of the water needs to perform its farming operations, Diamond has  
26 preserved and maintained its priority rights to the use of groundwater.

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1 63. Diamond desires a judicial determination of each party's rights and duties, and a  
2 declaration as to the status of each party's priority rights to the water in the Valley whether they be  
3 overlying, appropriative or prescriptive.

4 64. A judicial declaration is necessary and appropriate at this time under the circumstances  
5 in order that Diamond may ascertain its rights and duties relating to production of water from the  
6 Antelope Valley.

7 **Eighth Cause of Action**

8 (Declaratory Relief Against District 40, Palmdale, Rosamond and Quartz Hill.)

9 65. Cross-Complainant refers to and incorporates, as though fully set forth herein, paragraphs  
10 1 through 16, inclusive, of this Cross-Complaint.

11 66. AVEK and others provide the Antelope Valley with water imported from northern  
12 California. This imported water was and is available for purchase by the Purveyors.

13 67. Despite having knowledge that the pumping of groundwater in excess of the safe yield  
14 caused damage, and despite the knowledge and belief that continued pumping would damage the rights  
15 of the landowners whose property overlies the water supply, the Purveyors have failed and refused to  
16 slow, stop or reduce their groundwater extractions from the supply and/or to supplement or replace their  
17 water needs from the available imported AVEK water.

18 68. The California Constitution, Article X, section 2 provides, in pertinent part, as follows:

19 "It is hereby declared that because of the conditions prevailing in this State the general  
20 welfare requires that the water resources of the State be put to beneficial use to the fullest  
21 extent of which they are capable, and that the waste or unreasonable use or unreasonable  
22 method of use of water be prevented, and that the conservation of such waters is to be  
23 exercised with a view to the reasonable and beneficial use thereof in the interest of the  
24 people and for the public welfare. The right to water or to the use or flow of water in or  
25 from any natural stream or water course in this State is and shall be limited to such water  
26 as shall be reasonably required for the beneficial use to be served, and such right does not  
27 and shall not extend to the waste or unreasonable use or unreasonable method of use or  
28 unreasonable method of diversion of water. . . ."

25 69. An actual controversy has arisen and now exists between Diamond and each Purveyor  
26 concerning their respective rights and duties in that Diamond contends that the Purveyor's continued  
27 dependence on, and use of, the groundwater, their continued and increased extractions of groundwater

1 from the common supply, with knowledge that the extractions exceed the safe yield, and their failure  
2 and/or refusal to take all of the available imported water, is unreasonable and constitutes a waste in  
3 violation of Article X, Section 2 of the California Constitution. The Purveyors dispute these contentions  
4 and contend that their dependance on groundwater, their continued and increasing extractions of  
5 groundwater from the Antelope Valley in excess of the safe yield and their failure and refusal to take  
6 all of the available imported water is reasonable and does not constitute waste of groundwater and/or  
7 available imported water under Article X, Section 2 of the California Constitution.

8 70. Diamond desires a declaration of its rights with respect to the constitutionality and  
9 application or nonapplication of Article X, Section 2 to the Purveyors' actions and asks the court to make  
10 a declaration of such rights, duties, and responsibilities, and to make a declaration as to the validity and  
11 constitutionality of the Article X, Section 2. Such a declaration is necessary and appropriate at this time  
12 in order that Diamond's property rights may be protected and to insure that the Purveyors may proceed  
13 under the law and cause no further damage to Diamond or property overlying the water supply. There  
14 are no administrative remedies available to Diamond.

15 71. A timely declaration by this court is urgent for the following reasons: by way of this  
16 action, the Purveyors are seeking to have the court ratify their method and choice of water usage and  
17 declare that they have the right to continue to extract groundwater from the Valley in excess of the safe  
18 yield and to continue to cause damage to the Valley itself as well as to the land overlying the water  
19 supply, absent a timely declaration by this court prior to or at the time the Purveyors seek adjudication,  
20 an injustice will result from the improper validation of the Purveyors' water usage should this  
21 constitutional provision be found to apply to the Purveyors.

22 72. Diamond and numerous other private parties will suffer irreparable and lasting injury  
23 unless declaratory relief is granted.

24 **Ninth Cause of Action**

25 (Declaratory Relief Against District 40, Palmdale, Rosamond and Quartz Hill.)

26 73. Cross-Complainant refers to and incorporates, as though fully set forth herein, paragraphs  
27 1 through 16, inclusive, of this Cross-Complaint.

1           74.     On January 8, 2006, the Purveyors filed a Cross-Complaint in this matter seeking to  
2 implement policy objectives which were stated in paragraph 1 as follows:

3           “To promote the general public welfare in the Antelope Valley; protect the public water  
4 supplier’s rights to pump groundwater and provide water to the public; protect the  
5 Antelope Valley from a loss of the public’s water supply; prevent degradation of the  
6 quality of the public groundwater supply; stop land subsidence; and avoid higher water  
7 costs to the public.”

8           75.     In order to implement these policy objectives, the Purveyors have brought a cause of  
9 action against all owners of property overlying the Antelope Valley seeking the imposition of a “physical  
10 solution” that would manage the groundwater supply by augmenting the water supply, manage the  
11 pumping and storage of water and impose monetary assessments on water extraction from the supply.

12           76.     An actual controversy has arisen and now exists between Diamond and the Purveyors  
13 concerning their respective rights and duties in that Diamond contends that it is a violation of the  
14 Constitutional doctrine of the separation of powers for this Court to implement the Purveyors’ policy  
15 objectives as they are by nature legislative actions, subject to the provisions of the California  
16 Environmental Quality Act (hereinafter “CEQA”; Public Resources Code sections 21000-21177.) That  
17 the requirements of CEQA are both procedural (requiring notice, disclosure and a review process) and  
18 substantive (by requiring public agencies to take affirmative measures to avoid environmental harm and  
19 to also protect the citizens and landowners of the State of California.)

20           77.     The Purveyors contend that they may use the judicial system to circumvent CEQA and  
21 impose by judicial fiat what should be a legislative policy. In doing so, they seek to avoid providing the  
22 public with the required disclosures and evaluations, and thereby deny Diamond and the public their  
23 procedural and substantive protections required by CEQA.

24           78.     Diamond desires a judicial determination of the Purveyors’ rights and duties, and a  
25 declaration as to the application of Public Resources Code sections 21000-21177 to any proposed water  
26 management plan sought to be implemented by judicial decree by the Purveyors. That the legislative  
27 protections afforded to the public under CEQA cannot be ignored or subverted by resorting to the court  
28 to implement the Purveyor’s plan, and that such a request of this Court induces a violation of the  
29 doctrine of the separation of powers.



1 79. A judicial declaration is necessary and appropriate at this time under the circumstances  
2 in order that Diamond may ascertain its rights and duties relating to production of water from the  
3 Antelope Valley.

4 **Tenth Cause of Action**

5 (Declaratory Relief Against District 40, Palmdale, Rosamond and Quartz Hill.)

6 80. Cross-Complainant refers to and incorporates, as though fully set forth herein, paragraphs  
7 1 through 16, inclusive, of this Cross-Complaint.

8 81. On January 8, 2006, the Purveyors filed a Cross-Complaint in this matter seeking to  
9 implement policy objectives which were stated in paragraph 1 as follows:

10 “To promote the general public welfare in the Antelope Valley; protect the public water  
11 supplier’s rights to pump groundwater and provide water to the public; protect the  
12 Antelope Valley from a loss of the public’s water supply; prevent degradation of the  
quality of the public groundwater supply; stop land subsidence; and avoid higher water  
costs to the public.”

13 82. In order to implement these policy objectives, the Purveyors have brought a cause of  
14 action against all owners of property overlying the Antelope Valley seeking the imposition of a “physical  
15 solution” that would manage the groundwater supply by augmenting the water supply, manage the  
16 pumping and storage of water and impose monetary assessments on water extraction from the supply.

17 83. An actual controversy has arisen and now exists between Diamond and the Purveyors  
18 concerning their respective rights and duties in that Diamond contends that it is a violation of the  
19 Constitutional doctrine of the separation of powers for this Court to implement the Purveyors’ policy  
20 objectives as they are by nature legislative and executive actions that are within the power of the  
21 Purveyors to enact by following the statutory requirements set forth in Water Code sections 10700-  
22 10795.20. These sections of the Water Code provide the procedural method by which the Purveyors  
23 must implement a ground water management plan and also ensures constitutionally required process  
24 through the required public hearings, notice, and publication of the proposed management plan, and the  
25 opportunity for public discourse, input and objection.

26 84. The Purveyors contend that they may use the judicial system to impose by judicial fiat  
27 what would otherwise be done through legislative action. In doing so, they seek to avoid providing the  
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1 public with the required notice, hearing and disclosures and deny them their procedural and substantive  
2 protections provided by the Constitution and the Water Code sections 10700-10795.20..

3 85. Diamond desires a judicial determination of the Purveyors' rights and duties, and a  
4 declaration as to the application and propriety of Water Code sections 10700-10795.20 to the proposed  
5 water management project sought to be implemented by the Purveyors. That the legislative protections  
6 afforded to the public under the Water Code may not be ignored or subverted by the filing of a legal  
7 action by a public agency, and that such action requests this court to violate the doctrine of separation  
8 of powers.

9 86. A judicial declaration is necessary and appropriate at this time under the circumstances  
10 in order that Diamond may ascertain its rights and duties relating to its continued production of water  
11 from the Antelope Valley.

#### 12 **Eleventh Cause of Action**

13 (Declaratory Relief Against District 40, Palmdale, Rosamond and Quartz Hill.)

14 87. Cross-Complainant refers to and incorporates, as though fully set forth herein, paragraphs  
15 1 through 16, inclusive, of this Cross-Complaint.

16 88. Commencing with the filing of the original Answers to the action by Diamond against  
17 the named Purveyors, each Purveyor has claimed that the Antelope Valley was in a state of "overdraft"  
18 for more than five (5) years prior to the filing of that Complaint.

19 89. Based on information and belief, it is alleged that immediately prior to, during and after  
20 the same claimed five year period of "overdraft" claimed by the Purveyors, the purveyors have continued  
21 to approve the issuance of well permits to Diamond and others, approve large scale developments and  
22 have authorized others thus increasing demand for groundwater pumped by the Purveyors from the  
23 Antelope Valley. In performing their ministerial and discretionary functions, each purveyor has  
24 acknowledged that the additional well permits, hook ups and added residential, industrial and  
25 commercial developments, and the concomitant increased pumping of ground water caused thereby,  
26 would not, and did not, have under CEQA an adverse affect on the water supply available from the  
27 Antelope Valley.

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1 Purveyors have claimed to have knowledge that this continuous and increasing use caused a progressive  
2 and chronic decline in long term water supply and the available natural supply is being and has been  
3 chronically depleted. Based on the present trends, demand will continue to exceed supply which will  
4 cause damage to private rights and ownership of real property.

5 96. The aforementioned extractions of groundwater from the supply constitute a continuing  
6 progressive nuisance within the meaning of Section 3479 of the Civil Code, in that it the Purveyors have  
7 created a condition in the future supply that is injurious to Diamond's right, in the future, to freely use  
8 and exercise its overlying property rights to extract groundwater from the common supply in the  
9 customary manner. The Purveyors are attempting, through the combined efforts of their pumping  
10 groundwater and this present legal action, to take, and or alter, Diamond's overlying property rights to  
11 use and access the Antelope Valley supply.

12 97. In late 1999, Diamond filed an action to protect its free use and access to the Antelope  
13 Valley water supply. Despite this action, the Purveyors, and each of them, have continued to and  
14 actually have increased their pumping, despite the actual knowledge of the damage caused by that  
15 pumping. The Purveyors have refused, and continue to refuse, to stop or reduce their pumping  
16 regardless of the damage to Diamond's property rights.

17 98. This nuisance affects, at the same time, a substantial number of persons in that, the  
18 Purveyors claim that the continued pumping in excess of the supply's safe yield is, and will, eventually  
19 cause a chronic decline in water levels and the available natural supply will be chronically depleted, that,  
20 based on the present trends, demand will continue to exceed supply which will continue to cause a  
21 reduction in the long term supply. Additionally, the continued pumping by the Purveyors under these  
22 conditions will result in the unlawful obstruction of the overlying landowner's rights to use the water  
23 supply in the customary manner.

24 99. The Purveyors, and each of them, have threatened to and will, unless restrained by this  
25 court, continue to pump groundwater in increasing amounts, and each and every act has been, and will  
26 be, without the consent, against the will, and in violation of the rights of Diamond.

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1           107. The Purveyors, and each of them, were, at all times mentioned in this cross-complaint,  
2 acting under color of state law.

3           108. At an as yet unidentified historical point in time, the Purveyors began pumping water  
4 from the Antelope Valley as permissive appropriators. Over the course of time, it is believed and  
5 therefore alleged, that the aggregate amount of water being extracted from the Valley began to exceed  
6 the safe yield resulting in a condition called “overdraft.” Diamond is informed and believes and based  
7 thereon alleges, that the Purveyors had knowledge of the “overdraft” condition and nonetheless  
8 continued pumping and increased their pumping with the specific intent to impair and take all superior  
9 overlying property rights to extract groundwater, including Diamonds. Each Purveyor continued to  
10 pump and increased its pumping of groundwater believing that given the intervention of the committed  
11 public use, that no injunction would issue to restrain and/or compel the Purveyor to reduce its  
12 dependence upon groundwater. Each Purveyor contends that despite its status as a governmental entity,  
13 it can nonetheless take private property for a public use under a theory of prescription and without  
14 compensation. Each Purveyor claims that presumed or constructive knowledge of the overdraft  
15 condition is sufficient to commence the running of the statutory prescriptive period. Each Purveyor did  
16 not undertake any affirmative action reasonably calculated and intended to provide notice and inform  
17 any affected landowner, including Diamond, of its adverse and hostile claim. Each Purveyor contends  
18 that it has taken the private property rights of Diamond and others, and committed them to a public use,  
19 without following the Constitutional constraints imposed by Article 1, Section 9, of the California  
20 Constitution, and the eminent domain law, Code of Civil Procedure Section 1230.010 et seq., and  
21 specifically, the substantive and procedural protections contemplated by Code of Civil Procedure Section  
22 1245.230. The acts of the Purveyors were done under the color of state law with the intent of depriving  
23 Diamond of its property rights without substantive and procedural due process of law and to avoid  
24 payment of compensation to Diamond for the property rights taken in violation of the 5th and 14th  
25 Amendments to the United States Constitution.

26           109. Diamond is informed and believes and thereon alleges that it was subjected to a violation  
27 of its right to due process of law prior to the taking of its property and its right to receive just  
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1 compensation when its property is taken for the public benefit. This violation was a direct result of the  
2 knowing customs, practices, and policies of the Purveyors.

3 110. The customs, practices, and policies of the Purveyors to prescript or adversely possess  
4 the property rights of property owners amounted to deliberate indifference to the rights of persons, such  
5 as Diamond, who stand to lose their rights to extract water from the Antelope Valley for use on their  
6 property through the surreptitious actions of the Purveyors.

7 111. As a direct and proximate result of the acts of the Purveyors, Diamond has suffered  
8 injury, loss, and damage, including a cloud upon its title to its real property, a reduction in value, and  
9 the loss of its right in the future to extract and use groundwater from the Valley.

10 **First Cause of Action**

11 WHEREFORE, cross-complainant prays for a declaratory judgment as follows:

- 12 1. That the court declare the respective rights, duties, and responsibilities of District 40 and  
13 Diamond under the statute in question and that by its declaration and judgment the court declare that the  
14 statute applies to District 40 in this matter, and that the statutes is constitutional and valid;
- 15 2. That District 40 and all others acting in on its behalf, be enjoined from taking property  
16 or the rights attendant thereto in any manner not set forth in the provisions of Water Code section 55370;
- 17 3. For costs of suit herein incurred; and
- 18 4. For such other and further relief as the court deems proper.

19 **Second Cause of Action**

20 WHEREFORE, cross-complainant prays for a declaratory judgment as follows:

- 21 1. That the court declare the respective rights, duties, and responsibilities of Palmdale and  
22 Diamond under the statute in question and that by its declaration and judgment the court declare that the  
23 statute applies to Palmdale in this matter, and that the statutes is constitutional and valid;
- 24 2. That Palmdale and all others acting in on its behalf, be enjoined from taking property or  
25 the rights attendant thereto in any manner not set forth in the provisions of Water Code section 22456;
- 26 3. For costs of suit herein incurred; and
- 27 4. For such other and further relief as the court deems proper.

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**Third Cause of Action**

WHEREFORE, cross-complainant prays for a declaratory judgment as follows:

1. That the court declare the respective rights, duties, and responsibilities of Rosamond and Quartz Hill under the statute in question and that by its declaration and judgment the court declare that Water Code section 31040 applies to Rosamond and Quartz Hill in this matter, and that the statute is constitutional and valid;
2. That Rosamond and Quartz Hill and all others acting in on their behalf, be enjoined from taking property or the rights attendant thereto in any manner not set forth in the provisions of Water Code section 31040;
3. For costs of suit herein incurred; and
4. For such other and further relief as the court deems proper.

**Fourth Cause of Action**

WHEREFORE, cross-complainant prays for a declaratory judgment as follows:

1. That the court declare the respective rights, duties, and responsibilities of the purveyors under Article 1 Section 19 of the California Constitution and that by its declaration and judgment the court declare that Article 1 Section 19 applies to the purveyors in this matter, and that just compensation is a prerequisite to any taking by governmental entities;
2. That the purveyors and all others acting in on their behalf, be enjoined from taking property or the rights attendant thereto in any manner not set forth in the provisions of Article 1 Section 19 of the California Constitution;
3. For costs of suit herein incurred; and
4. For such other and further relief as the court deems proper.

**Fifth Cause of Action**

WHEREFORE, cross-complainant prays for a declaratory judgment as follows:

1. That the court declare the respective rights, duties, and responsibilities of the purveyors under Article 1 Section 19 of the California Constitution and that by its declaration and judgment the court declare that Article 1 Section 19 applies to the purveyors in this matter, and that Section 19



1 prohibits a governmental entity from taking private property for public use under the doctrines of  
2 prescription or adverse possession;

3 2. That the purveyors and all others acting in on their behalf, be enjoined from taking  
4 property or the rights attendant thereto in any manner not set forth in the provisions of Article 1 Section  
5 19 of the California Constitution;

6 3. For costs of suit herein incurred; and

7 4. For such other and further relief as the court deems proper.

8 **Sixth Cause of Action**

9 WHEREFORE, cross-complainant prays for a declaratory judgment as follows:

10 1. That the court declare the respective rights, duties, and responsibilities of the purveyors  
11 under Article 1 Section 7 of the California Constitution and that by its declaration and judgment the  
12 court declare that Article 1 Section 7 applies to the municipal purveyors in this matter, and that Section  
13 7 prohibits a governmental entity from taking private property for public without providing due process  
14 of law to the individual whose property is being taken;

15 2. That the municipal purveyors and all others acting in on their behalf, be enjoined from  
16 taking property or the rights attendant thereto in any manner not set forth in the provisions of Article 1  
17 Section 7 of the California Constitution;

18 3. For costs of suit herein incurred; and

19 4. For such other and further relief as the court deems proper.

20 **Seventh Cause of Action**

21 WHEREFORE, plaintiff prays judgment as follows:

22 1. For a declaration that Diamond Farming, Inc.'s continued pumping has interrupted  
23 any period of adverse pumping by the Municipal Purveyors negating any claim of prescription and  
24 thereby preserving Diamond Farming's overlying priority right to pump water from the Antelope Valley;

25 2. For costs of suit herein incurred; and

26 3. For such other and further relief as the court may deem proper.

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1 **Eighth Cause of Action**

2 WHEREFORE, cross-complainant prays for a declaratory judgment as follows:

3 1. That the court declare the respective rights, duties, and responsibilities of the Purveyors  
4 and Diamond under the statute in question and that by its declaration and judgment the court declare that  
5 the Article X, Section 2 applies and that the Purveyors continued dependence on, and increased use of,  
6 groundwater in excess of the safe yield is unreasonable and constitutes waste;

7 2. That the Purveyors and all others acting in on their behalf, be enjoined from engaging in  
8 the continued unreasonable and wasteful use of the groundwater in violation of the provisions of Article  
9 X, Section 2 of the California Constitution;

10 3. For costs of suit herein incurred; and

11 4. For such other and further relief as the court deems proper.

12 **Ninth Cause of Action**

13 WHEREFORE, plaintiff prays judgment as follows:

14 1. For a declaration that the doctrine of separation of powers prohibits this court from  
15 imposing the objectives of he Purveyors upon the groundwater supply; that the implementation of the  
16 Purveyors' objectives requires compliance with the California Environmental Quality Act (Public  
17 Resources Code sections 21000-21177 to provide the required procedural and substantive protections  
18 to the citizens of the State of California.

19 2. For costs of suit herein incurred; and

20 3. For such other and further relief as the court may deem proper.

21 **Tenth Cause of Action**

22 WHEREFORE, plaintiff prays judgment as follows:

23 1. For a declaration that the doctrine of separation of powers prohibits this court from  
24 imposing the objectives of he Purveyors upon the groundwater supply; that the implementation of the  
25 Purveyors' objectives requires the Purveyors to act pursuant to the requirements of Water Code section  
26 10700-10795.20;

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- 1 2. For costs of suit herein incurred; and  
2 3. For such other and further relief as the court may deem proper.

3 **Eleventh Cause of Action**

4 WHEREFORE, plaintiff prays judgment as follows:

5 1. For a declaration that each Purveyor is barred from asserting that the Antelope Valley is  
6 or was in a state of “overdraft” during the time that the Purveyors were issuing water permits, adding  
7 new water customers and authorizing the large scale projects over the water supply pursuant to Evidence  
8 Code section 623;

- 9 2. For costs of suit herein incurred; and  
10 3. For such other and further relief as the court may deem proper.

11 **Twelfth Cause of Action**

12 WHEREFORE, plaintiff prays judgment against defendants, and each of them, as follows:

13 1. For a physical solution stopping the Purveyors from increasing any extractions from the  
14 Antelope Valley and ordering the Purveyors to abate the nuisance by purchasing imported water to  
15 replenish the groundwater supply and replace the extractions made by the Purveyors in excess of the safe  
16 yield;

- 17 2. For general damages according to proof;  
18 3. For punitive damages;  
19 4. For costs of suit herein incurred; and  
20 5. For such other and further relief as the court may deem proper.

21 **Thirteenth Cause of Action**

22 WHEREFORE, Diamond prays judgment against each Purveyor as follows:

- 23 1. For compensatory damages, in an amount to be determined according to proof at trial;  
24 2. For reasonable attorney's fees, pursuant to 42 U.S.C. § 1988;

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- 3. For costs of suit incurred in this action; and
- 4. For such other and further relief as the Court deems proper.

Dated: January 2, 2007

LeBEAU • THELEN, LLP

ORIGINAL SIGNED

By: \_\_\_\_\_  
BOB H. JOYCE  
Attorneys for DIAMOND FARMING COMPANY,  
a California corporation

1 **PROOF OF SERVICE**

2 ANTELOPE VALLEY GROUNDWATER CASES  
3 JUDICIAL COUNSEL PROCEEDING NO. 4408  
4 CASE NO.: 1-05-CV-049053

5 I am a citizen of the United States and a resident of the county aforesaid; I am over the age of  
6 eighteen years and not a party to the within action; my business address is: 5001 E. Commercenter  
7 Drive, Suite 300, Bakersfield, California 93309. On January 2, 2007, I served the within  
8 **CROSS-COMPLAINT FOR EQUITABLE AND MONETARY RELIEF AGAINST ROSAMOND**  
9 **COMMUNITY SERVICES DISTRICT, LOS ANGELES COUNTY WATERWORKS DISTRICT**  
10 **NO. 40, PALMDALE WATER DISTRICT, AND QUARTZ HILL WATER DISTRICT**

11  (BY POSTING) I am "readily familiar" with the Court's Clarification Order.  
12 Electronic service and electronic posting completed through [www.scefiling.org](http://www.scefiling.org) ; All papers filed in  
13 Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

14  (BY MAIL) I am "readily familiar" with the firm's practice of collection and  
15 processing correspondence for mailing. Under that practice it would be deposited with the U.S.  
16 Postal Service on that same day with postage thereon fully prepaid at Bakersfield, California, in the  
17 ordinary course of business.

18  (BY FACSIMILE) I placed the above-described document in a facsimile machine  
19 (pursuant to California Rules of Court, Rule 2008(e)(1)) with the fax number of (661) 325-1127,  
20 addressed as stated above. Upon facsimile transmission of the document, I obtained a report from  
21 the transmitting facsimile machine stating that the facsimile transmission was complete and without  
22 error. A copy of the transmission report is attached to this Proof of Service pursuant to California  
23 Rules of Court, Rule 2008(e)(4).

24  (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the  
25 offices of the addressee(s). Executed on \_\_\_\_\_, 2007, at Bakersfield, California.

26  (STATE) I declare under penalty of perjury under the laws of the State of California  
27 that the above is true and correct, and that the foregoing was executed on January 2, 2007, in  
28 Bakersfield, California.

ORIGINAL SIGNED

\_\_\_\_\_  
DONNA M. LUIS