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EXEMPT FROM FILING FEES UNDER
GOVERNMENT CODE SECTION 6103

Attorneys for Federal Defendants

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

Coordination Proceeding
Special Title (Rule 1550(b))

) Judicial Council Coordination
) Proceeding No. 4408
)

ANTELOPE VALLEY GROUNDWATER CASES

Included actions:

Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., et al.
Los Angeles County Superior Court, Case No. BC
325 201

) **UNITED STATES' ANSWER TO
FIRST AMENDED CROSS-
COMPLAINT OF PUBLIC
WATER SUPPLIERS FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND
ADJUDICATION OF WATER
RIGHTS**
)

Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., et al.
Kern County Superior Court, Case No. S-1500-CV-
254-348

Wm. Bolthouse Farms, Inc. v. City of Lancaster
Diamond Farming Co. v. City of Lancaster
Diamond Farming Co. v. Palmdale Water District
Riverside County Superior Court, Consolidated
Action, Case nos. RIC 353 840, RIC 344 436, RIC
344 668

AND RELATED CROSS ACTIONS

1 The United States of America hereby answers the First Amended Cross-Complaint of
2 Public Water Suppliers for Declaratory and Injunctive Relief and Adjudication of Water Rights
3 ("First Amended Cross-Complaint") filed by the California Water Service Company, City of
4 Lancaster, City of Palmdale, Littlerock Creek Irrigation District , Los Angeles County Water
5 Works District No. 40, Palmdale Water District, Rosamond Community Services District, Palm
6 Ranch Irrigation District and Quartz Hill Water District (collectively, the "Public Water
7 Suppliers").

8 **ANSWER**

9 **Paragraphs 1-12, 15-93:** The United States hereby incorporates in this Answer the UNITED
10 STATES' ANSWER TO Cross-Complaint OF MUNICIPAL PURVEYORS FOR
11 DECLARATORY AND INJUNCTIVE RELIEF AND ADJUDICATION OF WATER RIGHTS,
12 filed in this action on February 15, 2006. The United States' previous answer addresses the
13 allegations contained in all paragraphs of the First Amended Cross-Complaint with the exception
14 of new paragraphs 13 and 14, titled the "Class Action Allegations."

15 **Paragraphs 13 and 14:** The United States responds to the Class Action allegations contained in
16 Paragraphs 13 and 14 of the First Amended Cross-Complaint as follows:

17 **Paragraph 13.** The United States denies the allegations contained in the first two
18 sentences of Paragraph 13. The United States lacks sufficient knowledge to admit or deny the
19 allegations contained in the third sentence of this paragraph, and denies them on that basis.

20 **Paragraph 14.** The United States denies the allegations contained in Paragraph 14.

21
22 **AFFIRMATIVE DEFENSES**

23 First Defense

24 This Court lacks subject matter jurisdiction. There is no waiver of the sovereign immunity of the
25 United States for this suit under the McCarran Amendment, 43 U.S.C. § 666, or any other
26 statute.

27 Second Defense

28 The United States is immune from judgment for costs.

Third Defense

1 The First Amended Cross-Complaint asserts causes of action which are not part of a general
2 stream adjudication under state or federal law.

3 Fourth Defense

4 The Cross-Complainants have failed to join necessary and indispensable parties.

5 Fifth Defense

6 The Cross-Complainants have failed to state a claim upon which relief can be granted.

7 Sixth Defense

8 The Cross-Complainants, and other parties, are not entitled to prescription against the United
9 States' water rights.

10 Seventh Defense

11 The Cross-Complainants have failed to describe with specificity the groundwater basin or
12 aquifer or aquifers or pertinent sub-basins, if any, from which Cross-complainants and Cross-
13 defendants are extracting, or claim the right to extract, groundwater and their allegations are
14 therefore uncertain and defective.

15 Eighth Defense

16 The United States is owner of property overlying the Antelope Valley Groundwater Basin and
17 thus holds overlying rights to the native water of the basin which are prior and paramount to the
18 rights claimed by Cross-Complainants.

19 Ninth Defense

20 The United States is owner of property within the Antelope Valley Groundwater Basin and thus
21 holds federal reserved water rights which are prior and paramount to the rights claimed by
22 Cross-complainants.

23 Tenth Defense

24 The United States extracts water from the Antelope Valley Groundwater Basin that is used, *inter*
25 *alia*, for domestic purposes. The United States is, therefore, entitled to any priority warranted by
26 California Water Code section 106.

27 Eleventh Defense

28 The First Amended Cross-Complaints are barred by applicable statutes of limitations, including

1 but not limited to sections 318, 319, 321, 338, and 343 of the California Code of Civil Procedure.

2 Twelfth Defense

3 The First Amended Cross-Complaints, and each and every cause of action therein, are barred
4 by the doctrine of laches.

5 Thirteenth Defense

6 The First Amended Cross-Complaints, and each and every cause of action therein, are barred
7 by the doctrine of waiver.

8 Fourteenth Defense

9 The First Amended Cross-Complaints, and each and every cause of action therein, are barred
10 by the doctrine of estoppel.

11 Fifteenth Defense

12 The First Amended Cross-Complaint does not state its allegations with sufficient clarity to
13 enable the United States to determine what additional defenses may exist to Cross-complainants'
14 causes of action. The United States therefore reserves the right to assert all other defenses which
15 may pertain to the First Amended Cross-Complaint.

16
17 WHEREFORE, the United States prays for judgment as follows:

- 18 1. That Cross-Complainants take nothing by virtue of their First Amended Cross-Complaint;
19 2. That the United States has rights, including federal reserved rights, to water within the
20 groundwater basin which rights are prior and paramount to the rights of all other parties. That
21 should the Court grant relief pursuant to the First Amended Cross-Complaint, the United States'
22 water rights be determined as superior and senior to all those claimed by other parties;
23 3. For such other and further relief as the Court may deem just and proper.

24
25 Dated: April 13, 2007

26 /s/ R. Lee Leininger
27 R. Lee Leininger
28 Attorney, U.S. Department of Justice

1 **PROOF OF SERVICE**

2 I, Linda C. Shumard, declare:

3 I am a resident of the State of Colorado and over the age of 18 years, and not a party to
4 the within action. My business address is U.S. Department of Justice, Environmental and
5 Natural Resources Section, 1961 Stout Street, 8th Floor, Denver, Colorado 80294.

6 On April 13, 2007, I caused the foregoing documents described as **UNITED STATES’
7 ANSWER TO FIRST AMENDED CROSS-COMPLAINT OF PUBLIC WATER
8 SUPPLIERS FOR DECLARATORY AND INJUNCTIVE RELIEF AND
9 ADJUDICATION OF WATER RIGHTS AND ALL CROSS-COMPLAINTS NOT
10 PREVIOUSLY ANSWERED**, to be served on the parties via the following service::

- 11 BY ELECTRONIC SERVICE AS FOLLOWS by posting the
12 documents(s) listed above to the Santa Clara website in regard to the
13 Antelope Valley Groundwater matter.
- 14 BY MAIL AS FOLLOWS (to parties so indicated on attached service
15 list): By placing true copies thereof enclosed in sealed envelopes
16 addressed as indicated on the attached service list.
- 17 BY OVERNIGHT COURIER: I caused the above-referenced document(s)
18 be delivered to FEDERAL EXPRESS for delivery to the above
19 address(es)

20 Executed on April 13, 2007, at Denver, Colorado.

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/S/ _____
Linda C. Shumard
Legal Support Assistant