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10

11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF LOS ANGELES
13

14 Coordination Proceeding
Special Title (Rule 1550(b))

Judicial Council Coordination Proceeding No.
4408

15 **ANTELOPE VALLEY GROUNDWATER**
16 **CASES**

ASSIGNED FOR ALL PURPOSES TO:
Judge: Honorable Jack Komar

17 Included Actions:

18 Los Angeles County Waterworks District No.
40 v. Diamond Farming Co.
19 Superior Court of California, County of Los
Angeles, Case No. BC 325 201

**ANSWER OF COUNTY SANITATION
DISTRICTS NOS. 14 AND 20 OF LOS
ANGELES COUNTY TO CROSS-
COMPLAINT OF MUNICIPAL
PURVEYORS**

20 Los Angeles County Waterworks District No.
21 40 v. Diamond Farming Co.
Superior Court of California, County of Kern,
22 Case No. S-1500-CV-254-348

23 Wm. Bolthouse Farms, Inc. v. City of
Lancaster
24 Diamond Farming Co. v. City of Lancaster
Diamond Farming Co. v. Palmdale Water
25 Dist.
Superior Court of California, County of
26 Riverside, consolidated actions, Case Nos.
RIC 353 840, RIC 344 436,
27 RIC 344 668.

1 Cross-defendants, County Sanitation District Nos. 14 and 20 of Los Angeles County
2 (hereafter “Districts”), respond to the Cross-Complaint of Municipal Purveyors (hereafter
3 “Public Water Suppliers”), as follows:

4 1. The Districts admit the allegation contained in paragraph 1 that the Public Water
5 Suppliers seek the stated judicial determination. The Districts also admit that the water supply is
6 vital to the public health, safety and welfare of all persons and entities. The Districts deny that
7 an adjudication is necessary. The Districts lack sufficient information or belief to admit or deny
8 the remaining allegations of paragraph 1 and on the basis of such lack of information and belief,
9 deny such allegations.

10 2. The Districts admit that the allegations contained in paragraphs 2, 3, 4, 5 and 6 are true.

11 3. The Districts admit the allegation contained in paragraph 7 that the City of Lancaster is a
12 municipal corporation located in the County of Los Angeles and that the City provides
13 ministerial services to mutual water companies that produce groundwater from the Basin. The
14 Districts lack sufficient information or belief to admit or deny the remaining allegations of
15 paragraph 7 and on that basis of such lack of information and belief, deny such allegations.

16 4. The Districts admit that the allegations contained in paragraphs 8, 9 and 10 are true.

17 5. The Districts admit the allegation contained in paragraph 11 that the Districts own real
18 property within the geographical boundaries of the Basin and claim overlying rights to extract
19 water from the Basin. The Districts lack sufficient information or belief to admit or deny the
20 remaining allegations of paragraph 11 and on the basis of such lack of information and belief,
21 deny such allegations.

22 6. The Districts lack sufficient information or belief to admit or deny the allegations of
23 paragraph 12 and on the basis of such lack of information and belief, deny such allegations.

24 7. The Districts admit the allegations contained in paragraphs 13 and 14.

25 8. The Districts lack sufficient information or belief to admit or deny the allegations of
26 paragraphs 15, 16 and 17, and on the basis of such lack of information and belief, deny such
27 allegations.

28 9. The Districts admit the allegation in paragraph 18 that California courts have used the

1 concept of a groundwater basin to resolve groundwater disputes. The Districts deny that a
2 groundwater basin must be an alluvial aquifer or that a groundwater basin must have reasonably
3 well-defined lateral and vertical boundaries, and on that basis deny such allegations.

4 10. The Districts admit the allegations in paragraph 19 that the Antelope Valley Groundwater
5 Basin is located in an arid valley in the Mojave Desert, about 50 miles northeast of the City of
6 Los Angeles. The Districts lack sufficient information or belief to admit or deny the remaining
7 allegations of paragraph 19 and on the basis of such lack of information and belief, deny such
8 allegations.

9 11. The Districts admit the allegations contained in paragraph 20.

10 12. The Districts lack sufficient information or belief to admit or deny the allegations of
11 paragraphs 21, 22, 23, 24 and 25, and on the basis of such lack of information and belief, deny
12 such allegations.

13 13. The Districts admit the allegations contained in paragraphs 26, 27 and 28.

14 14. The Districts lack sufficient information or belief to admit or deny the allegations of
15 paragraph 29, and on the basis of such lack of information and belief, deny such allegations.

16 15. The Districts admit the allegations contained in paragraph 30.

17 16. As to the Districts, the Districts admit the allegation in paragraph 31 that the Districts
18 claim a right to take water and deny the allegation that the Districts threaten to increase the
19 taking of water without regard to the Public Water Suppliers' rights. The Districts lack sufficient
20 information or belief to admit or deny the remaining allegations of paragraph 31 and on the basis
21 of such lack of information and belief, deny such allegations.

22 17. The Districts lack sufficient information or belief to admit or deny the allegations of
23 paragraphs 32 and 33, and on the basis of such lack of information and belief, deny such
24 allegations.

25 18. The Districts admit the allegations contained in paragraph 34.

26 19. As to the Districts, the Districts admit the allegation contained in paragraph 35 that they
27 claim an overlying right to pump Basin water. The Districts lack sufficient information or belief
28 to admit or deny the remaining allegations of paragraph 35 and on the basis of such lack of

1 information and belief, deny such allegations.

2 20. The Districts deny the allegation in paragraph 36 that the Public Water Suppliers have
3 prescriptive rights. The Districts lack sufficient information or belief to admit or deny the
4 remaining allegations of paragraph 36 and on the basis of such lack of information and belief,
5 deny such allegations.

6 21. The Districts deny the allegation in paragraph 37 that the Public Water Suppliers'
7 pumping of water from, and/or storage of water in the Antelope Valley Basin was in an open,
8 notorious, exclusive, hostile and adverse use and/or manner. The Districts lack sufficient
9 information or belief to admit or deny the remaining allegations of paragraph 37 and on the basis
10 of such lack of information and belief, deny such allegations.

11 22. The Districts lack sufficient information or belief to admit or deny the allegations of
12 paragraph 38, and on the basis of such lack of information and belief, deny such allegations.

13
14 **FIRST CAUSE OF ACTION**

15 23. The allegations in the first cause of action are directed against all cross-defendants except
16 the United States and other public entity cross-defendants. The Districts are public entities and
17 are not required to respond to the first cause of action.

18
19 **SECOND CAUSE OF ACTION**

20 24. In response to the allegations contained in paragraph 44 of the cross-complaint, the
21 Districts allege and incorporate by reference the Districts' responses to the allegations in
22 paragraphs 1 through 38, inclusive, of the cross-complaint.

23 25. The Districts lack sufficient information or belief to admit or deny the allegations of
24 paragraph 45, and on the basis of such lack of information and belief, deny such allegations.

25 26. Paragraphs 46 to 48 contain no factual allegations, and only legal conclusions. The
26 Districts lack sufficient information or belief to admit or deny the allegations of paragraphs 46 to
27 48, if any, and on the basis of such lack of information and belief, deny such allegations.

28 27. The Districts admit the allegation contained in paragraph 49 that an actual controversy

1 has arisen between the Public Water Suppliers and cross-defendants. The Districts lack
2 sufficient information or belief to admit or deny the remaining allegations of paragraph 49 and
3 on the basis of such lack of information and belief, deny such allegations.

4 28. The Districts admit the allegation contained in paragraph 50 that the Public Water
5 Suppliers seek the stated judicial determination.

6
7 **THIRD CAUSE OF ACTION**

8 29. In response to the allegations contained in paragraph 51 of the cross-complaint, the
9 Districts allege and incorporate by reference the Districts' responses to the allegations in
10 paragraphs 1 through 50, inclusive, of the cross-complaint.

11 30. The Districts admit the allegation contained in paragraph 52 that the Districts claim an
12 interest or right to Basin water. The Districts lack sufficient information or belief to admit or
13 deny the remaining allegations of paragraph 52 and on the basis of such lack of information and
14 belief, deny such allegations.

15 31. The Districts lack sufficient information or belief to admit or deny the allegations of
16 paragraph 53, and on the basis of such lack of information and belief, deny such allegations.

17 32. Paragraphs 54 and 55 contain no factual allegations, and only legal conclusions. The
18 Districts lack sufficient information or belief to admit or deny the allegations of paragraphs 54
19 and 55, if any, and on the basis of such lack of information and belief, deny such allegations.

20
21 **FOURTH CAUSE OF ACTION**

22 33. In response to the allegations contained in paragraph 56 of the cross-complaint, the
23 Districts allege and incorporate by reference the Districts' responses to the allegations in
24 paragraphs 1 through 55, inclusive, of the cross-complaint.

25 34. The Districts admit the allegation in paragraph 57 accurately quotes California Water
26 Code section 106. The Districts lack sufficient information or belief to admit or deny the
27 remaining allegations of paragraph 57 and on the basis of such lack of information and belief,
28 deny such allegations.

1 35. The Districts admit the allegation contained in paragraph 58 accurately quotes California
2 Water Code section 106.5.

3 36. The Districts lack sufficient information or belief to admit or deny the allegations of
4 paragraph 59, and on the basis of such lack of information and belief, deny such allegations.

5 37. The Districts admit the allegation contained in paragraph 60 that an actual controversy
6 has arisen between the Public Water Suppliers and cross-defendants. The Districts lack
7 sufficient information or belief to admit or deny the remaining allegations of paragraph 60 and
8 on the basis of such lack of information and belief, deny such allegations.

9 38. The Districts admit the allegation contained in paragraph 61 that the Public Water
10 Suppliers seek the stated judicial determination.

11
12 **FIFTH CAUSE OF ACTION**

13 39. In response to the allegations contained in paragraph 62 of the cross-complaint, the
14 Districts allege and incorporate by reference the Districts' responses to the allegations in
15 paragraphs 1 through 61, inclusive, of the cross-complaint.

16 40. The Districts lack sufficient information or belief to admit or deny the allegations of
17 paragraphs 63, 64, 65 and 66, and on the basis of such lack of information and belief, deny such
18 allegations.

19 41. The Districts admit the allegation contained in paragraph 67 that the Public Water
20 Suppliers seek the stated judicial determination.

21
22 **SIXTH CAUSE OF ACTION**

23 42. In response to the allegations contained in paragraph 68 of the cross-complaint, the
24 Districts allege and incorporate by reference the Districts' responses to the allegations in
25 paragraphs 1 through 67, inclusive, of the cross-complaint.

26 43. The Districts lack sufficient information or belief to admit or deny the allegations of
27 paragraphs 69, 70, 71 and 72, and on the basis of such lack of information and belief, deny such
28 allegations.

1 44. The Districts admit the allegation contained in paragraph 73 that the Public Water
2 Suppliers seek the stated judicial determination.

3
4 **SEVENTH CAUSE OF ACTION**

5 45. The allegations in the seventh cause of action are directed against all cross-defendants
6 except public entity cross-defendants. The Districts are public entities and are not required to
7 respond to the seventh cause of action.

8
9 **EIGHTH CAUSE OF ACTION**

10 46. In response to the allegations contained in paragraph 91 of the cross-complaint, the
11 Districts allege and incorporate by reference the Districts' responses to the allegations in
12 paragraphs 1 through 78, inclusive, of the cross-complaint.

13 47. The Districts lack sufficient information or belief to admit or deny the allegations of
14 paragraph 92, and on the basis of such lack of information and belief, deny such allegations.

15 48. The Districts admit the allegation contained in paragraph 93 that the Public Water
16 Suppliers seek the stated judicial determination.

17
18 **AFFIRMATIVE DEFENSES**

19
20 **FIRST AFFIRMATIVE DEFENSE**

21 49. The Cross-Complaint and every purported cause of action therein fail to allege facts
22 sufficient to constitute a cause of action against the Districts.

23
24 **SECOND AFFIRMATIVE DEFENSE**

25 50. The Cross-Complaint, and each and every cause of action therein, are barred by the
26 doctrine of waiver.

27
28 **THIRD AFFIRMATIVE DEFENSE**

1 51. The Cross-Complaint, and each and every cause of action therein, are barred by the
2 doctrine of laches.

3
4 **FOURTH AFFIRMATIVE DEFENSE**

5 52. The Cross-Complaint, and each and every cause of action therein, are barred by the
6 doctrine of estoppel.

7
8 **FIFTH AFFIRMATIVE DEFENSE**

9 53. The Districts have a paramount right against all other parties, in accordance with
10 California Water Code section 1210, to the recycled water produced by the Districts' water
11 reclamation plants. This right shall remain in effect until this right is sold or the water
12 abandoned.

13
14 **SIXTH AFFIRMATIVE DEFENSE**

15 54. The Districts have a right to extract groundwater from the Basin for reasonable and
16 beneficial use on the Districts' properties, and this right is prior and paramount to Public Water
17 Suppliers' claims to extract and use groundwater from the Basin for non-overlying
18 (appropriative) use and is correlative with all other overlying groundwater rights.

19
20 **SEVENTH AFFIRMATIVE DEFENSE**

21 55. The Districts' recycled water has reached the Basin through various means including
22 percolation of return flows, and may seek to store recycled water in the future through the use of
23 recharge basins or other facilities. The Districts have a right to store this water in the Basin, a
24 paramount right against all other parties to this water, and a paramount right against all other
25 parties to recapture this water or an equivalent amount.

26
27 **EIGHTH AFFIRMATIVE DEFENSE**

28 56. In California Water Code section 13550, et seq., the California Legislature finds and

1 declares that the use of potable domestic water for nonpotable uses, including industrial and
2 irrigation uses, is a waste or an unreasonable use of water if recycled water of adequate quality
3 and at a reasonable price is available, and meets all statutory conditions as determined by the
4 State Water Resources Control Board. The Districts contend that they are now and will in the
5 future make substantial quantities of recycled water of adequate quality and reasonable price
6 available for nonpotable uses in the Antelope Valley. The Districts are informed and believe and
7 on that basis allege that the availability and use of recycled water directly and significantly
8 affects the Basin and must be fully taken into account in the adjudication of all rights to water in
9 the Antelope Valley Groundwater Basin. To the extent that the Public Water Suppliers use
10 potable domestic water for nonpotable uses, the court shall find this to be an unreasonable use of
11 water.

12
13 **NINTH AFFIRMATIVE DEFENSE**

14 57. The Districts have, pursuant to the doctrine of “self help,” preserved their right to extract
15 groundwater from the Basin by pumping groundwater during all relevant time periods for
16 reasonable and beneficial use on the Districts’ properties.

17
18 **TENTH AFFIRMATIVE DEFENSE**

19 58. The Cross-Complaint and each cause of action alleged therein, in whole or part, are
20 barred by the applicable statutes of limitation, including but not limited to section 318, 319, 321,
21 337, 338, 339, 342 and 343 of the Code of Civil Procedure.

22
23 **ELEVENTH AFFIRMATIVE DEFENSE**

24 59. The Cross-Complaint and each cause of action alleged therein are barred by the Public
25 Water Suppliers’ failure to join indispensable and necessary parties.

26
27 **TWELFTH AFFIRMATIVE DEFENSE**

28 60. All the groundwater extracted by the Districts from the Basin is devoted to public use.

1 As a result of this dedication to public use, the Public Water Suppliers cannot obtain any judicial
2 relief that will in any way restrain or prevent the Districts from exercising their rights to extract
3 groundwater from the Basin.

4
5 **THIRTEENTH AFFIRMATIVE DEFENSE**

6 61. The Districts reserve the right to assert additional defenses or to amend this Answer as
7 may be appropriate.

8 **PRAYER**

9 WHEREFORE, Districts pray for Judgment as follows:

10 1. For a declaration that the Districts' rights to the recycled water are paramount to any
11 other entity, until that water right is sold or the water abandoned;

12 2. For a declaration that the Districts' rights to extract groundwater from the Basin for
13 reasonable and beneficial use on the Districts' properties are prior and paramount to Public
14 Water Suppliers' claims to extract and use groundwater from the Basin for non-overlying
15 (appropriative) use and are correlative with all other overlying groundwater rights;

16 3. For a declaration that the Districts have a right to store their recycled water in the Basin, a
17 paramount right to credit for their recycled water which recharged the Basin, and a paramount
18 right to recapture that water;

19 4. For a declaration that the use of recycled water must be an integral element in any
20 physical solution and that the use of potable domestic water for non-potable uses is an
21 unreasonable use of water;

22 5. For an injunction restraining Cross-complainants, and their agents, servants and
23 employees, and all persons acting under, in concert with, or for them, or anyone acting through
24 them or on their behalf, from acting in any manner which interferes with the rights of the
25 Districts to control the disposition of recycled water or to take water from the Basin to meet their
26 present and future needs or to meet regulatory requirements;

27 6. For this Court to maintain continuing jurisdiction over this controversy to carry out and
28 enforce the terms of the judgment;

- 1 7. For costs of suit; and
- 2 8. For such other relief as the Court deems just and proper.

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Dated: December 27, 2006

ELLISON, SCHNEIDER & HARRIS L.L.P.

By: _____
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1 **PROOF OF SERVICE**

2 I declare that:

3 I am employed in the County of Sacramento, State of California. I am over the age of
4 eighteen years and am not a party to the within action. My business address is ELLISON,
5 SCHNEIDER & HARRIS, L.L.P.; 2015 H Street; Sacramento, California 95814-3109; telephone
6 (916) 447-2166.

7 On December 27, 2006, I served the County Sanitation Districts' *Answer of County*
8 *Sanitation Districts Nos. 14 and 20 of Los Angeles County to Cross-Complaint of Municipal*
9 *Purveyors* by electronic posting to the Santa Clara Superior Court E-Filing website,
10 <http://www.scefiling.org/cases/casehome.jsp?caseId=19> with electronic mail to the parties' email
11 addresses shown below.

12 I declare under penalty of perjury that the foregoing is true and correct and that this
13 declaration was executed on December 27, 2006, at Sacramento, California.

14
15 _____
16 Patty Slomski
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26 Steve Godde, Gailen Kyle on behalf of Kyle
27 & Kyle Ranch, Inc., and John Calandri on
28 behalf of Calandri/Sonrise Farms,
collectively known as the Antelope Valley
Ground Water Agreement Association
("AGWA")

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