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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

**ANTELOPE VALLEY
GROUNDWATER CASES**

Included Actions:
Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Superior
Court of California, County of Los Angeles,
Case No.: BC 325201;

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

Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
Lancaster, Diamond Farming Co. v.
Palmdale Water Dist., Superior Court of
California, County of Riverside, Case Nos.:
RIC 353 840, RIC 344 436, RIC 344 668

White Fence Farms Mutual Water Co. Inc.;
El Dorado Mutual Water Co.; West Side
Park Mutual Water Co.; Shadow Acres
Mutual Water Co.; Antelope Park Mutual
Water Co.; Averydale Mutual Water Co.;
Sundale Mutual Water Co.; Evergreen
Mutual Water Co.; Aqua J Mutual Water
Co.; Bleigh Flat Mutual Water Co.;
Colorado Mutual Water Co.; Sunnyside
Farms Mutual Water Co., and Land Projects

Judicial Council Coordination Proceeding
No. 4408

Santa Clara Case No. 1-05-CV-049053
Assigned to The Honorable Jack Komar

**CROSS-COMPLAINT OF LAND
PROJECTS MUTUAL WATER COMPANY,
AS A MEMBER OF A.V. UNITED MUTUAL
GROUP, AGAINST PURVEYORS FOR:**

- 1) Declaratory Relief, Water Rights;**
- 2) Injunctive Relief, Water Rights;**
- 3) Declaratory Relief, Return Flows;**
- 4) Declaratory Relief, Physical Solution;**
- 5) Injunctive Relief, Physical Solution.**

1 Mutual Water Co.; collectively known as
2 A.V. United Mutual Group,

3 Cross-Complainants,

4 v.

5 California Water Service Company; City of
6 Lancaster; City of Palmdale; Littlerock
7 Creek Irrigation District; Los Angeles
8 County Water Works District No. 40;
9 Palmdale Water District; Rosamond
Community Services District; Palm Ranch
Irrigation District; and Quartz Hill Water
District; and ZOES 1-200, inclusive,

10 Cross-Defendants.

11 Land Projects Mutual Water Company, as a member of A.V. United Mutual Group
12 (“AVUMG”), joins that group in alleging against Cross-Defendants California Water Service
13 Company, City of Lancaster, City of Palmdale, Littlerock Creek Irrigation District, Los Angeles
14 County Water Works District No. 40, Palmdale Water District, Rosamond Community Services
15 District, Palm Ranch Irrigation District, and Quartz Hill Water District (“collectively referred to
16 herein as “Purveyors”), and ZOES 1-200, inclusive, as follows:

17 GENERAL ALLEGATIONS

18 1. The Court has jurisdiction over this action pursuant to Code of Civil Procedure
19 sections 526 and 1060. Venue is proper before this Court pursuant to the coordination order
20 issued by the Judicial Council.

21 2. Cross-Complainants herein, White Fence Farms Mutual Water Co. Inc., El
22 Dorado Mutual Water Co., West Side Park Mutual Water Co., Shadow Acres Mutual Water Co.,
23 Antelope Park Mutual Water Co., Averydale Mutual Water Co., Sundale Mutual Water Co.,
24 Evergreen Mutual Water Co., Aqua J Mutual Water Co., Bleigh Flat Mutual Water Co.,
25 Colorado Mutual Water Co., Sunnyside Farms Mutual Water Co., and Land Projects Mutual
26 Water Co.; collectively known as A.V. United Mutual Group (“AVUMG”), are mutual water
27 companies whose shareholders are owners of land in the Antelope Valley. Each Cross-

1 Complainant holds a beneficial right to the shareholders' interest in ground water within the
2 geographic boundaries of the Antelope Valley Ground Water Basin ("Basin"). The Cross-
3 Complainants have historically pumped water from beneath the shareholders land for the
4 shareholders use.

5 3. Cross-Complainants are informed and believe and thereon allege that California
6 Water Service Company is a California corporation which provides water to customers located
7 within the geographic boundaries of the Basin and which extracts water from the Basin.

8 4. Cross-Complainants are informed and believe and thereon allege that City of
9 Lancaster is a municipal corporation located within the County of Los Angeles, and within the
10 geographic boundaries of the Basin.

11 5. Cross-Complainants are informed and believe and thereon allege that City of
12 Palmdale is a municipal corporation located within the County of Los Angeles.

13 6. Cross-Complainants are informed and believe and thereon allege that Littlerock
14 Creek Irrigation District is a public agency which provides water to customers located within the
15 geographic boundaries of the Basin and which extracts water from the Basin.

16 7. Cross-Complainants are informed and believe and thereon allege that Los Angeles
17 County Waterworks District No. 40 is a public agency governed by the Los Angeles County
18 Board of Supervisors operating under Division 16 of the California Water Code. Los Angeles
19 County Waterworks District No. 40 was established on November 4, 1993 to provide water
20 service to the public within the Basin.

21 8. Cross-Complainants are informed and believe and thereon allege that Palmdale
22 Water District was formed as a public irrigation district in 1918 and operates under Division 11
23 of the California Water Code and is producing water from the Basin and selling it to its
24 customers.

25 9. Cross-Complainants are informed and believe and thereon allege that Rosamond
26 Community Services District is a county water district voted into being in 1966, and operating
27 under Division 12 of the California Water Code to provide water for domestic use and irrigation,

1 among other things.

2 10. Cross-Complainants are informed and believe and thereon allege that Palm Ranch
3 Irrigation District is a public agency which provides water to customers located within the
4 geographic boundaries of the Basin and which extracts water from the Basin.

5 11. Cross-Complainants are informed and believe and thereon allege that Quartz Hill
6 Water District is a county water district organized and operating under Division 12 of the
7 California Water Code and is producing water from the Basin and selling it to its customers.

8 12. Cross-Complainants are ignorant of the true names and capacities of Cross-
9 Defendants sued herein as ZOES 1-200, inclusive, and therefore sue these Cross-Defendants by
10 such fictitious names. Cross-Complainants will amend this Cross-Complaint to allege their true
11 names and capacities when ascertained. References to "Purveyors" in this Cross-Complaint also
12 refer to all Cross-Defendants sued under such fictitious names.

13 **FACTUAL ALLEGATIONS**

14 13. The Antelope Valley is located in northern Los Angeles County and the
15 southeastern portion of Kern County, California. The Antelope Valley comprises the western tip
16 of the Mojave Desert, opening up to the Victor Valley and the Great Basin to the east. The
17 Antelope Valley is a desert ecosystem which spans approximately 2,200 square miles. Human
18 water use in the Antelope Valley depends mainly on pumping of groundwater from the valley's
19 aquifers and the importing of additional water. Cross-Complainants herein acquire water both by
20 pumping underlying groundwater and purchasing imported water to supplement the pumped
21 water.

22 14. Cross-Complainants are informed and believe and thereon allege that Purveyors
23 began pumping appropriated surplus water from the Basin to provide water for their municipal,
24 industrial, or other water customers, which was initially lawful and did not immediately nor
25 prospectively invade or impair any overlying rights.

26 15. However, since the initial pumping began, with the expanded population growth
27 of the Antelope Valley, Purveyors have dramatically increased their demand for water, which

1 created a potential for damages to the water supply. Despite the potential for damages to the
2 water supply, Purveyors have continued the act of pumping.

3 16. Cross-Complainants are informed and believe and thereon allege that Purveyors,
4 with knowledge did extract, and have continued to extract, groundwater from the common
5 supply, and have continued the act of pumping the groundwater to increase their extractions of
6 groundwater with the knowledge that the continued extractions are damaging the long-term
7 rights of the mutual water companies, including its shareholders who are the property owners,
8 among others.

9 17. Cross-Complainants are informed and believe and thereon allege that Purveyors,
10 with full intent and knowing that they could take by claim of prescription, without compensation,
11 the water rights of all landowners overlying the Basin. Despite the knowledge and intent to take
12 overlying property owners' water rights, the Purveyors did not take any steps necessary or
13 intended to inform or otherwise notify any landowner of their adverse and hostile claim or that
14 their pumping of groundwater was an invasion of the landowners' property rights.

15 18. During the time that each Purveyor was pumping the groundwater, no Purveyor
16 ever took any affirmative action reasonably calculated to inform or notify any overlying
17 landowner that the Purveyor intended to take by prescription the overlying water rights.

18 19. For the five years immediately preceding the filing of this Cross-Complaint, the
19 Cross-Complainants, and their shareholders who are property owners in the Basin, did not have
20 actual knowledge that any Purveyor's pumping of groundwater was adverse to or hostile to their
21 present and/or future priority rights.

22 20. In or about March 2007, Cross-Complainants were served as Does by Cross-
23 Defendants seeking to obtain a judicial determination that they had obtained the overlying
24 landowners' water rights, without compensation, within the Basin through the common law
25 doctrine of prescription.

26 21. None of the Purveyors have invoked the power of eminent domain, nor paid any
27 compensation to the Cross-Complainants or their shareholders, for the property rights that they

1 have allegedly and knowingly taken.

2 **FIRST CAUSE OF ACTION**

3 **(Declaratory Relief; Water Rights)**

4 **(Against all Cross-Defendants and Zoes 1-200, inclusive)**

5 22. Cross-Complainants reallege and incorporate by reference paragraphs 1 through
6 21 of this Cross-Complaint as though fully set forth herein.

7 23. An actual controversy has arisen between Cross-Complainants and each of the
8 Cross-Defendants as to the nature, extent and priority of each party's right to produce
9 groundwater from the Basin. As mutual water companies whose shareholders are overlying
10 landowners, Cross-Complainants allege that their water rights are superior in priority to those of
11 any of Cross-Defendants, and that they have preserved and maintained their priority rights to the
12 use of groundwater.

13 24. Cross-Complainants are informed and believe and thereon allege that Cross-
14 Defendants dispute these contentions.

15 25. Cross-Complainants seek a declaration and judicial determination as to the
16 validity of their contentions set forth herein, the amount of Basin water to which each party is
17 entitled to produce from the Basin, and the priority and character of each party's respective
18 rights.

19 **SECOND CAUSE OF ACTION**

20 **(Injunctive Relief; Water Rights)**

21 **(Against all Cross-Defendants and Zoes 1-200, inclusive)**

22 26. Cross-Complainants reallege and incorporate by reference paragraphs 1 through
23 25 of this Cross-Complaint as though fully set forth herein.

24 27. In their First-Amended Cross-Complaint, Cross-Defendants allege that they
25 produce more water from the Basin than they have a right to produce. If allowed to continue,
26 this production in excess of rights will interfere with the right of Cross-Complaints to produce
27 groundwater and will cause injury to Cross-Complainants.

28. Cross-Complainants have no adequate remedy at law.

29. Cross-Complainants are informed and believe and thereon allege that Cross-Defendants dispute these contentions.

THIRD CAUSE OF ACTION

(Declaratory Relief; Return Flows)

1 **FOURTH CAUSE OF ACTION**

2 **(Declaratory Relief; Physical Solution)**

3 **(Against all Cross-Defendants and Zoes 1-200, inclusive)**

4 37. Cross-Complainants reallege and incorporate by reference paragraphs 1 through
5 36 of this Cross-Complaint as though fully set forth herein.

6 38. Cross-Complainants contend that Cross-Defendants, who are seeking an
7 injunction/physical solution, must prove common law overdraft, the nature and extent of all
8 pumping occurring in the Antelope Valley, appropriative *inter se* priority rights, the rights of all
9 groundwater producers in the Antelope Valley and a legal basis for an injunction against parties
10 holding inferior rights based upon the California groundwater allocation priority system.

11 39. Cross-Complainants seek a declaration and judicial determination as to the
12 validity of their contentions, and that a physical solution shall be implemented.

13 **FIFTH CAUSE OF ACTION**

14 **(Injunctive Relief; Physical Solution)**

15 **(Against all Cross-Defendants and Zoes 1-200, inclusive)**

16 40. Cross-Complainants reallege and incorporate by reference paragraphs 1 through
17 39 of this Cross-Complaint as though fully set forth herein.

18 41. Cross-Complainants contend that if water cutbacks are necessary, appropriative
19 users must be cutback first to prevent continuing common law overdraft. To the extent Cross-
20 Defendants prove that common law overdraft exists, Cross-Complainants request the Court
21 enjoin parties holding inferior appropriative rights from pumping and/or that the Court impose a
22 physical solution on appropriators to prevent continuing common law overdraft.

23 **WHEREFORE**, Cross-Complainants pray that judgment be entered as follows:

- 24 1. For a judgment against Cross-Defendants;
- 25 2. For a declaration of Cross-Complainants rights to pump and reasonable use
26 groundwater underlying the shareholders' property;
- 27 3. If the Court determines based upon the Cross-Defendants' basin-wide

1 adjudication that the groundwater basin is in common law overdraft, for an injunction and/or a
2 physical solution cutting back appropriative water use to prevent continuing common law
3 overdraft;

4 4. For continuing jurisdiction of the Court to litigate disputes as necessary in the
5 future consistent with the Court judgment herein and consistent with California water law;

6 5. For a declaration that no party hereto may hereinafter obtain prescriptive rights
7 against any other party to this action and that all parties will act in conformance with the terms of
8 any such judgment;

9 6. For a judgment for Cross-Complainants for all available remedies to secure and
10 protect Cross-Complainants' continuing overlying water rights;

11 7. For an award or reasonable attorneys' fees and costs of suit; and

12 8. For such other and further relief as the Court deems just and proper.

13
14 Dated: May 29, 2007

COVINGTON & CROWE, LLP

15
16
17 By: 

ROBERT E. DOUGHERTY

WILLIAM A. HAUCK

Attorneys for Cross-Defendants and Cross-
Complainants A.V. United Mutual Group

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

I am employed in the County of San Bernardino, State of California. I am over the age of 18 and not a party to the within action; my business address is Covington & Crowe, LLP, 1131 West Sixth Street, Suite 300, Ontario, California 91762.

On **May 29, 2007**, I served the foregoing document described as **CROSS-COMPLAINT OF LAND PROJECTS MUTUAL WATER COMPANY, AS A MEMBER OF A.V. UNITED MUTUAL GROUP, AGAINST PURVEYORS** on the interested parties in this action:

☒ by posting the document listed above to the Santa Clara County Superior Court e-filing website under the Antelope Valley Groundwater matter pursuant to the Court's Order dated October 27, 2005.

☐ by placing ☐ the original ☐ a true copy thereof enclosed in a sealed envelope addressed as follows:

☐ **BY MAIL**

☐ * I deposited such envelope in the mail at Ontario, California. The envelope was mailed with postage thereon fully prepaid.

☐ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Ontario, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY PERSONAL SERVICE** I delivered such envelope by hand to the offices of the addressee.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **May 29, 2007**, at Ontario, California.



CAROL SANCHEZ