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8 Bennie E. Moore & Annette Moore,, in propria persona
9 Cross-defendants and Cross-Complainants,

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11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF LOS ANGELES

14 ANTELOPE VALLEY GROUNDWATER
15 CASES

16 Judicial Council Coordination Proceeding
17 No. 4408

18 Included Actions:

19 **Santa Clara Case NO. 1-05-CV-049053**
20 Assigned to The Honorable Jack Komar

21 Los Angeles County Waterworks District No.
22 40 v. Diamond Farming Co. Superior Court of
23 California County of Los Angeles, Case No.
24 BC 325 201 Los Angeles County Waterworks
25 District No. 40 v. Diamond Farming Co.
26 Superior Court of California, County of Kern,
27 Case No. S-1500-CV-254-348 Wm. Bolthouse
28 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,
consolidated actions., Case No. RIC 353 840,
RIC 344 436, RIC 344 668,

CROSS-COMPLAINT OF BENNIE &
ANNETTE MOORE

29 Bennie E. Moore & Annette Moore, in propria
30 persona

31 **Cross-Complainants,**
32 **vs.**

33 Los Angeles County Waterworks District No.
34 40, Palmdale Water District, The City of
35 Palmdale, City of Lancaster, Littlerock Creek
36 Irrigation District, Palm Ranch Irrigation
37 District, Quartz Hill Water District, California
38 Water Service Company, Rosamond
Community Services District, Antelope Valley
East Kern Water District, County Sanitation
Districts Nos. 14 and 20, ROES 1 to1000;

Cross-Defendants.

The Cross-Complaint for declaratory and injunctive relief seeks a judicial determination of rights to all water and associated resources in the Antelope Valley, including but not limited to priority rights to water imported to the region. This Cross-Complaint also seeks to promote proper management of the Antelope Valley through the imposition of a Physical Solution and seeks to prevent further degradation of the quality of the groundwater supply and to protect those who depend on the groundwater supply from wasteful practices that may impair that supply. Such judicial determination is necessary in order to ensure that the resources of the Antelope Valley are managed and utilized for the long-term benefit of the people of the Antelope Valley.

JURISDICTION AND VENUE

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

PARTIES

2. Cross-Complainants are a husband and wife farming approximately 30 acres of alfalfa in the foothills of the San Gabriel Mountains and the Sierra Pelona Mountains. Each Cross-Complainant is the owner or beneficial interest holder of real property within the geographic boundaries of the Basin and each shares a concern for the Community in the Antelope Valley and recognizes that property Management of the water resources of the Valley is essential for the future health of the community. The thirty acres, known as 24715 W. Avenue C-15 or 24825 West Avenue D, Lancaster, CA 93536 is owned by these cross-defendants, who are fee owners of said property, including all oil, gas, mineral and water rights without reservation – deeded by the United States of America in fee simple to Southern Pacific Railroad

1 (aka, Union Rail Road) who then deeded the property to the first settlers, Eddie Bittick and
2 Bertha Bittick, then to H.W. Hunter, and then to Bennie E. Moore and Annette Moore.



16 (24825 West Avenue D, Lancaster, CA 93536 as depicted by Google Earth on May 24,
17 2013 from 4299 feet above sea level (elevation 2951).

19 At the time Southern Pacific Railroad (aka, Union Rail Road) deeded the property, they
20 had won a lawsuit against the federal government declaring Southern Pacific Railroad (aka,
21 Union Rail Road) had received title without reservation, in fee simple, with full mineral and
22 water rights.

23 3. Cross-Complainants are informed and believe and thereon allege that the Los
24 Angeles County Waterworks District No. 40 is a public agency which extracts water from and
25 provides water to customers located within the geographical boundaries of the Basin.

26 4. Cross-Complainants are informed and believe the thereon allege that Palmdale
27 Water District is a public agency which extracts water from and provides water to customers
28 located within the geographical boundaries of the Basin.

1 5. Cross-Complainants are informed and believe and thereon allege that The City of
2 Palmdale is a municipal corporation located in the County of Los Angeles.

3 6. Cross-Complainants are informed and believe and thereon allege that the city of
4 Lancaster is a municipal corporation located within the County of Los Angeles, and within the
5 geographic boundaries of the Basin.

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

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

12
13 9. Cross-Complainants are informed and believe and thereon allege the Quartz Hill
14 Water 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
17 10. Cross-Complainants are informed and believe and thereon allege that California
18 Water Service Company is a California corporation which provides water to customers located
19 within the geographic boundaries of the Basin and which extracts water from the Basin.

20
21 11. Cross-Complainants are informed and believe and thereon allege that Rosamond
22 Community Services District is a public agency which provides water to customers located
23 within the geographic boundaries of the Basin and which extracts water from the Basin.

24
25 12. Cross-Complainants are informed and believe and thereon allege that Antelope
26 Valley East Kern Water District ("AVEK") is a public agency which provides imported water to
27 customers located within the geographic boundaries of the Basin.

1 13. Cross-Complainants are informed and believe and thereon allege that County
2 Sanitation Districts Nos. 14 and 20 of Los Angeles County ("Sanitation Districts") are
3 independent special districts that serve, among other things, the wastewater treatment and
4 reclamation needs of Los Angeles County.

5
6 14. Cross-Complainants are presently unaware of whether other parties in the
7 adjudication assert claims adverse to Cross-Complainants rights as overlaying landowners or
8 whether there are parties not involved in the adjudication who may assert claims adverse to
9 Cross-Complainants. Cross- Defendants Does 1-100 include any party, other than the Cross-
10 Defendants specifically named herein, who assert claim adverse to Cross-Complainants rights as
11 overlying landowners. Since Cross-Complainants are unaware of the true names and identities of
12 Does 1-100, Cross-Complainants hereby sue them by such fictitious names and will seek leave to
13 amend this Cross-Complaint to add their true names and capacities when they are ascertained.

14
15 **FACTUAL ALLEGATIONS**
16

17 15. The Antelope Valley is a topographically closed watershed in the Western part of
18 the Mojave Desert, about 50 miles northeast of Los Angeles. Dry lake beds have formed at the
19 'bottom' of the Valley which are currently used as runways by Edwards Air Force Base. Also
20 contained in the Valley is a large alluvial groundwater basin ("Basin").

21
22 16. The Antelope Valley is situated at a cross-roads of major water supply
23 infrastructure that serves the entire Los Angeles area: the East Branch of the State Water Project
24 runs along the entire Southern side of the Valley and the Los Angeles aqueduct runs along the
25 Northeast side of the Valley.

26 The thirty acres, known as 24715 Avenue C-15 or 24825 West Avenue D, Lancaster, CA
27 93536 also has riparian rights as a natural drainage course, thirty to sixty feet lower than the
28 surrounding properties. Said riparian rights have established the thirty acres, known as 24715

1 Avenue C-15 or 24825 West Avenue D, Lancaster, CA 93536 as superior to all other
2 downstream users.

3
4 17. The Basin contains a large amount of vacated underground space which can be
5 used for the storage of water. Cross-Complainants are informed and believe that there is as much
6 as eight million acre-feet of available storage capacity in the Basin. Utilization of this storage
7 capacity will be an essential component to the resolution of the water supply issues in the
8 adjudication. This storage capacity, in combination with the ready access to water transportation
9 infrastructure, also presents the risk that the resources of the Antelope Valley could be used to
10 serve interests outside the Valley in a manner that does not contribute to a solution to the
11 problems of the Valley.

12 13 **CONTROVERSY**

14
15 18. Cross-Complainants are informed and believe, and thereon allege, that there are
16 conflicting claims of rights to the water resources of the Valley, including the water storage
17 capacity of the Basin.

18 19 20 21 **FIRST CAUSE OF ACTION**

22 **(Declaratory Relief Water Rights Against All Cross-Defendants)**

23
24 19. Cross-Complainants re-allege and incorporate by reference each and all of the
25 preceding paragraphs as though fully set forth herein.

26
27 20. An actual controversy has arisen between Cross-Complainants and each of the
28 Cross-Defendants as to the nature, extent, and priority of each party's right to produce

1 groundwater from the Basin. As overlying and riparian landowners, Cross-Complainants allege
2 that their water rights are superior in priority to those of any Cross-Defendants.

3
4 21. On information and belief, Cross-Complainants believe that Cross-Defendants
5 dispute these contentions.

6
7 22. Cross-Complainants seek a declaration and judicial determination as to the
8 validity of their contentions set forth herein, the amount of Basin water to which party is entitled
9 to produce from the Basin and the priority and character of each party's respective rights.

10
11 **SECOND CAUSE OF ACTION**

12 **(Damages Trespass Against All Cross-Defendants Except Sanitation Districts)**

13
14 23. Cross-Complainants re-allege and incorporate by reference each and all of the
15 preceding paragraphs as though fully set forth herein.

16
17 24. On information and belief, each Cross-Defendant alleges that it produces or
18 threatens to produce more water from the Basin than it has a right to produce. Cross-Defendants
19 allege that this production forms the basis for claims of prescriptive rights. To the extent Cross-
20 Defendants fail to prove any element of their claim for prescriptive rights, and to the extent that
21 the alleged production in excess of rights actually occurred, this alleged production of water
22 constitutes a trespass against Cross-Complainants, compensable under the 5th and 14th
23 amendments to the United States Constitution, as well as Civil Code section 52.1.

24
25 25. On information and belief, Cross-Complainants believe that Cross- Defendants
26 dispute these contentions.

1 26. Cross-Complainants request the Court to award monetary damages to compensate
2 for any that may have occurred to Cross-Complainants by Cross-Defendants' trespass in an
3 amount to be determined at trial.

4
5 **THIRD CUASE OF ACTION**
6

7 **(Damages 42 USC § 1983/Taking Against All Cross-Defendants Except Sanitation**
8 **Districts)**
9

10 27. Cross-Complainants re-allege and incorporate by reference each and all of the
11 preceding paragraphs as though fully set forth herein.
12

13 28. On information and belief, each Cross-Defendant alleges that it produces or
14 threatens to produce more water from the Basin than it has a right to produce. Cross-Defendants
15 allege that this production forms the basis for claims of prescriptive rights. To the extent Cross-
16 Defendants fail to prove any element of their claim for prescriptive rights, this alleged
17 production of water constitutes an invasion of Cross-Complainants property interests and is
18 therefore a taking in violation of the Fifth Amendment to the United States constitution.
19

20 29. Every person who, under color of any custom or usage, subjects or causes to be
21 subjected any citizen of the United States to the deprivation of any rights or privileges secured by
22 the Constitution and laws, shall be liable to the party injured in the law. (42 USC § 1983.)
23

24 30. On information and belief, Cross-Complainants believe that Cross-Defendants
25 dispute these contentions.
26
27
28

1 31. Cross-Complainants request the Court to award monetary damages, including
2 attorney's fees, to compensate for any past injury that may have occurred to Cross-
3 Complainants by Cross-Defendants' taking in an amount to be determined at trial.
4

5 **FOURTH CAUSE OF ACTION**
6

7 **(Injunctive Relief Water Rights Against All Cross-Defendants Except Sanitation Districts)**
8

9 32. Cross-Complainants re-allege and incorporate by reference each and all of the
10 preceding paragraphs as though fully set forth herein.
11

12 33. Each Cross-Defendant alleges that it produces or threatens to produce more water
13 from the Basin than it has the right to produce. If allowed to continue, this production in excess
14 of rights will interfere with the right of Cross-Complainants to produce groundwater and will
15 cause injury to Cross-Complainants.
16

17 34. Cross-Complainants have no adequate remedy at law.
18

19 35. On information and belief, Cross-Complainants believe that Cross-Defendants
20 dispute these contentions.
21

22 36. Unless the Court orders that Cross-Defendants cease production of water in
23 excess of their rights, Cross-Complainants will suffer irreparable harm in that the supply of
24 groundwater will become depleted and other undesirable effects will occur.
25

26 **FIFTH CAUSE OF ACTION**
27
28

1 37. Cross-Complainants re-allege and incorporate by reference each and all of the
2 preceding paragraphs as though fully set fourth herein.

3
4 38. An actual controversy has arisen between Cross-Complainants and each of the
5 Cross-defendants as to the priority of each party's right to receive imported water. Agriculture
6 has a long history of water resources use in the Antelope Valley, and the economy of the
7 Antelope Valley is intimately tied to and dependant on agriculture. It has only been with
8 relatively recent increases in municipal demand that the water resources problems of the
9 Antelope Valley have resulted in litigation.

10
11 39. The use of imported water will be a necessity to alleviate the stress on the
12 groundwater Basin. The Court has broad equitable powers under Article X, section 2, to fashion
13 a physical solution for the Antelope Valley that ameliorates impacts associated with the loss of
14 common law water right priorities. If the Court finds that any overlying landowner has lost any
15 portion of its water rights, then one element of the physical solution should be to recognize a
16 priority right of those parties to receive and purchase imported water.

17
18 40. Basin on information and belief, Cross-Complainants believe that Cross-
19 Defendants dispute these contentions.

20
21 41. Cross-Complainants seek a declaration and judicial determination as to the
22 validity of their contentions set forth herein.

23
24 **SIXTH CAUSE OF ACTION**

25
26 42. Cross-Complainants re-allege and incorporate by reference each and all of the
27 preceding paragraphs as though fully set forth herein.

1 43. As an element of their claim for perspective rights, Cross-Defendants allege that
2 their pumping from the Basin is wrongful.

3
4 44. Cross-Complainants seek a judicial determination that any imported water
5 purchased by Cross-Defendants for recharge into the Basin for any purpose, either through direct
6 recharge or through return flows, must first be used to offset Cross-Defendants wrongful
7 pumping from the Basin. Cross-Complainants seek a further judicial declaration that any
8 imported water that has heretofore been purchased by Cross-Defendants and recharged in to the
9 Basin wither through direct recharge or through return flows, must be considered as an offset
10 against any past wrongful pumping by Cross-Defendants from the Basin.

11
12 45. Based on information and belief, Cross-Complainants believe that Cross-
13 Defendants dispute these contentions.

14
15 46. Cross-Complainants seek a declaration and judicial determination as to the
16 validity of their contentions set forth herein.

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23 **SEVENTH CAUSE OF ACTION**

24
25 **(Declaratory Relief Waste/ Nuisance Against All Cross-Defendants)**

26
27 47. Cross-Complainants re-allege and incorporate by reference each and all of the
28 preceding paragraphs as though fully set forth herein.

1
2 48. The Antelope Valley is a closed hydrologic region. While infrastructure exists to
3 import water to the Valley, there is no infrastructure to export wastes from the Valley. These
4 wastes are primarily the sewage that is the result of the water use of customers of Cross-
5 Defendants. It is an unavoidable feature of the nature of the water use of Cross-Defendants that
6 such wastes will be produced.



20 49. Based on information and belief, to the extent that wastewater services are
21 provided by entities other than the water service providers, officials from these water service
22 providers compose the governing bodies of the waste disposal entities.

23 50. Disposal of this waste in to the groundwater Basin has resulted in degradation of
24 groundwater quality and threatens to impair the ability to use portions of the Basin for water
25 supply and storage purposes. Based on information and belief, Cross-Complainants believe that
26 the waste disposal entities allege that there is no way to handle the wastes from the Cross-
27 Defendants except disposal into the Basin.

1 51. Based on information and belief, Cross-Complainants believe that Cross-
2 Defendants dispute these contentions.

3
4 52. Cross-Complainants seek a judicial determination that Cross-Defendants use of
5 water results in an unavoidable degradation of Basin, which, if allowed to continue, will one day
6 render the Basin unusable and that therefore this use constitutes a continuing nuisance and waste
7 in violation of Article X, section 2 of the California Constitution.

8
9 **EIGHTH CAUSE OF ACTION**

10
11 **(Injunctive Relief Waste Against All Defendants)**

12
13 53. Cross-Complainants re-allege and incorporate by reference each and all of the
14 preceding paragraphs as though fully set forth herein.

15
16 54. Based on information and belief, each Cross-Defendant disposes or allows to be
17 disposed wastewater which is a result of its water use to the detriment of the Basin. On
18 information and belief, Cross-Defendants intend to increase the amount of wastewater that they
19 dispose or allow to be disposed into the Basin. This disposal interferes with the right of Cross-
20 Complainants to produce groundwater.

21 55. Cross-Complainants have no adequate remedy at law.

22 56. On information and belief, Cross-Complainants believe that Cross- Defendants
23 dispute these contentions.

24 57. Unless the Court orders that Cross-Defendants cease disposing of wastewater into
25 the groundwater Basin, Cross-Complainants will suffer irreparable injury because their use of the
26 groundwater Basin for water supply and for water storage purposes will be impaired.

1 **NINTH CAUSE OF ACTION**

2

3 **(Declaratory Relief Waste Against All Cross-Defendants Except Sanitation Districts)**

4

5 58. Cross-Complainants re-allege and incorporate by reference each and all of the

6 preceding paragraphs as though fully set forth herein.

7

8 59. On information and belief, the Cross-Defendants intend to pump and sell water

9 primarily for domestic use. On information and belief, most of this water will be used for outside

10 landscape irrigation. On information and belief, the landscape features irrigated with this water

11 will be non-native plant species unsuited to the arid conditions of the Antelope Valley.

12

13 60. On information and belief, Cross-Complainants believe that Cross-Defendants

14 dispute these contentions.

15

16 61. Cross-Complainants seek a judicial determination that Cross-Defendants use of

17 water in this manner constitutes waste under Article X, section 2 of the California Constitution.

18

19 **TENTH CAUSE OF ACTION**

20

21 **(Declaratory Relief Physical Solution Against All Cross-Defendants)**

22

23 62. Cross-Complainants re-allege and incorporate by reference each and all of the

24 preceding paragraphs as though fully set forth herein.

25

26 63. In order to prevent irreparable injury to Cross-Complainants and other parties, it

27 is necessary and appropriate that the Court exercise and retain continuing jurisdiction to develop

28

1 and enforce a physical solution that protects, manages and conserves the water resources of the
2 Antelope Valley.

3
4 64. The physical solutions for the Valley should include the appointment of a
5 Watermaster that is representative of all interests in the Valley, including landowners. The
6 physical solution should include the establishment of a water transfer program that will permit
7 the transferability of Basin pumping rights between any Basin users.

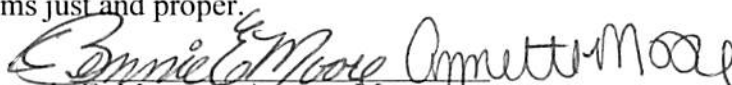
8
9 65. If the physical solution involves groundwater banking, then the physical solution
10 must ensure that the benefits of such banking will be used for the benefit of the Antelope Valley
11 and will be spread equitably amongst all interests in the Valley with proper recognition given to
12 the priority rights of overlying landowners.

13 **Prayer for Relief**

14
15 WHEREFORE, Cross-Complainants pray for judgment as follows:

- 16 1. Judicial declarations consistent with Cross-Complainants' contentions in the First,
17 Fifth, Sixth, Seventh, Ninth and Tenth Causes of Action in this Cross-Complaint.
18 2. Judicial award of damages, including punitive damages, consistent with Cross-
19 Complainants' contentions in the Second and Third Causes of Action in this
20 Cross-Complaint.
21 3. For preliminary and permanent injunctions consistent with the Fourth and Eighth
22 Causes of Action in this Cross-Complaint.
23 4. For prejudgment interests as permitted by law.
24 5. For Attorney, appraisal, and expert witness fees and costs incurred in this action.
25 6. For such relief as the Court deems just and proper.

26 Dated: August __, 2014

27 
28 Bennie E. Moore & Annette Moore,
Cross-defendants and Cross-Complainants, in
propria persona