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LOS ANGELES COUNTY WATERWORKS

DISTRICT NO. 40

**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.  
Superior Court of California  
County of Los Angeles, Case No. BC 325 201

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, consolidated actions, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668

LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40'S  
OPPOSITION TO DIAMOND FARMING  
COMPANY'S MOTION PURSUANT TO  
CODE OF CIVIL PROCEDURE  
SECTION 760.030

**Hearing:**

Date: December 2, 2005

Time: 10:00 a.m.

Dept.: 1

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LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40'S OPPOSITION TO DIAMOND FARMING COMPANY'S  
MOTION PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 760.030

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION.**

There is no authority that allows Diamond Farming to file this motion to strike, or to request the relief sought. Moreover, Diamond Farming already raised this argument in its Demurrer. Nonetheless, Code of Civil Procedure Section 760.030 does not allow require that the Court strike the two groundwater adjudication actions filed by the County because they are not quiet title actions. Accordingly, the Court should deny Diamond Farming's Motion.

**II. ARGUMENT.**

**A. THERE IS NO LEGAL AUTHORITY FOR DIAMOND FARMING'S MOTION.**

There is no legal authority, under Code of Civil Procedure sections 760.010 *et seq.*, or otherwise that permits Diamond Farming to file its responsive pleading – a Motion under C.C.P. 760.030. Accordingly, the Court should deny this Motion.

**B. DIAMOND FARMING PROVIDES NO LEGAL AUTHORITY FOR ITS DEMAND THAT THE COURT STRIKE AND ORDER THAT THE COUNTY PROCEED WITH QUIET TITLE ACTIONS.**

There is no legal authority that supports Diamond Farming's argument that a quiet title action is the sole procedure to adjudicate a public entity's groundwater rights. As with its other arguments, Diamond Farming's argument that Section 760.030 is an exclusive remedy contradicts the California law.<sup>1</sup> First, Section 760.030 states that quiet title is *not* an exclusive remedy: "*the*

<sup>1</sup> All section references are to the Code of Civil Procedure unless otherwise indicated.  
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1 [quiet title] remedy . . . is cumulative and not exclusive of any other remedy, form or right of  
2 action, or proceeding provided by law for establishing or quieting title to property.” (Emphasis  
3 added.)

4  
5 **C. CASE LAW PERMITS THE COUNTY TO PROCEED WITH ITS**  
6 **ADJUDICATION ACTIONS AS DECLARATORY RELIEF ACTIONS.**

7  
8 The County can proceed by seeking declaratory and injunctive relief. Code of Civil  
9 Procedure Section 1060 allows the County to plead both declaratory and injunctive relief as “any  
10 person claiming rights ... with respect to property, may bring an action for a declaration of his or  
11 her rights or duties with respect to another....” (See, *Columbia Pictures Corp. v. De Toth* (1945)  
12 26 Cal.2d 753, 760.) Section 1062 provides a declaratory relief action is “cumulative” to any  
13 other remedy or provision of the law, such that the existence of some other possible cause of  
14 action generally does not prevent a party from nonetheless exclusively seeking declaratory relief.  
15 (See e.g., *Ermolieff v. R.K.O. Radio Pictures* (1942) 19 Cal.2d 543 [“Neither the fact that a party  
16 has another remedy nor that a breach has occurred prior to the commencement of his action  
17 compel the court to deny relief. Ordinarily, the alternative remedy, such as damages, injunctive  
18 relief and the like would be more harsh, and if he chooses the milder relief, declaratory relief, the  
19 court is not required for that reason to compel him to seek a more stringent one.”].)

20  
21 **D. CASE LAW FURTHER SUPPORTS THE COUNTY’S ABILITY TO**  
22 **PROCEED WITH A GROUNDWATER ADJUDICATION BY WAY**  
23 **OF A DECLARATORY ACTION.**

24  
25 Numerous water rights adjudications are based on declaratory and injunctive relief causes  
26 of action. (See e.g., *Pleasant Valley Canal Co. v. Borror* (1998) 61 Cal.App.4th 742; *Peabody v.*  
27 *City of Vallejo* (1935) 2 Cal.2d 351, 382-383; *City of San Bernardino v. City of Riverside* (1921)  
28 186 Cal. 7, 15-16; *City of Barstow v Mojave Water Agency* (2000) 23 Cal.4<sup>th</sup> 1224, 1235.) As

1 such, courts have previously accepted the use of declaratory relief in water rights adjudications.

2  
3 **E. THE COUNTY HAS ADEQUATELY PLED ITS DECLARATORY**  
4 **RELIEF ACTION.**

5  
6 As more fully addressed in the County's Opposition to Diamond Farming's Demurrer, the  
7 extent Diamond Farming's Motion challenges the sufficiency of the pleading of the groundwater  
8 adjudication actions, the County adequately pleads causes of action for declaratory relief. The  
9 main requirement for a declaratory relief action is a present and actual controversy between the  
10 parties. (*City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 80.) The County submits that its  
11 Complaints adequately plead an actual controversy between the parties.

12 **III. CONCLUSION.**

13  
14 Based on the foregoing, the County respectfully requests that the Court deny Diamond  
15 Farming's Motion under Code of Civil Procedure section 760.030 because the Motion lacks any  
16 legal authority.

17  
18  
19 Dated: November 17, 2005

BEST BEST & KRIEGER LLP

20  
21 By: 

22 ERIC L. GARNER  
23 JEFFREY V. DUNN  
24 SANDRA M. SCHWARZMANN  
25 JILL N. WILLIS  
26 Attorneys for Plaintiff  
27 LOS ANGELES COUNTY  
28 WATERWORKS DISTRICT NO. 40

**PROOF OF SERVICE**

I, Kerry V. Keefe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 5 Park Plaza, Suite 1500, Irvine, California 92614. On November 17, 2005, I served the within document(s):

LOS ANGELES COUNTY WATERWORKS DISTRICT NO.  
40'S OPPOSITION TO DIAMOND FARMING COMPANY'S  
MOTION PURSUANT TO CODE OF CIVIL PROCEDURE  
SECTION 760.030

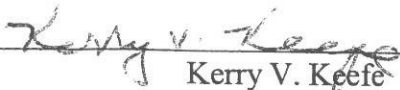
- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- ☐ by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.\*\*

(SEE ATTACHED SERVICE LIST)

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid 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.

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

Executed on November 17, 2005 at Irvine, California.

  
Kerry V. Keefe

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