

1 Bob H. Joyce, (SBN 84607)
2 Dave R. Lampe (SBN 77100)
3 Andrew Sheffield (SBN 220735)
4 LAW OFFICES OF
5 LEBEAU • THELEN, LLP
6 5001 East Commercenter Drive, Suite 300
7 Post Office Box 12092
8 Bakersfield, California 93389-2092
9 (661) 325-8962; Fax (661) 325-1127

6 Attorneys for DIAMOND FARMING COMPANY,
7 a California corporation
8
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF LOS ANGELES
12

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

Judicial Council Coordination No. 4408

15 ANTELOPE VALLEY GROUNDWATER
16 CASES

Case No.: 1-05-CV-049053

16 Included actions:

**DIAMOND FARMING COMPANY,
INC.'S ANSWER TO CROSS-
COMPLAINT FILED BY COUNTY
SANITATION DISTRICTS NOS. 14
AND 20 OF LOS ANGELES COUNTY**

17 Los Angeles County Waterworks District No.
18 40 vs. Diamond Farming Company
19 Los Angeles Superior Court
Case No. BC 325201

20 Los Angeles County Waterworks District No.
21 40 vs. Diamond Farming Company
22 Kern County Superior Court
Case No. S-1500-CV 254348 NFT

22 Diamond Farming Company vs. City of
23 Lancaster
24 Riverside County Superior Court
Lead Case No. RIC 344436 [Consolidated
w/Case Nos. 344668 & 353840]

25
26 ///

27 ///

COMES NOW cross-defendant, DIAMOND FARMING COMPANY, INC., and answers the Cross Complaint filed by COUNTY SANITATION DISTRICTS NOS. 14 AND 20 OF LOS ANGELES COUNTY as follows:

I

It appearing herein that the Cross-Complaints are unverified, cross-defendant hereby files its general denial pursuant to the Code of Civil Procedure section 431.30(d).

II

Cross-Defendant herein denies, generally and specifically, each and every allegation of said Cross-Complaint, both conjunctively and disjunctively and the whole thereof, and denies further that it is liable to cross-complainant or that cross-complainant is entitled to any relief against cross-defendant, whether legal or equitable.

First Affirmative Defense

The Cross-Complaint and every purported cause of action contained therein fails to allege facts sufficient to constitute a cause of action against Diamond Farming Company, Inc.

Second Affirmative Defense

Each and every cause of action contained in the Cross-Complaint is barred, in whole or in part, by the applicable statutes of limitations, including, but not limited to, Sections 318, 319, 321, 337, 338, and 343 of the Code of Civil Procedure.

Third Affirmative Defense

The Cross-Complaint, and each and every cause of action contained therein, is barred by the doctrine of laches.

Fourth Affirmative Defense

Each and every cause of action contained in the Cross-Complaint is barred by the doctrine of estoppel.

Fifth Affirmative Defense

The Cross-Complaint, and each and every cause of action contained therein, is barred by the doctrine of waiver.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Sixth Affirmative Defense

The Cross-Complaint, and each and every cause of action contained therein, is barred because Cross-Complainant's claims are not ripe for adjudication.

Seventh Affirmative Defense

Cross-Complainant is not entitled to the aid of this court, sitting as a court of equity, nor to the injunctive relief sought, in that cross-complainant has an adequate, speedy, and statutorily recognized remedy at law. Specifically, under the Constitution and statutes of this state, cross-complainant is endowed with the power of eminent domain, and by virtue of that power, can achieve the relief sought and prayed for herein.

Eighth Affirmative Defense

The request for the court to use its injunctive powers to impose a physical solution seeks a remedy that is in violation of the doctrine of separation of powers set forth in Article III, Section 3 of the California Constitution.

Ninth Affirmative Defense

Cross-Complainant is barred from recovery under each and every cause of action contained in the Cross-Complaint by the doctrine of unjust enrichment.

Tenth Affirmative Defense

The Cross-Complaint is defective because it fails to name indispensable parties in violation of California Code of Civil Procedure Section 389(a).

Eleventh Affirmative Defense

As a governmental entity, cross-complainant is barred from taking, possessing or using cross-defendants' property without first paying just compensation.

Twelfth Affirmative Defense

The governmental entity cross-complainants are seeking to transfer water right priorities and water usage which will have significant effects on the Antelope Valley Groundwater basin and the Antelope Valley. Said actions are being done without complying with and contrary to the provisions of California's Environmental Quality Act (CEQA) (Pub.Res.C. 21000 et seq.).

///

1 **Thirteenth Affirmative Defense**

2 The governmental entity cross-complainants seek judicial ratification of a project that has had
3 and will have a significant effect on the Antelope Valley Groundwater basin and the Antelope Valley
4 that was implemented without providing notice in contravention of the provisions of California's
5 Environmental Quality Act (CEQA) (Pub.Res.C. 21000 et seq.).

6 **Fourteenth Affirmative Defense**

7 Any imposition by this court of a proposed physical solution that reallocates the water right
8 priorities and water usage within the Antelope Valley will be *ultra vires* as it will be subverting the pre-
9 project legislative requirements and protections of California's Environmental Quality Act (CEQA)
10 (Pub.Res.C. 21000 et seq.).

11 **Fifteenth Affirmative Defense**

12 Cross-Complainant is not entitled to the relief requested by virtue of the doctrine of self help.

13 **Sixteenth Affirmative Defense**

14 The Cross-Complaint, and each and every cause of action contained therein, are barred because
15 each cross-complainant lacks standing to bring the claims set forth in the Cross-Complaint.

16 **Seventeenth Affirmative Defense**

17 Cross-Defendant alleges that cross-defendant is the owner of certain real property (fee estate,
18 mineral estate, or other such real property estate or interest) overlying the groundwater in question and
19 therefore has the prior and paramount right, presently and in the future, to withdraw and use groundwater on
20 its property and within the basin or watershed.

21 **Eighteenth Affirmative Defense**

22 Cross-Complainant is barred from maintaining this action because cross-complainant has previously
23 ratified the cross-defendant's course of conduct complained of.

24 **Nineteenth Affirmative Defense**

25 The Cross-Complaint is defective and uncertain in that it cannot be ascertained therefrom the nature
26 of the water rights that cross-complainants are claiming for themselves and the nature of the water rights that
27 cross-complainant claims that cross-defendant is asserting.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Twentieth Affirmative Defense

The Cross-Complaint is defective and uncertain in that it cannot be ascertained therefrom whether this action as alleged, is an action *in rem* or *in personam*, and therefore whether all real property and/or persons required to be joined are parties to the action.

Twenty-First Affirmative Defense

This answering cross-defendant has insufficient knowledge or information upon which to form a belief as to whether there may be additional, as yet unstated, affirmative defenses available, and answering cross-defendant reserves the right to assert such additional affirmative defenses in the event discovery indicates they are proper.

Twenty-Second Affirmative Defense

Cross-Defendant incorporates by reference any other applicable affirmative defense asserted by any other responding cross-defendants to the Cross-Complaint as if fully set forth herein.

WHEREFORE, cross-defendant prays for relief as follows:

1. Cross-Complainant take nothing as against cross-defendant by way of its Cross-Complaint on file herein;
2. This answering cross-defendant be dismissed with its costs of suit incurred herein;
3. If this Court grants cross-complainant the relief sought and thereby affects, impairs, or diminishes this cross-defendant's property rights, that this Court retain jurisdiction and thereafter fix the just compensation to which this cross-defendant would be due pursuant to the Federal and State Constitutions;
4. This answering cross-defendant be awarded attorney's fees as may be allowed by statute, or case law; and
5. Such other and proper relief as the court deems appropriate.

Dated: January 29, 2007

LeBEAU • THELEN, LLP

By: _____


BOB H. JOYCE
Attorneys for DIAMOND FARMING COMPANY,
a California corporation

1 **PROOF OF SERVICE**

2 ANTELOPE VALLEY GROUNDWATER CASES
3 JUDICIAL COUNSEL PROCEEDING NO. 4408
4 CASE NO.: 1-05-CV-049053

5 I am a citizen of the United States and a resident of the county aforesaid; I am over the age
6 of eighteen years and not a party to the within action; my business address is: 5001 E. Commercenter
7 Drive, Suite 300, Bakersfield, California 93309. On January 29, 2007, I served the within
8 **DIAMOND FARMING COMPANY, INC.'S ANSWER TO CROSS-COMPLAINT FILED BY**
9 **COUNTY SANITATION DISTRICTS NOS. 14 AND 20 OF LOS ANGELES COUNTY**

10 ☒ (BY POSTING) I am "readily familiar" with the Court's Clarification Order.
11 Electronic service and electronic posting completed through www.scefilng.org ; All papers filed
12 in Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

13 ☐ (BY MAIL) I am "readily familiar" with the firm's practice of collection and
14 processing correspondence for mailing. Under that practice it would be deposited with the U.S.
15 Postal Service on that same day with postage thereon fully prepaid at Bakersfield, California, in
16 the ordinary course of business.

17 ☐ (BY FACSIMILE) I placed the above-described document in a facsimile machine
18 (pursuant to California Rules of Court, Rule 2008(e)(1)) with the fax number of (661) 325-1127,
19 addressed as stated above. Upon facsimile transmission of the document, I obtained a report from
20 the transmitting facsimile machine stating that the facsimile transmission was complete and
21 without error. A copy of the transmission report is attached to this Proof of Service pursuant to
22 California Rules of Court, Rule 2008(e)(4).

23 ☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to
24 the offices of the addressee(s). Executed on _____, 2007, at Bakersfield, California.

25 ☒ (STATE) I declare under penalty of perjury under the laws of the State of
26 California that the above is true and correct, and that the foregoing was executed on January 29,
27 2007, in Bakersfield, California.

28 

DONNA M. LUIS