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Attorneys for DIAMOND FARMING COMPANY,
a California corporation

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOSANGELES

Coordination Proceeding Special Title
(Rule 1550 (b))

ANTELOPE VALLEY GROUNDWATER
CASES

Included actions:

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

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

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

Judicial Council Coordination No. 4408

Case No.: 1-05-CV-049053

NOTICE OF HEARING ON DEMURRER
AND GENERAL DEMURRER AND
SPECIAL DEMURRER BY DEFENDANT,
DIAMOND FARMING COMPANY TO
LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40
COMPLAINTS IN ACTIONS NOS.
BC 325201 AND S-1500-CV 254348 NFT

Date: December 2, 2005
Time: 10:00 a.m.
Dept.: 1, Rm 534

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1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that this general demurrer and special demurrer have been set for
3 hearing on December 2, 2005, at 10:00 a.m., or as soon thereafter as counsel can be heard, in Dept. 1,
4 Room 534, of the Los Angeles Superior Court.

5 This general and special demurrer is directed to the two separate, but virtually and substantively
6 identical complaints filed by Los Angeles County Waterworks District No. 40, in Kern County (action
7 No. BC 325201) and Los Angeles County (action No. S-1500-CV 254348 NFT). This general and
8 special demurrer to both complaints is based upon this notice of hearing, the demurrer, the Memorandum
9 of Points and Authorities supporting said demurrer, filed separately and concurrently herewith, and on
10 all pleadings, papers, and records in the Superior Court Clerk’s file pertaining to both actions; and any
11 reply or supplemental memorandum or requests for judicial notice which may be hereafter filed in
12 support of this demurrer; and upon oral argument presented at the time of hearing. The grounds of
13 specification for this general and special demurrer are as follows:

14 I. COUNT ONE FAILS TO STATE A CAUSE OF ACTION AND IS UNCERTAIN
15 (CODE OF CIVIL PROCEDURE SECTIONS 430.10(a)(b)(e)(f))

- 16 A. *Waterworks’ acquisition of title by prescription is not authorized, is Constitutionally prohibited, ultra vires, and void ab initio*
- 17 B. *The complaints fail to state facts sufficient to state a cause of action and are uncertain because they plead by legal conclusion and do not plead facts of the “claim of right,” “hostility,” and “adversity,” and do not plead any landowner had notice of those claims*
- 18 C. *Waterworks must plead that by its acts or declarations that it imparted constitutionally sufficient due process notice to each landowner*
- 19 D. *The facts pled fail to disclose when all or any landowner first had an accrued cause of action for inverse condemnation*

22 II. COUNT ONE IS UNCERTAIN

23 III. COUNT ONE FAILS TO STATE A CAUSE OF ACTION AS A MATTER OF LAW

24 IV. COUNT TWO FAILS TO STATE A CAUSE OF ACTION AS A MATTER OF LAW

25 V. COUNT THREE FAILS TO STATE A CAUSE OF ACTION AS A MATTER OF LAW

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1 VI. COUNT FOUR FAILS TO STATE A CAUSE OF ACTION AS A MATTER OF LAW

2 VII. CONCLUSION

3 Dated: October 27, 2005

LeBEAU • THELEN, LLP

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

BHJ:cy

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 October 27, 2005, I served the within

8 NOTICE OF HEARING ON DEMURRER AND GENERAL DEMURRER AND SPECIAL
9 DEMURRER BY DEFENDANT, DIAMOND FARMING COMPANY TO LOS ANGELES
10 COUNTY WATERWORKS DISTRICT NO. 40 COMPLAINTS IN ACTIONS NOS. BC 325201
11 AND S-1500-CV 254348 NFT

12 by placing the original a true copy thereof enclosed in a sealed envelope(s) addressed as follows:

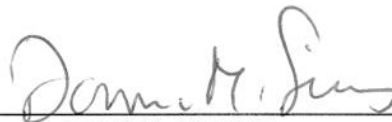
13 PURSUANT TO THE SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX
14 LITIGATION DEPARTMENT 17, A PROOF OF SERVICE IS GENERATED BY THE E-FILING SYSTEM

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

18 (OVERNIGHT/EXPRESS MAIL) By enclosing a true copy thereof in a sealed envelope
19 designated by United States Postal Service (Overnight Mail)/Federal Express/United Parcel Service
20 ("UPS") addressed as shown on the above by placing said envelope(s) for ordinary business practices
21 from Kern County. I am readily familiar with this business' practice of collecting and processing
22 correspondence for overnight/express/UPS mailing. On the same day that the correspondence is placed
23 for collection and mailing, it is deposited in the ordinary course of business with the United States Postal
24 Service/Federal Express/UPS in a sealed envelope with delivery fees paid/provided for at the facility
25 regularly maintained by United States Postal Service (Overnight Mail/Federal Express/United Postal
26 Service [or by delivering the documents to an authorized courier or driver authorized by United States
27 Postal Service (Overnight Mail)/Federal Express/United Postal Service to receive documents].

28 (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the
addressee(s). Executed on _____, 2005, at Bakersfield, California.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above
is true and correct, and that the foregoing was executed on October 27, 2005, in Bakersfield, California.



DONNA M. LUIS