

ENDORSED

**FILED
KERN COUNTY**

OCT 29 1999

**TERRY McNALLY, CLERK
BY _____ DEPUTY**

SUMMONS ISSUED

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6 Attorneys for Plaintiff
7 DIAMOND FARMING COMPANY, a California corporation

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF KERN**

11 DIAMOND FARMING COMPANY, a California
12 corporation,

13 Plaintiff,

14 vs.

15 CITY OF LANCASTER, ANTELOPE VALLEY
16 WATER COMPANY, PALMDALE WATER
17 DISTRICT, PALM RANCH IRRIGATION
18 DISTRICT, QUARTZ HILL WATER DISTRICT,
19 ROSAMOND COMMUNITY SERVICE DISTRICT,
20 MOJAVE PUBLIC UTILITY DISTRICT, DOES 1
21 THROUGH 200, INCLUSIVE, AND ALL
22 PERSONS UNKNOWN, CLAIMING ANY LEGAL
23 OR EQUITABLE RIGHT, TITLE, ESTATE, LIEN,
24 OR INTEREST IN THE PROPERTY DESCRIBED
25 IN THE COMPLAINT ADVERSE TO
26 PLAINTIFF'S TITLE, OR, ANY CLOUD UPON
27 PLAINTIFF'S TITLE THERETO,

28 Defendants.

CASE NO.: **240090 AEW**
COMPLAINT TO QUIET TITLE

24 **FIRST CAUSE OF ACTION**

25 **(FOR QUIET TITLE AGAINST ALL DEFENDANTS)**

26 1. Plaintiff Diamond Farming Company is, and at all times herein mentioned was,
27 a California corporation.

28 ///

1 2. Plaintiff owns in fee that certain real property (the Property) situated in Kern
2 County, California, in or about the unincorporated town of Rosamond, identified as Assessor'
3 Parcels Numbers 0359-051-01, 359-051-02, and 359-011-28, and more particularly described in
4 Exhibit A, attached hereto and incorporated herein by this reference. The Property is
5 approximately 320 acres in area.

6 3. The entire Property overlies a body of percolating groundwater (hereinafter called
7 "The Aquifer"), the extent of which is unknown to plaintiff.

8 4. Defendant City of Lancaster (Lancaster) is, and at all times herein mentioned was
9 a municipal corporation. Lancaster provides municipal water service to customers within its
10 boundaries.

11 5. Defendants Antelope Valley Water Company, Palmdale Water District, Palm Ranch
12 Irrigation District, Quartz Hill Water District, Rosamond Community Service District, and
13 Mojave Public Utility District (the Water Companies) are purveyors of water to customers in
14 portions of Kern County and Los Angeles County.

15 6. Plaintiff is ignorant of the true names and capacities, whether individual
16 corporate, governmental, or otherwise, of the Defendants named in this complaint as All Persons
17 Unknown, Claiming Any Legal Or Equitable Right, Title, Estate, Lien, Or Interest In The
18 Property Described In This Complaint Adverse To Plaintiff's Title, Or Any Cloud Upon
19 Plaintiff's Title Thereto, and therefore sues these Defendants by so naming them, pursuant to
20 California Code of Civil Procedure sections 762.020 and 762.060. These Defendants are all
21 persons, except those Defendants specifically named in this complaint (including any of those
22 Defendants who have been fictitiously named in this complaint as Does 1-200, who are
23 subsequently identified through amendment of the complaint) who claim that they have water
24 rights to extract groundwater from The Aquifer for use (1) on property that does not overlie
25 The Aquifer, and/or (2) on property that that person does not own, and/or (3) for some other
26 non-overlying use superior to, or coequal with, the overlying rights of plaintiff to extract
27 groundwater from The Aquifer and put it to reasonable and beneficial use on plaintiff's property
28

1 described below. Plaintiff seeks a binding and conclusive judgment against all of these unknown
2 persons pursuant to California Code of Civil Procedure section 764.030.

3 7. Plaintiff is ignorant of the true names and capacities, whether individual,
4 corporate, governmental, or otherwise, of the Defendants named in this complaint as Does
5 1-200, inclusive, and therefore sues these Defendants by these fictitious names. Plaintiff will
6 amend this complaint to allege the fictitiously-named Defendants' names and capacities when
7 ascertained. 8. By virtue of the location of the Property overlying groundwater in The
8 Aquifer, plaintiff holds an overlying water right to groundwater from The Aquifer, entitling to
9 plaintiff to extract groundwater from The Aquifer and to put the water to reasonable and
10 beneficial use on the Property (Plaintiff's overlying water right).

11 9. Plaintiff is informed and believes, and on the basis of such information and belief
12 alleges, that each of the defendants currently extracts groundwater from The Aquifer for use
13 on property not overlying The Aquifer, for use on property that the defendant does not own,
14 and/or for some other non-overlying use.

15 10. Any reasonable and beneficial overlying use of groundwater is superior in right
16 to any non-overlying use. Therefore, plaintiff's overlying water right is superior to any rights
17 defendants may have to take groundwater from The Aquifer for non-overlying use.

18 11. Plaintiff is informed and believes, and on the basis of such information and belief
19 alleges, that each defendant claims that it has water rights to extract groundwater from The
20 Aquifer for non-overlying use that are superior to, or coequal with, plaintiff's overlying water
21 right, based on a claim of prescription or other claim in law or equity.

22 12. Plaintiff is informed and believes, and on the basis of such information and belief
23 alleges, that the claim of each defendant to superior or coequal rights to extract and use
24 groundwater from The Aquifer is without basis in law.

25 13. The quantity of superior or coequal rights that each defendant claims is unknown
26 to plaintiff.

1 14. Plaintiff seeks to quiet title to the superior priority of plaintiff's overlying water
2 right against the claims of each defendant to a superior or coequal right to extract and use
3 groundwater from The Aquifer for non-overlying use.

4 15. The determination is sought as of the date of filing of this complaint.

5 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as
6 follows:

7 1. For a determination that plaintiff's present and future right to extract groundwater
8 from The Aquifer and put it to reasonable and beneficial use on the Property is superior in
9 priority to any rights of each of the defendants to extract and use groundwater, other than for
10 reasonable and beneficial overlying use upon any land such defendant owns which overlies The
11 Aquifer;

12 2. For a determination that plaintiff retains the full range of remedies available to
13 secure and protect plaintiff's overlying water right;

14 3. For an award of reasonable attorney's fees and costs of suit; and

15 4. For such other and further relief as the court deems just and proper.

16 Dated: October 28, 1999

LeBEAU, THELEN, LAMPE,
McINTOSH & CREAR, LLP

17
18 By: 

19 BOB H. JOYCE, ESQ.
20 Attorneys for Plaintiff
21 DIAMOND FARMING COMPANY,
a California corporation

22 PCC:jec/etc

23 diamf/watr{Diamond.Complaint Quiet Title}10/99
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Diamond vs. City of Lancaster

EXHIBIT "A"

The parcels, located in the County of Kern, State of California, are described as follows:

1. The northern one half ($\frac{1}{2}$) of the northwest quarter (\swarrow) of Section 24, Township 9 North, Range 14 West, San Bernardino Meridan, except road and except a strip of land 250 feet wide for the City of Los Angeles transmission line (APN # 359-051-01-00-0);
2. The northwest quarter (\swarrow) of Section 23, Township 9 North, Range 14 West, San Bernardino Meridan (APN # 351-011-28-00-7); and
3. The southern one half ($\frac{1}{2}$) of the northwest quarter (\swarrow) of Section 24, Township 9 North, Range 14 West, San Bernardino Meridan, except road and except a strip of land 250 feet wide for the City of Los Angeles transmission line (APN # 359-051-02-00-3);

* * * *

VERIFICATION TO COMPLAINT

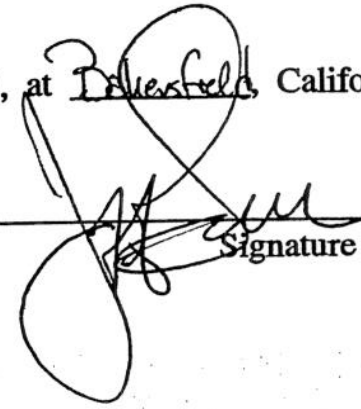
I, **JEFFREY A. GREEN**, am an authorized agent of the Plaintiff in the above-entitled action. I have read the foregoing **Complaint to Quiet Title** and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe it to be true.

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

EXECUTED this 29th day of October, 1999, at Bellevue, California.

JEFFREY A. GREEN

Type or Print Name


Signature