

ENDORSED

FILED
KERN COUNTY

MAR - 1 2000

TERRY McNALLY, CLERK
BY _____ DEPUTY

1 BOB H. JOYCE (SBN 84607)
2 KERRY L. LOCKHART (SBN 182690)

3 LAW OFFICES OF
4 LEBEAU, THELEN, LAMPE, MCINTOSH & CREAR, LLP
5 5001 East Commercenter Drive, #300
Post Office Box 12092
Bakersfield, California 93389-2092
(805) 325-8962; Fax (805) 325-1127

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

SUMMONS ISSUED

11 DIAMOND FARMING COMPANY, a California
12 corporation,

13 Plaintiff,

14 vs.

15 CITY OF LANCASTER, ANTELOPE VALLEY
16 WATER COMPANY, PALMDALE WATER
DISTRICT, PALM RANCH IRRIGATION
17 DISTRICT, QUARTZ HILL WATER DISTRICT,
ROSAMOND COMMUNITY SERVICE DISTRICT,
18 MOJAVE PUBLIC UTILITY DISTRICT, LOS
ANGELES COUNTY WATERWORKS DISTRICT
19 NO. 37, LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40, DOES 1 THROUGH 200,
20 INCLUSIVE, AND ALL PERSONS UNKNOWN,
CLAIMING ANY LEGAL OR EQUITABLE RIGHT,
21 TITLE, ESTATE, LIEN, OR INTEREST IN THE
PROPERTY DESCRIBED IN THE COMPLAINT
22 ADVERSE TO PLAINTIFF'S TITLE, OR ANY
CLOUD UPON PLAINTIFF'S TITLE THERETO,

23 Defendants.

CASE NO.: 240090 JES

FIRST AMENDED AND SUPPLEMENTAL
COMPLAINT TO QUIET TITLE

Action Filed: October 29, 1999
Trial Date: None Set

24 Plaintiff Diamond Farming Company, by leave of court first had and obtained, files this First
25 Amended and Supplemental Complaint (the complaint), pursuant to Code of Civil Procedure sections
26 464 and 473, and alleges as follows:

27 ///

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

FIRST CAUSE OF ACTION

(FOR QUIET TITLE AGAINST ALL DEFENDANTS)

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

2. On the date of commencing this action, plaintiff owns in fee that certain real property (the Property) situated in Kern County, California, in or about the unincorporated town of Rosamond, identified as Assessor's Parcels Numbers 359-051-01-00-0, 359-051-02-00-3, and 359-011-28-00-7, and more particularly described in Exhibit A, attached hereto and incorporated herein by this reference. The Property is approximately 320 acres in area.

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

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

5. Defendants Antelope Valley Water Company, Palmdale Water District, Palm Ranch Irrigation District, Quartz Hill Water District, Rosamond Community Service District, Los Angeles County Waterworks District No. 37, Los Angeles County Waterworks District No. 40, and Mojave Public Utility District are purveyors of water to customers in portions of Kern County and/or Los Angeles County.

6. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, governmental, or otherwise, of the defendants named in this complaint as "ALL PERSONS UNKNOWN, CLAIMING ANY LEGAL OR EQUITABLE RIGHT, TITLE, ESTATE, LIEN, OR INTEREST IN THE PROPERTY DESCRIBED IN THIS COMPLAINT ADVERSE TO PLAINTIFF'S TITLE, OR ANY CLOUD UPON PLAINTIFF'S TITLE THERETO," and therefore sues these defendants by so naming them, pursuant to California Code of Civil Procedure sections 762.020 and 762.060. These defendants are all persons, except those defendants specifically named in this complaint (including any of those defendants who have been fictitiously named in this complaint as Does 1-200, who are subsequently identified through amendment of the complaint), who claim that they have water rights to extract groundwater from The Aquifer for use (1) on property that does not overlie The Aquifer, and/or (2) on property that that person does not own, and/or (3) for

1 some other non-overlying use superior to, or coequal with, the overlying rights of plaintiff to extract
2 groundwater from The Aquifer and put it to reasonable and beneficial use on plaintiff's property
3 described above. Plaintiff seeks a binding and conclusive judgment against all of these unknown persons
4 pursuant to California Code of Civil Procedure section 764.030.

5 7. Plaintiff is ignorant of the true names and capacities, whether individual, corporate,
6 governmental, or otherwise, of the defendants named in this complaint as Does 1-200, inclusive, and
7 therefore sues these defendants by these fictitious names. Plaintiff will amend this complaint to allege
8 the fictitiously-named defendants' names and capacities when ascertained.

9 8. By virtue of the location of the Property overlying groundwater in The Aquifer, plaintiff
10 holds an overlying water right to groundwater from The Aquifer, entitling plaintiff to extract
11 groundwater from The Aquifer and to put the water to reasonable and beneficiary use on the Property
12 (plaintiff's overlying water right).

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

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

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

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

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

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

4 15. The determination is sought as of October 29, 1999, the date on which this action was
5 commenced.

6 SECOND CAUSE OF ACTION

7 (SUPPLEMENTAL—FOR QUIET TITLE AGAINST ALL DEFENDANTS)

8 16. Plaintiff refers to paragraphs 1 through 14, inclusive, of plaintiff's First Cause of Action
9 and incorporates them herein by this reference.

10 17. Following the commencement of this action, plaintiff conveyed the Property to Gestion
11 Fonciere, S.A., a Vaduz Company (Gestion). Gestion leased the Property to plaintiff pursuant to a
12 written agricultural lease for a term commencing on the date on which Gestion acquired title to the
13 Property and ending between November 15, 2004, and December 31, 2004. The lease requires plaintiff
14 to utilize the Property for the growing of its crops. Paragraph 4 of the lease provides in pertinent part
15 that:

16 " [Plaintiff] shall have the exclusive and unrestricted right to access and utilize
17 those pipelines, wells, ditches and reservoirs located on the [Property]. [Plaintiff]
18 may place in its name all utilities serving the [Property]. [Plaintiff] shall have the
19 right to take any action necessary, including court action, against any person
other than [Gestion] to establish and/or preserve [plaintiff]'s unlimited right to
pump water from any present or future wells located on the [Property], for use on
the [Property], during the term of the Lease."

20 Paragraph 4 of the lease further provides that plaintiff may bring the action in its name under any
21 theory deemed appropriate by plaintiff.

22 18. The determination is sought as of the date of filing of this complaint.

23 **WHEREFORE**, plaintiff prays for judgment against defendants, and each of them, as follows:


24 1. For a determination of plaintiff's title against defendants' adverse claims, including a
25 determination that plaintiff's present and future right to extract groundwater from The Aquifer and put
26 it to reasonable and beneficial use on the Property is superior in priority to any rights of each of the
27 defendants to extract and use groundwater, other than for reasonable and beneficial overlying use upon
28 any land such defendant owns which overlies The Aquifer;

- 1 2. For a determination that plaintiff retains the full range of remedies available to secure and
2 protect plaintiff's overlying water right;
- 3 3. For an award of reasonable attorney's fees and costs of suit; and
- 4 4. For such other and further relief as the court deems just and proper.

5 Dated: February 28, 2000

LeBEAU, THELEN, LAMPE,
McINTOSH & CREAR, LLP

By:


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

BHJ/KLL:etc)diam/watr
{DFC-Lanc1stamsupLcmp.0200.wpd}

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 ($\frac{1}{4}$) 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 northeast quarter ($\frac{1}{4}$) of Section 23, Township 9 North, Range 14 West, San Bernardino Meridan (APN # 359-011-28-00-7);
and
3. The southern one half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$) 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).

* * * *

**CIVIL CASE COVER SHEET ADDENDUM
CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO DISTRICT**

This form is required in all new civil case filings in the Los Angeles Superior Court

I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

☐ JURY OR ☒ NON-JURY AND CLASS ACTION? ☐ YES ☒ NO TIME ESTIMATED FOR TRIAL 7

☐ HOURS/ ☒ DAYS

II. Select the correct district (4 steps):

1 Under Column 1 below, find the case category number you entered on the Civil Case Cover Sheet.

2 Check the one type of action in Column 2 which best describes the nature of this case.

3 In Column 3 below, circle the reason for your choice of district that applies to the type of action you have checked.

Applicable Reasons for Choosing District (See Column 3 below)

1. Class Actions must be filed in Central District.
2. May be filed in Central District.
3. District where cause of action arose.
4. District where injury, death or damage occurred.
5. District where performance is expressly required.

6. District where property is located.
7. District where petitioner resides.
8. District where defendant/respondent functions wholly therein.
9. District where one or more of the parties reside.
10. District where Labor Commissioner Office located.

4 Fill in the information requested on page 3 in item III; complete item IV. Sign the certificate.

-1- Civil Case Cover Sheet Category No.	-2- Type of Action (Check only one)	-3- Applicable Reasons - See Above
01 Abuse of Process	<input type="checkbox"/> A6001 Abuse of Process	1., 2., 3., 8.
02 Administrative/Court Agcy Review	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review <input type="checkbox"/> A6150 Other Writ/Judicial Review	2., 8. 2. 2. 2., 8.
03 Antitrust/Trade Reg.	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
04 Asbestos	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestosis - Personal Injury/Wrongful Death	2. 2.
05 Asset Forfeiture	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
06 Breach of Contract/ Warranty (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not UD or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach - Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
07 Business Tort	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
08 Civil Rights	<input type="checkbox"/> A6005 Civil Rights	1., 2., 3.
09 Collections	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5. 2., 5.
10 Construction Defect	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.

SHORT TITLE:

DIAMOND FARMING COMPANY VS. PALMDALE WATER DISTRICT,

CASE NUMBER
MC 011330

-1- Civil Case Cover Sheet Category No.	-2- Type of Action (Check only one)	-3- Applicable Reasons - See Above
11 Contractual Arbitr.	<input type="checkbox"/> A6115 Petition to Compel/Confirm Arbitration	2., 5.
12 Declaratory Relief	<input type="checkbox"/> A6030 Declaratory Relief Only	1., 2., 8.
13 Defamation	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 3.
14 Emnt Dom/Inv. Cond.	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels	2.
15 Employment	<input type="checkbox"/> A6037 Wrongful Termination <input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 1., 2., 3. 10.
16 Fraud	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3., 5. 1., 2., 3., 5.
17 Injunctive Relief	<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
18 Ins. Coverage/Subr.	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation Case (complex case only) <input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8. 1., 2., 5., 8.
19 Intellectual Property	<input type="checkbox"/> A6016 Intellectual Property	2., 3.
20 Enforcement of Judgment	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8., 9.
21 Prtnrshp & Corp. Gov.	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
22 PI/PD/WD - Auto	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Dam./Wrongful Death Is this an uninsured motorist case? <input type="checkbox"/> Yes <input type="checkbox"/> No	1., 4.
23 PI/PD/WD - Nonauto	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional PI/PD/WD (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7220 Other Personal Injury/Property Dam./Wrongful Death	1., 4. 1., 4. 1., 4.
24 Product Liability	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
25 Prof. Negligence	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice <input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 4. 1., 4. 1., 2., 3. 1., 2., 3.
26 Real Property	<input type="checkbox"/> A6018 Mortgage Foreclosure <input checked="" type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Real Property (not em. domain, landlord/tenant, or foreclosure)	2., 6. 2., 6. 2., 6.

SHORT TITLE:

DIAMOND FARMING COMPANY vs. PALMDALE WATER DISTRICT

CASE NUMBER

MC 011330

-1- Civil Case Cover Sheet Category No.	-2- Type of Action (Check only one)	-3- Applicable Reasons- See Above
27 RICO	<input type="checkbox"/> A6033 Racketeering Case	1., 2., 8.
28 Securities Litigation	<input type="checkbox"/> A6305 Securities Litigation Case	1., 2., 8.
29 Tax Judgment	<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2., 8.
30 Toxic Tort/Environmtl	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
31 Unlawful Det.-Comm.	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
32 Unlawful Det.-Resid.	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction) <input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6. 2., 6.
33 Wrongful Eviction	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
34 - Other Complaints:	<input type="checkbox"/> A6006 Claims Involving Mass Tort <input type="checkbox"/> A6025 Other Intentional Tort Complaint (not PI/WD/PD) <input type="checkbox"/> A6026 Other Tort Complaint Case (not Intentional or PI/WD/PD) <input type="checkbox"/> A6027 Other Contract Dispute (not breach/insurance/fraud/negligence) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 3., 8. 1., 2., 3. 1., 2., 3. 1., 2., 8. 1., 2., 8. 1., 2., 8.
Petitions:	<input type="checkbox"/> A6121 Civil/Workplace Harassment <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

4 III. Choose the district: Enter the address of the accident, party residence or place of business, required performance, or other circumstance you have circled in Column 3 as the proper reason for filing in the district you selected.

REASON: CHECK THE NUMBER YOU CIRCLED IN 3 WHICH APPLIES IN THIS CASE <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input checked="" type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 8506 E. Avenue K
CITY: Lancaster	STATE: CA	ZIP CODE: 93534

IV. Certificate/Declaration of Assignment: The undersigned hereby certifies and declares that the above entitled matter is properly filed for assignment to the North District of the Los Angeles Superior Court under Section 392 et seq., Code of Civil Procedure and Rule 2(b), (c) and (d) of this court for the reason checked above. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and this declaration was executed on March 3, 2000 at Bakersfield, California. (CITY) (DATE)

(SIGNATURE OF ATTORNEY/FILING PARTY)

New Civil Case Filing Instructions

This addendum form is required so that the court can assign your case to the correct court district for filing and hearing. It satisfies the requirement for a certificate as to reasons for authorizing filing in the district, as set forth in Los Angeles Superior Court Local Rule 2 (d). It must be completed and submitted to the court along with the Civil Case Cover Sheet and the original Complaint or Petition in **ALL** cases filed in any district (including the Central District) of the Los Angeles County Superior Court.

PLEASE HAVE THE FOLLOWING DOCUMENTS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

Original Complaint or Petition.

If filing a Civil Complaint or Family Law Petition for Dissolution, Legal Separation or Nullity, a completed Summons form for issuance by the Clerk (Summons forms available at the Forms Counter).

Civil Case Cover Sheet form required by California Rule of Court 982.2(b)(1), completely filled out (Cover Sheet forms available at the Forms Counter).

This "Addendum to Civil Case Cover Sheet" form (Superior Court Form Number 982.2(b)(1)A, revised 7/99), completely filled out and submitted with the Civil Case Cover Sheet.*

Payment in full of the filing fee or an Order of the Court waiving payment of filing fees in forma pauperis (fee waiver application forms available at the Filing Window)

In case of a plaintiff or petitioner who is a minor under 18 years of age, an Order of the Court appointing an adult as a guardian ad litem to act on behalf of the minor (Guardian ad Litem Application and Order forms available at the Forms Counter).

Additional copies of documents presented for endorsement by the Clerk and return to you.

With the exception of personal injury (including wrongful death) and property damage cases, Labor Commissioner appeals, and those types of actions required to be filed in the Central District by Local Court Rule 2(b), all civil actions may be optionally filed either in the Central District, or in whichever other district the rule would allow them to be filed. When a party elects to file an action in Central District which would also be eligible for filing in one or more of the other districts, this form must still be submitted with location and assignment information completed.