

1215-01

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

DEC 15 2000
M. Miller

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Steven B. Abbott, State Bar No. 125270

Attorneys for Defendants,
LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 37 and LOS ANGELES
COUNTY WATERWORKS DISTRICT NO. 40

FEE EXEMPT UNDER
GOV. CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

DIAMOND FARMING COMPANY, a
California corporation,

Plaintiff,

vs.

PALMDALE WATER DISTRICT, et al.,
Defendants.

) Case No. RIC 344668
) (Consolidated w/ RIC 344436)
)
) ASSIGNED TO COMMISSIONER JOAN
) F. ETTINGER, DEPARTMENT 10
)
) ANSWER OF DEFENDANTS LOS
) ANGELES COUNTY WATERWORKS
) DISTRICT NO. 37 AND LOS
) ANGELES COUNTY WATERWORKS
) DISTRICT NO. 40 TO COMPLAINT
) TO QUIET TITLE

STATUS CONF.: JAN. 10, 2001
TRIAL DATE: NONE SET
ACTION FILED: OCT. 29, 1999

Defendants, LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 37,
sued herein as Doe 1 and LOS ANGELES COUNTY WATERWORKS DISTRICT NO.
40, sued herein as Doe 2 (hereafter referred to as "County
Waterworks Districts"), for themselves and no others, answer the
Complaint to Quiet Title ("Complaint") and admit, deny, and allege
as follows:

1. County Waterworks Districts lack sufficient information
or belief to enable them to answer the allegations of Paragraphs 1,
2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14 and 15 of the Complaint, and

1 basing their denial thereon, deny each and every, all and singular,
2 conjunctively and disjunctively, the allegations of said
3 paragraphs.

4 2. Answering Paragraph 11 of the Complaint, County
5 Waterworks Districts admit that they claim that they have water
6 rights to extract groundwater for non-overlying use that are
7 superior to any rights claimed by plaintiff, as more specifically
8 alleged in Paragraph 8 below. Except as expressly admitted, County
9 Waterworks Districts lack sufficient information or belief to
10 enable them to answer the allegations of Paragraph 11 of the
11 Complaint, and basing their denial thereon, deny each and every,
12 all and singular, conjunctively and disjunctively the allegations
13 of said Paragraph 11.

14 3. Answering Paragraph 12 of the Complaint, County
15 Waterworks Districts deny that their claim to extract and use
16 groundwater from The Aquifer is without basis in law, and except as
17 expressly denied, lack sufficient information or belief to enable
18 them to answer the allegations of said Paragraph 12, and basing
19 their denial thereon, deny each and every, all and singular,
20 conjunctively and disjunctively, the allegations of said Paragraph
21 12.

22 AVERMENTS OF CONTROVERTED FACTS AND CLAIM OF RIGHT

23 Pursuant to Code of Civil Procedure § 761.030, County
24 Waterworks Districts make the following averments of controverted
25 facts and claim of right:

26 4. County Waterworks Districts are informed and believe, and
27 on that basis allege, that the real property described in the
28 Complaint overlies a groundwater basin known as the Lancaster

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subbasin.

5. County Waterworks Districts are lawfully organized by the County of Los Angeles for the provision of water to customers within said Districts for irrigation, domestic, municipal and industrial uses. To provide such water service, County Waterworks Districts have, at public expense, drilled and equipped wells to extract groundwater from the Lancaster subbasin and constructed, maintained and operated a waterworks system to distribute the groundwater so produced to customers within the Districts. All water extracted from these wells by County Waterworks Districts is devoted to the public use of distributing the same through said waterworks system for irrigation, domestic, municipal and industrial uses by the customers thereof. The production of groundwater from the Lancaster subbasin by County Waterworks Districts began in 1919 and has been open, notorious and under claim of right hostile to any rights of plaintiff and has continued for a period of more than five consecutive years, during which time, County Waterworks Districts are informed and believe, and thereon allege, included a period of five consecutive years during which the Lancaster subbasin was in a state of overdraft. County Waterworks Districts have made all filings and recordings required to be made by Water Code sections 4999, et seq.

6. County Waterworks Districts also purchase from the Antelope Valley-East Kern Water Agency State Water Project water imported from outside the watershed, which purchased water is distributed through the waterworks systems of the County Waterworks Districts to customers of said Districts. After use by the customers for irrigation, domestic, municipal and industrial uses,

1 a portion of these imported waters percolate into the ground and
2 commingle with the percolating groundwaters contained in the
3 Lancaster subbasin and thereby augment the natural supply of water
4 in the Lancaster subbasin.

5 7. County Waterworks Districts intend to begin, and are
6 currently obtaining all required permits for, construction and
7 operation of injection wells by which State Water Project water
8 purchased from and treated to meet drinking water standards by
9 Antelope Valley-East Kern Water Agency will be injected into the
10 Lancaster subbasin with the intent that the same may thereby be
11 recovered for future use by County Waterworks Districts for
12 distribution to their customers for irrigation, domestic, municipal
13 and industrial uses.

14 8. County Waterworks Districts claim the following rights,
15 each of which is paramount and superior to any overlying rights or
16 other water rights claimed by plaintiff (which rights County
17 Waterworks Districts deny) and which rights County Waterworks
18 Districts are entitled to exercise and maintain without
19 interference by plaintiff or restraint by any court:

20 (1) The right to extract groundwater from the
21 Lancaster subbasin an annual amount equal to the highest volume of
22 groundwater extracted by County Waterworks Districts in any year
23 preceding entry of judgment in this action according to proof, but
24 not less than 18,944 acre-feet;

25 (2) The right to extract or authorize others to
26 extract, from the Lancaster subbasin a volume of water equal in
27 quantity to that volume of water previously purchased by County
28 Waterworks Districts from Antelope Valley-East Kern Water Agency

1 which has augmented the supply of water in the Lancaster subbasin

2 (3) The right to extract or authorize others to
3 extract, from the Lancaster subbasin a volume of water equal in
4 quantity to that volume of water purchased in the future by County
5 Waterworks Districts from Antelope Valley-East Kern Water Agency
6 which augments the supply of water in the Lancaster subbasin; and

7 (4) The right to extract, or authorize others to
8 extract, from the Lancaster subbasin, a quantity of water equal in
9 volume to the quantity of water that County Waterworks Districts
10 directly inject into the Lancaster subbasin.

11 AFFIRMATIVE DEFENSES

12 9. As separate and distinct affirmative defenses, County
13 Waterworks Districts allege as follows:

14 FIRST AFFIRMATIVE DEFENSE

15 (As To All Causes Of Action--

16 Failure to State a Cause of Action)

17 The Complaint, and each cause of action thereof, fails to
18 state facts sufficient to constitute a cause of action against
19 County Waterworks Districts or either of them.

20 SECOND AFFIRMATIVE DEFENSE

21 (As To All Causes Of Action--

22 Uncertainty of Description)

23 The Complaint, and each cause of action thereof, is uncertain
24 and defective in that it fails to describe with specificity. The
25 Aquifer or Aquifers from which plaintiff contends it enjoys rights
26 to produce percolating groundwater.

27 ///

28 ///

THIRD AFFIRMATIVE DEFENSE

(As To All Causes Of Action--

Failure To Join Indispensable And Necessary Parties)

Plaintiff has failed to join as parties to this action, all overlying landowners in the Lancaster subbasin, which persons are indispensable and necessary parties to this action.

FOURTH AFFIRMATIVE DEFENSE

(As To All Causes Of Action--

Statute of Limitations)

The Complaint, and each cause of action thereof, is barred by the provisions of Sections 318, 319 and 343 of the Code of Civil Procedure.

FIFTH AFFIRMATIVE DEFENSE

(As To All Causes Of Action--Laches)

Plaintiff has unreasonably delayed commencement of this action to the prejudice of County Waterworks Districts.

SIXTH AFFIRMATIVE DEFENSE

(As To All Causes Of Action--Intervening Public Use)

As a result of the devotion of the waters extracted from the Lancaster subbasin to the public uses alleged in Paragraph 5 above, which is incorporated herein by reference as if set forth in full, plaintiff cannot obtain any judicial relief that will in any way restrain or prevent County Waterworks Districts from exercising the rights to extract native groundwater from the Lancaster subbasin alleged in Paragraph 8 above, which is incorporated herein by reference as if set forth in full.

///

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SEVENTH AFFIRMATIVE DEFENSE

(As To All Causes Of Action--

Failure to Record Notices of Production)

County Waterworks Districts are informed and believe, and thereon allege that plaintiff has failed to comply with the requirements of California Water Code sections 4999, et seq.

EIGHTH AFFIRMATIVE DEFENSE

(As To All Causes Of Action--

Loss of Rights by Prescription)

All water rights claimed by plaintiff have been extinguished by prescription.

PRAYER

WHEREFORE, defendants County Waterworks Districts pray judgment as follows:

1. That plaintiff take nothing by its Complaint;
2. For a declaration confirming and decreeing the following rights of County Waterworks Districts are superior to and paramount to any rights of plaintiff to produce percolating groundwater for use on the property described in the Complaint:

(1) The right to extract from the Lancaster basin an annual amount equal to the highest volume of water extracted by County Waterworks Districts in any year preceding entry of judgment in this action according to proof, but not less than 18,944 acre-feet;

(2) The right to extract from the Lancaster subbasin a volume of water equal in quantity to the volume of water previously purchased by County Waterworks Districts from Antelope Valley East Kern Water Agency which has augmented the supply of

1 water in the Lancaster subbasin;

2 (3) The right to extract or authorize others to
3 extract, from the Lancaster subbasin a volume of water equal in
4 quantity to that volume of water previously purchased in the future
5 by County Waterworks Districts from Antelope Valley-East Kern Water
6 Agency which augments the supply of water in the Lancaster
7 subbasin; and

8 (4) The right to extract, or authorize others to
9 extract, from the Lancaster subbasin, a quantity of water equal in
10 volume to the quantity of water that County Waterworks Districts
11 directly inject into the Lancaster subbasin.

12 3. An injunction prohibiting and restraining plaintiff from
13 making any claim adverse to the rights of the County Waterworks
14 Districts so confirmed and decreed;

15 4. For costs of suit; and

16 5. For such further relief as is just and equitable.

17 Verification not required per Code of Civil Procedure section
18 446.

19 DATED: December 15, 2000

REDWINE AND SHERRILL

21 By: Steven B. Abbott
22 STEVEN B. ABBOTT
23 Attorneys for Defendants,
24 LOS ANGELES COUNTY WATERWORKS
25 DISTRICT NO. 37 and LOS ANGELES
26 COUNTY WATERWORKS DISTRICT NO. 40
27
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I, the undersigned, say: I am employed in the County of Riverside, State of California, over the age of eighteen years and not a party to the within action or proceeding; that my business address is 1950 Market Street, Riverside, California 92501.

On December 15, 2000, I served a copy of the foregoing document, described as:

ANSWER OF DEFENDANTS LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 37 AND LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 TO COMPLAINT TO QUIET TITLE

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

PLEASE SEE ATTACHED SERVICE LIST


(XXX) By Mail.. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with United States Postal Service mail box on that same day with postage thereon fully prepaid at Riverside, California 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 the date of deposit for mailing in affidavit.

() By Personal Service, I caused such envelope to be delivered by hand to the above addressee(s).

EXECUTED ON December 15, 2000, at Riverside, California.

(XXX) [State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

() [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


CATHY J. BOUSLAUGH PHILLIPS

SERVICE LIST

Diamond Farming Company, etc. vs. City of Lancaster, et al.
Riverside Superior Court Case No. RIC 344436

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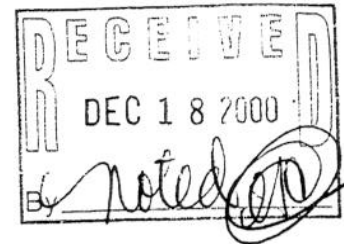
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Steven B. Abbott, State Bar No. 125270

Attorneys for Defendants,
LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 37 and LOS ANGELES
COUNTY WATERWORKS DISTRICT NO. 40

FEE EXEMPT UNDER
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

DIAMOND FARMING COMPANY, a
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) ANSWER OF DEFENDANTS LOS
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) DISTRICT NO. 40 TO COMPLAINT
TO QUIET TITLE

STATUS CONF.: JAN. 10, 2001
TRIAL DATE: NONE SET
ACTION FILED: OCT. 29, 1999

Defendants, LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 37,
sued herein as Doe 1 and LOS ANGELES COUNTY WATERWORKS DISTRICT NO.
40, sued herein as Doe 2 (hereafter referred to as "County
Waterworks Districts"), for themselves and no others, answer the
Complaint to Quiet Title ("Complaint") and admit, deny, and allege
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1. County Waterworks Districts lack sufficient information
or belief to enable them to answer the allegations of Paragraphs 1,
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1 basing their denial thereon, deny each and every, all and singular,
2 conjunctively and disjunctively, the allegations of said
3 paragraphs.

4 2. Answering Paragraph 11 of the Complaint, County
5 Waterworks Districts admit that they claim that they have water
6 rights to extract groundwater for non-overlying use that are
7 superior to any rights claimed by plaintiff, as more specifically
8 alleged in Paragraph 8 below. Except as expressly admitted, County
9 Waterworks Districts lack sufficient information or belief to
10 enable them to answer the allegations of Paragraph 11 of the
11 Complaint, and basing their denial thereon, deny each and every,
12 all and singular, conjunctively and disjunctively the allegations
13 of said Paragraph 11.

14 3. Answering Paragraph 12 of the Complaint, County
15 Waterworks Districts deny that their claim to extract and use
16 groundwater from The Aquifer is without basis in law, and except as
17 expressly denied, lack sufficient information or belief to enable
18 them to answer the allegations of said Paragraph 12, and basing
19 their denial thereon, deny each and every, all and singular,
20 conjunctively and disjunctively, the allegations of said Paragraph
21 12.

22 AVERMENTS OF CONTROVERTED FACTS AND CLAIM OF RIGHT

23 Pursuant to Code of Civil Procedure § 761.030, County
24 Waterworks Districts make the following averments of controverted
25 facts and claim of right:

26 4. County Waterworks Districts are informed and believe, and
27 on that basis allege, that the real property described in the
28 Complaint overlies a groundwater basin known as the Lancaster

subbasin.

5. County Waterworks Districts are lawfully organized by the County of Los Angeles for the provision of water to customers within said Districts for irrigation, domestic, municipal and industrial uses. To provide such water service, County Waterworks Districts have, at public expense, drilled and equipped wells to extract groundwater from the Lancaster subbasin and constructed, maintained and operated a waterworks system to distribute the groundwater so produced to customers within the Districts. All water extracted from these wells by County Waterworks Districts is devoted to the public use of distributing the same through said waterworks system for irrigation, domestic, municipal and industrial uses by the customers thereof. The production of groundwater from the Lancaster subbasin by County Waterworks Districts began in 1919 and has been open, notorious and under claim of right hostile to any rights of plaintiff and has continued for a period of more than five consecutive years, during which time, County Waterworks Districts are informed and believe, and thereon allege, included a period of five consecutive years during which the Lancaster subbasin was in a state of overdraft. County Waterworks Districts have made all filings and recordings required to be made by Water Code sections 4999, et seq.

6. County Waterworks Districts also purchase from the Antelope Valley-East Kern Water Agency State Water Project water imported from outside the watershed, which purchased water is distributed through the waterworks systems of the County Waterworks Districts to customers of said Districts. After use by the customers for irrigation, domestic, municipal and industrial uses,

1 a portion of these imported waters percolate into the ground and
2 commingle with the percolating groundwaters contained in the
3 Lancaster subbasin and thereby augment the natural supply of water
4 in the Lancaster subbasin.

5 7. County Waterworks Districts intend to begin, and are
6 currently obtaining all required permits for, construction and
7 operation of injection wells by which State Water Project water
8 purchased from and treated to meet drinking water standards by
9 Antelope Valley-East Kern Water Agency will be injected into the
10 Lancaster subbasin with the intent that the same may thereby be
11 recovered for future use by County Waterworks Districts for
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13 and industrial uses.

14 8. County Waterworks Districts claim the following rights,
15 each of which is paramount and superior to any overlying rights or
16 other water rights claimed by plaintiff (which rights County
17 Waterworks Districts deny) and which rights County Waterworks
18 Districts are entitled to exercise and maintain without
19 interference by plaintiff or restraint by any court:

20 (1) The right to extract groundwater from the
21 Lancaster subbasin an annual amount equal to the highest volume of
22 groundwater extracted by County Waterworks Districts in any year
23 preceding entry of judgment in this action according to proof, but
24 not less than 18,944 acre-feet;

25 (2) The right to extract or authorize others to
26 extract, from the Lancaster subbasin a volume of water equal in
27 quantity to that volume of water previously purchased by County
28 Waterworks Districts from Antelope Valley-East Kern Water Agency

1 which has augmented the supply of water in the Lancaster subbasin;

2 (3) The right to extract or authorize others to
3 extract, from the Lancaster subbasin a volume of water equal in
4 quantity to that volume of water purchased in the future by County
5 Waterworks Districts from Antelope Valley-East Kern Water Agency
6 which augments the supply of water in the Lancaster subbasin; and

7 (4) The right to extract, or authorize others to
8 extract, from the Lancaster subbasin, a quantity of water equal in
9 volume to the quantity of water that County Waterworks Districts
10 directly inject into the Lancaster subbasin.

11 AFFIRMATIVE DEFENSES

12 9. As separate and distinct affirmative defenses, County
13 Waterworks Districts allege as follows:

14 FIRST AFFIRMATIVE DEFENSE

15 (As To All Causes Of Action--

16 Failure to State a Cause of Action)

17 The Complaint, and each cause of action thereof, fails to
18 state facts sufficient to constitute a cause of action against
19 County Waterworks Districts or either of them.

20 SECOND AFFIRMATIVE DEFENSE

21 (As To All Causes Of Action--

22 Uncertainty of Description)

23 The Complaint, and each cause of action thereof, is uncertain
24 and defective in that it fails to describe with specificity The
25 Aquifer or Aquifers from which plaintiff contends it enjoys rights
26 to produce percolating groundwater.

27 ///

28 ///

THIRD AFFIRMATIVE DEFENSE

(As To All Causes Of Action--

Failure To Join Indispensable And Necessary Parties)

Plaintiff has failed to join as parties to this action, all overlying landowners in the Lancaster subbasin, which persons are indispensable and necessary parties to this action.

FOURTH AFFIRMATIVE DEFENSE

(As To All Causes Of Action--

Statute of Limitations)

The Complaint, and each cause of action thereof, is barred by the provisions of Sections 318, 319 and 343 of the Code of Civil Procedure.

FIFTH AFFIRMATIVE DEFENSE

(As To All Causes Of Action--Laches)

Plaintiff has unreasonably delayed commencement of this action to the prejudice of County Waterworks Districts.

SIXTH AFFIRMATIVE DEFENSE

(As To All Causes Of Action--Intervening Public Use)

As a result of the devotion of the waters extracted from the Lancaster subbasin to the public uses alleged in Paragraph 5 above, which is incorporated herein by reference as if set forth in full, plaintiff cannot obtain any judicial relief that will in any way restrain or prevent County Waterworks Districts from exercising the rights to extract native groundwater from the Lancaster subbasin alleged in Paragraph 8 above, which is incorporated herein by reference as if set forth in full.

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SEVENTH AFFIRMATIVE DEFENSE

(As To All Causes Of Action--

Failure to Record Notices of Production)

County Waterworks Districts are informed and believe, and thereon allege that plaintiff has failed to comply with the requirements of California Water Code sections 4999, et seq.

EIGHTH AFFIRMATIVE DEFENSE

(As To All Causes Of Action--

Loss of Rights by Prescription)

All water rights claimed by plaintiff have been extinguished by prescription.

PRAYER

WHEREFORE, defendants County Waterworks Districts pray judgment as follows:

1. That plaintiff take nothing by its Complaint;
2. For a declaration confirming and decreeing the following rights of County Waterworks Districts are superior to and paramount to any rights of plaintiff to produce percolating groundwater for use on the property described in the Complaint:

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(2) The right to extract from the Lancaster subbasin a volume of water equal in quantity to the volume of water previously purchased by County Waterworks Districts from Antelope Valley East Kern Water Agency which has augmented the supply of

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1 water in the Lancaster subbasin;

2 (3) The right to extract or authorize others to
3 extract, from the Lancaster subbasin a volume of water equal in
4 quantity to that volume of water previously purchased in the future
5 by County Waterworks Districts from Antelope Valley-East Kern Water
6 Agency which augments the supply of water in the Lancaster
7 subbasin; and

8 (4) The right to extract, or authorize others to
9 extract, from the Lancaster subbasin, a quantity of water equal in
10 volume to the quantity of water that County Waterworks Districts
11 directly inject into the Lancaster subbasin.

12 3. An injunction prohibiting and restraining plaintiff from
13 making any claim adverse to the rights of the County Waterworks
14 Districts so confirmed and decreed;

15 4. For costs of suit; and

16 5. For such further relief as is just and equitable.

17 Verification not required per Code of Civil Procedure section
18 446.

19 DATED: December 15, 2000

REDWINE AND SHERRILL

21 By: Steven B. Abbott
22 STEVEN B. ABBOTT
23 Attorneys for Defendants,
24 LOS ANGELES COUNTY WATERWORKS
25 DISTRICT NO. 37 and LOS ANGELES
26 COUNTY WATERWORKS DISTRICT NO. 40
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I, the undersigned, say: I am employed in the County of Riverside, State of California, over the age of eighteen years and not a party to the within action or proceeding; that my business address is 1950 Market Street, Riverside, California 92501.

On December 15, 2000, I served a copy of the foregoing document described as:

ANSWER OF DEFENDANTS LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 37 AND LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 TO COMPLAINT TO QUIET TITLE

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

PLEASE SEE ATTACHED SERVICE LIST

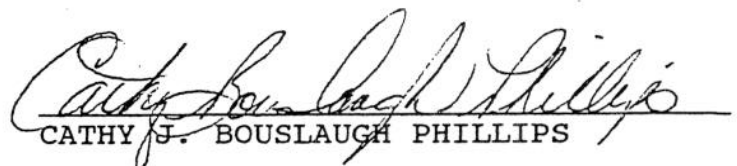
(XXX) By Mail. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with United States Postal Service mail box on that same day with postage thereon fully prepaid at Riverside, California in the ordinary course 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 the date of deposit for mailing in affidavit.

() By Personal Service, I caused such envelope to be delivered by hand to the above addressee(s).

EXECUTED ON December 15, 2000, at Riverside, California.

(XXX) [State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

() [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


CATHY J. BOUSLAUGH PHILLIPS

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SERVICE LIST

Diamond Farming Company, etc. vs. City of Lancaster, et al.
Riverside Superior Court Case No. RIC 344436

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Kerry L. Lockhart
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a California corporation

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