

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 DANIEL L. SIEGEL
Supervising Deputy Attorney General
3 MICHAEL CROW, State Bar No. 70498
VIRGINIA CAHILL, State Bar No. 99167
4 Deputy Attorneys General
1300 I Street
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-5647
Fax: (916) 327-2319
7 Attorneys for State of California, Santa Monica
Mountains Conservancy, and State of California 50th
8 District and Agricultural Association

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF LOS ANGELES

11 Coordination Proceeding
12 Special Title (Rule 1550(b))

Judicial Council Coordination
Proceeding No. 4408

13 ANTELOPE VALLEY GROUNDWATER
CASES

Assigned to The Honorable
Jack Komar

14 Included Actions:

15 Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co.
16 Superior Court of California County of Los Angeles,
Case No. BC 325 201

17 Los Angeles County Waterworks District No. 40 v.
18 Diamond Farming Co.
Superior Court of California, County of Kern,
19 Case No. S-1500-CV-254-348

20 Wm. Bolthouse Farms, Inc. v. City of Lancaster
Diamond Farming Co. v. City of Lancaster
21 Diamond Farming Co. v. Palmdale Water Dist.
Superior Court of California, County of Riverside,
22 consolidated Actions, Case Nos. RIC 353 840, RIC 344
436, RIC 344 668

**ANSWER OF STATE OF
CALIFORNIA, SANTA
MONICA MOUNTAINS
CONSERVANCY AND STATE
OF CALIFORNIA 50TH
DISTRICT AGRICULTURAL
ASSOCIATION TO FIRST
AMENDED CROSS-
COMPLAINT OF PUBLIC
WATER SUPPLIERS**

23
24 AND RELATED ACTIONS.
25

26 Defendants State of California and its agencies owning land overlying the Antelope Valley
27 Groundwater Basin or pumping water from the Antelope Valley Groundwater Basin, and the Santa
28 Monica Mountains Conservancy, and the State of California 50th District Agricultural Association

1 ("State defendants") hereby answer the First Amended Cross-complaint of Public Water Suppliers
2 for Declaratory and Injunctive Relief and Adjudication of Water Rights ("First Amended Cross-
3 complaint").

4 **ANSWER**

5 1. The Answer of State of California, Santa Monica Mountains Conservancy and State
6 of California 50th District Agricultural Association to Cross-Complaint of Municipal Purveyors for
7 Declaratory and Injunctive Relief and Adjudication of Water Rights filed August 17, 2006
8 constitutes an adequate answer to each of the allegations of the First Amended Cross-complaint with
9 the exception of new paragraphs 13 and 14. Thus, in answer to the allegations of paragraphs 1-12
10 and 15-93 of the First Amended Cross-complaint, State Defendants incorporate herein by reference
11 their answers to the corresponding allegations in the Cross-complaint filed by the Municipal
12 Purveyors on January 18, 2006.

13 2. Answering Paragraph 13 of the First Amended Cross-complaint, State defendants
14 deny the first two sentences of Paragraph 13. State defendants lack information or belief sufficient
15 to answer the allegations in the second two sentences of Paragraph 13, and basing their denial on this
16 ground deny each and every allegation thereof.

17 3. Answering Paragraph 14 of the First Amended Cross-complaint, State defendants deny
18 the allegations of Paragraph 14.

19 **AFFIRMATIVE DEFENSES**

20 **FIRST AFFIRMATIVE DEFENSE**
21 **(Failure to State a Cause of Action)**

22 2. The Cross-complaints, and each and every cause of action alleged therein, fail
23 to state facts sufficient to state a cause of action against the State defendants, or any of them.

24 **SECOND AFFIRMATIVE DEFENSE**
25 **(Civil Code Section 1007)**

26 3. The relief sought by Cross-complainants against State defendants is barred
27 Civil Code Section 1007. There can be no prescription against State defendants' water rights.
28 Civil Code section 1007 also prevents other parties from obtaining rights against the State or these

1 State defendants by asserting intervention of public use.

2 **THIRD AFFIRMATIVE DEFENSE**
3 **(Uncertainty)**

4 4. The Cross-complaints are uncertain and defective in that they have failed to
5 describe with specificity the groundwater basin or aquifer or aquifers or pertinent sub-basins, if
6 any, from which Cross-complainants and Cross-defendants are extracting, or claim the right to
7 extract, groundwater.

8 **FOURTH AFFIRMATIVE DEFENSE**
9 **(Failure to Join Necessary and Indispensable Parties)**

10 5. Cross-complainants have failed to join indispensable and necessary parties,
11 namely other overlying landowners and parties extracting groundwater from the Antelope Valley
12 Groundwater Basin.

13 **FIFTH AFFIRMATIVE DEFENSE**
14 **(Statute of Limitations)**

15 6. The Cross-complaints are barred by applicable statutes of limitations,
16 including but not limited to sections 318, 319, 321, 338, and 343 of the California Code of Civil
17 Procedure.

18 **SIXTH AFFIRMATIVE DEFENSE**
19 **(Overlying Rights)**

20 7. State defendants, and each of them, are owners of property overlying the
21 Antelope Valley Groundwater Basin and thus hold overlying rights to the native water of the
22 Basin. These rights are prior and paramount to the rights claimed by Cross-complainants.

23 **SEVENTH AFFIRMATIVE DEFENSE**
24 **(Right to Recapture Imported Water)**

25 8. One or more of State defendants import water from outside the Basin. They
26 have a prior and paramount right to such imported water and the return flows from it.

27 ///

28

1 **EIGHTH AFFIRMATIVE DEFENSE**
2 **(Dedication to Public Use)**

3 9. All the groundwater extracted from the Antelope Valley Groundwater Basin
4 by State defendants is devoted to public use. Therefore, Cross-complainants cannot obtain relief
5 that would in any way restrain or interfere with State Defendant's rights to pump or extract such
6 water.

7 **NINTH AFFIRMATIVE DEFENSE**
8 **(Water Code section 106)**

9 10. Part of the water extracted from the Antelope Valley Groundwater Basin by
10 State defendants is used for domestic purposes. State defendants are entitled to any priority
11 granted by Water Code section 106.

12 **TENTH AFFIRMATIVE DEFENSE**
13 **(Laches)**

14 11. The Cross-complaints, and each and every cause of action therein, are barred
15 by the doctrine of laches.

16 **ELEVENTH AFFIRMATIVE DEFENSE**
17 **(Waiver)**

18 12. The Cross-complaints, and each and every cause of action therein, are barred
19 by the doctrine of waiver.

20 **TWELFTH AFFIRMATIVE DEFENSE**
21 **(Estoppel)**

22 13. The Cross-complaints, and each and every cause of action therein, are barred
23 by the doctrine of estoppel.

24 **THIRTEENTH AFFIRMATIVE DEFENSE**
25 **(Public Trust)**

26 14. The State of California holds certain natural resources in trust for the benefit
27 of the people pursuant to the Public Trust Doctrine.
28

1 **FOURTEENTH AFFIRMATIVE DEFENSE**
2 **(Additional Defenses Unknown at this Time)**

3 15. State defendants own multiple properties overlying the Antelope Valley
4 Groundwater Basin and presently have insufficient knowledge or information upon which to form
5 a belief as to whether they may have additional, as yet unstated, affirmative defenses. State
6 defendants reserve the right to assert additional defenses in the event that discovery indicates they
7 would be appropriate.

8 WHEREFORE, State defendants pray that:

- 9 1. Cross-complainants take nothing by the cross-complaints;
10 2. That the Cross-complaints be dismissed; or in the alternative that judgment be awarded
11 declaring that State defendants' water rights are prior and paramount to those of Cross-
12 complainants and all other parties;
13 3. For State defendants' attorneys fees and expert witness fees;
14 4. For State defendants' costs of suit incurred herein; and
15 5. For such other relief as the court deems just and proper.

16
17 Dated: April 11, 2007

18 Respectfully submitted,

19 EDMUND G. BROWN JR.
20 Attorney General of the State of California

21 DANIEL L. SIEGEL
22 Supervising Deputy Attorney General

23 MICHAEL L. CROW
24 Deputy Attorney General

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26 VIRGINIA A. CAHILL
27 Deputy Attorney General

28 Attorneys for State of California, Santa
Monica Mountains Conservancy, and State of
California 50th District Agricultural
Association.

DECLARATION OF SERVICE

CASE: **ANTELOPE VALLEY GROUNDWATER CASES,
LOS ANGELES COUNTY SUPERIOR COURT
JUDICIAL COUNCIL COORDINATED PROCEEDINGS NO. 4408**

I, declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, P.O. Box 944255, Sacramento, California 94244-2550.

On April 11, 2005, I served the
**ANSWER OF STATE OF CALIFORNIA, SANTA MONICA MOUNTAINS
CONSERVANCY AND STATE OF CALIFORNIA 50TH DISTRICT AGRICULTURAL
ASSOCIATION TO FIRST AMENDED CROSS-COMPLAINT OF PUBLIC WATER
SUPPLIERS.**

- X Posting the document(s) listed above to the Santa Clara County Superior Court web site in regard to the Antelope Valley Groundwater matter on April 11, 2007.
- X by placing a true copy of the document(s) listed above in a sealed envelope with postage thereon fully prepaid using the overnight courier, Golden State Overnight Courier Service, addressed as follows:

(served original via over night courier to Presiding Judge on April 11, 2007)

Presiding Judge of the Superior Court of California, County of Los Angeles
County Courthouse
111 North Hill Street
Los Angeles, CA 90012-3014

Chair, Judicial Council of California
Administrative office of the Courts
Attn: Appellate and Trial Court Judicial Services (Civil Case Coordination)
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Honorable Jack Komar
Santa Clara County Superior Court
191 North First Street, Department 17C
San Jose, Ca 95113

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 11, 2007.

Declarant

Julie Gomez

(Signature)