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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER
CASES

Included Actions:

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
Superior Court of California
County of Los Angeles, Case No. BC
325201

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
Superior Court of California, County of
Kern, Case No. S-1500-CV 254348

Wm. Bolthouse Farms, Inc. v. City of
Lancaster Diamond Farming Co. v. City of
Lancaster Diamond Farming Co. v. Palmdale
Water Dist. Superior Court of California,
County of Riverside, consolidated actions,
Case Nos. RIC 353840, RIC 344436, RIC
344668

Judicial Council Coordination Proceeding
No. 4408

SC Case No. 105CV 049053

ANSWER OF BUJULIAN BROTHERS, INC.
TO CROSS-COMPLAINT OF PHELAN
PINON HILLS COMMUNITY SERVICES
DISTRICT

Honorable Jack Komar

Cross-Defendant BUJULIAN BROTHERS, INC. (hereinafter "BUJULIAN") answers
the unverified Cross-Complaint of Phelan Pinon Hills Community Services District (hereinafter

"Cross-Complainant"), as follows:

1. BUJULIAN BROTHERS, INC. is a California corporation doing business in Kingsburg, California.

2. Pursuant to California Code of Civil Procedure Section 431.30(d), BUJULIAN generally denies each and every allegation set forth in the Cross-Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Cross-Complaint, and each cause of action thereof, fails to state facts sufficient to constitute a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Cross-Complaint, and each cause of action therein, is barred by the equitable doctrines of res judicata and collateral estoppel.

THIRD AFFIRMATIVE DEFENSE

Each and every cause of action contained in the Cross-Complaint is barred by the doctrine of laches.

FOURTH AFFIRMATIVE DEFENSE

Each and every cause of action contained in the Cross-Complaint is barred by the doctrine of equitable estoppel.

FIFTH AFFIRMATIVE DEFENSE

Each and every cause of action contained in the Cross-Complaint is barred by the doctrine of waiver.

SIXTH AFFIRMATIVE DEFENSE

Each and every cause of action contained in the Cross-Complaint is barred by the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

Cross-Complainants have delayed an unreasonable period of time in bringing this action,

1 which delay has been so prejudicial to BUJULIAN so as to bar-Cross-Complainants from any
2 recovery in this action.

3 EIGHTH AFFIRMATIVE DEFENSE

4 Cross-Complainants' claims are barred, in whole or in part, by the provisions of section
5 1009 of the California Civil Code.

6 NINTH AFFIRMATIVE DEFENSE

7 Cross-Complainants allege uses of water that are unreasonable and wasteful in
8 violation of Article X, Section 2 of the California Constitution.

9 TENTH AFFIRMATIVE DEFENSE

10 Cross-Complainants are barred from seeking equitable relief because they have adequate
11 legal remedies for any alleged injuries.

12 ELEVENTH AFFIRMATIVE DEFENSE

13 Cross-Complainants' claims are barred, in whole or in part, by the applicable statutes
14 of limitation, including but not limited to California Code of Civil Procedure Sections 318,
15 319, 321, 338, and 343.

16 TWELFTH AFFIRMATIVE DEFENSE

17 The relief sought in each and every cause of action contained in the Cross-Complaint
18 would constitute an unjust enrichment of Cross-Complainants to the detriment of BUJULIAN.

19 THIRTEENTH AFFIRMATIVE DEFENSE

20 BUJULIAN alleges that it is the owner of certain real property overlying the groundwater
21 identified in the Cross-Complaint and therefore has the prior and paramount right, presently and
22 in the future, to extract groundwater.

23 FOURTEENTH AFFIRMATIVE DEFENSE

24 Cross-Complainants are not entitled to the relief requested in that, by virtue of the
25 doctrine of self-help, BUJULIAN has protected and preserved its paramount overlying rights to
26 extract groundwater presently and in the future.

27 FIFTEENTH AFFIRMATIVE DEFENSE

28 Each and every cause of action contained in the Cross-Complaint is barred in whole or in
part because the Cross-Complainants' claims are not ripe for adjudication.

SIXTEENTH AFFIRMATIVE DEFENSE

1 BUJULIAN alleges that Cross-Complainants are not entitled to declaratory relief or
2 injunctive relief because the actual condition of the groundwater supply is not presently known
3 and is not presently ascertainable to the degree of certainty required for declaratory relief or
4 injunctive relief.

SEVENTEENTH AFFIRMATIVE DEFENSE

5
6 BUJULIAN alleges that the relief sought by Cross-Complainants would constitute an
7 illegal taking without compensation in violation of the United States Constitution and the
8 California Constitution. Cross-Complainants lack the authority to acquire the rights sought in
9 the manner alleged in the Cross-Complaint.

EIGHTEENTH AFFIRMATIVE DEFENSE

10
11 BUJULIAN is informed and believes and on that basis alleges that the groundwater
12 basin at issue is not in a state of overdraft and that the amounts withdrawn from it have not
13 been nonsurplus supplies in excess of the safe yield.

NINETEENTH AFFIRMATIVE DEFENSE

14
15 The Cross-Complaint is defective and uncertain in that it cannot be ascertained there
16 from the nature of the water rights that Cross-Complainants are claiming and the nature of the
17 water rights that Cross-Complainants claim that BUJULIAN is asserting.

TWENTIETH AFFIRMATIVE DEFENSE

18
19 The Cross-Complaint is defective and uncertain in that it cannot be ascertained there
20 from when the alleged prescriptive period, if any, commenced and ended.

TWENTY-FIRST AFFIRMATIVE DEFENSE

21
22 The Cross-Complaint is defective and uncertain in that it cannot be ascertained
23 therefrom that the alleged condition of overdraft and use of groundwater by Cross-
24 Complainants, was actual, notorious, hostile and adverse to BUJULIAN, for a continuous
25 and uninterrupted period of time required by law.

TWENTY-SECOND AFFIRMATIVE DEFENSE

26
27 The Cross-Complaint is defective and uncertain in that the legal descriptions of
28

1 BUJULIAN's properties, as to which Cross-Complainants claim to have acquired prescriptive
2 rights, are not set out in the Cross-Complaint, and because it cannot be ascertained from the
3 Cross-Complaint which of BUJULIAN's properties the Cross-Complainants claim to have
4 acquired prescriptive rights.

5 TWENTY-THIRD AFFIRMATIVE DEFENSE

6 The Cross-Complaint is defective and uncertain in that a quantification of the prescriptive
7 water rights that Cross-Complainants claim to have acquired cannot be ascertained therefrom.

8 TWENTY-FOURTH AFFIRMATIVE DEFENSE

9 Cross-Complainants lack standing to bring the claims that are set forth in the Cross-
10 Complaint.

11 TWENTY-FIFTH AFFIRMATIVE DEFENSE

12 Each and every cause of action contained in the Cross-Complaint is barred in whole or
13 in part in accordance with Code of Civil Procedure section 389 on the ground that Cross-
14 Complainants have failed to name, join, and have subject matter jurisdiction over an
15 indispensable and/or a necessary party.

16 TWENTY-SIXTH AFFIRMATIVE DEFENSE

17 The Court lacks subject matter jurisdiction over some or all of the matters alleged in the
18 Cross-Complaint.

19 TWENTY-SEVENTH AFFIRMATIVE DEFENSE

20 The Cross-Complaint, and each cause of action therein, is barred by the failure to exhaust
21 available administrative remedies.

22 TWENTY-EIGHTH AFFIRMATIVE DEFENSE

23 BUJULIAN incorporates by reference any other applicable affirmative defense asserted
24 by any other responding Cross-Defendants to the Cross-Complaint as if fully set forth herein.

25 TWENTY-NINTH AFFIRMATIVE DEFENSE

26 BUJULIAN has insufficient knowledge or information upon which to form a belief as to
27 whether there may be additional, as yet unstated, affirmative defenses available, and therefore
28 reserves the right to allege other affirmative defenses as they become appropriate or known

through the course of discovery.

THIRTIETH AFFIRMATIVE DEFENSE

(Justification)

Any conduct of BUJULIAN in relation to the matters alleged in the Cross-Complaint, if they occurred, was justified and the Cross-Complainant, therefore, is barred from any recovery on the Cross-Complaint.

THIRTY-FIRST AFFIRMATIVE DEFENSE

(Defective Claim of Prescriptive Rights)

The Cross-Complaint is defective and uncertain in that it asserts prescriptive water rights, but fails to allege: (a) when the alleged prescriptive rights commenced and ended; (b) the specific amount of water that the Cross-Complainant pumped continuously during the alleged prescriptive period; (c) the manner in which Cross-Complainant pumped water under a claim of right; and (d) how Cross-Complainant gave, and cross-defendants received actual, or constructive notice of Cross-Complainant's allegedly wrongful pumping during the alleged prescriptive period.

THIRTY-SECOND AFFIRMATIVE DEFENSE

(Representation of Condition of Aquifer)

Cross-Complainant, directly through the issuance of will-serve letters or other documents or indirectly through approvals of land uses, represented that the relevant groundwater aquifers were adequate for new groundwater pumping and thus may not now seek prescriptive rights during periods when Cross-Complainant was making such direct or indirect representations.

THIRTY-THIRD AFFIRMATIVE DEFENSE

(Different Aquifers)

The Cross-Complainant seeks to establish water rights, and water management measures, in aquifers other than those used by BUJULIAN.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

(No Basis for Return Flows)

Cross-Complainant is not physically pumping return flows from its use of imported water.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

(No Net Augmentation)

Cross-Complainant's activities have not augmented the safe yield of the relevant groundwater aquifer sufficient to support any water right claimed by Cross-Complainant.

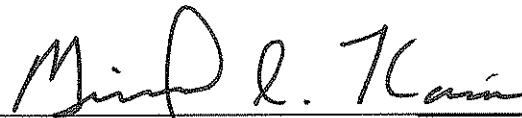
WHEREFORE, BUJULIAN prays for relief as follows:

1. That Cross-Complainant take nothing as against BUJULIAN by way of the Cross-Complaint on file herein, or
2. If the court determines that Cross-Complainant is entitled to any relief against BUJULIAN, that BUJULIAN be awarded the fair market value of their interest in any property taken by Cross-Complainant.
3. That BUJULIAN's water rights be determined as prior and paramount to all those claimed by any other parties.
4. That BUJULIAN be awarded attorney's fees as may be allowed by statute, or case law.
5. That BUJULIAN be awarded costs of suit.
6. For such other and further relief as the Court deems just.

Dated: January 30, 2009

THE LAW OFFICES OF YOUNG WOOLDRIDGE, LLP

By:



MICHAEL A. KAIA,

Attorneys for Cross-Defendant Bujulian Brothers, Inc.

PROOF OF SERVICE

1 STATE OF CALIFORNIA, COUNTY OF KERN

2 I, LEANN BANDUCCI, declare: I am and was at the times of the service hereunder
3 mentioned, over the age of eighteen (18) years, and not a party to the within cause. My business
4 address is The Law Offices of Young Wooldridge LLP, 1800 30th Street, Fourth Floor,
Bakersfield, CA 93301.

5 On January 30, 2009, I caused the foregoing document(s) entitled as: Answer of
6 Bujulian Brothers, Inc. to the cross complaint of Phelan Pinon Hills Community Services
7 District to be served on the parties via the following service:

8 X By Posting: I posted the document(s) listed above to the Santa Clara County Superior
9 Court website in regard to the Antelope Valley Groundwater matter pursuant to the Court's
10 Clarification Order. Electronic service and electronic posting completed through
www.scefilings.org.

11 Executed on January 30, 2009, at Bakersfield, California.

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

14 
15 LEANN BANDUCCI