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Attorneys for Cross-Defendant Bujulian Brothers, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES

Coordination Proceeding
 Special Title (Rule 1550(b))

Judicial Council Coordination Proceeding
 No. 4408

ANTELOPE VALLEY GROUNDWATER
 CASES

SC Case No. 105CV 049053

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

ANSWER OF CROSS-DEFENDANT,
 BUJULIAN BROTHERS, INC. TO CROSS-
 COMPLAINT OF LOS ANGELES COUNTY
 WATERWORKS DISTRICT NO. 40, ET AL.

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

Honorable Jack Komar

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

Cross-Defendant BUJULIAN BROTHERS, INC. (hereinafter "BUJULIAN

BROTHERS" answers the unverified Cross-Complaint of Los Angeles County Waterworks District No. 40, et al. (hereinafter "Cross-Complainants"), 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 BROTHERS 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,

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

EIGHTH AFFIRMATIVE DEFENSE

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

NINTH AFFIRMATIVE DEFENSE

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

TENTH AFFIRMATIVE DEFENSE

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

ELEVENTH AFFIRMATIVE DEFENSE

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

TWELFTH AFFIRMATIVE DEFENSE

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

THIRTEENTH AFFIRMATIVE DEFENSE

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

FOURTEENTH AFFIRMATIVE DEFENSE

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

FIFTEENTH AFFIRMATIVE DEFENSE

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

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

SEVENTEENTH AFFIRMATIVE DEFENSE

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

EIGHTEENTH AFFIRMATIVE DEFENSE

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

NINETEENTH AFFIRMATIVE DEFENSE

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

TWENTIETH AFFIRMATIVE DEFENSE

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

TWENTY-FIRST AFFIRMATIVE DEFENSE

The Cross-Complaint is defective and uncertain in that it cannot be ascertained therefrom that the alleged condition of overdraft and use of groundwater by Cross-

1 Complainants, was actual, notorious, hostile and adverse to BUJULIAN BROTHERS, for
2 a continuous and uninterrupted period of time required by law.

3 TWENTY-SECOND AFFIRMATIVE DEFENSE

4 The Cross-Complaint is defective and uncertain in that the legal descriptions of
5 BUJULIAN BROTHERS' properties, as to which Cross-Complainants claim to have acquired
6 prescriptive rights, are not set out in the Cross-Complaint, and because it cannot be ascertained
7 from the Cross-Complaint which of BUJULIAN BROTHERS' properties the Cross-
8 Complainants claim to have acquired prescriptive rights.

9 TWENTY-THIRD AFFIRMATIVE DEFENSE

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

12 TWENTY-FOURTH AFFIRMATIVE DEFENSE

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

15 TWENTY-FIFTH AFFIRMATIVE DEFENSE

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

20 TWENTY-SIXTH AFFIRMATIVE DEFENSE

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

23 TWENTY-SEVENTH AFFIRMATIVE DEFENSE

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

26 TWENTY-EIGHTH AFFIRMATIVE DEFENSE

27 BUJULIAN BROTHERS incorporates by reference any other applicable affirmative
28 defense asserted by any other responding Cross-Defendants to the Cross-Complaint as if fully set

1 forth herein.

2 TWENTY-NINTH AFFIRMATIVE DEFENSE

3 BUJULIAN BROTHERS have insufficient knowledge or information upon which to
4 form a belief as to whether there may be additional, as yet unstated, affirmative defenses
5 available, and therefore reserves the right to allege other affirmative defenses as they become
6 appropriate or known through the course of discovery.

7 THIRTIETH AFFIRMATIVE DEFENSE

8 The Cross-Complaint is uncertain and defective in that it fails to describe with
9 specificity the groundwater basin or aquifer or aquifers or pertinent sub-basins, if any, from
10 which Cross-complainants are extracting, or claim the right to extract, groundwater.

11 THIRTY-FIRST AFFIRMATIVE DEFENSE

12 This Court lacks subject matter jurisdiction. There is no waiver of the sovereign
13 immunity of the United States for this suit under the McCarran Amendment, 43 U.S.C. Sec.
14 666, or any other statute.

15 WHEREFORE, BUJULIAN BROTHERS prays for relief as follows:

- 16 1. That Cross-Complainants take nothing as against BUJULIAN BROTHERS by
17 way of the Cross-Complaint on file herein, or
- 18 2. If the court determines that Cross-Complainants are entitled to any relief against
19 BUJULIAN BROTHERS, that BUJULIAN BROTHERS be awarded the fair market value of
20 their interest in any property taken by Cross-Complainants.
- 21 3. That BUJULIAN BROTHERS' water rights be determined as prior and
22 paramount to all those claimed by any other parties.
- 23 4. That BUJULIAN BROTHERS be awarded attorney's fees as may be allowed by
24 statute, or case law.
- 25 5. That BUJULIAN BROTHERS be awarded costs of suit.
- 26 6. For such other and further relief as the Court deems just.
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Dated: January 7, 2008

THE LAW OFFICES OF YOUNG WOOLDRIDGE, LLP

By: 

MICHAEL A. KAIA, Esq.,
Attorneys for BUJULIAN BROTHERS, INC.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF KERN

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

On January 8, 2008, I caused the foregoing document(s) entitled as: ANSWER OF BUJULIAN BROTHERS, INC. TO CROSS-COMPLAINT OF LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40, ET AL to be served on the parties via the following service:

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

X (By Mail) On the same date, at Bakersfield, California, pursuant to C.C.P. section 1013(a). By placing / / the original or / x / a true copy thereof enclosed in a sealed envelope. I am readily familiar with the firm's practice of collection and processing of documents for mailing. Under that practice it would be deposited with United States Postal Service on that same day with postage thereon fully prepaid at Bakersfield, California in the ordinary course of business.

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

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

Served original to the Presiding Judge on January 8, 2008
Superior Court of California
County of Los Angeles
Stanley Mosk Courthouse – Department 1, Room 534
111 North Hill Street
Los Angeles, CA 90012-3014

Executed on January 8, 2008, at Bakersfield, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.


LEANN BANDUCCI