

1 Robert G. Kuhs, SBN 160291  
Bernard C. Barmann, Jr., SBN 149890  
2 Kuhs & Parker  
P. O. Box 2205  
3 1200 Truxtun Avenue, Suite 200  
4 Bakersfield, CA 93303  
Telephone: (661) 322-4004  
5 Facsimile: (661) 322-2906  
6 E-Mail: rgkuhs@kuhsparkerlaw.com

7 Attorneys for Tejon Ranchcorp and Tejon Ranch Company

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

10  
11 **ANTELOPE VALLEY GROUNDWATER**  
12 **CASES**

13 **Included Actions:**

14 Los Angeles County Waterworks District No. 40  
v. Diamond Farming Co., Superior Court of  
California, County of Los Angeles, Case No. BC  
15 325201;

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

19 Wm. Bolthouse Farms, Inc. v. City of Lancaster,  
20 Diamond Farming Co. v. Lancaster, Diamond  
Farming Co. v. Palmdale Water Dist., Superior  
21 Court of California, County of Riverside, Case  
22 No. RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

Santa Clara Case No. 1-05-CV-049053  
Assigned to Hon. Jack Komar

**TEJON'S TRIAL BRIEF RE:  
RANCHO RIGHTS**

[Phase 5 Trial]

Date: February 10, 2014  
Time: 9:00 a.m.  
Dept.: Old Dept. 1, Los Angeles

24 **I. INTRODUCTION**

25  
26 TEJON RANCHCORP and TEJON RANCH COMPANY (collectively "Tejon") submit  
27 this brief in opposition to the United States' claim to a paramount right to the water resources of  
28 the Antelope Valley Area of Adjudication (AVAA).

## II. DISCUSSION

### A. Introduction.

Tejon owns about 33,000 acres of land within the AVAA, including 28,858 acres of land within the AVAA acquired as part of an 1846 land grant from the Mexican Governor of California to Jose M. Flores, confirmed by a judgment of the United States District Court for the Southern District of California, and protected inviolate by the Treaty of Guadalupe Hidalgo and res judicata principles against the claims of the United States in this proceeding to a paramount water right. Based on the holding of the United States Supreme Court in *Summa Corp. v. California ex rel. State Lands Commission*, 466 U.S. 198, 80 L. Ed. 2d 237, 104 S. Ct. 1751 (1984) (*Summa*),<sup>1</sup> under the Act of March 3, 1851, the patents issued to Tejon's predecessors are conclusive against the United States. Any claims the United States might have affecting Tejon's property rights, including "sovereign" claims, that were not asserted in the proceedings confirming the land claims of Tejon's predecessors are barred.

### B. Treaty of Guadalupe Hidalgo.

The Treaty of Guadalupe Hidalgo ("Treaty"), signed on February 2, 1848 and entered into force on May 30, 1848, signaled the formal end of the Mexican-American War. (9 Stat. 922 (1848); *Summa*, 466 U.S. at 202.) Under the Treaty, Mexico ceded California to the United States and "the United States undertook to protect the property rights of Mexican landowners. . . ." (art. V, 9 Stat. at 926; *Summa*, 466 U.S. at 202.)<sup>2</sup> Article VIII of the Treaty protects the property rights of Mexicans in the formerly Mexican territories and promises that their right to retain or dispose of their property shall be "inviolably respected."

### C. The Act of 1851.

To protect property rights of former Mexican citizens in the newly-acquired territory and to settle land claims, Congress passed the Act of March 3, 1851, ch. 41, 9 Stat. 631 (the "Act of

<sup>1</sup> A copy of the *Summa* decision is attached as **Exhibit A**.

<sup>2</sup> A copy of the Treaty is attached as **Exhibit B**.

1 1851").<sup>3</sup> The Act of 1851 created a board of three commissioners to determine the validity of  
2 land claims in California, and required "every person claiming lands in California by virtue of  
3 any right or title derived from the Spanish or Mexican government" to present his or her claim to  
4 the commissioners within two years, or have their claims barred. (*Id.* §§ 1, 8, 13.)

5 Appeals from the commissioners' decisions were permitted to the District Court and,  
6 ultimately, to the United States Supreme Court. (*Id.* §§ 3, 9, 10; *Summa*, 466 U.S. at 203.) The  
7 final decree of the Board, or any patent issued under the Act of 1851, was "a conclusive  
8 adjudication of the rights of the claimant as against the United States." (*Id.* § 15; *Summa*, 466  
9 U.S. 198 (U.S. 1984).)

10 When a land claim was confirmed, the property was surveyed by the Surveyor General of  
11 California and a federal patent was issued. (Act of 1851 § 13; *Summa*, 466 U.S. 198, 204.)  
12 Once issued, the patent is conclusive between the patentee and the United States. (Act of 1851 §  
13 15; *Barker v. Harvey*, 181 U.S. 481, 491, 45 L. Ed. 963, 21 S. Ct. 690 (1901) (citing *Beard v.*  
14 *Federy*, 70 U.S. (3 Wall.) 478, 492-93, 18 L. Ed. 88 (1866); *United States v. Coronado Beach*  
15 *Co.*, 255 U.S. 472, 488, 65 L. Ed. 736, 41 S. Ct. 378 (1921) (patent in favor of grantee is  
16 "conclusive against the United States."))

17 The purpose of the Act of 1851 was "to authenticate titles, and to afford the solid  
18 guarantee to rights which ensues from their full acknowledgment by the supreme authority."  
19 (*United States v. Fossatt*, 62 U.S. (21 How.) 445, 448, 16 L. Ed. 185, 186, 86 S. Ct. 1118  
20 (1859).) The goal was "to place the titles to land in California upon a stable foundation, and to  
21 give the parties who possess them an opportunity of placing them on the records of the country,  
22 in a manner and form that will prevent future controversy." (*Fremont v. United States*, 58 U.S.  
23 (17 How.) 542, 553-54, 15 L. Ed. 241 (1855); accord *Thompson v. Los Angeles Farming and*  
24 *Milling Co.*, 180 U.S. 72, 77, 45 L. Ed. 432, 21 S. Ct. 289 (1901).)

25 While the Act of 1851 was intended to implement this country's obligations under the  
26 Treaty of Guadalupe Hidalgo, the Act of 1851 also served an overriding purpose of providing  
27

28 <sup>3</sup> A copy of the Act of 1851 is attached as **Exhibit C**.

1 repose to land titles that originated with Mexican grants. The broad reach of the Act of 1851,  
2 and sanctity of title confirmed is well-settled. For example, in 1984, the United States Supreme  
3 Court addressed the State of California's obligation under the Act of 1851 to present land claims  
4 to the commission, or be barred. (*Summa*, 466 U.S. 198, 80 L. Ed. 2d 237, 104 S. Ct. 1751  
5 (1984).) The dispute in *Summa* arose from tidelands to which *Summa* held a confirmed patent  
6 derived from a Mexican land grant. California claimed it had acquired a public trust interest in  
7 the tidelands upon its admission to the union, and contended that this sovereign right survived  
8 the land confirmation proceedings. Citing *Barker*, the Supreme Court barred California's  
9 assertion of the public trust doctrine because California had failed to make this claim before the  
10 commission established by the Act of 1851. (*Id.* at 209.) Citing *Coronado Beach Co.*, 255 U.S.  
11 472 (1921), the Court explained that "even 'sovereign' claims such as those raised by the State  
12 of California in the present case must, like other claims, be asserted in the patent proceedings or  
13 be barred." (*Id.*) "We hold that California cannot at this late date assert its public trust easement  
14 over petitioner's property, when petitioner's predecessors-in-interest had their interest confirmed  
15 without any mention of such an easement in proceedings taken pursuant to the Act of 1851."  
16 (*Id.*)

17  
18 Courts have consistently held that entrance of California into the United States did not  
19 impair the rights of property ownership, because those rights were consecrated by the law of  
20 nations, and protected by the Treaty.

21 California belonged to Spain by the rights of discovery and conquest. The  
22 government of that country established regulations for transfers of the public  
23 domain to individuals. When the sovereignty of Spain was displaced by the  
24 revolutionary action of Mexico, the new government established regulations  
25 upon the same subject. These two sovereignties are the spring heads of all the  
26 land titles in California, existing at the time of the cession of that country to  
27 the United States by the treaty of Guadalupe Hidalgo. That cession did not  
28 impair the rights of private property. They were consecrated by the law of  
nations, and protected by the treaty. The treaty stipulation was but a formal  
recognition of the pre-existing sanction in the law of nations. The act of  
March 3d, 1851, was passed to assure to the inhabitants of the ceded territory  
the benefit of the rights of property thus secured to them. It recognizes alike  
legal and equitable rights, and should be administered in a large and liberal  
spirit. A right of any validity before the cession was equally valid afterwards,  
and while it is the duty of the court in the cases which may come before it to

1 guard carefully against claims originating in fraud, it is equally their duty to  
2 see that no rightful claim is rejected. No nation can have any higher interest  
3 than the right administration of justice.

4 *United States v. Moreno*, 68 U.S. 400, 404 [17 L.Ed. 633] (1864).

5 In the case of *Leese v. Clark*, 20 Cal. 387, 423 (1862), the California Supreme Court  
6 explained the quality of title secured by the Treaty as evidenced by the patent:

7 The patent is the evidence which the Government furnishes the claimant  
8 of its action respecting his title. Before it is given, numerous proceedings are  
9 required to be taken before the tribunals and officers of the Government; and  
10 it is the last act in the series, and follows as the result of those previously  
11 taken. It is, therefore, record evidence of the Government's action. By it the  
12 Government, representing the sovereign and supreme power of the nation,  
13 discharges its political obligations under the treaty and law of nations. "By it,"  
14 as we said in the case already cited, "the sovereign power, which alone could  
15 determine the matter, declares that the previous grant was genuine; that the  
16 claim under it was valid, and entitled to recognition and confirmation by the  
17 law of nations and the stipulations of the treaty; and that the grant was located,  
18 or might have been located by the former Government, and is correctly  
19 located by the new Government, so as to embrace the premises as they are  
20 surveyed and described."

21 As against the Government, **this record, so long as it remains unvacated, is**  
22 **conclusive; as against the Government it imports absolute verity. And it is**  
23 **equally conclusive against parties claiming under the Government by title**  
24 **acquired subsequent to the time at which the obligations of the**  
25 **Government attached;** otherwise, the power of the Government to enforce  
26 the stipulations of the treaty, and the obligations imposed by the law of  
27 nations, would be limited and dependent, and not, as they are, sovereign and  
28 supreme. And it is in this effect of the patent as a record of the Government,  
that its security and protection chiefly lie.

(*Id.* at p. 423, emphasis added.)

21 **D. Any Claims of the United States Against Rancho La Liebre**  
22 **Are Barred by the Final Decision in *Jose M. Flores v. United States*.**

23 Tejon Ranch originally consisted of four Mexican land grants acquired by General  
24 Edward Fitzgerald Beale. One of the four land grants, Rancho La Liebre, partially situated in the  
25 AVAA, was originally granted by Pio Pico, the Mexican Governor of California, to Jose M.  
26 Flores in 1946. Jose M. Flores presented a claim to the land called "La Liebre" which was  
27 confirmed by the District Court. (*Jose Maria Flores v. United States* (S.D. Cal., Dec. Term.  
28

1 1856) (unpublished).<sup>4</sup> The La Liebre grant was surveyed by the Surveyor General and  
2 confirmed by federal patent dated June 21, 1875. The patent described a tract of land of eleven  
3 square leagues.<sup>5</sup> Given the line of Supreme Court decisions recognizing the extensive reach of  
4 the Act of 1851, this court must conclude that the United States is barred from making any  
5 claims against Rancho La Liebre, including any claims to the appurtenant groundwater, because  
6 the United States failed to present such claims in the confirmation proceedings. The final decree  
7 of the District Court and the patent issued under the Act of 1851, was "a conclusive adjudication  
8 of the rights of [Tejon] as against the United States." (Act § 15; *Summa*, 466 U.S. 198 (1984).)  
9 This result comports with the overriding purpose of the Act of 1851 "to place the titles to land in  
10 California upon a stable foundation . . . in a manner and form that will prevent future  
11 controversy." *Fremont v. United States*, 58 U.S. 542, 553-54, 15 L. Ed. 241 (1855); *United*  
12 *States ex rel. Chunie v. Ringrose*, 788 F.2d 638 (9th Cir. 1986).

### 13 III. CONCLUSION

14  
15 Whatever rights the United States may have to the water supply of the AVAA, such  
16 rights cannot subordinate or impair the rights of Tejon to Rancho La Liebre in this proceeding.

17 Dated: February 7, 2014

KUHS & PARKER

18  
19 By 

Robert G. Kuhs, Attorneys

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21 f:\1291.01 - tejon ranch - antelope valley\phase 5 federal reserve rights - return flows\trial brief re rancho rights.v2.docx  
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25

26 <sup>4</sup> A copy of original hand written Transcript is attached as **Exhibit D**, and a transcribed version is  
27 attached as **Exhibit E**.

28 <sup>5</sup> An old land measure in parts of the United States that were formerly Mexico, equal to about  
4,400 acres. (Webster's New World Dictionary (3rd Collegiate Ed. 1991) p. 768.)