

1 EXPEDITE
2 X No Hearing Set
3 Hearing is Set
4 Date:
5 Time:
6 The Honorable Carol Murphy

7
8 **STATE OF WASHINGTON**
9 **THURSTON COUNTY SUPERIOR COURT**

10 FIVE CORNERS FAMILY
11 FARMERS, SCOTT COLLIN,
12 THE CENTER FOR
13 ENVIRONMENTAL LAW AND
14 POLICY, and SIERRA CLUB,

15 Plaintiffs,

16 v.

17 STATE OF WASHINGTON,
18 WASHINGTON DEPARTMENT
19 OF ECOLOGY, and
20 EASTERDAY RANCHES, INC.,

21 Defendants.

NO. 09-2-01622-1

ANSWER TO
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

22 Defendants State of Washington and Washington Department of
23 Ecology (hereafter "State Defendants"), by and through their attorneys,
24 Robert M. McKenna, Attorney General and Maia D. Bellon, Assistant
25 Attorney General, answer the Complaint for Declaratory and Injunctive
26 Relief (Complaint) of Five Corners Family Farmers, Scott Collin, The

1 Center for Environmental Law and Policy, and Sierra Club (hereafter
2 “Plaintiffs”) as follows:

3 Under Civil Rule (CR) 8, State Defendants generally deny each and
4 every allegation of the Complaint that the State Defendants do not expressly
5 admit. The State Defendants also expressly deny some allegations without
6 affecting its general denial of other allegations. The State Defendants will
7 not respond to allegations that present purely legal arguments. If an answer
8 to such allegation is required, the State Defendants deny such allegation that
9 is not expressly admitted except to the extent that Plaintiffs’ allegation is an
10 accurate quote from a statute, constitution, or regulation.

11 In addition to the above general responses, the State Defendants now
12 offer the following responses to the specific allegations set forth in each
13 numbered paragraph of Plaintiffs’ Complaint:

14 I. INTRODUCTION

15 1. State Defendants admit the allegations contained in the first
16 sentence of Paragraph 1. State Defendants are without sufficient
17 knowledge or information to form a belief as to the truth of the remaining
18 allegations contained in Paragraph 1. Insofar as any of this paragraph sets
19 forth legal conclusions or argument, no response is required.

20 2. State Defendants deny the allegations contained in Paragraph 2
21 of the Complaint. Insofar as any of this paragraph sets forth legal
22 conclusions or argument, no response is required.

23 3. State Defendants are without knowledge or information
24 sufficient to form a belief as to the truth of the allegations contained in
25 Paragraph 3. Insofar as any of this paragraph sets forth legal conclusions or
26 argument, no response is required.

1 20. State Defendants are without knowledge or information
2 sufficient to form a belief as to the truth of the allegations contained in
3 Paragraph 20 of the Complaint. Insofar as any of this paragraph sets forth
4 legal conclusions or argument, no response is required.

5 21. State Defendants are without knowledge or information
6 sufficient to form a belief as to the truth of the allegation contained in
7 Paragraph 21 of the Complaint and therefore deny the same.

8 22. State Defendants are without knowledge or information
9 sufficient to form a belief as to the truth of the allegations contained in
10 Paragraph 22 of the Complaint and therefore deny the same.

11 23. State Defendants admit that Easterday Ranches has drilled and
12 cased a groundwater well for the feedlot operation, and has applied for
13 various permits from Ecology. State Defendants are without knowledge or
14 information sufficient to form a belief as to the truth of the allegation
15 contained in Paragraph 23 that Easterday Ranches has acquired an option
16 on the real property for the feedlot operation and therefore denies the same.

17 24. State Defendants admit the allegations contained in
18 Paragraph 24 of the Complaint.

19 25. State Defendants deny the allegations contained in
20 Paragraph 25 of the Complaint.

21 26. State Defendants admit the allegations contained in the first
22 sentence of Paragraph 26 of the Complaint. State Defendants are without
23 knowledge or information sufficient to form a belief as to the truth of the
24 allegations in the second sentence of Paragraph 26 of the Complaint.
25 Insofar as any of this paragraph sets forth legal conclusions or argument, no
26 response is required.

1 34. State Defendants deny the allegations contained in
2 Paragraph 34 of the Complaint. Insofar as any of this paragraph sets forth
3 legal conclusions or argument, no response is required.

4 35. State Defendants deny the allegations contained in
5 Paragraph 35 of the Complaint. Insofar as any of this paragraph sets forth
6 legal conclusions or argument, no response is required.

7 36. State Defendants deny the allegations contained in
8 Paragraph 36 of the Complaint. Insofar as any of this paragraph sets forth
9 legal conclusions or argument, no response is required.

10 37. State Defendants deny the allegations contained in
11 Paragraph 37 of the Complaint. Insofar as any of this paragraph sets forth
12 legal conclusions or argument, no response is required.

13 **VI. PLAINTIFFS' PRAYER FOR RELIEF**

14 The remainder of the Complaint constitutes the Plaintiffs' prayer for
15 relief for which an answer is not required. To the extent to which an answer
16 is deemed required, State Defendants deny that the Plaintiffs are entitled to
17 any relief requested in this section, Paragraphs A through G of the
18 Complaint.

19 **VII. STATE DEFENDANTS' AFFIRMATIVE DEFENSES**

20 1. **FAILURE TO STATE A CLAIM:** The Plaintiffs have failed
21 to state a claim upon which relief may be granted.

22 2. **ADEQUATE REMEDY:** Plaintiffs are not entitled to
23 equitable relief because Plaintiffs have an adequate remedy at law through
24 the Court's declaration, without requirement of the injunctive relief sought.

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1 **VII. RESERVATION OF RIGHTS**

2 The State Defendants reserve the right to amend this Answer by
3 adding affirmative defenses, counterclaims, cross-claims, or by initiating
4 third party actions as additional facts are obtained through investigation and
5 discovery.

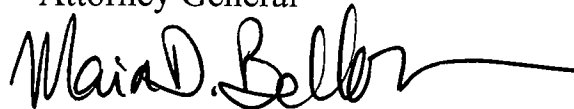
6 **VIII. STATE DEFENDANTS' PRAYER FOR RELIEF**

7 WHEREFORE, STATE DEFENDANTS pray as follows:

- 8 1. That all relief requested by Plaintiffs be denied.
- 9 2. That Plaintiffs' entire Complaint be dismissed with prejudice.
- 10 3. That Plaintiffs be ordered to pay State Defendants' costs and
11 attorneys fees.
- 12 4. That the State Defendants be granted such additional relief as the
13 Court finds appropriate or just.

14 DATED this 3rd day of August, 2009.

15 ROBERT M. MCKENNA
16 Attorney General

17 

18 MAIA D. BELLON, WSBA 24777
19 Assistant Attorney General
20 Attorneys for Defendants
21 State of Washington and
22 State of Washington,
23 Department of Ecology
24 (360) 586-6750

25
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16 WASHINGTON DEPARTMENT
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18 Defendants.

NO. 09-2-01622-1

CERTIFICATE OF
SERVICE

19
20 Pursuant to RCW 9A.72.085, I certify that on the 3 day of August,
21 2009, I caused to be served a Answer to Complaint for Declaratory and
22 Injunctive Relief in the above-captioned matter upon the parties herein as
23 indicated below:

24 //

1 JANETTE K. BRIMMER
2 EARTHJUSTICE
3 705 SECOND AVENUE, SUITE 203
4 SEATTLE, WA 98104

U.S. Mail
 Hand Delivered
 Overnight Express
 By Fax: 206/343-1526
 By email:
jbrimmer@earthjustice.org

5 KRISTEN L. BOYLES
6 EARTHJUSTICE
7 705 SECOND AVENUE, SUITE 203
8 SEATTLE, WA 98104

U.S. Mail
 Hand Delivered
 Overnight Express
 By Fax: 206/343-1526
 By email:
kboyles@earthjustice.org

9 WILLIAM L. CAMERON
10 LEE SMART P.S.
11 PACIFIC NORTHWEST LAW OFFICES
12 1800 ONE CONVENTION PLACE
13 701 PIKE STREET
14 SEATTLE, WA 98101

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 By Fax: 206/624-5944
 By email:
wlc@leesmart.com

15 R. CRANE BERGDAHL
16 LEE SMART P.S.
17 PACIFIC NORTHWEST LAW OFFICES
18 1800 ONE CONVENTION PLACE
19 701 PIKE STREET
20 SEATTLE, WA 98101

U.S. Mail
 Hand Delivered
 Overnight Express
 By Fax: 509/545-4959
 By email:
cbergdahl@bmi.net

21 the foregoing being the last known addresses.

22 I certify under penalty of perjury under the laws of the state of
23 Washington that the foregoing is true and correct.

24 DATED this 3 day of August, 2009, in Olympia, Washington.

25 
26 JANET L. DAY, Legal Assistant

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