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9 **THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 STATE OF ARIZONA, *ex rel.* KRISTIN
12 K. MAYES, ATTORNEY GENERAL,

13 Plaintiff,

14 vs.

15 FONDOMONTE ARIZONA, LLC, an
16 Arizona Limited Liability Company,

17 Defendant.

Case No.: To Be Assigned

COMPLAINT

(Non-classified Civil)
(Action for Declaratory Judgment)

18 The State of Arizona *ex rel.* Kristin K. Mayes (the “State”), Attorney General, brings this
19 nuisance action to prevent Defendant Fondomonte Arizona, LLC (“Fondomonte”) from
20 continuing to extract vast amounts of groundwater, causing a significant decline in the
21 groundwater level in the Ranegras Plain Basin (the “Ranegras Basin”). Since 2014, Fondomonte
22 has pumped massive amounts of groundwater to support its operations, which consist primarily
23 of growing alfalfa. Fondomonte’s groundwater pumping has substantially accelerated the
24 dewatering of the Ranegras Basin. As groundwater levels have declined, the land has subsided,
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1 threatening the water supply of residents and contributing to the decline in water quality.
2 Fondomonte's actions constitute a public nuisance and must be enjoined.

3 **I. INTRODUCTION**

4 1. Groundwater is a vital, life-sustaining resource in hot, arid, Arizona. This is
5 especially true in rural areas of the state such as the Ranegras Basin, where the primary water
6 source for residents, businesses, and farms is groundwater extracted through wells.

7 2. The Ranegras Basin is one of seven (7) basins within La Paz County and consists
8 of a single, closed aquifer.¹

9 3. In La Paz County, some basins permit the transfer of groundwater extracted from
10 their aquifers to areas outside of that basin. These basins are commonly called transfer basins.

11 4. The Ranegras Basin is not a transfer basin. The Ranegras Basin's groundwater is
12 reserved *exclusively* for the community within the Ranegras Basin's use.

13 5. When an aquifer's groundwater outflow exceeds recharge, its groundwater level
14 declines.²

15 6. Since Fondomonte began operating within the Ranegras Basin, dewatering of the
16 Ranegras Basin has accelerated at an extraordinary rate, threatening the water supply upon which
17 every resident within the Ranegras Basin relies. The substantial and rapid decline in the Ranegras
18 Basin's groundwater level caused by Fondomonte's massive groundwater extraction has
19 widespread effects and is a public nuisance, harming everyone reliant on the Ranegras Basin for
20 water.

21 7. Nuisance law is a malleable doctrine that for centuries has been adapted to societal
22 changes to protect communities from odors, smoke, pollution, offensive sights and sounds, and
23 a myriad of other harms. Under A.R.S. § 13-2917, a public nuisance is anything that is "injurious

24 ¹ An aquifer is a geological formation that stores groundwater supply.

25 ² Groundwater in aquifers may be recharged through hydrogeological processes such as
26 percolation of precipitation or surface water infiltration into the subsurface.

1 to health, indecent, offensive to the senses or an obstruction to the free use of property that
2 interferes with the comfortable enjoyment of life or property by an entire community or
3 neighborhood or by a considerable number of persons.”

4 8. While the mere threat of harm is sufficient to constitute a nuisance under the
5 flexible nature of public nuisance law, Fondomonte’s actions have already inflicted harm on the
6 entire community within the Ranegras Basin, and its ongoing conduct will exacerbate this
7 damage as groundwater levels continue to plummet.

8 9. A defendant can commit a public nuisance without violating any law or regulation.
9 Indeed, public nuisance law often fills the gap when “regulatory and legislative processes are
10 perceived to have failed to address a public health or welfare issue with catastrophic effects.”³

11 10. This case is the result of a legislative failure to address a water crisis with
12 catastrophic effects on the groundwater level in the Ranegras Basin. The decline in the
13 groundwater level has negatively impacted and will continue to negatively impact the Ranegras
14 Basin’s water supply, water quality, and land, leading to substantial adverse effects on the
15 community’s health and safety. These catastrophic effects will be felt by the entire community
16 within the Ranegras Basin for generations.

17 11. Fondomonte came to Arizona to extract water at an unreasonable and excessive
18 rate because doing so was banned in its home country – another arid desert with limited water.
19 Fondomonte is taking advantage of Arizona’s failure to protect its precious groundwater
20 resource. Despite this failure, Fondomonte is not permitted to cause a public nuisance that injures
21 the health and interferes with the entire community’s comfortable enjoyment of life or property
22 on the Ranegras Basin.

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25 ³ Leslie Kendrick, *The Perils and Promise of Public Nuisance*, 132 YALE L.J. 702, 709 (2023).

1 33. By pumping enormous amounts of water out of the ground, Fondomonte has caused
2 the Ranegras Basin’s groundwater level to decline, threatening the water supply of the people,
3 neighborhoods, and communities within the Ranegras Basin. Lack of access to water has a
4 substantial adverse effect on public health and safety of the community within the Ranegras
5 Basin.

6 34. Fondomonte’s extraction of enormous amounts of water is likely to cause, or has
7 already caused, a deterioration in water quality. Poor water quality has a substantial adverse
8 effect on public health and safety and is injurious to the health of the people, neighborhoods, and
9 communities that rely on groundwater from the Ranegras Basin.

10 35. Groundwater decline caused by Fondomonte’s pumping of enormous amounts of
11 water has caused escalating land subsidence in the Ranegras Basin – sinking the land beneath the
12 Ranegras Basin’s community and threatening sediment buildup and damage to infrastructure,
13 appliances, well pumps, pipes, and water extraction equipment.⁵

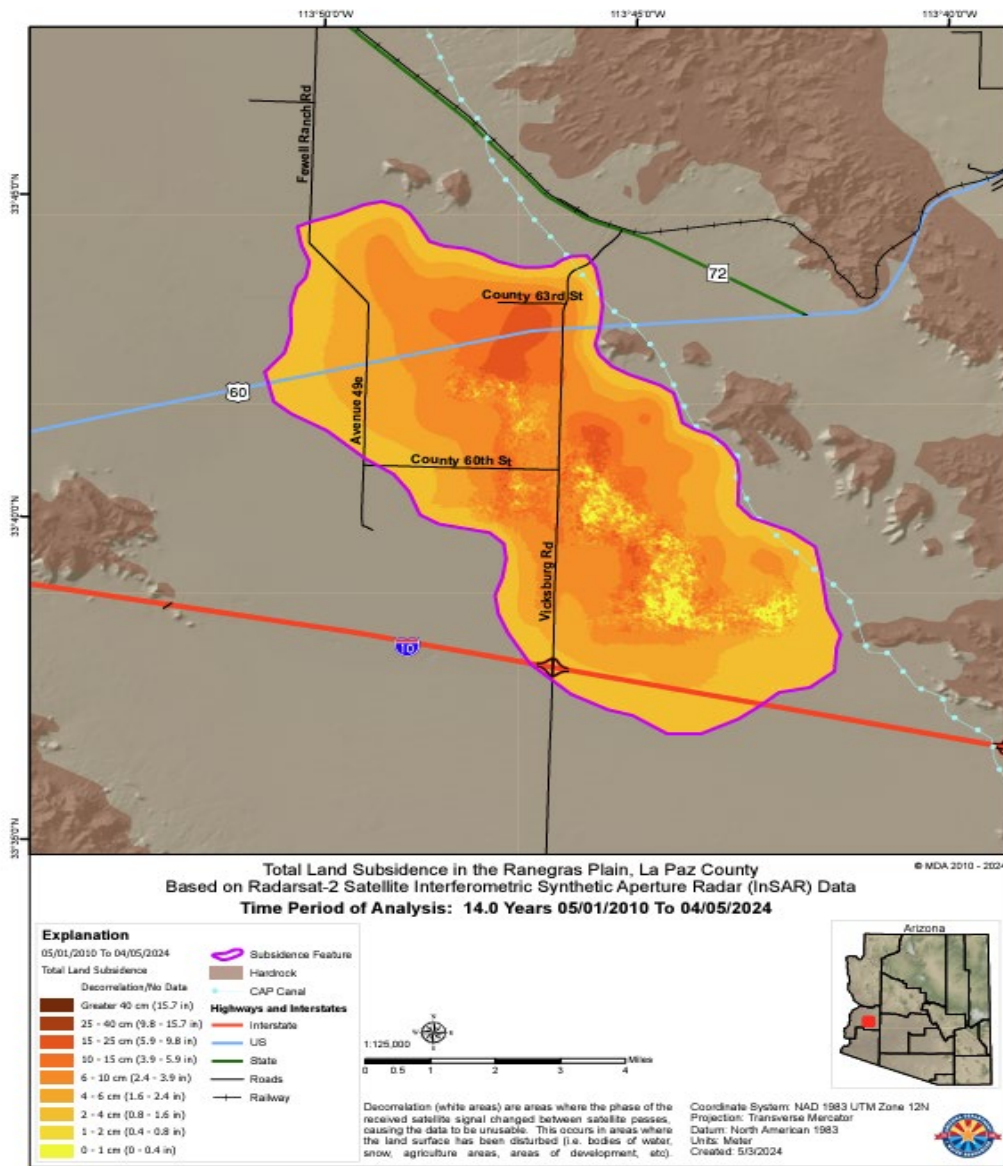
14 36. Land subsidence occurs when subsurface soil and rock layers compact due to the
15 removal of groundwater that had helped support the ground surface above.

16 37. Land subsidence irreversibly lowers the ground surface elevation and, in some
17 systems, triggers permanent destruction of aquifer water storage capacity.

18 38. Land subsidence and any accompanying damage caused by Fondomonte’s
19 pumping of tremendous amounts of water constitutes a public nuisance and presents a substantial
20 adverse effect on public health and safety.

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25 ⁵ This is not an exhaustive list of damage that can be caused by the nuisance created by
26 Fondomonte’s conduct.

1 39. The Arizona Department of Water Resources has documented as much as 9.8
 2 inches of
 3 subsidence in
 4 the Ranegras
 5 Basin since
 6 2010.



21 40. Fondomonte's pumping of substantial amounts of water has caused land
 22 subsidence that is permanent.

1 41. Alfalfa is one of the most water-intensive crops to grow.⁶

2 42. Fondomonte's operations in the Ranegras Basin consist primarily of growing
3 alfalfa that is exported out of the United States. Since 2014, Fondomonte's alfalfa production
4 within the Ranegras Basin has substantially increased.

5 43. In 2023, Fondomonte was responsible for growing over 85% of the total alfalfa
6 grown in the Ranegras Basin.

7 44. In 2023 alone, Fondomonte used approximately 31,196 acre-feet of groundwater
8 within the Ranegras Basin, constituting over 81% of *all* groundwater extracted in the Ranegras
9 Basin that year.

10 45. A single acre-foot of water can supply water to three single-family homes for an
11 entire year.

12 46. Left unaddressed, Fondomonte's excessive pumping will continue to gravely affect
13 the people, neighborhoods, and communities living on the Ranegras Basin and relying on the
14 Ranegras Basin for water. These consequences include, but are not limited to, substantial adverse
15 effects to public health and safety.

16 47. Recovery from damage caused by Fondomonte's conduct could take centuries and,
17 in some circumstances, the damage is permanent and catastrophic.

18 **V. CLAIM FOR RELIEF**

19 **COUNT ONE**

20 **Public Nuisance**

21 **A.R.S. § 13-2917**

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24 ⁶ See U.S. Dep't Agric., *Consumptive Use of Water by Major Crops in the Southwestern United*
25 States at 11 (May, 1982), chrome-
26 extension://efaidnbmnnnibpcajpcgclcfndmkaj/https://cales.arizona.edu/crops/irrigation/consu
muse/conusefinal.pdf.

1 48. The State realleges and incorporates by reference all preceding paragraphs in this
2 Complaint, as though set forth fully herein.

3 49. Pursuant to A.R.S. § 13-2917(A)(1), “[i]t is a public nuisance . . . for anything []
4 [t]o be injurious to health, indecent, . . . or an obstruction to the free use of property that interferes
5 with the comfortable enjoyment of life or property by an entire community or neighborhood or
6 by a considerable number of persons.”

7 50. Fondomonte’s conduct alleged in this Complaint is the cause of a public nuisance
8 that is wide-reaching and has a significant and negative impact on the individuals,
9 neighborhoods, and communities with the Ranegras Basin.

10 51. Fondomonte’s conduct has contributed to, will continue to contribute to, and may
11 cause individuals, neighborhoods, and communities within the Ranegras Basin to suffer harms
12 including but not limited to:

- 13 a. Decline in groundwater supply;
- 14 b. Decline in groundwater elevation in wells;
- 15 c. Inability to access water;
- 16 d. Land subsidence;
- 17 e. Sediment buildup;
- 18 f. Damage to infrastructure;
- 19 g. Deterioration in water quality; and
- 20 h. Injury to health.

21 52. Fondomonte knowingly conducted excessive pumping of groundwater in the
22 Ranegras Basin that is injurious to health such that it interferes with the comfortable enjoyment
23 of life or property by an entire community or neighborhood or by a considerable number of
24 persons.

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