

1 OFFICE OF THE GENERAL COUNSEL
2 SABINA CLORFEINE (CSB No. 193220)
3 SEMPRA ENERGY
4 101 Ash Street, Suite 1100
5 San Diego, CA 92101-3017
6 Telephone (619) 699-5126
7 Facsimile (619) 696-4838
8 sclorfeine@sempra.com

9 Attorneys for Defendant and Cross-Defendant
10 SGS ANTELOPE VALLEY DEVELOPMENT LLC

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF LOS ANGELES**

13 **ANTELOPE VALLEY GROUNDWATER**
14 **CASES**

15 **Included Actions:**

16 Los Angeles County Waterworks District No. 40 v.
17 Diamond Farming Co. Los Angeles County
18 Superior Court Case No. BC32501

19 Los Angeles County Waterworks District No. 40 v.
20 Diamond Farming Co. Kern County Superior Court
21 Case No. S-1500-CV-254-348

22 Wm. Bolthouse Farms, Inc. v. City of Lancaster,
23 Diamond Farming Co. v. City of Lancaster,
24 Diamond Farming Co. v. Palmdale Water Dist.
25 Riverside County Superior Court Consolidated
26 actions Case Nos. RIC 353 840, RIC 344 436, RIC
27 344 668

Judicial Council Coordination No. 4408

For filing purposes only:
Santa Clara County Case No. 1-05-CV-049053

Assigned to The Honorable Jack Komar

**DEFENDANT AND CROSS-DEFENDANT
SGS ANTELOPE VALLEY DEVELOPMENT
LLC's ANSWER TO COMPLAINT AND ALL
CROSS-COMPLAINTS**

1 Defendant and Cross-Defendant SGS ANTELOPE VALLEY DEVELOPMENT LLC hereby
2 answers the Complaint and all Cross-Complaints which have been filed as of this date, specifically those
3 of Antelope Valley East-Kern Water Agency, Palmdale Water District and Quartz Hill Water District,
4 Rosamond Community Services District and Waterworks District No. 40 of Los Angeles County.

5 **GENERAL DENIAL**

6 1. Pursuant to Code of Civil Procedure section 431.30, Defendant and Cross-Defendant
7 hereby generally denies each and every allegation set forth in the Complaint and Cross-Complaint, and
8 the whole thereof, and further denies that Plaintiff and Cross-Complainant are entitled to any relief
9 against Defendant and Cross-Defendant.

10 **AFFIRMATIVE DEFENSES**

11 **First Affirmative Defense**

12 (Failure to State a Cause of Action)

13 2. The Complaint and Cross-Complaint and every purported cause of action contained
14 therein fail to allege facts sufficient to constitute a cause of action against Defendant and Cross-
15 Defendant.

16 **Second Affirmative Defense**

17 (Statute of Limitation)

18 3. Each and every cause of action contained in the Complaint and Cross-Complaint is barred,
19 in whole or in part, by the applicable statutes of limitation, including, but not limited to, sections 318, 319,
20 321, 338, and 343 of the California Code of Civil Procedures.

21 **Third Affirmative Defense**

22 (Laches)

23 4. The Complaint and Cross-Complaint, and each and every cause of action contained
24 therein, is barred by the doctrine of laches.

1 **Fourth Affirmative Defense**

2 (Estoppel)

3 5. The Complaint and Cross-Complaint, and each and every cause of action contained
4 therein, is barred by the doctrine of estoppel.

5 **Fifth Affirmative Defense**

6 (Waiver)

7 6. The Complaint and Cross-Complaint, and each and every cause of action contained
8 therein, is barred by the doctrine of waiver.

9 **Sixth Affirmative Defense**

10 (Self-Help)

11 7. Defendant and Cross-Defendant has, by virtue of the doctrine of self-help, preserved its
12 paramount overlying right to extract groundwater by continuing, during all times relevant hereto, to
13 extract groundwater and put it to reasonable and beneficial use on its property.

14 **Seventh Affirmative Defense**

15 (California Constitution Article X, Section 2)

16 8. Plaintiff and Cross-Complainant’s methods of water use and storage are unreasonable and
17 wasteful in the arid conditions of the Antelope Valley and thereby violate Article X, Section 2 of the
18 California Constitution.

19 **Eighth Affirmative Defense**

20 (Additional Defenses)

21 9. The Complaint and Cross-Complaint do not state the allegations with sufficient specificity
22 to enable Defendant and Cross-Defendant to determine what additional defenses may exist to Plaintiff
23 and Cross-Complainant’s causes of action. Defendant and Cross-Defendant therefore reserve the right to
24 assert all other defenses which may pertain to the Complaint and Cross-Complaint.

25 **Ninth Affirmative Defense**

26 10. The prescriptive claims asserted by governmental entity Cross-Complainants are *ultra*
27 *vires* and exceed the statutory authority by which each entity may acquire property as set forth in Water
28

1 Code sections 22456, 31040 and 55370.

2 **Tenth Affirmative Defense**

3 11. The prescriptive claims asserted by governmental entity Cross-Complainants are barred by
4 the provisions of Article 1 Section 10 of the California Constitution.

5 **Eleventh Affirmative Defense**

6 12. The prescriptive claims asserted by governmental entity Cross-Complainants are barred by
7 the provisions of the 5th Amendment to the United States Constitution as applied to the states under the
8 14th Amendment of the United States Constitution.

9 **Twelfth Affirmative Defense**

10 13. Cross-Complainant's prescriptive claims are barred due to their failure to take affirmative
11 steps that were reasonably calculated and intended to inform each overlying landowner of cross-
12 complainant's adverse and hostile claim as required by the due process clause of the 5th and 14th
13 Amendments of the United States Constitution.

14 **Thirteenth Affirmative Defense**

15 14. The prescriptive claims asserted by governmental entity Cross-Complainants are barred by
16 the provisions of Article 1 Section 7 of the California Constitution.

17 **Fourteenth Affirmative Defense**

18 15. The prescriptive claims asserted by governmental entity Cross-Complainants are barred by
19 the provisions of the 14th Amendment to the United States Constitution.

20 **Fifteenth Affirmative Defense**

21 16. The governmental entity Cross-Complainants were permissively pumping at all times.

22 **Sixteenth Affirmative Defense**

23 17. The request for the court to use its injunctive powers to impose a physical solution seeks a
24 remedy that is in violation of the doctrine of separation of powers set forth in Article 2 section 3 of the
25 California Constitution.

26 **Seventeenth Affirmative Defense**

27 18. Cross-Complainants are barred from asserting their prescriptive claims by operation of law
28

1 as set forth in Civil Code sections 1007 and 1214.

2 **Eighteenth Affirmative Defense**

3 19. Each Cross-Complainant is barred from recovery under each and every cause of action
4 contained in the Cross-Complaint by the doctrine of unclean hands and/or unjust enrichment.

5 **Nineteenth Affirmative Defense**

6 20. The Cross-Complaint is defective because it fails to name indispensable parties in
7 violation of California Code of Civil Procedure Sections 389(a).

8 **Twentieth Affirmative Defense**

9 21. The governmental entity Cross-Complainants are barred from taking, possessing or using
10 cross-defendants' property without first paying just compensation.

11 **Twentieth-First Affirmative Defense**

12 22. The governmental entity Cross-Complainants are seeking to transfer water right priorities
13 and water usage which will have significant effects on the Antelope Valley Groundwater basin and the
14 Antelope Valley. Said actions are being done without complying with and contrary to the provisions of
15 California's Environmental Quality Act (CEQA) (Pub.Res.C. 2100 *et seq.*).

16 **Twenty-Second Affirmative Defense**

17 23. The governmental entity Cross-Complainants seek judicial ratification of a project that has
18 had and will have a significant effect on the Antelope Valley Groundwater Basin and the Antelope Valley
19 that was implemented without providing notice in contravention of the provisions of California's
20 Environmental Quality Act (CEQA) (Pub.Res.C. 2100 *et seq.*).

21 **Twenty-Third Affirmative Defense**

22 24. Any imposition by this court of a proposed physical solution that reallocates the water
23 right priorities and water usage within the Antelope Valley will be *ultra vires* as it will be subverting the
24 pre-project legislative requirements and protections of the California's Environmental Quality Act
25 (CEQA) (Pub.Res.C. 2100 *et seq.*).

26 **Twenty-Fourth Affirmative Defense**

27 25. Any damages alleged in the Complaint or Cross-Complaint were the proximate result of
28

1 actions and/or omissions on the part of persons or third parties other than Defendant and Cross-
2 Defendant, and any liability imposed upon that party must be reduced and apportioned against the
3 liability of such other third parties or persons, and Defendant and Cross-Defendant is entitled to a right of
4 indemnification and contribution therefrom.

5 **Twenty-Fifth Affirmative Defense**

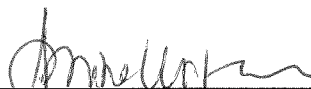
6 26. The causation of damages, if any, to Plaintiffs was the result of superseding or intervening
7 causes by persons or parties other than Defendant and Cross-Defendant.

8 **WHEREFORE**, Defendant and Cross-Defendant prays that judgment be entered as follows:

- 9 1. The Plaintiff and Cross-Complainant take nothing by reason of its Complaint or Cross-
10 Complaint;
- 11 2. That the Complaint and Cross-Complaints be dismissed with prejudice;
- 12 3. For Defendant and Cross-Defendant's costs incurred herein; and
- 13 4. For such other and further relief as the Court deems just and proper.
- 14

15 DATED: July 6, 2010

OFFICE OF THE GENERAL COUNSEL

17
18 By: 
19 SABINA CLORFEINE
20 Attorneys for Defendant and Cross-Defendant
21 SGS ANTELOPE VALLEY DEVELOPMENT LLC
22
23
24
25
26
27
28