ALESHIRE & WYNDER, LLP
DAVID J. ALESHIRE, Bar No. 65022
WILLIAM W. WYNDER, Bar No. 84753
WESLEY A. MILIBAND, Bar No. 241283
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
Telephone: (949) 223-1170
Facsimile: (949) 223-1180
daleshire@awattorneys.com
wwynder@awattorneys.com
wmiliband@awattorneys.com

Attorneys for Defendant, Cross-Complainant and Cross-Cross-Defendant, Phelan Piñon Hills Community Services District

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES - CENTRAL DISTRICT

Coordination Proceeding Special Title (Rule 1550(b))	Judicial Council Coordination Proceeding No. 4408
ANTELOPE VALLEY GROUNDWATER CASES	(For Filing Purposes Only:. Santa Clara County Case No.: 1-05-CV-049053)
Included Actions:	Assigned for All Purposes To: Judge: Hon. Jack Komar
Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., et al. Los Angeles County Superior Court, Case No. BC 325 201	(Filing Fees Exempt, Per Gov't Code § 6103)
Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., et al. Kern County Superior Court, Case No. S-1500-CV-254-348	**ANSWER OF PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT TO CROSS-COMPLAINT OF TEJON RANCH CORP**
Wm. Bolthouse Farms, Inc. v. City of Lancaster *Diamond Farming Co. v. City of Lancaster* *Diamond Farming Co. v. Palmdale Water Dist.* Riverside County Superior Court, Consolidated Action, Case Nos. RIC 353 840, RIC 344 436, RIC 344 668	
AND RELATED CROSS-ACTIONS	

Cross-Defendant Phelan Piñon Hills Community Services District ("Cross-Cross-Defendant"), for itself alone, hereby answers the Cross-Complaint of Tejon Ranch Corp. ("Cross-Complainant"), as follows:

ANSWER

Pursuant to Code of Civil Procedure section 431.30(d), Cross-Defendant hereby generally denies each and every allegation contained in the cross-complaint and further denies that Cross-Complainant has been damaged in any sum, or at all, by reason of any act or omission on the part of Cross-Defendant, or on the part of any agent or employee of Cross-Defendant, or is entitled to any relief against Cross-Defendant.

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Cause of Action)

The complaint fails to state facts sufficient to constitute a cause of action.

SECOND AFFIRMATIVE DEFENSE

(Governmental Immunity Against Prescription)

Cross-Complainant is barred by Civil Code section 1007 from perfecting prescriptive rights against Cross-Defendant.

THIRD AFFIRMATIVE DEFENSE

(Waiver)

Cross-Complainant by its silence and inaction has acquiesced to Cross-Defendant's extraction of groundwater from the Basin.

FOURTH AFFIRMATIVE DEFENSE

(Waste and Unreasonable Use of Water)

The relief requested in the complaint is barred by Article X, section 2 of the California Constitution in that the requested relief would be wasteful and result in unreasonable use, unreasonable method of use, or unreasonable method of diversion of water.

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FIFTH AFFIRMATIVE DEFENSE

(Waiver)

Cross-Complainant has knowingly and intentionally waived any right to assert some or all of the claims set forth in each and every cause of action contained in the complaint. Acts constituting waiver include but are not limited to the following: (a) failing to challenge the use of water by overlyers once groundwater levels began dropping in some areas of the Basin; (b) failing to challenge the use of water by the municipal water suppliers once groundwater levels began dropping in some areas of the Basin; (c) failing to challenge any Urban Water Management Plan issued by a municipal water supplier that relied on pumping from the area to be adjudicated; and (d) failing to challenge water supply assessments and California Environmental Quality Act compliance documents issued by an public agency that relied on pumping from the area to be adjudicated to meet demand.

SIXTH AFFIRMATIVE DEFENSE

(Physical Solution)

In the event of the imposition of a physical solution or some form of declaratory relief, due regard must be given to the prior and paramount nature of Cross-Defendant's appropriative or prescriptive water rights, as well as Cross-Defendant's intervening public use.

SEVENTH AFFIRMATIVE DEFENSE

(Waste)

Cross-Complainant is guilty of waste.

EIGHTH AFFIRMATIVE DEFENSE

(Unclean Hands)

Cross-Complainant is guilty of unclean hands because it seeks to restrict the pumping of other users but not its own pumping.

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NINTH AFFIRMATIVE DEFENSE

(California Constitution, article X, Section 2)

Claims by Cross-Complainant of an absolute priority for overlying rights is barred because it is unreasonable pursuant to Article X, section 2 of the California Constitution in that it does not properly balance overlying uses with other reasonable and beneficial uses.

TENTH AFFIRMATIVE DEFENSE

(Public Agency Discretion)

Each and every cause of action in the complaint is barred because it improperly seeks to control the exercise of discretion of various public agencies and it improperly seeks to complete the exercise of discretion in a particular manner.

ELEVENTH AFFIRMATIVE DEFENSE

(Estoppel)

Cross-Complainant by its acts and omissions is estopped from asserting any of the claims upon which it seeks relief.

TWELFTH AFFIRMATIVE DEFENSE

(Doctrine of Unjust Enrichment)

Cross-Complainant is barred from the relief it seeks by the doctrine of unjust enrichment.

THIRTEENTH AFFIRMATIVE DEFENSE

(Failure to Name and Join Indispensable and Necessary Parties)

Each and every cause of action contained in the complaint is barred in whole or in part in accordance with Code of Civil Procedure section 389 inasmuch as Cross-Complainant has failed to name and join indispensable parties, including but not limited to producers of water from the Basin.

FOURTEENTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

Each and every cause of action is barred, in whole or in part, by applicable statues of limitation including, but not limited to, sections 318, 319, 321, 337, 338, 339, 342, and 343 of the California Code of Civil Procedure.

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FIFTEENTH AFFIRMATIVE DEFENSE

(Right to Produce Groundwater is Usufructuary)

The rights of Cross-Complainant to produce groundwater are usufructuary, and confer no right of private ownership in public waters.

SIXTEENTH AFFIRMATIVE DEFENSE

(No Damages or Losses)

Cross-Complainant is not entitled to recover monetary damages for any groundwater pumped by Cross-Defendant.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate Any Damages)

Cross-Complainant has failed and continues to fail to mitigate its damages, if any, and Cross-Complainant is barred from recovery against Cross-Defendant to the extent of such failure to mitigate.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Actions of the Cross-Complainant Is the Proximate and Actual Cause of Any Damages)

The damages alleged, if there were any, were proximately and actually caused by the voluntary actions of Cross-Complainant and not by any actions and/or omissions of Cross-Defendant.

NINETEENTH AFFIRMATIVE DEFENSE

(Tort Claims Act)

To the extent the complaint could be construed to allege damages based upon anything other than a constitutional theory for just compensation, the claim of Cross-Complainant is barred due to the failure of Cross-Complainant to present a timely claim to Cross-Defendant under the Tort Claims Act, Government Code section 905 et seq.

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TWENTIETH AFFIRMATIVE DEFENSE

(Failure to Exercise Reasonable Diligence)

The injuries and damages of Cross-Complainant, if any, have been aggravated as a result of their failure to exercise reasonable diligence to minimize those damages, and Cross-Defendant's liability, if any, is limited to the amount of damage which would have been suffered had Cross-Complainant exercised the diligence required of them.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Doctrine of Laches)

Some or all of the claims of Cross-Complainant for relief are barred by the doctrine of laches for failure to name Cross-Defendant until now.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Description of Land)

The complaint does not describe the property at issue with sufficient certainty as required by Code of Civil Procedure section 455.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Uncertainty and Ambiguity)

The complaint and each and every purported cause of action contained therein are uncertain, ambiguous and unintelligible.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Right to Assert Additional Affirmative Defenses)

Cross-Defendant reserves the right to assert additional affirmative defenses in the event discovery indicates that they would be appropriate.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

(Incorporation By Reference)

As permitted by the Court's Appearance Form, Cross-Defendant incorporates by reference, as if fully set forth herein, each and every affirmative defense raised by any other defendant or cross-defendant to the complaints and cross-complaints on file in this coordinated proceeding whether their answers are filed before or after the filing of this answer.

WHEREFORE, Cross-Defendant prays for relief as follows:

1. That Cross-Complainant take nothing by way of the complaint;

2. That Cross-Defendant be awarded attorneys' fees and costs as may be allowed by statute or law; and

3. For such other and further relief as the court may deem just and proper.

Dated: February 13, 2013

ALESHIRE & WYNDER, LLP

By: _____

Wesley A. Miliband
Attorneys for Cross-Defendant, Cross-Complainant and Cross-Cross-Defendant, Phelan Piñon Hills Community Services District

Judicial Council Coordination Proceeding No. 4408
For Filing Purposes Only: Santa Clara County Case No.: 1-05-CV-049053

PROOF OF SERVICE

I, Linda Yarvis,

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 18881 Von Karman Avenue, Suite 1700, Irvine, CA 92612.

On February 13, 2013, I served the within document(s) described as **ANSWER OF PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT TO CROSS-COMPLAINT OF TEJON RANCH CORP** as follows:

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

☐ (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth above. I placed each such envelope for collection and mailing following ordinary business practices. I am readily familiar with this Firm's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence would be deposited with the United States Postal Service on that same day, with postage thereon fully prepaid at Irvine, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ (BY OVERNIGHT DELIVERY) I deposited in a box or other facility regularly maintained by Overnight Express, an express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in a sealed envelope or package designated by the express service carrier, addressed as set forth above, with fees for overnight delivery paid or provided for.

Executed on February 13, 2013, at Irvine, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Linda Yarvis
(Type or print name)

(Signature)