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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES  
10

11 ANTELOPE VALLEY  
GROUNDWATER CASES

12 Included Actions:

13 Los Angeles County Waterworks District  
14 No.40 v. Diamond Farming Co.  
Los Angeles County Superior Court  
15 Case No. BC 325201

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

18 Wm. Bolthouse Farms, Inc. v. City of  
19 Lancaster, Diamond Farming Co. v. City of  
Lancaster, Diamond Farming Co. v.  
20 Palmdale Water Dist.  
Riverside County Superior Court  
21 Consolidated actions  
Case Nos. RIC 353 840, RIC 344 436, RIC  
22 344 668

Judicial Council Coordination No. 4408

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

Assigned to The Honorable Jack Komar

**CROSS-DEFENDANT EYHERABIDE LAND  
CO., LLC'S ANSWER TO PUBLIC WATER  
SUPPLIERS' FIRST AMENDED  
CROSS-COMPLAINT**

23  
24 Cross-Defendant EYHERABIDE LAND CO., LLC, hereby answers the Public Water  
25 Suppliers' First Amended Cross-Complaint.

26 **GENERAL DENIAL**

27 1. It appearing herein that the Cross-Complaint on file is unverified, cross-defendant  
28 hereby files its general denial pursuant to California Code of Civil Procedure section 431.30(d).



1 **Sixth Affirmative Defense**

2 (Self-Help)

3 8. Cross-Defendant has, by virtue of the doctrine of self-help, preserved its  
4 paramount overlying right to extract groundwater by continuing, during all times relevant hereto, to  
5 extract groundwater and put it to reasonable and beneficial use on their property.

6 **Seventh Affirmative Defense**

7 (California Constitution Article X, Section 2)

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

11 **Eighth Affirmative Defense**

12 (Additional Defenses)

13 10. The Complaint and Cross-Complaint do not state their allegations with sufficient  
14 clarity to enable cross-defendant to determine what additional defenses may exist to Plaintiff and  
15 Cross-Complainant's causes of action. Cross-Defendant therefore reserves the right to assert all other  
16 defenses which may pertain to the Complaint and Cross-Complaint.

17 **Ninth Affirmative Defense**

18 11. The prescriptive claims asserted by governmental entity Complainants and  
19 Cross-Complainants are *ultra vires* and exceed the statutory authority by which each entity may acquire  
20 property as set forth in Water Code sections 22456, 31040 and 55370.

21 **Tenth Affirmative Defense**

22 12. The prescriptive claims asserted by governmental entity Complainants and  
23 Cross-Complainants are barred by the provisions of Article 1 Section 19 of the California Constitution.

24 **Eleventh Affirmative Defense**

25 13. The prescriptive claims asserted by governmental entity Complainants and  
26 Cross-Complainants are barred by the provisions of the 5th Amendment to the United States  
27 Constitution as applied to the states under the 14th Amendment of the United States Constitution.

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1 **Twelfth Affirmative Defense**

2 14. Complainants and Cross-Complainants' prescriptive claims are barred due to their  
3 failure to take affirmative steps that were reasonably calculated and intended to inform each overlying  
4 landowner of Complainants and Cross-Complainants' adverse and hostile claim as required by the due  
5 process clause of the 5th and 14th Amendments of the United States Constitution.

6 **Thirteenth Affirmative Defense**

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

9 **Fourteenth Affirmative Defense**

10 16. The prescriptive claims asserted by governmental entity Complainants and  
11 Cross-Complainants are barred by the provisions of the 14th Amendment to the United States  
12 Constitution.

13 **Fifteenth Affirmative Defense**

14 17. The governmental entity Complainants and Cross-Complainants were  
15 permissively pumping at all times.

16 **Sixteenth Affirmative Defense**

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

20 **Seventeenth Affirmative Defense**

21 19. Complainants and Cross-Complainants are barred from asserting their prescriptive  
22 claims by operation of law as set forth in Civil Code sections 1007 and 1214.

23 **Eighteenth Affirmative Defense**

24 20. Each Complainants and Cross-Complainants are barred from recovery under each  
25 and every cause of action contained in the Complaint and Cross-Complaint by the doctrine of unclean  
26 hands and/or unjust enrichment.

27 **Nineteenth Affirmative Defense**

28 21. The Complaint and Cross-Complaint are defective because they fail to name

1 indispensable parties in violation of California Code of Civil Procedure Section 389(a).

2 **Twentieth Affirmative Defense**

3 22. The governmental entity Complainants and Cross-Complainants are barred from  
4 taking, possessing or using cross-defendant's property without first paying just compensation.

5 **Twenty-First Affirmative Defense**

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

10 **Twenty-Second Affirmative Defense**

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

16 **Twenty-Third Affirmative Defense**

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

21 WHEREFORE, Cross-Defendant prays that judgment be entered as follows:

22 1. That Plaintiff and Cross-Complainants take nothing by reason of their Complaint  
23 or Cross-Complaint;

24 2. That the Complaint and Cross-Complaints be dismissed with prejudice;

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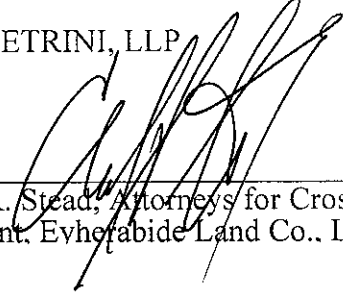
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- 3. For Cross-Defendant's costs incurred herein;
- 4. For attorney's fees in an amount to be proven at trial; and
- 5. For such other and further relief as the court deems just and proper.

Dated: April 2, 2015

BORTON PETRINI, LLP  
By 

Calvin R. Stead, Attorneys for Cross-Defendant, Eyherabide Land Co., LLC

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complaint