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11 Attorneys for Cross-Defendant CITY OF LOS
ANGELES

Exempt from Filing Fee Pursuant to
Government Code Section 6103

12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

15
16
17 Coordination Proceeding
18 **ANTELOPE VALLEY**
GROUNDWATER CASES
19
20 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
21 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
22
23 Wm. Bolthouse Farms, Inc. v. City of
Lancaster
24 Diamond Farming Co. v. City of
Lancaster
25
26 Diamond Farming Co. v. Palmdale Water
District

Case No. 105 CV 049053
Judicial Council Coordination Proceeding
No. 4408
Hon. Jack Komar
**ANSWER OF CITY OF LOS ANGELES TO
CROSS-COMPLAINT OF PHELAN PINON
HILLS COMMUNITY SERVICES
DISTRICT**
Riverside County Superior Court
Lead Case No. RIC 344436
Case No. RIC 344668
Case No. RIC 353840
Los Angeles Superior Court
Case No. BC 325201
Kern County Superior Court
Case No. S-1500-CV-254348

1 Cross-defendant City of Los Angeles, a public entity, by and through its Department of
2 Water and Power and on behalf of its Department of Airports, hereby answers the cross-
3 complaint of Phelon Piñon Hills Community Services District, referred to herein as "DISTRICT,"
4 as follows:

5 ANSWER

6 1. Pursuant to Code of Civil Procedure section 431.30(d), cross-defendant City of Los
7 Angeles hereby denies each and every allegation contained in the complaint and further denies
8 that DISTRICT is entitled to any relief against cross-defendant.

9 AFFIRMATIVE DEFENSES

10 **First Affirmative Defense**

11 (Failure to State a Cause of Action)

12 2. The cross-complaint, and each and every cause of action alleged therein, fails to state facts
13 sufficient to constitute a cause of action.

14 **Second Affirmative Defense**

15 (Uncertainty)

16 3. DISTRICT is not entitled to any relief, as the cross-complaint is fatally uncertain as to the
17 geographical location and extent of the Antelope Valley Groundwater Basin as to which
18 comprehensive adjudication of water rights is sought.

19 **Third Affirmative Defense**

20 (Statutes of Limitation)

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

24 **Fourth Affirmative Defense**

25 (Laches)

26 5. The cross-complaint, and each and every cause of action contained therein, is barred by
27 the doctrine of laches.

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Fifth Affirmative Defense

(Estoppel)

4 6. The cross-complaint, and each and every cause of action contained therein, is barred by
5 the doctrine of estoppel.

Sixth Affirmative Defense

(Waiver)

8 7. The cross-complaint, and each and every cause of action contained therein, is barred by
9 the doctrine of waiver.

Seventh Affirmative Defense

(Unclean Hands/ Unjust Enrichment)

12 8. DISTRICT is barred from recovery under the complaint, and each and every cause of
13 action contained therein, by the doctrine of unclean hands and/or unjust enrichment..

Eighth Affirmative Defense

(Civil Code § 1007)

16 9. Each and every cause of action contained in the cross-complaint is barred in whole or in
17 part by the provisions of section 1007 of the California Civil Code.

Ninth Affirmative Defense

(Indispensable and/or Necessary Party)

20 10. The cross-complaint is barred by Code of Civil Procedure Section 389 on the ground that
21 DISTRICT has failed to name and join indispensable and/or necessary parties, e.g., other
22 producers of water in the Antelope Valley Groundwater Basin.

Tenth Affirmative Defense

(Adequate Legal Remedy)

25 11. Without conceding that cross-defendant has extracted or has threatened to extract water in
26 excess of its right to do so, as a separate affirmative defense to DISTRICT's claim for equitable
27 relief, cross-defendant alleges that DISTRICT has adequate legal remedies for its injuries, if any,
28 resulting from the actual or threatened conduct of cross-defendant.

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2 **Eleventh Affirmative Defense**

3 (Separation of Powers)

4 12. The injunctive remedy sought of a physical solution ordered by the Court is not available
5 due to the doctrine of separation of powers set forth in Article III, section 3 of the California
6 Constitution.

7 **Twelfth Affirmative Defense**

8 (Unreasonable Use)

9 13. Cross-complainant's methods of water use and storage are unreasonable and wasteful in
10 the arid conditions of Antelope Valley, violate California Constitution Article X section 2, and
11 therefore do not give rise to any claim of right to the water.

12 **Thirteenth Affirmative Defense**

13 (Additional Defenses)

14 14. The cross-complaint does not state DISTRICT's allegations with sufficient particularity or
15 clarity to enable cross-defendant to determine what additional defenses may exist to DISTRICT's
16 causes of action. Cross-defendant therefore reserves the right to assert all defenses which may
17 pertain to the cross-complaint once the precise nature of DISTRICT's causes of action is more
18 fully ascertained.

19 WHEREFORE, cross-defendant prays that judgment be entered against DISTRICT as
20 follows:

- 21 1. That DISTRICT take nothing and be granted no relief by reason of the cross-
- 22 complaint;
- 23 2. That the cross-complaint be dismissed with prejudice;
- 24 3. For cross-defendant's attorneys' fees incurred herein;
- 25 4. For cross-defendant's costs incurred herein; and

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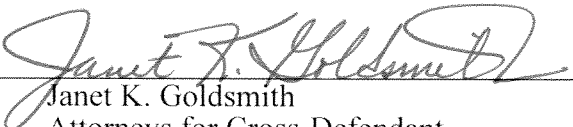
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5. For such other and further relief as the Court deems just and proper.

Dated: March 2, 2009

ROCKARD J. DELGADILLO, City Attorney
Richard M. Brown, Senior Assistant City Attorney for
Water and Power

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation

By 
Janet K. Goldsmith
Attorneys for Cross-Defendant
CITY OF LOS ANGELES

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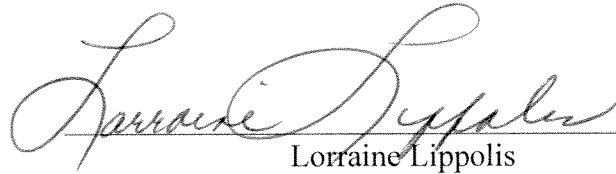
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I, Lorraine Lippolis, declare:

I am a citizen of the United States and employed in Sacramento County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 400 Capitol Mall, 27th Floor, Sacramento, California 95814. On March 3, 2009, I served a copy of the within document: ANSWER OF CITY OF LOS ANGELES TO CROSS-COMPLAINT OF PHELAN PINON HILLS COMMUNITY SERVICES DISTRICT via electronic posting to the Santa Clara Superior Court E-Filing website, <http://www.scefiling.org/cases/casehome.jsp?caseId=19>."

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

Executed on March 3, 2009 at Sacramento, California.


Lorraine Lippolis