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12 ENXCO DEVELOPMENT CORPORATION
13 (Sued Herein as Roe 452)

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

11 ANTELOPE VALLEY
12 GROUNDWATER CASES,

13 Included Actions:

14 Los Angeles County Waterworks District
15 No. 40 v. Diamond Fanning Co.
16 Los Angeles County Superior Court
17 Case No. BC 325201

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

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

Judicial Council Coordination No. 4408

For filing purposes only:
Case No.: 1-05-CV-049053
LASC Case No. BC 325201

Assigned to the Honorable Jack Komar

**ANSWER TO ALL COMPLAINTS
AND FIRST AMENDED CROSS-
COMPLAINT OF DEFENDANT AND
CROSS-DEFENDANT ENXCO
DEVELOPMENT CORPORATION
(Sued Herein as Roe 452)**

1 I hereby answer all Complaints and the Cross-Complaints which have been
2 filed as of this date, specifically those of Antelope Valley East-Kern Water Agency,
3 Palmdale Water District & Quartz Hill Water District, Rosamond Community Services
4 District and Waterworks District No. 40 of Los Angeles County. I do not intend to
5 participate at trial or other proceedings unless ordered by the Court to do so, but I reserve the
6 right to do so upon giving written notice to that effect to the Court and all parties. I own the
7 following property(ies) located in the Antelope Valley: 10470 Cameron Canyon Road,
8 Mojave, CA. APN is 224-311-42.

9
10 **GENERAL DENIAL**

11 1. Pursuant to Code of Civil Procedure section 431.30(d), Defendant and
12 Cross-Defendant hereby generally denies each and every allegation set forth in the
13 Complaints and Cross-Complaint, and the whole thereof, and further denies that Plaintiffs
14 and Cross-Complainants are entitled to any relief against Defendant and Cross-Defendant.

15 **AFFIRMATIVE DEFENSES**

16 **First Affirmative Defense**

17 (Failure to State a Cause of Action)

18 2. The Complaints and Cross-Complaint and every purported cause of
19 action contained therein fail to allege facts sufficient to constitute a cause of action against
20 Defendant and Cross-Defendant.

21 **Second Affirmative Defense**

22 (Statute of Limitation)

23 3. Each and every cause of action contained in the Complaints and Cross-
24 Complaint is barred, in whole or in part, by the applicable statutes of limitation, including,
25 but not limited to, sections 318, 319, 321, 338, and 343 of the California Code of Civil
26 Procedure.

27 ///

1 additional defenses may exist to Plaintiffs' and Cross-Complainants' causes of action,
2 Defendant and Cross-defendant therefore reserves the right to assert all other defenses
3 which may pertain to the Complaints and Cross-Complaint.

4 **Ninth Affirmative Defense**

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

8 **Tenth Affirmative Defense**

9 11. The prescriptive claims asserted by governmental entity Cross-
10 Complainants are barred by the provisions of Article 1 Section 19 of the California
11 Constitution.

12 **Eleventh Affirmative Defense**

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

17 **Twelfth Affirmative Defense**

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

22 **Thirteenth Affirmative Defense**

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

26 **Fourteenth Affirmative Defense**

27 15. The prescriptive claims asserted by governmental entity Cross-
28

1 Complainants are barred by the provisions of the 14th Amendment to the United States
2 Constitution.

3 **Fifteenth Affirmative Defense**

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

6 **Sixteenth Affirmative Defense**

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

10 **Seventeenth Affirmative Defense**

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

13 **Eighteenth Affirmative Defense**

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

17 **Nineteenth Affirmative Defense**

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

20 **Twentieth Affirmative Defense**

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

23 **Twenty-First Affirmative Defense**

24 22. The governmental entity Cross-Complainants are seeking to transfer
25 water right priorities and water usage which will have significant effects on the Antelope
26 Valley Groundwater basin and the Antelope Valley. Said actions are being done without
27 complying with and contrary to the provisions of California's Environmental Quality Act
28

1 (CEQA) (Pub.Res.C. 2100 *et seq.*).

2 **Twenty-Second Affirmative Defense**

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

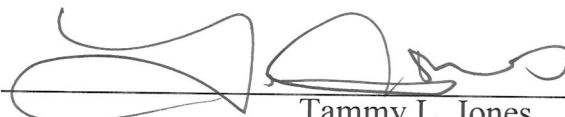
8 **Twenty-Third Affirmative Defense**

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

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

- 15 1. That Plaintiffs and Cross-Complainants take nothing by reason of their
16 Complaints or Cross-Complaint;
17 2. That the Complaints and Cross-Complaint be dismissed with prejudice;
18 3. For Defendant and Cross-Defendant's costs incurred herein; and
19 4. For such other and further relief as the Court deems just and proper.

20
21 DATED: September 23, 2008 EDWARD J. CASEY
22 TAMMY L. JONES
23 ALSTON & BIRD LLP

24 

25 Tammy L. Jones
26 Attorneys for Defendant and Cross-Defendant
27 ENXCO DEVELOPMENT CORPORATION
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PROOF OF SERVICE

I, Yolanda S. Ramos, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Alston & Bird, 333 South Hope Street, Sixteenth Floor, Los Angeles, CA 90071. I am over the age of eighteen years and not a party to the action in which this service is made.

On September 23, 2008, I served the document(s) described as ANSWER TO ALL COMPLAINTS AND FIRST AMENDED CROSS-COMPLAINT OF DEFENDANT AND CROSS-DEFENDANT ENXCO DEVELOPMENT CORPORATION (Sued Herein as Roe 452) on the interested parties in this action by enclosing the document(s) in a sealed envelope addressed as follows:

BY MAIL: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at Alston & Bird, 333 South Hope Street, Los Angeles, California 90071.

BY ELECTRONIC MAIL: By posting the document listed above to the Santa Clara Superior Court website: www.scefilng.org regarding the ANTELOPE VALLEY GROUNDWATER matter.

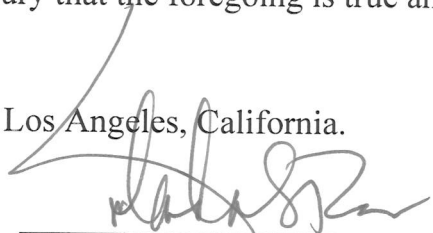
BY FEDERAL EXPRESS UPS NEXT DAY AIR OVERNIGHT DELIVERY: I deposited such envelope in a facility regularly maintained by FEDERAL EXPRESS UPS Overnight Delivery [specify name of service:] with delivery fees fully provided for or delivered the envelope to a courier or driver of FEDERAL EXPRESS UPS OVERNIGHT DELIVERY [specify name of service:] authorized to receive documents at Alston & Bird, 333 South Hope Street, Los Angeles, California 90071 with delivery fees fully provided for.

BY FACSIMILE: I telecopied a copy of said document(s) to the following addressee(s) at the following number(s) in accordance with the written confirmation of counsel in this action.

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

[Federal] I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 23, 2008, at Los Angeles, California.



YOLANDA S. RAMOS