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13 PALMDALE HILLS PROPERTY, LLC

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF LOS ANGELES**

16 ANTELOPE VALLEY
17 GROUNDWATER CASES,

18 Included Actions:

19 Los Angeles County Waterworks District
20 No. 40 v. Diamond Fanning Co.
21 Los Angeles County Superior Court
22 Case No. BC 325201

23 Los Angeles County Waterworks District
24 No. 40 v. Diamond Farming Co.
25 Kern County Superior Court
26 Case No. S-1500-CV -254-348

27 Wm. Bolthouse Farms, Inc. v. City of
28 Lancaster, Diamond Farming Co. v. City
of Lancaster, Diamond Fanning Co. v.
Palmdale Water Dist.
Riverside County Superior Court
Consolidated actions
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 PALMDALE
HILLS PROPERTY LLC**

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:

8 APN's: 3205-002-028, -051, -053; 3205-005-008; 3206-006-016, -020, -022, -025, -028;
9 3206-007-001, -002; 3206-008-012; 3206-009-014; 3206-010-011; 3206-016-008; 3206-
10 017-009; 3206-018-014, -033; 3206-020-010 and 012; 3206-021-002, -005; 3206-022-001;
11 3206-025-001, -002; 3206-026-003, -004, -005, -006, -007, -008, -009, -010; 3206-027-001, -
12 002, -003, -004, -005, -006, -007, -008, -009. The Messer Ranch parcels are APN's 3206-
13 006-027 and 3206-007-059.

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15 **GENERAL DENIAL**

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

20 **AFFIRMATIVE DEFENSES**

21 **First Affirmative Defense**

22 (Failure to State a Cause of Action)

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

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Second Affirmative Defense

(Statute of Limitation)

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

Third Affirmative Defense

(Laches)

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

Fourth Affirmative Defense

(Estoppel)

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

Fifth Affirmative Defense

(Waiver)

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

Sixth Affirmative Defense

(Self-Help)

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

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Seventh Affirmative Defense

(California Constitution Article X, Section 2)

8. Plaintiffs’ and Cross-Complainants’ methods of water use and storage are unreasonable and wasteful in the arid conditions of the Antelope Valley and thereby violate Article X, Section 2 of the California Constitution.

Eighth Affirmative Defense

(Additional Defenses)

9. The Plaintiffs and Cross-Complainants do not state their allegations with sufficient clarity to enable Defendant and Cross-Defendant to determine what additional defenses may exist to Plaintiffs’ and Cross-Complainants’ causes of action, Defendant and Cross-defendant therefore reserves the right to assert all other defenses which may pertain to the Complaints and Cross-Complaint.

Ninth Affirmative Defense

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

Tenth Affirmative Defense

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

Eleventh Affirmative Defense

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

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1 **Twelfth Affirmative Defense**

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

6 **Thirteenth Affirmative Defense**

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

10 **Fourteenth Affirmative Defense**

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

14 **Fifteenth Affirmative Defense**

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

17 **Sixteenth Affirmative Defense**

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

21 **Seventeenth Affirmative Defense**

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

24 **Eighteenth Affirmative Defense**

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

1 **Nineteenth Affirmative Defense**

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

4 **Twentieth Affirmative Defense**

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

7 **Twenty-First Affirmative Defense**

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

13 **Twenty-Second Affirmative Defense**

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

19 **Twenty-Third Affirmative Defense**

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

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

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

DATED: August 30, 2007

EDWARD J. CASEY
TAMMY L. JONES
**WESTON, BENSHOOF, ROCHEFORT,
RUBALCAVA & MacCUISH LLP**



Tammy L. Jones
Attorneys for Defendant and Cross-Defendant
PALMDALE HILLS PROPERTY LLC

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 Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP, 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 August 30, 2007, I served the document(s) described as ANSWER TO ALL COMPLAINTS AND FIRST AMENDED CROSS-COMPLAINT OF DEFENDANT AND CROSS-DEFENDANT PALMDALE HILLS PROPERTY LLC 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 Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP, 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.scefiling.org regarding the ANTELOPE VALLEY GROUNDWATER matter.

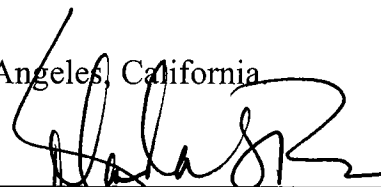
BY FEDERAL EXPRESS UPS NEXT DAY AIR OVERNIGHT DELIVERY: I deposited such envelope in a facility regularly maintained by FEDERAL EXPRESS UPS Overnight Delivery [specify name of service:] with delivery fees fully provided for or delivered the envelope to a courier or driver of FEDERAL EXPRESS UPS OVERNIGHT DELIVERY [specify name of service:] authorized to receive documents at Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP, 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 August 30, 2007, at Los Angeles, California


YOLANDA S. RAMOS

WESTON BENSHOOF ROCHEFORT RUBALCAVA MACCUISH LLP
333 South Hope Street, Sixteenth Floor
Los Angeles, California 90071