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8 as Manager of Britton Associates, LLP

9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF LOS ANGELES - CENTRAL DISTRICT

11 ANTELOPE VALLEY
12 GROUNDWATER CASES

13 Included Actions:

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

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

20 Wm. Bolthouse Farms, Inc. V. City of
21 Lancaster, Diamond Farming Co. v. City of
22 Lancaster, Diamond Farming Co. v.
23 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

) Santa Clara Case No. 1-05-CV-049053
) Assigned to The Honorable Jack Komar

) **ANSWER TO COMPLAINT AND ALL
CROSS-COMPLAINTS**

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25 I hereby answer the Complaint and all Cross-Complaints which have been filed as
26 of this date, specifically those of Antelope Valley East-Kern Water Agency, Palmdale Water
27 District & Quartz Hill Water District, Rosamond Community Services District and

1 Waterworks District No. 40 of Los Angeles County. I do not intend to participate at trial or
2 other proceedings unless ordered by the Court to do so, but I reserve the right to do so
3 upon giving written notice to that effect to the Court and all parties. I have an 12.515
4 interest as a member in Britton Associates, LLC and I am the Manager of Britton
5 Associates, LLC. Britton Associates, LLC owns property in Antelope Valley and/or Kern
6 County California legally described as follows:

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8 PARCEL NO. 1:

9 All of the southwest quarter of Section 2, Township 10, North, Range 8 West,
10 San Bernardino Meridian, in the County of Kern, State of California,
according to the official plat thereof.

11 EXCEPTING any portion of said land lying within the lines of the right of way
12 (200 feet wide) of the California, Arizona and Sante Fe Railroad (operated by
Atchison, Topeka and Santa Fe Railroad Company) as now located.

13 ALSO EXCEPTING, an undivided one-half (1/2) interest in and to all oil, gas,
14 minerals and other hydrocarbon substances, as reserved by Grace C.
Landes, a widow, who acquired title as Grace C. Carpenter, in deed recorded
15 April 20, 1953 in Book 2071 Page 230 of Official Records.

16 PARCEL 2:

17 The South half of the southeast quarter and the northwest quarter of the
18 southeast quarter of Section 2, Township 10 North, Range 8 West, San
Bernardino Meridian, in the County of Kern, State of California, according to
the official plat thereof.
19 APN: 244-040-14 and APN: 244-040-15

20 **GENERAL DENIAL**

21 1. Pursuant to Code of Civil Procedure section 431.30(d), the answering
22 Defendants and Cross-Defendants hereby generally denies each and every allegation set
23 forth in the Complaint and Cross-Complaint, and the whole thereof, and further denies that
24 Plaintiff and Cross-Complaint are entitled to any relief against Defendant and Cross-
25 Defendant.

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1 **AFFIRMATIVE DEFENSES**

2 **First Affirmative Defense**

3 (Failure to State a Cause of Action)

4 2. The Complaint and Cross-Complaint and every purported cause of action
5 contained therein fail to allege facts sufficient to constitute a cause of action against the
6 answering Defendants and Cross-Defendants.

7 **Second Affirmative Defense**

8 (Statute of Limitations)

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

13 **Third Affirmative Defense**

14 (Laches)

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

17 **Fourth Affirmative Defense**

18 (Estoppel)

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

21 **Fifth Affirmative Defense**

22 (Waiver)

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

25 **Sixth Affirmative Defense**

26 (Self-Help)

27 7. The answering Defendants and Cross-Defendants, Steven Harris,

1 individually and as Manager of Britton Associates, LLC has, by virtue of the doctrine of
2 self-help, preserved its paramount overlying right to extract groundwater by continuing,
3 during all time relevant hereto, to extract groundwater and put it to reasonable an
4 beneficial use on its property.

5 **Seventh Affirmative Defense**

6 (California Constitution Article X, Section 2)

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

10 **Eighth Affirmative Defense**

11 (Additional Defenses)

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

17 **Ninth Affirmative Defense**

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

21 **Tenth Affirmative Defense**

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

25 **Eleventh Affirmative Defense**

26 12. The prescriptive claims asserted by governmental entity Cross-
27 Complainants are barred by the provisions of the 5th Amendment to the United States

1 Constitution as applied to the states under the 14th Amendment of the United States
2 Constitution.

3 **Twelfth Affirmative Defense**

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

9 **Thirteenth Affirmative Defense**

10 14. The prescriptive claims asserted by governmental entity Cross-
11 Complainants are barred by the provisions of Article I Section 7 of the California
12 Constitution.

13 **Fourteenth Affirmative Defense**

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

17 **Fifteenth Affirmative Defense**

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

20 **Sixteenth Affirmative Defense**

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

24 **Seventeenth Affirmative Defense**

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

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1 **Eighteenth Affirmative Defense**

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

5 **Nineteenth Affirmative Defense**

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

8 **Twentieth Affirmative Defense**

9 21. The governmental entity Cross-Complainants are barred from taking,
10 possessing or using the answering Cross-Defendants property without first paying just
11 compensation.

12 **Twenty-First Affirmative Defense**

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

18 **Twenty-Second Affirmative Defense**

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

24 **Twenty-Third Affirmative Defense**

25 24. Any imposition by this court of a proposed physical solution that
26 reallocates the water right priorities and water usage within the Antelope Valley will be
27 *ultra vires* as it will be subverting the pre-project legislative requirements and

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protections of California s Environmental Quality Act (CEQA)(Pub.Res.C. 2100 *et seq.*)

WHEREFORE, Defendants and Cross-Defendants prays that judgment be entered as follows:

1. That Plaintiff and Cross-Complainant take nothing by reason of its Complaint or Cross-Complaint;
2. That the Complaint and Cross-Complaints be dismissed with prejudice;
3. For the answering Defendants and Cross-Defendants costs incurred herein; and
4. For such other and further relief as the Court deems just and proper.

DATED: _____, 2007

EDWARD H. STONE, A Law Corporation

By: _____
EDWARD H. STONE, Attorney for
Steven Harris, individually and as
Manager of Britton Associates, LLC