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[Exempt from Filing Fees Pursuant to
Government Code § 6103]

5 Attorneys for Cross-Defendant ANTELOPE
VALLEY JOINT UNION HIGH SCHOOL
6 DISTRICT

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
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12 **ANTELOPE VALLEY
GROUNDWATER CASES**

13 Included Actions:

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

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

20 Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
21 Lancaster, Diamond Farming Co. v.
Palmdale Water Dist.
22 Riverside County Superior Court
Consolidated actions
23 Case Nos. RIC 353 840, RIC 344 436, RIC
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 ANTELOPE
VALLEY JOINT UNION HIGH SCHOOL
DISTRICT'S ANSWER TO CROSS-
COMPLAINT OF PUBLIC WATER
SUPPLIERS FOR DECLARATORY AND
INJUNCTIVE RELIEF AND
ADJUDICATION OF WATER RIGHTS**

1 Cross-Defendant Antelope Valley Joint Union High School District ("AVUHSD") hereby
2 answers the Cross-Complaint which has been filed as of this date against it by public water
3 suppliers, specifically those of California Water Service Company, City of Lancaster, City of
4 Palmdale, Littlerock Creek Irrigation District, Los Angeles County Water Works District No. 40,
5 Palmdale Water District, Rosamond Community Services District, Palm Ranch Irrigation District,
6 and Quartz Hill Water District. I do not intend to participate at trial or other proceedings unless
7 ordered by the Court to do so, but I reserve the right to do so upon giving written notice to that
8 effect to the Court and all parties. I own the following property(ies) located in the Antelope
9 Valley: APN: 3204-004-900, APN: 3142-009-905, APN: 3219-001-901, APN: 3206-006-900,
10 APN: 3268-022-900 and APN: 3051-028-903.

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12 **GENERAL DENIAL**

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

17 **AFFIRMATIVE DEFENSES**

18 **First Affirmative Defense**

19 (Failure to State a Cause of Action)

20 2. The Cross-Complaint and every purported cause of action contained therein fails
21 to allege facts sufficient to constitute a cause of action against AVUHSD.

22 **Second Affirmative Defense**

23 (Statute of Limitation)

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

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Third Affirmative Defense

(Laches)

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

Fourth Affirmative Defense

(Estoppel)

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

Fifth Affirmative Defense

(Waiver)

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

Sixth Affirmative Defense

(Self-Help)

7. AVUHSD 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.

Seventh Affirmative Defense

(California Constitution Article X, Section 2)

8. Cross-Complainant's 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

(Ultra Vires as to the Cal. Wat. Code)

9. The prescriptive claims asserted by the 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.

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Ninth Affirmative Defense

(California Constitution, Article I, Section 19)

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

Tenth Affirmative Defense

(United States Constitution, 5th & 14th Amends.)

11. The prescriptive claims asserted by the 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.

Eleventh Affirmative Defense

(United States Constitution, 5th & 14th Amends. – Due Process Clause)

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

Twelfth Affirmative Defense

(California Constitution, Article I, Section 7)

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

Thirteenth Affirmative Defense

(United States Constitution, 14th Amend.)

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

Fourteenth Affirmative Defense

(Permissive Use)

15. The governmental entity Cross-Complainants were permissively pumping at all times and did not obtain prescriptive rights to the groundwater.

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Fifteenth Affirmative Defense

(California Constitution, Article III, Section 3 – Separation of Powers)

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

Sixteenth Affirmative Defense

(Cal. Civ. Code §§ 1007, 1214)

17. Cross-Complainants, and each of them are barred from asserting their prescriptive claims by operation of law as set forth in Civil Code sections 1007 and 1214.

Seventeenth Affirmative Defense

(Unclean Hands and Unjust Enrichment)

18. Cross-Complainants, and each of them are barred from recovery under each and every cause of action contained in the Cross-Complaint by the doctrine of unclean hands and/or unjust enrichment.

Eighteenth Affirmative Defense

(Cal. Code Civ. Proc. § 389(a))

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

Nineteenth Affirmative Defense

(Just Compensation)

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

Twentieth Affirmative Defense

(Contrary to CEQA)

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

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Twenty-First Affirmative Defense

(Notice Pursuant to CEQA)

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

Twenty-Second Affirmative Defense

(Ultra Vires as to CEQA)

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

Twenty-Third Affirmative Defense

(Additional Defenses)

24. The Cross-Complaint does not state its allegations with sufficient clarity to enable AVUHSD to determine what additional defenses may exist to Cross-Complainant’s causes of action. AVUSHD therefore reserves the right to assert all other defenses which may pertain to the Cross-Complaint.

WHEREFORE, AVUHSD prays that judgment be entered as follows:

1. That Cross-Complainant take nothing by reason of their Cross-Complaint;
2. That the Cross-Complaint be dismissed with prejudice;

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- 3. For AVUHSD's costs incurred herein; and
- 4. For such other and further relief as the Court deems just and proper.

Dated: July 22, 2009

FAGEN FRIEDMAN & FULFROST, LLP

/s/

Kimberly A. Smith
Attorneys for Antelope Valley Joint Union
High School District

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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 6300 Wilshire Boulevard, Suite 1700, Los Angeles, California 90048.

On July 22, 2009, I served the following document(s) described as **ANSWER TO COMPLAINT AND ALL CROSS COMPLAINTS** on the interested parties in this action as follows:

BY ELECTRONIC SERVICE: I caused the above-titled document(s) to be served through the County of Santa Clara, Superior Court e-filing service at www.scefiling.org addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported and a copy of the Filing Receipt Page/Confirmation will be maintained with the original document(s) in this office.

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

Executed on July 22, 2009, at Los Angeles, California.

/s/

Verlenia Hollins