

## **EXHIBIT C**

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

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**ANTELOPE VALLEY  
GROUNDWATER CASES**

Included Actions:  
Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co., Superior  
Court of California, County of Los  
Angeles, Case No. BC 325201

Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co., Superior  
Court of California, County of Kern, Case  
No. S-1500-CV-254348

Wm. Bolthouse Farms, Inc. v. City of  
Lancaster, Diamond Farming Co. v. City of  
Lancaster, Diamond Farming Co. v.  
Palmdale Water Dist., Superior Court of  
California, County of Riverside, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053

**ANSWER TO COMPLAINT AND ALL  
CROSS-COMPLAINTS OF  
CROSS-DEFENDANT  
H&N DEVELOPMENT CO. WEST,  
INC.**

Hearing Date: October 12, 2012

Time: 9:00 a.m.

Location: Dept. 1, Room 534  
111 North Hill Street  
Los Angeles, CA 90012

H&N DEVELOPMENT CO. WEST, INC., a California corporation ("H&N  
West"), named as ROE 476 hereby answers the complaint of Los Angeles County Waterworks  
District No. 40 (the "Complaint") and all Cross-Complaints that have been filed as of this date,  
specifically those of the Public Water Suppliers, Antelope Valley East-Kern Water Agency,  
Palmdale Water District, Quartz Hill Water District, Rosamond Community Services District,

1 Phelan Pinion Hills CSD and all cross-complaints filed hereinafter against H&N West ("Cross-  
2 Complaints").

3 H&N West owns the following properties located in the Antelope Valley:

4 Parcel One: APN 359-031-17

5 The East half of the Southwest quarter of Section 25, Township 9 North, Range  
6 14 West, San Bernardino Meridian, in the unincorporated area of the County of Kern, State of  
7 California, according to the Official Plat thereof.

8 EXCEPTING THEREFROM the Northerly 20 feet of the Southerly 50 feet of  
9 said land.

10 Parcel Two: APN 359-032-20

11 The West half of the Northwest quarter of Section 36, Township 9 North, Range  
12 14 West, San Bernardino Meridian, in the unincorporated area of the County of Kern, State of  
13 California, According to the Official Plat thereof.

14 Parcel Three: APN 359-032-21

15 The East half of the Northwest quarter of Section 36, Township 9 North, Range  
16 14 West, San Bernardino Meridian, in the unincorporated area of the County of Kern, State of  
17 California, according to the Official Plat thereof.

18 Parcel Four: APN 359-032-13

19 The East half of the Southwest quarter of Section 36, Township 9 North, Range  
20 14 West, San Bernardino Meridian, in the unincorporated area of the County of Kern, State of  
21 California, according to the Official Plat thereof.

22 EXCEPTING THEREFROM the Westerly 20 feet of said land.

23 Parcel Five: APN 359-032-08 and 14

24 The Southeast quarter of Section 36, Township 9 North, Range 14 West, San  
25 Bernardino Meridian, in the unincorporated area of the County of Kern, State of California,  
26 according to the Official Plat thereof.

27 EXCEPTING THEREFROM the Northeast quarter of said Southeast quarter of  
28 said land.

ALSO EXCEPTING THEREFROM all oil, gas and other hydrocarbon substances in and under the Southwest quarter of the Southwest quarter of the Southeast quarter of the South half of the Southeast quarter of the Southwest quarter of the Southeast quarter of said Section 36.

ALSO EXCEPTING THEREFROM the remainder ½ of all oil, gas and other hydrocarbon substances as conveyed to Roy L. Larsen and wife by deed recorded April 8, 1948 in Book 1510, page 349 of Official Records.

APN: 359-031-07, 359-032-20, 21, 13, 08 and 14.

**GENERAL DENIAL**

1. Pursuant to Code of Civil Procedure section 431.30(d), H&N West hereby generally denies each and every allegation set forth in the Complaint and Cross-Complaints, and the whole thereof, and further denies that Complainant and Cross-Complainants are entitled to any relief.

## AFFIRMATIVE DEFENSES

### First Affirmative Defense

(Failure to State a Cause of Action)

2. The Complaint and Cross-Complaints and every purported cause of action contained therein fails to allege facts sufficient to constitute a cause of action against H&N West.

## Second Affirmative Defense

(Statute of Limitation)

3. Each and every cause of action contained in the Complaint and Cross-Complaints 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 Complaint and Cross-Complaints, and each and every cause of action alleged therein, is barred by the doctrine of laches.

1                                   **Fourth Affirmative Defense**

2                                   (Estoppel)

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

5                                   **Fifth Affirmative Defense**

6                                   (Waiver)

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

9                                   **Sixth Affirmative Defense**

10                                  (Self-Help)

11                   7.       H&N West has, by virtue of the doctrine of self-help, preserved its  
12 paramount overlying right to extract groundwater by continuing, during all times relevant  
13 thereto, to extract groundwater and put it to reasonable and beneficial use.

14                                  **Seventh Affirmative Defense**

15                                  (California Constitution Article 10, Section 2)

16                   8.       The Complainant and Cross-Complainants' methods of water use and  
17 storage are unreasonable and wasteful in the arid conditions of the Antelope Valley and  
18 thereby violate Article 10, Section 2 of the California Constitution.

19                                  **Eighth Affirmative Defense**

20                                  (Adequate Legal Remedy)

21                   9.       The Complainant and Cross-Complainants are barred from seeking  
22 equitable relief because they have an adequate remedy at law.

23                                  **Ninth Affirmative Defense**

24                                  (Ultra Vires Conduct)

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

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

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12. The prescriptive claims asserted by the Complainant and Cross-Complainants are barred by the provisions of the 5<sup>th</sup> Amendment to the United States Constitution as applied to the states under the 14<sup>th</sup> Amendment of the United States Constitution.

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13. The prescriptive claims asserted by the Complainant and Cross-Complainants are barred for failure to take affirmative steps that were reasonably calculated and intended to inform each overlying landowner of Complainant and Cross-Complainants' adverse and hostile claims as required by the due process clause of the 5th and 14th Amendments of the United States Constitution.

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14. The prescriptive claims asserted by the Complainant and Cross-Complainants are barred by the provisions of Article 1, Section 7 of the California Constitution.

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

1 **Fifteenth Affirmative Defense**

2 (Consent)

3 16. The Complainant and Cross-Complainants were permissively pumping  
4 at all times.

5 **Sixteenth Affirmative Defense**

6 (Cal. Constitution, Article 3, Section 3)

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 set  
9 forth in Article 3, Section 3 of the California Constitution.

10 **Seventeenth Affirmative Defense**

11 (Cal. Civil Code)

12 18. The Complainant and each Cross-Complainant is barred from asserting  
13 their prescriptive claims by operation of law as set forth in Civil Code sections 1007, 1009 and  
14 1214.

15 **Eighteenth Affirmative Defense**

16 (Unclean Hands/Unjust Enrichment)

17 19. The Complainant and each Cross-Complainant is barred from recovery  
18 under each and every cause of action contained in the Complaint and Cross-Complaints by the  
19 doctrine of unclean hands and/or unjust enrichment.

20 **Nineteenth Affirmative Defense**

21 (Failure to Join Indispensable Parties)

22 20. The Complaint and each Cross-Complaint is defective because it fails to  
23 join indispensable and necessary parties in violation of Code of Civil Procedure section 389.

24 **Twentieth Affirmative Defense**

25 (Failure to Pay Compensation)

26 21. The Complainant and each Cross-Complainant is barred from taking,  
27 damaging, possessing or using H&N West's property without first paying just compensation.

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**Twenty-First Affirmative Defense**

(Pub. Res. Code Section 2100 *et seq.*)

22. The Complainant and each Cross-Complainant is seeking to transfer water right priorities and water usage which will have significant effects on the Antelope Valley Groundwater Basin and the Antelope Valley. Said actions are being done without complying with and contrary to the provisions of the California Environmental Quality Act (CEQA) (Pub. Res. Code § 2100 *et seq.*).

**Twenty-Second Affirmative Defense**

(Pub. Res. Code Section 2100 *et seq.*)

23. The Complainant and each Cross-Complainant 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 CEQA (Pub. Res. Code § 2100 *et seq.*).

**Twenty-Third Affirmative Defense**

(Pub. Res. Code Section 2100 *et seq.*)

24. 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 CEQA (Pub. Res. Code § 2100 *et seq.*).

**Twenty-Fourth Affirmative Defense**

(Water Code Section 5000 *et seq.*)

25. The Complaint and Cross-Complaints and each and every purported cause of action alleged therein is barred by Water Code section 5000 *et seq.*

**Twenty-Fifth Affirmative Defense**

(Additional Defenses)

26. The Complaint and Cross-Complaints do not state their allegations with sufficient clarity to enable H&N West to determine what additional defenses may exist to



1 Complainant and Cross-Complainants' causes of action. H&N West therefore reserves the  
2 right to assert all other defenses which may pertain to the Complaint and Cross-Complaints.

3 WHEREFORE, H&N West prays that judgment be entered as follows:

4 1. That Complainant and each and every Cross-Complainant take nothing  
5 by reason of its Complaint or Cross-Complaint;

6 2. That the Complaint and Cross-Complaints be dismissed with prejudice;

7 3. For a judicial determination that H&N West's right to pump water from  
8 the basin is superior and paramount to the right of Complainant and each Cross-Complainant,  
9 if any;

10 4. That if the Court determines that the Complainant or any Cross-  
11 Complainant is entitled to any relief, that H&N West be awarded just compensation for any  
12 property interest taken or damaged thereby;

13 5. For attorney's fees as provided by law;

14 6. For costs incurred herein; and

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

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18 Date: September 28, 2012

KLEIN, DENATALE, GOLDNER,  
COOPER, ROSENLIB & KIMBALL, LLP

19  
20 By: \_\_\_\_\_

21 Joseph D. Hughes,  
22 Attorneys for H&N West  
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