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9 CRYSTAL ORGANIC FARMS, LLC

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **IN AND FOR THE COUNTY OF LOS ANGELES**

13 Coordination Proceeding Special Title
14 (Rule 1550 (b))

Judicial Council Coordination No. 4408

15 ANTELOPE VALLEY GROUNDWATER
16 CASES

Case No.: 1-05-CV-049053

17 Included actions:

**ANSWER OF DIAMOND FARMING
COMPANY AND CRYSTAL ORGANIC
FARMS, LLC TO CROSS-COMPLAINT
OF PHELAN PIÑON HILLS COMPANY
SERVICES DISTRICT**

18 Los Angeles County Waterworks District No.
19 40 vs. Diamond Farming Company
Los Angeles Superior Court
Case No. BC 325201

20 Los Angeles County Waterworks District No.
21 40 vs. Diamond Farming Company
Kern County Superior Court
Case No. S-1500-CV 254348 NFT

22 Diamond Farming Company vs. City of
Lancaster
Riverside County Superior Court
Lead Case No. RIC 344436 [Consolidated
w/Case Nos. 344668 & 353840]

23 AND RELATED CROSS-ACTIONS.
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1 Diamond Farming Company ("Diamond") and Crystal Organic Farms, LLC ("Crystal"),
2 hereby answers the Cross-Complaint of Phelan Piñon Hills Community Services District for Declaratory,
3 Injunctive and Other Equitable Relief Including a Physical Solution Against All Parties, which has been
4 filed as of this date, filed on December 30, 2008.

5 GENERAL DENIAL

6 1. Pursuant to Code of Civil Procedure section 431.30(d), Cross-Defendants hereby
7 generally deny each and every allegation set forth in the Cross-Complaint, and the whole thereof, and
8 further denies that Cross-Complainant is entitled to any relief against Cross-Defendants.

9 AFFIRMATIVE DEFENSES

10 **First Affirmative Defense**

11 **(Failure to State a Cause of Action)**

12 2. The Cross-Complaint and every purported cause of action contained therein fail to allege
13 facts sufficient to constitute a cause of action against these answering Cross-Defendants.

14 **Second Affirmative Defense**

15 **(Statute of Limitations)**

16 3. Each and every cause of action contained in the Cross-Complaint is barred, in whole or
17 in part, by the applicable statutes of limitation, including, but not limited to, sections 315, 318, 319, 321,
18 338, and 343 of the California Code of Civil Procedure.

19 **Third Affirmative Defense**

20 **(Laches)**

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

23 **Fourth Affirmative Defense**

24 **(Estoppel)**

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

1 **Fifth Affirmative Defense**

2 **(Waiver)**

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

5 **Sixth Affirmative Defense**

6 **(Self-Help)**

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

10 **Seventh Affirmative Defense**

11 **(California Constitution Article X, Section 2)**

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

15 **Eighth Affirmative Defense**

16 **(Additional Defenses)**

17 9. The Cross-Complainant does not state its allegations with sufficient clarity to enable these
18 answering Cross-Defendants to determine what additional defenses may exist to Cross-Complainant's
19 causes of action. Cross-Defendants therefore reserve their right to assert all other defenses which may
20 pertain to the Cross-Complaint.

21 **Ninth Affirmative Defense**

22 10. The prescriptive claims asserted by governmental entity Cross-Complainant is *ultra vires*
23 and exceed the statutory authority by which that entity may acquire private property and violate the
24 express limitations set forth in Article 1 Section 19 of the California State Constitution.

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Eleventh Affirmative Defense

Twelfth Affirmative Defense

Thirteenth Affirmative Defense

Fourteenth Affirmative Defense

Fifteenth Affirmative Defense

Sixteenth Affirmative Defense

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1 **Seventeenth Affirmative Defense**

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

4 **Eighteenth Affirmative Defense**

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

7 **Nineteenth Affirmative Defense**

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

10 **Twentieth Affirmative Defense**

11 21. The governmental entity Cross-Complainant is barred from taking, possessing or using
12 Cross-Defendants' property without first paying just compensation. (United States Constitution,
13 Amendment 5; Article I Section 19 of the California Constitution; California Code of Civil Procedure
14 Section 1263.010(a)).

15 **Twenty-First Affirmative Defense**

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

20 **Twenty-Second Affirmative Defense**

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

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Twenty-Third Affirmative Defense

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

Twenty-Fourth Affirmative Defense

25. The prescriptive right claimed has been extinguished through disuse thereof as set forth in Civil Code section 811.

WHEREFORE, these answering Cross-Defendants pray that judgment be entered as follows:

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

Dated: April 16, 2009

LeBEAU • THELEN, LLP

By: 

BOB H. JOYCE
Attorneys for DIAMOND FARMING COMPANY
and CRYSTAL ORGANIC FARMS, a limited
liability company

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PROOF OF SERVICE

ANTELOPE VALLEY GROUNDWATER CASES
JUDICIAL COUNCIL PROCEEDING NO. 4408
CASE NO.: 1-05-CV-049053

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within action; my business address is: 5001 E. Commercenter Drive, Suite 300, Bakersfield, California 93309. On April 16, 2009, I served the within

**ANSWER OF DIAMOND FARMING COMPANY AND CRYSTAL ORGANIC FARMS, LLC
TO CROSS-COMPLAINT OF PHELAN PIÑON HILLS COMPANY SERVICES DISTRICT**

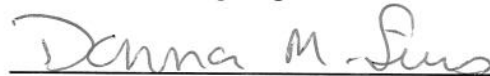
☒ (BY POSTING) I am "readily familiar" with the Court's Clarification Order. Electronic service and electronic posting completed through www.scefiling.org ; All papers filed in Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

Los Angeles County Superior Court
111 North Hill Street
Los Angeles, CA 90012
Attn: **Department 1**
(213) 893-1014

Chair, Judicial Council of California
Administrative Office of the Courts
Attn: Appellate & Trial Court Judicial Services
(Civil Case Coordinator)
Carlotta Tillman
455 Golden Gate Avenue
San Francisco, CA 94102-3688
Fax (415) 865-4315

☐ (BY MAIL) I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Bakersfield, California, in the ordinary course of business.

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct, and that the foregoing was executed on April 16, 2009, in Bakersfield, California.



DONNA M. LUIS