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10 a limited liability company

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 CRYSTAL ORGANIC
FARMS, LLC, (ROE 584), TO FIRST
AMENDED CROSS-COMPLAINT OF
PUBLIC WATER SUPPLIER

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

22 Los Angeles County Waterworks District No.
23 40 vs. Diamond Farming Company
24 Kern County Superior Court
25 Case No. S-1500-CV 254348 NFT

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

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1 Crystal Organic Farms, LLC, (Roe 584), hereby answers the First Amended Cross-Complaint
2 of the Public Water Suppliers for Declaratory and Injunctive Relief and Adjudication of Water Rights,
3 which has been filed as of this date, specifically those of California Water Service Company, City of
4 Lancaster, City of Palmdale, Littlerock Creek Irrigation District, Los Angeles County Water Works
5 District No. 40, Palmdale Water District, Rosamond Community Services District, Palm Ranch
6 Irrigation District, and Quartz Hill Water District.

7 GENERAL DENIAL

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

11 AFFIRMATIVE DEFENSES

12 First Affirmative Defense

13 (Failure to State a Cause of Action)

14 2. The Cross-Complaint and every purported cause of action contained therein fail to allege
15 facts sufficient to constitute a cause of action against this answering Cross-Defendant.

16 Second Affirmative Defense

17 (Statute of Limitations)

18 3. Each and every cause of action contained in the Cross-Complaint is barred, in whole or
19 in part, by the applicable statutes of limitation, including, but not limited to, sections 315, 318, 319, 321,
20 338, and 343 of the California Code of Civil Procedure.

21 Third Affirmative Defense

22 (Laches)

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

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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. 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 properties.

Seventh Affirmative Defense

(California Constitution Article X, Section 2)

8. 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 Cross-Complainants do not state their allegations with sufficient clarity to enable this answering Cross-Defendant to determine what additional defenses may exist to Cross-Complainants' causes of action. Cross-Defendant therefore reserves the right to assert all other defenses which may pertain to the Cross-Complaint.

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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, and violate the express limitations set forth in Article 1 Section 19 of the California State Constitution.

Tenth Affirmative Defense

11. The prescriptive claims asserted by governmental entity Cross-Complainants are barred by the provisions of Article I 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.

Twelfth Affirmative Defense

13. 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.

Thirteenth Affirmative Defense

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

Fourteenth Affirmative Defense

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

Fifteenth Affirmative Defense

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

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1 Sixteenth Affirmative Defense

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

5 Seventeenth Affirmative Defense

6 18. Cross-Complainants are barred from asserting their prescriptive claims by operation of
7 law as set forth in Civil Code sections 1007, 1009 and 1214.

8 Eighteenth Affirmative Defense.

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

11 Nineteenth Affirmative Defense

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

14 Twentieth Affirmative Defense

15 21. The governmental entity Cross-Complainants are barred from taking, possessing or using
16 Cross-Defendant's property without first paying just compensation. (United States Constitution,
17 Amendment 5; Article I Section 19 of the California Constitution; California Code of Civil Procedure
18 Section 1263.010(a)).

19 Twenty-First Affirmative Defense

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

24 Twenty-Second Affirmative Defense

25 23. The governmental entity Cross-Complainants seek judicial ratifications of a project that
26 has had and will have a significant effect on the Antelope Valley Groundwater Basin and the Antelope

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1 Valley that was implemented without providing notice in contravention of the provisions of California's
2 Environmental Quality Act (CEQA) (Pub.Res.C. 2100 *et seq.*).

3 Twenty-Third Affirmative Defense

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

8 Twenty-Fourth Affirmative Defense

9 25. The prescriptive right claimed has been extinguished through disuse thereof as set forth
10 in Civil Code section 811. WHEREFORE, this answering Cross-Defendant prays that judgment be
11 entered as follows:

- 12 1. That Cross-Complainants take nothing by reason of their Cross-Complaint;
 - 13 2. That the Cross-Complaint be dismissed with prejudice;
 - 14 3. For Cross-Defendant's costs incurred herein; and
 - 15 4. For such other and further relief as the Court deems just and proper.
- 16

17 Dated: September 21, 2007

LeBEAU • THELEN, LLP

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20 By: 

BOB H. JOYCE
Attorneys for 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 September 21, 2007, I served the within

ANSWER OF CRYSTAL ORGANIC FARMS, LLC, (ROE 584), TO FIRST AMENDED CROSS-COMPLAINT OF PUBLIC WATER SUPPLIER

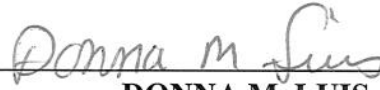
☒ (BY POSTING) I am "readily familiar" with the Court's Clarification Order. Electronic service and electronic posting completed through www.scefiling.org ; All papers filed in Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

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 September 21, 2007, in Bakersfield, California.



DONNA M. LUIS