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7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES
10

11 ANTELOPE VALLEY
GROUNDWATER CASES

12 Included Actions:

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

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

19 Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
20 Lancaster, Diamond Farming Co. v.
Palmdale Water Dist.
Riverside County Superior Court
21 Consolidated actions
Case Nos. RIC 353 840, RIC 344 436, RIC
22 344 668

Judicial Council Coordination No. 4408

For filing purposes only:
Santa Clara County Case No. 1-05-CV -049053

Assigned to The Honorable Jack Komar

ANSWER TO CROSS-COMPLAINT

23
24 Cross-Defendant Juanita Eyherabide hereby answers the Cross-Complaint which has
25 been filed as of the date of this answer, specifically those pleadings of Antelope Valley East-Kern Water
26 Agency, Palmdale Water District & Quartz Hill Water District, Rosamond Community Services District
27 and Waterworks District No. 40 of Los Angeles County.
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2 **GENERAL DENIAL**

3 1. It appearing herein that the cross-complaint on file is unverified, cross-defendant hereby
4 files her general denial pursuant to California Code of Civil Procedure section 431.30(d).

5 2. Cross-Defendant herein denies generally and specifically, each and every allegation of
6 said cross-complaint, both conjunctively and disjunctively and the whole thereof, and deny further that
7 plaintiffs have been damaged in the sum alleged or in any other sum whatsoever or at all.

8 **AFFIRMATIVE DEFENSES**

9 **First Affirmative Defense**

10 (Failure to State a Cause of Action)

11 3. The Complaint and Cross-Complaint and every purported cause of action contained
12 therein fail to allege facts sufficient to constitute a cause of action against Cross-Defendant.

13 **Second Affirmative Defense**

14 (Statute of Limitation)

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

18 **Third Affirmative Defense**

19 (Laches)

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

22 **Fourth Affirmative Defense**

23 (Estoppel)

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

26 **Fifth Affirmative Defense**

27 (Waiver)

28 7. The Complaint and Cross-Complaint, and each and every cause of action contained

1 therein, is barred by the doctrine of waiver.

2 **Sixth Affirmative Defense**

3 (Self-Help)

4 8. Cross-Defendant has, by virtue of the doctrine of self-help, preserved her paramount
5 overlying right to extract groundwater by continuing, during all times relevant hereto, to extract
6 groundwater and put it to reasonable and beneficial use on her property.

7 **Seventh Affirmative Defense**

8 (California Constitution Article X, Section 2)

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

12 **Eighth Affirmative Defense**

13 (Additional Defenses)

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

18 **Ninth Affirmative Defense**

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

22 **Tenth Affirmative Defense**

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

25 **Eleventh Affirmative Defense**

26 13. The prescriptive claims asserted by governmental entity Complainants and Cross-
27 Complainants are barred by the provisions of the 5th Amendment to the United States Constitution as
28 applied to the states under the 14th Amendment of the United States Constitution.

1 **Twelfth Affirmative Defense**

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

6 **Thirteenth Affirmative Defense**

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

9 **Fourteenth Affirmative Defense**

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

12 **Fifteenth Affirmative Defense**

13 17. The governmental entity Complainants and Cross-Complainants were permissively
14 pumping at all times.

15 **Sixteenth Affirmative Defense**

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

19 **Seventeenth Affirmative Defense**

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

22 **Eighteenth Affirmative Defense**

23 20. Each Complainants and Cross-Complainants are barred from recovery under each and
24 every cause of action contained in the Complaint and Cross-Complaint by the doctrine of unclean hands
25 and/or unjust enrichment.

26 **Nineteenth Affirmative Defense**

27 21. The Complaint and Cross-Complaint are defective because they fail to name
28 indispensable parties in violation of California Code of Civil Procedure Section 389(a).

1 **Twentieth Affirmative Defense**

2 22. The governmental entity Complainants and Cross-Complainants are barred from taking,
3 possessing or using cross-defendant's property without first paying just compensation.

4 **Twenty-First Affirmative Defense**

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

9 **Twenty-Second Affirmative Defense**

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

14 **Twenty-Third Affirmative Defense**

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

19 WHEREFORE, Cross-defendant prays that judgment be entered as follows:

- 20 1. That Plaintiff and Cross-Complainant take nothing by reason of its Complaint or Cross-
21 Complaint;
22 2. That the Complaint and Cross-Complaints be dismissed with prejudice;
23 3. For Cross-Defendant's costs incurred herein;
24 4. For attorney's fees in an amount to be proven at trial; and

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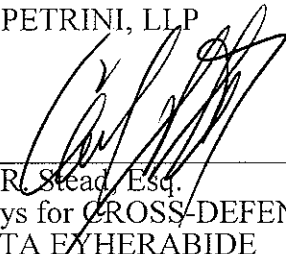
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1 5. For such other and further relief as the Court deems just and proper.

2 Dated: July 11, 2014

BORTON PETRINI, LLP

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4 By


Calvin R. Stead, Esq.
Attorneys for CROSS-DEFENDANT,
JUANITA EYHERABIDE