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MIDDLE BUTTE MINE, INC.
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES
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11 ANTELOPE VALLEY GROUNDWATER CASES) Judicial Council Coordination No. 4408
12)
13 Plaintiffs,) For filing purposes only:
14) Santa Clara County Case No.
15) NO. 1-05-CV-049053
16 Los Angeles County Waterworks District) Assigned to the Honorable Jack Komar
17 No. 40 v. Diamond Farming Co.)
18 Los Angeles County Superior Court)
19 Case No. BC 325201) MIDDLE BUTTE MINE INC.'S
20) ANSWER TO COMPLAINT AND
21 Los Angeles County Waterworks District) ALL CROSS-COMPLAINTS
22 No. 40 v. Diamond Farming Co.)
23 Kern County Superior Court)
24 Case No. S-1500-CV-254-348)
25)
26 Wm. Bolthouse Farms, Inc. v. City of Lancaster,)
27 Diamond Farming Co. v. City of Lancaster, Diamond)
28 Farming Co. v. Palmdale Water Dist.)
Riverside County Superior Court)
Consolidated Actions)
Case Nos. RIC 353 840, RIC 344 436, RIC 344)
668)
_____)
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23 AND RELATED CROSS-ACTIONS
24 _____
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26 Defendant MIDDLE BUTTE MINE, INC. (hereinafter "Defendant and Cross-Defendant"), in answer
27 to the allegations of the unverified complaint and any cross-complaints on file herein against Defendant and
28 Cross-Defendant, deny each and every allegation of said complaint and cross-complaints, and in this

1 connection Defendant and Cross-Defendant denies that Plaintiffs are entitled to any relief against Defendant and
2 Cross-Defendant.

3 FIRST AFFIRMATIVE DEFENSE

4 The Complaint and Cross-Complaint and every purported cause of action pleaded against this
5 Answering Defendant and Cross-Defendant fails to allege facts sufficient to constitute a cause of action against
6 Defendant and Cross-Defendant.

7 SECOND AFFIRMATIVE DEFENSE

8 Plaintiff's cause of action is barred by reason of the provisions of California Code of Civil Procedure
9 sections 335.1, 337, 337.1, 338, 339, 340, and 343.

10 THIRD AFFIRMATIVE DEFENSE

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

15 FOURTH AFFIRMATIVE DEFENSE
16 (Failure to State a Cause of Action)

17 Defendant and Cross-Defendant are informed and believe and thereon allege that the First Amended
18 Complaint, and each and every allegation, fails to state facts sufficient to constitute a cause of action against
19 Defendant and Cross-Defendant.

20 FIFTH AFFIRMATIVE DEFENSE

21 Defendant and Cross-Defendant has, by the virtue of the doctrine of self-help, preserved its paramount
22 overlying right to extract groundwater by continuing, during all times relevant hereto, to extract groundwater and
23 put it to reasonable and beneficial use on its property.

24 SIXTH AFFIRMATIVE DEFENSE

25 The Complaint and Cross-Complaint do not state their allegations with sufficient clarity to enable
26 defendant and cross-defendant to determine what additional defenses may exist to Plaintiff and Cross-
27 Complainant's causes of action. Defendant and Cross-Complainant therefore reserve the right to assert all
28

1 other defenses which may pertain to the Complaint and Cross-Complaint.

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4 SEVENTH AFFIRMATIVE DEFENSE

5 The prescriptive claims asserted by governmental entity Cross-Complainants are *ultra vires* and
6 exceed the statutory authority by which each entity may acquire property as set forth in Water Code sections
7 22456, 31040, and 55370.

8 EIGHTH AFFIRMATIVE DEFENSE

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

11 NINTH AFFIRMATIVE DEFENSE

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13 Defendant and Cross-Defendant are informed and believe and thereon allege the operative complaint
14 and cross-complaint is barred by one or more of the equitable doctrines, including but not limited to, the
15 doctrine of laches.

16 TENTH AFFIRMATIVE DEFENSE

17 Defendant and Cross-Defendant are informed and believe and thereon allege Plaintiff is estopped by
18 reason of their conduct, action or inaction, from asserting each and every cause of action contained in the
19 operative complaint and cross-complaint.
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21 ELEVENTH AFFIRMATIVE DEFENSE

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23 Defendant and Cross-Defendant are informed and believe and thereon allege Plaintiffs are barred from
24 recovery by reason of the doctrine of waiver.

25 TWELFTH AFFIRMATIVE DEFENSE

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

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2 THIRTEENTH AFFIRMATIVE DEFENSE

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

8 FOURTEENTH AFFIRMATIVE DEFENSE

9 The prescriptive claims asserted by governmental entity Cross-Complainants are barred by the
10 provision of Article I Section 7 of the California Constitution.

11 FIFTEENTH AFFIRMATIVE DEFENSE

12
13 The prescriptive claims asserted by governmental entity Cross-Complainants are barred by the
14 provisions of the 14th Amendment of the United States Constitution.

15 SIXTEENTH AFFIRMATIVE DEFENSE

16 Defendant and Cross-Defendant are informed and believe and thereon allege that as between Plaintiff
17 and/or their insured and Defendant and Cross-Defendant and/or their insured, the equities do not preponderate
18 in favor of Plaintiff, and accordingly, Plaintiff is barred from the recovery sought herein.

19 SEVENTEENTH AFFIRMATIVE DEFENSE

20 The prescriptive claims asserted by governmental entity Cross-Complainants were permissively
21 pumping at all times.

22 EIGHTEENTH AFFIRMATIVE DEFENSE

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

26
27 NINETEENTH AFFIRMATIVE DEFENSE
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1 The prescriptive claims asserted by governmental entity Cross-Complainants are barred from asserting
2 their prescriptive claims by operation of law as set forth in Civil Code sections 1007 and 1214.

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4 TWENTIETH AFFIRMATIVE DEFENSE

5 Each plaintiff and cross-complainant is barred from recovery under each and every cause of action
6 contained in the operative complaint and cross-complaint by the doctrine of unclean hands and/or unjust
7 enrichment.

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9 TWENTY-FIRST AFFIRMATIVE DEFENSE

10 The operative complaint and cross-complaint is defective because it fails to name indispensable parties
11 in violation of the Code of Civil Procedure section 389(a).

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13 TWENTY-SECOND AFFIRMATIVE DEFENSE

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

16 TWENTY-THIRD AFFIRMATIVE DEFENSE

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

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22 TWENTY-FOURTH AFFIRMATIVE DEFENSE

23 The governmental entity Cross-Complainants are seek judicial ratification of a project that has had and
24 will have a significant effect on the Antelope Valley Groundwater Basin and the Antelope Valley that was
25 implemented without providing notice in contravention of the provision of California Environmental Quality Act
26 (CEQA) (Pub.Res.C. 2100 et seq.).

27 TWENTY-FIFTH AFFIRMATIVE DEFENSE
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1 Any imposition by this court of a proposed physical solution that reallocates the water rights priorities
2 and water usage within the Antelope Valley will be *ultra vires* as it will be subverting the pre-project legislative
3 requirements and protections of California Environmental Quality Act (CEQA) (Pub.Res.C. 2100 et seq.).

4 WHEREFORE, Answering Defendant prays that judgment be entered as follows:

- 5 1. That Plaintiff and cross-complainant take nothing by way of the complaint or cross-complaint on file
6 herein;
7 2. That the Complaint and Cross-Complaints be dismissed with prejudice;
8 3. For Defendant and Cross-Defendant's costs incurred herein; and
9 4. For attorneys' fees and for such other and further relief as the court deems proper.
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11 Dated: July 20, 2007

12 MIDDLE BUTTE MINE

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14 By _____/S/_____
15 RAMSEY F. KAWAR
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