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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF LOS ANGELES

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14 ANTELOPE VALLEY GROUNDWATER)	Judicial Council Coordination No. 4408
15 CASES)	
16 Included Actions:)	For filing purposes only:
)	Santa Clara County Case No. 1-05-CV-049053
17 Los Angeles County Waterworks District)	
No. 40 v. Diamond Farming Co.)	Assigned to The Honorable Jack Komar
18 Los Angeles County Superior Court)	
Case No. BC 325201)	SORRENTO WEST PROPERTIES, INC.'S
)	ANSWER TO CROSS-COMPLAINT
19 Los Angeles County Waterworks District)	
No. 40 v. Diamond Farming Co.)	
20 Kern County Superior Court)	
Case No. S-1500-CV-254-348)	
21)	
Wm. Bolthouse Farms, Inc. v. City of)	
22 Lancaster, Diamond Farming Co. v. City of)	
Lancaster, Diamond Farming Co. v. Palmdale)	
23 Water Dist.)	
Riverside County Superior Court)	
24 Consolidated Actions)	
Case Nos. RIC 353 840, RIC 344 436,)	
25 RIC 344 668)	

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SORRENTO WEST PROPERTIES, INC. (“SWP”) hereby answers the First Amended Cross-Complaint of Public Water Suppliers for Declaratory and Injunctive Relief and Adjudication of Property Rights (“Cross-Complaint”).

GENERAL DENIAL

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

AFFIRMATIVE DEFENSES

First Affirmative Defense

(Failure to State a Cause of Action)

2. The Cross-Complaint and every purported cause of action contained therein fails to allege facts sufficient to constitute a cause of action against Cross-Defendant.

Second Affirmative Defense

(Statute of Limitation)

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

Fourth Affirmative Defense

(Estoppel)

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

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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 property.

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
(Prescriptive Claims *Ultra Vires*)

9. 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.

Ninth Affirmative Defense
(California Constitution Article 1, Section 19)

10. The prescriptive claims asserted by governmental entity Cross-Complainants are barred by the provisions of Article 1, Section 19 of the California Constitution.

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Tenth Affirmative Defense

(5th and 14th Amendment to the United State Constitution)

11. 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.

Eleventh Affirmative Defense

(Due Process)

12. 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.

Twelfth Affirmative Defense

(California Constitution, Article 1, Section 7)

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

Thirteenth Affirmative Defense

(14th Amendment to the United States Constitution)

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

Fourteenth Affirmative Defense

(Permissive Pumping)

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

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Fifteenth Affirmative Defense
(California Constitution, Article 3, Section 3)

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

Sixteenth Affirmative Defense
(Civil Code Sections 1007 and 1214)

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

Seventeenth Affirmative Defense
(Unclean Hands/Unjust Enrichment)

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

Eighteenth Affirmative Defense
(Indispensible Parties)

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

Nineteenth Affirmative Defense
(Just Compensation)

20. The governmental entity Cross-Complainants are barred from taking, possessing or using Cross-Defendant’s property without first paying just compensation.

Twentieth Affirmative Defense
(California Environmental Quality Act)

21. The governmental entity Cross-Complainants are 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

1 complying with and contrary to the provisions of California's Environmental Quality Act
2 (CEQA) (Pub.Res.C. 2100 *et seq.*).

3 **Twenty-First Affirmative Defense**

4 **(California Environmental Quality Act)**

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

10 **Twenty-Second Affirmative Defense**

11 **(California Environmental Quality Act)**

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

16 **Twenty-Third Affirmative Defense**

17 **(Additional Defenses)**

18 24. The Cross-Complaint does not state its allegations with sufficient clarity to
19 enable Cross-Defendant to determine what additional defenses may exist to Cross-
20 Complainant's causes of action. Cross-Defendant therefore reserves the right to assert all
21 other defenses which may pertain to the Cross-Complaint.

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

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

Dated: September 25, 2008

PILLSBURY WINTHROP SHAW PITTMAN LLP
CHRISTOPHER J. MCNEVIN
BRIAN D. MARTIN

By /s/
Brian D. Martin

Attorneys for SORRENTO WEST PROPERTIES,
INC.