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ORIGINAL FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

JAN 24 2011

John A. Clarke, Executive Officer/Clerk  
BY , Deputy  
Shaurya Wesley

5 Attorney for Cross-Defendant,  
6 LITTLE ROCK AGGREGATE CO., INC. dba  
7 ANTELOPE VALLEY AGGREGATE, INC.,  
8 sued herein as ROE 328

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES

11 ANTELOPE VALLEY  
12 GROUNDWATER CASES

13 Included Actions:

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

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

22 Wm. Bolthouse Farms, Inc. v. City of  
23 Lancaster, Diamond Farming Co. V. City of  
24 Lancaster, Diamond Farming co. v.  
25 Palmdale Water Dist.

26 Riverside County Superior Court  
27 Consolidated actions

28 Case Nos. RIC 353 840, RIC 344 436, RIC  
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

) **MODEL ANSWER TO COMPLAINT**  
) **AND ALL CROSS-COMPLAINTS**

) Judge : Hon. James R. Dunn, Dept. 26

) Complaint Filed : January 10, 2008

) Discovery Cut-Off : TBD

) Motion Cut-Off : TBD

) Trial Date : TBD

27 I hereby answer the Complaint and all Cross-Complaints which have been filed as of this date,  
28 specifically those of Antelope Valley East-Kern Water Agency, Palmdale Water District & Quartz

Antelope Valley Groundwater Cases (JCCP 4408)  
ANSWER TO COMPLAINT AND ALL CROSS-COMPLAINTS (MODEL APPROVED BY THE COURT)

1 Hill Water District, Rosamond Community Services District and Waterworks District No. 40 of Los  
2 Angeles County. I do not intend to participate at trial or other proceedings unless ordered by the court  
3 to do so, but I reserve the right to do so upon giving written notice to that effect to the Court and all  
4 parties. I own the following property(ies) located in the Antelope Valley:

5 *[Insert address and/or APN Number]*

6 PARCEL 1:

7 Lots 1 and 2 of the Northeast Quarter of Section 2, Township 5 North,  
8 Range 11 West, San Bernardino Meridian, in the County of Los  
9 Angeles, State of California, according to the official plat of said land  
approved by the Surveyor General on March 19, 1856  
[APN 3051-008-001 and -003]

10 EXCEPT the west 80 acres of said land.

11 ALSO EXCEPT and reserving therefrom 50 percent of all crude oil,  
12 petroleum, gas, brea, asphaltum and all kindred substances and other  
13 minerals under and in said land, by Wilfred H. Gill and Bethany K.  
Gill, husband and wife, in deed recorded January 31, 1955 in Book  
46773 Page 54, Official Records.

14 PARCEL 2:

15 The Southeast Quarter of Section 2, Township 5 North, Range 11  
16 West, San Bernardino Meridian, in the County of Los Angeles, State  
of California, according to the official plat of said land approved by  
the Surveyor General March 19, 1856 [APN 3051-008-012 and -013].

17 EXCEPT all oil and gas in said land, together with the right to  
18 prospect for, mine and remove such deposits from said land, as  
reserved in the Patent issued by the United States of America.

19 ALSO EXCEPT that portion of said land included within the 100 foot  
20 strip of land described in the deed to Southern Pacific Company  
21 recorded on April 23, 1958 in Book D79 Page 348, Official Records  
of said county.

22 SUBJECT TO:

23 Second installment General and Special Taxes for the fiscal year 1962-1963;

24 Conditions, restrictions, reservations, covenants, easements, rights and  
25 rights of way, of record, if any.

26 **GENERAL DENIAL**

27 1. Pursuant to Code of Civil Procedure section 431.30(d), Defendant and  
28

1 Cross-Defendant hereby generally denies each and every allegation set forth in the Complaint and  
2 Cross-Complaint, and the whole thereof, and further denies that Plaintiff and Cross-Complainant are  
3 entitled to any relief against Defendant and Cross-Defendant.

4 **AFFIRMATIVE DEFENSES**

5 **First Affirmative Defense**

6 (Failure to State a Cause of Action)

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

10 **Second Affirmative Defense**

11 (Statute of Limitation)

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

15 **Third Affirmative Defense**

16 (Laches)

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

19 **Fourth Affirmative Defense**

20 (Estoppel)

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

23 **Fifth Affirmative Defense**

24 (Waiver)

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

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1                                   **Sixth Affirmative Defense**

2                                   (b Self-Help)

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

6                                   **Seventh Affirmative Defense**

7                                   (California Constitution Article X, Section 2)

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

11                                  **Eighth Affirmative Defense**

12                                  (Additional Defenses)

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

17                                  **Ninth Affirmative Defense**

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

21                                  **Tenth Affirmative Defense**

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

24  
25                                  **Eleventh Affirmative Defense**

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

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**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.

**Sixteenth Affirmative Defense**

17. 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 section 3 of the California Constitution.

**Seventeenth Affirmative Defense**

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

**Eighteenth Affirmative Defense**

19. 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.

**Nineteenth Affirmative Defense**

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

**Twentieth Affirmative Defense**

21. The governmental entity Cross-Complainants are barred from taking, possessing

1 or using cross-defendants' property without first paying just compensation.

2 **Twenty-First Affirmative Defense**

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

7 **Twenty-Second Affirmative Defense**

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

12 **Twenty-Third Affirmative Defense**

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

17 **WHEREFORE**, Defendant and Cross-defendant prays that judgment be entered as follows:

- 18 1. That Plaintiff and Cross-Complainant take nothing by reason of its Complaint or  
19 Cross-Complaint;  
20 2. That the Complaint and Cross-Complaints be dismissed with prejudice;  
21 3. For Defendant and Cross-Defendant's costs incurred herein; and  
22 4. For such other and further relief as the Court deems just and proper.

23 Dated: November 15, 2008

WALSH DELANEY ATTORNEYS

24  
25  
26 By 

JAMES W. LEWIS  
Attorneys for Cross-Defendant,  
LITTLE ROCK AGGREGATE CO., INC. dba  
ANTELOPE VALLEY AGGREGATE, INC.,  
sued herein as ROE 328