

1 James W. Lewis (SBN 207599)
TAYLOR & RING
2 10900 Wilshire Boulevard, Suite 920
Los Angeles, California 90024
3 Telephone: (310) 209-4100
Facsimile: (310) 208-5052
4

Attorneys for Cross-defendant,
5 HOLLIDAY ROCK CO., INC.,
successor in interest to
6 LITTLE ROCK AGGREGATE CO., INC. dba
ANTELOPE VALLEY AGGREGATE, INC.
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES
10

11 ANTELOPE VALLEY GROUNDWATER CASES)	Judicial Council Coordination No.
12 Included Actions:)	4408
13 Los Angeles County Waterworks)	
District No. 40 v. Diamond)	For filing purposes only:
14 Farming Co. Superior Court of)	Santa Clara County Case No.
California County of Los Angeles,)	1-05-CV-049053
15 Case No. BC 325 201)	
16 Los Angeles County Waterworks 2)	[Assigned to the Honorable Jack
District No. 40 v. Diamong)	Komar]
17 Farming Co. Superior court of)	
California, County of Kern, Case)	ANSWER TO COMPLAINT AND ALL
18 No. S-1500-CV-254-348)	CROSS-COMPLAINTS
19 Wm. Bolthouse Farms, Inc. V. City)	
of Lancaster Diamong Farming Co.)	Complaint Filed : January 10,
20 V. City of Lancaster Diamond)	2008
Farming Co. V. Palmdale Water)	
21 Dist. Superior Court of)	
California, County of Riverside,)	
22 consolidated actions, Case No.)	
RIC 353 840, RIC 344 436, RIC 344)	
23 668)	

1 Cross-defendant, HOLLIDAY ROCK CO., INC., successor in
2 interest to LITTLEROCK AGGREGATE CO., INC. dba ANTELOPE VALLEY
3 AGGREGATE, INC., ("HOLLIDAY ROCK") hereby answers all complaints
4 and all cross-complaints which have been filed as of this date,
5 specifically those of Antelope Valley East-Kern Water Agency,
6 Palmdale Water District & Quartz Hill Water District, Rosamond
7 Community Services District and Waterworks District No. 40 of
8 Los Angeles County.

9 This answering cross-defendant is aware of the existence of
10 the "Wood Class" and the "Willis Class". This answering cross-
11 defendant expressly declines to join either the "Wood Class" or
12 the "Willis Class" and elects to proceed as a cross-defendant.

13 Cross-defendant HOLLIDAY ROCK owns the water rights for the
14 following real properties located in the Antelope Valley:

15 PARCEL 1:

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

23 EXCEPT the west 80 acres of said land.

24 ALSO EXCEPT and reserving therefrom 50
percent of all crude oil, petroleum, gas,
brea, asphaltum and all kindred substances
and other 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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

PARCEL 2:

The Southeast Quarter of Section 2, Township 5 North, Range 11 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 3051-008-013].

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

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

SUBJECT TO:

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

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

GENERAL DENIAL

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

1 **AFFIRMATIVE DEFENSES**

2 **First Affirmative Defense**

3 (Failure to State a Cause of Action)

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

8 **Second Affirmative Defense**

9 (Statute of Limitation)

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

15 **Third Affirmative Defense**

16 (Laches)

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

20 **Fourth Affirmative Defense**

21 (Estoppel)

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

1 **Fifth Affirmative Defense**

2 (Waiver)

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

6 **Sixth Affirmative Defense**

7 (Self-Help)

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

14 **Seventh Affirmative Defense**

15 (California Constitution Article X, Section 2)

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

20 **Eighth Affirmative Defense**

21 (Additional Defenses)

22 9. The Complaint and Cross-Complaint do not state their
23 allegations with sufficient clarity to enable defendant and
24 cross-defendant to determine what additional defenses may exist

1 to Plaintiff and Cross-Complainant's causes of action. Defendant
2 and Cross-defendant therefore
3 reserve the right to assert all other defenses which may pertain
4 to the Complaint and Cross-

5 **Ninth Affirmative Defense**

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

10 **Tenth Affirmative Defense**

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

14 **Eleventh Affirmative Defense**

15 12. The prescriptive claims asserted by governmental
16 entity Cross-Complainants are barred by the provisions of the
17 5th Amendment to the United States Constitution as applied to
18 the states under the 14th Amendment of the United States
19 Constitution.

20 **Twelfth Affirmative Defense**

21 13. Cross-Complainants' prescriptive claims are barred due
22 to their failure to take affirmative steps that were reasonably
23 calculated and intended to inform each overlying landowner of
24 cross-complainants' adverse and hostile claim as required by the

1 due process clause of the 5th and 14th Amendments of the United
2 States Constitution.

3 **Thirteenth Affirmative Defense**

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

7 **Fourteenth Affirmative Defense**

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

11 **Fifteenth Affirmative Defense**

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

14 **Sixteenth Affirmative Defense**

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

19 **Seventeenth Affirmative Defense**

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

23 **Eighteenth Affirmative Defense**

24 19. Each Cross-Complainant is barred from recovery under

1 each and every cause of
2 action contained in the Cross-Complaint by the doctrine of
3 unclean hands and/or unjust enrichment.

4 **Nineteenth Affirmative Defense**

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

8 **Twentieth Affirmative Defense**

9 21. The governmental entity Cross-Complainants are barred
10 from taking, possessing
11 or using cross-defendants' property without first paying just
12 compensation.

13 **Twenty-First Affirmative Defense**

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

21 **Twenty-Second Affirmative Defense**

22 23. The governmental entity Cross-Complainants seek
23 judicial ratification of a project
24 that has had and will have a significant effect on the Antelope

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

5 **Twenty-Third Affirmative Defense**

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

12 **WHEREFORE**, Cross-defendant prays that judgment be entered
13 as follows:

14 1. That Plaintiffs and Cross-Complainants take nothing by
15 reason of their Complaint or Cross-Complaints;

16 2. That the Complaint and Cross-Complaints be dismissed
17 with prejudice;

18 3. For Defendant and Cross-Defendant's costs incurred
19 herein; and

20 ///

21 ///

22 ///

23 ///

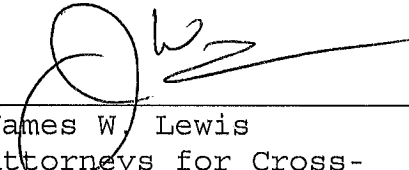
24

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

3 Dated: April 16, 2012

TAYLOR & RING

4
5
6 By:


James W. Lewis
Attorneys for Cross-
Defendant HOLLIDAY ROCK
CO., INC., successor in
interest to LITTLE ROCK
AGGREGATE CO., INC. dba
ANTELOPE VALLEY
AGGREGATE, INC.