

Pat Murphy, Esq. SBN: 107015
1110 West Avenue L-12, suite 1C
Lancaster, CA 93534
(661) 949-6631 (phone)
(661) 942-7055 (fax)

Cross-Defendant in Pro Per

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

**ANTELOPE VALLEY
GROUNDWATER CASES**

Included Actions:

Los Angeles County Waterworks District No.
40 v. Diamond Farming Co.
Los Angeles Superior Court Case No.
BC325201

Los Angeles County Waterworks District No.
40 v. Diamond Farming co.
Kern County Superior Court
Case No. S-1500-CV-254348

Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
Lancaster, Diamond Farming Co. v. Palmdale
Water Dist.
Riverside County Superior Court
Consolidated Actions
Case Nos. RIC 353840, RIC 344436, RIC
344668

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 OF CROSS-DEFENDANT
PATTY MURPHY TO COMPLAINT AND
FIRST AMENDED CROSS-COMPLAINT
OF PUBLIC WATER SUPPLIERS FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND ADJUDICATION OF
WATER RIGHTS**

I hereby answer the Complaint and All Cross-Complaints which have been filed as of this date, specifically those of Antelope Valley East-Kern Water Agency, Palmdale Water District, and Quartz Hill Water District, Rosamond Community Services District, and Waterworks District No. 40 of Los Angeles County. I do not intend to participate at trial or other proceedings

1 unless ordered by the Court to do so, but I reserve the right to do so upon giving written notice to
2 that effect to the Court and to all parties.

3 I own the following properties located in the Antelope Valley: APN No. 3238-005-012
4 and APN No. 3238-005-013, combined as of July 19, 2009 into 3238-005-060.

5
6 **GENERAL DENIAL**

7 1. Pursuant to Code of Civil Procedure §431.30(d), Defendant, Cross-defendant
8 hereby generally denies each and every allegation set forth in the Complaint and Cross-
9 complaint(s), and the whole thereof, and further denies that Plaintiff and/or Cross-complainant(s)
10 are entitled to any relief against Defendant, Cross-defendant.

11 **AFFIRMATIVE DEFENSES**

12 **First Affirmative Defense**

13 (Failure to State a Cause of Action)

14 2. The Complaint and Cross-complaint(s) and each and every purported Cause of
15 Action contained therein fail to allege facts sufficient to constitutes a cause of action against
16 Defendant/Cross-defendant.

17 **Second Affirmative Defense**

18 (Statute of Limitation)

19 3. Each and every cause of action contained in the Complaint and/or Cross-
20 complaint is barred, in whole or in part, by the applicable statutes of limitation, including but not
21 limited to Sections 318, 319, 321, 338 and 343 of the California Code of Civil Procedure.

22 **Third Affirmative Defense**

23 (Laches)

24 4. The Complaint and Cross-complaint(s), and each and every cause of action
25 contained therein, is barred by the doctrine of laches.

Fourth Affirmative Defense

(Estoppel)

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

Fifth Affirmative Defense

(Waiver)

6. The Complaint and Cross-complaint(s), and each and every cause of action contained therein, is barred by the doctrine of waiver.

Sixth Affirmative Defense

(Self-Help)

7. Defendant and 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. Plaintiff and Cross-complainant(s)” 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

(Additional Defenses)

9. The Complaint and Cross-complaint(s) do not state their allegations with sufficient clarity to enable this defendant/cross-defendant to determine what additional defenses may exist to Plaintiff and Cross-complainant(s) causes of action. Defendant/Cross-defendant therefore reserves the right to assert all other defenses which may pertain to the Complaint and Cross-complaint(s).

1 **Ninth Affirmative Defense**

2 10. The prescriptive claims asserted by governmental entity Cross-complainants are
3 ultra vires and exceed the statutory authority by which each entity may acquire property as set
4 forth in Water Code Sections 22456, 31040, and 55370.

5 **Tenth Affirmative Defense**

6 11. The prescriptive claims asserted by governmental entity Cross-complainants are
7 barred by the provisions of Article 1, Section 19, of the California Constitution.

8 **Eleventh Affirmative Defense**

9 12. The prescriptive claims asserted by governmental entity Cross-complainants are
10 barred by the provisions of the 5th Amendment to the United States Constitution as applied to the
11 states under the 14th Amendment to the United States Constitution.

12 **Twelfth Affirmative Defense**

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

17 **Thirteenth Affirmative Defense**

18 14. The prescriptive claims asserted by governmental entity Cross-complainants are
19 barred by the provisions of Article 1 Section 7 of the California Constitution.

20 **Fourteenth Affirmative Defense**

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

23 **Fifteenth Affirmative Defense**

24 16. The governmental entity Cross-complainants were permissively pumping at all
25 times.

1 **Sixteenth Affirmative Defense**

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

5 **Seventeenth Affirmative Defense**

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

8 **Eighteenth Affirmative Defense**

9 19. Each Cross-complainant is barred from recovery under each and every cause of
10 action contained in the Cross-complaint(s) by the doctrine of unclean hands and/or unjust
11 enrichment.

12 **Nineteenth Affirmative Defense**

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

15 **Twentieth Affirmative Defense**

16 21. The governmental entity Cross-complainants are barred from taking, possession,
17 or using, cross-defendant's property without first paying just compensation.

18 **Twenty-First Affirmative Defense**

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

24 **Twenty-Second Affirmative Defense**

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

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

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

- Dated: July 24, 2009

Pat Murphy
Cross-defendant in pro per