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8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SANTA CLARA

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11	COORDINATION PROCEEDING)	Judicial Council Coordination
	SPECIAL TITLE (Rule 1550(b)))	Proceeding No. 4408
12)	
	ANTELOPE VALLEY GROUNDWATER)	CASE NO. 1-05-CV-049053
13	CASES)	
)	
14	INCLUDED ACTIONS:)	
)	
15	LOS ANGELES COUNTY WATERWORKS)	
	DISTRICT NO. 40 v. DIAMOND)	BOLTHOUSE FARMS, INC.'S AND
16	FARMING COMPANY, et al.,)	BOLTHOUSE PROPERTIES, LLC'S
	Los Angeles Superior Court)	ANSWER TO CROSS-COMPLAINT OF
17	Case No. BC325201)	SHELDON R. BLUM, TRUSTEE FOR
)	THE SHELDON R. BLUM TRUST
18	LOS ANGELES COUNTY WATERWORKS)	
	DISTRICT NO. 40 v. DIAMOND)	
19	FARMING COMPANY, et al.,)	
	Kern County Superior Court)	
20	Case No. S-1500-CV-254348)	
)	
21	DIAMOND FARMING COMPANY, and)	
	W.M. BOLTHOUSE FARMS, INC., v.)	
22	CITY OF LANCASTER, et al.,)	
	Riverside Superior Court)	
23	Case No. RIC 344436 [c/w case no.)	
	<u>RIC 344668 and 353840]</u>)	
24)	
	ROSAMOND COMMUNITY SERVICES)	
25	DISTRICT,)	
	CROSS-COMPLAINANT,)	
26)	

1 COME NOW defendants, WM. BOLTHOUSE FARMS, INC. and BOLTHOUSE
2 PROPERTIES, LLC, appearing for themselves and no other, and in
3 answer to the Cross-Complaint of SHELDON R. BLUM, TRUSTEE FOR THE
4 SHELDON R. BLUM TRUST on file herein, admit, deny, and allege as
5 follows:

6 **FIRST AFFIRMATIVE DEFENSE**

7 **(General Denial)**

8 Answering each and every allegation contained in plaintiff's
9 Cross-Complaint, these answering defendants deny each and every,
10 all and singular, generally and specifically, the allegations
11 therein contained and further deny that plaintiff was damaged in
12 the sums therein alleged or in any sum whatsoever or at all.

13 **SECOND AFFIRMATIVE DEFENSE**

14 **(Fails to State Facts)**

15 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
16 every alleged cause of action, these answering defendants allege
17 the Cross-Complaint, and each alleged cause of action therein,
18 fails to state facts sufficient to constitute a cause of action
19 against this answering defendant so as to bar recovery herein.

20 **THIRD AFFIRMATIVE DEFENSE**

21 **(Mitigate Damages)**

22 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
23 every alleged cause of action, these answering cross-defendants
24 allege that cross-complainant failed to mitigate damages, if any,
25 so as to bar or reduce recovery herein.

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1 **FOURTH AFFIRMATIVE DEFENSE**

2 **(Willful Misconduct)**

3 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
4 every alleged cause of action, these answering cross-defendants
5 allege the incidents referred to in cross-complainant's Cross-
6 Complaint, if any, and cross-complainant's damages, if any, were
7 directly and proximately caused, concurred in or contributed to by
8 the willful misconduct of cross-complainant so as to bar or reduce
9 recovery herein.

10 **FIFTH AFFIRMATIVE DEFENSE**

11 **(Good Faith)**

12 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
13 every alleged cause of action, these answering cross-defendants
14 allege cross-defendants acted in good faith in all matters and
15 things alleged in the Cross-Complaint so as to bar or reduce
16 recovery herein.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 **(Consent)**

19 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
20 every alleged cause of action, these answering cross-defendants
21 allege cross-complainant consented to, waived and/or ratified the
22 matters and things alleged in the Cross-Complaint so as to bar or
23 reduce recovery herein.

24 **SEVENTH AFFIRMATIVE DEFENSE**

25 **(Estoppel)**

26 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and

1 every alleged cause of action, these answering cross-defendants
2 allege cross-complainant has, by cross-complainant's own conduct,
3 statements or acts, negligently, wrongfully, intentionally or
4 deliberately caused these answering cross-defendants to do the
5 acts of which said Cross-Complainant now complains and this
6 answering cross-defendants allege by reason of the conduct on the
7 part of cross-complainant, that cross-complainant should now be
8 estopped or barred from seeking the relief which is requested in
9 the Cross-Complaint on file herein.

10 **EIGHTH AFFIRMATIVE DEFENSE**

11 **(Unclean Hands)**

12 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
13 every alleged cause of action herein, these answering cross-
14 defendants allege that with reference to the matters set forth in
15 the Cross-Complaint herein, the hands of cross-complainant are
16 unclean so as to bar or reduce recovery herein.

17 **NINETH AFFIRMATIVE DEFENSE**

18 **(Laches)**

19 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
20 every alleged cause of action herein, these answering cross-
21 defendants allege that cross-complainant has delayed an
22 unreasonable period of time in bringing this action, which delay
23 has been prejudicial to cross-defendants, and cross-complainant is
24 thus guilty of laches so as to bar or reduce recovery herein.

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1 **FOURTEENTH AFFIRMATIVE DEFENSE**

2 **(Actions As A Matter of Right)**

3 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
4 every alleged cause of action, these answering cross-defendants
5 allege that the Cross-Complaint and each of the alleged causes of
6 action therein fail due to cross-defendants having duly acted
7 within its rights as to the matters stated in the Cross-
8 Complaint.

9 **FIFTEENTH AFFIRMATIVE DEFENSE**

10 **(Superior Water Rights)**

11 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
12 every alleged cause of action, these answering cross-defendants'
13 water rights are superior, co-equal, created by lease agreement
14 or senior to, and take precedence over, or subject to, any rights
15 asserted in the Cross-Complaint.

16 **SIXTEENTH AFFIRMATIVE DEFENSE**

17 **(Additional Defenses)**

18 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
19 every alleged cause of action, these answering cross-defendants
20 allege that if, and to the extent that these answering cross-
21 defendants may be entitled to further defenses of which it is
22 presently unaware, these answering cross-defendants reserve the
23 right to amend this Answer to plead such additional and further
24 affirmative defenses as such legal issues become apparent or the
25 defenses become known.

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1 **SEVENTEENTH AFFIRMATIVE DEFENSE**

2 **(Statute of Limitations)**

3 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
4 every alleged cause of action, these answering cross-defendants
5 allege that cross-complainant's Cross-Complaint, and each alleged
6 cause of action therein, are barred by the statute of
7 limitations.

8 **EIGHTEENTH AFFIRMATIVE DEFENSE**

9 **(Notice)**

10 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
11 every alleged cause of action, these answering cross-defendants
12 allege that cross-complainant failed to give notice of the
13 alleged prescription or other taking, either express or implied,
14 so as to bar the claims herein.

15 **NINETEENTH AFFIRMATIVE DEFENSE**

16 **(Waiver)**

17 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
18 every alleged cause of action, these answering cross-defendants
19 allege that cross-complainant has waived the things alleged in
20 the Cross-Complaint, and that the claims herein are barred by the
21 doctrine of waiver.

22 **TWENTIETH AFFIRMATIVE DEFENSE**

23 **(Negligent Misrepresentation)**

24 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
25 every alleged cause of action, these answering cross-defendants
26 allege that cross-complainant negligently misrepresented the

1 water supply in order to induce cross-defendants to justifiably
2 rely on such representations causing cross-defendants to take no
3 action to stop actions on the part of cross-complainant and that
4 Cross-Complainants should be estopped from asserting a claim
5 inconsistent with such entities representations.

6 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

7 **(Intentional Misrepresentation)**

8 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
9 every alleged cause of action, these answering cross-defendants
10 allege that cross-complainant intentionally misrepresented the
11 water supply in order to induce cross-defendants to justifiably
12 rely on such representations to cause cross-defendants to take no
13 action to stop actions on the part of cross-complainant knowing
14 that such representations were untrue and that Cross-Complainants
15 should be estopped from asserting a claim inconsistent with such
16 entities representations.

17 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

18 **(Indispensable Parties)**

19 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
20 every alleged cause of action, these answering cross-defendants
21 allege that cross-complainant has not named all parties to this
22 action who are necessary and indispensable to the action based
23 upon the pleadings and relief requested so as to bar the claims,
24 allegations and relief requested by cross-complainant.

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TWENTY-THIRD AFFIRMATIVE DEFENSE

(Failure To Prove Priority Rights)

FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and every alleged cause of action, these answering cross-defendants allege that cross-complainants has failed to prove priorities under California water law as between appropriators, as between appropriators and overlying landowners and as between all others necessary for the Court to cut back water production in time of shortage based upon the California priority water allocation system so as to bar the claims herein.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Unjust Enrichment)

FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and every alleged cause of action, these answering cross-defendants allege that the relief sought in each and every cause of action contained in the Cross-Complaint would constitute an unjust enrichment of cross-complainant to the detriment of Bolthouse Properties, LLC and Wm. Bolthouse Farms, Inc.

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PRAYER

WHEREFORE, cross-defendant prays judgment that cross-complainant take nothing by reason of the Cross-Complaint on file herein, for costs of suit, for attorney's fees and for such other and further relief as the court deems just and proper.

DATED: January 18, 2008

CLIFFORD & BROWN



By:

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