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Attorneys for DIAMOND FARMING COMPANY,  
a California corporation

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding Special Title  
(Rule 1550 (b))  
  
ANTELOPE VALLEY GROUNDWATER  
CASES  
  
Included actions:  
  
Los Angeles County Waterworks District No.  
40 vs. Diamond Farming Company  
Los Angeles Superior Court  
Case No. BC 325201  
  
Los Angeles County Waterworks District No.  
40 vs. Diamond Farming Company  
Kern County Superior Court  
Case No. S-1500-CV 254348 NFT  
  
Diamond Farming Company vs. City of  
Lancaster  
Riverside County Superior Court  
Lead Case No. RIC 344436 [Consolidated  
w/Case Nos. 344668 & 353840]

Judicial Council Coordination No. 4408  
  
Case No.: 1-05-CV-049053  
  
**DIAMOND FARMING COMPANY,  
INC.'S ANSWER TO CROSS-  
COMPLAINT FILED BY ANTELOPE  
VALLEY-EAST KERN WATER  
AGENCY**

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1 Pursuant to the Order Granting Rosamond Community Services District and Los Angeles  
2 County Waterworks District No. 40's Request to Extend the Parties' Time For Parties to Answer or  
3 Otherwise Appear to December 30, 2006, issued on December 5, 2006, and since December 30, 2006  
4 was a Saturday thereby moving the response date to January 2, 2007 pursuant to Code of Civil Procedure  
5 sections 13, 13a, and 13b, COMES NOW cross-defendant, DIAMOND FARMING COMPANY, INC.,  
6 and answers the Cross Complaint filed by ANTELOPE VALLEY EAST KERN WATER AGENCY as  
7 follows:

8 I

9 It appearing herein that the Cross-Complaints are unverified, cross-defendant hereby files its  
10 general denial pursuant to the Code of Civil Procedure section 431.30(d).

11 II

12 Cross-Defendant herein denies, generally and specifically, each and every allegation of said  
13 Cross-Complaint, both conjunctively and disjunctively and the whole thereof, and denies further that  
14 it is liable to cross-complainant or that cross-complainant is entitled to any relief against cross-defendant,  
15 whether legal or equitable.

16 **First Affirmative Defense**

17 The Cross-Complaint and every purported cause of action contained therein fails to allege facts  
18 sufficient to constitute a cause of action against Diamond Farming Company, Inc.

19 **Second Affirmative Defense**

20 Each and every cause of action contained in the Cross-Complaint is barred, in whole or in part,  
21 by the applicable statutes of limitations, including, but not limited to, Sections 318, 319, 321, 337, 338,  
22 and 343 of the Code of Civil Procedure.

23 **Third Affirmative Defense**

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

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**Fourth Affirmative Defense**

Each and every cause of action contained in the Cross-Complaint is barred by the doctrine of estoppel.

**Fifth Affirmative Defense**

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

**Sixth Affirmative Defense**

The Cross-Complaint, and each and every cause of action contained therein, is barred by because Cross-Complainant's claims are not ripe for adjudication.

**Seventh Affirmative Defense**

Cross-Complainant is not entitled to the aid of this court, sitting as a court of equity, nor to the injunctive relief sought, in that cross-complainant has an adequate, speedy, and statutorily recognized remedy at law. Specifically, under the Constitution and statutes of this state, cross-complainant is endowed with the power of eminent domain, and by virtue of that power, can achieve the relief sought and prayed for herein.

**Eighth Affirmative Defense**

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 III, Section 3 of the California Constitution.

**Ninth Affirmative Defense**

Cross-Complainant is barred from recovery under each and every cause of action contained in the Cross-Complaint by the doctrine of unjust enrichment.

**Tenth Affirmative Defense**

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

**Eleventh Affirmative Defense**

As a governmental entity, cross-complainant is barred from taking, possessing or using cross-defendants' property without first paying just compensation.



1 **Twelfth Affirmative Defense**

2 The governmental entity cross-complainants are seeking to transfer water right priorities and  
3 water usage which will have significant effects on the Antelope Valley Groundwater basin and the  
4 Antelope Valley. Said actions are being done without complying with and contrary to the provisions  
5 of California’s Environmental Quality Act (CEQA) (Pub.Res.C. 21000 et seq.).

6 **Thirteenth Affirmative Defense**

7 The governmental entity cross-complainants seek judicial ratification of a project that has had  
8 and will have a significant effect on the Antelope Valley Groundwater basin and the Antelope Valley  
9 that was implemented without providing notice in contravention of the provisions of California’s  
10 Environmental Quality Act (CEQA) (Pub.Res.C. 21000 et seq.).

11 **Fourteenth Affirmative Defense**

12 Any imposition by this court of a proposed physical solution that reallocates the water right  
13 priorities and water usage within the Antelope Valley will be *ultra vires* as it will be subverting the pre-  
14 project legislative requirements and protections of California’s Environmental Quality Act (CEQA)  
15 (Pub.Res.C. 21000 et seq.).

16 **Fifteenth Affirmative Defense**

17 Cross-Complainant is not entitled to the relief requested by virtue of the doctrine of self help.

18 **Sixteenth Affirmative Defense**

19 The Cross-Complaint, and each and every cause of action contained therein, are barred because  
20 each cross-complainant lacks standing to bring the claims set forth in the Cross-Complaint.

21 **Seventeenth Affirmative Defense**

22 Cross-Defendant alleges that cross-defendant is the owner of certain real property (fee estate,  
23 mineral estate, or other such real property estate or interest) overlying the groundwater in question and  
24 therefore has the prior and paramount right, presently and in the future, to withdraw and use groundwater on  
25 its property and within the basin or watershed.

26 **Eighteenth Affirmative Defense**

27 Cross-Complainant is barred from maintaining this action because cross-complainant has previously  
28 ratified the cross-defendant's course of conduct complained of.

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**Nineteenth Affirmative Defense**

The Cross-Complaint is defective and uncertain in that it cannot be ascertained therefrom the nature of the water rights that cross-complainants are claiming for themselves and the nature of the water rights that cross-complainant claims that cross-defendant is asserting.

**Twentieth Affirmative Defense**

The Cross-Complaint is defective and uncertain in that it cannot be ascertained therefrom whether this action as alleged, is an action *in rem* or *in personam*, and therefore whether all real property and/or persons required to be joined are parties to the action.

**Twenty-First Affirmative Defense**

This answering cross-defendant has insufficient knowledge or information upon which to form a belief as to whether there may be additional, as yet unstated, affirmative defenses available, and answering cross-defendant reserves the right to assert such additional affirmative defenses in the event discovery indicates they are proper.

**Twenty-Second Affirmative Defense**

Cross-Defendant incorporates by reference any other applicable affirmative defense asserted by any other responding cross-defendants to the Cross-Complaint as if fully set forth herein.

WHEREFORE, cross-defendant prays for relief as follows:

1. Cross-Complainant take nothing as against cross-defendant by way of its Cross-Complaint on file herein;
2. This answering cross-defendant be dismissed with its costs of suit incurred herein;
3. If this Court grants cross-complainant the relief sought and thereby affects, impairs, or diminishes this cross-defendant's property rights, that this Court retain jurisdiction and thereafter fix the just compensation to which this cross-defendant would be due pursuant to the Federal and State Constitutions;
4. This answering cross-defendant be awarded attorney's fees as may be allowed by statute, or case law; and


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5. Such other and proper relief as the court deems appropriate.

Dated: January 2, 2007

LeBEAU • THELEN, LLP

By:   
BOB H. JOYCE  
Attorneys for DIAMOND FARMING COMPANY,  
a California corporation



1 **PROOF OF SERVICE**

2 ANTELOPE VALLEY GROUNDWATER CASES  
3 JUDICIAL COUNSEL PROCEEDING NO. 4408  
4 CASE NO.: 1-05-CV-049053

5 I am a citizen of the United States and a resident of the county aforesaid; I am over the age  
6 of eighteen years and not a party to the within action; my business address is: 5001 E. Commercenter  
7 Drive, Suite 300, Bakersfield, California 93309. On January 2, 2007, I served the within **DIAMOND**  
8 **FARMING COMPANY, INC.'S ANSWER TO CROSS-COMPLAINT FILED BY**  
9 **ANTELOPE VALLEY-EAST KERN WATER AGENCY**

10  (BY POSTING) I am "readily familiar" with the Court's Clarification Order.  
11 Electronic service and electronic posting completed through [www.scefilings.org](http://www.scefilings.org) ; All papers filed  
12 in Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

13  (BY MAIL) I am "readily familiar" with the firm's practice of collection and  
14 processing correspondence for mailing. Under that practice it would be deposited with the U.S.  
15 Postal Service on that same day with postage thereon fully prepaid at Bakersfield, California, in  
16 the ordinary course of business.

17  (BY FACSIMILE) I placed the above-described document in a facsimile machine  
18 (pursuant to California Rules of Court, Rule 2008(e)(1)) with the fax number of (661) 325-1127,  
19 addressed as stated above. Upon facsimile transmission of the document, I obtained a report from  
20 the transmitting facsimile machine stating that the facsimile transmission was complete and  
21 without error. A copy of the transmission report is attached to this Proof of Service pursuant to  
22 California Rules of Court, Rule 2008(e)(4).

23  (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to  
24 the offices of the addressee(s). Executed on \_\_\_\_\_, 2007, at Bakersfield, California.

25  (STATE) I declare under penalty of perjury under the laws of the State of  
26 California that the above is true and correct, and that the foregoing was executed on January 2,  
27 2007, in Bakersfield, California.

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**DONNA M. LUIS**