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6  
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 COUNTY OF LOS ANGELES

9 ANTELOPE VALLEY GROUNDWATER  
10 CASES

11 Included Actions:

12 Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co.  
13 Los Angeles County Superior Court Case No.  
BC 325201

14 Los Angeles County Waterworks District  
15 No. 40 v. Diamond Farming Co. Kern County  
Superior Court Case No. S-1500-CV-254-348

16 Wm. Bolthouse Farms, Inc. v. City of  
17 Lancaster, Diamond Farming Co. v. Palmdale  
18 Water Dist. Riverside County Superior  
Court Consolidated actions Case Nos. RIC  
19 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

For Filing purposes only:  
Santa Clara County Case No. 1-05-CV049053

Assigned to The Honorable Jack Komar

MODEL ANSWER TO COMPLAINT AND  
ALL CROSS-COMPLAINTS

1 I hereby answer the Complaint and all Cross-Complaints which have been filed as of this date,  
2 specifically those of Antelope Valley East-Kern Water Agency, Palmdale Water District &  
3 Quartz Hill Water District, Rosamond Community Services District and Waterworks District  
4 No. 40 of Los Angeles County. I do not intend to participate at trial or other proceedings unless  
5 ordered by the Court to do so, but I reserve the right to do so upon giving written notice to that  
6 effect to the Court and all parties. I own the following properties located in the Antelope Valley:

7 11741 115<sup>th</sup> St. W., Mojave, CA 93560.

8 APN#474-010-30

9 APN#474-010-29

10 GENERAL DENIAL

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

15 AFFIRMATIVE DEFENSES

16 FIRST AFFIRMATIVE DEFENSE

17 (Failure to State a Cause of Action)

- 18 2. The Complaint and Cross-Complaint and every purported cause of action contained  
19 therein fail to allege facts sufficient to constitute a cause of action against Defendant and  
20 Cross-Defendant.

21 SECOND AFFIRMATIVE DEFENSE

22 (Statute of Limitations)

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

1 **THIRD AFFIRMATIVE DEFENSE**

2 **(Laches)**

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

5 **FOURTH AFFIRMATIVE DEFENSE**

6 **(Estoppel)**

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

9 **FIFTH AFFIRMATIVE DEFENSE**

10 **(Waiver)**

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

13 **SIXTH AFFIRMATIVE DEFENSE**

14 **(Self-Help)**

15 7. Defendant and Cross-Defendant has, by virtue by the doctrine of self-help, preserved its  
16 paramount overlying right to extract groundwater by continued, during all times  
17 relevant hereto, to extract groundwater and put it to reasonable and beneficial use on its  
18 property.

19 **SEVENTH AFFIRMATIVE DEFENSE**

20 **(California Constitution, Article X, Section 2)**

21 8. Plaintiff and Cross-Complainants' methods of water use and storage are unreasonable  
22 and wasteful in the arid conditions of the Antelope valley and thereby violate Article X,  
23 Section 2 of the California Constitution.

24 **EIGHTH AFFIRMATIVE DEFENSE**

25 **(Additional Defenses)**

26 9. The Complaint and Cross-Complaint do not sate their allegations with sufficient clarity

1 to enable defendant and cross-defendant to determine what additional defenses may  
2 exist to Plaintiff and Cross-Complainants cases of action. Defendant and Cross-  
3 defendant therefore reserve the right to assert all other defenses which may pertain to  
4 the Complaint and Cross-Complaint.

5 **NINTH AFFIRMATIVE DEFENSE**

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

9 **TENTH AFFIRMATIVE DEFENSE**

10 11. The prescriptive claims asserted by governmental entity Cross-Complainant are barred  
11 by the provisions of Article I Section 19 of the California Constitution.

12 **ELEVENTH AFFIRMATIVE DEFENSE**

13 12. The prescriptive claims asserted by the governmental entity Cross-Complainants are  
14 barred by the provisions of the 5<sup>th</sup> Amendment to the United States Constitution as  
15 applied to the states under the 14<sup>th</sup> Amendment of the United States Constitution.

16 **TWELFTH AFFIRMATIVE DEFENSE**

17 13. Cross-Complainants' prescriptive claims are barred due to their failure to take  
18 affirmative steps that are reasonably calculated and intend to inform each overlying  
19 landowner of cross-complainants' adverse and hostile claim as required by the due  
20 process clause of the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution.

21 **THIRTEENTH AFFIRMATIVE DEFENSE**

22 14. The prescriptive claims asserted by the governmental entity Cross-Complainants are  
23 barred by the provisions of Article I, Section 7 of the California Constitution.

24 **FOURTEENTH AFFIRMATIVE DEFENSE**

25 15. The prescriptive claims asserted by governmental entity Cross-Complainants are barred  
26 by the provisions of the 14<sup>th</sup> Amendment of the United States Constitution.

1 FIFTEENTH AFFIRMATIVE DEFENSE

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

3 SIXTEENTH AFFIRMATIVE DEFENSE

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

7 SEVENTEENTH AFFIRMATIVE DEFENSE

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

10 EIGHTEENTH AFFIRMATIVE DEFENSE

11 19. Each Cross-Complainant is barred from recovery under each and every cause of action  
12 contained in the Cross-Complaint by the doctrine of unclean hands and/or unjust  
13 enrichment.

14 NINETEENTH AFFIRMATIVE DEFENSE

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

17 TWENTIETH AFFIRMATIVE DEFENSE

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

20 TWENTY-FIRST AFFIRMATIVE DEFENSE

21 22. The governmental entity Cross-Complainants are seeking to transfer water right  
22 priorities and water usage which will have significant effects on the Antelope Valley  
23 Groundwater basin and the antelope Valley. Said actions are being done without  
24 complying with and contrary to the provisions of California's Environmental Quality Act  
25 (CEQA)(Pub.Res.C.2100 *et seq.*)  
26

1 TWENTY-SECOND AFFIRMATIVE DEFENSE

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


6 TWENTY-THIRD AFFIRMATIVE DEFENSE

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

11  
12 WHEREFORE, Defendant and Cross-Defendant prays that judgment be entered as  
13 follows:

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

19  
20 Dated: 10/2/08

21  
22 By:   
23 Clayton D. Campbell  
24 Attorney for Larry Leduc and Sonia Leduc

25 11741 115<sup>th</sup> St. W., Mojave, CA 93560.

26 APN#474-010-30

27 APN#474-010-29