

1 JEANNE MATSUI
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4 Cross-Defendant, sued and
served as ROE 1527

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

DEC 17 2009

John A. Gaska, Executive Officer/Clerk
By *[Signature]* Deputy
GABRIEL GWAIN

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

11 **ANTELOPE VALLEY**
12 **GROUNDWATER CASES**
13 Included Actions:
14 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
Los Angeles County Superior Court
15 Case No. BC 325201
16 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
17 Kern County Superior Court
Case No. S-1500-CV-254-348
18 Wm. Bolthouse Farms, Inc. v. City of
19 Lancaster, Diamond Farming Co. v. City of
Lancaster, Diamond Farming Co. v.
20 Palmdale Water Dist.
Riverside County Superior Court
21 Consolidated actions
Case Nos. RIC 353 840, RIC 344 436,
22 RIC 344 668

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 TO CROSS-COMPLAINT
(MODEL APPROVED BY THE COURT)

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1 I, JEANNE MATSUI, sued and served herein as ROE 1527, hereby answer the Cross-
2 Complaint which has been filed as of this date, specifically that of Antelope Valley East-Kern
3 Water Agency, Palmdale Water District & Quartz Hill Water District, Rosamond Community
4 Services District and Waterworks District No. 40 of Los Angeles County. I do not intend to
5 participate at trial or other proceedings unless ordered by the court to do so, but I reserve the right
6 to do so upon giving written notice to that effect to the court and all parties. I own the following
7 property located in the Antelope Valley:

8 Assessor's Parcel No. 3279 003 020
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10 **GENERAL DENIAL**

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

15 **AFFIRMATIVE DEFENSES**

16 **First Affirmative Defense**

17 (Failure to State a Cause of Action)

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

20 **Second Affirmative Defense**

21 (Statute of Limitation)

22 3. Each and every cause of action contained in the Cross-Complaint is barred, in
23 whole or in part, by the applicable statutes of limitation, including, but not limited to, Sections
24 318, 319, 321, 338, and 343 of the *California Code of Civil Procedure*.

25 **Third Affirmative Defense**

26 (Laches)

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

2 **Fourth Affirmative Defense**

3 (Estoppel)

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

6 **Fifth Affirmative Defense**

7 (Waiver)

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

10 **Sixth Affirmative Defense**

11 (Self-Help)

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

15 **Seventh Affirmative Defense**

16 (California Constitution Article X, Section 2)

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

20 **Eighth Affirmative Defense**

21 (Additional Defenses)

22 9. The Cross-Complaint does not state their allegations with sufficient clarity to
23 enable cross-defendant to determine what additional defenses may exist to Cross-Complainant's
24 causes of action. Cross-Defendant therefore reserves the right to assert all other defenses which
25 may pertain to the Cross- Complaint.

26 **Ninth Affirmative Defense**

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

3 **Tenth Affirmative Defense**

4 11. The prescriptive claims asserted by governmental entity Cross-Complainants are
5 barred by the provisions of Article I, Section 19 of the California Constitution.

6 **Eleventh Affirmative Defense**

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

10 **Twelfth Affirmative Defense**

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

15 **Thirteenth Affirmative Defense**

16 14. The prescriptive claims asserted by governmental entity Cross-Complainants are
17 barred by the provisions of Article 1, Section 7 of the California Constitution.

18 **Fourteenth Affirmative Defense**

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

21 **Fifteenth Affirmative Defense**

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

24 **Sixteenth Affirmative Defense**


25 17. The request for the court to use its injunctive powers to impose a physical solution
26 seeks a remedy that is in violation of the doctrine of separation of powers set forth in Article 3,
27 Section 3 of the California Constitution.

1 subverting the pre-project legislative requirements and protections of California's Environmental
2 Quality Act (CEQA) (Pub.res.C. 2100 *et seq.*).
3

4 **WHEREFORE**, Cross-Defendant prays that judgment be entered as follows:

- 5 1. That Cross-Complainants take nothing by reason of its Cross-Complaint;
 - 6 2. That the Cross-Complaint be dismissed with prejudice;
 - 7 3. For Cross-Defendant's costs incurred herein; and
 - 8 4. For such other and further relief as the court deems just and proper.
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10 DATED: December 16, 2009.



JEANNE MATSUI
Cross-Defendant, sued and served as ROE 1527