

1 TREBA Andrews
[INSERT NAME OF PARTY OR ATTORNEY]

2 5408 MEADOW RD
3 JOHNSA, TX 76058
4 817-558-1354 Home
5 817-517-9250 Cell

6 [Insert address, phone number, fax number, and e-
7 mail address]

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
11

12 **ANTELOPE VALLEY**
13 **GROUNDWATER CASES**

14 Included Actions:

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

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

20 Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
21 Lancaster, Diamond Farming Co. v.
Palmdale Water Dist.
22 Riverside County Superior Court
Consolidated actions
23 Case Nos. RIC 353 840, RIC 344 436, 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

**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
2 date, specifically those of Antelope Valley East-Kern Water Agency, Palmdale Water District &
3 Quartz Hill Water District, Rosamond Community Services District and Waterworks District No.
4 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 property(ies) located in the Antelope
7 Valley:

8 Parcel 10, Record of Survey 2539, Kern Cty, CA.
9 Recorded Book 8, Page 86
10 [Insert address and/or APN Number] TAX ASSESSOR # 254 271 15001

11
12 **GENERAL DENIAL**

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

17 **AFFIRMATIVE DEFENSES**

18 **First Affirmative Defense**

19 (Failure to State a Cause of Action)

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

23 **Second Affirmative Defense**

24 (Statute of Limitation)

25 3. Each and every cause of action contained in the Complaint and Cross-Complaint is
26 barred, in whole or in part, by the applicable statutes of limitation, including, but not limited to,
27 sections 318, 319, 321, 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
4 contained 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
8 contained 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
12 contained therein, is barred by the doctrine of waiver.

13 **Sixth Affirmative Defense**

14 (Self-Help)

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

18 **Seventh Affirmative Defense**

19 (California Constitution Article X, Section 2)

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

23 **Eighth Affirmative Defense**

24 (Additional Defenses)

25 9. The Complaint and Cross-Complaint do not state their allegations with sufficient
26 clarity to enable defendant and cross-defendant to determine what additional defenses may exist
27 to Plaintiff and Cross-Complainant's causes of action. Defendant and Cross-defendant therefore
28 reserve the right to assert all other defenses which may pertain to the Complaint and Cross-

1 Complaint.

2 **Ninth Affirmative Defense**

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

6 **Tenth Affirmative Defense**

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

9 **Eleventh Affirmative Defense**

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

13 **Twelfth Affirmative Defense**

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

18 **Thirteenth Affirmative Defense**

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

21 **Fourteenth Affirmative Defense**

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

24 **Fifteenth Affirmative Defense**

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

27 **Sixteenth Affirmative Defense**

28 17. The request for the court to use its injunctive powers to impose a physical solution

Andrews
5408 Meadow Rd.
Joshua, TX 76058

FORT WORTH TX 761

13 JUN 2000 PM 5 P

Ms. WALKER
191 N. First St.
Dept 17
SAN JOSE, CA

9511341006

9511341006

