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Bennie E. Moore & Annette Moore,, in propria persona  
Cross-defendants and Cross-Complainants,

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

ANTELOPE VALLEY GROUNDWATER  
CASES

Judicial Council Coordination Proceeding  
No. 4408

Included Actions:

**Santa Clara Case NO. 1-05-CV-049053**  
Assigned to The Honorable Jack Komar

Los Angeles County Waterworks District No.  
40 v. Diamond Farming Co. Superior Court of  
California County of Los Angeles, Case No.  
BC 325 201 Los Angeles County Waterworks  
District No. 40 v. Diamond Farming Co.  
Superior Court of California, County of Kern,  
Case No. S-1500-CV-254-348 Wm. Bolthouse  
Farms, Inc., v. City of Lancaster Diamond  
Farming Co. v. City of Lancaster Diamond  
Farming Co. v. Palmdale Water Dist. Superior  
Court of California, County of Riverside,  
consolidated actions., Case No. RIC 353 840,  
RIC 344 436, RIC 344 668,

ANSWER TO THE COMPLAINT AND ALL  
CROSS-COMPLAINANTS

Bennie E. Moore & Annette Moore

**Cross-Complainants,**

vs.

Los Angeles County Waterworks District No.  
40, Palmdale Water District, The City of  
Palmdale, City of Lancaster, Littlerock Creek  
Irrigation District, Palm Ranch Irrigation  
District, Quartz Hill Water District, California  
Water Service Company, Rosamond  
Community Services District, Antelope Valley  
East Kern Water District, County Sanitation  
Districts Nos. 14 and 20, DOES 1 through  
100;

1  
2 **Cross-Defendants.** )

3  
4 Bennie E. Moore & Annette Moore hereby answer the Complaint and all  
5 Cross-Complaints' 1 which have been filed as of the date of filing this Answer,  
6 specifically this of the Antelope Valley East-Kern Water Agency, City of  
7 Palmdale, Palmdale Water District & Quartz Hill Water District, Rosamond  
8 Community Services District and Waterworks District No. 40 of Los Angeles  
9 County.  
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13 **GENERAL DENIAL**

- 14 1. Pursuant to Code of Civil Procedure section 431.30(d), Cross Defendants hereby  
15 generally deny each and every allegation set forth in any of the Complaints or  
16 Cross-Complaints<sup>1</sup>, and the whole thereof, and further deny that Complainants or  
17 Cross-Complainants are entitled to any relief against Cross-Defendants.  
18

19 **AFFIRMATIVE DEFENSES**

20 **First Affirmative Defense**

21 (Failure to State a Cause of Action)

- 22 2. The Cross-Complaints and every purported cause of action contained therein fail  
23 to allege sufficient to constitute a cause of action against Cross-Defendants.  
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28 <sup>1</sup> Neither Bennie E. Moore, nor Annette Moore have been named in any of the Complaints.

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**Seventh Affirmative Defense**

(California Constitution Article X, Section 2)

8. Cross-Complainants methods of water use and storage are unreasonable and wasteful in the arid conditions of the Antelope Valley and thereby violate Article X, section 2 of the California Constitution.



**24825 West Avenue D, Lancaster, CA from 11727 feet including 171 sold as of  
5.24.2013**

**Eighth Affirmative Defense**

(Additional Defenses)

9. The Cross-Complaints do not state their allegations with sufficient clarity to enable Cross-Defendants to determine what additional defenses may exist to Cross-Complainants cause of action. Cross-Defendants therefore reserve the right to assert all other defenses which may pertain to the Cross-Complainant.

1 **Ninth Affirmative Defense**

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

6 **Tenth Affirmative Defense**

7 11. The prescriptive claims asserted by governmental entity Cross-Complainants are  
8 barred by the provisions of Article I Section 19 of the California Constitution.  
9 //

10 **Eleventh Affirmative Defense**

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

15 **Twelfth Affirmative Defense**

16 13. Cross-Complainants prescriptive claims are barred due to their failure to take  
17 affirmative steps that were reasonably calculated and intended to inform each overlying  
18 landowner of Cross-Complainants' adverse and hostile claim as required by the due process  
19 clause of the 5<sup>th</sup> and 14<sup>th</sup> Amendment of the United States Constitution.  
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22 **Thirteenth Affirmative Defense**

23 14. The prescriptive claims asserted by governmental entity Cross-Complaints are  
24 barred by the provisions of Article 1 Section 7 of the California Constitution.  
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26 **Fourteenth Affirmative Defense**

27 15. The prescriptive claims asserted by governmental entity Cross-Complainants are  
28 barred by the provisions of the 5<sup>th</sup> and/or 14<sup>th</sup> Amendments to the United States Constitution.

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**Fifteenth Affirmative Defense**

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

**Sixteenth Affirmative Defense**

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

**Seventeenth Affirmative Defense**

18. Each Cross-Complainant is barred from recovery under each and every cause of action contained in the Cross-Complainants by the doctrine of unclean hands and/or unjust enrichment.

**Eighteenth Affirmative Defense**

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

**Nineteenth Affirmative Defense**

20. The governmental entity Cross-Complainants are barred from taking, possessing or using Cross-Defendants' property without first paying just compensation (United States Constitution, Amendment 5; Article I Section 19 of the California Constitution; California Code of Civil Procedure Section 1263.0109a) ).

**Twentieth Affirmative Defense**

21. The governmental entity Cross-Complainants are seeking to transfer water right priorities and water usage which will have significant effect on Antelope Valley Groundwater

1 basin and the Antelope Valley. Said actions are being done without complying with and contrary  
2 to the provisions of California's Environmental Quality Act (CEQA) (Pub.Res.C. 2100 *et seq.*).  
3

4 **Twenty- First Affirmative Defense**

5 22. The governmental entity Cross-Complainants seek judicial ratification of a project  
6 that has had and will have a significant effect on the Antelope Valley Groundwater Basin and the  
7 Antelope Valley that was implemented without providing notice in contravention of the  
8 provisions of California's Environmental Quality Act (CEQA) (Pub.Res.C. 2100 *et seq.*).  
9

10 **Twenty- Second Affirmative Defense**

11 23. The thirty acres, known as 24715 West Avenue C-15 or 24825 West Avenue D,  
12 Lancaster, CA 93536 is owned by these cross-defendants, who are fee owners of said property,  
13 including all oil, gas, mineral and water rights without reservation – deeded by the United States  
14 of America in fee simple to Southern Pacific Railroad (aka, Union Rail Road) who then deeded  
15 the property to the first settlers, Eddie Bittick and Bertha Bittick, then to H.W. Hunter, and then  
16 to Bennie E. Moore and Annette Moore.

17 At the time Southern Pacific Railroad (aka, Union Rail Road) deeded the property, they  
18 had won a lawsuit against the federal government declaring Southern Pacific Railroad (aka,  
19 Union Rail Road) had received title without reservation, in fee simple, with full mineral and  
20 water rights.

21 **Twenty-Third Affirmative Defense**

22 24. The thirty acres, known as 24715 West Avenue C-15 or 24825 West Avenue D,  
23 Lancaster, CA 93536 is or should be outside of the basin sought to be adjudicated here.

24 **Twenty- Fourth Affirmative Defense**

25 25. The thirty acres, known as 24715 West Avenue C-15 or 24825 West Avenue D,  
26 Lancaster, CA 93536 is also has riparian rights as a natural drainage course, thirty feet lower  
27 than the surrounding properties. Said riparian rights have established the thirty acres, known as  
28

1 24715 West Avenue C-15 or 24825 West Avenue D, Lancaster, CA 93536 as superior to all  
2 other downstream users.

3 **Twenty-Fifth Affirmative Defense**

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

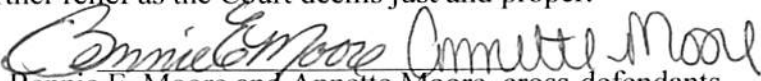
6 **Twenty-Sixth Affirmative Defense**

7 27. Any imposition by this court of a proposed physical solution that reallocates the  
8 water right priorities and water usage within the Antelope Valley or within Quail Valley will be  
9 *ultra vires* as it will be subverting the pre-project legislative requirements and protections of  
10 California's Environmental Quality Act (CEQA) (Public Resource Code sections 2100 et. seq.).  
11 known as 24715 West Avenue C-15 or 24825 West Avenue D, Lancaster, CA 93536 is or should  
12 be outside of the basin sought to be adjudicated here.

13  
14 WHEREFORE, Cross-Defendants pray that judgment be entered as follows:

- 15 1. That Complainants and Cross-Complainants take nothing by reason of their  
16 Cross-Complaints;  
17 2. That the Complaints and Cross-Complaints be dismissed with prejudice;  
18 3. For Cross-Defendants costs incurred herein;  
19 4. For Attorney's fee pursuant to 42 USC, 1988; and  
20 5. For such other and further relief as the Court deems just and proper.

21 Dated: August \_\_, 2014

  
Bennie E. Moore and Annette Moore, cross-defendants