

LEWIS BRISBOIS BISGAARD & SMITH LLP  
B. Richard Marsh (SBN 23820)  
Daniel V. Hyde (SBN: 63365)  
221 N. Figueroa Street, Suite 1200  
Los Angeles, California 90012  
Telephone: (213) 250-1800  
Facsimile: (213) 250-7900

ELLISON, SCHNEIDER & HARRIS L.L.P.  
Anne J. Schneider (SBN: 72552)  
Christopher M. Sanders (SBN: 195990)  
Peter J. Kiel (SBN: 221548)  
2015 H Street  
Sacramento, California 95814-3109  
Telephone: (916) 447-2166  
Facsimile: (916) 447-3512

Attorneys for Defendants County Sanitation Districts Nos. 14 and 20 of Los Angeles County

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

Coordination Proceeding  
Special Title (Rule 1550(b))

Judicial Council Coordination Proceeding No.  
4408

**ANTELOPE VALLEY GROUNDWATER  
CASES**

ASSIGNED FOR ALL PURPOSES TO:  
Judge: Honorable Jack Komar

Included Actions:

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 Nos.  
RIC 353 840, RIC 344 436,  
RIC 344 668.

**ANSWER OF COUNTY SANITATION  
DISTRICTS NOS. 14 AND 20 OF LOS  
ANGELES COUNTY TO CROSS-  
COMPLAINT OF BOLTHOUSE  
PROPERTIES, LLC**

1 Cross-defendants, County Sanitation District Nos. 14 and 20 of Los Angeles County  
2 (hereafter “Districts”), respond to the Cross-Complaint of Bolthouse Properties, LLC (hereafter  
3 “Bolthouse”), as follows:

4 1. Pursuant to Code of Civil Procedure section 431.30(d), Cross-defendants hereby  
5 generally deny each and every allegation set forth in the Cross-Complaint, and the whole thereof,  
6 and further deny that Cross-Complainant is entitled to any relief against Cross-defendant.

7  
8 **AFFIRMATIVE DEFENSES**

9  
10 **FIRST AFFIRMATIVE DEFENSE**

11 2. The Cross-Complaint and every purported cause of action therein fail to allege facts  
12 sufficient to constitute a cause of action against the Districts.

13  
14 **SECOND AFFIRMATIVE DEFENSE**

15 3. The Cross-Complaint, and each and every cause of action therein, are barred by the  
16 doctrine of waiver.

17  
18 **THIRD AFFIRMATIVE DEFENSE**

19 4. The Cross-Complaint, and each and every cause of action therein, are barred by the  
20 doctrine of laches.

21  
22 **FOURTH AFFIRMATIVE DEFENSE**

23 5. The Cross-Complaint, and each and every cause of action therein, are barred by the  
24 doctrine of estoppel.

25  
26 **FIFTH AFFIRMATIVE DEFENSE**

27 6. The Districts have a paramount right against all other parties, in accordance with  
28 California Water Code section 1210, to the recycled water produced by the Districts’ water

1 reclamation plants. This right shall remain in effect until this right is sold or the water  
2 abandoned.

3  
4 **SIXTH AFFIRMATIVE DEFENSE**

5 7. The Districts have a right to extract groundwater from the Basin for reasonable and  
6 beneficial use on the Districts' properties, and this right is prior and paramount to Public Water  
7 Suppliers' claims to extract and use groundwater from the Basin for non-overlying  
8 (appropriative) use and is correlative with all other overlying groundwater rights.

9  
10 **SEVENTH AFFIRMATIVE DEFENSE**

11 8. The Districts' recycled water has reached the Basin through various means including  
12 percolation of return flows, and may seek to store recycled water in the future through the use of  
13 recharge basins or other facilities. The Districts have a right to store this water in the Basin, a  
14 paramount right against all other parties to this water, and a paramount right against all other  
15 parties to recapture this water or an equivalent amount.

16  
17 **EIGHTH AFFIRMATIVE DEFENSE**

18 9. In California Water Code section 13550, et seq., the California Legislature finds and  
19 declares that the use of potable domestic water for nonpotable uses, including industrial and  
20 irrigation uses, is a waste or an unreasonable use of water if recycled water of adequate quality  
21 and at a reasonable price is available, and meets all statutory conditions as determined by the  
22 State Water Resources Control Board. The Districts contend that they are now and will in the  
23 future make substantial quantities of recycled water of adequate quality and reasonable price  
24 available for nonpotable uses in the Antelope Valley. The Districts are informed and believe and  
25 on that basis allege that the availability and use of recycled water directly and significantly  
26 affects the Basin and must be fully taken into account in the adjudication of all rights to water in  
27 the Antelope Valley Groundwater Basin.

1 **NINTH AFFIRMATIVE DEFENSE**

2 10. The Districts have, pursuant to the doctrine of “self help,” preserved their right to extract  
3 groundwater from the Basin by pumping groundwater during all relevant time periods for  
4 reasonable and beneficial use on the Districts’ properties.  
5

6 **TENTH AFFIRMATIVE DEFENSE**

7 11. The Cross-Complaint and each cause of action alleged therein, in whole or part, are  
8 barred by the applicable statutes of limitation, including but not limited to section 318, 319, 321,  
9 337, 338, 339, 342 and 343 of the Code of Civil Procedure.  
10

11 **ELEVENTH AFFIRMATIVE DEFENSE**

12 12. The Cross-Complaint and each cause of action alleged therein are barred by the failure to  
13 join indispensable and necessary parties.  
14

15 **TWELFTH AFFIRMATIVE DEFENSE**

16 13. All the groundwater extracted by the Districts from the Basin is devoted to public use.  
17 As a result of this dedication to public use, the Cross-Complainant cannot obtain any judicial  
18 relief that will in any way restrain or prevent the Districts from exercising their rights to extract  
19 groundwater from the Basin.  
20

21 **THIRTEENTH AFFIRMATIVE DEFENSE**

22 14. The Districts reserve the right to assert additional defenses or to amend this Answer as  
23 may be appropriate.  
24

24 **PRAYER**

25 WHEREFORE, Districts pray for Judgment as follows:

- 26 1. For a declaration that the Districts’ rights to the recycled water are paramount to any  
27 other entity, until that water right is sold or the water abandoned;  
28 2. For a declaration that the Districts’ rights to extract groundwater from the Basin for

1 reasonable and beneficial use on the Districts' properties are correlative with all other overlying  
2 groundwater rights;

3 3. For a declaration that the Districts have a right to store their recycled water in the Basin, a  
4 paramount right to credit for their recycled water which recharged the Basin, and a paramount  
5 right to recapture that water;

6 4. For a declaration that the use of recycled water must be an integral element in any  
7 physical solution and that the use of potable domestic water for non-potable uses is an  
8 unreasonable use of water;

9 5. For an injunction restraining Cross-complainants, and their agents, servants and  
10 employees, and all persons acting under, in concert with, or for them, or anyone acting through  
11 them or on their behalf, from acting in any manner which interferes with the rights of the  
12 Districts to control the disposition of recycled water or to take water from the Basin to meet their  
13 present and future needs or to meet regulatory requirements;

14 6. For this Court to maintain continuing jurisdiction over this controversy to carry out and  
15 enforce the terms of the judgment;

16 7. For costs of suit; and

17 8. For such other relief as the Court deems just and proper.

18  
19 Dated: February 1, 2007

ELLISON, SCHNEIDER & HARRIS L.L.P.

20  
21  
22 By: \_\_\_\_\_  
23 CHRISTOPHER M. SANDERS  
24 Attorneys for Districts  
25 2015 H Street  
26 Sacramento, California 95814  
27 Telephone: (916) 447-2166  
28

1 **PROOF OF SERVICE**

2 I declare that:

3 I am employed in the County of Sacramento, State of California. I am over the age of  
4 eighteen years and am not a party to the within action. My business address is ELLISON,  
5 SCHNEIDER & HARRIS, L.L.P.; 2015 H Street; Sacramento, California 95814-3109; telephone  
6 (916) 447-2166.

7 On February 1, 2007, I served the County Sanitation Districts' *Answer of County*  
8 *Sanitation Districts Nos. 14 and 20 of Los Angeles County to Cross-Complaint of Bolthouse*  
9 *Properties, LLC* by electronic posting to the Santa Clara Superior Court E-Filing website,  
10 <http://www.scefiling.org/cases/casehome.jsp?caseId=19>.

11 I declare under penalty of perjury that the foregoing is true and correct and that this  
12 declaration was executed on February 1, 2007, at Sacramento, California.

13  
14 \_\_\_\_\_  
Patty Slomski  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28