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12 Trust

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

15 **ANTELOPE VALLEY**
16 **GROUNDWATER CASES**

17 Included Actions:
18 Los Angeles County Waterworks District
19 No. 40 v. Diamond Farming Co., Superior
20 Court of California, County of Los
21 Angeles, Case No. BC 325201

22 Los Angeles County Waterworks District
23 No. 40 v. Diamond Farming Co., Superior
24 Court of California, County of Kern, Case
25 No. S-1500-CV-254348

26 Wm. Bolthouse Farms, Inc. v. City of
27 Lancaster, Diamond Farming Co. v. City of
28 Lancaster, Diamond Farming Co. v.
Palmdale Water District, Superior Court of
California, County of Riverside, Case Nos.
RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053

[Proposed]ANSWER TO CROSS-COMPLAINT

22 Cross Defendants CHARLES TAPIA, an individual, and CHARLES TAPIA, TRUSTEE
23 OF THE NELLIE TAPIA FAMILY TRUST, (“Cross Defendants”) hereby answer the Cross-
24 Complaint of LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 et al., (“Cross
25 Complainants”) as follows:

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9. Cross Complainants' methods of water use and storage are unreasonable and

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10. The Cross Complaint does not state its allegations with sufficient clarity to enable

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11. The prescriptive claims asserted by Cross Complainants are ultra vires and exceed

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12. The prescriptive claims asserted by Cross Complainants are barred by the

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13. The prescriptive claims asserted by Cross Complainants are barred by the

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14. Cross Complainants' prescriptive claims are barred due to their failure to take

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15. The prescriptive claims asserted by the Cross-Complainants are barred by the

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1 **Fourteenth Affirmative Defense**

2 16. The prescriptive claims asserted by the Cross Complainants are barred by the
3 provisions of the 14th Amendment to the U.S. Constitution.

4 **Fifteenth Affirmative Defense**

5 17. The Cross Complainants were permissively pumping at all times.

6 **Sixteenth Affirmative Defense**

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

10 **Seventeenth Affirmative Defense**

11 19. Cross Complainants are barred from asserting their prescriptive claims by
12 operation of law as set forth in Civil Code Sections 1007 and 1214.

13 **Eighteenth Affirmative Defense**

14 20. Cross Complainants are barred from recovery under each and every cause of
15 action contained in the Cross Complaint because of unclean hands and/or unjust enrichment.

16 **Nineteenth Affirmative Defense**

17 21. The Cross Complaint is defective because it fails to name indispensable parties in
18 violation of California Code of Civil Procedure Section 389(a).

19 **Twentieth Affirmative Defense**

20 22. Cross Complainants rights to relief, if any, are void for failure to properly serve
21 indispensable parties in violation of California Code of Civil Procedure Section 415.10 et seq.

22 **Twenty-First Affirmative Defense**

23 23. Cross Complainants are barred from taking, possessing, or using Cross
24 Defendants' property without first paying just compensation.

25 **Twenty-Second Affirmative Defense**

26 24. Cross Complainants are seeking to transfer water right priorities and water usage
27 which will have significant effects on the Antelope Valley Groundwater Basin and the Antelope
28 Valley. Said actions are being done without complying with and contrary to the provisions of

1 California's Environmental Quality Act (CEQA) (Pub.Res.C.2100 et seq.).

2 **Twenty-Third Affirmative Defense**

3 25. Cross Complainants are seeking judicial ratification of a project that has had and
4 will have a significant effect on the Antelope Valley Groundwater Basis and the Antelope Valley
5 that was implemented without providing notice in contravention of the provisions of CEQA.

6 **Twenty-Fourth Affirmative Defense**

7 26. Any imposition by this court of a proposed physical solution that reallocates the
8 water 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 CEQA.

10 **WHEREFORE**, Cross Defendants pray that judgment be entered as follows:

- 11 1. That Cross Complainants take nothing by reason of their Cross Complaint;
12 2. That the Cross Complaint be dismissed with prejudice;
13 3. That Cross Defendants costs incurred herein be awarded to them; and
14 4. For such other relief as the court deems just and proper.

15 Dated: September 4, 2014

BRUMFIELD & HAGAN, LLP
A Limited Liability Partnership

17
18 By: 

Robert H. Brumfield, III
Attorneys for Charles Tapia and the Nellie
Tapia Family Trust

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3 **PROOF OF SERVICE BY MAIL**

4 I am a citizen of the United States and employed in Kern County, California. I am over
5 the age of eighteen years and not a party to the within-entitled action. My business address is
6 2031 F Street Bakersfield, California 93301. I am readily familiar with this firm's practice for
7 collection and processing of correspondence for mailing with the United States Postal Service.
8 On September 4, 2014, I placed with this firm at the above address for deposit with the
9 United States Postal Service a true and correct copy of the within document(s):

10 **[Proposed] ANSWER TO CROSS-COMPLAINT**

11 in a sealed envelope, postage fully paid, addressed as follows:

12 Jeffrey V. Dunn, Esq.
13 Best Best & Krieger, LLP
14 5 Park Plaza, Suite 1500
15 Irvine, CA 92614

16 Following ordinary business practices, the envelope was sealed and placed for collection
17 and mailing on this date, and would, in the ordinary course of business, be deposited with the
18 United States Postal Service on this date.

19 I declare under penalty of perjury under the laws of the State of California that the above
20 is true and correct.

21 Executed on September 4, 2014, at Bakersfield, California.

22 
23 Olga Lampkin