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7	Attorneys for Charles Tapia and the Nellie Ta	ania Family		
8	Trust	··· · · · · · · · · · · · · · · · · ·		
9	SUPERIOR COURT OF	THE STATE OF CALIFORNIA		
10	COUNTY OF LOS AND	GELES – CENTRAL DISTRICT		
11	ANTELOPE VALLEY GROUNDWATER CASES	Judicial Council Coordination No. 4408		
12	Included Actions:	CLASS ACTION		
13	Los Angeles County Waterworks District	Santa Clara Case No. 1-05-CV-049053		
14	No. 40 v. Diamond Farming Co., Superior Court of California, County of Los Angeles, Case No. BC 325201	[Proposed]ANSWER TO CROSS-COMPLAINT		
15	Los Angeles County Waterworks District			
16	No. 40 v. Diamond Farming Co., Superior Court of California, County of Kern, Case			
17	No. S-1500-CV-254348			
18	Wm. Bolthouse Farms, Inc. v. City of Lancaster, Diamond Farming Co. v. City of			
19	Lancaster, Diamond Farming Co. v. Palmdale Water District, Superior Court of			
20	California, County of Riverside, Case Nos. RIC 353 840, RIC 344 436, RIC 344 668			
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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 V	WATERWORKS DISTRICT NO. 40 et al., ("Cross		
25	Complainants") as follows:			
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27	111			
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	ANSWER T	O CROSS COMPLAINT		

1	PROPERTY IDENTIFICATION
2	1. These Cross Defendants own the following property located in the Antelope
3	Valley: APN 374-020-53, commonly known as 8301 Avenue A, Rosamond, California.
4	GENERAL DENIAL
5	2. Pursuant to Code of Civil Procedure Section 431.30(d), Cross Defendants deny
6	each and every allegation set forth in the Cross Complaint, and further denies that Cross
7	Complainants are entitled to any relief whatsoever against Cross Defendants.
8	AFFIRMATIVE DEFENSES
9	First Affirmative Defense
10	3. The Cross Complaint and every purported cause of action enclosed therein fails to
11	allege facts sufficient to constitute a cause of against Cross Defendants.
12	Second Affirmative Defense
13	4. Each and every cause of action contained in the Cross Complaint is barred, in
14	whole or in part, by the applicable statutes of limitation, including but not limited to, Sections
15	318, 319, 321, 338 and 343 of the California Code of Civil Procedure.
16	Third Affirmative Defense
۱7	5. The Cross Complaint and each and every cause of action contained therein is
18	barred by the doctrine of laches.
19	Fourth Affirmative Defense
20	6. The Cross Complaint and each and every cause of action contained therein is
21	barred by the doctrine of estoppel.
22	Fifth Affirmative Defense
23	7. The Cross Complaint and each and every cause of action contained therein is
24	barred by the doctrine of waiver.
25	Sixth Affirmative Defense
26	8. Cross Defendant has, through the doctrine of self-help, preserved its paramount
27	overlying right to extract groundwater by continuing, during all times relative hereto, to extract
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20	groundwater and put it to reasonable and beneficial use on their property.

4	the California Constitution.
5	Eighth Affirmative Defense
6	10. The Cross Complaint does not state its allegations with sufficient clarity to enable
7	Cross Defendants to determine what additional defenses may exist to the causes of action. Cross
8	Defendants therefore reserve the right to assert all other defenses which may be had.
9	Ninth Affirmative Defense
10	11. The prescriptive claims asserted by Cross Complainants are ultra vires and exceed
11	the statutory authority by which each entity may acquire property as set for in the Water Code
12	Sections 22456, 31040 and 55370.
13	Tenth Affirmative Defense
14	12. The prescriptive claims asserted by Cross Complainants are barred by the
15	provisions of Article 1, Section 19, of the California Constitution.
16	Eleventh Affirmative Defense
17	13. The prescriptive claims asserted by Cross Complainants are barred by the
18	provisions of the 5 th Amendment to the U.S. Constitution as applied to the states under the 14 th
19	Amendment of the U.S. Constitution.
20	Twelfth Affirmative Defense
21	14. Cross Complainants' prescriptive claims are barred due to their failure to take
22	affirmative steps that were reasonably calculated and intended to inform each overlying
23	landowner of Cross Complainants' adverse and hostile claim as required by the due process
24	clause of the 5 th and 14 th Amendments of the U.S. Constitution.
25	Thirteenth Affirmative Defense
26	15. The prescriptive claims asserted by the Cross-Complainants are barred by the
27	provisions of Article 1, Section 7 of the California Constitution.
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Seventh Affirmative Defense

wasteful in the arid conditions of the Antelope Valley and thereby violate Article X, Section 2, of

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

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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 14 th 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
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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 significate 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
16	A Limited Liability Partnership
17	By:
18	Robert H. Brumfield, III Attorneys for Charles Tapia and the Nellie
19	Tapia Family Trust
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- 5 ANSWER TO CROSS COMPLAINT

PROOF OF SERVICE BY MAIL 2 3 I am a citizen of the United States and employed in Kern County, California. I am over 4 the age of eighteen years and not a party to the within-entitled action. My business address is 5 2031 F Street Bakersfield, California 93301. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On September _ , 2014, I placed with this firm at the above address for deposit with the 8 United States Postal Service a true and correct copy of the within document(s): 9 [Proposed] ANSWER TO CROSS-COMPLAINT 10 in a sealed envelope, postage fully paid, addressed as follows: Jeffrey V. Dunn, Esq. Best Best & Krieger, LLP 12 5 Park Plaza, Suite 1500 Irvine, CA 92614 13 Following ordinary business practices, the envelope was sealed and placed for collection 14 and mailing on this date, and would, in the ordinary course of business, be deposited with the 15 United States Postal Service on this date. 16 I declare under penalty of perjury under the laws of the State of California that the above is true and correct. 18 19 20 22 23 24 26

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