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6 ***SUPERIOR COURT OF THE STATE OF CALIFORNIA***  
7 ***FOR THE COUNTY OF LOS ANGELES***  
8

9 **ANTELOPE VALLEY**  
10 **GROUNDWATER CASES,**

11 Included Actions:

12 Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co.  
13 Los Angeles County Superior Court  
Case No.: BC325201

14 Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co.  
15 Kern County Superior Court  
Case No.: S-1500-CV-254-348

16 Wm. Bolthouse Farms, Inc. v. City of  
17 Lancaster, Diamond Farming Co. v. City  
of Lancaster, Diamond Farming Co. v.  
18 Palmdale Water Dist.  
Riverside County Superior Court  
19 Consolidated actions  
Case Nos. RIC 353 840, RIC 344 436,  
20 RIC 344 668  
Plaintiff,

21 v.

22 ELIAS SHOKRIAN, an individual;  
23 SHIRLEY SHOKRIAN, an individual;  
SCOTT HARTER, an individual; KAY  
24 HARTER, an individual; ROSAMOND  
RANCH, LP, a limited partnership;  
25 WELLS FARGO BANK, N.A., a  
corporation; FIDELITY NATIONAL  
26 TITLE INSURANCE COMPANY, a  
corporation; and DOES 1-200, inclusive;  
27 and all other persons unknown claiming  
any title or interest in or to the property  
28 sough to be condemned herein,

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 Defendants.

2 I hereby answer the Complaint and all Cross-Complaints which have been filed as of this  
3 date, specifically those of Antelope Valley East-Kern Water Agency, Palmdale Water District &  
4 Quartz Hill Water District, Rosamond Community Services District and Waterworks District No.  
5 40 of Los Angeles County. I do not intend to participate in trial or other proceedings unless  
6 ordered by the Court to do so, but reserve the right to do so upon giving written notice to that  
7 effect to the Court and all parties. I own the following property(ies) located in the Antelope  
8 Valley:  
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13 **GENERAL DENIAL**

14 1. Under the provisions of § 431.30 of the California Code of Civil Procedure,  
15 Defendant and Cross-Defendant hereby generally deny each and every allegation set forth in the  
16 Complaint and Cross-Complaint, and the whole thereof, and further denies that Plaintiff and  
17 Cross-Complainant are entitled to any relief against Defendant and Cross-Defendant.  
18

19 **AFFIRMATIVE DEFENSES**

20 **First Affirmative Defense**

21 **[Failure To State a Cause of Action]**

22 2. To Complaint and Cross-Complaint and every purported cause of action contained  
23 therein fail to allege facts sufficient to constitute a cause of action or causes of action against  
24 Defendant and Cross-Defendant.  
25

26 **Second Affirmative Defense**

27 **[Statute of Limitations]**

1           3.       Each and every cause of action contained in the Complaint and Cross-Complaint is  
2 barred by the applicable Statute of Limitations, to include but not limited to California Code of  
3 Civil Procedure Sections 318, 319, 321, 338, and 343.

4                                   **Third Affirmative Defense**

5   **[Laches]**

6           4.       The Complaint and Cross-Complaint, and each and every cause of action  
7 contained therein, is barred by the doctrine of laches.

8                                   **Fourth Affirmative Defense**

9   **[Estoppel]**

10          5.       The Complaint and Cross-Complaint, and each and every cause of action  
11 contained therein, is barred by the doctrine of estoppel.

12                                   **Fifth Affirmative Defense**

13   **[Waiver]**

14          6.       The Complaint and Cross-Complaint, and each and every cause of action  
15 contained therein, is barred by the doctrine of waiver.

16                                   **Sixth Affirmative Defense**

17   **[Self Help]**

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

21                                   **Seventh Affirmative Defense**

22   **[California Constitution Article X, Section 2]**

23          8.       Plaintiff and Cross-Complainant's methods of water use and storage are unreasonable  
24 and wasteful in the arid conditions of the Antelope Valley and thereby violate Article X, Section  
25 2 of the California Constitution.  
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27                                   **Eighth Affirmative Defense**

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**[Additional Defenses]**

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

**Ninth Affirmative Defense**

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

**Tenth Affirmative Defense**

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

**Eleventh Affirmative Defense**

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

**Twelfth Affirmative Defense**

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

**Thirteenth Affirmative Defense**

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

**Fourteenth Affirmative Defense**

15. The prescriptive claims asserted by governmental entity Cross-Complainants are

1 barred by the provisions of the 14<sup>th</sup> Amendment to the United States Constitution.

2 **Fifteenth Affirmative Defense**

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

5 **Sixteenth Affirmative Defense**

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

9 **Seventeenth Affirmative Defense**

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

12 **Eighteenth Affirmative Defense**

13 19. Each Cross-Complainant is barred from recovery under each and every cause of  
14 action contained in the Cross-Complaint by the doctrine of unclean hands and/or unjust  
15 enrichment.

16 **Nineteenth Affirmative Defense**

17 20. 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 21. The governmental entity Cross-Complainants are barred from taking, possessing or  
21 using cross-defendants' property without first paying just compensation.

22 **Twenty-First Affirmative Defense**

23 22. The governmental entity Cross-Complainants are seeking to transfer water right  
24 priorities and water usage which will have significant effects on the Antelope Valley  
25 Groundwater basin and the Antelope valley. Said actions are being done without complying with  
26 and contrary to the provisions of California's Environmental Quality Act (CEQA)  
27 (Pub.Res.C.2100 *et seq.*).

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**Twenty-Second Affirmative Defense**

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

**Twenty-Third Affirmative Defense**

24. Any imposition by this Court of a proposed physical solution that reallocates the water right properties and water usage within the Antelope Valley will be *ultra vires* as it will be subverting the pre-project legislative requirements and protections of California’s Environmental Quality Act (CEQA) (Pub.Res.C.2100 *et seq.*).

WHEREFORE, Defendant and Cross-defendant prays that judgment be entered as follows:

1. That Plaintiff and Cross-Complaint take nothing by reason of its Complaint or Cross-Complaint;
2. That the Complaint and Cross-Complaint be dismissed with prejudice;
3. For Defendant and Cross-Defendant’s costs incurred herein; and
4. For such other and further relief as the Court deems just and proper.

Dated: December 2, 2008

Signature: \_\_\_\_\_

Kamram S. Shakib