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12 SUPERIOR COURT OF CALIFORNIA

13 COUNTY OF SANTA CLARA

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15	COORDINATION PROCEEDING)	Judicial Council Coordination
16	SPECIAL TITLE (Rule 1550(b)))	Proceeding No. 4408
17)	
18	ANTELOPE VALLEY GROUNDWATER	)	CASE NO. 1-05-CV-049053
19	CASES)	
20)	
21	INCLUDED ACTIONS:)	
22		)	BOLTHOUSE PROPERTIES, LLC'S
23	LOS ANGELES COUNTY WATERWORKS	)	ANSWER TO CROSS-COMPLAINTS OF
24	DISTRICT NO. 40 v. DIAMOND	)	ROSAMOND COMMUNITY SERVICES
25	FARMING COMPANY, et al.,	)	DISTRICT; LOS ANGELES COUNTY
26	Los Angeles Superior Court	)	WATERWORKS DISTRICT NO. 40;
	Case No. BC325201	)	PALMDALE WATER DISTRICT; CITY
		)	OF LANCASTER; CITY OF PALMDALE;
	LOS ANGELES COUNTY WATERWORKS	)	LITTLEROCK CREEK IRRIGATION
	DISTRICT NO. 40 v. DIAMOND	)	DISTRICT; PALM RANCH IRRIGATION
	FARMING COMPANY, et al.,	)	DISTRICT; CALIFORNIA WATER
	Kern County Superior Court	)	SERVICE COMPANY; ANTELOPE
	Case No. S-1500-CV-254348	)	VALLEY-EAST KERN WATER AGENCY;
		)	COUNTY OF SANITATION DISTRICTS
	DIAMOND FARMING COMPANY, and	)	NOS. 14 AND 20 OF LOS ANGELES
	W.M. BOLTHOUSE FARMS, INC., v.	)	COUNTY
	CITY OF LANCASTER, et al.,)	
	Riverside Superior Court)	
	Case No. RIC 344436 [c/w case no.)	
	RIC 344668 and 353840])	
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	ROSAMOND COMMUNITY SERVICES)	
	DISTRICT,)	
	CROSS-COMPLAINANT,)	

1 COMES NOW Cross-Defendant, BOLTHOUSE PROPERTIES, LLC,
2 appearing for itself and no other, and in answer to Cross-
3 Complaints of Rosamond Community Services District; Los Angeles
4 County Waterworks District No. 40; Palmdale Water District; City
5 of Lancaster; City of Palmdale; Littlerock Creek Irrigation
6 District; Palm Ranch Irrigation District; California Water
7 Service Company; Antelope Valley-East Kern Water Agency; County
8 of Sanitation Districts Nos. 14 and 20 of Los Angeles County, on
9 file herein, and in answer to such additional Complaints and/or
10 Cross-Complaints which may hereinafter be filed, admit, deny, and
11 allege as follows:

12 **FIRST AFFIRMATIVE DEFENSE**

13 **(General Denial)**

14 Answering each and every allegation contained in Cross-
15 Complainants' Cross-Complaints, this answering Cross-Defendant
16 denies each and every, all and singular, generally and
17 specifically, the allegations therein contained and further denies
18 that Cross-Complainants were damaged in the sums therein alleged
19 or in any sum or are entitled to any relief whatsoever or at all.

20 **SECOND AFFIRMATIVE DEFENSE**

21 **(Fails to State Facts)**

22 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
23 every alleged cause of action, this answering Cross-Defendant
24 alleges Cross-Complainants' Cross-Complaints and each alleged
25 cause of action therein fails to state facts sufficient to
26 constitute a cause of action against this answering Cross-

1 Defendant so as to bar the claims herein.

2 **THIRD AFFIRMATIVE DEFENSE**

3 **(Willful Misconduct by Public Agency)**

4 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
5 every alleged cause of action, this answering Cross-Defendant
6 alleges the allegations referred to in Cross-Complainants' Cross-
7 Complaints constitute willful misconduct by a public agency in
8 violation of public trust and public policy so as to bar the
9 claims herein.

10 **FOURTH AFFIRMATIVE DEFENSE**

11 **(Consent by Cross-Complainant)**

12 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
13 every alleged cause of action, this answering Cross-Defendant
14 alleges Cross-Complainants consented to the matters and things
15 alleged in the Cross-Complaints so as to bar the claims herein.

16 **FIFTH AFFIRMATIVE DEFENSE**

17 **(Estoppel)**

18 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
19 every alleged cause of action, this answering Cross-Defendant
20 alleges Cross-Complainants have, by Cross-Complainants' own
21 conduct, statements or acts, negligently, wrongfully,
22 intentionally or deliberately acted in such a way as to cause this
23 answering Cross-Defendant to do the acts which said Cross-
24 Complainants now allege are a basis for relief and Cross-Defendant
25 alleges by reason of the conduct on the part of Cross-
26 Complainants, that Cross-Complainants should now be estopped or

1 barred from seeking the relief which is requested in the Cross-
2 Complaints on file herein.

3 **SIXTH AFFIRMATIVE DEFENSE**

4 **(Statute of Limitations)**

5 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
6 every alleged cause of action, this answering Cross-Defendant
7 alleges that Cross-Complainants' Cross-Complaints, and each
8 alleged cause of action therein, are barred by the statute of
9 limitations.

10 **SEVENTH AFFIRMATIVE DEFENSE**

11 **(Unclean Hands)**

12 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
13 every alleged cause of action herein, this answering Cross-
14 Defendant alleges that with reference to the matters set forth in
15 the Cross-Complaints herein, the hands of the Cross-Complainants
16 themselves are unclean so as to bar the claims herein.

17 **EIGHTH AFFIRMATIVE DEFENSE**

18 **(Laches)**

19 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and
20 every alleged cause of action herein, this answering Cross-
21 Defendant alleges that Cross-Complainants have delayed an
22 unreasonable period of time in bringing this action, which delay
23 has been prejudicial to Cross-Defendant, and Cross-Complainants
24 are thus guilty of laches so as to bar the claims herein.

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1 could occur which would give rise to a claim of adverse possession
2 or prescription and that Cross-Complainants should be estopped
3 from asserting a claim inconsistent with such entities
4 representations.

5 **SIXTEENTH AFFIRMATIVE DEFENSE**

6 **(Negligent Misrepresentation)**

7 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
8 Cross-Defendant alleges that Cross-Complainants negligently
9 misrepresented the water supply in order to induce Cross-Defendant
10 to justifiably rely on such representations causing Cross-
11 Defendant to take no action to stop actions on the part of Cross-
12 Complainants and that Cross-Complainants should be estopped from
13 asserting a claim inconsistent with such entities representations.

14 **SEVENTEENTH AFFIRMATIVE DEFENSE**

15 **(Intentional Misrepresentation)**

16 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
17 Cross-Defendant alleges that Cross-Complainants intentionally
18 misrepresented the water supply in order to induce Cross-Defendant
19 to justifiably rely on such representations to cause Cross-
20 Defendant to take no action to stop actions on the part of Cross-
21 Complainants knowing that such representations were untrue and
22 that Cross-Complainants should be estopped from asserting a claim
23 inconsistent with such entities representations.

24 **EIGHTEENTH AFFIRMATIVE DEFENSE**

25 **(Indispensable Parties)**

26 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering

1 Cross-Defendant alleges Cross-Complainants have not named all
2 parties to this action who are necessary and indispensable to the
3 action based upon the pleadings and relief requested so as to bar
4 the claims, allegations and relief requested by Cross-
5 Complainants.

6 **NINETEENTH AFFIRMATIVE DEFENSE**

7 **(Indispensable Parties: McCarran Act)**

8 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
9 Cross-Defendant alleges Cross-Complainants have not named all
10 parties to this action who are necessary and indispensable to the
11 action for compliance with the McCarran Act so as to bar the
12 claims, allegations and relief requested by Cross-Complainants.

13 **TWENTIETH AFFIRMATIVE DEFENSE**

14 **(Superior Water Right)**

15 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
16 Cross-Defendant alleges Cross-Defendant's water rights are
17 superior and senior to, and take precedence over, any rights
18 asserted in the Cross-Complaints so as to bar the claims herein.

19 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

20 **(Failure to Prove Priority Rights)**

21 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
22 Cross-Defendant alleges that Cross-Complainants have failed to
23 prove priorities under California water law as between
24 appropriators, as between appropriators and overlying landowners
25 and as between all others necessary for the court to cut back
26 water production in time of shortage based upon the California

1 priority water allocation system so as to bar the claims herein.

2 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

3 **(Failure to Prove Prevention of Pumping)**

4 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
5 Cross-Defendant alleges that Cross-Complainants have failed to
6 prove that Cross-Complainants' actions prevented Cross-Defendant
7 from pumping what Cross-Defendant desired to pump during any
8 alleged period of adverse possession or prescription so as to bar
9 the claims herein.

10 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

11 **(Unlawful Taking)**

12 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
13 Cross-Defendant alleges the Cross-Complainants and each cause of
14 action alleged therein are barred by State and Federal
15 Constitutions which prevent taking without just compensation and
16 without appropriate legal procedures to assure no taking without
17 due process of law.

18 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

19 **(Denial of Equal Protection)**

20 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
21 Cross-Defendant alleges the Cross-Complainants and each cause of
22 action alleged therein are barred by State and Federal
23 Constitutions which require equal protection of law to Cross-
24 Defendant.

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1 Cross-Defendant alleges it holds a right to storage space in the
2 alluvial and fractured bedrock water basin and that Cross-
3 Defendant has a right to water stored in the basin, based upon the
4 California water allocation priority system, so as to bar the
5 claims herein.

6 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

7 **(Storage Space)**

8 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
9 Cross-Defendant alleges it has storage rights in the fractured
10 bedrock and alluvial groundwater basin for which compensation is
11 due by persons or entities storing water in the water basin so as
12 to bar the claims herein.

13 **THIRTIETH AFFIRMATIVE DEFENSE**

14 **(No Net Augmentation)**

15 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
16 Cross-Defendant alleges that Cross-Complainants have not imported,
17 developed, salvaged or otherwise acted with reference to water
18 entering the fractured bedrock or alluvial groundwater basin in a
19 way which has provided a net augmentation to the water basin so as
20 to bar the claims herein.

21 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

22 **(No Net Augmentation For Replenishment)**

23 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
24 Cross-Defendant alleges that Cross-Complainants have not imported
25 water or otherwise provided a net augmentation to the water basin
26 to the extent they simply have replenished water wrongfully taken

1 by them in the past so as to bar the claims herein.

2 **THIRTY-SECOND AFFIRMATIVE DEFENSE**

3 **(No Intent to Store/Bank Water)**

4 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
5 Cross-Defendant alleges that any water imported, developed,
6 salvaged or otherwise being claimed as a priority right, credit
7 or other water right, was not imported, developed, salvaged or
8 otherwise introduced into the fractured bedrock or alluvial basin
9 with the intent of storing or banking such water so as to bar the
10 claims herein.

11 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

12 **(No Basis For Physical Solution)**

13 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
14 Cross-Defendant alleges that Cross-Complainants have failed to
15 join all necessary and indispensable parties, have failed to prove
16 a basis for injunctive relief against all parties, have failed to
17 prove *inter se* appropriative rights, have failed to prove the
18 nature and extent of appropriative pumping and the nature and
19 extent of overlying pumping and have failed to prove all facts
20 necessary to provide an appropriate basis for the Court to impose
21 a physical solution which allocates water production rights based
22 upon the California water allocation priority system so as to bar
23 the claims herein.

24 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

25 **(Additional Defenses)**

26 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering

1 Cross-Defendant presently has insufficient knowledge or
2 information on which to form a belief as to whether additional,
3 as yet unstated, affirmative defenses may be appropriate. This
4 answering Cross-Defendant reserves herein the right to assert
5 additional affirmative defenses as necessary based upon
6 investigation and discovery.

7 **PRAYER**

8 WHEREFORE, Cross-Defendant prays judgment that Cross-
9 Complainants take nothing by reason of the Cross-Complaints on
10 file herein, for costs of suit and for such other and further
11 relief as the Court deems just and proper.

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13 DATED: January 2, 2007

14 CLIFFORD & BROWN

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17 By: 

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T. MARK SMITH, ESQ.
Attorneys for
BOLTHOUSE PROPERTIES, LLC

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