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5 Attorneys for Palmdale Water District and
6 Quartz Hill Water District

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

10
11 Coordination Proceeding
12 Special Title (Rule 1550(b))

Judicial Council Coordination Proceeding
No. 4408

13 **ANTELOPE VALLEY GROUNDWATER**
14 **CASES**

Santa Clara Case No. 1-05-CV-049053
Assigned to The Honorable Jack Komar, D17

**ANSWER TO ALL CROSS COMPLAINTS
BY PALMDALE WATER DISTRICT AND
QUARTZ HILL WATER DISTRICT**

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18 Defendants Palmdale Water District and Quartz Hill Water District (“Districts”) answer all cross
19 complaints in these coordinated proceedings as follows. These include without limitation the cross
20 complaints filed by City of Palmdale, Antelope Valley-East Kern Water Agency, County Sanitation
21 Districts Nos. 14 and 20, Diamond Farming Company, Bolthouse Properties, LLC, Antelope Valley
22 Groundwater Agreement Association (First Amended Cross Complaint), and any other cross complaints
23 that now or hereafter assert claims against Districts. Each District answers for itself and for no other
24 defendant, and the use of the word “Districts” to refer to both Districts is a matter of readability and
25 convenience and is not intended to imply a joint answer.

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27 1. Districts generally deny the allegations of the cross complaints.
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FIRST AFFIRMATIVE DEFENSE

(Failure to State a Cause of Action)

2. Cross Complainants have failed to state facts sufficient to state a cause of action against Districts.

SECOND AFFIRMATIVE DEFENSE

(Uncertainty)

3. The Cross Complainants have failed to describe with specificity the groundwater basin from which Cross Complainants contend they enjoy rights to produce percolating groundwater.

THIRD AFFIRMATIVE DEFENSE

(Non-Interference)

4. On information and belief, Districts' water production does not interfere in any way with Cross Complainants' claimed water rights.

FOURTH AFFIRMATIVE DEFENSE

(Consent, Waiver, Estoppel, Laches)

5. On information and belief, the Cross Complainants and their predecessors have been aware for many years of the Districts' production of groundwater, and of Districts' spending significant amounts of public money, time and resources to develop the facilities necessary to extract the groundwater and deliver it to their customers, in reliance on their right to extract groundwater. The Cross Complainants, by their silence and inaction, have acquiesced to the Districts' extraction of groundwater. Cross Complainants have unreasonably delayed commencement of this action to the prejudice of Districts.

FIFTH AFFIRMATIVE DEFENSE

(Civil Code, Section 1007)

6. The relief sought by Cross Complainants is barred by Civil Code, Section 1007.

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SIXTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

7. Cross Complainants are barred from relief by the provisions of one or more of sections 318, 319, 321, 338, or 343 of the Code of Civil Procedure.

SEVENTH AFFIRMATIVE DEFENSE

(Failure to Join Necessary Parties)

8. Cross Complainants have failed to join indispensable and necessary parties, namely other landowners and water producers within the Antelope Valley Basin.

EIGHTH AFFIRMATIVE DEFENSE

(Stream Rights)

9. Palmdale Water District has a license to divert water from Little Rock Creek, which is one of the sources of water to the Basin. Its right to continue to divert water from Little Rock Creek is superior in priority to the rights claimed by Cross Complainants.

NINTH AFFIRMATIVE DEFENSE

(Right to recapture imported water)

10. Districts purchase water imported from outside the watershed, and distributes the purchased water through the Districts' waterworks systems to its customers. After use by the customers for irrigation, domestic, municipal and industrial uses, a portion of these imported waters percolates into the ground and commingles with the percolating ground waters contained in the Basin and thereby augments the natural supply of water in the Basin.

11. Districts have a right to extract from the Basin an amount of water equal to the portion of the water imported by Districts from outside the watershed that augments the supply of water in the Basin. This right is superior in priority to the rights claimed by Cross Complainants.

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TENTH AFFIRMATIVE DEFENSE
(Appropriative/Prescriptive Rights)

12. For many years, Districts have produced groundwater from the Basin and distributed the water through its waterworks system to its customers for reasonable and beneficial uses. Districts' production of groundwater from the Basin has been open, notorious and under claim of right, hostile to any rights of Cross Complainants and has continued for a period of more than five consecutive years, during which time, Districts are informed and believes, there existed a period of five consecutive years during which the Basin was in a state of overdraft.

13. By reason of their historical production of groundwater, Districts have acquired an appropriative or prescriptive right to groundwater that is equal or superior in priority to that of the Cross Complainants.

ELEVENTH AFFIRMATIVE DEFENSE
(Dedication to Public Use)

14. All the groundwater extracted by Districts from the Basin is devoted to the public use of distributing the same through their waterworks systems for irrigation, domestic, municipal, and industrial uses by the Districts' customers.

15. As a result of this dedication to public use, Cross Complainants cannot obtain any judicial relief that will in any way restrain or prevent Districts from exercising their rights to extract groundwater from the Basin.

TWELFTH AFFIRMATIVE DEFENSE
(Physical Solution)

16. In the event of the imposition of a physical solution or some form of declaratory relief, due regard must be given to the water rights of the Districts.

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THIRTEENTH AFFIRMATIVE DEFENSE

(Hardship)

17. Any injunction against the Districts' production of groundwater will cause undue hardship to the Districts and their customers.

FOURTEENTH AFFIRMATIVE DEFENSE

(Tort Claims Act)

18. Cross complainants have failed to comply with the Tort Claims Act, Government Code sections 900 et seq.

FIFTEENTH AFFIRMATIVE DEFENSE

(Incorporation by Reference)

19. As permitted by the Court's Appearance Form, Districts incorporate by reference each affirmative defense to the cross complains filed by any other defendant or cross defendant, whether its answer is filed before or after the filing of this answer.

Dated: February 3, 2007

LAGERLOF, SENEAL, GOSNEY & KRUSE, LLP

By: ORIGINAL SIGNED
Thomas S. Bunn III
Attorneys for Palmdale Water District
and Quartz Hill Water District