

1 H. Jess Senecal (CSB #026826)
Thomas S. Bunn III (CSB #89502)
2 LAGERLOF, SENEAL, BRADLEY, GOSNEY & KRUSE, LLP
301 N. Lake Avenue, 10th Floor
3 Pasadena, CA 91101-4108
Telephone: (626) 793-9400
4 Facsimile: (626) 793-5900

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5 Attorneys for Palmdale Water District and
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
Special Title (Rule 1550(b))

Judicial Council Coordination Proceeding
No. 4408

12 **ANTELOPE VALLEY GROUNDWATER**
13 **CASES**

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

**ANSWER OF PALMDALE WATER
DISTRICT AND QUARTZ HILL WATER
DISTRICT**

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18 Defendants Palmdale Water District and Quartz Hill Water District (“Districts”) answer the
19 complaints of Los Angeles County Waterworks District No. 40 as follows. Each District answers for
20 itself and for no other defendant, and the use of the word “Districts” to refer to both Districts is a matter
21 of readability and convenience and is not intended to imply a joint answer.

- 22
23 1. Districts generally deny the allegations of the complaints.

24 **FIRST AFFIRMATIVE DEFENSE**

25 **(Failure to State a Cause of Action)**

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27 2. Plaintiff has failed to state facts sufficient to state a cause of action against Districts.
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SECOND AFFIRMATIVE DEFENSE

(Uncertainty)

3. The plaintiff has failed to describe with specificity the groundwater basin from which plaintiff contends it enjoys 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 plaintiff's claimed water rights.

FOURTH AFFIRMATIVE DEFENSE

(Consent, Waiver, Estoppel, Laches)

5. On information and belief, the plaintiff and its 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 plaintiff, by its silence and inaction, has acquiesced to the Districts' extraction of groundwater. Plaintiff has unreasonably delayed commencement of this action to the prejudice of Districts.

FIFTH AFFIRMATIVE DEFENSE

(Civil Code, Section 1007)

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

SIXTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

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

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SEVENTH AFFIRMATIVE DEFENSE

(Failure to Join Necessary Parties)

8. Plaintiff has 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 plaintiff.

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 plaintiff.

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 plaintiff and has continued for a period of more than five consecutive years, during which

1 time, Districts are informed and believes, there existed a period of five consecutive years during which
2 the Basin was in a state of overdraft.

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

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7 **ELEVENTH AFFIRMATIVE DEFENSE**

8 **(Dedication to Public Use)**

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

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

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16 **TWELFTH AFFIRMATIVE DEFENSE**

17 **(Physical Solution)**

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

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21 **THIRTEENTH AFFIRMATIVE DEFENSE**

22 **(Hardship)**

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

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Dated: November 28, 2005

LAGERLOF, SENECA, BRADLEY,
GOSNEY & KRUSE, LLP

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

1 **PROOF OF SERVICE**

2
3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 years,
4 and am not a party to the within action; my business address is 301 North Lake Avenue, 10th Floor,
Pasadena, California 91101-4108.

5 On November 28, 2005, I served the document, described as ANSWER OF PALMDALE WATER
6 DISTRICT AND QUARTZ HILL WATER DISTRICT TO THE COMPLAINTS OF LOS ANGELES COUNTY
7 WATERWORKS DISTRICT NO. 40 on the interested parties in this action by placing true copies thereof
enclosed in sealed envelopes addressed as follows:

8 **[SEE ATTACHED PROOF OF SERVICE LIST]**

9 **X** (BY REGULAR MAIL) As follows: I am "readily familiar" with the firm's practice of
10 collection and processing correspondence for mailing. Under that practice it would be deposited
11 with the U.S. Postal Service on that same day with postage thereon fully prepaid at Pasadena,
12 California in the ordinary course of business. I am aware that on motion of party served, service
is presumed invalid if postal cancellation date or postage meter date is more than one day after
date of deposit for mailing in affidavit.

13 **X** (VIA ELECTRONIC MAIL) BY SANTA CLARA SUPERIOR COURT E-FILING IN
14 COMPLEX LITIGATION PURSUANT TO CLARIFICATION ORDER DATED OCTOBER
15 27, 2005.

16 — (VIA FACSIMILE) On ***, I caused the above-referenced document(s) to be transmitted via
17 facsimile to the offices of the addressee(s) as follows: A true and correct copy of the
transmission report indicating transmission without error is attached hereto.

18 — (BY FEDERAL EXPRESS) I caused such envelope(s) to be delivered by air courier, with next
19 day service.

20 — (BY PERSONAL SERVICE) I delivered such envelope(s) by hand to the offices of the
addressee(s).

21 **X** (STATE) I declare under penalty of perjury under the laws of the State of California that the
22 above is true and correct.

23 — (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at
24 whose direction the service was made.

25 EXECUTED at Pasadena, California on November 28, 2005.

26
27 _____
28 Barbara J. Parker
Declarant

PROOF OF SERVICE LIST

Via Regular Mail

Chair, Judicial Council of California
Administrative Office of the Courts
Attn.: Appellate & Trial Court Judicial Services
(Civil Case Coordination)
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Via E-File

Honorable Jack Komar
Santa Clara County Superior Court of California
191 North First Street, Department 17C
San Jose, CA 95113

Via E-Mail

Michael T. Fife, Esq.
Bradley J. Herrema, Esq.
HATCH & PARENT, A Law Corporation
21 East Carrillo Street
Santa Barbara, CA 93101
(805) 963-7000; Fax (805) 965-4333
Addresses for electronic service:
mfife@hatchparent.com

Attorneys for Antelope Valley Ground
Water Agreement Association (“AGWA”)

Eric L. Garner, Esq.
Jeffrey V. Dunn, Esq.
Jill N. Willis, Esq.
BEST, BEST & KREIGER LLP
3750 UNIVERSITY Avenue, Suite 400
P.O. Box 1028
Riverside, CA 92502-1028
(951) 686-1450; Fax (951) 682-3083
Addresses for electronic service:
ELGarner@bbklaw.com
jeffrey.dunn@bbklaw.com

Attorneys for Los Angeles County Waterworks
District No. 40 and for Rosamond Community
Services District

Douglas J. Evertz, Esq.
STRADLING, YOCCA, CARLSON & RAUCH
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6522
(949) 725-4000; fax (949) 725-4100
Address for electronic service:
devertz@sycr.com

Attorneys for City of Lancaster

1 John Toole, Esq.
CALIFORNIA WATER SERVICE COMPANY
2 3625 Del Amo Boulevard, Suite 350
3 Torrance, CA 90503
(310) 257-1488; Fax (310) 257-4654
4 Address for electronic service:
5 jtoole@calwater.com

Attorneys for Antelope Valley Water Company

6 Richard G. Zimmer, Esq.
CLIFFORD & BROWN
7 1430 Truxton Avenue, Suite 900
8 Bakersfield, CA 93301
(661) 322-6023; Fax (661) 322-3508
9 Address for electronic service:
10 rzimmer@clifford-brownlaw.com

Attorneys for WM Bolthouse Farms

11 Bob H. Joyce, Esq.
12 Dave R. Lampe, Esq.
Andrew Sheffield, Esq.
13 LEBEAU • THELEN, LLP
14 5001 East Commercenter Drive, Suite 300
P.O. Box 12092
15 Bakersfield, CA 93389-2092
(661) 325-8962; Fax (661) 325-1127
16 Addresses for electronic service:
17 bjoyce@lebeauthelen.com
DLuis@lebeauthelen.com

Attorneys for Diamond Farming Company

18 James L. Markman, Esq.
19 Steve Orr, Esq.
20 RICHARDS, WATSON & GERSHON
P.O. Box 1059
21 Brea, CA 92822-1059
(714) 990-0901; Fax (714) 990-2308
22 Addresses for electronic service:
23 jmarkman@rwglaw.com
sorr@rwglaw.com

Attorneys for City of Palmdale

24 Janet Goldsmith, Esq.
25 KRONICK, MOSKOWITZ, TIEDEMANN & GIRARD
26 400 Capital Mall, 27th Floor
Sacramento, CA 95814-4417
27 Fax (916) 321-4555
28 Address for electronic service:
jgoldsmith@kmtg.com

Attorneys for City of Los Angeles

1 John Slezak, Esq.
2 IVERSON, YOAKUM, PAPIANO & HATCH
3 One Wilshire Boulevard, 27th Floor
4 624 South Grand Avenue
5 Los Angeles, CA 90017
6 (213) 624-7444; Fax (213) 629-4563
7 Address for electronic service:
8 Jslezak@iyph.com

Attorneys for Los Angeles Department of Water
and Power

6 Julie A. Conboy, Esq.
7 Deputy City Attorney
8 Department of Water and Power
9 111 North Hope Street
10 P.O. Box 111
11 Los Angeles, CA 90012
12 (213) 367-4513; Fax (213) 241-1416
13 Address for electronic service:
14 Julie.Conboy@ladwp.com

Attorneys for Los Angeles Department of Water
and Power

12 Henry Weinstock, Esq.
13 Fred Fudacz, Esq.
14 NOSSAMAN, GUTHNER, KNOX, ELLIOTT, LLP
15 445 South Figueroa Street, 31st Floor
16 Los Angeles, CA 90071
17 (213) 612-7839; Fax (213) 612-7801
18 Addresses for electronic service:
19 hweinstock@nossaman.com
20 ffudacz@nossaman.com

Attorneys for Tejon Ranchcorp

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19
20
21
22
23
24
25
26
27
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