

LAW OFFICES OF
BEST BEST & KRIEGER LLP
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

1 BEST BEST & KRIEGER LLP
ERIC L. GARNER, Bar No. 130665
2 JEFFREY V. DUNN, Bar No. 131926
STEFANIE D. HEDLUND, Bar No. 239787
3 5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614
4 TELEPHONE: (949) 263-2600
TELECOPIER: (949) 260-0972
5 Attorneys for Cross-Complainants
ROSAMOND COMMUNITY SERVICES
6 DISTRICT and LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40
7

8 OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES
RAYMOND G. FORTNER, JR., Bar No. 42230
9 COUNTY COUNSEL
FREDERICK W. PFAEFFLE, Bar No. 145742
10 SENIOR DEPUTY COUNTY COUNSEL
500 WEST TEMPLE STREET
11 LOS ANGELES, CALIFORNIA 90012
TELEPHONE: (213) 974-1901
12 TELECOPIER: (213) 458-4020
Attorneys for Cross-Complainant
13 LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40
14

SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES – CENTRAL DISTRICT
16

17 **ANTELOPE VALLEY**
GROUNDWATER CASES
18
19 Included Actions:
Los Angeles County Waterworks District
20 No. 40 v. Diamond Farming Co., Superior
Court of California, County of Los
21 Angeles, Case No. BC 325201;
22 Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Superior
23 Court of California, County of Kern, Case
No. S-1500-CV-254-348;
24 Wm. Bolthouse Farms, Inc. v. City of
25 Lancaster, Diamond Farming Co. v. City of
Lancaster, Diamond Farming Co. v.
26 Palmdale Water Dist., Superior Court of
California, County of Riverside, Case Nos.
27 RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408
Santa Clara Case No. 1-05-CV-049053
Assigned to The Honorable Jack Komar

**ANSWER OF ROSAMOND COMMUNITY
SERVICES DISTRICT AND LOS
ANGELES COUNTY WATERWORKS
DISTRICT NO. 40 TO CROSS-
COMPLAINT OF COUNTY SANITATION
DISTRICTS NOS. 14 AND 20 OF LOS
ANGELES COUNTY**

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ANSWER OF ROSAMOND COMMUNITY SERVICES DISTRICT AND LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40 TO CROSS-COMPLAINT OF COUNTY SANITATION DISTRICTS NOS. 14 AND 20 OF LOS
ANGELES COUNTY

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1 Cross-Defendants Rosamond Community Services District and Los Angeles County
2 Waterworks District, No. 40 ("Cross-Defendants") hereby answer the Cross-Complaint of County
3 Sanitation Districts Nos. 14 and 20 of Los Angeles County, as follows:
4

5 **ANSWER**

6 Pursuant to Code of Civil Procedure section 431.30(d), Cross-Defendants hereby
7 generally deny each and every allegation contained in the Cross-Complaint and further deny that
8 Cross-Complainant is entitled to any relief against cross-defendants.
9

10 **FIRST AND SEPARATE AFFIRMATIVE DEFENSE**

11 (Failure to State a Cause of Action)

12 The Cross-Complaint fails to state facts sufficient to constitute a cause of action.

13 **SECOND AND SEPARATE AFFIRMATIVE DEFENSE**

14 (Waiver)

15 Cross-Complainant by its silence and inaction has acquiesced to Cross-Defendants'
16 extraction of groundwater from the Basin.
17

18 **THIRD AND SEPARATE AFFIRMATIVE DEFENSE**

19 (Unreasonable Use of Water)

20 The relief requested in the Cross-Complaint is barred by Article X, section 2 of the
21 California Constitution in that the requested relief would be wasteful and result in unreasonable
22 use, unreasonable method of use, or unreasonable method of diversion of water.
23

24 **FOURTH AND SEPARATE AFFIRMATIVE DEFENSE**

25 (Waiver)

26 Cross-Complainant has knowingly and intentionally waived any right to assert some or all
27 of the claims set forth in each and every cause of action contained in the Cross-Complaint.
28

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FIFTH AND SEPARATE AFFIRMATIVE DEFENSE

(Physical Solution)

In the event of the imposition of a physical solution or some form of declaratory relief, due regard must be given to the prior and paramount nature of Cross-Defendants' prescriptive water rights.

SIXTH AND SEPARATE AFFIRMATIVE DEFENSE

(Unclean Hands)

Cross-Complainant is guilty of unclean hands because it seeks to restrict the pumping of other users but not its own pumping.

SEVENTH AND SEPARATE AFFIRMATIVE DEFENSE

(Public Agency Discretion)

Each and every cause of action in the Cross-Complaint is barred because they improperly seek to control the exercise of discretion of various public agencies and they improperly seek to compel the exercise of discretion in a particular manner.

EIGHTH AND SEPARATE AFFIRMATIVE DEFENSE

(Estoppel)

Cross-Defendants are informed and believe, and on that basis allege, that Cross-Complainant by its acts and omissions is estopped from asserting any of the claims upon which it seeks relief.

NINTH AND SEPARATE AFFIRMATIVE DEFENSE

(Doctrine of Unjust Enrichment)

Cross-Complainant is barred from the relief it seeks by the doctrine of unjust enrichment.

1 **TENTH AND SEPARATE AFFIRMATIVE DEFENSE**

2 (Doctrine of Laches)

3 Some or all of Cross-Complainant’s claims for relief are barred by the doctrine of laches.
4 For at least five years prior to the commencement of the instant action, the Basin was in a
5 continuous state of overdraft. That overdraft continued and was exacerbated by increased
6 domestic and agricultural production. Cross-Defendants have relied upon Cross-Complainant’s
7 inaction and their failure to make a formal assertion of any prior and paramount right to that of
8 Cross-Defendants.

9
10 **ELEVENTH AND SEPARATE AFFIRMATIVE DEFENSE**

11 (Description of Land)

12 Cross-Complainant has not described the property at issue with sufficient certainty as
13 required by Code of Civil Procedure section 455.

14
15 **TWELFTH AND SEPARATE AFFIRMATIVE DEFENSE**

16 (Uncertainty and Ambiguity)

17 The Cross-Complaint, and each and every purported cause of action therein, is uncertain,
18 ambiguous and unintelligible.

19
20 **THIRTEENTH AND SEPARATE AFFIRMATIVE DEFENSE**

21 (Right to Recapture Imported Water)

22 Cross-Defendants purchase water which is imported from outside the Basin and is
23 distributed to Cross-Defendants customers. After use by Cross-Defendants customers for
24 irrigation, domestic, municipal and industrial uses, a portion of the imported water percolates into
25 the Basin and augments the native supply of water in the Basin. Cross-Defendants have a right to
26 extract from the Basin the amount of water equal to the portion of water imported by Cross-
27 Defendants from outside the Basin which augments the Basin. This right is superior in priority to
28 the rights claimed by Cross-Complainant. - 4 -

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FOURTEENTH AND SEPARATE AFFIRMATIVE DEFENSE

(Right to Assert Additional Affirmative Defenses)

Cross-Defendants do not presently have sufficient knowledge or information on which to form a belief as to whether they may have additional, as yet unstated, affirmative defenses. Cross-Defendants reserve the right to assert additional affirmative defenses in the event discovery indicates that they would be appropriate.

FIFTEENTH AND SEPARATE AFFIRMATIVE DEFENSE

(Incorporation By Reference)

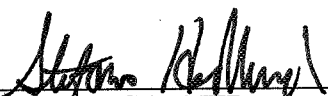
As permitted by the Court's Appearance Form, Cross-Defendants incorporate by reference, as if fully set forth herein, each and every affirmative defense to the Cross-Complaint filed by any other defendant or Cross-Defendant, whether their answers are filed before or after the filing of this answer.

WHEREFORE, Cross-Defendants Rosamond Community Services District and Los Angeles County Water Works District No. 40 pray for relief as follows:

1. That Cross-Complainant take nothing by way of its Cross-Complaint;
2. That Cross-Defendants be awarded attorneys' fees as may be allowed by statute or law; and,
3. For such other and further relief as the court may deem just and proper.

Dated: February 16, 2007

BEST BEST & KRIEGER LLP

By 
ERIC L. GARNER
JEFFREY V. DUNN
STEFANIE D. HEDLUND
Attorneys for Cross-Complainants
ROSAMOND COMMUNITY SERVICES
DISTRICT and LOS ANGELES
COUNTY WATERWORKS DISTRICT
NO. 40

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BEST BEST & KRIEGER LLP
5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

PROOF OF SERVICE

I, Lynda Kocis, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 5 Park Plaza, Suite 1500, Irvine, California 92614. On February 16, 2007, I served the within document(s):

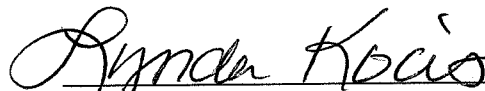
ANSWER OF ROSAMOND COMMUNITY SERVICES DISTRICT AND LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 TO CROSS-COMPLAINT OF COUNTY SANITATION DISTRICTS NOS. 14 AND 20 OF LOS ANGELES COUNTY

- by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the 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.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 16, 2007, at Irvine, California.


Lynda Kocis

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5 PARK PLAZA, SUITE 1500
IRVINE, CALIFORNIA 92614

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SERVICE LIST

Bob H. Joyce, Esq. LAW OFFICES OF LEBEAU THELEN, LLP 5001 East Commercenter Drive, Ste. 300 Post Office Box 12092 Bakersfield, CA 93389-2092	Attorneys for Diamond Farming Company (661) 325-1127-Facsimile
Douglas J. Evertz, Esq. STRADLING, YOCCA, CARLSON & RAUTH 660 Newport Center Drive, Suite 1600 Newport Beach, CA 92660-6522	Attorneys for City of Lancaster (949) 725-4100-Facsimile
James L. Markman, Esq. RICHARDS WATSON & GERSHON Post Office Box 1059 Brea, CA 92822-1059	Attorneys for City of Palmdale (714) 990-6230-Facsimile
Steve R. Orr, Esq. Bruce G. McCarthy, Esq. RICHARDS WATSON & GERSHON 355 South Grand Avenue, 40 th Floor Los Angeles, CA 90071-3101	Attorneys for City of Palmdale (213) 626-0078-Facsimile
Michael Fife, Esq. HATCH AND PARENT 21 East Carrillo Street Santa Barbara, CA 93101-2782	Attorneys for Eugene B. Nebeker on behalf of Nebeker Ranch, Inc., Bob Jones on behalf of R&M Ranch, Inc., Forrest G. Godde and Steve Godde, Gailen Kyle on behalf of Kyle & Kyle Ranch, Inc. and John Calandri on behalf of Calandri/Sonrise Farms, collectively known as the Antelope Valley Ground Water Agreement Association ("AGWA") (805) 965-4333-Facsimile
Richard Zimmer, Esq. CLIFFORD & BROWN 1430 Truxtun Avenue, Suite 900 Bakersfield, CA 93301	Attorneys for Bolthouse Properties, Inc. (661) 322-3508-Facsimile
Julie A. Conboy, Esq. Department of Water and Power 111 North Hope Street Post Office Box 111 Los Angeles, CA 90012	Attorneys for Department of Water and Power (213) 241-1416-Facsimile
Janet Goldsmith, Esq. Kronick, Moskowitz, Tiedemann & Girard 400 Capitol Mall, 27 th Floor	Attorneys for City of Los Angeles (916) 321-4555-Facsimile

1	Sacramento, CA 95814-4417	
2		
3	Wayne K. Lemieux, Esq. Lemieux & O'Neill 2393 Townsgate Road, Suite 201 Westlake Village, California 91361	Attorneys for Littlerock Creek Irrigation District and Palm Ranch Irrigation District (805) 495-2787-Facsimile
4		
5		
6	Thomas Bunn, Esq. LAGERLOF, SENEAL, BRADLEY, GOSNEY & KRUSE 301 North Lake Avenue, 10 th Floor Pasadena, CA 91101-4108	Attorneys for Palmdale Water District and Quartz Hill Water District (626) 793-5900-Facsimile
7		
8		
9	Henry Weinstock, Esq. NOSSAMAN, GUTHNER, KNOX, ELLIOTT LLP 445 South Figueroa Street, 31st Floor Los Angeles, CA 90071	Attorneys for Tejon Ranch (213) 612-7801-Facsimile
10		
11	Wm. Matthew Ditzhazy, Esq. City Attorney CITY OF PALMDALE Legal Department 38300 North Sierra Highway Palmdale, CA 93550	Attorneys for City of Palmdale (805) 267-5178-Facsimile
12		
13		
14		
15	John Tootle, Esq. CALIFORNIA WATER SERVICE COMPANY 2632 West 237 th Street Torrance, CA 90505	Attorneys for California Water Service Company (310) 325-4605-Facsimile
16		
17	Presiding Judge of the Superior Court of California, County of Los Angeles County Courthouse 111 North Hill Street Los Angeles, CA 90012-3014	
18		
19		
20	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, California 94102-3688	
21		
22		
23		
24	Christopher M. Sanders, Esq. Ellison Schneider & Harris 2015 H Street Sacramento, California 95814-3109	Attorneys for County Sanitation District No. 14 of Los Angeles County, and County Sanitation District No. 20 of Los Angeles County (916) 447-2166 (916) 447-3512-Facsimile
25		
26		
27	Loretta Slaton, Esq. Law Office of Loretta Slaton	Attorneys for Air Trust Singapore Limited
28		

- 1 2294 Via Puerta, Suite O (949) 587-2832
Laguna Hills, CA 92653 (949) 855-1959-Facsimile
- 2
- 3 Mark J. Hattam, Esq. Attorneys for SPC Del Sur Ranch LLC
Allen Matkins Leck Gamble Mallory & Natsis LLP (619) 233-1155
4 501 West Broadway, 15th Floor (619) 233-1158-Facsimile
San Diego, CA 92101-3547
- 5
- 6 Sue Ellen Wooldridge, Esq. Attorneys for the United States
R. Lee Leininger, Esq. Department of Justice
U.S. Department of Justice (303) 844-1364
7 Environment and Natural Resources Division (303) 844-1350-Facsimile
1961 Stout Street, 8th Floor
8 Denver, CO 80294
- 9 Dale Murad, Esq. Attorneys for U.S. Department of the Air
AFLSA/JACE Force - Edwards Air Force Base
10 1501 Wilson Blvd., Ste. 629 (703) 696-9166
Arlington, VA 22209-2403 (703) 696-9184-Facsimile
- 11
- 12 Edward J. Casey, Esq. Attorneys for Palmdale Hills Property
Weston Benshoof Rochefort Rubalcava LLC
MacCuish LLP
- 13 333 So. Hope Street, 16th Floor
Los Angeles, CA 90071
- 14
- 15 Michael L. Crow, Esq. Attorneys for the State of California;
Virginia Cahill, Esq. Santa Monica Mountains Conservancy;
Deputy Attorney General and the 50th District Agricultural
16 State of California – Dept. of Justice Association
1300 I Street, Ste. 125 (916) 327-7856
17 P.O. Box 944255 (916) 327-2319-Facsimile
Sacramento, CA 94244-2550
- 18
- 19 Robert B. Schachter, Esq. Attorneys for Guss A. Barks and Peter G.
Hitchcock, Bowman & Schachter Barks
21515 Hawthorne Blvd., Ste. 1030 (310) 540-2202
20 Torrance, CA 90503-6579 (310) 540-8734-Facsimile
- 21
- 22 William J. Brunick, Esq. Attorneys for Antelope Valley-East Kern
Steven M. Kennedy, Esq. Water Agency
Brunick, McElhaney & Beckett (909) 889-8301
1839 Commercenter West (909) 388-1889
23 P.O. Box 6425
San Bernardino, CA 92412-6425
- 24
- 25
- 26
- 27
- 28