

1 WM. MATTHEW DITZHAZY  
City Attorney  
2 City of Palmdale

3 RICHARDS, WATSON & GERSHON  
A Professional Corporation  
4 JAMES L. MARKMAN (43536) (jmarkman@rwglaw.com)  
STEVEN R. ORR (136615) (sorr@rwglaw.com)  
5 WHITNEY G. MCDONALD (245587) (wmcdonald@rwglaw.com)  
355 South Grand Avenue, 40th Floor  
6 Los Angeles, CA 90071-3101  
Telephone: (213) 626-8484  
7 Facsimile: (213) 626-0078

8 Attorneys for Defendant, Cross-Complainant, and Cross-Defendant  
CITY OF PALMDALE

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SANTA CLARA**

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

Judicial Council Coordination  
Proceeding No. 4408

14 **ANSWER OF DEFENDANT CITY**  
15 **OF PALMDALE TO SECOND**  
16 **AMENDED CLASS ACTION**  
17 **COMPLAINT OF REBECCA LEE**  
18 **WILLIS**

Phase 2 Trial: October 6, 2008  
(Hon. Jack Komar)

[Exempt from Filing Fees Pursuant to Govt. Code  
§6103]

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20 Defendant City of Palmdale (“Palmdale”) hereby answers Rebecca Lee Willis’s  
21 Second Amended Class Action Complaint (“Complaint”) as follows:  
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- 23 1. Palmdale generally denies the allegations of the Complaint.  
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25 As and for separate and independent affirmative defenses, Palmdale alleges as  
26 follows:

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**FIRST AFFIRMATIVE DEFENSE**

2. 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 the overlying rights of Palmdale to groundwater in the Antelope Valley Groundwater Basin (“Basin”).

**SECOND AFFIRMATIVE DEFENSE**

3. No party is entitled to recover monetary compensation from Palmdale.

**THIRD AFFIRMATIVE DEFENSE**

4. Plaintiffs and/or their predecessors or successors in interest have been aware for many years of the conditions in the Basin, and the expenditure of public money, time and resources to develop the facilities necessary to extract the groundwater and deliver it to residents of the Antelope Valley, and of the significant population growth in the Antelope Valley. By their silence and inaction, such parties have unreasonably delayed commencement of their claims to the prejudice of Palmdale.

**FOURTH AFFIRMATIVE DEFENSE**

5. Plaintiffs are barred from relief by the provisions of one or more of sections 318, 319, 321, 338, 342, or 343 of the Code of Civil Procedure.

**FIFTH AFFIRMATIVE DEFENSE**

6. Plaintiffs have failed to join indispensable and necessary parties, namely other landowners and significant water producers with in the Antelope Valley Basin.

**SIXTH AFFIRMATIVE DEFENSE**

7. Any injunction against the production of groundwater to be served to points of use in Palmdale will cause undue hardship.

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**SEVENTH AFFIRMATIVE DEFENSE**

8. Plaintiffs have not complied with the Government Claims Act, Government Code sections 900, *et seq.*

**EIGHTH AFFIRMATIVE DEFENSE.**

9. For many years, public water suppliers have produced groundwater from the Basin and distributed the water through its water system to its customers for reasonable and beneficial uses, including to customers within the jurisdictional boundaries of Palmdale. Such production of groundwater from the Basin has been open, notorious and under claim of right, hostile to any rights of other parties, and has continued for a period of more than five consecutive years during which the Basin was in a state of overdraft. By reason of said historical production of groundwater, certain parties have acquired an appropriative or prescriptive right to groundwater that is equal or superior in priority to that of other parties herein.

**NINTH AFFIRMATIVE DEFENSE**

10. The parties herein, including plaintiffs, by their silence and inaction, have acquiesced to the public water suppliers’ extraction of groundwater from the Basin.

**TENTH AFFIRMATIVE DEFENSE**

11. The relief requested by plaintiffs is barred by Article X, section 2 of the California Constitution in that the requested relief would be wasteful and result in an unreasonable use, unreasonable method of use, or unreasonable method of diversion of water.

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**ELEVENTH AFFIRMATIVE DEFENSE**

12. The parties herein, including plaintiffs, have knowingly and intentionally waived any right to assert some or all of the claims set forth in each and every cause of action contained in their complaints and cross-complaints.

**TWELFTH AFFIRMATIVE DEFENSE**

13. 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 prescriptive water rights.

**THIRTEENTH AFFIRMATIVE DEFENSE**

14. By their acts and omissions, the parties herein, including plaintiffs, are estopped from asserting any of the claims upon which they seek relief.

**FOURTEENTH AFFIRMATIVE DEFENSE**

15. Some or all of plaintiffs' claims for relief are barred by the doctrine of laches. For at least five years prior to the commencement of the instant action, the Basin was in a continuous state of overdraft. That overdraft continued and was exacerbated by increased domestic and agricultural production. Palmdale has relied upon plaintiffs' inaction and failure to make a formal assertion of any prior and paramount right to that of Palmdale or its water suppliers.

**FIFTEENTH AFFIRMATIVE DEFENSE**

16. Some parties purchase water that is imported from outside the Basin and thereafter distribute that water to customers within the boundaries of the Basin. After use by these customers for irrigation, domestic, municipal and industrial uses, a portion of the imported water percolates in to the Basin and augments the native supply of water in the Basin. The party who imports such water has a right to extract from the Basin the

1 amount of water equal to the portion of water imported from outside the Basin which  
2 augments the Basin. This right is superior in priority to the rights claimed by some or all  
3 of plaintiffs.

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5 **SIXTEENTH AFFIRMATIVE DEFENSE**

6 17. On information and belief, the water production of the parties that provide  
7 water to Palmdale does not interfere with plaintiffs', or any of their, claimed water rights,  
8 except to the extent such water production has resulted in the creation of rights by  
9 prescription.

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11 **SEVENTEENTH AFFIRMATIVE DEFENSE**

12 18. Palmdale incorporates by reference each affirmative defense to the  
13 complaints or cross-complaints filed by any other defendant or cross-defendant, whether  
14 such answer was filed before or after the filing of this answer.

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16 **EIGHTEENTH AFFIRMATIVE DEFENSE**

17 19. Palmdale does not presently have sufficient knowledge or information on  
18 which to form a belief as to whether they may have additional, as yet unstated,  
19 affirmative defenses. Palmdale therefore reserves the right to assert additional  
20 affirmative defenses in the event discovery indicates that they would be appropriate.

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22 **NINETEENTH AFFIRMATIVE DEFENSE**

23 20. The Complaint fails to allege facts sufficient to constitute a cause of action  
24 or a claim against Palmdale upon which any form of relief may be granted.

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26 **TWENTIETH AFFIRMATIVE DEFENSE**

27 21. Palmdale is informed and believes, and on that basis alleges, that plaintiffs,  
28 and each of them, lack standing to pursue their claims against Palmdale.

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**TWENTY-FIRST AFFIRMATIVE DEFENSE**

22. The Complaint and each and every cause of action alleged therein is barred, in whole or in part, by the doctrine of ripeness.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

23. The Complaint and each and every cause of action alleged therein are barred, in whole or in part, by the equitable doctrine of unclean hands.

WHEREFORE, Palmdale prays for relief as follows:

1. For an *inter se* determination as to the priority and amount of Basin water to which each party is entitled to pump.
2. For a determination of the quantity of the safe yield, the quantity of surplus water available, the correlative overlying rights of the parties to the safe yield, the rights *inter se* among overlying, appropriative and prescriptive pumpers from the Basin.
3. For the imposition of a physical solution.
4. For a declaration of municipal priority.
5. For a determination of rights to store and recapture imported water, including return flows.
6. For a determination *inter se* as to reasonable uses of water in the Antelope Valley.
7. For its costs, including attorney's fees.
8. For declarations, orders and injunctions so as to implement a physical solution to manage water production in the Basin in order to maximize the beneficial use of that valuable resource.

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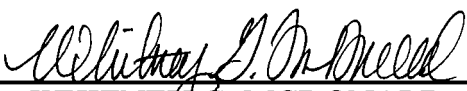
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9. For such other and further relief as the Court may deem just and proper.

Dated: September 12, 2008

WM. MATTHEW DITZHAZY  
City Attorney  
City of Palmdale

RICHARDS, WATSON & GERSHON  
A Professional Corporation  
JAMES L. MARKMAN  
STEVEN R. ORR  
WHITNEY G. MCDONALD

By:   
WHITNEY G. MCDONALD  
Attorneys for Defendant  
CITY OF PALMDALE