1 2 3 4 5 6 7	RICHARD G. ZIMMER - SBN 107263 T. MARK SMITH - SBN 162370 CLIFFORD & BROWN A Professional Corporation Attorneys at Law Bank of America Building 1430 Truxtun Avenue, Suite 900 Bakersfield, CA 93301-5230 (661) 322-6023 (661) 322-3508 (fax) Attorneys for Bolthouse Properties	es, LLC				
8	SUPERIOR COURT	OF CALIFORNIA				
9	COUNTY OF	SANTA CLARA				
10	*	* *				
11	COORDINATION PROCEEDING SPECIAL TITLE (Rule 1550(b))) Judicial Council Coordination) Proceeding No. 4408				
12	ANTELOPE VALLEY GROUNDWATER) CASE NO. 1-05-CV-049053				
13	CASES) CASE NO. 1-03-CV-049055				
14	INCLUDED ACTIONS:)) DOLUMNOMER PROPERMENT TICKS				
15	LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 v. DIAMOND	BOLTHOUSE PROPERTIES, LLC'S ANSWER TO CROSS-COMPLAINTS OF ROSAMOND COMMUNITY SERVICES				
16	FARMING COMPANY, et al.,	DISTRICT; LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40;				
17	Case No. BC325201	PALMDALE WATER DISTRICT; CITY OF LANCASTER; CITY OF PALMDALE;				
18	LOS ANGELES COUNTY WATERWORKS					
19) DISTRICT; CALIFORNIA WATER				
20	Case No. S-1500-CV-254348	VALLEY-EAST KERN WATER AGENCY; COUNTY OF SANITATION DISTRICTS				
21	DIAMOND FARMING COMPANY, and W.M. BOLTHOUSE FARMS, INC., v.					
22	CITY OF LANCASTER, et al., Riverside Superior Court					
23	Case No. RIC 344436 [c/w case no. RIC 344668 and 353840]					
24	ROSAMOND COMMUNITY SERVICES					
25	DISTRICT, CROSS-COMPLAINANT,					
26						

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

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FIRST AFFIRMATIVE DEFENSE

(General Denial)

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

SECOND AFFIRMATIVE DEFENSE

(Fails to State Facts)

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

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THIRD AFFIRMATIVE DEFENSE

(Willful Misconduct by Public Agency)

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

FOURTH AFFIRMATIVE DEFENSE

(Consent by Cross-Complainant)

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

FIFTH AFFIRMATIVE DEFENSE

(Estoppel)

FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and every alleged cause of action, this answering Cross-Defendant alleges Cross-Complainants have, by Cross-Complainants' conduct. statements acts, negligently, wrongfully, or intentionally or deliberately acted in such a way as to cause this answering Cross-Defendant to do the acts which said Cross-Complainants now allege are a basis for relief and Cross-Defendant alleges by reason of the conduct on the part of Cross-Complainants, that Cross-Complainants should now be estopped or barred from seeking the relief which is requested in the Cross-Complaints on file herein.

SIXTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

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

SEVENTH AFFIRMATIVE DEFENSE

(Unclean Hands)

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

EIGHTH AFFIRMATIVE DEFENSE

(Laches)

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

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3 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to each and 4 every alleged cause of action, this answering Cross-Defendant 5 alleges that Cross-Complainants failed to give notice of alleged prescription or other taking, either express or implied, 6 7 so as to bar the claims herein. 8 TENTH AFFIRMATIVE DEFENSE 9 (Waiver) 10 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering Cross-Defendant alleges that Cross-Complainants have waived the 11 things alleged in the Cross-Complaints, and that the claims herein 12 are barred by the doctrine of waiver. 13 14 ELEVENTH AFFIRMATIVE DEFENSE 15 (Actions As A Matter of Right) 16 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering 17 Cross-Defendant alleges the Cross-Complaints and each of 18 alleged causes of action therein fail due to Cross-Defendant 19 having duly acted within its rights as to the matters stated in the Cross-Complaints so as to bar the claims herein. 20 21 TWELFTH AFFIRMATIVE DEFENSE 22 (CEQA Non Compliance) 23 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering 24 Cross-Defendant alleges Cross-Complainants did not comply with 25 CEQA prior to engaging in the activities at issue in the Cross-Complaints so as to bar the claims herein.

NINTH AFFIRMATIVE DEFENSE

(Notice)

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THIRTEENTH AFFIRMATIVE DEFENSE

(Insufficient or Non Existent Groundwater Management Plan/Water Assessment)

 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering Cross-Defendant alleges Cross-Complainants did not comply with California requirements as to groundwater management plans and water assessments so as to bar the claims herein.

FOURTEENTH AFFIRMATIVE DEFENSE

(Negligent Filing Of Water Supply Documents)

FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering Cross-Defendant alleges that Cross-Complainants negligently filed water supply documents including but not limited to Water Supply Assessments, Environmental Impact Reports, Will Serve Letters etc resulting in justifiable reliance by Cross-Defendant that the water supply was sufficient and that no taking could occur which would give rise to a claim of adverse possession or prescription and that Cross-Complainants should be estopped from asserting a claim inconsistent with such entities representations.

FIFTEENTH AFFIRMATIVE DEFENSE

(Deceitful/Fraudulent Filing of Water Supply Documents)

FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering Cross-Defendant alleges that Cross-Complainants deceitfully and or fraudulently filed water supply documents including but not limited to Water Supply Assessments, Environmental Impact Reports, Will Serve Letters etc resulting in justifiable reliance by Cross-Defendant that the water supply was sufficient and that no taking

could	occur which	n wou	ld give	rise to a clai	m of ad	verse p	ossession
or pr	escription	and	that C	ross-Complainan	its sho	uld be	estopped
from	asserting	a	claim	inconsistent	with	such	entities
representations.							

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SIXTEENTH AFFIRMATIVE DEFENSE

(Negligent Misrepresentation)

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

SEVENTEENTH AFFIRMATIVE DEFENSE

(Intentional Misrepresentation)

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

EIGHTEENTH AFFIRMATIVE DEFENSE

(Indispensable Parties)

FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering

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

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NINETEENTH AFFIRMATIVE DEFENSE

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(Indispensable Parties: McCarran Act)

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

TWENTIETH AFFIRMATIVE DEFENSE

(Superior Water Right)

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

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Failure to Prove Priority Rights)

FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering Cross-Defendant alleges that Cross-Complainants have failed to prove priorities under California water law between as appropriators, as between appropriators and overlying landowners and as between all others necessary for the court to cut back water production in time of shortage based upon the California priority water allocation system so as to bar the claims herein.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Failure to Prove Prevention of Pumping)

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

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Unlawful Taking)

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

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Denial of Equal Protection)

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

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1 TWENTY-FIFTH AFFIRMATIVE DEFENSE 2 (Appurtenant Rights) 3 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering 4 Cross-Defendant alleges it has an appurtenant right to pump and 5 reasonably use groundwater on its properties which is superior to the rights of Cross-Complainants so as to bar the claims herein. 6 TWENTY-SIXTH AFFIRMATIVE DEFENSE 7 8 (Right to Return Flows) FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering 9 Cross-Defendant alleges it has pumped water from a lower aquifer 10 11 which is not significantly hydraulically connected to the upper 12 aquifer at issue in this case, and used the water so developed to 13 irrigate crops and that a portion of this water has reached the upper aquifer by percolation and Cross-Defendant has a right to 14 15 store this water in the upper aquifer and Cross-Defendant has a 16 paramount right against all other parties to this water, and a 17 paramount right against all other parties to recapture this water 18 or an equivalent amount so as to bar the claims herein. TWENTY-SEVENTH AFFIRMATIVE DEFENSE 19 20 (Self Help) 21 FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering 22 Cross-Defendant alleges that the doctrine of self help bars the 2.3 claims, allegations and remedies requested by Cross-Complainants. 24 TWENTY-EIGHTH AFFIRMATIVE DEFENSE 25 (Storage Rights)

FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering

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

TWENTY-NINTH AFFIRMATIVE DEFENSE

(Storage Space)

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

THIRTIETH AFFIRMATIVE DEFENSE

(No Net Augmentation)

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

THIRTY-FIRST AFFIRMATIVE DEFENSE

(No Net Augmentation For Replenishment)

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

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

THIRTY-SECOND AFFIRMATIVE DEFENSE

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(No Intent to Store/Bank Water)

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

THIRTY-THIRD AFFIRMATIVE DEFENSE

(No Basis For Physical Solution)

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

THIRTY-FOURTH AFFIRMATIVE DEFENSE

(Additional Defenses)

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
15	
16	By: Alle Comments
17	RICHARD G. ZIMMER, ESQ. T. MARK SMITH, ESQ.
18	Attorneys for BOLTHOUSE PROPERTIES, LLC
19	Bollinoodi Tikorakiras, Edo
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PROOF OF SERVICE

STATE OF CALIFORNIA COUNTY OF KERN:

I am a resident of the County aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 1430 Truxtun Avenue, Suite 900, Bakersfield, California, 93301.

On January 2, 2007, I served the BOLTHOUSE PROPERTIES, LLC'S ANSWER TO CROSS-COMPLAINTS OF ROSAMOND COMMUNITY SERVICES DISTRICT; LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; PALMDALE WATER DISTRICT; CITY OF LANCASTER; CITY OF PALMDALE; LITTLEROCK CREEK IRRIGATION DISTRICT; PALM RANCH IRRIGATION DISTRICT; CALIFORNIA WATER AGENCY; COUNTY OF SANITATION DISTRICTS NOS. 14 AND 20 OF LOS ANGELES COUNTY on the interested parties in said action.

(xx) BY SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX LITIGATION PURSUANT TO CLARIFICATION ORDER DATED OCTOBER 27, 2005.

) VIA FACSIMILE - [C.C.P. § 1013(e)]; - The telephone number of the sending facsimile machine was (661) 322-3508. The telephone(s) number of the receiving facsimile machine(s) is listed below. The Court, Rule 2004 and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), the machine was caused to print a transmission record of the transmission, a copy of which is attached hereto.

() VIA OVERNIGHT DELIVERY on the date below stated, pursuant to CCP \$1013(c)(d), I deposited such envelope with delivery fees fully prepaid with **CALIFORNIA OVERNIGHT**.

() BY MAIL I am readily familiar with the business' practice for collection and processing of correspondence and documents for mailing with the United States Postal Service. Under that practice, the correspondence and documents would be deposited with the United States Postal Service that same day, with postage thereon fully prepaid, in the ordinary course of business at Bakersfield, California.

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

Executed on January 2, 2007, at Bakersfield, California.

ROSEMARY MYERS