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LOS ANGELES COUNTY WATERWORKS

DISTRICT NO. 40

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – CENTRAL DISTRICT

**ANTELOPE VALLEY
GROUNDWATER CASES**

Included Actions:

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Superior
Court of California, County of Los
Angeles, Case No. BC 325201;

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Superior
Court of California, County of Kern, Case
No. S-1500-CV-254-348;

Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
Lancaster, Diamond Farming Co. v.
Palmdale Water Dist., Superior Court of
California, County of Riverside, Case Nos.
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 COMPLAINTS AND
ALL CROSS-COMPLAINTS**

1 Cross-Defendants Rosamond Community Services District and Los Angeles County
2 Waterworks District, No. 40 ("Cross-Defendants") hereby answer all Complaints and Cross-
3 Complaints in these coordinated proceedings including without limitation the Cross- Complaints
4 filed by City of Palmdale, Antelope Valley-East Kern Water Agency, County Sanitation Districts
5 Nos. 14 and 20, Diamond Farming Company, Bolthouse Properties, LLC, Antelope Valley
6 Groundwater Agreement Association (First Amended Complaint) and any other Complaints or
7 Cross-Complaints that now or hereafter assert claims against Cross-Defendants. Each Cross-
8 Defendant answers for itself and for no other Defendant. The use of the word "Cross-Defendants"
9 is a matter of convenience and readability and not intended to imply a joint answer.
10

11 **ANSWER**

12 Pursuant to Code of Civil Procedure section 431.30(d), Cross-Defendants hereby
13 generally deny each and every allegation contained in the Complaints and Cross-Complaints and
14 further deny that Plaintiffs and Cross-Complainants are entitled to any relief against Cross-
15 Defendants.
16

17 **FIRST AND SEPARATE AFFIRMATIVE DEFENSE**

18 (Failure to State a Cause of Action)

19 1. The Complaints and Cross-Complaints fail to state facts sufficient to constitute a
20 cause of action.
21

22 **SECOND AND SEPARATE AFFIRMATIVE DEFENSE**

23 (Waiver)

24 2. The Complaints and Cross-Complainants by their silence and inaction have
25 acquiesced to Cross-Defendants' extraction of groundwater from the Basin.
26
27
28

THIRD AND SEPARATE AFFIRMATIVE DEFENSE

(Unreasonable Use of Water)

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

FOURTH AND SEPARATE AFFIRMATIVE DEFENSE

(Waiver)

4. Plaintiffs and Cross-Complainants 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 the Cross-Complaints.

FIFTH AND SEPARATE AFFIRMATIVE DEFENSE

(Physical Solution)

5. 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

(Estoppel)

6. Cross-Defendants are informed and believe, and on that basis allege, that Plaintiffs and Cross-Complainants by their acts and omissions are estopped from asserting any of the claims upon which they seek relief.

SEVENTH AND SEPARATE AFFIRMATIVE DEFENSE

(Doctrine of Laches)

7. Some or all of Plaintiffs and Cross-Complainants' claims for relief are barred by the doctrine of laches. For at least five years prior to the commencement of the instant action, the

1 Basin was in a continuous state of overdraft. That overdraft continued and was exacerbated by
2 increased domestic and agricultural production. Cross-Defendants have relied upon Plaintiffs and
3 Cross-Complainants' inaction and their failure to make a formal assertion of any prior and
4 paramount right to that of Cross-Defendants.

5
6 **EIGHTH AND SEPARATE AFFIRMATIVE DEFENSE**

7 (Right to Recapture Imported Water)

8 8. Cross-Defendants purchase water which is imported from outside the Antelope
9 Valley Basin ("Basin") and is distributed to Cross-Defendants customers. After use by Cross-
10 Defendants customers for irrigation, domestic, municipal and industrial uses, a portion of the
11 imported water percolates into the Basin and augments the native supply of water in the Basin.
12 Cross-Defendants have a right to extract from the Basin the amount of water equal to the portion
13 of water imported by Cross-Defendants from outside the Basin which augments the Basin. This
14 right is superior in priority to the rights claimed by Plaintiffs and Cross-Complainants.

15
16 **NINTH AND SEPARATE AFFIRMATIVE DEFENSE**

17 (Non-Interference)

18 9. On information and belief, Cross-Defendants' water production does not interfere
19 in any way with Plaintiffs and Cross-Complainants' claimed water rights.

20
21 **TENTH AND SEPARATE AFFIRMATIVE DEFENSE**

22 (Failure to Join Necessary Parties)

23 10. Plaintiffs and Cross-Complainants have failed to join indispensable and necessary
24 parties, namely other landowners and water producers within the Basin.

25
26 **ELEVENTH AND SEPARATE AFFIRMATIVE DEFENSE**

27 (Appropriative/Prescriptive Rights)

28 11. For many years, Cross-Defendants have produced groundwater from the Basin and

distributed the water through its water system to its customers for reasonable and beneficial uses. Cross-Defendants' production of groundwater from the Basin has been open, notorious and under claim of right, hostile to any rights of Plaintiffs and Cross-Complainants, 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 Cross-Defendants' historical production of groundwater, Cross-Defendants have acquired an appropriative or prescriptive right to groundwater that is equal or superior in priority to that of the Cross-Complainants.

TWELFTH AND SEPARATE AFFIRMATIVE DEFENSE

(Right to Assert Additional Affirmative Defenses)

12. Plaintiffs and 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.

THIRTEENTH AND SEPARATE AFFIRMATIVE DEFENSE

(Tort Claims Act)

13. Plaintiffs and Cross-Complainants have failed to comply with the Tort Claims Act, Government Code Section 900 *et seq.*

FOURTEENTH AND SEPARATE AFFIRMATIVE DEFENSE

(Incorporation By Reference)

14. 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 Complaint or Cross-Complaint filed by any other party, whether their answers are filed before or after the filing of this answer.

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

- 3 1. That Plaintiffs take nothing by way of their Complaints;
- 4 2. That Cross-Complainants take nothing by way of their Cross-Complaints;
- 5 3. That Cross-Defendants be awarded attorneys' fees as may be allowed by statute or
6 law; and,
- 7 4. For such other and further relief as the court may deem just and proper.


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10 Dated: February 23, 2007

BEST BEST & KRIEGER LLP

11 By


ERIC D. 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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PROOF OF SERVICE

I, Kerry V. Keefe, 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 23, 2007, I served the within document(s):

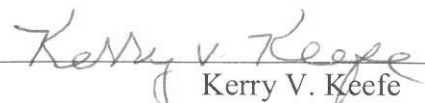
ANSWER OF ROSAMOND COMMUNITY SERVICES DISTRICT AND LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 TO COMPLAINTS AND ALL CROSS-COMPLAINTS

- ☒ 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 23, 2007, at Irvine, California.


Kerry V. Keefe