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*Exempt from filing fee pursuant to  
Gov't. Code Section 6103*

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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, Dept. 17

14 Palmdale Water District and Quartz Hill Water  
15 District,

**ANSWER OF ANTELOPE VALLEY-EAST  
KERN WATER AGENCY TO ALL  
COMPLAINTS AND CROSS-COMPLAINTS**

16 Cross-Complainants,

17 vs.

18 Los Angeles County Waterworks District No.  
19 40, et al.

20 Cross-Defendants.  
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22 Cross-Defendant ANTELOPE VALLEY-EAST KERN WATER AGENCY answers all  
23 Complaints and Cross-Complaints filed against this Cross-Defendant in these coordinated proceedings,  
24 excluding the Cross-Complaint filed by the Antelope Valley Groundwater Agreement Association (to  
25 which this Cross-Defendant has filed a separate Answer concurrently herewith), but including the Cross-

26 **ANSWER OF ANTELOPE VALLEY-EAST KERN WATER AGENCY**  
27 **TO ALL COMPLAINTS AND CROSS-COMPLAINTS**  
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1 Complaints filed by Palmdale Water District and Quartz Hill Water District, the City of Palmdale, Los  
2 Angeles County Sanitation Districts Nos. 14 and 20, Diamond Farming Company, and Bolthouse  
3 Properties LLC, and any other Complaints and Cross-Complaints that now or hereafter assert claims  
4 against this Cross-Defendant (collectively, the "Cross-Complaints"), as follows:

5 **GENERAL DENIAL**

6 1. Pursuant to Code of Civil Procedure Section 431.30(d), this Cross-Defendant hereby  
7 generally denies each and every allegation set forth in the Cross-Complaints, and the whole thereof, and  
8 further denies that any party thereto is entitled to any relief against this Cross-Defendant.

9 **AFFIRMATIVE DEFENSES**

10 **FIRST AFFIRMATIVE DEFENSE**

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

12 2. The Cross-Complaints and every purported cause of action contained therein fail to allege  
13 facts sufficient to constitute a cause of action against this Cross-Defendant.

14 **SECOND AFFIRMATIVE DEFENSE**

15 **(Uncertainty)**

16 3. The parties to the Cross-Complaints are not entitled to any relief against this Cross-  
17 Defendant since said Cross-Complaints are fatally uncertain in that the geographic location and extent of  
18 the groundwater basin as to which said parties seek a comprehensive adjudication of groundwater right  
19 is not described with sufficient specificity.

20 **THIRD AFFIRMATIVE DEFENSE**

21 **(Non-Interference)**

22 4. This Cross-Defendant has not and does not engage in any water production or other  
23 activities that in any way interfere with the claimed water rights of the parties to the Cross-Complaints.

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**FOURTH AFFIRMATIVE DEFENSE**

**(Consent)**

5. On information and belief, the parties to the Cross-Complaints and their predecessors have been aware for many years of this Cross-Defendant's activities, including but not limited to this Cross-Defendant's expenditures of significant amounts of public money, time, and resources to develop the facilities necessary to supplement local groundwater supplies with import water from the State Water Project and to deliver, sell, store, recover, and conjunctively use said water within the groundwater basin. The parties to the Cross-Complaints, by their silence and inaction, have acquiesced to this Cross-Defendant's activities. The parties to the Cross-Complaints have unreasonably delayed commencement of this action to prejudice this Cross-Defendant.

**FIFTH AFFIRMATIVE DEFENSE**

**(Laches)**

6. The Cross-Complaints, and each and every cause of action contained therein, are barred by the doctrine of laches.

**SIXTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

7. The Cross-Complaints, and each and every cause of action contained therein, are barred by the doctrine of estoppel.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Waiver)**

8. The Cross-Complaints, and each and every cause of action contained therein, are barred by the doctrine of waiver.

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1 **EIGHTH AFFIRMATIVE DEFENSE**

2 **(Unclean Hands)**

3 9. The parties to the Cross-Complaints are barred from recovery under the Cross-Complaints,  
4 and each and every cause of action contained therein, by the doctrine of unclean hands.

5 **NINTH AFFIRMATIVE DEFENSE**

6 **(Civil Code Section 1007)**

7 10. Each and every cause of action contained in the Cross-Complaints, and the relief sought  
8 therein, is barred in whole or in part by Civil Code Section 1007.

9 **TENTH AFFIRMATIVE DEFENSE**

10 **(Statute of Limitations)**

11 11. Each and every cause of action contained in the Cross-Complaints, and the relief sought  
12 therein, is barred in whole or in part by applicable statutes of limitation, including but not limited to  
13 Sections 318, 319, 321, 337, 338, 339, 342, and/or 343 of the California Code of Civil Procedure.

14 **ELEVENTH AFFIRMATIVE DEFENSE**

15 **(Failure to Join Indispensable and/or Necessary Parties)**

16 12. The Cross-Complaints are barred by Code of Civil Procedure Section 389 on the ground  
17 that the parties to said Cross-Complaints have failed to name or join indispensable and/or necessary  
18 parties, including but not limited to other landowners and producers of water within the Antelope Valley  
19 Groundwater Basin.

20 **TWELFTH AFFIRMATIVE DEFENSE**

21 **(Adequate Legal Remedy)**

22 13. The equitable relief sought in the Cross-Complaints is unavailable as against this Cross-  
23 Defendant since the parties to said Cross-Complaints have adequate legal remedies for the injuries, if any,  
24 purportedly resulting from the actual or threatened conduct of this Cross-Defendant as alleged in the  
25 Cross-Complaints.

1 **THIRTEENTH AFFIRMATIVE DEFENSE**

2 **(Self-Help)**

3 14. The relief sought in the Cross-Complaints is unavailable as against this Cross-Defendant  
4 since this Cross-Defendant has preserved its rights by virtue of the doctrine of self-help.

5 **FOURTEENTH AFFIRMATIVE DEFENSE**

6 **(California Constitution, Article X, Section 2)**

7 15. The parties to the Cross-Complaints should not be permitted to utilize or otherwise benefit  
8 from methods of water use and storage that are unreasonable and wasteful in the arid conditions of the  
9 Antelope Valley and thereby violate Article X, Section 2, of the California Constitution.

10 **FIFTEENTH AFFIRMATIVE DEFENSE**

11 **(Impairment of Contract)**

12 16. This Cross-Defendant has a contract with the State of California to purchase and deliver  
13 import water from the State Water Project, which is the primary source of supplemental water to the  
14 Antelope Valley Groundwater Basin. The right of this Cross-Defendant to continue to perform and  
15 enforce its vested contract entitlements for the benefit of all interests in the Antelope Valley Groundwater  
16 Basin is essential to the development and implementation of a physical solution to the overdraft conditions  
17 in said Basin and, thus, must be preserved in the adjudication of the rights claimed or relief sought  
18 pursuant to the Cross-Complaints.

19 **SIXTEENTH AFFIRMATIVE DEFENSE**

20 **(No Right to Re-Use Percolated Import Water)**

21 17. This Cross-Defendant purchases water imported from outside the watershed and distributes  
22 the purchased water through its waterworks systems to its customers. After use by the customers for  
23 irrigation, domestic, municipal, and industrial uses, a portion of these imported waters percolates into the  
24 ground and commingles with the percolating ground waters contained in the Antelope Valley  
25 Groundwater Basin and thereby augments the natural supply of water therein. Any relief granted pursuant

1 to the Cross-Complaints should not include the right of any party to extract from said Basin any portion  
2 of the percolated water imported by this Cross-Defendant from outside the watershed. The retention of  
3 such water to augment the supply of water in the Basin and to contribute toward the development and  
4 implementation of a physical solution to the overdraft of said Basin must be preserved as a community  
5 asset and protected from extraction and individual allocation.

6 **SEVENTEENTH AFFIRMATIVE DEFENSE**

7 **(Storage of Return Flows)**

8 18. The storage of return flows to augment the supply of water in the Antelope Valley  
9 Groundwater Basin and to contribute toward the development and implementation of a physical solution  
10 to the overdraft of said Basin must be preserved as a community asset and protected from extraction and  
11 individual allocation in the adjudication of rights claimed or relief sought pursuant to the Cross-  
12 Complaints.

13 **EIGHTEENTH AFFIRMATIVE DEFENSE**

14 **(Dedication to Public Use)**

15 19. All of the supplemental water delivered by this Cross-Defendant to the Antelope Valley  
16 Groundwater Basin is devoted to the public use of distributing the same through their waterworks system  
17 for irrigation, domestic, municipal, and industrial uses by this Cross-Defendant's customers. As a result  
18 of this dedication to public use, the parties to the Cross-Complaints should not be permitted to obtain any  
19 judicial relief that will in any way restrain, prevent, or otherwise impair this Cross-Defendant from  
20 continuing to perform such public services or adversely affect its vested contract entitlements.

21 **NINETEENTH AFFIRMATIVE DEFENSE**

22 **(Physical Solution)**

23 20. Any physical solution to the overdraft of the Antelope Valley Groundwater Basin that is  
24 developed, or other form of declaratory relief that is imposed, pursuant to the Cross-Complaints must give  
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1 due regard to the water rights of all competing interests in said Basin and must allocate such rights on an  
2 equitable basis.

3 **TWENTIETH AFFIRMATIVE DEFENSE**

4 **(No Allocation of Storage Rights)**

5 21. Any judicial allocation of production rights to the water in the Antelope Valley  
6 Groundwater Basin pursuant to the Cross-Complaints should not serve as the basis for adjudicating  
7 storage rights in said Basin since the Basin's unused storage capacity should remain a community asset  
8 for the benefit of all interests, rather than divided among individual parties for their sole and separate use.

9 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

10 **(Hardship)**

11 22. Any injunction sought against the activities of this Cross-Defendant pursuant to the Cross-  
12 Complaints will cause undue hardship to this Cross-Defendant and its customers and should not be issued  
13 by the Court.

14 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

15 **(Tort Claims Act)**

16 23. The parties to the Cross-Complaints have failed to comply with the requirements of the  
17 California Tort Claims Act, Government Code Section 900 et seq.

18 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

19 **(Incorporation by Reference)**

20 24. As permitted by the Court's Appearance Form, this Cross-Defendant incorporates herein  
21 by this reference each affirmative defense to the Cross-Complaints (as well as all affirmative defenses to  
22 all other Complaints and Cross-Complaints on file herein) filed by any other party, whether or not asserted  
23 before or after the filing of this Answer.

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1 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

2 **(Additional Defenses)**

3 25. The Cross-Complaints fail to state allegations with sufficient particularity or clarity to  
4 enable this Cross-Defendant to determine whether any other additional defenses may exist to the causes  
5 of action set forth therein. This Cross-Defendant therefore reserves the right to assert all other that may  
6 pertain to the Cross-Complaints once the precise nature of said causes of action is more fully ascertained.

7 WHEREFORE, this Cross-Defendant prays that Judgment be entered under the Cross-Complaints  
8 as follows:

9 1. That the parties to the Cross-Complaints take nothing and be granted no relief by reason  
10 of their Cross-Complaints;

11 2. That the Cross-Complaints be dismissed with prejudice;

12 3. For a physical solution to the overdraft of the Antelope Valley Groundwater Basin that:

13 (a) Fully recognizes the rights of this Cross-Defendant, including but not limited to the  
14 unabated right of this Cross-Defendant to purchase and deliver import water into the Antelope Valley  
15 Groundwater Basin from the State Water Project pursuant to this Cross-Defendant's contract with the  
16 State of California;

17 (b) Preserves the ability of this Cross-Defendant to continue to perform its contractual  
18 obligations and provide all other services within said Basin as will benefit the interests of the public;

19 (c) Prohibits waste and unreasonable use of groundwater resources within the Antelope  
20 Valley Groundwater Basin;

21 (d) Provides that return flows should be stored in the Antelope Valley Groundwater  
22 Basin as a community asset for contribution to the physical solution, rather than be made available for  
23 individual extraction by any party to the Cross-Complaints;

24 (e) Prevents the allocation of unused storage capacity to individual parties for their sole  
25 and separate use; and

26 **ANSWER OF ANTELOPE VALLEY-EAST KERN WATER AGENCY**  
27 **TO ALL COMPLAINTS AND CROSS-COMPLAINTS**



1 (f) Results in the equitable distribution of rights and obligations of all parties with  
2 respect to the production and management of groundwater resources in the Antelope Valley Groundwater  
3 Basin;

4 4. For this Cross-Defendant's attorneys, appraisers, and experts fees and costs incurred herein;

5 5. For this Cross-Defendant's costs of suit incurred herein; and

6 6. For such other and further relief as the Court deems just and proper.

7 Dated: April 24, 2007

BRUNICK, McELHANEY & BECKETT

8  
9 By: wm / R

William J. Brunick

Steven K. Beckett

Steven M. Kennedy

Attorneys for ANTELOPE VALLEY-EAST KERN  
WATER AGENCY

[illegible]

I am employed in the County of the San Bernardino, State of California. I am over the age of 18 and not a party to the within action; my business address is 1839 Commercenter West, San Bernardino, California.

On April 24, 2007, I served the foregoing document(s) described as: **ANSWER OF ANTELOPE VALLEY-EAST KERN WATER AGENCY TO ALL COMPLAINTS AND CROSS-COMPLAINTS** on the interested parties in this action served in the following manner:

**XX BY ELECTRONIC SERVICE AS FOLLOWS** by posting the document(s) listed above to the Santa Clara website in the action of the *Antelope Valley Groundwater Litigation*, Judicial Council Coordination Proceeding No. 4408, Santa Clara Case No. 1-05-CV-049053.

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

Executed on April 24, 2007, at San Bernardino, California.

*P. Jo Anne Quihuis*  
P. Jo Anne Quihuis