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Attorneys for ANTELOPE VALLEY- EAST KERN WATER AGENCY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

Coordination Proceeding  
Special Title (Rule 1550(b))

**ANTELOPE VALLEY GROUNDWATER  
CASES**

Palmdale Water District and Quartz Hill Water  
District,

Cross-Complainants,

vs.

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

Cross-Defendants.

Judicial Council Coordination Proceeding  
No. 4408

**Santa Clara Case No. 1-05-CV-049053**  
Assigned to The Honorable Jack Komar, Dept. 17

**ANSWER OF ANTELOPE VALLEY-EAST  
KERN WATER AGENCY TO CROSS-  
COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Cross-Defendant ANTELOPE VALLEY-EAST KERN WATER AGENCY answers the Cross-  
Complaint of Palmdale Water District and Quartz Hill Water District (“Cross-Complainants”) as follows:

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**ANSWER OF ANTELOPE VALLEY-EAST KERN WATER AGENCY TO CROSS-COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF**

1 **GENERAL DENIAL**

2 1. Pursuant to Code of Civil Procedure Section 431.30(d), Cross-Defendant hereby generally  
3 denies each and every allegation set forth in the Cross-Complaint, and the whole thereof, and further  
4 denies that Cross-Complainants are entitled to any relief against Cross-Defendant.

5 **AFFIRMATIVE DEFENSES**

6 **FIRST AFFIRMATIVE DEFENSE**

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

8 2. The Cross-Complaint and every purported cause of action contained therein fail to allege  
9 facts sufficient to constitute a cause of action against Cross-Defendants.

10 **SECOND AFFIRMATIVE DEFENSE**

11 **(Uncertainty)**

12 3. Cross-Complainants are not entitled to any relief as the Cross-Complaint is fatally  
13 uncertain in that the geographic location and extent of the groundwater basin as to which Cross-  
14 Complainants seek a comprehensive adjudication of groundwater right is not described with sufficient  
15 specificity.

16 **THIRD AFFIRMATIVE DEFENSE**

17 **(Non-Interference)**

18 4. Cross-Defendant has not and does not engage in any water production or other activities  
19 that in any way interfere with Cross-Complainants' claimed water rights.

20 **FOURTH AFFIRMATIVE DEFENSE**

21 **(Consent)**

22 5. On information and belief, Cross-Complainants and their predecessors have been aware  
23 for many years of Cross-Defendant's activities, including but not limited to Cross-Defendant's  
24 expenditures of significant amounts of public money, time, and resources to develop the facilities  
25 necessary to supplement local groundwater supplies with import water from the State Water Project and  
26 to deliver, sell, store, recover, and conjunctively use said water within the groundwater basin. Cross-

1 Complainants, by their silence and inaction, have acquiesced to Cross-Defendant's activities. Cross-  
2 Complainants have unreasonably delayed commencement of this action to prejudice Cross-Defendants.

3 **FIFTH AFFIRMATIVE DEFENSE**

4 **(Laches)**

5 6. The Cross-Complaint, and each and every cause of action contained therein, is barred by  
6 the doctrine of laches.

7 **SIXTH AFFIRMATIVE DEFENSE**

8 **(Estoppel)**

9 7. The Cross-Complaint, and each and every cause of action contained therein, is barred by  
10 the doctrine of estoppel.

11 **SEVENTH AFFIRMATIVE DEFENSE**

12 **(Waiver)**

13 8. The Cross-Complaint, and each and every cause of action contained therein, is barred by  
14 the doctrine of waiver.

15 **EIGHTH AFFIRMATIVE DEFENSE**

16 **(Unclean Hands)**

17 9. Cross-Complainants are barred from recovery under the Cross-Complaint, and each and  
18 every cause of action contained therein, by the doctrine of unclean hands.

19 **NINTH AFFIRMATIVE DEFENSE**

20 **(Civil Code Section 1007)**

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

23 **TENTH AFFIRMATIVE DEFENSE**

24 **(Statute of Limitations)**

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

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1 **SIXTEENTH AFFIRMATIVE DEFENSE**

2 **(Right to recapture imported water)**

3 17. Cross-Defendant purchases water imported from outside the watershed and distributes the  
4 purchased water through its waterworks systems to its customers. After use by the customers for  
5 irrigation, domestic, municipal, and industrial uses, a portion of these imported waters percolates into the  
6 ground and commingles with the percolating ground waters contained in the Basin and thereby augments  
7 the natural supply of water in the Basin. Cross-Defendant has a right to extract from the Basin an amount  
8 of water equal to the portion of the water imported by Cross-Defendant from outside the watershed that  
9 augments the supply of water in the Basin. This right is superior in priority to the rights claimed by Cross-  
10 Complainants.

11 **SEVENTEENTH AFFIRMATIVE DEFENSE**

12 **(Dedication to Public Use)**

13 18. All the supplemental water delivered by Cross-Defendant to the Basin is devoted to the  
14 public use of distributing the same through their waterworks system for irrigation, domestic, municipal,  
15 and industrial uses by Cross-Defendant's customers. As a result of this dedication to public use, Cross-  
16 Complainants cannot obtain any judicial relief that will in any way restrain or prevent Cross-Defendant  
17 from exercising its rights to extract groundwater from the Basin.

18 **EIGHTEENTH AFFIRMATIVE DEFENSE**

19 **(Physical Solution)**

20 19. In the event of the imposition of a physical solution or some other form of declaratory  
21 relief, due regard must be given to the water rights of Cross-Defendant.

22 **NINETEENTH AFFIRMATIVE DEFENSE**

23 **(Hardship)**

24 20. Any injunction issued against any activities of Cross-Defendant will cause undue hardship  
25 to Cross-Defendant and its customers.

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1 **TWENTIETH AFFIRMATIVE DEFENSE**

2 **(Additional Defenses)**

3 21. The Cross-Complaint does not state Cross-Complainants' allegations with sufficient  
4 particularity or clarity to enable Cross-Defendant to determine whether any other additional defenses may  
5 exist to Cross-Complainants' causes of action. Cross-Defendant therefore reserves the right to assert all  
6 other that may pertain to the Cross-Complaint once the precise nature of Cross-Complainants' causes of  
7 action is more fully ascertained.

8 WHEREFORE, Cross-Defendant prays that Judgment be entered against Cross-Complainants as  
9 follows:

- 10 1. That Cross-Complainants take nothing and be granted no relief by reason of their Cross-  
11 Complaint;  
12 2. That the Cross-Complaint be dismissed with prejudice;  
13 3. For Cross-Defendant's attorneys, appraisers, and experts fees and costs incurred herein;  
14 4. For Cross-Defendant's costs of suit incurred herein; and  
15 5. For such other and further relief as the Court deems just and proper.

16 Dated: August 30, 2006

BRUNICK, McELHANEY & BECKETT

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19 Steven K. Beckett  
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22 KERN WATER AGENCY  
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