EXHIBIT 5

1	William J. Brunick, Esq. [SB No. 46289]	
2	Steven K. Beckett, Esq. [SB No. 97413] Steven M. Kennedy, Esq. [SB No. 141061] BRUNICK, McELHANEY & BECKETT	Exempt from filing fee pursuant to Gov't. Code Section 6103
3	1839 Commercenter West P.O. Box 6425	GOY & COME DECIMON 0103
4	San Bernardino, California 92412-6425 Telephone: (909) 889-8301	
5	Facsimile: (909) 388-1889	
6	Attorneys for ANTELOPE VALLEY-EAST KEI	RN WATER AGENCY
7		
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	Santa Clara Case No. 1-05-CV-049053
13	CASES	Assigned to The Honorable Jack Komar, Dept. 17
14	A.A.L. V. II F. et V W. t. A. en es	CDOCC COMBLAINT OF ANTEL ORF
15	Antelope Valley-East Kern Water Agency,	CROSS-COMPLAINT OF ANTELOPE VALLEY-EAST KERN WATER AGENCY
16	Cross-Complainant,	FOR DECLARATORY AND INJUNCTIVE RELIEF
17	VS.	Round
18	Palmdale Water District; Quartz Hill Water	
19	District; Los Angeles County Waterworks	
20	District No. 40; Rosamond Community Services District; Diamond Farming Company,	
21	a corporation; Wm. Bolthouse Farms, Inc., a corporation; Bolthouse Properties, Inc.;	
22	California Water Service Company; City of	
23	Lancaster; City of Los Angeles; City of Palmdale; Littlerock Creek Irrigation District;	
24	Palm Ranch Irrigation District; Edwards Air	
25	Force Base, California; United States Department of The Air Force; ABC Williams	
26	Enterprises LP; Airtrust Singapore Private	€U
27	Limited; Marwan M. Aldais; Allen Alevy; Allen Alevy and Alevy Family Trust; A V	j
28	Materials, Inc.; Guss A. Barks, Jr.; Peter G.	

Trustee for the Lilian S. Kaufman Trust;

28

Kazuko Yoshimatsu; Billy H. Kim; Kootenai Properties, Inc.; Gailen Kyle; Gailen Kyle as Trustee of the Kyle Trust; James W. Kyle; James W. Kyle as Trustee of the Kyle Family Trust; Julia Kyle; Wanda E. Kyle; Fares A. Lahoud; Ying Wah Lam; Land Business Corporation; Lawrence Charles Trust; Leslie Property; Light Andrew & Youngnam; Man C. Lo; Shiung Ru Lo; Lyman C. Miles; Lyman C. Miles as Trustee for the Miles Family Trust; Malloy Family Partners LP; Mission Bell Ranch Development; Barry S. Munz; Kathleen M. Munz; Terry A. Munz; M.R. Nasir; Eugene B. Nebeker; Simin C. Newman; Henry Ngo; Frank T. Nguyen; Juanita R. Nichols; Oliver Nichols; Oliver Nichols as Trustee of the Nichols Family Trust; Owl Properties, Inc.: Norman L. Poulsen; Elias Qarmout; Victoria Rahimi; R and M Ranch; Veronika Reinelt: Reinelt Rosenloecher Corp. PSP; Patricia J. Riggins; Patricia J. Riggins as Trustee of the Riggins Family Trust; Edgar C. Ritter; Paula E. Ritter; Paula E. Ritter as Trustee of the Ritter Family Trust; Romo Lake Los Angeles Partnership; Rosemount Equities LLC Series; Royal Investors Group; Royal Western Properties LLC; Santa Monica Mountains Conservancy; San Yu Enterprises, Inc.; Daniel Saparzadeh; Helen Stathatos; Savas Stathatos; Savas Stathatos as Trustee for the Stathatos Family Trust; Martin Schwartz; Martin Schwartz as Trustee of the Burroughs IRR Family Trust; Seven Star United LLC; Mark H. Shafron; Robert L. Shafron; Kamram S. Shakib; Donna L. Simpson; Gareth L. Simpson; Gareth L. Simpson as Trustee of the Simpson Family Trust; Soaring Vista Properties, Inc.: Maurice H. Stans; State of California; George C. Stevens, Jr.; George C. Stevens, Jr. as Trustee of the George C. Stevens, Jr. Trust; George L. Stimson, Jr.; George L. Stimson, Jr. as Trustee of the George L. Stimson, Jr. Trust; Tejon Ranchcorp; Tierra Bonita Ranch Company; Tiong D. Tiu; Beverly J. Tobias;

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Beverly J. Tobias as Trustee of the Tobias Family Trust; Jung N. Tom; Sheng Tom; Wilma D. Trueblood; Wilma D. Trueblood as Trustee of the Trueblood Family Trust; Unison Investment Co., LLC; Delmar D. Van Dam; Gertrude J. Van Dam; Keith E. Wales; E C Wheeler LLC; WM Bolthouse Farms, Inc.; Alex Wodchis; Elizabeth Wong; Mary Wong; Mike M. Wu; Mike M. Wu as Trustee of the Wu Family Trust; State of California 50th District and Agricultural Association; and Does 1 through 25,000,

Cross-Defendants.

Cross-Complainant ANTELOPE VALLEY-EAST KERN WATER AGENCY alleges:

INTRODUCTION

1. This Cross-Complaint for declaratory and injunctive relief seeks a judicial determination of rights to all water within the Antelope Valley Groundwater Basin (the "Basin"). An adjudication is necessary to protect and conserve the limited water supply that is vital to the public health, safety, and welfare of all persons and entities that depend upon native water from the Basin and supplemental water from Cross-Complainant. For these reasons, Cross-Complainant files this Cross-Complaint to protect the general public welfare in the Antelope Valley and to protect the Antelope Valley from a loss of the public's water supply.

PARTIES

- 2. Cross-Complainant is self-governing special district duly organized and operating pursuant to the Antelope Valley-East Kern Water Agency Law, California Water Code Appendix Section 98-49 et seq. This action is brought by Cross-Complainant under and pursuant to the powers granted it by the Antelope Valley-East Kern Water Agency Law.
- 3. The jurisdictional boundaries of Cross-Complainant are located in the Antelope Valley and include a majority of the land mass overlying the Basin. Cross-Complainant is a party to a long-term

contract with the State of California that entitles Cross-Complainant to receive the greatest amount of import water from the State Water Project for delivery and use within the Basin.

- 3. On information and belief, each party named herein as a Cross-Defendant are persons or entities that own and/or possess a beneficial interest in real property overlying the Basin, and/or extract groundwater from the Basin, and/or claim a right to extract groundwater from the Basin, and/or have or assert claims adverse to Cross-Complainant's rights and interests.
- 4. Cross-Complainant is informed and believes, and thereon alleges, that Cross-Defendants DOES 1 through 25,000 are the owners, lessees, or other persons or entities holding or claiming to hold ownership or possessory interests in real property within the boundaries of the Basin; extract water from the Basin; claim some right, title or interest to water located within the Basin; or that they have or assert claims adverse to Cross-Complainant's rights and interests. Cross-Complainant is presently unaware of the true names and capacities of these DOE Cross-Defendants, and therefore sues those Cross-Defendants by fictitious names. Cross-Complainant will seek leave to amend this Cross-Complaint to add names and capacities when they are ascertained.

BACKGROUND

- 5. The Basin is located in the Antelope Valley, a topographically closed basin in the western part of the Mojave Desert, about 50 miles northeast of Los Angeles. Cross-Complainant is informed and believes, and thereon alleges, that the Basin is several hundred square miles in diameter with outer boundaries to be determined according to proof at the time of trial. The Basin has been divided by various researchers into sub-basins; however, according to Cross-Complainant's present information and belief, the sub-basins are sufficiently hydrologically connected as to justify treating them as a single source of groundwater for purposes of determining groundwater rights.
- 6. Due to the shortage of water in the Basin, certain Cross-Defendants and other public water suppliers purchase State Water Project water from Cross-Complainant. State Project water originates in northern California and would not reach the Basin absent the importation thereof by Cross-Complainant.
- 7. The parties to whom Cross-Complainant sells State Project water each year deliver said water to their customers through waterworks systems. The retail customers use the State Project water for irrigation, domestic, municipal, and industrial uses. After the water consumers use the water, some

of the imported State Project water commingles with other percolating groundwater in the Basin. In this way, State Project water augments the natural supply of Basin water.

8. All parties herein depend on the Basin as an important source of water. But for Cross-Complainant's importation of State Project water into the Basin, Cross-Defendants would need to pump additional groundwater from the Basin each year. By storing State Project water or other imported water in the Basin, the parties herein can recover the stored water during time of drought, water supply emergencies, or other water shortages to ensure a safe and reliable supply of water to the public.

OVERDRAFT

- 9. Cross-Complainant is informed and believes, and upon that basis alleges, that the Basin is and has been in an overdraft condition for more than five (5) consecutive years before the filing of this Cross-Complaint. During these time periods, the total annual demand on the Basin has exceeded the supply of water from natural sources. Consequently, there is and has been a progressive and chronic decline in Basin water levels and the available natural supply is being and has been chronically depleted. Based on the present trends, demand on the Basin will continue to exceed supply. Until limited by order and judgment of the court, potable Basin water will be exhausted and land subsidence will continue.
- 10. Upon information and belief, the Cross-Defendants have, and continue to, pump, appropriate, and divert water from the natural supply of the Basin, and/or claim some interest in the Basin water. Cross-Complainant is informed and believes, and upon that basis alleges, that Cross-Defendants combined extraction of water exceeds the Basin's safe yield.
- 11. Upon information and belief, each Cross-Defendant claims a right to take water and threatens to increase its taking of water without regard to Cross-Complainant's rights. Cross-Defendants pumping reduces Basin water tables and contributes to the deficiency of the Basin water supply as a whole. The deficiency creates a public water shortage.
- 12. Cross-Complainant is informed and believes, and on the basis of such information and belief alleges, that each Cross-Defendant produces and uses water taken from the available supply within the Basin; that each Cross-Defendant claims rights to produce and use such water in amounts at least equal to their present uses; and that many Cross-Defendants claim the right and threaten to take increasing

quantities of such water. Cross-Complainant is presently unaware of the exact nature or quantity of the right, if any, which each such Cross-Defendant claims,

- 13. Based upon information and belief, Cross-Complainant alleges that the aggregate amounts of water produced annually from the area of influence by and for the use of Cross-Defendants, under claim of rights, and by all others taking water therefrom and having rights therein, presently exceed the maximum quantity of water which can be produced annually from the available supply within the Basin, without unreasonably depleting and causing the eventual destruction of the groundwater as a source of supply for all those having rights therein.
- 14. Based upon information and belief, Cross-Complainant alleges that unless the rights, if any of Cross-Defendants to produce water from the available supply within the Basin are each determined and established, and those without rights are limited as prayed, the available supply will eventually become endangered. New pumpers and those who continue to increase their quantities of production will acquire new rights to greater quantities of water which will reduce the rights of many persons who presently produce water, and eventually will render the available supply inadequate to fulfill all rights.
- 15. Cross-Defendants' continued and increasing extraction of Basin water has resulted in, and will result in a diminution, reduction and impairment of the Basin's water supply, and land subsidence
- 16. Cross-Defendants' continued and increasing extraction of Basin water has and will deprive the Cross-Complainant of its rights to provide water for the public health, welfare, and benefit.
- 17. Cross-Defendants' methods of water use and storage are unreasonable and wasteful in the arid conditions of the Antelope Valley and thereby violate Article X, Section 2, of the California Constitution.

CONTROVERSY

- 18. Cross-Complainant is are informed and believes, and thereon alleges, that there are conflicting claims of rights to the Basin and/or its water.
- 19. Cross-Complainant has a right to store water in the Basin and to extract the stored water for later use.

20. Cross-Complainant's water rights as described above are equal or superior in priority to those of any Cross-Defendant.

FIRST CAUSE OF ACTION

(Declaratory Relief - Water Rights - Against All Cross-Defendants)

- 21. Cross-Complainant re-alleges and incorporates by reference each and all of the preceding paragraphs as though fully set forth herein.
- 22. An actual controversy has arisen between Cross-Complainant and each of the Cross-Defendants as to the nature, extent, and priority of each party's right to produce groundwater from and store water in the Basin. Cross-Complainant's contentions are as set forth above. On information and believe, Cross-Defendants dispute these contentions.
- 23. A controversy also exists concerning physical facts of the Basin such as basin boundaries, degree of separation between sub-basins, and safe yield. Cross-Complainant's contentions are as set forth above. On information and belief, Cross-Defendants dispute these contentions.

SECOND CAUSE OF ACTION

(Declaratory Relief - Physical Solution - Against All Cross-Defendants)

- 24. Cross-Complainant re-alleges and incorporates by reference each and all of the preceding paragraphs as though fully set forth herein.
- 25. Upon information and belief, Cross-Complainant alleges that Cross-Defendants, and each of them, claim an interest or right to Basin water, and further claim they can increase their pumping without regard to the rights of Cross-Complainant. Unless restrained by order of the Court, Cross-Defendants will continue to take increasing amounts of water from the Basin, causing great and irreparable damage and injury to Cross-Complainant and to the Basin. Money damages cannot compensate for the damage and injury to the Basin.
- 26. The amount of Basin water available to Cross-Complainant has been reduced because Cross-Defendants have extracted, and continue to extract, increasingly large amounts of water from the Basin. Unless the court enjoins and restrains Cross-Defendants, and each of them, the aforementioned

conditions will worsen. Consequently, the Basin's groundwater supply will be further depleted, thus reducing the amount of Basin water available to the public.

- 27. California law makes it the duty of the trial court to consider a "physical solution" to water rights disputes. A physical solution is a common-sense approach to resolving water rights litigation that seeks to satisfy the reasonable and beneficial needs of all parties through augmenting the water supply or other practical measures. The physical solution is a practical way of fulfilling the mandate of the California Constitution (Article X, section 2) that the water resources of the State be put to use to the fullest extend of which they are capable.
- 28. This court must determine, impose and retain continuing jurisdiction in order to enforce a physical solution upon the parties who pump water from the Basin, and thereby prevent irreparable injury to the Basin. Available solutions to the Basin problems may include, but are not limited to, the court appointment of a Watermaster, and monetary and metering and assessments upon water extraction from the Basin. Such assessments would pay for the purchase of supplemental water from Cross-Complainant for delivery to the Basin.

THIRD CAUSE OF ACTION

(Declaratory Relief - Storage Of Imported Water - Against All Cross-Defendants)

- 29. Cross-Complainant re-alleges and incorporates by reference each and all of the preceding paragraphs as though fully set forth herein.
- 30. Cross-Complainant delivers water from the State Water Project. State Project water is not native to the Basin. Importing State Project water decreases the need of Cross-Defendants to pump water from the Basin. Cross-Complainant's status as a contractor with the State of California for the delivery of Sate Project water is the reason it has been brought to the Basin. Cross-Complainant pays a substantial annual cost to import State Project water, and this amount is subject to periodic increases.
- 31. Cross-Complainant alleges there is underground space available in the Basin for storing imported State Project water.
- 32. As the primary importer of State Project water into the Basin, Cross-Complainant has the right to store imported State Project water underground in the Basin, and also has the sole right to pump

or otherwise use such stored State Project water. The rights of Cross-Defendants, if any, are limited to the native supply of the Basin and/or to their own imported water. Cross-Defendants' rights, if any, do not extend to water imported into the Basin by Cross-Complainant.

- 33. An actual controversy has arisen between Cross-Complainant and Cross-Defendants Cross-Complainant alleges, on information and belief, that Cross-Defendants dispute the contentions contained in this Cross-Complaint.
- 34. Cross-Complainant seeks a judicial determination as to the correctness of its contentions that it may store imported State Project water in the Basin, recapture such imported State Project water and that they have the sole right to pump or otherwise use such imported State Project water.

FOURTH CAUSE OF ACTION

(Declaratory Relief - Recapture of Return Flows

From Imported Water Stored in the Basin - Against All Cross-Defendants)

- 35. Cross-Complainant re-alleges and incorporates by reference each and all of the preceding paragraphs as though fully set forth herein.
- 36. Some of the State Project water typically returns and/or enters the Basin, and will continue to do so. This water is commonly known as "return flows." These return flows further augment the Basin's water supply.
- 37. Cross-Complainant alleges there is underground space available in the Basin to store return flows from imported State Project water.
- 38. As the primary importer of supplemental State Project water into the Basin, Cross-Complainant has the sole right to recapture return flows attributable to its State Project water. The rights of Cross-Defendants, if any, are limited to the native supply of the Basin and/or to their own imported water, and do not extend to groundwater attributable to Cross-Complainant's return flows.
- 39. An actual controversy has arisen between Cross-Complainant and Cross-Defendants Cross-Complainant alleges, on information and belief, that Cross-Defendants dispute the contentions contained in this Cross-Complaint.

2

3

4

5

6

7

40. Cross-Complainant seeks a judicial determination as to the correctness of its contentions that it has the right to recapture return flows in the Basin, both at present and in the future.

FIFTH CAUSE OF ACTION

(Declaratory Relief - Boundaries of Basin - Against All Cross-Defendants)

- Cross-Complainant re-alleges and incorporates by reference each and all of the preceding 41. paragraphs as though fully set forth herein.
- An actual controversy has arisen between Cross-Complainant and Cross-Defendants, and 42. each of them, regarding the actual physical dimensions and description of the Basin for purposes of determining the parties rights to water located therein. Cross-Complainant alleges, on information and belief, that Cross-Defendants dispute Cross-Complainant's contentions as set forth in this Cross-Complaint.
- Cross-Complainant seeks a judicial determination as the correctness of its contentions and 43. an inter se finding as to the actual physical dimensions and description of the Basin.

SIXTH CAUSE OF ACTION

(Injunctive Relief - Against All Cross-Defendants)

- Cross-Complainant re-alleges and incorporates by reference each and all of the preceding 44. paragraphs as though fully set forth herein.
- On information and belief, each Cross-Defendant produces or threatens to produce more 45. water from the Basin than it has a right to produce. This production in excess of rights interferes with the rights of Cross-Complainant as set forth herein.
- On information and belief, the total production of groundwater from the Basin exceeds the 46. safe yield of the Basin, and the Basin is in overdraft.
- 47. It is necessary and appropriate for the court to exercise and retain continuing jurisdiction to develop and enforce a physical solution that protects, manages, conserves, and adjudicates groundwater supplies in the Basin. Such a physical solution may include restrictions on groundwater production monetary assessments on groundwater extractions and for the purchase of supplemental water supplies from Cross-Complainant, prohibitions against wasteful and excessive use of water by Cross-Defendants

and their customers in violation of Article X, Section 2 of the California Constitution, mandatory conservation measures, a groundwater monitoring and reporting program assessment of costs to remediate land subsidence and groundwater contamination, and the appointment of a Watermaster to administer and enforce the judgments and order of the court.

- 48. Unless such a physical solution is ordered, Cross-Complainant will suffer irreparable harm in that the supply of groundwater will become depleted and other undesirable effects such as subsidence will occur.
 - Cross-Complainant lacks an adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Cross-Complainant prays for judgment as follows:

- 1. For judicial declarations consistent with Cross-Complainant's contentions in the First Second, Third, Fourth, Fifth, and Sixth Causes of Action in this Cross-Complaint, including but not limited to the following:
- a. That each Cross-Defendant be required to set for the nature and extent of its claim in and to the available groundwater supply in the Basin;
- b. That the water rights, if any, of each Cross-Defendant in this action in and to the available supply of groundwater in the Basin be fixed and determined; that if a Cross-Defendant has no right, that such fact be determined; and that Cross-Defendants be enjoined from exceeding their respective rights, except as may be permitted under the terms of any physical solution ordered by this court;
- c. That it be adjudged and decreed that the total annual demands upon the available groundwater supply in the Basin exceed the average annual supply thereto, and that there is no surplus water available;
- d. That this court reserve continuing jurisdiction to make such adjustments in its decree and judgment, from time to time, as necessary for the preservation of the available groundwater supply in the Basin and the protection of all those having rights therein;

- 2. For a declaration of the nature, extent, and priority of the parties' rights to produce groundwater from the Basin, and the physical facts of the Basin such as basin boundaries, degree of separation between sub-basins, and safe yield;
- 3. For a physical solution to the overdraft of the Basin that fully recognizes the rights of Cross-Complainant and that results in the equitable distribution of rights and obligations with respect to the management of groundwater resources in the Basin;
- 4. For preliminary and permanent injunctions which prohibit Cross-Defendants, and each of them, from taking, wasting, or failing to conserve water form the Basin in any manner which interferes with the rights of the Cross-Complainant to take water from or store water in the Basin to meet its reasonable present and future needs;
 - 5. For attorney, appraisal, and expert witness fees and costs incurred in this action;
 - 6. For costs of suit; and
 - 7. For such other and further relief as the court may deem just and proper.

Dated: August 30, 2006

BRUNICK, McELHANEY & BECKETT

By: Steven M. Kennedy
William J. Brunick
Steven K. Beckett
Steven M. Kennedy
Attorneys for ANTELOPE VALLEYEAST KERN WATER AGENCY