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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

REBECCA LEE WILLIS, on behalf of herself)
and all others similarly situated,)

Plaintiff,

vs.

LOS ANGELES COUNTY)
WATERWORKS DISTRICT NO. 40; CITY)
OF LANCASTER; CITY OF LOS)
ANGELES; CITY OF PALMDALE;)
PALMDALE WATER DISTRICT;)
LITTLEROCK CREEK IRRIGATION)
DISTRICT; PALM RANCH IRRIGATION)
DISTRICT; QUARTZ HILL WATER)
DISTRICT; ANTELOPE VALLEY WATER)
CO.; ROSAMOND COMMUNITY)
SERVICE DISTRICT; MOJAVE PUBLIC)
UTILITY DISTRICT; CALIFORNIA)
WATER SERVICE COMPANY; DESERT)
LAKE COMMUNITY SERVICES)
DISTRICT; NORTH EDWARDS WATER)
DISTRICT; and DOES 4 through 1,000,)

Defendants.)

JUDICIAL COUNCIL COORDINATION
PROCEEDING No. 4408
Santa Clara Case No. 1-05-CDV-049053
Assigned to The Honorable Jack Komar

REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF PLAINTIFF WILLIS'
OPPOSITION TO DEFENDANTS'
DEMURRER TO SECOND AMENDED
COMPLAINT

DATE: August 11, 2008
TIME: 9:00 a.m.
DEPT: 1

Phase 2 Trial: October 6, 2008

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT in support of Plaintiff's Opposition to Defendants'
3 Demurrer Plaintiff hereby requests this Court pursuant to California Evid. Code Section 452(d) to
4 take judicial notice of the documents attached hereto:

5
6 Exhibit A: Answer of Rosamond Community Services District and Los Angeles
7 County Waterworks District No. 40 to Complaints and All Cross-
8 Complaints (Document No. 464)

9
10 Exhibit B: First Amended Cross-Complaint of Public Water Suppliers for Declaratory
11 and Injunctive Relief and Adjudication of Water Rights

12
13 Exhibit C: Answer to all Cross-Complaints by Palmdale Water District and Quartz
14 Hill Water District

15
16 Dated: July 24, 2008

KRAUSE KALFAYAN BENINK &
SLAVENS, LLP

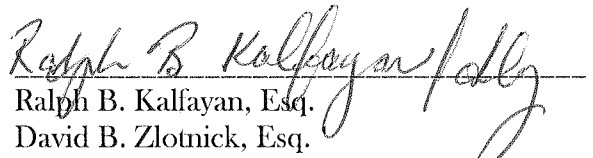
18 
19 Ralph B. Kalfayan, Esq.
20 David B. Zlotnick, Esq.
21 David M. Watson, Esq.
22 Attorneys for Plaintiff and the Class

EXHIBIT A

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WATERWORKS DISTRICT NO. 40

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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

1 **THIRD AND SEPARATE AFFIRMATIVE DEFENSE**

2 (Unreasonable Use of Water)

3 3. The relief requested in the Complaints and Cross-Complaints is barred by Article
4 X, section 2 of the California Constitution in that the requested relief would be wasteful and result
5 in unreasonable use, unreasonable method of use, or unreasonable method of diversion of water.
6

7 **FOURTH AND SEPARATE AFFIRMATIVE DEFENSE**

8 (Waiver)

9 4. Plaintiffs and Cross-Complainants have knowingly and intentionally waived any
10 right to assert some or all of the claims set forth in each and every cause of action contained in the
11 Cross-Complaints.
12

13 **FIFTH AND SEPARATE AFFIRMATIVE DEFENSE**

14 (Physical Solution)

15 5. In the event of the imposition of a physical solution or some form of declaratory
16 relief, due regard must be given to the prior and paramount nature of Cross-Defendants'
17 prescriptive water rights.
18

19 **SIXTH AND SEPARATE AFFIRMATIVE DEFENSE**

20 (Estoppel)

21 6. Cross-Defendants are informed and believe, and on that basis allege, that Plaintiffs
22 and Cross-Complainants by their acts and omissions are estopped from asserting any of the
23 claims upon which they seek relief.
24

25 **SEVENTH AND SEPARATE AFFIRMATIVE DEFENSE**

26 (Doctrine of Laches)

27 7. Some or all of Plaintiffs and Cross-Complainants' claims for relief are barred by
28 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.

8
9

10 Dated: February 23, 2007

BEST BEST & KRIEGER LLP

11 By 

12 ERIC L. GARNER

13 JEFFREY V. DUNN

14 STEFANIE D. HEDLUND

Attorneys for Cross-Complainants

ROSAMOND COMMUNITY SERVICES

DISTRICT and LOS ANGELES

COUNTY WATERWORKS DISTRICT

NO. 40

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27 ORANGE\33829.1

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

EXHIBIT B

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STEFANIE D. HEDLUND, Bar No. 239787

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WATERWORKS DISTRICT NO. 40

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COUNTY WATERWORKS DISTRICT NO. 40

[See Next Page For Additional Counsel]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – CENTRAL DISTRICT

**ANTELOPE VALLEY
GROUNDWATER CASES**

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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

CLASS ACTION

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

[Code Civ. Proc., § 382]

~~[PROPOSED]~~ **FIRST-AMENDED CROSS-
COMPLAINT OF PUBLIC WATER
SUPPLIERS FOR DECLARATORY AND
INJUNCTIVE RELIEF AND
ADJUDICATION OF WATER RIGHTS**

1 STRADLING YOCCA CARLSON & RAUTH

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3 (949) 737-4720 (916) 823-6720 fax
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7 (213) 626-8484 (213) 626-0078 fax
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10 Westlake Village, CA 91361
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11 Attorneys for Littlerock Creek Irrigation District and
Palm Ranch Irrigation District

12 LAGERLOF SENECALE BRADLEY GOSNEY &
13 KRUSE

14 Thomas Bunn III, Bar No. 89502
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Pasadena, CA 91101-4108
15 (626) 793-9400 (626) 793-5900 fax
Attorneys for Palmdale Water District and Quartz
16 Hill Water District

17 CALIFORNIA WATER SERVICE COMPANY

18 John Tootle, Bar No. 181822
2632 West 237th Street
Torrance, CA 90505
19 (310) 257-1488; (310) 325-4605-fax

1 Cross-Complainants California Water Service Company, City of Lancaster, City of
2 Palmdale, Littlerock Creek Irrigation District, Los Angeles County Water Works District No. 40,
3 Palmdale Water District, Rosamond Community Services District, Palm Ranch Irrigation District
4 and Quartz Hill Water District (collectively, the "Public Water Suppliers") allege:

5
6 INTRODUCTION

7 1. This cross-complaint seeks a judicial determination of rights to all water within the
8 adjudication area of the Antelope Valley Groundwater Basin as determined by the Court's Orders
9 in this case (the "Basin"). An adjudication is necessary to protect and conserve the limited water
10 supply that is vital to the public health, safety and welfare of all persons and entities that depend
11 upon water from the Public Water Suppliers. For these reasons, the Public Water Suppliers file
12 this cross-complaint to promote the general public welfare in the Antelope Valley; protect the
13 Public Water Suppliers' rights to pump groundwater and provide water to the public; protect the
14 Antelope Valley from a loss of the public's water supply; prevent degradation of the quality of
15 the public groundwater supply; stop land subsidence; and avoid higher water costs to the public.

16
17 CROSS-COMPLAINANTS

18 2. California Water Service Company is a California corporation which extracts
19 groundwater from the Basin to serve customers within the Basin.

20
21 3. The City of Lancaster is a municipal corporation located in the County of Los
22 Angeles, and which produces and receives water for reasonable and beneficial uses, including
23 overlying uses. The City of Lancaster further provides ministerial services to mutual water
24 companies that produce groundwater from the Basin.

25
26 4. The City of Palmdale is a municipal corporation in the County of Los Angeles.
27 The City of Palmdale receives water from the Basin.
28

1 5. Littlerock Creek Irrigation District is a public agency which extracts groundwater
2 from the Basin to serve customers within the Basin.

3
4 6. Los Angeles County Waterworks District No. 40 is a public agency governed by
5 the Los Angeles County Board of Supervisors. District 40 has been lawfully organized to
6 perform numerous functions, including providing Basin groundwater to the public in a large
7 portion of the Antelope Valley. To this end, District 40 has constructed, maintained and operated
8 a public waterworks system to supply water to the public.

9
10 7. Palmdale Water District is an irrigation district organized and operating under
11 Division 11 of the California Water Code. Palmdale Water District extracts groundwater from
12 the Basin for delivery to customers.

13
14 8. Palm Ranch Irrigation District Palm Ranch Irrigation District is a public agency
15 which extracts groundwater from the Basin to serve customers within the Basin.

16
17 9. Rosamond Community Services District provides water to more than 3,500
18 residents of Kern County for domestic uses, fire protection, and irrigation. Rosamond has drilled
19 and equipped wells to pump groundwater from the Basin. Rosamond has constructed, maintained
20 and operated a public waterworks system to supply water to the public.

21
22 10. Quartz Hill Water District is a county water district organized and operating under
23 Division 12 of the California Water Code. Quartz Hill extracts groundwater from the Lancaster
24 Sub-basin of the Antelope Valley Groundwater Basin for delivery to customers.

25
26 CROSS-DEFENDANTS

27 11. The following persons and/or entities are the owners of, and/or are beneficial
28 interest holders in real property within the geographic boundaries of the Basin. These persons

1 and/or entitles claim overlying rights to extract water from the Basin, whether or not they have
2 heretofore exercised such overlying rights: ABC Williams Enterprises LP, ACEH Capital, LLC,
3 Jacqueline Ackermann, Cenon Advincula, Oliva M. Advincula, Mashallah Afshar, Antonio U.
4 Agustines, Airtrust Singapore Private Limited, Marwan M. Aldais, Allen Alevy, Allen Alevy and
5 Alevy Family Trust, Georgine J. Archer, Georgine J. Archer as Trustee for the Georgine J. Archer
6 Trust, A V Materials, Inc., Guss A. Barks, Jr., Peter G. Barks, Ildefonso S. Bayani, Nilda V.
7 Bayani, Big West Corp, Randall Y. Blayney, Melody S. Bloom, Bolthouse Properties, Inc., David
8 L. Bowers, Ronald E. Bowers, Leroy Daniel Bronston, Marilyn Burgess, Laverne C. Burroughs,
9 Laverne C. Burroughs, Trustee of the Burroughs Family Irrevocable Trust Dated August 1, 1995,
10 Bruce Burrows, John and B. Calandri 2001 Trust, California Portland Cement Company, Calmat
11 Land Co., Melinda E. Cameron, Castle Butte Dev Corp, Catellus Development Corporation,
12 Bong S. Chang, Jeanna Y. Chang, Moon S. Chang, Jacob Chetrit, Frank S. Chiodo, Lee S. Chiou,
13 M S Chung, City of Los Angeles, Carol K. Claypool, Clifford N. Claypool, W. F. Clunen, Jr., W.
14 F. Clunen, Jr. as Trustee for the P C Rev Inter Vivos Trust, Consolidated Rock Products Co.,
15 County Sanitation District No. 14 of Los Angeles County, County Sanitation District No. 20 of
16 Los Angeles County, Ruth A. Cumming, Ruth A. Cumming as Trustee of the Cumming Family
17 Trust, Catharine M. Davis, Milton S. Davis, Del Sur Ranch LLC, Diamond Farming Company,
18 Sarkis Djanibekyan, Hong Dong, Ying X Dong, Dorothy Dreier, George E. Dreier, Morteza M.
19 Foroughi, Morteza M. Foroughi as Trustee of the Foroughi Family Trust, Lewis Fredrichsen,
20 Lewis Fredrichsen as Trustee of the Friedrichsen Family Trust, Joan A. Funk, Eugene Gabrych,
21 Marian Gabrych, Aurora P. Gabuya, Rodrigo L. Gabuya, GGF LLC, Genus LP, Betty Gluckstein,
22 Joseph H. Gluckstein, Forrest G. Godde, Forrest G. Godde as Trustee of the Forrest G. Godde
23 Trust, Lawrence A. Godde, Lawrence A. Godde and Godde Trust, Maria B. Gorrindo, Maria B.
24 Gorrindo as Trustee for the M. Gorrindo Trust, Wendell G. Hanks, Andreas Hauke, Marilyn
25 Hauke, Healy Enterprises, Inc., Walter E. Helmick, Donna L. Higelmire, Michael N. Higelmire,
26 Davis L. and Diana D. Hines Family Trust, Hooshpack Dev Inc., Chi S. Huang, Suchu T. Huang,
27 John Hui, Hypericum Interests LLC, Daryush Iraninezhad, Minoos Iraninezhad, Esfandiar
28 Kadivar, Esfandiar Kadivar as Trustee of the Kadivar Family Trust, A. David Kagon, A. David

1 Kagon as Trustee for the Kagon Trust, Jack D. Kahlo, Cheng Lin Kang, Herbert Katz, Herbert
2 Katz as Trustee for the Katz Family Trust, Marianne Katz, Lilian S. Kauffman, Lilian S.
3 Kaufman as Trustee for the Kaufman Family Trust, Kazuko Yoshimatsu, Barbara L. Keys,
4 Barbara L. Keys as Trustee of the Barbara L. Keys Family Trust, Billy H. Kim, Illy King, Illy
5 King as Trustee of the Illy King Family Trust, Kootenai Properties, Inc., Kutu Investment Co.,
6 Gailen Kyle, Gailen Kyle as Trustee of the Kyle Trust, James W. Kyle, James W. Kyle as Trustee
7 of the Kyle Family Trust, Julia Kyle, Wanda E. Kyle, Fares A. Lahoud, Eva Lai, Paul Lai, Ying
8 Wah Lam, Land Business Corporation, Richard E. Landfield, Richard E. Landfield as Trustee of
9 the Richard E. Landfield Trust, Lawrence Charles Trust, William Lewis, Mary Lewis, Pei Chi
10 Lin, Man C. Lo, Shiung Ru Lo, Lyman C. Miles, Lyman C. Miles as Trustee for the Miles Family
11 Trust, Malloy Family Partners LP, Mission Bell Ranch Development, Barry S. Munz, Kathleen
12 M. Munz, Terry A. Munz, M.R. Nasir, Souad R. Nasir, Eugene B. Nebeker, Simin C. Neman,
13 Henry Ngo, Frank T. Nguyen, Juanita R. Nichols, Oliver Nichols, Oliver Nichols as Trustee of
14 the Nichols Family Trust, Owl Properties, Inc., Palmdale Hills Property LLC, Norman L.
15 Poulsen, Marilyn J. Prewoznik, Marilyn J. Prewoznik as Trustee of the Marilyn J. Prewoznik
16 Trust, Elias Qarmout, Victoria Rahimi, R and M Ranch, Inc., Patricia A. Recht, Veronika Reinelt,
17 Reinelt Rosenloecher Corp. PSP, Patricia J. Riggins, Patricia J. Riggins as Trustee of the Riggins
18 Family Trust, Edgar C. Ritter, Paula E. Ritter, Paula E. Ritter as Trustee of the Ritter Family
19 Trust, Roman Catholic Archbishop of Los Angeles, Romo Lake Los Angeles Partnership,
20 Rosemount Equities LLC Series, Royal Investors Group, Royal Western Properties LLC, Oscar
21 Rudnick, Rebecca Rudnick, Santa Monica Mountains Conservancy, Marygrace H. Santoro,
22 Marygrace H. Santoro as Trustee for the Marygrace H. Santoro Rev Trust, San Yu Enterprises,
23 Inc., Daniel Saparzadeh, Helen Stathatos, Savas Stathatos, Savas Stathatos as Trustee for the
24 Stathatos Family Trust, Seven Star United LLC, Mark H. Shafron, Robert L. Shafron, Kamram S.
25 Shakib, Donna L. Simpson, Gareth L. Simpson, Gareth L. Simpson as Trustee of the Simpson
26 Family Trust, Soaring Vista Properties, Inc., State of California, George C. Stevens, Jr., George
27 C. Stevens, Jr. as Trustee of the George C. Stevens, Jr. Trust, George L. Stimson, Jr., George L.
28 Stimson, Jr. as Trustee of the George L. Stimson, Jr. Trust, Tejon Ranch, Mark E. Thompson A P

1 C Profit Sharing Plan, Tierra Bonita Ranch Company, Tiong D. Tiu, Beverly J. Tobias, Beverly J.
2 Tobias as Trustee of the Tobias Family Trust, Jung N. Tom, Wilma D. Trueblood, Wilma D.
3 Trueblood as Trustee of the Trueblood Family Trust, Unison Investment Co., LLC, Delmar D.
4 Van Dam, Gertrude J. Van Dam, Keith E. Wales, E C Wheeler LLC, William Bolthouse Farms,
5 Inc., Alex Wodchis, Elizabeth Wong, Mary Wong, Mike M. Wu, Mike M. Wu as Trustee of the
6 Wu Family Trust, State of California 50th District and Agricultural Association, and U.S. Borax,
7 Inc.

8
9 12. The Public Water Suppliers are informed and believe, and thereon allege, that
10 cross-defendant Roes 1 through 100,000 are the owners, lessees or other persons or entities
11 holding or claiming to hold ownership or possessory interests in real property within the
12 boundaries of the Basin; extract water from the Basin; claim some right, title or interest to water
13 located within the Basin; or that they have or assert claims adverse to the Public Water Suppliers'
14 rights and claims. The Public Water Suppliers are presently unaware of the true names and
15 capacities of the Roe cross-defendants, and therefore sue those cross-defendants by fictitious
16 names. The Public Water Suppliers will seek leave to amend this cross-complaint to add names
17 and capacities when they are ascertained.

18
19 CLASS ACTION ALLEGATIONS

20 13. The Public Water Suppliers bring this action against all persons similarly situated.
21 The class will be composed of all owners of land within the adjudication area that is not within
22 the service area of a public entity, public utility, or mutual water company. The persons in this
23 class are so numerous, consisting of approximately 65,000 parcels, that the joinder of all such
24 persons is impracticable and that the disposition of their claims in a class action rather than in
25 individual actions will benefit the parties and the court.

26
27 14. There is a well-defined community of interests in the questions of law and fact
28 affecting the defendant class members in that they each allege an identical overlying right to take

1 native groundwater from a common supply for their reasonable and beneficial use. As they each
2 seek a common right, they have predominantly common issues of fact and law. Additionally,
3 each class member will have common defenses against competing water rights including a claim
4 by the United States that it has a Federal Reserved right. These questions of law and fact
5 predominate over questions that affect only the individual class members. The claims and
6 defenses of the class members and the class representative are typical of those of the class and the
7 class representative will fairly and adequately represent the interests of the class.

8
9 THE UNITED STATES IS A NECESSARY PARTY TO THIS ACTION

10 15. This is an action to comprehensively adjudicate the rights of all claimants to the
11 use of a source of water located entirely within California, *i.e.*, the Basin, and for the ongoing
12 administration of all such claimants' rights.

13
14 16. The Public Water Suppliers are informed and believe, and on that basis allege, that
15 the United States claims rights to the Basin water subject to adjudication in this action by virtue
16 of owning real property overlying the Basin, including Edwards Air Force Base.

17
18 17. For the reasons expressed in this cross-complaint, the United States is a necessary
19 party to this action pursuant to the McCarran Amendment, 43 U.S.C. § 666.

20
21 18. Under the McCarran Amendment, the United States, as a necessary party to this
22 action, is deemed to have waived any right to plead that the laws of California are not applicable,
23 or that the United States is not subject to such laws by virtue of its sovereignty.

24
25 19. Under the McCarran Amendment, the United States, as a necessary party to this
26 action, is subject to the judgments, orders and decrees of this Court.

HISTORY OF THE ANTELOPE VALLEY GROUNDWATER BASIN

20. For over a century, California courts have used the concept of a groundwater basin to resolve groundwater disputes. A groundwater basin is an alluvial aquifer with reasonably well-defined lateral and vertical boundaries.

21. The Antelope Valley Groundwater Basin is located in an arid valley in the Mojave Desert, about 50 miles northeast of the City of Los Angeles. The Basin encompasses about 1,000 square miles in both Los Angeles and Kern Counties, and is separated from the northern part of the Antelope Valley by faults and low-lying hills. The Basin is bounded on the south by the San Gabriel Mountains and on the northwest by the Tehachapi Mountains. The Basin generally includes the communities of Lancaster, Palmdale and Rosamond as well as Edwards Air Force Base.

22. Various investigators have studied the Antelope Valley and some have divided the Basin into "sub-basins." According to the Public Water Suppliers' information and belief, to the extent the Antelope Valley is composed of such "sub-basins," they are sufficiently hydrologically connected to justify treating them as a single source of water for purposes of adjudicating the parties' water rights.

23. Before public and private entities began pumping water from the Basin, its natural water recharge balanced with water discharged from the Basin. Its water levels generally remained in a state of long-term equilibrium. In approximately 1915, however, agricultural uses began to pump groundwater and since then, greatly increased agricultural pumping has upset the Basin's groundwater equilibrium causing a continuous decline in the Basin's groundwater storage.

24. Although private agricultural entities temporarily curtailed their pumping activities when groundwater levels were extremely low, agricultural pumping has increased overall during

1 the past decade. During the same time, urbanization of the Antelope Valley has resulted in
2 increased public demand for water.

3
4 25. Groundwater pumping in the Basin has never been subject to any limits. This lack
5 of groundwater management caused the Basin to lose an estimated eight million acre feet of water
6 over the past eighty years.

7
8 26. Uncontrolled pumping caused repeated instances of land subsidence. It is the
9 sinking of the Earth's surface due to subsurface movement of earth materials and is primarily
10 caused by groundwater pumping. The Public Water Suppliers are informed and believe, and
11 thereupon allege, that portions of the Basin have subsided as much as six feet because of
12 chronically low groundwater levels caused by unlimited pumping. The harmful effects of land
13 subsidence observed in the Basin include loss of groundwater storage space, cracks and fissures
14 on the ground's surface, and damage to real property. Land subsidence problems continue and
15 will continue because of unlimited pumping.

16
17 27. The declining groundwater levels, diminished groundwater storage, and land
18 subsidence damage the Basin, injure the public welfare, and threaten communities that depend
19 upon the Basin as a reliable source of water. These damaging effects will continue, and likely
20 worsen until the court establishes a safe yield for the Basin and limits pumping to the safe yield.

21
22 PUBLIC WATER SUPPLIERS SUPPLEMENT AND COMMINGLE THEIR
23 SUPPLEMENTAL SUPPLY OF WATER WITH BASIN WATER

24 28. Due to the shortage of water in the Basin, certain Public Water Suppliers purchase
25 State Water Project water from the Antelope Valley-East Kern Water Agency. State Project
26 water originates in northern California and would not reach the Basin absent the Public Water
27 Suppliers purchases.

1 29. Public Water Suppliers purchase State Project water each year. They deliver the
2 State Project water to their customers through waterworks systems. The Public Water Suppliers'
3 customers use the State Project water for irrigation, domestic, municipal and industrial uses.
4 After the Public Water Suppliers' customers use the water, some of the imported State Project
5 water commingles with other percolating groundwater in the Basin. In this way, State Project
6 water augments the natural supply of Basin water.

7
8 30. Public Water Suppliers depend on the Basin as their source of water. But for the
9 Public Water Suppliers' substantial investment in State Project water, they would need to pump
10 additional groundwater each year. By storing State Project water or other imported water in the
11 Basin, Public Water Suppliers can recover the stored water during times of drought, water supply
12 emergencies, or other water shortages to ensure a safe and reliable supply of water to the public.

13
14 THE BASIN HAS BEEN IN A STATE OF OVER-DRAFT FOR OVER FIVE YEARS

15 31. The Public Water Suppliers are informed and believe, and upon that basis allege,
16 that the Basin is and has been in an overdraft condition for more than five (5) consecutive years
17 before the filing of this cross-complaint. During these time periods, the total annual demand on
18 the Basin has exceeded the supply of water from natural sources. Consequently, there is and has
19 been a progressive and chronic decline in Basin water levels and the available natural supply is
20 being and has been chronically depleted. Based on the present trends, demand on the Basin will
21 continue to exceed supply. Until limited by order and judgment of the court, potable Basin water
22 will be exhausted and land subsidence will continue.

23
24 32. Upon information and belief, the cross-defendants have, and continue to pump,
25 appropriate and divert water from the natural supply of the Basin, and/or claim some interest in
26 the Basin water. The Public Water Suppliers are informed and believe, and upon that basis
27 allege, that cross-defendants' combined extraction of water exceeds the Basin's safe yield.

1 33. Upon information and belief, each cross-defendant claims a right to take water and
2 threatens to increase its taking of water without regard to the Public Water Suppliers' rights.
3 Cross-defendants' pumping reduces Basin water tables and contributes to the deficiency of the
4 Basin water supply as a whole. The deficiency creates a public water shortage.

5
6 34. Cross-defendants' continued and increasing extraction of Basin water has resulted
7 in, and will result in a diminution, reduction and impairment of the Basin's water supply, and land
8 subsidence.

9
10 35. Cross-defendants' continued and increasing extraction of Basin water has and will
11 deprive the Public Water Suppliers of their rights to provide water for the public health, welfare
12 and benefit.

13
14 THERE IS A DISPUTE AMONG THE PARTIES REGARDING THE EXTENT AND
15 PRIORITY OF THEIR RESPECTIVE WATER RIGHTS

16 36. The Public Water Suppliers are informed and believe, and thereon allege, there are
17 conflicting claims of rights to the Basin and/or its water.

18
19 37. The Public Water Suppliers are informed and believe, and thereon allege, that
20 cross-defendants who own real property in the Basin claim an overlying right to pump Basin
21 water. The overlying right is limited to the native safe yield of the Basin. The Public Water
22 Suppliers allege that, because subsidence is occurring in the Basin, cross-defendants have been
23 pumping, and continue to pump water in amounts greater than the Basin's safe yield.

24
25 38. The Public Water Suppliers are informed and believe, and thereon allege, they
26 have appropriative and prescriptive rights to groundwater in the Antelope Valley Basin. The
27 Public Water Suppliers are informed and believe, and thereon allege, they and/or their
28 predecessors-in-interest, have pumped water from the Antelope Valley Basin for more than five

1 years prior to the filing of this cross-complaint.

2
3 39. The Public Water Suppliers have pumped water from, and/or stored water in the
4 Antelope Valley Basin, by reasonable extraction means. They have used the Basin and/or its
5 water for reasonable and beneficial purposes; and they have done so under a claim of right in an
6 actual, open, notorious, exclusive, continuous, uninterrupted, hostile, adverse use and/or manner
7 for a period of time of at least five years and before filing this cross-complaint.

8
9 40. To provide water to the public, the Public Water Suppliers have and claim the
10 following rights:

11
12 (A) The right to pump groundwater from the Antelope Valley Groundwater
13 Basin in an annual amount equal to the highest volume of groundwater extracted by each of the
14 Public Water Suppliers in any year preceding entry of judgment in this action;

15 (B) The right to pump or authorize others to extract from the Antelope Valley
16 Groundwater Basin an amount of water equal in quantity to that amount of water previously
17 purchased by each of the Public Water Suppliers from the Antelope Valley-East Kern Water
18 Agency; and which has augmented the supply of water in the Basin in any year preceding entry of
19 judgment in this action.

20 (C) The right to pump or authorize others to extract from the Antelope Valley
21 Groundwater Basin an amount of water equal in quantity to that amount of water purchased in the
22 future by each of the Public Water Suppliers from the Antelope Valley-East Kern Water Agency
23 which augments the supply of water in the Basin; and

24 (D) The right to pump or authorize others to extract from the Antelope Valley
25 Basin an amount of water equal in quantity to that volume of water injected into the Basin or
26 placed within the Basin by each of the Public Water Suppliers or on behalf of any of them.

FIRST CAUSE OF ACTION

(Declaratory Relief – Prescriptive Rights – Against All Cross-Defendants Except the United States And Other Public Entity Cross-Defendants)

41. The Public Water Suppliers re-allege and incorporate by reference each and all of the preceding paragraphs as though fully set forth herein.

42. For over fifty years, the California Supreme Court has recognized prescriptive water rights. The Public Water Suppliers allege that, for more than five years and before the date of this cross-complaint, they have pumped water from the Basin for reasonable and beneficial purposes, and done so under a claim of right in an actual, open, notorious, exclusive, continuous, hostile and adverse manner. The Public Water Suppliers further allege that each cross-defendant had actual and/or constructive notice of these activities, either of which is sufficient to establish the Public Water Suppliers' prescriptive rights.

43. Public Water Suppliers contend that each cross-defendant's rights to pump water from the Basin are subordinate to the Public Water Suppliers' prescriptive rights and to the general welfare of the citizens, inhabitants and customers within the Public Water Suppliers' respective service areas and/or jurisdictions.

44. An actual controversy has arisen between the Public Water Suppliers and cross-defendants, and each of them. Public Water Suppliers allege, on information and belief, that each cross-defendant disputes the Public Water Suppliers' contentions, as described in the immediately preceding paragraph.

45. Public Water Suppliers seek a judicial determination as to the correctness of their contentions and a finding as to the priority and amount of water they and each cross-defendant are entitled to pump from the Basin.

SECOND CAUSE OF ACTION

(Declaratory Relief – Appropriative Rights – Against All Cross-Defendants)

46. The Public Water Suppliers re-allege and incorporate by reference each and all of the preceding paragraphs as though fully set forth herein.

47. Public Water Suppliers allege that, in addition or alternatively to their prescriptive rights, they have appropriative rights to pump water from the Basin.

48. Appropriative rights attach to surplus water from the Basin.

49. Surplus water exists when the pumping from the Basin is less than the safe yield. It is the maximum quantity of water which can be withdrawn annually from a groundwater Basin under a given set of conditions without causing an undesirable result. “Undesirable results” generally refer to gradual lowering of the groundwater levels in the Basin, but also includes subsidence.

50. Persons and/or entities with overlying rights to water in the Basin are only entitled to make reasonable and beneficial use of the Basin’s native safe yield.

51. An actual controversy has arisen between the Public Water Suppliers and cross-defendants, and each of them. The Public Water Suppliers allege, on information and belief, that all cross-defendants, and each of them, seek to prevent the Public Water Suppliers from pumping surplus water.

52. The Public Water Suppliers seek a judicial determination as to the Basin’s safe yield, the quantity of surplus water available, if any, the correlative overlying rights of each cross-defendant to the safe yield and a determination of the rights of persons an/or entities with

1 overlying, appropriative and prescriptive rights to pump water from the Basin.

2
3 THIRD CAUSE OF ACTION

4 (Declaratory Relief – Physical Solution – Against All Cross-defendants)

5 53. The Public Water Suppliers re-allege and incorporate by reference each and all of
6 the preceding paragraphs as though fully set forth herein.

7
8 54. Upon information and belief, the Public Water Suppliers allege that cross-
9 defendants, and each of them, claim an interest or right to Basin water; and further claim they can
10 increase their pumping without regard to the rights of the Public Water Suppliers. Unless
11 restrained by order of the court, cross-defendants will continue to take increasing amounts of
12 water from the Basin, causing great and irreparable damage and injury to the Public Water
13 Suppliers and to the Basin. Money damages cannot compensate for the damage and injury to the
14 Basin.

15
16 55. The amount of Basin water available to the Public Water Suppliers has been
17 reduced because cross-defendants have extracted, and continue to extract increasingly large
18 amounts of water from the Basin. Unless the court enjoins and restrains cross-defendants, and
19 each of them, the aforementioned conditions will worsen. Consequently, the Basin's groundwater
20 supply will be further depleted, thus reducing the amount of Basin water available to the public.

21
22 56. California law makes it the duty of the trial court to consider a "physical solution"
23 to water rights disputes. A physical solution is a common-sense approach to resolving water
24 rights litigation that seeks to satisfy the reasonable and beneficial needs of all parties through
25 augmenting the water supply or other practical measures. The physical solution is a practical way
26 of fulfilling the mandate of the California Constitution (Article X, section 2) that the water
27 resources of the State be put to use to the fullest extent of which they are capable.

1 57. This court must determine, impose and retain continuing jurisdiction in order to
2 enforce a physical solution upon the parties who pump water from the Basin, and thereby prevent
3 irreparable injury to the Basin. Available solutions to the Basin problems may include, but are
4 not limited to, the court appointment of a watermaster, and monetary and metering and
5 assessments upon water extraction from the Basin. Such assessments would pay for the purchase,
6 delivery of supplemental supply of water to the Basin.

7
8 FOURTH CAUSE OF ACTION

9 (For Declaratory Relief – Municipal Priority – Against All Cross-Defendants)

10 58. The Public Water Suppliers re-allege and incorporate by reference each and all of
11 the preceding paragraphs as though fully set forth herein.

12
13 59. The Public Water Suppliers have rights to pump water from the Basin to meet
14 existing public water needs, and also to take increased amounts of Basin water as necessary to
15 meet future public needs. The Public Water Suppliers' rights to Basin water exist both as a result
16 of the priority and extent of their appropriative and prescriptive rights, and as a matter of law and
17 public policy of the State of California: "It is hereby declared to be the established policy of this
18 State that the use of water for domestic purposes is the highest use of water and that the next
19 highest use is for irrigation." (*Water Code* §106.)

20
21 60. *Water Code* Section 106.5 provides: "It is hereby declared to be the established
22 policy of this State that the right of a municipality to acquire and hold rights to the use of water
23 should be protected to the fullest extent necessary for existing and future uses. . . ."

24
25 61. Under *Water Code* sections 106 and 106.5, the Public Water Suppliers have a prior
26 and paramount right to Basin water as against all non-municipal uses.
27
28

1 62. An actual controversy has arisen between the Public Water Suppliers and cross-
2 defendants. The Public Water Suppliers allege, on information and belief, that cross-defendants
3 dispute the contentions in Paragraphs 1 through 43, inclusive, of this cross-complaint. The Public
4 Water Suppliers are informed and believe, and on that basis allege, that the majority of the cross-
5 defendants pump groundwater from the Basin for agricultural purposes.

6
7 63. The Public Water Suppliers seek a judicial determination as to the correctness of
8 their contentions and to the amount of water the parties may pump from the Basin. The Public
9 Water Suppliers also seek a declaration of their right to pump water from the Basin to meet their
10 reasonable present and future needs, and that such rights are prior and paramount to the rights, if
11 any, of cross-defendants to use Basin water for irrigation purposes.

12
13 **FIFTH CAUSE OF ACTION**

14 **(Declaratory Relief – Storage Of Imported Water – Against All Cross-defendants)**

15 64. The Public Water Suppliers re-allege and incorporate by reference each and all of
16 the preceding paragraphs as though fully set forth herein.

17
18 65. The Public Water Suppliers purchase and use water from the State Water Project.
19 State Project water is not native to the Basin. Importing State Project water decreases the Public
20 Water Suppliers' need to pump water from the Basin. The Public Water Suppliers' purchase and
21 delivery of State Project water is the reason it has been brought to the Basin. The Public Water
22 Suppliers pay a substantial annual cost to import State Project water; this amount is subject to
23 periodic increases.

24
25 66. The Public Water Suppliers allege there is underground space available in the
26 Basin for storing imported State Project water.
27
28

68. An actual controversy has arisen between the Public Water Suppliers and cross-defendants. The Public Water Suppliers allege, on information and belief, that cross-defendants dispute their contentions in Paragraphs 1 through 39, of this cross-complaint.

69. The Public Water Suppliers seek a judicial determination as to the correctness of their contentions that they 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.

(Declaratory Relief – Recapture Of Return Flows

From Imported Water Stored in The Basin – Against All Cross-defendants)

70. The Public Water Suppliers re-allege and incorporate by reference each and all of the preceding paragraphs as though fully set forth herein.

71. 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.

72. The Public Water Suppliers allege there is underground space available in the Basin to store return flows from imported State Project water.

1 73. The Public Water Suppliers have the sole right to recapture return flows
2 attributable to their State Project water, or such water imported on their behalf. The rights of
3 cross-defendants, if any, are limited to the Basin's native supply and/or to their imported water,
4 and do not extend to groundwater attributable to the Public Water Suppliers' return flows.

5
6 74. An actual controversy has arisen between the Public Water Suppliers and cross-
7 defendants. The Public Water Suppliers allege, on information and belief, that cross-defendants
8 dispute their contentions in Paragraphs 1 through 43 of this cross-complaint.

9
10 75. The Public Water Suppliers seek a judicial determination as to the correctness of
11 their contentions, and that they have the sole right to recapture return flows in the Basin, both at
12 present and in the future.

13
14 SEVENTH CAUSE OF ACTION

15 **(Unreasonable Use Of Water - Against All Cross-Defendants Except Public Entity Cross-**
16 **Defendants)**

17 76. The Public Water Suppliers re-allege and incorporate by reference each and all of
18 the preceding paragraphs as though fully set forth herein.

19
20 77. The California Constitution (Article X, Section 2) provides the cardinal principle
21 of California water law, superior to any water rights priorities and requires that water use not be
22 unreasonable or wasteful. The reasonable use of water depends on the facts and circumstances of
23 each case; what may be reasonable in areas of abundant water may be unreasonable in an area of
24 scarcity; and, what is a beneficial use at one time may become a waste of water at a later time.

25
26 78. The Public Water Suppliers are informed and believe, and on that basis allege, that
27 some cross-defendants' use of water is unreasonable in the arid Antelope Valley and therefore
28

1 constitutes waste, unreasonable use or an unreasonable method of diversion or use within the
2 meaning of the California Constitution (Article X, section 2). Such uses are thereby unlawful.

3
4 79. An actual controversy has arisen between the Public Water Suppliers and cross-
5 defendants. The Public Water Suppliers allege, on information and belief, that the cross-
6 defendants dispute their contentions in Paragraphs 1 through 43 of this Cross-Complaint.

7
8 80. The Public Water Suppliers seek a judicial declaration that cross-defendants have
9 no right to any unreasonable use, unreasonable methods of use, or waste of water. Cross-
10 defendants' rights, if any, must be determined based on the reasonable use of water in the
11 Antelope Valley rather than upon the amount of water actually used.

12
13 **EIGHTH CAUSE OF ACTION**

14 **(Declaratory Relief Re Boundaries Of Basin)**

15 91. The Public Water Suppliers re-allege and incorporate by reference each and all of
16 the preceding paragraphs as though fully set forth herein.

17 92. An actual controversy has arisen between the Public Water Suppliers and cross-
18 defendants, and each of them, regarding the actual physical dimensions and description of the
19 Basin for purposes of determining the parties rights to water located therein. The Public Water
20 Suppliers allege, on information and belief, that cross-defendants dispute the Public Water
21 Suppliers' contentions, as set forth in Paragraphs 1 through 38, inclusive, of this cross-complaint.

22 93. The Public Water Suppliers seek a judicial determination as to the correctness of
23 their contentions and a finding as to the actual physical dimensions and description of the Basin.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, the Public Water Suppliers pray for judgment as follows:

26
27 1. Judicial declarations consistent with the Public Water Suppliers' contentions in the
28

1 First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Causes of Action in this cross-
2 complaint;

3
4 2. For preliminary and permanent injunctions which prohibit cross-defendants, and
5 each of them, from taking, wasting or failing to conserve water from the Basin in any manner
6 which interferes with the rights of the Public Water Suppliers to take water from or store water in
7 the Basin to meet their reasonable present and future needs;

8
9 3. For prejudgment interest as permitted by law;

10
11 4. For attorney, appraisal and expert witness fees and costs incurred in this action;
12 and

13
14 5. Such other relief as the court deems just and proper.

15 Dated: January 10, 2007

BEST BEST & KRIEGER LLP

16
17 By 

18 ERIC L. GARNER

19 JEFFREY V. DUNN

20 STEFANIE D. HEDLUND

21 Attorneys for Cross-Complainants

22 ROSAMOND COMMUNITY SERVICES

23 DISTRICT and LOS ANGELES

24 COUNTY WATERWORKS DISTRICT

25 NO. 40
26
27
28

ORANGE32819.1

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 March 13, 2007, I served the within document(s):

FIRST-AMENDED CROSS COMPLAINT OF PUBLIC WATER SUPPLIERS FOR DECLARATORY AND INJUNCTIVE RELIEF AND ADJUDICATION OF WATER RIGHTS



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 March 13, 2007, at Irvine, California.


Kerry V. Keefe

EXHIBIT C

1 H. Jess Senecal (CSB #026826)
Thomas S. Bunn III (CSB #89502)
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**EXEMPT FROM FILING FEES UNDER
GOVERNMENT CODE § 6103**

5 Attorneys for Palmdale Water District and
6 Quartz Hill Water District
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**
10

11 Coordination Proceeding
12 Special Title (Rule 1550(b))

Judicial Council Coordination Proceeding
No. 4408

13 **ANTELOPE VALLEY GROUNDWATER**
14 **CASES**

Santa Clara Case No. 1-05-CV-049053
Assigned to The Honorable Jack Komar, D17

**ANSWER TO ALL CROSS COMPLAINTS
BY PALMDALE WATER DISTRICT AND
QUARTZ HILL WATER DISTRICT**

15
16
17
18 Defendants Palmdale Water District and Quartz Hill Water District (“Districts”) answer all cross
19 complaints in these coordinated proceedings as follows. These include without limitation the cross
20 complaints filed by City of Palmdale, Antelope Valley-East Kern Water Agency, County Sanitation
21 Districts Nos. 14 and 20, Diamond Farming Company, Bolthouse Properties, LLC, Antelope Valley
22 Groundwater Agreement Association (First Amended Cross Complaint), and any other cross complaints
23 that now or hereafter assert claims against Districts. Each District answers for itself and for no other
24 defendant, and the use of the word “Districts” to refer to both Districts is a matter of readability and
25 convenience and is not intended to imply a joint answer.

26
27 1. Districts generally deny the allegations of the cross complaints.
28

1 **FIRST AFFIRMATIVE DEFENSE**

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

3 2. Cross Complainants have failed to state facts sufficient to state a cause of action against
4 Districts.

5
6 **SECOND AFFIRMATIVE DEFENSE**

7 **(Uncertainty)**

8 3. The Cross Complainants have failed to describe with specificity the groundwater basin
9 from which Cross Complainants contend they enjoy rights to produce percolating groundwater.

10
11 **THIRD AFFIRMATIVE DEFENSE**

12 **(Non-Interference)**

13 4. On information and belief, Districts' water production does not interfere in any way with
14 Cross Complainants' claimed water rights.

15
16 **FOURTH AFFIRMATIVE DEFENSE**

17 **(Consent, Waiver, Estoppel, Laches)**

18 5. On information and belief, the Cross Complainants and their predecessors have been
19 aware for many years of the Districts' production of groundwater, and of Districts' spending significant
20 amounts of public money, time and resources to develop the facilities necessary to extract the
21 groundwater and deliver it to their customers, in reliance on their right to extract groundwater. The
22 Cross Complainants, by their silence and inaction, have acquiesced to the Districts' extraction of
23 groundwater. Cross Complainants have unreasonably delayed commencement of this action to the
24 prejudice of Districts.

25
26 **FIFTH AFFIRMATIVE DEFENSE**

27 **(Civil Code, Section 1007)**

28 6. The relief sought by Cross Complainants is barred by Civil Code, Section 1007.

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SIXTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

7. Cross Complainants are barred from relief by the provisions of one or more of sections 318, 319, 321, 338, or 343 of the Code of Civil Procedure.

SEVENTH AFFIRMATIVE DEFENSE

(Failure to Join Necessary Parties)

8. Cross Complainants have failed to join indispensable and necessary parties, namely other landowners and water producers within the Antelope Valley Basin.

EIGHTH AFFIRMATIVE DEFENSE

(Stream Rights)

9. Palmdale Water District has a license to divert water from Little Rock Creek, which is one of the sources of water to the Basin. Its right to continue to divert water from Little Rock Creek is superior in priority to the rights claimed by Cross Complainants.

NINTH AFFIRMATIVE DEFENSE

(Right to recapture imported water)

10. Districts purchase water imported from outside the watershed, and distributes the purchased water through the Districts' waterworks systems to its customers. After use by the customers for irrigation, domestic, municipal and industrial uses, a portion of these imported waters percolates into the ground and commingles with the percolating ground waters contained in the Basin and thereby augments the natural supply of water in the Basin.

11. Districts have a right to extract from the Basin an amount of water equal to the portion of the water imported by Districts from outside the watershed that augments the supply of water in the Basin. This right is superior in priority to the rights claimed by Cross Complainants.

1 **TENTH AFFIRMATIVE DEFENSE**

2 **(Appropriative/Prescriptive Rights)**

3 12. For many years, Districts have produced groundwater from the Basin and distributed the
4 water through its waterworks system to its customers for reasonable and beneficial uses. Districts'
5 production of groundwater from the Basin has been open, notorious and under claim of right, hostile to
6 any rights of Cross Complainants and has continued for a period of more than five consecutive years,
7 during which time, Districts are informed and believes, there existed a period of five consecutive years
8 during which the Basin was in a state of overdraft.

9 13. By reason of their historical production of groundwater, Districts have acquired an
10 appropriative or prescriptive right to groundwater that is equal or superior in priority to that of the Cross
11 Complainants.

12
13 **ELEVENTH AFFIRMATIVE DEFENSE**

14 **(Dedication to Public Use)**

15 14. All the groundwater extracted by Districts from the Basin is devoted to the public use of
16 distributing the same through their waterworks systems for irrigation, domestic, municipal, and
17 industrial uses by the Districts' customers.

18 15. As a result of this dedication to public use, Cross Complainants cannot obtain any
19 judicial relief that will in any way restrain or prevent Districts from exercising their rights to extract
20 groundwater from the Basin.

21
22 **TWELFTH AFFIRMATIVE DEFENSE**

23 **(Physical Solution)**

24 16. In the event of the imposition of a physical solution or some form of declaratory relief,
25 due regard must be given to the water rights of the Districts.

1 **THIRTEENTH AFFIRMATIVE DEFENSE**

2 **(Hardship)**

3 17. Any injunction against the Districts' production of groundwater will cause undue
4 hardship to the Districts and their customers.

5
6 **FOURTEENTH AFFIRMATIVE DEFENSE**

7 **(Tort Claims Act)**

8 18. Cross complainants have failed to comply with the Tort Claims Act, Government Code
9 sections 900 et seq.

10
11 **FIFTEENTH AFFIRMATIVE DEFENSE**

12 **(Incorporation by Reference)**

13 19. As permitted by the Court's Appearance Form, Districts incorporate by reference each
14 affirmative defense to the cross complains filed by any other defendant or cross defendant, whether its
15 answer is filed before or after the filing of this answer.

16
17 Dated: February 3, 2007

LAGERLOF, SENEAL, GOSNEY & KRUSE, LLP

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19 By: ORIGINAL SIGNED
Thomas S. Bunn III
20 Attorneys for Palmdale Water District
and Quartz Hill Water District
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