

1 DOUGLAS J. EVERTZ, State Bar No. 123066
2 STRADLING YOCCA CARLSON & RAUTH
3 A Professional Corporation
4 660 Newport Center Drive, Suite 1600
5 Newport Beach, California 92660-6441
6 Telephone: (949) 725-4000
7 Fax: (949) 725-4100

Exempt from filing fee
Government Code § 6103

8 Attorneys for Defendant and Cross-Defendant
9 CITY OF LANCASTER

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

Coordination Proceeding
Special Title (Rule 1550(b))

Judicial Council Coordination
Proceeding No. 4408

**ANTELOPE VALLEY GROUNDWATER
CASES**

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

**ANSWER TO ALL CROSS-
COMPLAINTS BY CITY OF
LANCASTER**

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1 Defendant City of Lancaster ("City") answers all Cross-Complaints in these coordinated
2 proceedings as follows. These include without limitation the Cross-Complaints filed by City of
3 Palmdale, Antelope Valley-East Kern Water Agency, County Sanitation Districts Nos. 14 and
4 20, Diamond Farming Company, Bolthouse Properties, LLC, Antelope Valley Groundwater
5 Agreement Association (First Amended Cross Complaint), and any other cross-complaints that
6 now or hereafter assert claims against the City.

7
8 **ANSWER**

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10 Pursuant to Code of Civil Procedure section 431.30(d), the City denies each and every
11 allegation of the Cross-Complaints and further denies that Cross-Complainants are entitled to
12 any relief against the City.

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14 **FIRST AFFIRMATIVE DEFENSE**

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

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17 1. The Cross-Complainants have failed to state facts sufficient to state a cause of
18 action against Districts.

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20 **SECOND AFFIRMATIVE DEFENSE**

21 **(Uncertainty)**

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23 2. The Cross-Complainants have failed to describe with specificity the groundwater
24 basin from which Cross-Complainants contend they enjoy rights to produce percolating
25 groundwater.

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THIRD AFFIRMATIVE DEFENSE
(Non-Interference)

3. On information and belief, City’s water production does not interfere in any way with Cross-Complainants’ claimed water rights.

FOURTH AFFIRMATIVE DEFENSE
(Consent, Waiver, Estoppel, Laches)

4. On information and belief, the Cross-Complainants and their predecessors have been aware for many years of the City’s production of groundwater. The Cross-Complainants, by their silence and inaction, have acquiesced to the City’s extraction of groundwater. Cross-Complainants have unreasonably delayed commencement of this action to the prejudice of the City.

FIFTH AFFIRMATIVE DEFENSE
(Civil Code Section 1007)

5. The relief sought by Cross-Complainants is barred by Civil Code section 1007.

SIXTH AFFIRMATIVE DEFENSE
(Statute of Limitations)

6. 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.

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SEVENTH AFFIRMATIVE DEFENSE
(Failure to Join Necessary Parties)

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

EIGHTH AFFIRMATIVE DEFENSE
(Right to Recycled Water)

8. The City has a paramount right against all other parties, in accordance with Water Code section 1210, to recycled water produced or acquired by the City.

NINTH AFFIRMATIVE DEFENSE
(Right to Reclusion Recycled Water)

9. To the extent recycled water of the City reaches the Basin through various means including percolation of return flows, and to the extent the City may seek to store recycled water in the future through the use of recharge basins or other facilities, the City has paramount rights to store the water in the Basin and recapture the water or an equivalent amount.

TENTH AFFIRMATIVE DEFENSE
(Priority)

10. Whether as an overlying, appropriative or prescriptive user, or otherwise, the City claims the prior paramount and vested right to produce water for reasonable and beneficial purposes.

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ELEVENTH AFFIRMATIVE DEFENSE

(No Taking)

11. Cross-Complainants may not recover compensation from the City because the City has not taken any property from Cross-Complainants and/or Cross-Complainants do not have a compensable property interest.

TWELFTH AFFIRMATIVE DEFENSE

(Physical Solution)

12. In the event of the imposition of a physical solution or some form of declaratory relief, due regard must be given to the water rights of the City.

THIRTEENTH AFFIRMATIVE DEFENSE

(Hardship)

13. Any injunction against the City's production of groundwater will cause undue hardship to the City.

FOURTEENTH AFFIRMATIVE DEFENSE

(Tort Claims Act)

14. Cross-Complainants have failed to comply with the Tort Claims Act, Government Code sections 900 et seq.

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1 **FIFTEENTH AFFIRMATIVE DEFENSE**

2 **(Incorporation by Reference)**

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4 15. As permitted by the Court's Appearance Form, the City incorporates by reference
5 each affirmative defense to the cross-complaints filed by any other defendant or cross-defendant,
6 whether its answer is filed before or after the filing of this answer.
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8 DATED: February 21, 2007

STRADLING YOCCA CARLSON & RAUTH
A Professional Corporation

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11 By: 
12 Douglas J. Evertz, Attorneys for Defendant and
13 Cross-Defendant CITY OF LANCASTER
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1 **PROOF OF SERVICE**

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3 I am a resident of the State of California and over the age of eighteen years, and not a
4 party to the within action; my business address is 660 Newport Center Drive, Suite 1600,
Newport Beach, California 92660. On February 21, 2007, I served the within document(s):

5 **ANSWER TO ALL CROSS COMPLAINTS BY CITY OF LANCASTER**

6 ☐

7 by transmitting via facsimile the document(s) listed above to the fax number(s)
set forth below on this date before 5:00 p.m.

8 ☐

9 by placing the document(s) listed above in a sealed FEDERAL EXPRESS
package for overnight delivery at Newport Beach, California addressed as set
forth below.

10 ☒

11 by filing/posting said document(s) electronically with Santa Clara Superior
Court E-Filing in complex Litigation pursuant to Clarification Order dated
October 27, 2005, which document(s) are then electronically served/distributed
to respective parties.

12 ☐

13 placing the document(s) listed above in a sealed envelope, fully prepaid, via
United States Mail addressed as set forth below.

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15 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
16 Service on that same day with postage thereon fully prepaid in the ordinary course of business.
17 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.

18 I declare under penalty of perjury under the laws of the State of California that the above
19 is true and correct.

20 Executed on February 21, 2007, at Newport Beach, California.

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22 LORIN MORENO
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