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8 DESERT WATER AGENCY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF RIVERSIDE – PALM SPRINGS COURT HOUSE

12 MISSION SPRINGS WATER DISTRICT,
a California County Water District,

13 Petitioner and Plaintiff,

14 v.

15 DESERT WATER AGENCY, a California
16 public agency; COACHELLA VALLEY
17 WATER DISTRICT, a California county
18 water district; CALIFORNIA
19 DEPARTMENT OF WATER
RESOURCES, an agency of the State of
California; and DOES 1 through 50,

20 Respondents and Defendants.

21 THE CITY OF INDIO WATER
AUTHORITY, a California joint powers
22 authority and public agency; THE CITY
OF COACHELLA WATER
23 AUTHORITY, a California joint powers
24 authority and public agency; and DOES 51
through 100,

25 Real Parties in Interest.

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT 04 2018

Stacy Antonacci

Case No. PSC1600676
Judge: Hon. David M. Chapman

**DESERT WATER AGENCY'S ANSWER
TO THIRD AMENDED PETITION FOR
WRIT OF MANDATE AND/OR
ADMINISTRATIVE MANDAMUS;
COMPLAINT FOR BREACH OF
CONTRACT (SPECIFIC
PERFORMANCE) AND BREACH OF
COVENANTS OF GOOD FAITH AND
FAIR DEALING; COMPLAINT FOR
DECLARATORY RELIEF AND
INJUNCTIVE RELIEF**

3rd Amended Petition Filed: June 14, 2018
2nd Amended Petition Filed: March 30, 2017
Amended Petition Filed: April 12, 2016
Action Filed: February 16, 2016
Trial Date: None Set

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DWA'S ANSWER TO MSWD'S THIRD AMENDED PETITION AND COMPLAINT

COPY

1 5. In answer to paragraph 5, DWA is without sufficient knowledge or information to
2 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
3 every allegation.

4 6. In answer to paragraph 6, DWA admits the allegations contained therein.

5 7. In answer to paragraph 7, DWA is without sufficient knowledge or information to
6 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
7 every allegation.

8 8. In answer to paragraph 8, DWA is without sufficient knowledge or information to
9 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
10 every allegation.

11 9. In answer to paragraph 9, DWA is without sufficient knowledge or information to
12 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
13 every allegation.

14 10. In answer to paragraph 10, DWA is without sufficient knowledge or information to
15 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
16 every allegation.

17 11. In answer to paragraph 11, DWA is without sufficient knowledge or information to
18 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
19 every allegation.

20 12. In answer to paragraph 12, DWA is without sufficient knowledge or information to
21 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
22 every allegation.

23 13. In answer to paragraph 13, DWA is without sufficient knowledge or information to
24 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
25 every allegation.

26 14. In answer to paragraph 14, DWA admits that it is a public agency of the State of
27 California whose administrative office is located in Riverside County, California. Except as
28 expressly admitted herein, DWA is without sufficient knowledge or information to form a belief

1 as to the truth of the remaining allegations contained therein, and, on that basis, denies each and
2 every allegation.

3 15. In answer to paragraph 15, DWA avers that each and every allegation in it consists
4 of legal arguments, theories, or conclusions to which no answer is required. However, to the
5 extent that paragraph 15 contains any factual allegations, DWA is without sufficient knowledge
6 or information to form a belief as to the truth of the allegations contained therein and, on that
7 basis, denies each and every allegation.

8 16. In answer to paragraph 16, DWA denies the allegations contained therein.

9 17. In answer to paragraph 17, DWA denies the allegations contained therein.

10 18. In answer to paragraph 18, DWA denies the characterization of Garnet Hill as a
11 “sub-basin.” It is a sub-area of the Indio (Whitewater River) Sub-Basin. Additionally, DWA
12 denies the allegation that the San Gorgonio Basin is a sub-basin of the Coachella Valley
13 Groundwater Basin. Lastly, with regards to the allegation that Garnet Hill is more closely linked
14 to the Mission Creek Sub-Basin than the Indio (Whitewater River) Sub-Basin, DWA is without
15 sufficient knowledge or information to form a belief as to the truth of the allegation and, on that
16 basis, denies it. Except as expressly denied herein, DWA admits the remaining allegations
17 contained in paragraph 18.

18 19. In answer to paragraph 19, DWA admits that it is authorized to, among other
19 things, provide water service to customers within its service area. Except as expressly admitted
20 herein, DWA is without sufficient knowledge or information to form a belief as to the truth of the
21 allegations contained therein and, on that basis, denies each and every allegation.

22 20. In answer to paragraph 20, DWA denies the allegations contained therein.

23 21. In answer to paragraph 21, DWA denies the characterization of Garnet Hill as a
24 “sub-basin.” It is a sub-area of the Indio (Whitewater River) Sub-Basin. Moreover, DWA denies
25 that the Indio (Whitewater River) Sub-Basin is designated by DWR as “medium priority.”
26 Except as expressly denied herein, DWA avers that each and every remaining allegation in it
27 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
28 the extent that paragraph 21 contains any remaining factual allegations, DWA is without

1 sufficient knowledge or information to form a belief as to the truth of the allegations contained
2 therein and, on that basis, denies each and every allegation.

3 22. In answer to paragraph 22, DWA admits that it has authority to import and store
4 water in the Mission Creek and Indio (Whitewater River) Subbasins (“Subbasins”). Additionally,
5 DWA admits that it is authorized to levy and collect assessments. DWA denies that its statutory
6 authority to import water is limited to State Water Project water. Except as expressly admitted or
7 denied herein, DWA avers that each and every remaining allegation in paragraph 22 consists of
8 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
9 that paragraph 22 contains any remaining factual allegations, DWA is without sufficient
10 knowledge or information to form a belief as to the truth of the remaining allegations contained in
11 paragraph 22 and, on that basis, denies each and every allegation contained therein.

12 23. In answer to paragraph 23, DWA is without sufficient knowledge or information to
13 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
14 every allegation.

15 24. In answer to paragraph 24, DWA is without sufficient knowledge or information to
16 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
17 every allegation.

18 25. In answer to paragraph 25, DWA denies the characterization of Garnet Hill as a
19 “sub-basin.” It is a sub-area of the Indio (Whitewater River) Sub-Basin. Additionally, DWA
20 denies the allegation that the San Gorgonio Basin is a sub-basin of the Coachella Valley
21 Groundwater Basin. Except as expressly denied herein, DWA is without sufficient knowledge or
22 information to form a belief as to the truth of the remaining allegations contained therein and, on
23 that basis, denies each and every allegation.

24 26. In answer to paragraph 26, DWA is without sufficient knowledge or information to
25 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
26 every allegation.

27 27. In answer to paragraph 27, DWA avers that each and every allegation consists of
28 legal arguments, theories, or conclusions to which no answer is required. However, to the extent

1 that paragraph 27 contains any factual allegations, DWA denies each and every allegation.

2 28. In answer to paragraph 28, DWA avers that each and every allegation consists of
3 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
4 that paragraph 28 contains any factual allegations, DWA is without sufficient knowledge or
5 information to form a belief as to the truth of the allegations contained therein and, on that basis,
6 denies each and every allegation.

7 29. In answer to paragraph 29, DWA avers that each and every allegation consists of
8 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
9 that paragraph 29 contains any factual allegations, DWA is without sufficient knowledge or
10 information to form a belief as to the truth of the allegations contained therein and, on that basis,
11 denies each and every allegation.

12 30. In answer to paragraph 30, DWA avers that each and every allegation consists of
13 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
14 that paragraph 30 contains any factual allegations, DWA is without sufficient knowledge or
15 information to form a belief as to the truth of the allegations contained therein and, on that basis,
16 denies each and every allegation.

17 31. In answer to paragraph 31, DWA avers that each and every allegation consists of
18 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
19 that paragraph 31 contains any factual allegations, DWA is without sufficient knowledge or
20 information to form a belief as to the truth of the allegations contained therein and, on that basis,
21 denies each and every allegation.

22 32. In answer to paragraph 32, DWA avers that each and every allegation consists of
23 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
24 that paragraph 32 contains any factual allegations, DWA is without sufficient knowledge or
25 information to form a belief as to the truth of the allegations contained therein and, on that basis,
26 denies each and every allegation.

27 33. In answer to paragraph 33, DWA is without sufficient knowledge or information to
28 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and

1 every allegation.

2 34. In answer to paragraph 34, DWA is without sufficient knowledge or information to
3 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
4 every allegation.

5 35. In answer to paragraph 35, DWA admits that MSWD and CVWD supported the
6 formation of DWA. Except as expressly admitted herein, DWA is without sufficient knowledge
7 or information to form a belief as to the truth of the allegations contained therein and, on that
8 basis, denies each and every allegation.

9 36. In answer to paragraph 36, DWA admits that it was formed by special act of the
10 California legislature in 1961. DWA also admits that its statutory powers include, but are not
11 limited to, "contracting for and importing" water into the Coachella Valley Groundwater Basin
12 and "annually determin[ing] the costs of replenishing groundwater supplies within its boundaries,
13 and then charg[ing] an assessment on benefitted water producers." Moreover, DWA admits that
14 its Board of Directors is comprised of five members elected by voters within its boundaries.
15 Except as expressly admitted herein, DWA avers that each and every remaining allegation in
16 paragraph 36 consists of legal arguments, theories, or conclusions to which no answer is required.
17 However, to the extent that paragraph 36 contains any remaining factual allegations, DWA denies
18 each and every remaining allegation.

19 37. In answer to paragraph 37, DWA admits that it provides retail water service within
20 its boundaries, including but not limited to the area shown in Exhibit C to the Third Amended
21 Petition and Complaint. Except as expressly admitted herein, DWA denies each and every
22 remaining allegation.

23 38. In answer to paragraph 38, DWA avers that each and every allegation consists of
24 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
25 that paragraph 38 contains any factual allegations, DWA denies each and every allegation.

26 39. In answer to paragraph 39, DWA admits that the MSWD (formerly known as
27 Desert Hot Springs Water District) Board of Directors consented to annexation into DWA.
28 Except as expressly admitted herein, DWA avers that each and every remaining allegation

1 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
2 the extent that paragraph 39 contains any further factual allegations, DWA denies each and every
3 remaining allegation.

4 40. In answer to paragraph 40, DWA alleges that the statute speaks for itself. Except
5 as expressly alleged by DWA herein, to the extent that paragraph 40 contains any factual
6 allegations, DWA is without sufficient knowledge or information to form a belief as to the truth
7 of any remaining factual allegations contained therein and, on that basis, denies each and every
8 allegation.

9 41. In answer to paragraph 41, DWA alleges that the statute speaks for itself. Except
10 as expressly alleged by DWA herein, DWA avers that each and every allegation in paragraph 41
11 consists of legal arguments, theories, or conclusions to which no answer is required.

12 42. In answer to paragraph 42, DWA alleges that the statute speaks for itself. Except
13 as expressly alleged by DWA herein, DWA avers that each and every remaining allegation in
14 paragraph 42 consists of legal arguments, theories, or conclusions to which no answer is required.
15 However, to the extent that paragraph 42 contains any remaining factual allegations, DWA is
16 without sufficient knowledge or information to form a belief as to the truth of the remaining
17 allegations contained therein and, on that basis, denies each and every remaining allegation.

18 43. In answer to paragraph 43, DWA avers that each and every allegation in it consists
19 of legal arguments, theories, or conclusions to which no answer is required. However, to the
20 extent that paragraph 43 contains any factual allegations, DWA is without sufficient knowledge
21 or information to form a belief as to the truth of the remaining allegations contained therein and,
22 on that basis, denies each and every remaining allegation.

23 44. In answer to paragraph 44, DWA avers that each and every allegation in it consists
24 of legal arguments, theories, or conclusions to which no answer is required. However, to the
25 extent that paragraph 44 contains any factual allegations, DWA denies each and every remaining
26 allegation.

27 45. In answer to paragraph 45, DWA denies that MSWD did not consent to its
28 unqualified annexation into DWA. Except as expressly denied herein, DWA avers that each and

1 every remaining allegation in it consists of legal arguments, theories, or conclusions to which no
2 answer is required. However, to the extent that paragraph 45 contains any remaining factual
3 allegations, DWA denies each and every remaining allegation.

4 46. In answer to paragraph 46, DWA avers that each and every allegation in it consists
5 of legal arguments, theories, or conclusions to which no answer is required. However, to the
6 extent that paragraph 46 contains any factual allegations, DWA denies each and every remaining
7 allegation.

8 47. In answer to paragraph 47, DWA avers that each and every allegation in it consists
9 of legal arguments, theories, or conclusions to which no answer is required. However, to the
10 extent that paragraph 47 contains any factual allegations, DWA is without sufficient knowledge
11 or information to form a belief as to the truth of the remaining allegations contained therein and,
12 on that basis, denies each and every remaining allegation.

13 48. In answer to paragraph 48, DWA admits that it acquired mutual water companies
14 pursuant to DWA's authorities. DWA also admits that it currently provides retail water services
15 outside of MSWD's service areas. Except as expressly admitted herein, DWA avers that each
16 and every remaining allegation in paragraph 48 consists of legal arguments, theories, or
17 conclusions to which no answer is required. However, to the extent that paragraph 48 contains
18 any remaining factual allegations, DWA is without sufficient knowledge or information to form a
19 belief as to the truth of the remaining allegations contained therein and, on that basis, denies each
20 and every remaining allegation.

21 49. In answer to paragraph 49, DWA avers that each and every allegation in it consists
22 of legal arguments, theories, or conclusions to which no answer is required. However, to the
23 extent that paragraph 49 contains any factual allegations, DWA denies each and every remaining
24 allegation.

25 50. In answer to paragraph 50, DWA avers that each and every allegation in it consists
26 of legal arguments, theories, or conclusions to which no answer is required. However, to the
27 extent that paragraph 50 contains any factual allegations, DWA is without sufficient knowledge
28 or information to form a belief as to the truth of the remaining allegations contained therein and,

1 on that basis, denies each and every remaining allegation.

2 51. In answer to paragraph 51, DWA avers that each and every allegation in it consists
3 of legal arguments, theories, or conclusions to which no answer is required. However, to the
4 extent that paragraph 51 contains any factual allegations, DWA denies each and every remaining
5 allegation.

6 52. In answer to paragraph 52, DWA admits that MSWD pays replenishment
7 assessments to DWA for water MSWD pumps from the Mission Creek and Indio Sub-Basins.
8 Except as expressly admitted herein, DWA avers that each and every remaining allegation in
9 paragraph 52 consists of legal arguments, theories, or conclusions to which no answer is required.
10 However, to the extent that paragraph 52 contains any remaining factual allegations, DWA denies
11 each and every remaining allegation.

12 53. In answer to paragraph 53, DWA avers that each and every allegation in it consists
13 of legal arguments, theories, or conclusions to which no answer is required. However, to the
14 extent that paragraph 53 contains any factual allegations, DWA denies each and every allegation
15 contained therein.

16 54. In answer to paragraph 54, DWA admits that it had discussions with MSWD and
17 CVWD concerning importing and replenishing groundwater in the Mission Creek Sub-Basin, that
18 MSWD adopted a resolution in support of replenishment in the Mission Creek Sub-Basin, and
19 that a turnout from the Colorado River aqueduct and spreading basins were constructed to
20 implement the replenishment program in the Mission Creek Sub-Basin. Except as expressly
21 admitted herein, DWA is without sufficient knowledge or information to form a belief as to the
22 truth of the remaining allegations contained therein and, on that basis, denies each and every
23 allegation.

24 55. In answer to paragraph 55, DWA admits that it executed the Mission Creek
25 Groundwater Replenishment Agreement ("Mission Creek Agreement") and alleges that the
26 Mission Creek Agreement speaks for itself. DWA further admits that MSWD submitted a White
27 Paper in 2003 and alleges that the document speaks for itself. Except as expressly admitted or
28 alleged by DWA herein, DWA avers that each and every remaining allegation in paragraph 55

1 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
2 the extent that paragraph 55 contains any remaining factual allegations, DWA denies each and
3 every allegation.

4 56. In answer to paragraph 56, DWA admits the allegations contained therein.

5 57. In answer to paragraph 57, DWA admits that in 2004, MSWD, DWA, and
6 Defendant Coachella Valley Water District (“CVWD”) entered into a written settlement
7 agreement (“2004 Settlement Agreement”) which included the terms at pages 14 and 15, lines 22
8 through 27 and 1 through 12, respectively, of the Third Amended Petition/Complaint and
9 provided for the dismissal of the 2004 lawsuit without prejudice. DWA alleges the 2004
10 Settlement Agreement speaks for itself. Except as expressly admitted or alleged herein, DWA
11 avers that each and every remaining allegation in paragraph 57 consists of legal arguments,
12 theories, or conclusions to which no answer is required. However, to the extent paragraph 57
13 contains any remaining factual allegations, DWA is without sufficient knowledge or information
14 to form a belief as to the truth of the remaining allegations contained therein and, on that basis,
15 denies each and every remaining allegation.

16 58. In answer to paragraph 58, DWA alleges that the 2004 Settlement Agreement
17 speaks for itself. Except as expressly alleged by DWA herein, DWA avers that each and every
18 remaining allegation in paragraph 58 consists of legal arguments, theories, or conclusions to
19 which no answer is required. With respect to what MSWD relied upon in approving the 2004
20 Settlement Agreement, DWA is without sufficient knowledge or information to form a belief as
21 to the truth of the remaining allegations contained therein and, on that basis, denies each and
22 every remaining allegation. To the extent that paragraph 58 contains any remaining factual
23 allegations, DWA denies each and every allegation therein.

24 59. In answer to paragraph 59, DWA denies each and every allegation contained
25 therein.

26 60. In answer to paragraph 60, DWA avers that each and every allegation in it consists
27 of legal arguments, theories, or conclusions to which no answer is required. To the extent that
28 paragraph 60 contains any factual allegations, DWA denies each and every allegation.

1 61. In answer to paragraph 61, DWA admits that MSWD, CVWD, and DWA, among
2 others, shared the costs of preparing the Coachella Valley Integrated Regional Water
3 Management Plan (“IRWMP”). DWA admits that MSWD, CVWD, and DWA shared the costs
4 of preparing the Mission Creek-Garnet Hill Water Management Plan. DWA alleges that both the
5 IRWMP and Mission Creek-Garnet Hill Water Management Plan speak for themselves. Except
6 as expressly admitted or alleged herein, DWA denies each and every remaining allegation
7 contained in paragraph 61.

8 62. In answer to paragraph 62, DWA admits that final contracts for development of
9 the Mission Creek-Garnet Hill Water Management Plan were approved by CVWD and MSWD in
10 October 2008. DWA admits that it approved a modified proposal to facilitate preparation of the
11 Mission Creek-Garnet Hill Water Management Plan in November 2010. DWA admits that
12 groundwater modeling for the Mission Creek Sub-Basin and Garnet Hill was completed in 2013.
13 Except as expressly admitted herein, DWA denies each and every remaining allegations
14 contained in paragraph 62.

15 63. In answer to paragraph 63, DWA admits that, in February 2014, the IRWMP was
16 approved by a number of water purveyors in the Coachella Valley, including MSWD, DWA, and
17 CVWD. Moreover, DWA alleges that the IRWMP speaks for itself. Except as expressly
18 admitted or alleged by DWA herein, DWA is without sufficient knowledge or information to
19 form a belief as to the truth of the remaining allegations contained in paragraph 63 and, on that
20 basis, denies each and every remaining allegation contained therein.

21 64. In answer to paragraph 64, DWA admits that in August 2014, DWA, CVWD,
22 MSWD, Coachella Water Authority (“CWA”), Indio Water Authority (“IWA”), and Valley
23 Sanitary District entered into a Memorandum of Understanding, which speaks for itself. Except
24 as expressly admitted herein, DWA is without sufficient knowledge or information to form a
25 belief as to the truth of the remaining allegations contained in paragraph 64 and, on that basis,
26 denies each and every remaining allegation contained therein.

27 65. In answer to paragraph 65, DWA admits that the Sustainable Groundwater
28 Management Act (“SGMA”) was enacted in or around September 2014. Except as expressly

1 admitted herein, DWA avers that each and every remaining allegation in paragraph 65 consists of
2 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
3 that paragraph 65 contains any remaining factual allegations, DWA is without sufficient
4 knowledge or information to form a belief as to the truth of the remaining allegations contained in
5 paragraph 65 and, on that basis, denies each and every remaining allegation contained therein.

6 66. In answer to paragraph 66, DWA admits the allegations contained therein.

7 67. In answer to paragraph 67, DWA denies that the Indio (Whitewater River) Sub-
8 Basin is classified by DWR as a “medium-priority” basin. Except as expressly denied herein,
9 DWA avers that each and every allegation in it consists of legal arguments, theories, or
10 conclusions to which no answer is required. However, to the extent that paragraph 67 contains
11 any factual allegations, DWA is without sufficient knowledge or information to form a belief as
12 to the truth of the allegations contained therein and, on that basis, denies each and every
13 allegation.

14 68. In answer to paragraph 68, DWA avers that each and every allegation in it consists
15 of legal arguments, theories, or conclusions to which no answer is required. However, to the
16 extent that paragraph 68 contains any factual allegations, DWA is without sufficient knowledge
17 or information to form a belief as to the truth of the allegations contained therein and, on that
18 basis, denies each and every allegation.

19 69. In answer to paragraph 69, DWA alleges that Water Code section 10726.4(a)
20 speaks for itself. Except as expressly alleged herein, DWA avers that each and every allegation
21 in it consists of legal arguments, theories, or conclusions to which no answer is required.
22 However, to the extent that paragraph 69 contains any factual allegations, DWA is without
23 sufficient knowledge or information to form a belief as to the truth of the allegations contained
24 therein and, on that basis, denies each and every allegation.

25 70. In answer to paragraph 70, DWA denies that Water Code section 10721(m)
26 defines the term “any local agency.” DWA admits that SGMA designates fifteen (15) “agencies
27 created by statute to manage groundwater” as the “exclusive local agencies within their respective
28 statutory boundaries with powers to comply” with SGMA. Except as expressly denied or

1 admitted herein, DWA avers that each and every remaining allegation in it consists of legal
2 arguments, theories, or conclusions to which no answer is required. However, to the extent that
3 paragraph 70 contains any remaining factual allegations, DWA is without sufficient knowledge or
4 information to form a belief as to the truth of the allegations contained therein and, on that basis,
5 denies each and every allegation.

6 71. In answer to paragraph 71, DWA denies that it was not an agency created by
7 statute to manage groundwater. DWA admits that it was designated by the California Legislature
8 as an exclusive local agency under SGMA. Additionally, DWA alleges that the statute speaks for
9 itself. Except as expressly denied, admitted, or alleged by DWA herein, DWA avers that each
10 and every remaining allegation in it consists of legal arguments, theories, or conclusions to which
11 no answer is required. However, to the extent that paragraph 71 contains any remaining factual
12 allegations, DWA is without sufficient knowledge or information to form a belief as to the truth
13 of the remaining allegations contained therein and, on that basis, denies each and every remaining
14 allegation.

15 72. In answer to paragraph 72, DWA alleges that the statute speaks for itself. Except
16 as expressly alleged herein, DWA avers that each and every remaining allegation in it consists of
17 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
18 that paragraph 72 contains any remaining factual allegations, DWA is without sufficient
19 knowledge or information to form a belief as to the truth of the allegations contained therein and,
20 on that basis, denies each and every allegation.

21 73. In answer to paragraph 73, DWA alleges that the statute speaks for itself. Except
22 as expressly alleged herein, DWA avers that each and every remaining allegation in it consists of
23 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
24 that Paragraph 73 contains any remaining factual allegations, DWA denies each and every
25 allegation.

26 74. In answer to paragraph 74, DWA admits that it was designated under SGMA as
27 the exclusive GSA within its statutory boundaries. DWA denies that it does not provide water
28 service within MSWD's boundaries. Except as expressly admitted or denied herein, DWA avers

1 that each and every remaining allegation in it consists of legal arguments, theories, or conclusions
2 to which no answer is required. However, to the extent that paragraph 74 contains any remaining
3 factual allegations, DWA is without sufficient knowledge or information to form a belief as to the
4 truth of the allegations contained therein and, on that basis, denies each and every remaining
5 allegation.

6 75. In answer to paragraph 75, DWA alleges that the statute speaks for itself. Except
7 as expressly alleged herein, DWA avers that each and every remaining allegation in it consists of
8 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
9 that Paragraph 75 contains any remaining factual allegations, DWA is without sufficient
10 knowledge or information to form a belief as to the truth of the allegations contained therein and,
11 on that basis, denies each and every allegation.

12 76. In answer to paragraph 76, DWA avers that each and every allegation in it consists
13 of legal arguments, theories, or conclusions to which no answer is required. However, to the
14 extent that Paragraph 76 contains any factual allegations, DWA denies each and every allegation.

15 77. In answer to paragraph 77, DWA alleges that the statute speaks for itself. Except
16 as expressly alleged herein, DWA avers that each and every remaining allegation in it consists of
17 legal arguments, theories, or conclusions to which no answer is required. However, to the extent
18 that paragraph 77 contains any remaining factual allegations, DWA is without sufficient
19 knowledge or information to form a belief as to the truth of the allegations contained therein and,
20 on that basis, denies each and every allegation.

21 78. In answer to paragraph 78, DWA avers that each and every allegation in it consists
22 of legal arguments, theories, or conclusions to which no answer is required. However, to the
23 extent that paragraph 78 contains any factual allegations, DWA is without sufficient knowledge
24 or information to form a belief as to the truth of the allegations contained therein and, on that
25 basis, denies each and every allegation.

26 79. In answer to paragraph 79, DWA denies that its notice of intent was deficient.
27 Except as expressly denied herein, DWA admits the remaining allegations in paragraph 79.

28 80. In answer to paragraph 80, DWA avers that each and every allegation in it consists

1 of legal arguments, theories, or conclusions to which no answer is required. However, to the
2 extent that paragraph 80 contains any factual allegations, DWA is without sufficient knowledge
3 or information to form a belief as to the truth of the allegations contained therein and, on that
4 basis, denies each and every allegation.

5 81. In answer to paragraph 81, DWA is without sufficient knowledge or information to
6 form a belief as to the truth of the allegations contained therein and, on that basis, denies each and
7 every allegation.

8 82. In answer to paragraph 82, DWA avers that each and every allegation in it consists
9 of legal arguments, theories, or conclusions to which no answer is required. However, to the
10 extent that paragraph 82 contains any factual allegations, DWA is without sufficient knowledge
11 or information to form a belief as to the truth of the allegations contained therein and, on that
12 basis, denies each and every allegation.

13 83. In answer to paragraph 83, DWA admits the allegations contained therein.

14 84. In answer to paragraph 84, DWA denies that Garnet Hill is a “sub-basin” of the
15 Coachella Valley Groundwater Basin. DWA denies that its proposed GSA boundaries included
16 any portion of the Desert Hot Springs Sub-Basin. DWA denies that the San Gorgonio Pass Basin
17 is a sub-basin of the Coachella Valley Groundwater Basin. DWA denies that the “three square
18 mile area” falls outside its service area boundaries. DWA denies that the portion of the San
19 Gorgonio Pass Basin included within its proposed GSA boundaries lies also within the
20 boundaries of MSWD. Except as expressly denied herein, DWA admits the remaining allegations
21 in paragraph 84.

22 85. In answer to paragraph 85, DWA admits that it received a letter from Nancy S.
23 Wright letter on November 13, 2016. Except as expressly admitted herein, DWA is without
24 sufficient knowledge or information to form a belief as to the truth of any remaining factual
25 allegations contained therein and, on that basis, denies each and every allegation.

26 86. In answer to paragraph 86, DWA alleges that the transcript from the November 17,
27 2015 DWA Board of Directors meeting speaks for itself. Except as expressly alleged herein,
28 DWA denies each and every remaining allegations in paragraph 86.

1 87. In answer to paragraph 87, DWA alleges that the transcript from the November 17,
2 2015 DWA Board of Directors meeting speaks for itself. Except as expressly alleged herein,
3 DWA avers that each and every remaining allegation in it consists of legal arguments, theories, or
4 conclusions to which no answer is required. However, to the extent that paragraph 87 contains
5 any remaining factual allegations, DWA denies each and every allegation.

6 88. In answer to paragraph 88, DWA alleges that the transcript from the November 17,
7 2015 DWA Board of Directors meeting speaks for itself. Except as expressly alleged herein,
8 DWA avers that each and every remaining allegation in it consists of legal arguments, theories, or
9 conclusions to which no answer is required. However, to the extent that paragraph 88 contains
10 any remaining factual allegations, DWA denies each and every allegation.

11 89. In answer to paragraph 89, DWA alleges that the transcript from the November 17,
12 2015 DWA Board of Directors meeting speaks for itself. Except as expressly alleged herein,
13 DWA avers that each and every remaining allegation in it consists of legal arguments, theories, or
14 conclusions to which no answer is required. However, to the extent that paragraph 89 contains
15 any remaining factual allegations, DWA denies each and every allegation.

16 90. In answer to paragraph 90, DWA alleges that the transcript from the November 17,
17 2015 DWA Board of Directors meeting speaks for itself. Except as expressly alleged herein,
18 DWA avers that each and every remaining allegation in it consists of legal arguments, theories, or
19 conclusions to which no answer is required. However, to the extent that paragraph 90 contains
20 any remaining factual allegations, DWA denies each and every allegation.

21 91. In answer to paragraph 91, DWA denies that the San Gorgonio Pass Basin is a
22 sub-basin of the Coachella Valley Groundwater Basin. Except as expressly denied herein, DWA
23 admits the allegations contained therein.

24 92. In answer to paragraph 92, DWA avers that each and every allegation in it consists
25 of legal arguments, theories, or conclusions to which no answer is required. However, to the
26 extent that paragraph 92 contains any factual allegations, DWA denies each and every allegation.

27 93. In answer to paragraph 93, DWA admits that DWR deemed DWA's notice of
28 intent to be "complete." Except as expressly admitted herein, DWA avers that each and every

1 remaining allegation in it consists of legal arguments, theories, or conclusions to which no answer
2 is required. However, to the extent that paragraph 93 contains any remaining factual allegations,
3 DWA is without sufficient knowledge or information to form a belief as to the truth of the
4 allegations contained therein and, on that basis, denies each and every allegation.

5 94. In answer to paragraph 94, DWA admits that DWR deemed DWA's notice of
6 intent to be "complete" and posted it on DWR's website. Except as expressly admitted herein,
7 DWA avers that each and every remaining allegation in it consists of legal arguments, theories, or
8 conclusions to which no answer is required. However, to the extent that paragraph 94 contains
9 any remaining factual allegations, DWA is without sufficient knowledge or information to form a
10 belief as to the truth of the allegations contained therein and, on that basis, denies each and every
11 allegation.

12 95. In answer to paragraph 95, DWA avers that each and every allegation in it consists
13 of legal arguments, theories, or conclusions to which no answer is required. However, to the
14 extent that paragraph 95 contains any factual allegations, DWA is without sufficient knowledge
15 or information to form a belief as to the truth of the allegations contained therein and, on that
16 basis, denies each and every allegation.

17 96. In answer to paragraph 96, DWA avers that each and every allegation in it consists
18 of legal arguments, theories, or conclusions to which no answer is required. However, to the
19 extent that paragraph 96 contains any factual allegations, DWA is without sufficient knowledge
20 or information to form a belief as to the truth of the allegations contained therein and, on that
21 basis, denies each and every allegation.

22 97. In answer to paragraph 97, DWA avers that each and every allegation in it consists
23 of legal arguments, theories, or conclusions to which no answer is required. However, to the
24 extent that paragraph 97 contains any factual allegations, DWA is without sufficient knowledge
25 or information to form a belief as to the truth of the allegations contained therein and, on that
26 basis, denies each and every allegation.

27 98. In answer to paragraph 98, DWA avers that each and every allegation in it consists
28 of legal arguments, theories, or conclusions to which no answer is required. However, to the

1 extent that paragraph 98 contains any factual allegations, DWA denies each and every allegation.

2 99. In answer to paragraph 99, DWA avers that each and every allegation in it consists
3 of legal arguments, theories, or conclusions to which no answer is required. However, to the
4 extent that paragraph 99 contains any factual allegations, DWA denies each and every allegation.

5 100. In answer to paragraph 100, DWA avers that each and every allegation in it
6 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
7 the extent that paragraph 100 contains any factual allegations, DWA is without sufficient
8 knowledge or information to form a belief as to the truth of the allegations contained therein and,
9 on that basis, denies each and every allegation.

10 101. In answer to paragraph 101, DWA avers that each and every allegation in it
11 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
12 the extent that paragraph 101 contains any factual allegations, DWA denies each and every
13 allegation contained therein.

14 102. In answer to paragraph 102, DWA is without sufficient knowledge or information
15 to form a belief as to the truth of the allegations contained therein and, on that basis, denies each
16 and every allegation.

17 103. In answer to paragraph 103, DWA is without sufficient knowledge or information
18 to form a belief as to the truth of the allegations contained therein and, on that basis, denies each
19 and every allegation.

20 104. In answer to paragraph 104, DWA is without sufficient knowledge or information
21 to form a belief as to the truth of the allegations contained therein and, on that basis, denies each
22 and every allegation.

23 105. In answer to paragraph 105, DWA denies that the respective positions taken by its
24 legal counsel at either DWA's public hearing on November 17, 2015 or MSWD's public hearing
25 on January 19, 2016 were inconsistent with each other. Except as expressly denied herein, DWA
26 avers that each and every remaining allegation in it consists of legal arguments, theories, or
27 conclusions to which no answer is required. However, to the extent that paragraph 105 contains
28 any remaining factual allegations, DWA is without sufficient knowledge or information to form a

1 belief as to the truth of the remaining allegations contained therein and, on that basis, denies each
2 and every allegation.

3 106. In answer to paragraph 106, DWA is without sufficient knowledge or information
4 to form a belief as to the truth of the allegations contained therein and, on that basis, denies each
5 and every allegation.

6 107. In answer to paragraph 107, DWA is without sufficient knowledge or information
7 to form a belief as to the truth of the allegations contained therein and, on that basis, denies each
8 and every allegation.

9 108. In answer to paragraph 108, DWA is without sufficient knowledge or information
10 to form a belief as to the truth of the allegations contained therein and, on that basis, denies each
11 and every allegation.

12 109. In answer to paragraph 109, DWA admits the allegations contained therein.

13 110. In answer to paragraph 110, DWA alleges that the February 29, 2016 letter speaks
14 for itself. Except as expressly admitted herein, DWA is without sufficient knowledge or
15 information to form a belief as to the truth of the allegations contained therein and, on that basis,
16 denies each and every allegation.

17 111. In answer to paragraph 111, DWA admits the allegations contained therein.

18 112. In answer to paragraph 112, DWA admits that DWR deemed MSWD's notice of
19 intent "incomplete." Except as expressly admitted herein, DWA is without sufficient knowledge
20 or information to form a belief as to the truth of the allegations contained therein and, on that
21 basis, denies each and every allegation.

22 113. In answer to paragraph 113, DWA is without sufficient knowledge or information
23 to form a belief as to the truth of the allegations contained therein and, on that basis, denies each
24 and every allegation.

25 114. In answer to paragraph 114, DWA denies that it has "overlap" status with MSWD
26 in any portion of the San Gorgonio Pass Basin. Except as expressly denied herein, DWA admits
27 the remaining allegations in paragraph 114.

28 115. In answer to paragraph 115, DWA admits the allegations contained therein.

1 116. In answer to paragraph 116, DWA admits that the Mission Creek Sub-Basin
2 Alternative Plan is based on the existing Mission Creek-Garnet Hill Water Management Plan,
3 prepared by DWA, CVWD, and MSWD, and related Bridge Document. Except as expressly
4 admitted herein, DWA denies each and every remaining allegation.

5 117. In answer to paragraph 117, DWA denies that it prepared the Coachella Valley
6 Water Management Plan. DWA further denies that it violated any provision of the 2004
7 Settlement Agreement. Except as expressly denied herein, DWA is without sufficient knowledge
8 or information to form a belief as to the truth of the remaining allegations contained therein and,
9 on that basis, denies each and every allegation.

10 118. In answer to paragraph 118, DWA admits that it received a letter from MSWD
11 dated November 21, 2016. Moreover, DWA admits that MSWD was not included in the
12 meetings of the Indio (Whitewater River) Sub-Basin GSAs held to prepare the Indio Sub-Basin
13 Alternative Plan. Except as expressly admitted herein, DWA is without sufficient knowledge or
14 information to form a belief as to the truth of the remaining allegations contained therein and, on
15 that basis, denies each and every allegation.

16 119. In answer to paragraph 119, DWA admits that it, along with CVWD, sent a letter
17 to MSWD dated December 19, 2016 which stated, “We do not agree with the assertion in your
18 letter that MSWD is currently a GSA within the Indio Sub-Basin. Instead, the Department of
19 Water Resources (‘DWR’) has identified a very small area of the Indio Sub-Basin as being in
20 “overlap” status between DWA and MSWD for which neither entity has yet been awarded GSA
21 status. DWA has been recognized by DWR as the exclusive GSA for the balance of that portion
22 of the Indio-Sub-Basin within DWA’s boundaries. Because MSWD is not currently a GSA in the
23 Indio Sub-Basin, we do not believe an amendment to the MOU is warranted at this time.” Except
24 as expressly admitted herein, DWA is without sufficient knowledge or information to form a
25 belief as to the truth of the remaining allegations contained therein and, on that basis, denies each
26 and every allegation.

27 120. In answer to paragraph 120, DWA re-alleges and incorporates its responses to
28 paragraphs 1 through 119.

1 21. In answer to paragraph 121, DWA avers that each and every allegation in it
2 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
3 the extent that paragraph 121 contains any factual allegations, DWA is without sufficient
4 knowledge or information to form a belief as to the truth of the allegations contained therein and,
5 on that basis, denies each and every allegation.

6 22. In answer to paragraph 122, DWA avers that each and every allegation in it
7 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
8 the extent that paragraph 122 contains any factual allegations, DWA is without sufficient
9 knowledge or information to form a belief as to the truth of the allegations contained therein and,
10 on that basis, denies each and every allegation.

11 23. In answer to paragraph 123, DWA avers that each and every allegation in it
12 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
13 the extent that paragraph 123 contains any factual allegations, DWA denies each and every
14 allegation.

15 24. In answer to paragraph 124, DWA avers that each and every allegation in it
16 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
17 the extent that paragraph 124 contains any factual allegations, DWA denies each and every
18 allegation.

19 25. In answer to paragraph 125, DWA avers that each and every allegation in it
20 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
21 the extent that paragraph 125 contains any factual allegations, DWA denies each and every
22 allegation.

23 26. In answer to paragraph 126, DWA avers that each and every allegation in it
24 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
25 the extent that paragraph 126 contains any factual allegations, DWA denies each and every
26 allegation.

27 27. In answer to paragraph 127, DWA avers that each and every allegation in it
28 consists of legal arguments, theories, or conclusions to which no answer is required. However, to

1 the extent that paragraph 127 contains any factual allegations, DWA denies each and every
2 allegation.

3 128. In answer to paragraph 128, DWA avers that each and every allegation in it
4 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
5 the extent that paragraph 128 contains any factual allegations, DWA is without sufficient
6 knowledge or information to form a belief as to the truth of the allegations contained therein and,
7 on that basis, denies each and every allegation.

8 129. In answer to paragraph 129, DWA avers that each and every allegation in it
9 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
10 the extent that paragraph 129 contains any factual allegations, DWA is without sufficient
11 knowledge or information to form a belief as to the truth of the allegations contained therein and,
12 on that basis, denies each and every allegation.

13 130. In answer to paragraph 130, DWA avers that each and every allegation in it
14 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
15 the extent that paragraph 130 contains any factual allegations, DWA is without sufficient
16 knowledge or information to form a belief as to the truth of the allegations contained therein and,
17 on that basis, denies each and every allegation.

18 131. In answer to paragraph 131, DWA avers that each and every allegation in it
19 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
20 the extent that paragraph 131 contains any factual allegations, DWA is without sufficient
21 knowledge or information to form a belief as to the truth of the allegations contained therein and,
22 on that basis, denies each and every allegation.

23 132. In answer to paragraph 132, DWA avers that each and every allegation in it
24 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
25 the extent that paragraph 132 contains any factual allegations, DWA is without sufficient
26 knowledge or information to form a belief as to the truth of the allegations contained therein and,
27 on that basis, denies each and every allegation.

28 133. In answer to paragraph 133, DWA admits that DWR deemed DWA's notice of

1 intent to be “complete,” posted DWA’s notice of intent on its website, and designated DWA as
2 the “exclusive” GSA over the requested portions of the Subbasins. DWA further admits that
3 DWR thereafter amended its determination to designate the “three square mile area” as “overlap”
4 between MSWD and DWA. Except as expressly admitted herein, DWA avers that each and
5 every remaining allegation in it consists of legal arguments, theories, or conclusions to which no
6 answer is required. However, to the extent that paragraph 133 contains any remaining factual
7 allegations, DWA is without sufficient knowledge or information to form a belief as to the truth
8 of the remaining allegations contained therein and, on that basis, denies each and every allegation.

9 134. In answer to paragraph 134, DWA avers that each and every allegation in it
10 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
11 the extent that paragraph 134 contains any factual allegations, DWA denies each and every
12 allegation.

13 135. In answer to paragraph 135, DWA avers that each and every allegation in it
14 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
15 the extent that paragraph 135 contains any factual allegations, DWA is without sufficient
16 knowledge or information to form a belief as to the truth of the allegations contained therein and,
17 on that basis, denies each and every allegation.

18 136. In answer to paragraph 136, DWA avers that each and every allegation in it
19 consists of legal arguments, theories, or conclusions to which no answer is required.

20 137. In answer to paragraph 137, DWA re-alleges and incorporates its responses to
21 paragraphs 1 through 136.

22 138. In answer to paragraph 138, DWA avers that each and every allegation in it
23 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
24 the extent that paragraph 138 contains any factual allegations, DWA denies each and every
25 allegation.

26 139. In answer to paragraph 139, DWA avers that each and every allegation in it
27 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
28 the extent that paragraph 139 contains any factual allegations, DWA denies each and every

1 allegation.

2 140. In answer to paragraph 140, DWA avers that each and every allegation in it
3 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
4 the extent that paragraph 140 contains any factual allegations, DWA is without sufficient
5 knowledge or information to form a belief as to the truth of the allegations contained therein and,
6 on that basis, denies each and every allegation.

7 141. In answer to paragraph 141, DWA avers that each and every allegation in it
8 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
9 the extent that paragraph 141 contains any factual allegations, DWA denies each and every
10 allegation.

11 142. In answer to paragraph 142, DWA avers that each and every allegation in it
12 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
13 the extent that paragraph 142 contains any factual allegations, DWA denies each and every
14 allegation.

15 143. In answer to paragraph 143, DWA avers that each and every allegation in it
16 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
17 the extent that paragraph 143 contains any factual allegations, DWA denies each and every
18 allegation.

19 144. In answer to paragraph 144, DWA avers that each and every allegation in it
20 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
21 the extent that paragraph 144 contains any factual allegations, DWA denies each and every
22 allegation.

23 145. In answer to paragraph 145, DWA avers that each and every allegation in it
24 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
25 the extent that paragraph 145 contains any factual allegations, DWA denies each and every
26 allegation.

27 146. In answer to paragraph 146, DWA avers that each and every allegation in it
28 consists of legal arguments, theories, or conclusions to which no answer is required. However, to

1 the extent that paragraph 146 contains any factual allegations, DWA denies each and every
2 allegation.

3 147. In answer to paragraph 147, DWA avers that each and every allegation in it
4 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
5 the extent that paragraph 147 contains any factual allegations, DWA denies each and every
6 allegation.

7 148. In answer to paragraph 148, DWA is not responding to these allegations because
8 they are not directed at DWA.

9 149. In answer to paragraph 149, DWA is not responding to these allegations because
10 they are not directed at DWA.

11 150. In answer to paragraph 150, DWA is not responding to these allegations because
12 they are not directed at DWA.

13 151. In answer to paragraph 151, DWA is not responding to these allegations because
14 they are not directed at DWA.

15 152. In answer to paragraph 152, DWA is not responding to these allegations because
16 they are not directed at DWA.

17 153. In answer to paragraph 153, DWA is not responding to these allegations because
18 they are not directed at DWA.

19 154. In answer to paragraph 154, DWA is not responding to these allegations because
20 they are not directed at DWA.

21 155. In answer to paragraph 155, DWA is not responding to these allegations because
22 they are not directed at DWA.

23 156. In answer to paragraph 156, DWA re-alleges and incorporates its responses to
24 paragraphs 1 through 155.

25 157. In answer to paragraph 157, DWA admits that the 2004 Settlement Agreement
26 provides that MSWD is a party to the Management Committee; that the Management Committee
27 would meet quarterly beginning in 2005 at the offices of CVWD; that the purpose of the
28 Management Committee is to exchange information, express ideas and otherwise discuss, in a

1 free, comprehensive, and frank manner any and all aspects regarding the management of water
2 resources within the Mission Creek Sub-Basin, the Indio (Whitewater River) Sub-Basin, and
3 Garnet Hill of the Upper Coachella Valley Groundwater Basin; and that the discussions at the
4 quarterly meeting shall include quantities and timing of water to be recharged into the Subbasins.
5 DWA further admits that the 2004 Settlement Agreement reserved for all parties, including
6 MSWD, final and absolute discretion to approve or disapprove, prior to commitment, any and all
7 commitments, expenditures or obligations (financial or otherwise) with respect to the Subbasins
8 or the subject matter brought before the Management Committee, but that such reservation of
9 rights shall not be construed to diminish the legal authority of any party to the Agreement.
10 Except as expressly admitted herein, DWA is without sufficient knowledge or information to
11 form a belief as to the truth of the remaining allegations contained therein and, on that basis,
12 denies each and every allegation.

13 158. In answer to paragraph 158, DWA admits that it entered into a Memorandum of
14 Understanding Regarding Governance of the Indio Sub-Basin under the Sustainable Groundwater
15 Management Act. Except as expressly admitted herein, DWA is without sufficient knowledge or
16 information to form a belief as to the truth of the remaining allegations contained therein and, on
17 that basis, denies each and every allegation.

18 159. In answer to paragraph 159, DWA avers that each and every allegation in it
19 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
20 the extent that paragraph 159 contains any factual allegations, DWA denies each and every
21 allegation.

22 160. In answer to paragraph 160, DWA alleges that the Indio Sub-Basin Alternative
23 Plan Bridge Document speaks for itself. Except as expressly alleged herein, DWA avers that
24 each and every allegation in it consists of legal arguments, theories, or conclusions to which no
25 answer is required. However, to the extent that paragraph 160 contains any factual allegations,
26 DWA is without sufficient knowledge or information to form a belief as to the truth of the
27 remaining allegations contained therein and, on that basis, denies each and every allegation.

28 161. In answer to paragraph 161, DWA denies that it repudiated or breached the 2004

1 Settlement Agreement. Except as expressly denied herein, DWA is without sufficient knowledge
2 or information to form a belief as to the truth of the remaining allegations contained therein and,
3 on that basis, denies each and every allegation.

4 162. In answer to paragraph 162, DWA denies each and every allegation.

5 163. In answer to paragraph 163, DWA denies each and every allegation.

6 164. In answer to paragraph 164, DWA avers that each and every allegation in it
7 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
8 the extent that paragraph 164 contains any factual allegations, DWA is without sufficient
9 knowledge or information to form a belief as to the truth of the allegations contained therein and,
10 on that basis, denies each and every allegation.

11 165. In answer to paragraph 165, DWA avers that each and every allegation in it
12 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
13 the extent that paragraph 165 contains any factual allegations, DWA denies each and every
14 allegation.

15 166. In answer to paragraph 166, DWA avers that each and every allegation in it
16 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
17 the extent that paragraph 166 contains any factual allegations, DWA denies each and every
18 allegation.

19 167. In answer to paragraph 167, DWA is without sufficient knowledge or information
20 to form a belief as to the truth of the allegations contained therein and, on that basis, denies each
21 and every allegation.

22 168. In answer to paragraph 168, DWA denies each and every allegation.

23 169. In answer to paragraph 169, DWA is without sufficient knowledge or information
24 to form a belief as to the truth of the allegations contained therein and, on that basis, denies each
25 and every allegation.

26 170. In answer to paragraph 170, DWA avers that each and every allegation in it
27 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
28 the extent that paragraph 170 contains any factual allegations, DWA denies each and every

1 allegation.

2 171. In answer to paragraph 171, DWA avers that each and every allegation in it
3 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
4 the extent that paragraph 171 contains any factual allegations, DWA denies each and every
5 allegation.

6 172. In answer to paragraph 172, DWA avers that each and every allegation in it
7 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
8 the extent that paragraph 172 contains any factual allegations, DWA denies each and every
9 allegation.

10 173. In answer to paragraph 173, DWA avers that each and every allegation in it
11 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
12 the extent that paragraph 173 contains any factual allegations, DWA denies each and every
13 allegation.

14 174. In answer to paragraph 174, DWA is without sufficient knowledge or information
15 to form a belief as to the truth of the allegations contained therein and, on that basis, denies each
16 and every allegation.

17 175. In answer to paragraph 175, DWA re-alleges and incorporates its responses to
18 paragraphs 1 through 174.

19 176. In answer to paragraph 176, DWA avers that each and every allegation in it
20 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
21 the extent that paragraph 176 contains any factual allegations, DWA denies each and every
22 allegation.

23 177. In answer to paragraph 177, DWA avers that each and every allegation in it
24 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
25 the extent that paragraph 177 contains any factual allegations, DWA denies each and every
26 allegation.

27 178. In answer to paragraph 178, DWA avers that each and every allegation in it
28 consists of legal arguments, theories, or conclusions to which no answer is required. However, to

1 the extent that paragraph 178 contains any factual allegations, DWA denies each and every
2 allegation.

3 179. In answer to paragraph 179, DWA avers that each and every allegation in it
4 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
5 the extent that paragraph 179 contains any factual allegations, DWA denies each and every
6 allegation.

7 180. In answer to paragraph 180, DWA avers that each and every allegation in it
8 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
9 the extent that paragraph 180 contains any factual allegations, DWA denies each and every
10 allegation.

11 181. In answer to paragraph 181, DWA avers that each and every allegation in it
12 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
13 the extent that paragraph 181 contains any factual allegations, DWA denies each and every
14 allegation.

15 182. In answer to paragraph 182, DWA re-alleges and incorporates its responses to
16 paragraphs 1 through 181.

17 183. In answer to paragraph 183, DWA denies each and every allegation.

18 184. In answer to paragraph 184, DWA avers that each and every allegation in it
19 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
20 the extent that paragraph 184 contains any factual allegations, DWA is without sufficient
21 knowledge or information to form a belief as to the truth of the allegations contained therein and,
22 on that basis, denies each and every allegation.

23 185. In answer to paragraph 185, DWA avers that each and every allegation in it
24 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
25 the extent that paragraph 185 contains any factual allegations, DWA is without sufficient
26 knowledge or information to form a belief as to the truth of the allegations contained therein and,
27 on that basis, denies each and every allegation.

28 186. In answer to paragraph 186, DWA avers that each and every allegation in it

1 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
2 the extent that paragraph 186 contains any factual allegations, DWA is without sufficient
3 knowledge or information to form a belief as to the truth of the allegations contained therein and,
4 on that basis, denies each and every allegation.

5 187. In answer to paragraph 187, DWA avers that each and every allegation in it
6 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
7 the extent that paragraph 187 contains any factual allegations, DWA denies each and every
8 allegation.

9 188. In answer to paragraph 188, DWA denies each and every allegation.

10 189. In answer to paragraph 189, DWA denies each and every allegation.

11 190. In answer to paragraph 190, DWA denies each and every allegation.

12 191. In answer to paragraph 191, DWA re-alleges and incorporates its responses to
13 paragraphs 1 through 190.

14 192. In answer to paragraph 192, DWA denies each and every allegation.

15 193. In answer to paragraph 193, DWA denies each and every allegation.

16 194. In answer to paragraph 194, DWA denies each and every allegation.

17 195. In answer to paragraph 195, DWA avers that each and every allegation in it
18 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
19 the extent that paragraph 195 contains any factual allegations, DWA denies each and every
20 allegation.

21 196. In answer to paragraph 196, DWA avers that each and every allegation in it
22 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
23 the extent that paragraph 196 contains any factual allegations, DWA is without sufficient
24 knowledge or information to form a belief as to the truth of the allegations contained therein and,
25 on that basis, denies each and every allegation.

26 197. In answer to paragraph 197, DWA denies each and every allegation.

27 198. In answer to paragraph 198, DWA denies each and every allegation.

28 199. In answer to paragraph 199, DWA re-alleges and incorporates its responses to

1 paragraphs 1 through 198.

2 200. In answer to paragraph 200, DWA avers that each and every allegation in it
3 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
4 the extent that paragraph 200 contains any factual allegations, DWA is without sufficient
5 knowledge or information to form a belief as to the truth of the allegations contained therein and,
6 on that basis, denies each and every allegation.

7 201. In answer to paragraph 201, DWA denies each and every allegation.

8 202. In answer to paragraph 202, DWA avers that each and every allegation in it
9 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
10 the extent that paragraph 202 contains any factual allegations, DWA denies each and every
11 allegation.

12 203. In answer to paragraph 203, DWA denies each and every allegation.

13 204. In answer to paragraph 204, DWA denies each and every allegation.

14 205. In answer to paragraph 205, DWA avers that each and every allegation in it
15 consists of legal arguments, theories, or conclusions to which no answer is required. However, to
16 the extent that paragraph 200 contains any factual allegations, DWA is without sufficient
17 knowledge or information to form a belief as to the truth of the allegations contained therein and,
18 on that basis, denies each and every allegation.

19 **AFFIRMATIVE DEFENSES**

20 **FIRST AFFIRMATIVE DEFENSE**

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

22 As a first, separate, distinct, and affirmative defense, the Third Amended Petition and
23 Complaint fails to state facts sufficient to constitute a cause of action against DWA.

24 **SECOND AFFIRMATIVE DEFENSE**

25 **(Failure to Comply with Condition Precedent)**

26 As a second, separate, distinct, and affirmative defense, the Third Amended Petition and
27 Complaint is barred due to MSWD's failure to comply with the condition precedent in the 2004
28 Settlement Agreement.

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THIRD AFFIRMATIVE DEFENSE

(Statute of Limitations)

As a third, separate, distinct, and affirmative defense, the Third Amended Petition and Complaint is barred by the applicable statute of limitations including, but not limited to, California Code of Civil Procedure §§ 337 and 1094.6.

FOURTH AFFIRMATIVE DEFENSE

(Laches)

As a fourth, separate, distinct, and affirmative defense, the Third Amended Petition and Complaint is barred by the doctrine of laches.

FIFTH AFFIRMATIVE DEFENSE

(Parol Evidence Rule)

As a fifth, separate, distinct, and affirmative defense, DWA alleges that each cause of action in the Third Amended Petition and Complaint is barred, in whole or in part, because the terms delineated in 2004 Settlement Agreement represent the full and complete agreement between the parties.

SIXTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

As a sixth, separate, distinct, and affirmative defense, DWA alleges that MSWD has failed to mitigate its damages or losses, if any it may have sustained, and is therefore barred from recovery against DWA.

SEVENTH AFFIRMATIVE DEFENSE

(Waiver/Estoppel)

As a seventh, separate, distinct, and affirmative defense, DWA alleges that MSWD has waived its claims and/or is estopped from asserting its claims against DWA through its own acts or omissions.

EIGHTH AFFIRMATIVE DEFENSE

(Unclean Hands)

As an eighth, separate, distinct, and affirmative defense, DWA alleges that the Third

1 Amended Petition and Complaint is barred by reason of MSWD's unclean hands.

2 **NINTH AFFIRMATIVE DEFENSE**

3 **(Lack of Standing)**

4 As a ninth, separate, distinct, and affirmative defense, the Third Amended Petition and
5 Complaint is barred by reason of MSWD's lack of standing.

6 **TENTH AFFIRMATIVE DEFENSE**

7 **(No Right to Injunctive Relief)**

8 As an tenth, separate, distinct, and affirmative defense, DWA alleges that MSWD is not
9 entitled to injunctive relief in this matter.

10 **ELEVENTH AFFIRMATIVE DEFENSE**

11 **(Compliance with the Law)**

12 As a eleventh, separate, distinct, and affirmative defense, DWA alleges that each cause of
13 action in the Third Amended Petition and Complaint is barred, in whole or in part, because DWA
14 has complied with the law and acted reasonably with intent to obey the law.

15 **TWELFTH AFFIRMATIVE DEFENSE**

16 **(No Prejudicial Abuse of Discretion)**

17 As a twelfth, separate, distinct, and affirmative defense, DWA alleges that each cause of
18 action in the Third Amended Petition and Complaint is barred, in whole or in part, because no
19 prejudicial abuse of discretion has occurred.

20 **THIRTEENTH AFFIRMATIVE DEFENSE**

21 **(Further Defenses)**

22 As a thirteenth, separate, distinct, and affirmative defense, DWA expressly reserves the
23 right to assert further defenses which may be appropriate in this matter.

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BEST BEST & KRIEGER LLP
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

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PRAYER

WHEREFORE, DWA respectfully prays as follows:

- (1) That MSWD take nothing by way of the Third Amended Petition and Complaint;
- (2) That judgment be rendered in favor of DWA;
- (3) That DWA be awarded costs of suit;
- (4) That DWA be awarded its attorneys' fees; and,
- (5) For such other and further relief as this Court deems just and proper.

Dated: October 4, 2018

BEST BEST & KRIEGER LLP

By: 
PIERO C. DALLARDA
WENDY Y. WANG
MILES B. H. KRIEGER
Attorneys for Defendant/Respondent
DESERT WATER AGENCY

PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 3390 University Avenue, 5th Floor P.O. Box 1028, Riverside, California. On October 4, 2018, I served the following document(s):

DESERT WATER AGENCY'S ANSWER TO THIRD AMENDED PETITION FOR WRIT OF MANDATE AND/OR ADMINISTRATIVE MANDAMUS; COMPLAINT FOR BREACH OF CONTRACT (SPECIFIC PERFORMANCE) AND BREACH OF COVENANTS OF GOOD FAITH AND FAIR DEALING; COMPLAINT FOR DECLARATORY RELIEF AND INJUNCTIVE RELIEF

By fax transmission. Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

By United States mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):

Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

By personal service. At ___ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

By messenger service. I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.

By overnight delivery. I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

1 **By e-mail or electronic transmission.** Based on a court order or an agreement of the
2 parties to accept service by e-mail or electronic transmission, before 5:00 p.m., I caused
3 the documents to be sent to the persons at the e-mail addresses listed below. I did not
4 receive, within a reasonable time after the transmission, any electronic message or other
5 indication that the transmission was unsuccessful.

6 John Pinkney
7 Shaun M. Murphy
8 Marguerite P. Battersby
9 Katelyn K. Empey
10 SLOVAK BARON EMPEY MURPHY &
11 PINKNEY LLP
12 1800 E. Tahquitz Canyon Way
13 Palm Springs, CA 92262
14 Tel: (760) 322-2275
15 Fax: (760) 322-2107
16 Email: Pinkney@sbemp.com
17 murphy@sbemp.com
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19 kempey@sbemp.com

Attorneys for Petitioner/Plaintiff, MISSION
SPRINGS WATER DISTRICT

20 James B. Gilpin
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23 San Diego, CA 92101
24 Tel: (619) 525-1341
25 Fax: (619) 233-6118
26 Email: james.gilpin@bbklaw.com

Attorney for Respondent/Defendant,
COACHELLA VALLEY WATER
DISTRICT

27 Carlos L. Campos,
28 BEST BEST & KRIEGER LLP
74760 Highway 111, Suite 200
Indian Wells, CA 92210
Tel: (760) 837-1602
Fax: (760) 340-6698
Email: carlos.campos@bbklaw.com

Attorney for Real Party in Interest, CITY OF
COACHELLA WATER AUTHORITY

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

Executed on October 4, 2018, at Riverside, California.



Sabrina Brenner

PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 3390 University Avenue, 5th Floor P.O. Box 1028, Riverside, California. On October 4, 2018, I served the following document(s):

DESERT WATER AGENCY'S ANSWER TO THIRD AMENDED PETITION FOR WRIT OF MANDATE AND/OR ADMINISTRATIVE MANDAMUS; COMPLAINT FOR BREACH OF CONTRACT (SPECIFIC PERFORMANCE) AND BREACH OF COVENANTS OF GOOD FAITH AND FAIR DEALING; COMPLAINT FOR DECLARATORY RELIEF AND INJUNCTIVE RELIEF

By fax transmission. Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

By United States mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):

Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

By personal service. At ____ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

By messenger service. I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.

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By overnight delivery. I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

By e-mail or electronic transmission. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, before 5:00 p.m., I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Thomas S. Bunn III
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CITY OF INDIO WATER AUTHORITY

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Attorney for Respondent/Defendant,
CALIFORNIA DEPARTMENT OF WATER
RESOURCES

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

Executed on October 4, 2018, at Riverside, California.



Sabrina Brenner