

1 WAYNE K. LEMIEUX (SBN 43501)
W. KEITH LEMIEUX (SBN 161850)
2 LEMIEUX & O'NEILL
2393 Townsgate Road, Suite 201
3 Westlake Village, California 91361
4 Telephone: (805) 495-4770
Facsimile: (805) 495-2787

5 Attorneys for Defendants/Cross-Complainants

6 LITTLEROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT
And Cross-Defendants, NORTH EDWARDS WATER DISTRICT and DESERT LAKES COMMUNITY
7 SERVICES DISTRICT

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **IN AND FOR THE COUNTY OF LOS ANGELES**

10
11 Coordinated Proceeding
Special Title (Rule 1550(b))

) **Judicial Council Coordination**
) **Proceeding No. 4408**

12
13 ANTELOPE VALLEY GROUNDWATER
CASES

) Santa Clara Case No. 1-05-CV-049053
) Assigned to the Honorable Jack Komar – Dept. 17

14 Included Actions:

15
16 Los Angeles County Waterworks District No. 40
v. Diamond Farming Co. Los Angeles County
Superior Court Case No. BC 325201;

) **ANSWER OF LITTLEROCK CREEK**
) **IRRIGATION DISTRICT TO CROSS-**
) **COMPLAINT OF COUNTY SANITATION**
) **DISTRICTS NOS. 14 AND 20 OF LOS**
) **ANGELES COUNTY**

17
18 Los Angeles County Waterworks District No. 40
v. Diamond Farming Co., Kern County Superior
19 Court, Case No. S-1500-CV-234348;

20 Wm. Bolthouse Farms, Inc. v. City of Lancaster
21 Diamond Farming Co. v. City of Lancaster v.
Palmdale Water District, Riverside County
22 Superior Court, Consolidated Actions, Case Nos.
RIC 353840, RIC 344436, RIC 344668

23
24 COUNTY SANITATION DISTRICTS NOS. 14
AND 20 OF LOS ANGELES COUNTY, public
25 agencies,

26 Cross-Complainants and Cross-Defendants,

27 vs.

1 LOS ANGELES COUNTY WATERWORKS)
 DISTRICT NO. 40; ROSAMOND)
 2 COMMUNITY SERVICES DISTRICT;)
 PALMDALE WATER DISTRICT; QUARTZ)
 3 HILL WATER DISTRICT; PALM RANCH)
 IRRIGATION DISTRICT; LITTLEROCK)
 4 CREEK IRRIGATION DISTRICT;)
 CALIFORNIA WATER SERVICE COMPANY;)
 5 CITY OF LANCASTER; CITY OF PALMDALE,)
 6)
 Cross-Defendants and Cross-Complainants,)
 7)
 AND)
 8)
 DIAMOND FARMING COMPANY; WM.)
 9 BOLTHOUSE FARMS, INC.; CITY OF LOS)
 10 ANGELES; ANTELOPE VALLEY EAST KERN)
 WATER AGENCY; TEJON RANCH; and DOES)
 11 1 through 25,000, inclusive,)
)
 12 Cross-Defendants.)
)
 13)
 14)

15 LITTLEROCK CREEK IRRIGATION DISTRICT (“Littlerock Creek”) responds to the Cross-
 16 Complaint filed by County Sanitation Districts Nos. 14 and 20 of Los Angeles County (“Sanitation
 17 Districts”) as follows:

18 **PRELIMINARY**

- 19 1. Littlerock Creek admits the allegations contained in paragraphs 1 through 41, inclusive, of
 20 the Cross-Complaint are true.
- 21 2. In response to the allegations contained in paragraph 42, Littlerock Creek denies Water
 22 Code Section 1210 provides for the Sanitation Districts’ ownership of discharged treated wastewater as
 23 against Littlerock Creek. Except as denied herein, Littlerock reek admits the allegations outlined in
 24 paragraph 42 are true.
- 25 3. Littlerock Creek admits the allegations contained in paragraph 43 of the Cross-Complaint
 26 are true.

27 ///

1 **FIRST CAUSE OF ACTION**

2 4. In response to the allegations contained in paragraph 44 of the Cross-Complaint, Littlerock
3 Creek alleges and incorporates by reference, Littlerock Creek’s responses to the allegations in paragraphs
4 1 through 43, inclusive, of the Cross-Complaint.

5 5. Littlerock Creek admits the allegations contained in paragraphs 45 through 47, inclusive,
6 of the Cross-Complaint are true.

7 **SECOND CAUSE OF ACTION**

8 6. In response to the allegations contained in paragraph 48 of the Cross-Complaint, Littlerock
9 Creek alleges and incorporates by reference herein, Littlerock Creek’s responses to the allegations in
10 paragraphs 1 through 47, inclusive, of the Cross-Complaint.

11 7. Littlerock Creek admits the allegations contained in paragraphs 49 and 50 of the Cross-
12 Complaint are true.

13 **THIRD CAUSE OF ACTION**

14 8. In response to the allegations contained in paragraph 51 of the Cross-Complaint, Littlerock
15 Creek alleges and incorporates by reference, responses to paragraphs 1 through 50, inclusive, of the
16 Cross-Complaint.

17 9. Littlerock Creek admits the allegations contained in paragraph 51 through 55 of the Cross-
18 Complaint are true.

19 **FIRST AFFIRMATIVE DEFENSE**

20 10. Littlerock Creek has a right prior and paramount to the rights of Sanitation Districts to
21 pump the portion of the water percolated into the Basin which has been imported by Littlerock Creek
22 through the State Water Project. This right, sometimes referred to as the “right to recapture return flows,”
23 exists as to percolating water which can be identified as return flow, regardless of the length of time since
24 the percolation, regardless of the number of times the water is pumped, and regardless whether the
25 percolating water is commingled with the waters in the Basin.

26 ///

27 ///

1 **SECOND AFFIRMATIVE DEFENSE**

2 11. Littlerock Creek has a right prior and paramount to the rights of Sanitation Districts to
3 divert water from streams. Littlerock Creek’s right to divert water from streams was established prior to
4 1914. This right, sometimes referred to as a “pre-1914 diversion right” or simply a “pre-1914 right,”
5 exists as to waters in the Basin flowing in a known and definite channel. This right exists as long as the
6 water can be identified as the result of a diversion of surface water by Littlerock Creek, regardless of the
7 time since the diversion, regardless of the number of times the water is pumped and regardless whether
8 the diverted water is commingled with the waters in the Basin.

9 **THIRD AFFIRMATIVE DEFENSE**

10 12. Littlerock Creek has a prior and paramount right to the rights of Sanitation Districts to
11 pump the native waters in the Basin because water and water rights belonging to the State of California
12 within Littlerock Creek have been given, dedicated, and set apart for the use and purposes of Littlerock
13 Creek.

14 **FOURTH AFFIRMATIVE DEFENSE**

15 13. Littlerock Creek has an equal right to the rights of Sanitation Districts to use the native
16 waters for municipal purposes.

17 **FIFTH AFFIRMATIVE DEFENSE**

18 14. Littlerock Creek has an equal right to the rights of the public entity cross-defendants to the
19 native waters in the Basin by virtue of mutual prescription.

20 **PRAYER**

21 **WHEREFORE,** Littlerock Creek Irrigation District prays for the Court to:

- 22 1. Declare Littlerock Creek Irrigation District’s water rights as equal or paramount to the
- 23 water rights of Sanitation Districts as set forth in Littlerock Creek Irrigation District’s affirmative
- 24 defenses.
- 25 2. Award Littlerock Creek Irrigation District cost of suit.
- 26 3. Award Littlerock Creek Irrigation District reasonable attorney fees.
- 27 4. Impose such further relief as the Court deems appropriate.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: February 1, 2007

LEMIEUX & O'NEILL

By:
WAYNE K. LEMIEUX

This Answer is deemed verified pursuant to Code of Civil Procedure Section 446.

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA,)
3) ss.
4 COUNTY OF VENTURA)

5 I am employed in the County of Ventura, State of California. I am over the age of 18
6 and not a party to the within action. My business address is 2393 Townsgate Road, Suite
7 201, Westlake Village, California 91361.

8 On **February 1, 2007**, I posted the following document(s) to the website
9 <http://www.scefilng.org>, a dedicated link to the Antelope Valley Groundwater Cases:

10 **ANSWER OF DEFENDANT, LITTLEROCK CREEK**
11 **IRRIGATION DISTRICT TO**
12 **CROSS-COMPLAINT OF**
13 **COUNTY SANITATION DISTRICTS NOS. 14 AND 20**
14 **OF LOS ANGELES COUNTY**

13 Honorable Jack Komar 14 Santa Clara County Superior Court 15 191 North First Street, Dept. 17C 16 San Jose, CA 95113	By Mail Tel: 508/882-2286 Fax: 408/882-2293 rwalker@scscourt.org
16 Superior Court of California 17 County of Los Angeles 18 Stanley Mosk Courthouse—Dept. 1, Rm 534 111 North Hill Street Los Angeles, CA 90012	Original Document(s) to be filed at this location.

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

21 Executed on February 1, 2007, in Westlake Village, California.

22
23
24 _____
LINDA M. STIEGLER