

Case No. F075451

**COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

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**ANTELOPE VALLEY GROUNDWATER CASES**

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**RESPONDENTS' APPENDIX  
(Appeal of Phelan Piñon Hills Community Services District)**

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On appeal from the Superior Court for the State of  
California, County of Los Angeles, Case No. JCCP 4408  
Hon. Jack Komar

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<b>RESPONDENT'S APPENDIX ALPHABETICAL INDEX</b>		
<b>Description</b>	<b>Date</b>	<b>Page</b>
<b>Complaint for Declaratory Relief and Injunctive Relief and Adjudication of Water Rights (Los Angeles County)</b>	<b>November 29, 2004</b>	<b>6</b>

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<b>Complaint for Declaratory Relief and Injunctive Relief and Adjudication of Water Rights (Los Angeles County)</b>	<b>November 29, 2004</b>	<b>6</b>

## PROOF OF SERVICE

### STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of Service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 301 n. Lake Avenue, 10<sup>th</sup> Floor, Pasadena, CA 91101-5123.

On November 25, 2019, I served true copies of the following documents described as **PUBLIC WATER SUPPLIERS' RESPONDENTS' APPENDIX** on the interested parties in this action as follows:

**By TRUEFILING (EFS):** I electronically filed the document(s) with the Clerk of the Court by using the TrueFiling portal operated by ImageSoft, Inc. Participants in the case who are registered EFS users will be served by the TrueFiling EFS system. Participants in the case who are not registered TrueFiling EFS users will be served by mail or by other means permitted by the court rules.

**BY ELECTRONIC SERVICE:** By posting the document(s) to the Antelope Groundwater matter with e-service to all parties listed on the websites Service List. Electronic service and electronic posting completed through [www.avwatermaster.org](http://www.avwatermaster.org) via Glotrans.

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

Executed on November 25, 2019, at Pasadena, California.

/s/ Antonia Trinidad  
Antonia Trinidad

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DISTRICT NO. 40

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40,  
  
Plaintiff,  
  
vs.  
  
DIAMOND FARMING COMPANY, a  
corporation;  
WM. BOLTHOUSE FARMS, INC., a  
corporation;  
CALIFORNIA WATER SERVICE  
COMPANY;  
CITY OF LANCASTER;  
CITY OF PALMDALE;  
LITTLEROCK CREEK IRRIGATION  
DISTRICT;  
PALMDALE WATER DISTRICT;  
PALM RANCH IRRIGATION  
DISTRICT,  
QUARTZ HILL WATER DISTRICT;  
and DOES 1 through 25,000 inclusive;  
  
Defendants.

EXEMPT FROM FILING FEES  
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SECTION 6103  
**CONFORMED COPY**  
OF ORIGINAL FILED  
Los Angeles Superior Court  
NOV 29 2004  
John A. Clarke, Executive Officer/Clerk  
By JENNY CHEA Deputy

Case No. **BC 325201**  
COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF AND  
ADJUDICATION OF WATER RIGHTS

1 Plaintiff Los Angeles County Waterworks District No. 40 alleges:  
2

3 **INTRODUCTION**  
4

5 1. This action seeks a judicial determination of all rights to ground water within the  
6 Antelope Valley Groundwater Basin. The adjudication is necessary to protect and conserve the  
7 vital water groundwater supply of the Antelope Valley that is vital to the health, safety and  
8 welfare of tens of thousands of persons and entities in communities who depend upon water  
9 deliveries from Los Angeles County Waterworks District No. 40, Antelope Valley (the  
10 "District"). For these reasons, the District files this complaint to promote and protect the general  
11 public welfare in the Antelope Valley; to protect the District's rights to pump and deliver water to  
12 the public; to protect the Antelope Valley from a loss of the public groundwater supply, to  
13 prevent degradation of the quality of the public groundwater supply; and to prevent land  
14 subsidence and higher costs to the public for water.  
15

16 2. The District is a public agency governed by the Los Angeles County Board of  
17 Supervisors and lawfully organized to, among other things, provide water to the public in a large  
18 portion of the Antelope Valley. District customers must have a reliable and safe groundwater  
19 supply for domestic and business needs. To provide water to the public, the District has drilled  
20 and equipped wells to pump groundwater. The District has also constructed, maintained and  
21 operated a waterworks delivery system to supply the groundwater to the public. Without an  
22 adequate and safe groundwater supply, Antelope Valley residents and businesses in the Antelope  
23 Valley would likely not have enough water.  
24

25 3. The District has appropriative and prescriptive rights to Basin groundwater as the  
26 District has pumped water from the Basin since at least 1919. Since that time, the District has  
27 pumped water from the Antelope Valley Basin and/or stored water in the Antelope Valley Basin  
28 by reasonable extraction means and has used the Antelope Valley Basin and/or its water for

1 reasonable and beneficial purposes, and has done so under a claim of right in an actual, open,  
2 notorious, exclusive, continuous, uninterrupted, hostile, adverse, use and/or manner for a period  
3 of time of at least five and before filing this complaint.  
4

5 4. Due to the shortage of water in the Basin, the District has purchased State Water  
6 Project water from the Antelope Valley-East Kern Water Agency in addition to pumping  
7 groundwater. The State Water Project water originates in northern California and would not  
8 reach the Basin but for the District's purchases. District customers pay millions of dollars each  
9 year for State Water Project water. The District purchases approximately 30,000 acre feet of  
10 Project water each year and delivers the purchased Project water to the public through the  
11 District's waterworks systems.  
12

13 5. The District depends on the Basin for pumping of approximately 20,000 acre feet  
14 of water each year. District customers use Project water for a variety of uses and thus a portion of  
15 the Project water percolates into the Basin and commingles with the Basin's water from natural  
16 sources. The District's purchase and delivery of Project water augments the natural supply of  
17 groundwater in the Basin. Without the substantial investment of the District in purchasing the  
18 State Water Project water, the District would need to pump 50,000 acre feet of groundwater each  
19 year.  
20

21 6. By storing Project water or other imported water in the Basin, the District could  
22 recover the stored water during times of drought, water supply emergencies, or other water  
23 shortages to ensure a safe and reliable supply of water to the public. The District is pursuing  
24 approvals to allow for the construction and operation of injection wells or other means by which  
25 State Water Project water or other water imported from outside the Basin may be injected or  
26 placed for storage in the Basin.  
27

28 7. To provide water to the public, the District has and claims the following rights,



1 each of which is paramount and superior to any overlying rights or other water rights, if any,  
2 claimed by any defendant:

3  
4 A. The right to pump groundwater from the Antelope Valley Groundwater  
5 Basin in an annual amount equal to the highest volume of groundwater extracted by the District in  
6 any year preceding entry of judgment in this action according to proof, but not less than 18,944  
7 acre feet;

8  
9 B. The right to pump or authorize others to extract from the Antelope Valley  
10 Groundwater Basin a volume of water equal in quantity to that volume of water previously  
11 purchased by the District from the Antelope Valley-East Kern Water Agency and which has  
12 augmented the supply of water in the Basin in any year preceding entry of judgment in this action  
13 according to proof, but not less than 18,944 acre feet;

14  
15 C. The right to pump or authorize others to extract from the Antelope Valley  
16 Groundwater Basin a volume of water equal in quantity to that volume of water purchased in the  
17 future by the District from the Antelope Valley-East Kern Water Agency which augments the  
18 supply of water in the Basin; and

19  
20 D. The right to pump or authorize others to extract from the Antelope Valley  
21 Basin a volume of water equal in quantity to that volume of water injected into the Basin or  
22 placed within the Basin by the District or on its behalf.

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THE ANTELOPE VALLEY GROUNDWATER BASIN IS AND HAS BEEN IN A STATE  
OF OVERDRAFT

8. The Antelope Valley Groundwater Basin is located in Los Angeles and Kern counties. The Basin is located in an arid valley in the Mojave Desert, about 50 miles northeast of Los Angeles. The Basin encompasses about 940 square miles and generally includes the communities of Lancaster, Palmdale and Rosamond. The Basin is bounded on the south by the San Gabriel Mountains and on the northwest by the Tehachapi Mountains.

9. For over a century courts in California have used the groundwater basin concept to resolve groundwater disputes. A groundwater basin is an alluvial aquifer with reasonably well-defined boundaries in a lateral direction and a definable bottom.

10. Before there was groundwater pumping, natural water recharge to the Basin was in balance with water discharged from the Basin and water levels generally remained constant and in a state of long-term equilibrium. In or about 1915 there was significant pumping, primarily for agricultural purposes. Over time the rise of agricultural pumping destroyed the ground water level equilibrium and caused a, long-term decline in groundwater levels and groundwater storage in the Basin.

11. There has never been a limit on groundwater pumping in the Basin. As a result of this lack of groundwater control and management over the past eighty years, the Basin has lost an estimated eight million acre feet of water. This loss of groundwater caused chronic declines in groundwater levels and land subsidence.

12. Land subsidence is the sinking of the Earth's surface due to subsurface movement of earth materials and is primarily caused by groundwater pumping. The District is informed and believes and upon that basis alleges that as much as six feet of subsidence has occurred in

1 portions of the Basin. The negative effects of land subsidence observed in the Basin include loss  
2 of groundwater storage space, cracks and fissures at the land surface and damage to real property.

3  
4 13. Land subsidence, loss of groundwater storage, and declining groundwater levels  
5 injure the public welfare and threaten the communities that depend upon the Basin water. Land  
6 subsidence and chronic declines in groundwater levels continue because of unlimited  
7 groundwater pumping in the Basin.

8  
9 14. Although agricultural pumping decreased for a limited time when groundwater  
10 levels became too low for agriculture to pump water from the Basin, agricultural pumping has  
11 increased in the past decade. During the same time, continued urbanization in and around the  
12 cities of Palmdale and Lancaster has increased the public's need for water. Existing pumping  
13 causes damage and injury to the Basin including land subsidence. Land subsidence exists and  
14 will increase unless the court establishes a safe yield for the Basin and limits pumping to the  
15 Basin's safe yield.

16  
17 15. The District is informed and believes and upon that basis alleges the Basin is and  
18 has been in an overdraft condition for more than five (5) consecutive years and before the filing  
19 of the complaint in Riverside County Superior Court Case No. 34436 entitled *Diamond Farming*  
20 *Company vs. City of Lancaster*, and before the filing of this complaint. During said time periods,  
21 total annual demands upon the Basin have exceeded and continue to exceed the supply of water  
22 from natural sources. Consequently, there is and has been a progressive and chronic decline in  
23 Basin water levels and the available natural supply is being and has been chronically depleted.  
24 Unless limited by order and judgment of the court, potable Basin water will be exhausted and  
25 land subsidence will continue.

26  
27 16. Each defendant has, and is now, pumping, appropriating and diverting water from  
28 the natural supply of the Basin, and/or claims some interest in the Basin water. The District is

1 informed and believes and upon that basis alleges that the combined extraction of water by  
2 defendants exceeds the annual production of water from the Antelope Valley Basin, and that each  
3 defendant claims a right to take water and threatens to increase its taking of water without regard  
4 to the rights of the District. Defendants' pumping reduces Basin water tables and contributes to  
5 the deficiency of the Basin water supply as a whole. The deficiency results in a shortage of water  
6 to the public who depend upon the District to supply water from the Basin. Defendants continued  
7 and increasing extraction of Basin water has resulted in, and will result in, a diminution, reduction  
8 and impairment of the Basin water supply; causes land subsidence; and has and will deprive the  
9 District of its rights to provide water for the public's health, welfare and benefit.

10  
11 17. The District is informed and believes and thereon alleges there are conflicting  
12 claims of rights to the Basin and/or its water.

13  
14 18. The District is informed and believes and thereon alleges that defendants who own  
15 real property in the Basin claim an overlying right to pump Basin water. The overlying right is  
16 limited to the native safe yield of the Basin. The District alleges that because subsidence is an  
17 undesirable result and is occurring in the Basin, defendants are and have been pumping more than  
18 the Basin's safe yield.

19  
20  
21 **PARTIES**

22  
23 19. The District is informed and believes that Diamond Farming Company is a  
24 California corporation doing business in Los Angeles County.

25  
26 20. The District is informed and believes that Wm. Bolthouse Farms, Inc. is a  
27 Michigan corporation doing business in Los Angeles County.

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1           21.     The District is informed and believes that the California Water Service Company  
2 is a California corporation that provides water to consumers within Los Angeles County.

3  
4           22.     The District is informed and believes that the City of Lancaster is a municipal  
5 corporation situated within Los Angeles County.

6  
7           23.     The District is informed and believes that the City of Palmdale is a municipal  
8 corporation situated within Los Angeles County.

9  
10          24.     The District is informed and believes that the Littlerock Creek Irrigation District is  
11 a public agency that provides water to consumers within Los Angeles County.

12  
13          25.     The District is informed and believes that the Palmdale Water District is a public  
14 agency that provides water to consumers within Los Angeles County.

15  
16          26.     The District is informed and believes that the Palm Ranch Irrigation District is a  
17 public agency that provides water to consumers within Los Angeles County.

18  
19          27.     The District is informed and believes that the Quartz Hill Water District is a public  
20 agency that provides water to consumers within Los Angeles County.

21  
22          28.     The District is informed and believes, and on that basis alleges, that defendant  
23 Does 1 through 25,000, inclusive, own and/or lease real property within the Antelope Valley  
24 Groundwater Basin, extract water from the Basin, claim some right, title or interest to Basin  
25 water, and/or that their claims are adverse to the District's rights and claims. The District is  
26 unaware of their true names and capacities and therefore sues those defendants by fictitious  
27 names. The District will seek leave to amend this complaint to add such names and capacities  
28 when ascertained.

1 FIRST CAUSE OF ACTION

2 (For Declaratory Relief – Prescriptive Rights – Against all Defendants Except Public  
3 Entity Defendants)  
4

5 29. The District alleges and incorporates by reference herein allegations in paragraphs  
6 1 through 28, inclusive.  
7

8 30. Prescriptive rights have been recognized by the California Supreme Court for  
9 public entities for over fifty years. The District alleges that it has continuously and for more than  
10 five years and before the date of this action pumped water from the Basin for reasonable and  
11 beneficial purposes and has done so under a claim of right in an actual, open, notorious,  
12 exclusive, continuous, hostile and adverse manner. The District further alleges that defendants  
13 have had actual and/or constructive notice of District’s pumping either of which is sufficient to  
14 establish District’s prescriptive right.  
15

16 31. The District contends that defendants’ rights to pump Basin water are subordinate  
17 to the prescriptive right of the District and to the general welfare of the citizens, inhabitants and  
18 customers serviced by Los Angeles County Waterworks District No. 40, Antelope Valley.  
19

20 32. An actual controversy has arisen between the District and defendants. The District  
21 alleges, on information and belief, that defendants' dispute the contentions of the District as  
22 described in the immediately preceding paragraph.  
23

24 33. The District seeks a judicial determination as to the correctness of its contentions  
25 and an *inter se* finding as to the priority and amount of Basin water to which the District and each  
26 defendant are entitled to pump from the Basin.  
27 //

28

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1 and an *inter se* determination of the rights of overlying, appropriative and prescriptive pumpers.  
2

3 **THIRD CAUSE OF ACTION**

4 (For Declaratory Relief – Physical Solution – Against all Defendants)  
5

6 40. The District alleges and incorporates by reference herein allegations in paragraphs  
7 1 through 39, inclusive.  
8

9 41. Upon information and belief, the District alleges that defendants claim an interest  
10 or rights to Basin water and further claim they can increase their pumping without regard to the  
11 rights of the District. Unless restrained by order of the court, defendants will continue to take  
12 increasing amounts of Basin water to the great and irreparable damage and injury to the District  
13 and to the Basin. The damage and injury to the Basin cannot be compensated for in money  
14 damages.  
15

16 42. By reason of the large and increasing amounts of Basin water extracted by  
17 defendants as alleged above, the amount of Basin water available to the District has been reduced.  
18 Unless defendants and each of them are enjoined and restrained, the aforementioned conditions  
19 will continue and will become more severe; and there will be further depletion of the Basin  
20 groundwater supply which will further permanently damage the Basin's ability to supply water to  
21 the public.  
22

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







1 water in the Basin and the District has the sole right to pump or otherwise use its stored imported  
2 Project water. The rights, if any, of defendants are limited to the native supply of the Basin and  
3 to their own imported water, and defendants' rights, if any, do not extend to groundwater derived  
4 from any water imported into the Basin by the District.

5  
6 55. An actual controversy has arisen between the District and defendants. The District  
7 alleges, on information and belief, that defendants' dispute the District's contentions described in  
8 paragraphs 52 through 54, inclusive.

9  
10 56. The District seeks a judicial determination as to the correctness of its contentions,  
11 that the District can store and recapture its imported Project water in the Basin, and that the  
12 District has the sole right to pump or otherwise use such stored Project water.

13  
14  
15 **SIXTH CAUSE OF ACTION**

16 (Declaratory Relief – Recapture of Return Flows

17 From Imported Water Stored in The Basin – Against all Defendants)

18  
19 57. The District alleges and incorporates by reference herein allegations in paragraphs  
20 1 through 56, inclusive.

21  
22 58. A portion of the water that the District imports and uses and continues to import  
23 and use from outside the Basin returns or enters and will continue to return or enter the Basin and  
24 are commonly known as “return flows.” These return flows augment the Basin's water supply.

25  
26 59. The District alleges that there is available space in the Basin to store return flows  
27 from us of the water imported by District.



1 constitutes waste, unreasonable use or an unreasonable method of diversion or use within the  
2 meaning of Article X, Section 2 of the California Constitution, and is thereby unlawful.

3  
4 66. An actual controversy has arisen between the District and defendants. The District  
5 alleges, on information and belief, the defendants' dispute the District's contentions in paragraphs  
6 64 through 65, inclusive.

7  
8 67. The District seeks a judicial declaration that defendants have no rights to  
9 unreasonable use, unreasonable methods of use, or waste of water, and their rights, if any, should  
10 be determined *inter se* on the reasonable use of water in the arid Antelope Valley rather than upon  
11 the amount of water actually used.

12  
13  
14 **EIGHTH CAUSE OF ACTION**

15 (Unreasonable Use of Water - Against Defendants Diamond Farming and  
16 Wm. Bolthouse Farms)

17  
18 68. The District alleges and incorporates by reference herein allegations in paragraphs  
19 1 through 67, inclusive.

20  
21 69. Article X, Section 2 of the California Constitution is the cardinal principle of  
22 California water law, superior to any priorities and requires that water use not be unreasonable or  
23 wasteful. Reasonable use of water depends on the facts and circumstances of each case.

24  
25 70. The District is informed and believes and on that basis alleges that there were and  
26 are overdraft conditions in the Basin before defendants Diamond Farming and Wm. Bolthouse  
27 Farms began pumping Basin water in the 1990's. For their own private profit and in harm to the  
28 public's need for a secure supply of Basin water, Defendants Diamond Farming and Wm.

1 Bolthouse Farms have increased their pumping so that they collectively take more Basin water  
2 than any other single user of Basin water - despite existing Basin overdraft conditions including  
3 land subsidence.

4  
5 71. Defendants Diamond Farming and Wm. Bolthouse Farms recently commenced  
6 additional, excessive pumping of Basin water for their private profit that causes harm to existing  
7 agricultural users of Basin water and to the entities supplying water to the public all of whom  
8 depend upon a safe and secure Basin water supply. Given the water overdraft conditions in the  
9 Basin, the excessive uses of Basin water by defendants Diamond Farming and Wm. Bolthouse  
10 Farms require an unreasonable amount of Basin water in the arid Antelope Valley and threaten  
11 established communities and agricultural users that were and are already dependent upon Basin  
12 water.

13  
14 72. The District is informed and believes and on that basis alleges that the recently  
15 commenced use of Basin water by defendants Diamond Farming and Wm Bolthouse Farms is  
16 unreasonable in the arid Antelope Valley and constitutes waste, unreasonable use or an  
17 unreasonable method of diversion or use within the meaning of Article X, Section 2 of the  
18 California Constitution, and is injurious to the public and thereby unlawful.

19  
20 73. An actual controversy has arisen between the District and defendants Diamond  
21 Farming and Wm. Bolthouse Farms. The District alleges, on information and belief, the  
22 defendants' dispute the District's contentions in paragraphs 69 through 72, inclusive.

23  
24 74. The District seeks a judicial declaration that defendants Diamond Farming and  
25 Wm. Bolthouse Farms have no right to take Basin water in any way that harms the public, creates  
26 a risk of overdraft conditions in the Basin, constitutes unreasonable methods of use, or waste of  
27 water; and their rights, if any, should be determined *inter se* on the previously-existing public and  
28 agricultural needs and uses of Basin water in the arid Antelope Valley.

PRAYER FOR RELIEF

WHEREFORE, Los Angeles County Waterworks District No. 40, Antelope Valley prays for judgment as follows:

1. Judicial declarations consistent with the District's contentions in paragraphs 31, 35-39, 40-44, 46-50, 52-56, 58-62, 64-67, and 69-74, above;

2. For preliminary and permanent injunctions which prohibit defendants, and each of them, from taking, wasting or failing to conserve water from the Antelope Valley Groundwater Basin in any manner which interferes with the rights of the Los Angeles Waterworks District No. 40, Antelope Valley to take water from or store water in the Basin to meet its reasonable present and future needs;

3. For prejudgment interest as permitted law;


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

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

Dated: November 29, 2004

BEST BEST & KRIEGER LLP

By:

  
ERIC L. GARNER  
JEFFREY V. DUNN  
Attorneys for Plaintiff  
LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40

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