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LITTLEROCK CREEK IRRIGATION DISTRICT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

**ANTELOPE VALLEY GROUNDWATER
CASES**

Included Actions:

Los Angeles County Waterworks District No. 40
v. Diamond Farming Co. Superior Court of
California, County of Los Angeles, Case No. BC
325201; Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Superior Court
of California, County of Kern, Case No. S-1500-
CV-234348; Wm. Bolthouse Farms, Inc. v. City
of Lancaster Diamond Farming Co. v. City of
Lancaster v. Palmdale Water District, Superior
Court of California, County of Riverside,
consolidated actions, Case Nos. RIC 353840,
RIC 344436, RIC 344668

CASE NO.: 1- 05-CV-049053

[Assigned for All Purposes to the
Honorable Jack Komar – Dept. 17C]

Judicial Council Coordination
Proceeding No. 4408

**ANSWER OF DEFENDANT,
LITTLEROCK CREEK IRRIGATION
DISTRICT, TO COMPLAINT OF LOS
ANGELES COUNTY WATERWORKS
DISTRICT NO. 40**

LITTLEROCK CREEK IRRIGATION DISTRICT, hereinafter “Littlerock,” responds to the
Complaint of Los Angeles County Waterworks District No. 40 (hereinafter “District 40”), as follows:

PRELIMINARY

1. Littlerock admits the allegations contained in paragraph 1, 2, 3, 4, 5, 6 and 7 of the
Complaint are true.

2. In response to the allegations contained in paragraph 8 of the Complaint, Littlerock lacks sufficient information or belief to determine whether the Antelope Valley Groundwater Basin (“Basin”) encompasses about 940 square miles and generally includes the communities of Lancaster, Palmdale and Rosamond, and on the basis of such lack of information and belief, denies such allegations. Except as provided herein, Littlerock admits the allegations contained in paragraph 8 of the Complaint are true.

3. Littlerock admits the allegations contained in paragraph 9 are true.

4. Littlerock lacks sufficient information or belief to respond to the allegations contained in paragraph 10, 11, 12, 13 and 14 of the Complaint and on the basis of such lack of information and belief, denies such allegations.

5. Littlerock admits the allegations contained in paragraph 15 of the Complaint are true.

6. In response to the allegations contained in paragraph 16 of the Complaint, Littlerock lacks sufficient information or belief to determine whether pumping has resulted in land subsidence, and on the basis of such lack of information and belief, denies such allegations. Except as provided herein, Littlerock admits the allegations contained in paragraph 16 of the Complaint are true.

7. Littlerock admits the allegations contained in paragraph 17 of the Complaint are true.

8. In response to the allegations contained in paragraph 18 of the Complaint, Littlerock lacks sufficient information or belief to determine whether land subsidence is occurring in the Basin, and on the basis of such lack of information and belief, denies such allegation. Except as provided herein, Littlerock admits the allegations contained in paragraph 18 of the Complaint are true.

9. Littlerock admits the allegations contained in paragraph 19, 20, 21, 22, 23, 24, 25, 26, 27, and 28 are true.

FIRST CAUSE OF ACTION

10. The allegations of the first cause of action are directed against all defendants, except public entity defendants. Littlerock is a public entity and is not required to respond to the first cause of action.

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1 **SECOND CAUSE OF ACTION**

2 11. In response to the allegations contained in paragraph 34 of the Complaint, Littlerock
3 alleges and incorporates by reference, Littlerock's responses to the allegations in paragraphs 1 through 31,
4 inclusive, of the Complaint.

5 12. Littlerock admits the allegations contained in paragraphs 35, 36, and 37 of the Complaint
6 are true.

7 13. In response to the allegations contained in paragraph 38 of the Complaint, Littlerock
8 denies it seeks to prevent District 40 from pumping surplus water. Except as provided herein, Littlerock
9 admits the allegations contained in paragraph 38 are true.

10 14. Littlerock admits the allegations contained in paragraph 39 are true.

11 **THIRD CAUSE OF ACTION**

12 15. In response to the allegations contained in paragraph 40 of the Complaint, Littlerock
13 alleges and incorporates by reference herein, Littlerock's responses to the allegations in paragraphs 1
14 through 39, inclusive, of the Complaint.

15 16. In response to the allegations contained in paragraph 41 of the Complaint, Littlerock
16 denies Littlerock will continue to take and pump increasing amounts of water to the great and irreparable
17 damage and injury of District 40 and the Basin. Except as provided herein, Littlerock admits the
18 allegations contained in paragraph 41 of the Complaint are true.

19 17. Littlerock admits the allegations contained in paragraphs 42, 43, and 44 of the Complaint
20 are true.

21 **FOURTH CAUSE OF ACTION**

22 18. In response to the allegations contained in paragraph 45 of the Complaint, Littlerock
23 alleges and incorporates by reference herein, Littlerock's responses to the allegations in paragraphs 1
24 through 44, inclusive, of the Complaint.

25 19. Littlerock admits the allegations contained in paragraph 46, 47, and 48 are true.

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20. In response to the allegations contained in paragraph 49 of the Complaint, Littlerock denies Littlerock disputes District 40's contention as stated in the fourth cause of action. Except as provided herein, Littlerock admits the allegations contained in paragraph 49 of the Complaint are true.

21. Littlerock admits the allegations contained in paragraph 50 of the Complaint are true.

FIFTH CAUSE OF ACTION

22. In response to the allegations contained in paragraph 51 of the Complaint, Littlerock alleges and incorporates by reference, Littlerock's responses to the allegations in paragraphs 1 through 50, inclusive, of the Complaint.

23. Littlerock admits the allegations contained in paragraphs 52, 53, and 54 of the Complaint are true.

24. In response to the allegations contained in paragraph 55 of the Complaint, Littlerock denies that Littlerock disputes District 40's contentions stated in the fifth cause of action. Except as provided herein, Littlerock admits the allegations contained in paragraph 55 of the Complaint are true.

25. Littlerock admits the allegations contained in paragraph 56 of the Complaint are true.

SIXTH CAUSE OF ACTION

26. In response to the allegations contained in paragraph 57 of the Complaint, Littlerock alleges and incorporates by reference, Littlerock's responses to the allegations in paragraphs 1 through 56, inclusive, of the Complaint.

27. Littlerock admits the allegations contained in paragraphs 58, 59, and 60 are true.

28. In response to the allegations contained in paragraph 61 of the Complaint, Littlerock denies Littlerock disputes District 40's contentions stated in the sixth cause of action. Except as provided herein, Littlerock admits the allegations contained in paragraph 61 of the Complaint are true.

29. Littlerock admits the allegations contained in paragraph 62 of the Complaint are true.

SEVENTH CAUSE OF ACTION

30. The allegations of the seventh cause of action are directed against all defendants, except public entity defendants. Littlerock is a public entity and is not required to respond to the seventh cause of action.

1 **EIGHTH CAUSE OF ACTION**

2 31. The eight cause of action is directed against Diamond Farming and Bolthouse Properties,
3 Inc. Littlerock is not required to response to the eighth cause of action.

4 **FIRST AFFIRMATIVE DEFENSE**

5 32. Littlerock has a right prior and paramount to the rights of District 40 to pump the portion
6 of the water percolated into the Basin which has been imported by Littlerock through the State Water
7 Project. This right, sometimes referred to as the “right to recapture return flows,” exists as to percolating
8 water which can be identified as return flow regardless of the length of time since the percolation,
9 regardless of the number of times the water is pumped and regardless whether the percolating water is
10 commingled with the waters in the Basin.

11 **SECOND AFFIRMATIVE DEFENSE**

12 33. Littlerock has a right prior and paramount to the rights of District 40 to divert water from
13 streams. Littlerock’s right to divert water from streams was established prior to 1914. This right,
14 sometimes referred to as a “pre-1914 diversion right” or simply a “pre-1914 right,” exists as to waters in
15 the Basin flowing in a known and definite channel. This right exists as long as the water can be identified
16 as the result of a diversion of surface water by Littlerock, regardless of the time since the diversion,
17 regardless of the number of times the water is pumped and regardless whether the diverted water is
18 commingled with the waters in the Basin.

19 **THIRD AFFIRMATIVE DEFENSE**

20 34. Littlerock has a prior and paramount right to the rights of District 40 to pump the native
21 waters in the Basin because water and water rights belonging to the State of California within Littlerock
22 have been given, dedicated, and set apart for the use and purposes of Littlerock.

23 **FOURTH AFFIRMATIVE DEFENSE**

24 35. Littlerock has an equal right to the rights of District 40 to use the native waters for
25 municipal purposes.

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1 **FIFTH AFFIRMATIVE DEFENSE**

2 36. Littlerock has an equal right to the rights of the public entity cross-defendants to the native
3 waters in the Basin by virtue of mutual prescription.

4 **PRAYER**

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

- 6 1. Declare Littlerock Creek Irrigation District's water rights as equal or paramount to the
7 water rights of District 40 as set forth in Littlerock Creek Irrigation District's affirmative defenses.
- 8 2. Award Littlerock Creek Irrigation District cost of suit.
- 9 3. Award Littlerock Creek Irrigation District reasonable attorney fees.
- 10 4. Impose such further relief as the Court deems appropriate.

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

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13 DATED: October 26, 2005

LEMIEUX & O'NEILL

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15 By: *Wayne K. Lemieux*
16 WAYNE K. LEMIEUX
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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 and not a
6 party to the within action. My business address is 2393 Townsgate Road, Suite 201, Westlake Village,
California 91361.

7 On **October 26, 2005**, I posted the following document to the website <http://www.scefiling.org>, a
8 dedicated link to the Antelope Valley Groundwater Cases:

9 **ANSWER OF DEFENDANT, LITTLEROCK CREEK IRRIGATION DISTRICT, TO**
10 **COMPLAINT OF LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40**

11 On **October 26, 2005**, I served the foregoing document described above on interested parties in
12 this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

13 **See Attached Service List**

14 [X] (BY MAIL) I am "readily familiar" with the firm's practice of collection and processing
15 correspondence for mailing. Under that practice it would be deposited with U.S. postal service on
16 that same day with postage thereon fully prepaid at Westlake Village, California, in the ordinary
course of business.

17 [] (BY FACSIMILE) from (805) 495-2787 to facsimile numbers listed herein.

18 [] (BY OVERNIGHT MAIL\FEDERAL EXPRESS) I am "readily familiar" with the firm's practice
19 of collection and processing correspondence for mailing. Under that practice the sealed document has
been deposited in the designated Federal Express Drop Box for overnight, next business day delivery.

20
21 I declare under penalty of perjury under the laws of the United States of America that the above is
22 true and correct.

23 Executed on October 26, 2005, in Westlake Village, California.

24
25 *Linda Stiegler*
26 LINDA STIEGLER
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Antelope Valley Groundwater Cases: Case No. 1- 05-CV-049053

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