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Littlerock Creek Irrigation District

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

Coordinated Proceeding
Special Title (Rule 1550(b))

**Judicial Council Coordination
Proceeding No. 4408**

ANTELOPE VALLEY GROUNDWATER
CASES

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar – Dept.
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Included Actions:

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

**ANSWER OF CROSS-DEFENDANT
LITTLEROCK CREEK IRRIGATION
DISTRICT TO CROSS-COMPLAINT OF
THE CITY OF PALMDALE**

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co., Kern
County Superior Court, 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,
Riverside County Superior Court,
Consolidated Actions, Case Nos. RIC
353840, RIC 344436, RIC 344668

AND RELATED CROSS-ACTIONS

1 Cross-defendant, LITTLE ROCK CREEK IRRIGATION DISTRICT, (hereinafter
2 “Littlerock Creek”), responds to the allegations of the Cross-Complaint filed by the City of
3 Palmdale (“City”), as follows:

4 **PRELIMINARY**

5 1. The allegations contained in paragraphs 1 through 27 of the Cross-Complaint
6 are true.

7 **FIRST CAUSE OF ACTION**

8 2. In response to the allegations contained in paragraph 28 of the Cross-
9 Complaint, Littlerock Creek alleges and incorporates by reference the allegations contained
10 in Littlerock Creek’s responses to paragraphs 1 through 27, inclusive, of the cross-
11 complaint.

12 3. The allegations contained in paragraphs 29, 31, 32, 33 and 34 are true.

13 4. In response to the allegations contained in paragraph 30 of the Cross-
14 Complaint, Littlerock Creek denies that Littlerock Creek’s continued or increased
15 extraction of water from the Basin will result in the diminution, reduction and impairment
16 of the Basin water supply and will deprive the City of Palmdale of Basin water to which it
17 is entitled. Except as expressly denied herein, the allegations contained in paragraph 30 of
18 the Cross-Complaint are true.

19 **SECOND CAUSE OF ACTION**

20 5. In response to the allegations contained in paragraph 35 of the Cross-
21 Complaint, Littlerock Creek alleges and incorporates by reference Littlerock Creek’s
22 responses to the allegations in paragraphs 1 through 34, inclusive, of the Cross-Complaint.

23 6. In response to the allegations contained in paragraph 36 of the Cross-
24 Complaint, Littlerock Creek denies that it has taken water from the Basin without regard
25 to the water rights of the City and the long-term health of the Basin and that unless
26 restrained, Littlerock Creek’s pumping will cause irreparable damage and injury to the
27

1 Basin. Except as denied herein, the allegations contained in paragraph 36 of the Cross-
2 Complaint are true.

3 7. In response to the allegations contained in paragraph 37 of the Cross-
4 Complaint, Littlerock Creek denies, unless its pumping is enjoined and restrained,
5 overdraft will continue and it will become more severe and there will be a further depletion
6 of water and increased incidents of adverse results. Except as denied herein, the
7 allegations contained in paragraph 37 are true.

8 8. The allegations contained in paragraph 38 are true.

9 **AFFIRMATIVE DEFENSE**

10 9. Littlerock Creek has a right prior and paramount to the rights of City to pump
11 the portion of the water percolated into the Basin which has been imported through the
12 State Water Project. This right, sometimes referred to as the “right to recapture return
13 flows,” exists as to percolating water which can be identified as return flow, regardless of
14 the length of time since the percolation, regardless of the number of times the water is
15 pumped, and regardless of whether the percolating water is commingled with the waters in
16 the Basin.

17 **SECOND AFFIRMATIVE DEFENSE**

18 10. Littlerock Creek has a prior and paramount right to the rights of the City to
19 pump the native waters in the Basin because water and water rights belonging to the State
20 of California within Littlerock Creek have been given, dedicated, and set apart for the use
21 and purposes of Littlerock Creek.

22 **THIRD AFFIRMATIVE DEFENSE**

23 11. Littlerock Creek has an equal right to the rights of the City to use the native
24 waters for municipal purposes.

25 **FOURTH AFFIRMATIVE DEFENSE**

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

1 **PRAYER**

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

- 3 1. Declare Littlerock Creek Irrigation District's water rights as equal or
4 paramount to the water rights of the City of Palmdale.
5 2. Award Littlerock Creek Irrigation District costs of suit.
6 3. Award Littlerock Creek Irrigation District reasonable attorney fees.
7 4. Impose such further relief as the Court deems appropriate.

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9 DATED: October 11, 2006

LEMIEUX & O'NEILL

10 By: _____
11 WAYNE K. LEMIEUX
12 Attorney for Cross-Defendant
13 LITTLEROCK CREEK IRRIGATION DISTRICT

14 This Answer is deemed verified pursuant to Code of Civil Procedure Section 446.
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STATE OF CALIFORNIA,)
) ss.
COUNTY OF VENTURA)

On **October 11, 2006**, I posted the following document(s) to the website <http://www.scefilng.org>, a dedicated link to the Antelope Valley Groundwater Cases:

Honorable Jack Komar
Santa Clara County Superior Court
191 North First Street, Dept. 17C
San Jose, CA 95113

Superior Court of California
County of Los Angeles
Stanley Mosk Courthouse—Dept. 1, Rm 534
111 North Hill Street
Los Angeles, CA 90012

Executed on October 11, 2006, in Westlake Village, California.

ANSWER OF LITTLEROCK CREEK IRR. DST. TO CITY OF PALMDALE CROSS-COMPLAINT