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Attorneys for Defendant/Cross-Defendant
Palm Ranch 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. 17

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 PALM**
) **RANCH 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

Cross-defendant, PALM RANCH IRRIGATION DISTRICT, (hereinafter “Palm Ranch”), responds to the allegations of the Cross-Complaint filed by the City of Palmdale (“City”), as follows:

1 **PRELIMINARY**

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

4 **FIRST CAUSE OF ACTION**

5 2. In response to the allegations contained in paragraph 28 of the Cross-
6 Complaint, Palm Ranch alleges and incorporates by reference the allegations contained in
7 Palm Ranch's responses to paragraphs 1 through 27, inclusive, of the cross-complaint.

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

9 4. In response to the allegations contained in paragraph 30 of the Cross-
10 Complaint, Palm Ranch denies that Palm Ranch's continued or increased extraction of
11 water from the Basin will result in the diminution, reduction and impairment of the Basin
12 water supply and will deprive the City of Palmdale of Basin water to which it is entitled.
13 Except as expressly denied herein, the allegations contained in paragraph 30 of the Cross-
14 Complaint are true.

15 **SECOND CAUSE OF ACTION**

16 5. In response to the allegations contained in paragraph 35 of the Cross-
17 Complaint, Palm Ranch alleges and incorporates by reference Palm Ranch's responses to
18 the allegations in paragraphs 1 through 34, inclusive, of the Cross-Complaint.

19 6. In response to the allegations contained in paragraph 36 of the Cross-
20 Complaint, Palm Ranch denies that it has taken water from the Basin without regard to
21 the water rights of the City and the long-term health of the Basin and that unless
22 restrained, Palm Ranch's pumping will cause irreparable damage and injury to the Basin.
23 Except as denied herein, the allegations contained in paragraph 36 of the Cross-Complaint
24 are true.

25 7. In response to the allegations contained in paragraph 37 of the Cross-
26 Complaint, Palm Ranch denies, unless its pumping is enjoined and restrained, overdraft
27 will continue and it will become more severe and there will be a further depletion of water

1 and increased incidents of adverse results. Except as denied herein, the allegations
2 contained in paragraph 37 are true.

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

4 **AFFIRMATIVE DEFENSE**

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

12 **SECOND AFFIRMATIVE DEFENSE**

13 10. Palm Ranch has a prior and paramount right to the rights of the City to pump
14 the native waters in the Basin because water and water rights belonging to the State of
15 California within Palm Ranch been given, dedicated, and set apart for the use and purposes
16 of Palm Ranch.

17 **THIRD AFFIRMATIVE DEFENSE**

18 11. Palm Ranch has an equal right to the rights of the City to use the native
19 waters for municipal purposes.

20 **FOURTH AFFIRMATIVE DEFENSE**

21 12. Palm Ranch has an equal right to the rights of the public entity cross-
22 defendants to the native waters in the Basin by virtue of mutual prescription.

23 **PRAYER**

24 **WHEREFORE**, Palm Ranch Irrigation District prays for the Court to:

25 1. Declare Palm Ranch Irrigation District’s water rights as equal or paramount
26 to the water rights of the City of Palmdale.

27 2. Award Palm Ranch Irrigation District costs of suit.

3. Award Palm Ranch Irrigation District reasonable attorney fees.
4. Impose such further relief as the Court deems appropriate.

DATED: October 11, 2006

LEMIEUX & O'NEILL

By: _____
 WAYNE K. LEMIEUX
 Attorney for Cross-Defendant
 PALM RANCH IRRIGATION DISTRICT

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 **October 11, 2006**, 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 CROSS-DEFENDANT, PALM RANCH**
11 **IRRIGATION DISTRICT,**
12 **TO CROSS-COMPLAINT OF THE CITY OF PALMDALE**

13 Honorable Jack Komar
14 Santa Clara County Superior Court
15 191 North First Street, Dept. 17C
16 San Jose, CA 95113

17 **By Mail**
18 Tel: 508/882-2286
19 Fax: 408/882-2293
20 rwalker@scscourt.org

21 Superior Court of California
22 County of Los Angeles
23 Stanley Mosk Courthouse—Dept. 1, Rm 534
24 111 North Hill Street
25 Los Angeles, CA 90012

26 **Original Document(s) to be filed at this**
27 **location.**

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

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

LINDA M. STIEGLER