

WAYNE K. LEMIEUX (SBN 43501)
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Attorneys for Defendants/Cross-Complainants

LITTLEROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT,
NORTH EDWARDS WATER DISTRICT, DESERT LAKES COMMUNITY SERVICES DISTRICT,
LLANO DEL-RIO WATER CO., LLANO MUTUAL WATER CO., BIG ROCK MUTUAL WATER
CO., and LITTLE BALDY WATER CO.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

Coordinated Proceeding
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER
CASES

Included Actions:

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

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

) **Judicial Council Coordination No. 4408**

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

) **DECLARATION OF WAYNE K. LEMIEUX**
) **IN OPPOSITION TO MOTION TO**
) **DISQUALIFY**

) **DATE: July 10, 2009**
) **TIME: 9:00 a.m.**
) **DEPT: 17C**
)

1 I, Wayne K. Lemieux, declare:

2 1. I am an attorney licensed to practice before all of the Courts of the State of California and
3 am a partner with the firm of Lemieux & O'Neill, attorneys of records for LITTLE ROCK CREEK
4 IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT, NORTH EDWARDS WATER
5 DISTRICT, DESERT LAKES COMMUNITY SERVICES DISTRICT, LLANO DEL-RIO WATER CO.,
6 LLANO MUTUAL WATER CO., BIG ROCK MUTUAL WATER CO., and LITTLE BALDY WATER
7 CO. in the above-entitled matter. I have personal knowledge of the following facts, and if called as a
8 witness, I could and would competently testify to the following.
9

10 2. Lemieux & O'Neill represents a group of water suppliers including Littlerock Creek
11 Irrigation District, Palm Ranch Irrigation District, North Edwards Water District, Desert Lake Community
12 Services District, Big Rock Mutual Water Company, Little Baldy Mutual Water Company, Llano-Del Rio
13 Water Company, and Llano Mutual Water Company (hereafter "Lemieux & O'Neill Parties"). All of
14 these parties are water suppliers. The Lemieux & O'Neill Parties are comprised of public entities and
15 private water companies.
16

17 3. No party in the Lemieux & O'Neill group has ever filed a claim against any other party in
18 the group. Nor are any such claims contemplated. Instead, every party in the Lemieux & O'Neill group
19 is a defendant to a complaint filed by the County of Los Angeles.

20 4. No member of the Wood Class has ever claimed to have been represented by Lemieux &
21 O'Neill in this matter. The Wood Class has not claimed that it has tendered any confidential information
22 to Lemieux & O'Neill as a result of the representation at issue.

23 5. Lemieux & O'Neill received an informed waiver of potential conflicts from each of its
24 clients in this matter.

25 6. Los Angeles County Waterworks District 40's complaint was originally filed on December
26 1, 2004, naming Littlerock Creek Irrigation District and Palm Ranch Irrigation District. A true and
27 correct copy of the pleading is attached as Exhibit "A."

1 7. There were appearances in this matter on October 28, 2005 by Littlerock Creek Irrigation
2 District and Palm Ranch Irrigation District, on September 26, 2007 by Big Rock Mutual Water Co., Little
3 Baldy Water Co. and Llano Del-Rio Water Co. and Llano Mutual Water Co., and on October 9, 2006 by
4 North Edwards Water District and Desert Lakes Community Services District.

5 8. A Second Amendment to the complaint was filed on May 22, 2006 to include North
6 Edwards Water District and Desert Lake Community Services District. Doe Amendments were then filed
7 on April 4, 2007, naming defendants Llano Del Rio Water Company (Doe 205), Llano Mutual Water
8 Company (Doe 207), Big Rock Mutual Water Company (Doe 200), and Little Baldy Water Company
9 (Doe 204). A true and correct copy of the Doe Amendments are attached hereto as Exhibits "A" and "B."
10 The Doe amendments attached the summons of the original complaint.

11 9. In September, 2007, each of the private water suppliers to the Lemieux Group, filed a separate
12 answer to the complaint of County Waterworks District No. 40. However, this answer was erroneously
13 entitled "Answer of [name] to First Amended Cross-Complaint of Public Water Suppliers for Declaratory
14 and Injunctive Relief and Adjudication of Water Rights." These parties have subsequently filed Notices
15 of Errata to change the title of these documents to "Answer to Los Angeles County Waterworks District
16 No. 40's Complaint." A true and correct copy of the Notices of Errata are attached as Exhibits "C
17 through F."

18 10. Some of the private water companies in this case have asserted rights as overlying owners.
19 Other private water suppliers have asserted appropriative rights. Each of the public and private water
20 suppliers represented by Lemieux & O'Neill will claim both overlying, appropriative and, in two cases,
21 surface rights to use water. These claims will be made in the alternative. None of these claims have been
22 asserted against any other party in the Lemieux & O'Neill group. Therefore, the claims made by both the
23 private and public water suppliers in the Lemieux & O'Neill group are indistinguishable from each other.

24 11. The disqualification motion comes at a time when many landowner parties, including the
25 Wood Class, are attempting to delay the next phase of trial. Concurrently with the disqualification
26 motion, requests have been made (or will be made) to both delay the trial and to dismiss the complaint
27 outright.

12. On June 19, 2009, counsel for the Lemieux & O'Neill group tendered correspondence to Class counsel for the Wood Class informing Class counsel of the factual errors contained in its motion. A true and correct copy of this letter is attached as Exhibit H.

13. This correspondence was followed up on by a series of phone calls on June 22 and 23, 2009, between counsel for the Wood Class and the Lemieux & O'Neill group. During these calls, the attorneys carefully reviewed all of the pertinent documents in this case. Counsel for the Lemieux group specifically pointed out that the Doe Amendments were made to the original complaint, not the cross-complaint. The Wood Class has been informed of their error, but as of the date of this opposition, has refused to withdraw their motion. Counsel for the Wood Class indicated they intended to use this qualification motion as a forum to discuss problems with the pleadings generally. Counsel for Lemieux group informed counsel for the Wood Class that this was an improper use of a disqualification motion, and indicated this conversation would be brought to the attention of the court.

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

Executed this 26th day of June, 2009, in Westlake Village, California.

/s/

W. KEITH LEMIEUX

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 **June 26, 2009**, I posted the following document(s) to the website <http://www.scefilng.org>, a
8 dedicated link to the Antelope Valley Groundwater Cases:

9 **DECLARATION OF W. KEITH LEMIEUX IN SUPPORT OF OPPOSITION**
10 **TO MOTION TO DISQUALIFY THE LAW FIRM OF LEMIEUX & O'NEILL**

11 I declare under penalty of perjury under the laws of the United State of America that the above is
12 true and correct.

13 Executed on June 26, 2009, in Westlake Village, California.

14 /s/
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16 _____
KATHI MIERS
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