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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))

**Judicial Council Coordination No. 4408**

# ANTELOPE VALLEY GROUNDWATER CASES

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

Included Actions:

## SUPPLEMENTAL REPORT ON MEET AND CONFER ON MOTION TO DISQUALIFY

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

**DATE: July 24, 2009**

Los Angeles County Waterworks District No. 40  
v. Diamond Farming Co., Kern County Superior  
Court, Case No. S-1500-CV-234348;

**TIME: 1:30 p.m.**

DEPT: 1

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 LITTLEROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT,  
2 NORTH EDWARDS WATER DISTRICT, DESERT LAKES COMMUNITY SERVICES DISTRICT,  
3 LLANO DEL-RIO WATER CO., LLANO MUTUAL WATER CO., BIG ROCK MUTUAL WATER  
4 CO., and LITTLE BALDY WATER CO. supplement the Post-Meet and Confer Status Report on Motion  
5 for Order Disqualifying the Law Firm of Lemieux & O'Neill ("Status Report) as follows:

6  
7 1. Plaintiff's Status Report failed to inform the court that Littlerock Creek and Palm Ranch  
8 Irrigation District filed *requests for dismissal with prejudice* of Llano Del Rio Water Company (Doe 205),  
9 Llano Mutual Water Company (Doe 207), Big Rock Mutual Water Company (Doe 200), and Little Baldy  
10 Water Company (Doe 204) from the Cross-complaint. Thus, even if, *arguendo*, the court accepts  
11 Plaintiff's assumption that "doe amendments to the complaint" were actually "roe amendments to the  
12 cross-complaint," Lemieux & O'Neill parties requested dismissal of the Roe amendments at issue with  
13 prejudice. The central issue of Plaintiff's motion for disqualification has been resolved. Nonetheless,  
14 Plaintiff persists with this meritless motion.

15 2. Plaintiff's Status Report contains legal argument, citing *Flatt v. Superior Court* (1994) 9 Cal.4<sup>th</sup>  
16 275, 284-86. Plaintiff misconstrues *Flatt*. *Flatt* specifically states that its "holding is narrow, confined to  
17 the circumstances typified by this case," i.e. where there is an "irremediable conflict." (*Id.* at 279.) Here,  
18 there is no irremediable conflict. Lemieux and O'Neill parties never intended to bring suit against one  
19 another, never filed claims against one another, and do not construe the County's Doe amendments  
20 (attaching the *original* complaint's summonses) as "Roe" amendments to the cross-complaint.  
21 Nonetheless, any confusion created by the County's Doe amendments, and any potential conflict, has  
22 been eliminated through recent requests for dismissals with prejudice. Further, in *Flatt*, the court  
23 specifically noted that the attorney in that case had not obtained conflict waivers. (*Id.* at 285 n. 4; *Visa*  
24 *U.S.A., Inc. v. First Data Corp.* (2003) 241 F.Supp.2d 1100 (distinguishing *Flatt*.) Here, conflict waivers  
25 were obtained, as discussed in the Declaration of W. Keith Lemieux. At the recent meet and confer, Keith  
26 Lemieux indicated Lemieux & O'Neill parties assert the attorney/client privilege as to such consents.

1 However, if necessary, the court may view them in camera provided it is understood that the consents  
2 remain privileged. Plaintiff rejected this proposed resolution.

3 3. Courts hesitate to impose a motion for disqualification “except when of absolute necessity.”  
4 (*Visa U.S.A. v. First Data Corp.* (N.D. Cal. 2003) 241 F.Supp. 2d 1100, 1104 (applying California Rules  
5 of Professional Conduct); *In re Marvel* (N.D. Cal. 2000) 251 B.R. 869 (applying California Rules of  
6 Professional Conduct). Motions to disqualify counsel are strongly disfavored. (*Id.*) Where there is  
7 unreasonable delay in bringing the motion, disqualification should not be ordered, and the burden then  
8 shifts back to the party seeking disqualification to justify the delay. (*Gong v. RFG Oil, Inc.* (2008) 166  
9 Cal.App.4<sup>th</sup> 209 [82 Cal.Rptr. 3d 416].) The Wood Class knew of Lemieux & O’Neill’s representation of  
10 Big Rock Mutual Water Co., Little Baldy Water Co. and Llano Del-Rio Water Co. and Llano Mutual  
11 Water Co. since September 26, 2007 at the latest. (Lemieux Decl. ¶ 8.) The Wood Class waited several  
12 years to bring this motion, and offers no explanation for this prejudicial delay. Their motion corresponds  
13 with their stated intent to delay the trial, is tactical, and must be denied.

14  
15 DATED: July 22, 2009

LEMIEUX & O’NEILL

16 /s/

17 By: \_\_\_\_\_  
18 Christine Carson  
19 Attorneys for LITTLEROCK CREEK IRRIGATION  
20 DISTRICT, PALM RANCH IRRIGATION DISTRICT  
21 And Cross-Defendants, NORTH EDWARDS WATER  
22 DISTRICT and DESERT LAKES COMMUNITY  
23 SERVICES DISTRICT  
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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,  
7 California 91361.

8 On **July 23, 2009**, I posted the following document(s) to the website <http://www.scefilng.org>, a  
9 dedicated link to the Antelope Valley Groundwater Cases:

10 **SUPPLEMENTAL REPORT ON MEET AND CONFER ON MOTION TO DISQUALIFY**

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 July 23, 2009, in Westlake Village, California.

14 /s/

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16 KATHI MIERS  
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