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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 CROSS-DEFENDANT,  
LITTLEROCK CREEK IRRIGATION  
DISTRICT, TO CROSS-COMPLAINT OF  
ROSAMOND**

LITTLEROCK CREEK IRRIGATION DISTRICT, hereinafter “Littlerock,” responds to the  
Cross-Complaint of Rosamond Community Services District (hereinafter “Rosamond”), as follows:

**PRELIMINARY**

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

2. In response to the allegations contained in paragraph 8 of the Cross-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 Cross-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 Cross-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 Cross-Complaint are true.

6. In response to the allegations contained in paragraph 16 of the Cross-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 Cross-Complaint are true.

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

8. In response to the allegations contained in paragraph 18 of the Cross-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 Cross-Complaint are true.

9. Littlerock admits the allegations contained in paragraph 19, 20, 21, 22, 23, 24, 25, 26, 27, and 28 of the Cross-Complaint 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.

1 **SECOND CAUSE OF ACTION**

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

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

7 13. In response to the allegations contained in paragraph 38 of the Cross-Complaint, Littlerock  
8 denies it seeks to prevent Rosamond 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 of the Cross-Complaint are  
11 true.

12 **THIRD CAUSE OF ACTION**

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

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

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

22 **FOURTH CAUSE OF ACTION**

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

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

27 ///

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

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

## FIFTH CAUSE OF ACTION

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

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

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

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

## SIXTH CAUSE OF ACTION

26. In response to the allegations contained in paragraph 57 of the Cross-Complaint, Littlerock alleges and incorporates by reference, Littlerock's responses to the allegations in paragraphs 1 through 56, inclusive, of the Cross-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 Cross-Complaint, Littlerock denies Littlerock disputes Rosamond's contentions stated in the sixth cause of action. Except as provided herein, Littlerock admits the allegations contained in paragraph 61 of the Cross-Complaint are true.

29. Littlerock admits the allegations contained in paragraph 62 of the Cross-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.

#### EIGHTH CAUSE OF ACTION

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

#### FIRST AFFIRMATIVE DEFENSE

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

#### SECOND AFFIRMATIVE DEFENSE

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

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1 **THIRD AFFIRMATIVE DEFENSE**

2 34. Littlerock has a prior and paramount right to the rights of Rosamond to pump the native  
3 waters in the Basin because water and water rights belonging to the State of California within Littlerock  
4 have been given, dedicated, and set apart for the use and purposes of Littlerock.

5 **FOURTH AFFIRMATIVE DEFENSE**

6 35. Littlerock has an equal right to the rights of Rosamond to use the native waters for  
7 municipal purposes.

8 **FIFTH AFFIRMATIVE DEFENSE**

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

11 **PRAYER**

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

- 13 1. Declare Littlerock Creek Irrigation District's water rights as equal or paramount to the  
14 water rights of Rosamond as set forth in Littlerock Creek Irrigation District's affirmative defenses.
- 15 2. Award Littlerock Creek Irrigation District cost of suit.
- 16 3. Award Littlerock Creek Irrigation District reasonable attorney fees.
- 17 4. Impose such further relief as the Court deems appropriate.

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

19  
20 DATED: November 21, 2005

LEMIEUX & O'NEILL

21 /s/

22 By: \_\_\_\_\_  
23 WAYNE K. LEMIEUX  
24 Attorneys for Cross-Defendant  
25 LITTLEROCK CREEK IRRIGATION DISTRICT  
26  
27  
28

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 **November 21, 2005**, I posted the following document(s) to the website  
8 <http://www.scefilng.org>, a dedicated link to the Antelope Valley Groundwater Cases:

9 **ANSWER OF CROSS-DEFENDANT, LITTLEROCK CREEK IRRIGATION**  
10 **DISTRICT, TO CROSS-COMPLAINT OF ROSAMOND**

11 I declare under penalty of perjury under the laws of the States of California that the above is true  
12 and correct.

13 Executed on November 21, 2005, in Westlake Village, California.

14 /s/

15 \_\_\_\_\_  
16 KATHI MIERS  
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**SERVICE LIST**

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CRC Rules 1501(17) and 1540:  
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