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Palm Ranch 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,
PALM RANCH IRRIGATION DISTRICT, TO
CROSS-COMPLAINT OF ROSAMOND**

PALM RANCH IRRIGATION DISTRICT, hereinafter “Palm Ranch,” responds to the Cross-
Complaint of Rosamond Community Services District (hereinafter “Rosamond”), as follows:

PRELIMINARY

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

1 2. In response to the allegations contained in paragraph 8 of the Cross-Complaint, Palm
2 Ranch lacks sufficient information or belief to determine whether the Antelope Valley Groundwater Basin
3 (“Basin”) encompasses about 940 square miles and generally includes the communities of Lancaster,
4 Palmdale and Rosamond, and on the basis of such lack of information and belief, denies such allegations.
5 Except as provided herein, Palm Ranch admits the allegations contained in paragraph 8 of the Cross-
6 Complaint are true.

7 3. Palm Ranch admits the allegations contained in paragraph 9 are true.

8 4. Palm Ranch lacks sufficient information or belief to respond to the allegations contained in
9 paragraph 10, 11, 12, 13 and 14 of the Cross-Complaint and on the basis of such lack of information and
10 belief, denies such allegations.

11 5. Palm Ranch admits the allegations contained in paragraph 15 of the Cross-Complaint are
12 true.

13 6. In response to the allegations contained in paragraph 16 of the Cross-Complaint, Palm
14 Ranch lacks sufficient information or belief to determine whether pumping has resulted in land
15 subsidence, and on the basis of such lack of information and belief, denies such allegations. Except as
16 provided herein, Palm Ranch admits the allegations contained in paragraph 16 of the Cross-Complaint are
17 true.

18 7. Palm Ranch admits the allegations contained in paragraph 17 of the Cross-Complaint are
19 true.

20 8. In response to the allegations contained in paragraph 18 of the Cross-Complaint, Palm
21 Ranch lacks sufficient information or belief to determine whether land subsidence is occurring in the
22 Basin, and on the basis of such lack of information and belief, denies such allegation. Except as provided
23 herein, Palm Ranch admits the allegations contained in paragraph 18 of the Cross-Complaint are true.

24 9. Palm Ranch admits the allegations contained in paragraph 19, 20, 21, 22, 23, 24, 25, 26,
25 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. Palm Ranch is a public entity and is not required to respond to the first cause of action.

SECOND CAUSE OF ACTION

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

12. Palm Ranch admits the allegations contained in paragraphs 35, 36, and 37 of the Cross-Complaint are true.

13. In response to the allegations contained in paragraph 38 of the Cross-Complaint, Palm Ranch denies it seeks to prevent Rosamond from pumping surplus water. Except as provided herein, Palm Ranch admits the allegations contained in paragraph 38 are true.

14. Palm Ranch admits the allegations contained in paragraph 39 of the Cross-Complaint are true.

THIRD CAUSE OF ACTION

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

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

17. Palm Ranch admits the allegations contained in paragraphs 42, 43, and 44 of the Cross-Complaint are true.

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1 **FOURTH CAUSE OF ACTION**

2 18. In response to the allegations contained in paragraph 45 of the Cross-Complaint, Palm
3 Ranch alleges and incorporates by reference herein, Palm Ranch's responses to the allegations in
4 paragraphs 1 through 44, inclusive, of the Cross-Complaint.

5 19. Palm Ranch admits the allegations contained in paragraph 46, 47, and 48 are true.

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

10 21. Palm Ranch admits the allegations contained in paragraph 50 of the Cross-Complaint are
11 true.

12 **FIFTH CAUSE OF ACTION**

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

16 23. Palm Ranch admits the allegations contained in paragraphs 52, 53, and 54 of the Cross-
17 Complaint are true.

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

22 25. Palm Ranch admits the allegations contained in paragraph 56 of the Cross-Complaint are
23 true.

24 **SIXTH CAUSE OF ACTION**

25 26. In response to the allegations contained in paragraph 57 of the Cross-Complaint, Palm
26 Ranch alleges and incorporates by reference, Palm Ranch's responses to the allegations in paragraphs 1
27 through 56, inclusive, of the Cross-Complaint.

1 27. Palm Ranch admits the allegations contained in paragraphs 58, 59, and 60 are true.

2 28. In response to the allegations contained in paragraph 61 of the Cross-Complaint, Palm
3 Ranch denies Palm Ranch disputes Rosamond's contentions stated in the sixth cause of action. Except as
4 provided herein, Palm Ranch admits the allegations contained in paragraph 61 of the Cross-Complaint are
5 true.

6 29. Palm Ranch admits the allegations contained in paragraph 62 of the Cross-Complaint are
7 true.

8 **SEVENTH CAUSE OF ACTION**

9 30. The allegations of the seventh cause of action are directed against all defendants, except
10 public entity defendants. Palm Ranch is a public entity and is not required to respond to the seventh cause
11 of action.

12 **EIGHTH CAUSE OF ACTION**

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

15 **FIRST AFFIRMATIVE DEFENSE**

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

22 **SECOND AFFIRMATIVE DEFENSE**

23 33. Palm Ranch has a right prior and paramount to the rights of Rosamond to divert water
24 from streams. Palm Ranch's right to divert water from streams was established prior to 1914. This right,
25 sometimes referred to as a "pre-1914 diversion right" or simply a "pre-1914 right," exists as to waters in
26 the Basin flowing in a known and definite channel. This right exists as long as the water can be identified
27 as the result of a diversion of surface water by Palm Ranch, regardless of the time since the diversion,

1 regardless of the number of times the water is pumped and regardless whether the diverted water is
2 commingled with the waters in the Basin.

3 **THIRD AFFIRMATIVE DEFENSE**

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

7 **FOURTH AFFIRMATIVE DEFENSE**

8 35. Palm Ranch has an equal right to the rights of Rosamond to use the native waters for
9 municipal purposes.

10 **FIFTH AFFIRMATIVE DEFENSE**

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

13 **PRAYER**

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

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

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

21
22 DATED: November 21, 2005

LEMIEUX & O'NEILL

23 /s/

24 By: _____

25 WAYNE K. LEMIEUX

Attorney for Cross-Defendant

26 PALM RANCH IRRIGATION DISTRICT
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.scefiling.org>, a dedicated link to the Antelope Valley Groundwater Cases:

9 **ANSWER OF CROSS-DEFENDANT, PALM RANCH IRRIGATION DISTRICT,**
10 **TO CROSS-COMPLAINT OF ROSAMOND**

11 I declare under penalty of perjury under the laws of the State 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

Antelope Valley Groundwater Cases: Case No.: 1-05-CV 049053

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CRC Rules 1501(17) and 1540:
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CRC Rule 1511: * Serve only when required to
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