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LITTLEROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT
And Cross-Defendants, NORTH EDWARDS WATER DISTRICT and DESERT LAKES COMMUNITY
SERVICES 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;

) **REPLY OF LITTLEROCK CREEK**
) **IRRIGATION DISTRICT, PALM RANCH**
) **IRRIGATION DISTRICT, NORTH**
) **EDWARDS WATER DISTRICT and DESERT**
) **LAKES COMMUNITY SERVICES DISTRICT**
) **TO VARIOUS OPPOSITIONS TO MOTION**
) **FOR CLASS CERTIFICATION**
)

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

) **DATE: March 12, 2007**
) **TIME: 10:00 a.m.**
) **DEPT: 1**
)

AND RELATED CROSS-ACTIONS

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Defendants, LITTLE ROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT, and Cross-Defendants, NORTH EDWARDS WATER DISTRICT and DESERT LAKES COMMUNITY SERVICES DISTRICT hereby submit their reply to oppositions to the Motion for Class Certification, as follows.

I. INTRODUCTION

Various parties have filed oppositions to the County of Los Angeles, et al's request that this court certify a defendant class to facilitate the adjudication of global issues among the thousands of potential parties. Parties have taken exception to the County of Los Angeles' suggestion that the court not include in the class certification any party within the service area of a public water purveyor. The following memorandum of points and authorities refines this suggestion slightly.

Based on authority granted by statute, the public water purveyors should be recognized by this court as representing the joint and mutual interests of landowners who are receiving water through certain public water systems. Accordingly, these parties do not need to be included separately in this litigation either as individuals or as part of a defendant class.

II. ARGUMENT

A. IRRIGATION DISTRICTS, COUNTY WATER DISTRICTS, AND COMMUNITY SERVICES DISTRICTS ALL HAVE SPECIFIC STATUTORY AUTHORITY TO REPRESENT THE INTERESTS IN THEIR CUSTOMERS IN CONTINUED WATER SERVICE

Public entities have standing to pursue claims that stretch beyond the narrow personal interests of private litigants and involve matters of public interest under their purview. In the case of public water purveyors, this power includes the ability to litigate issues involving protection of water resource within their boundaries.

For example, the powers and duties of Irrigation Districts are contained in Water Code section 20500, *et seq.* Water Code section 22654 provides:

1 “A district may commence, maintain, intervene in, compromise, and assume the
2 costs of any action or proceeding involving or affecting the ownership or use of
3 water or water rights within the district used or useful for any purpose of the
4 district *or of benefit to any land.*” (Water Code § 22654.)

5 This section expressly confers to Irrigation Districts the authority to maintain litigation affecting
6 any “water rights” which benefit “any land” within the district.

7 The powers and authority of county water districts are contained in Water Code section 30000 *et*
8 *seq.* Water Code section 31081 provides language identical to Water Code section 22654. Like irrigation
9 districts, county water districts are specifically charged with the authority to “maintain” any action
10 “involving or affecting the ownership . . . of waters . . . within the district [that] benefit any land” within
11 the district. (Water Code § 31081.) Likewise, Government Code § 61100 gives community services
12 districts the same powers as municipal water districts and the Municipal Water District Law contains the
13 same language as quoted above. (Water Code § 31081.)

14 These statutes permit government entities to represent the water interests of “all land” within the
15 district whether such property actually receives water from the district or not. The court has recognized,
16 based on similar statutory language, that a public entity may even act as a class representative for water
17 interests within their district. (See *Orange County Water District v. City of Riverside* (1959) 173
18 Cal.App.2d 137.) In *Orange County Water District*, the court acknowledged the district’s authority to act
19 in a representative capacity on behalf of water users within the district even though not all water users in
20 the district were wholly united in interest. (*Id.*)

21 Accordingly, there is no question that many (if not all) of the public entities in this case have the
22 capacity to pursue this litigation as a representative of their customers. Therefore, there is no reason to
23 bring these parties separately in the case.

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Landowners who receive water from public water systems have a distinct commonality of interest of a separate and apart from other landowners in this case. By connecting to a public water system, these landowners have essentially delegated the acquisition and delivery of their water interests to the district. Their interests in seeing the continued delivery of this water has therefore become conjoined and indistinguishable from the district's own interest in making this happen. Likewise, the district and its customers' interest are aligned on all significant issues of this case including the matter of prescription. Since the customers have elected to receive water through the District, it makes no difference as a practical matter whether these rights are protected through the form of prescription or whether the court ultimately views these rights as a delegation of the overlying rights.

The case of Littlerock Creek Irrigation District is illustrative. It is generally recognized Littlerock Creek pumps a significant portion of its water from a known and definite channel and has done so since prior to 1890. Littlerock Creek may therefore assert some of its water is protected as a pre-1914 appropriation (surface) water right. The purpose of illustrating these positions is not to argue the merits of this theory. Rather, it is to demonstrate that should the District adopt these legal positions, it is obviously and clearly to the direct benefit of its customers who have elected to receive water from the system. Protecting Littlerock Creek's continued use of water by asserting any other form of right is a claim essentially made on behalf of all of its customers. There is no reasonable basis for the customers to dispute such claims as it would only negatively impact their ability to receive water in the manner they have chosen. The same reasoning holds true for the remaining public water purveyors.

Therefore, regardless of how the court ultimately decides the issue of class certification, there is no need to include in any of the proposed classes, any party who is currently receiving water through a public water system. Littlerock Creek Irrigation District, Palm Ranch Irrigation District, North Edwards Water District and Desert Lakes Community Services District respectfully request that any court order on

1 the subject of class representation or identification of the parties to be sued exclude any party receiving
2 water from a public water system as a potential party to the action.

3 DATED: March 5, 2007

LEMIEUX & O'NEILL

4 / S /

5 By: _____

6 W. KEITH LEMIEUX

7 Attorneys for LITTLE ROCK CREEK IRRIGATION
8 DISTRICT, PALM RANCH IRRIGATION DISTRICT
9 And Cross-Defendants, NORTH EDWARDS WATER
10 DISTRICT and DESERT LAKES COMMUNITY
11 SERVICES DISTRICT
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