

WAYNE K. LEMIEUX (SBN. 43501)  
W. KEITH LEMIEUX (SBN. 161850)  
LEMIEUX & O'NEILL  
2393 Townsgate Road, Suite 201  
Westlake Village, California 91361  
Telephone: (805) 495-4770  
Facsimile: (805) 495-2787

Attorneys for Defendant  
NORTH EDWARDS 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:

) **ANSWER OF DEFENDANT NORTH**  
) **EDWARDS WATER DISTRICT TO LOS**  
) **ANGELES COUNTY WATERWORKS**  
) **DISTRICT NO. 40's COMPLAINT**  
)

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

NORTH EDWARDS WATER DISTRICT, hereinafter “North Edwards,” responds to the  
Complaint of Los Angeles County Waterworks District No. 40 (hereinafter “District 40”), as follows:

**PRELIMINARY**

1. North Edwards admits the allegations contained in paragraph 1, 2, 3, 4, 5 and 6 of the Complaint are true.

2. North Edwards denies the allegations contained in paragraph 7 of the Complaint.

3. In response to the allegations contained in paragraph 8 of the Complaint, North Edwards 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, North Edwards admits the allegations contained in paragraph 8 of the Complaint are true.

4. North Edwards admits the allegations contained in paragraph 9 are true.

5. North Edwards lacks sufficient information or belief to respond to the allegations contained in paragraph 10, 11, 12, 13 and 14 of the Complaint and on the basis of such lack of information and belief, denies such allegations.

6. North Edwards admits the allegations contained in paragraph 15 of the Complaint are true.

7. In response to the allegations contained in paragraph 16 of the Complaint, North Edwards 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, North Edwards admits the allegations contained in paragraph 16 of the Complaint are true.

8. North Edwards admits the allegations contained in paragraph 17 of the Complaint are true.

9. In response to the allegations contained in paragraph 18 of the Complaint, North Edwards 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, North Edwards admits the allegations contained in paragraph 18 of the Complaint are true.

10. North Edwards admits the allegations contained in paragraph 19, 20, 21, 22, 23, 24, 25, 26, 27, and 28 are true.

**FIRST CAUSE OF ACTION**

11. The allegations of the first cause of action are directed against all defendants, except public entity defendants. North Edwards is a public entity and is not required to respond to the first cause of action.

**SECOND CAUSE OF ACTION**

12. In response to the allegations contained in paragraph 34 of the Complaint, North Edwards alleges and incorporates by reference, North Edwards' responses to the allegations in paragraphs 1 through 31, inclusive, of the Complaint.

13. North Edwards admits the allegations contained in paragraphs 35, 36, and 37 of the Complaint are true.

14. In response to the allegations contained in paragraph 38 of the Complaint, North Edwards denies it seeks to prevent District 40 from pumping surplus water. Except as provided herein, North Edwards admits the allegations contained in paragraph 38 are true.

15. North Edwards admits the allegations contained in paragraph 39 are true.

**THIRD CAUSE OF ACTION**

16. In response to the allegations contained in paragraph 40 of the Complaint, North Edwards alleges and incorporates by reference herein, North Edwards' responses to the allegations in paragraphs 1 through 39, inclusive, of the Complaint.

17. In response to the allegations contained in paragraph 41 of the Complaint, North Edwards denies North Edwards will continue to take and pump increasing amounts of water to the great and irreparable damage and injury of District 40 and the Basin. Except as provided herein, North Edwards admits the allegations contained in paragraph 41 of the Complaint are true.

18. North Edwards admits the allegations contained in paragraphs 42, 43, and 44 of the Complaint are true.

//

//

1 **FOURTH CAUSE OF ACTION**

2 19. In response to the allegations contained in paragraph 45 of the Complaint, North Edwards  
3 alleges and incorporates by reference herein, North Edwards' responses to the allegations in paragraphs 1  
4 through 44, inclusive, of the Complaint.

5 20. North Edwards admits the allegations contained in paragraph 46, 47, and 48 are true.  
6

7 21. In response to the allegations contained in paragraph 49 of the Complaint, North Edwards  
8 denies North Edwards disputes District 40's contention as stated in the fourth cause of action. Except as  
9 provided herein, North Edwards admits the allegations contained in paragraph 49 of the Complaint are  
10 true.

11 22. North Edwards admits District seeks a judicial declaration as to the allegations contained  
12 in paragraph 50 of the Complaint.

13 **FIFTH CAUSE OF ACTION**

14 23. In response to the allegations contained in paragraph 51 of the Complaint, North Edwards  
15 alleges and incorporates by reference, North Edwards' responses to the allegations in paragraphs 1  
16 through 50, inclusive, of the Complaint.

17 24. North Edwards admits the allegations contained in paragraphs 52, 53, and 54 of the  
18 Complaint are true.

19 25. In response to the allegations contained in paragraph 55 of the Complaint, North Edwards  
20 denies that North Edwards disputes District 40's contentions stated in the fifth cause of action. Except as  
21 provided herein, North Edwards admits the allegations contained in paragraph 55 of the Complaint are  
22 true.

23 26 North Edwards admits the allegations contained in paragraph 56 of the Complaint are true.  
24

24 **SIXTH CAUSE OF ACTION**

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

28 North Edwards admits the allegations contained in paragraphs 58, 59, and 60 are true.

29 In response to the allegations contained in paragraph 61 of the Complaint, North Edwards denies North Edwards disputes District 40's contentions stated in the sixth cause of action. Except as provided herein, North Edwards admits the allegations contained in paragraph 61 of the Complaint are true.

30. North Edwards admits the allegations contained in paragraph 62 of the Complaint are true.

## SEVENTH CAUSE OF ACTION

31. The allegations of the seventh cause of action are directed against all defendants, except public entity defendants. North Edwards is a public entity and is not required to respond to the seventh cause of action.

## EIGHTH CAUSE OF ACTION

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

## FIRST AFFIRMATIVE DEFENSE

33. North Edwards has a right prior and paramount to the rights of District 40 to pump the portion of the water percolated into the Basin which has been imported by Antelope Valley East Kern Water Agency through the State Water Project and delivered to North Edwards. 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

34. North Edwards has a prior and paramount right to the rights of District 40 to pump the native waters in the Basin because water and water rights belonging to the State of California within North Edwards have been given, dedicated, and set apart for the use and purposes of North Edwards.

1 **THIRD AFFIRMATIVE DEFENSE**

2 35. North Edwards has an equal right to the rights of District 40 to use the native waters for  
3 municipal purposes.

4 **FOURTH AFFIRMATIVE DEFENSE**

5 36. North Edwards has an equal right to the rights of the public entity cross-defendants to the  
6 native waters in the Basin by virtue of mutual prescription.

7  
8 **PRAYER**

9 **WHEREFORE**, North Edwards Water District prays for the Court to:

10 1. Declare North Edwards Water District's water rights as equal or paramount to the water  
11 rights of District 40 as set forth in North Edwards Water District's affirmative defenses.

12 2. Award North Edwards Water District cost of suit.

13 3. Award North Edwards Water District's reasonable attorney fees.

14 4. Impose such further relief as the Court deems appropriate.

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

16  
17 DATED: October 9, 2006

LEMIEUX & O'NEILL

18 *Wayne K. Lemieux*

19 WAYNE K. LEMIEUX  
20  
21  
22  
23  
24  
25  
26  
27  
28