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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:

) **ANSWER OF DEFENDANT DESERT LAKES**  
) **COMMUNITY SERVICES 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

DESERT LAKES COMMUNITY SERVICES DISTRICT, hereinafter “Desert Lakes,” responds  
to the Complaint of Los Angeles County Waterworks District No. 40 (hereinafter “District 40”), as  
follows:

**PRELIMINARY**

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

2. Desert Lakes denies the allegations contained in paragraph 7 of the Complaint.

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

4. Desert Lakes admits the allegations contained in paragraph 9 are true.

5. Desert Lakes 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. Desert Lakes 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, Desert Lakes 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, Desert Lakes admits the allegations contained in paragraph 16 of the Complaint are true.

8. Desert Lakes 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, Desert Lakes 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, Desert Lakes admits the allegations contained in paragraph 18 of the Complaint are true.

10. Desert Lakes 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. Desert Lakes 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, Desert Lakes alleges and incorporates by reference, Desert Lakes' responses to the allegations in paragraphs 1 through 31, inclusive, of the Complaint.

13. Desert Lakes 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, Desert Lakes denies it seeks to prevent District 40 from pumping surplus water. Except as provided herein, Desert Lakes admits the allegations contained in paragraph 38 are true.

15. Desert Lakes 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, Desert Lakes alleges and incorporates by reference herein, Desert Lakes' 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, Desert Lakes denies Desert Lakes 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, Desert Lakes admits the allegations contained in paragraph 41 of the Complaint are true.

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

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**FOURTH CAUSE OF ACTION**

19. In response to the allegations contained in paragraph 45 of the Complaint, Desert Lakes alleges and incorporates by reference herein, Desert Lakes' responses to the allegations in paragraphs 1 through 44, inclusive, of the Complaint.

20. Desert Lakes admits the allegations contained in paragraph 46, 47, and 48 are true.

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

22. Desert Lakes admits District seeks a judicial declaration as to the allegations contained in paragraph 50 of the Complaint.

**FIFTH CAUSE OF ACTION**

23. In response to the allegations contained in paragraph 51 of the Complaint, Desert Lakes alleges and incorporates by reference, Desert Lakes' responses to the allegations in paragraphs 1 through 50, inclusive, of the Complaint.

24. Desert Lakes admits the allegations contained in paragraphs 52, 53, and 54 of the Complaint are true.

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

26. Desert Lakes admits the allegations contained in paragraph 56 of the Complaint are true.

**SIXTH CAUSE OF ACTION**

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

28. Desert Lakes 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, Desert Lakes denies Desert Lakes disputes District 40's contentions stated in the sixth cause of action. Except as provided herein, Desert Lakes admits the allegations contained in paragraph 61 of the Complaint are true.

30. Desert Lakes 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. Desert Lakes 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. Desert Lakes is not required to respond to the eighth cause of action.

## FIRST AFFIRMATIVE DEFENSE

33. Desert Lakes 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 Desert Lakes. 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. Desert Lakes 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 Desert Lakes have been given, dedicated, and set apart for the use and purposes of Desert Lakes.

### THIRD AFFIRMATIVE DEFENSE

35. Desert Lakes has an equal right to the rights of District 40 to use the native waters for municipal purposes.

1 **FOURTH AFFIRMATIVE DEFENSE**

2 36. Desert Lakes has an equal right to the rights of the public entity cross-defendants to the  
3 native waters in the Basin by virtue of mutual prescription.

4  
5 **PRAYER**

6 **WHEREFORE,** Desert Lakes Community Services District prays for the Court to:

7 1. Declare Desert Lakes Community Services District's water rights as equal or paramount to  
8 the water rights of District 40 as set forth in Desert Lakes Community Services District's affirmative  
9 defenses.

10 2. Award Desert Lakes Community Services District cost of suit.

11 3. Award Desert Lakes Community Services District reasonable attorney fees.

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

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

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15 DATED: October 9, 2006

LEMIEUX & O'NEILL

16 *Wayne K. Lemieux*

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