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CITY OF PALMDALE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

**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-254-348

Wm. Bolthouse Farms, Inc. v. City of
Lancaster

Diamond Farming Co. v. City of Lancaster

Diamond Farming Co. v. Palmdale Water
District

Superior Court of California, County of
Riverside, consolidated actions, Case Nos.
RIC 353840, RIC 344436, RIC 344668

Judicial Council Coordination
Proceeding No. 4408

Santa Clara Case No. 1-05-CV-049053

(Hon. Jack Komar)

**CITY OF PALMDALE'S ANSWER
TO COMPLAINT OF LOS
ANGELES COUNTY
WATERWORKS DISTRICT NO. 40
IN LOS ANGELES COUNTY
SUPERIOR COURT CASE NO. BC
325201**

[Exempt from Filing Fees Pursuant to Govt. Code
§6103]

1 Defendant and Cross-Complainant City of Palmdale ("Palmdale") hereby answers
2 the complaint of Los Angeles County Waterworks District No. 40 ("District") as follows:

3 1. Answering paragraphs 1 and 2, Palmdale admits the allegations thereof.

4 2. Answering paragraph 3, 4, 5 and 6, Palmdale presently lacks sufficient
5 information and belief to enable it to respond, and on that basis, denies the allegations of
6 those paragraphs.

7 3. Answering paragraphs 7, 7(A), 7(B), 7(C) and 7(D), Palmdale denies the
8 allegations thereof.

9 4. Answering paragraphs 8 and 9, Palmdale admits the allegations thereof.

10 5. Answering paragraph 10, Palmdale admits the allegations of the first sentence
11 thereof, and presently lacks information and belief sufficient to enable it to respond to the
12 remaining allegations of that paragraph, and on that basis, denies the remaining
13 allegations thereof.

14 6. Answering paragraphs 11, 12, 13, and 14, Palmdale admits the allegations
15 thereof.

16 7. Answering paragraph 15, Palmdale presently lacks sufficient information and
17 belief to enable it to respond, and on that basis, denies the allegations of that paragraph.

18 8. Answering paragraph 16, Palmdale admits and alleges, on information and
19 belief, that each defendant has, and is now, pumping, appropriating and diverting water
20 from the natural supply of the Antelope Valley Groundwater Basin ("Basin"), and/or
21 claims some interest in the Basin water. Palmdale denies for present lack of information
22 and belief that each defendant claims a right to take water or threatens to increase their
23 taking of water without regard to the rights of the other parties. Palmdale admits and
24 alleges on information and belief that (a) the combined extraction of water by some or all
25 of the parties herein exceeds the annual production of water from the Basin, (b) pumping
26 reduces Basin water tables and contributes to the deficiency of the Basin water supply as
27 a whole, (c) continued pumping by the parties has and will result in diminution, reduction
28 and impairment of the Basin water supply, and causes land subsidence. Palmdale denies

1 for present lack of information and belief the allegation that the District has and will
2 thereby be deprived of its rights to provide water for the public's health, welfare and
3 benefit. Palmdale denies the remaining allegations of this paragraph for present lack of
4 information and belief.

5 9. Answering paragraphs 17, 18 19, 20, 21, 22, 23, 24 25, 26, 27, and 28,
6 Palmdale admits the allegations thereof.

7 10. Answering paragraph 29, Palmdale incorporates its responses to the
8 referenced paragraphs.

9 11. Answering paragraph 30, Palmdale presently lacks sufficient information and
10 belief to enable it to respond, and on that basis, denies the allegations of this paragraph.

11 12. Answering paragraph 31, Palmdale denies the allegations thereof.

12 13. Answering paragraphs 32 and 33, Palmdale admits the allegations thereof.

13 14. Answering paragraph 34, Palmdale incorporates its responses to the
14 referenced paragraphs.

15 15. Answering paragraph 35, Palmdale denies the allegations thereof.

16 16. Answering paragraphs 36, 37, 38, and 39, Palmdale admits the allegations
17 thereof.

18 17. Answering paragraph 40, Palmdale incorporates its responses to the
19 referenced paragraphs.

20 18. Answering paragraphs 41, 42, 43, and 44, Palmdale admits the allegations
21 thereof.

22 19. Answering paragraph 45, Palmdale incorporates its responses to the
23 referenced paragraphs.

24 20. Answering paragraphs 46, 47, 48, 49 and 50, Palmdale admits the allegations
25 thereof.

26 21. Answering paragraph 51, Palmdale incorporates its responses to the
27 referenced paragraphs.

28 22. Answering paragraph 52, Palmdale admits the allegations thereof.

24. Answering paragraphs 55 and 56, Palmdale admits the allegations thereof.

25. Answering paragraph 57, Palmdale incorporates its responses to the referenced paragraphs.

26. Answering paragraphs 58 and 59, Palmdale admits the allegations thereof.

27. Answering paragraph 60, Palmdale denies the allegations thereof.

28. Answering paragraphs 61 and 62, Palmdale admits the allegations thereof.

29. Answering paragraph 63, Palmdale incorporates its responses to the referenced p paragraphs.

30. Answering paragraphs 64, 65, 66, and 67, Palmdale admits the allegations thereof.

31. Answering paragraph 68, Palmdale incorporates its responses to the referenced paragraphs.

32. Answering paragraphs 69, 70, 71, 72, 73, and 74, Palmdale admits the allegations thereof.

As and for separate and independent affirmative defenses, Palmdale alleges:

First Affirmative Defense

33. In the event of the imposition of a physical solution or some form of declaratory relief, due regard must be given to the prior and paramount nature of Palmdale's overlying rights.

Second Affirmative Defense

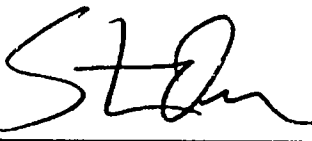
34. The District is not entitled to recover from Palmdale any of the monetary compensation sought by way of the Complaint.

WHEREFORE, Palmdale prays for relief as follows:

1. For an *inter se* determination as to the priority and amount of Basin water to which each party is entitled to pump.
2. For a determination of the quantity of the safe yield, the quantity of surplus water available, the correlative overlying rights of the parties to the safe yield, the rights *inter se* among overlying, appropriative and prescriptive pumpers from the Basin.
3. For the imposition of a physical solution.
4. For a declaration of municipal priority.
5. For a determination of rights to store and recapture imported water, including return flows.
6. For a determination *inter se* as to reasonable uses of water in the Antelope Valley.
7. For its costs, including attorney's fees.
8. For declarations, orders and injunctions so as to implement a physical solution to manage water production in the Basin in order to maximize the beneficial use of that valuable resource.
9. For such other and further relief as the Court may deem just and proper.

Dated: December 1, 2005

RICHARDS, WATSON & GERSHON
A Professional Corporation
JAMES L. MARKMAN
STEVEN R. ORR
BRUCE G. MCCARTHY

By: 

STEVEN R. ORR
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CITY OF PALMDALE

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PROOF OF SERVICE

I, Kelley Herrington, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Richards, Watson & Gershon, 355 South Grand Avenue, 40th Floor, Los Angeles, California 90071. On December 1, 2005, I served the within documents:

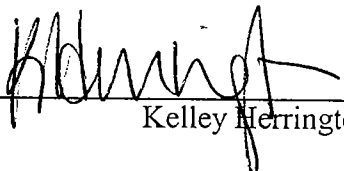
**CITY OF PALMDALE'S ANSWER TO COMPLAINT OF LOS ANGELES
COUNTY WATERWORKS DISTRICT NO. 40 IN LOS ANGELES
COUNTY SUPERIOR COURT CASE NO. BC 325201**

- ☐ by causing facsimile transmission of the document(s) listed above from (213) 626-0078 to the person(s) and facsimile number(s) set forth below on this date before 5:00 P.M. This transmission was reported as complete and without error. A copy of the transmission report(s), which was properly issued by the transmitting facsimile machine, is attached. Service by facsimile has been made pursuant to a prior written agreement between the parties.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below. I am readily familiar with the firm's practice for collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in this affidavit.
- ☐ by placing the document(s) listed above in a sealed envelope and affixing a prepaid air bill, and causing the envelope to be delivered to an agent for delivery, or deposited in a box or other facility regularly maintained by, in an envelope or package designated by the express service carrier, with delivery fees paid or provided for, addressed to the person(s) at the address(es) set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by causing personal delivery by First Legal Support Services, 1511 West Beverly Boulevard, Los Angeles, California 90026 of the document(s) listed above to the person(s) at the address(es) set forth below.

See Attached Service List

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

Executed on December 1, 2005.



Kelley Herrington

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