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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 KERN COUNTY SUPERIOR
COURT CASE NO. S-1500-CV-254-348**

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

1 The City of Palmdale's ("Palmdale") hereby answers the complaint of plaintiff
2 Los Angeles County Waterworks District No. 40 ("District") as follows:

3 WHEREFORE, Palmdale hereby prays for judgment on the District's complaint as
4 follows:

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

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

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

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

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

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

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

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

1 a whole, (c) continued pumping by the parties has and will result in diminution, reduction
2 and impairment of the Basin water supply, and causes land subsidence. Palmdale denies
3 for present lack of information and belief the allegation that the District has and will
4 thereby be deprived of its rights to provide water for the public's health, welfare and
5 benefit. Palmdale denies the remaining allegations of this paragraph for present lack of
6 information and belief.

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

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

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

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

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

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

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

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

20 17. Answering paragraph 40, Palmdale incorporates its responses to the
21 referenced paragraphs.

22 18. Answering paragraphs 41, 42, 43, and 44, Palmdale admits the allegations
23 thereof.

24 19. Answering paragraph 45, Palmdale incorporates its responses to the
25 referenced paragraphs.

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

1 21. Answering paragraph 51, Palmdale incorporates its responses to the
2 referenced paragraphs.

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

4 23. Answering paragraphs 53 and 54, Palmdale presently lacks sufficient
5 information and belief to enable it to respond, and on that basis, denies the allegations of
6 these paragraphs.

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

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

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

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

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

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

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

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

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

21
22 As and for separate and independent affirmative defenses, Palmdale alleges:
23

24 First Affirmative Defense

25 33. In the event of the imposition of a physical solution or some form of
26 declaratory relief, due regard must be given to the prior and paramount nature of
27 Palmdale's overlying rights.
28

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, the City of 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
Attorneys for Defendant
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:

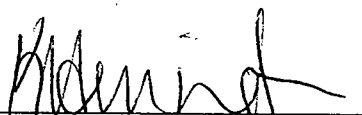
**CITY OF PALMDALE'S ANSWER TO COMPLAINT OF LOS ANGELES
COUNTY WATERWORKS DISTRICT NO. 40 IN KERN COUNTY
SUPERIOR COURT CASE NO. S-1500-CV-254-348**

- ☐ 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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