

# Exhibit 25

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LOS ANGELES COUNTY WATERWORKS  
DISTRICT NO. 40

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40,

Plaintiff,

vs.

DIAMOND FARMING COMPANY, a  
corporation;  
WM. BOLTHOUSE FARMS, INC., a  
corporation;  
CALIFORNIA WATER SERVICE  
COMPANY;  
CITY OF LANCASTER;  
CITY OF PALMDALE;  
LITTLEROCK CREEK IRRIGATION  
DISTRICT;  
PALMDALE WATER DISTRICT;  
PALM RANCH IRRIGATION  
DISTRICT,  
QUARTZ HILL WATER DISTRICT;  
and DOES 1 through 25,000 inclusive;

Defendants.

EXEMPT FROM FILING FEES  
UNDER GOVERNMENT CODE  
SECTION 6103

CONFORMED COPY  
OF ORIGINAL FILED  
Los Angeles Superior Court

NOV 29 2004

John A. Clarke, Executive  
By JENNY CHEA Clerk/Deputy

Case No.

BC 325201

COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF AND  
ADJUDICATION OF WATER RIGHTS

Plaintiff Los Angeles County Waterworks District No. 40 alleges:

### INTRODUCTION

1. This action seeks a judicial determination of all rights to ground water within the Antelope Valley Groundwater Basin. The adjudication is necessary to protect and conserve the vital water groundwater supply of the Antelope Valley that is vital to the health, safety and welfare of tens of thousands of persons and entities in communities who depend upon water deliveries from Los Angeles County Waterworks District No. 40, Antelope Valley (the "District"). For these reasons, the District files this complaint to promote and protect the general public welfare in the Antelope Valley; to protect the District's rights to pump and deliver water to the public; to protect the Antelope Valley from a loss of the public groundwater supply, to prevent degradation of the quality of the public groundwater supply; and to prevent land subsidence and higher costs to the public for water.

2. The District is a public agency governed by the Los Angeles County Board of Supervisors and lawfully organized to, among other things, provide water to the public in a large portion of the Antelope Valley. District customers must have a reliable and safe groundwater supply for domestic and business needs. To provide water to the public, the District has drilled and equipped wells to pump groundwater. The District has also constructed, maintained and operated a waterworks delivery system to supply the groundwater to the public. Without an adequate and safe groundwater supply, Antelope Valley residents and businesses in the Antelope Valley would likely not have enough water.

3. The District has appropriative and prescriptive rights to Basin groundwater as the District has pumped water from the Basin since at least 1919. Since that time, the District has pumped water from the Antelope Valley Basin and/or stored water in the Antelope Valley Basin by reasonable extraction means and has used the Antelope Valley Basin and/or its water for

1 reasonable and beneficial purposes, and has done so under a claim of right in an actual, open,  
2 notorious, exclusive, continuous, uninterrupted, hostile, adverse, use and/or manner for a period  
3 of time of at least five and before filing this complaint.  
4

5 4. Due to the shortage of water in the Basin, the District has purchased State Water  
6 Project water from the Antelope Valley-East Kern Water Agency in addition to pumping  
7 groundwater. The State Water Project water originates in northern California and would not  
8 reach the Basin but for the District's purchases. District customers pay millions of dollars each  
9 year for State Water Project water. The District purchases approximately 30,000 acre feet of  
10 Project water each year and delivers the purchased Project water to the public through the  
11 District's waterworks systems.  
12

13 5. The District depends on the Basin for pumping of approximately 20,000 acre feet  
14 of water each year. District customers use Project water for a variety of uses and thus a portion of  
15 the Project water percolates into the Basin and commingles with the Basin's water from natural  
16 sources. The District's purchase and delivery of Project water augments the natural supply of  
17 groundwater in the Basin. Without the substantial investment of the District in purchasing the  
18 State Water Project water, the District would need to pump 50,000 acre feet of groundwater each  
19 year.  
20

21 6. By storing Project water or other imported water in the Basin, the District could  
22 recover the stored water during times of drought, water supply emergencies, or other water  
23 shortages to ensure a safe and reliable supply of water to the public. The District is pursuing  
24 approvals to allow for the construction and operation of injection wells or other means by which  
25 State Water Project water or other water imported from outside the Basin may be injected or  
26 placed for storage in the Basin.  
27

28 7. To provide water to the public, the District has and claims the following rights,

1 each of which is paramount and superior to any overlying rights or other water rights, if any,  
2 claimed by any defendant:

3  
4 A. The right to pump groundwater from the Antelope Valley Groundwater  
5 Basin in an annual amount equal to the highest volume of groundwater extracted by the District in  
6 any year preceding entry of judgment in this action according to proof, but not less than 18,944  
7 acre feet;

8  
9 B. The right to pump or authorize others to extract from the Antelope Valley  
10 Groundwater Basin a volume of water equal in quantity to that volume of water previously  
11 purchased by the District from the Antelope Valley-East Kern Water Agency and which has  
12 augmented the supply of water in the Basin in any year preceding entry of judgment in this action  
13 according to proof, but not less than 18,944 acre feet;

14  
15 C. The right to pump or authorize others to extract from the Antelope Valley  
16 Groundwater Basin a volume of water equal in quantity to that volume of water purchased in the  
17 future by the District from the Antelope Valley-East Kern Water Agency which augments the  
18 supply of water in the Basin; and

19  
20 D. The right to pump or authorize others to extract from the Antelope Valley  
21 Basin a volume of water equal in quantity to that volume of water injected into the Basin or  
22 placed within the Basin by the District or on its behalf.

THE ANTELOPE VALLEY GROUNDWATER BASIN IS AND HAS BEEN IN A STATE  
OF OVERDRAFT

8. The Antelope Valley Groundwater Basin is located in Los Angeles and Kern counties. The Basin is located in an arid valley in the Mojave Desert, about 50 miles northeast of Los Angeles. The Basin encompasses about 940 square miles and generally includes the communities of Lancaster, Palmdale and Rosamond. The Basin is bounded on the south by the San Gabriel Mountains and on the northwest by the Tehachapi Mountains.

9. For over a century courts in California have used the groundwater basin concept to resolve groundwater disputes. A groundwater basin is an alluvial aquifer with reasonably well-defined boundaries in a lateral direction and a definable bottom.

10. Before there was groundwater pumping, natural water recharge to the Basin was in balance with water discharged from the Basin and water levels generally remained constant and in a state of long-term equilibrium. In or about 1915 there was significant pumping, primarily for agricultural purposes. Over time the rise of agricultural pumping destroyed the ground water level equilibrium and caused a, long-term decline in groundwater levels and groundwater storage in the Basin.

11. There has never been a limit on groundwater pumping in the Basin. As a result of this lack of groundwater control and management over the past eighty years, the Basin has lost an estimated eight million acre feet of water. This loss of groundwater caused chronic declines in groundwater levels and land subsidence.

12. Land subsidence is the sinking of the Earth's surface due to subsurface movement of earth materials and is primarily caused by groundwater pumping. The District is informed and believes and upon that basis alleges that as much as six feet of subsidence has occurred in

1 portions of the Basin. The negative effects of land subsidence observed in the Basin include loss  
2 of groundwater storage space, cracks and fissures at the land surface and damage to real property.

3  
4 13. Land subsidence, loss of groundwater storage, and declining groundwater levels  
5 injure the public welfare and threaten the communities that depend upon the Basin water. Land  
6 subsidence and chronic declines in groundwater levels continue because of unlimited  
7 groundwater pumping in the Basin.

8  
9 14. Although agricultural pumping decreased for a limited time when groundwater  
10 levels became too low for agriculture to pump water from the Basin, agricultural pumping has  
11 increased in the past decade. During the same time, continued urbanization in and around the  
12 cities of Palmdale and Lancaster has increased the public's need for water. Existing pumping  
13 causes damage and injury to the Basin including land subsidence. Land subsidence exists and  
14 will increase unless the court establishes a safe yield for the Basin and limits pumping to the  
15 Basin's safe yield.

16  
17 15. The District is informed and believes and upon that basis alleges the Basin is and  
18 has been in an overdraft condition for more than five (5) consecutive years and before the filing  
19 of the complaint in Riverside County Superior Court Case No. 34436 entitled *Diamond Farming*  
20 *Company vs. City of Lancaster*, and before the filing of this complaint. During said time periods,  
21 total annual demands upon the Basin have exceeded and continue to exceed the supply of water  
22 from natural sources. Consequently, there is and has been a progressive and chronic decline in  
23 Basin water levels and the available natural supply is being and has been chronically depleted.  
24 Unless limited by order and judgment of the court, potable Basin water will be exhausted and  
25 land subsidence will continue.

26  
27 16. Each defendant has, and is now, pumping, appropriating and diverting water from  
28 the natural supply of the Basin, and/or claims some interest in the Basin water. The District is

1 informed and believes and upon that basis alleges that the combined extraction of water by  
2 defendants exceeds the annual production of water from the Antelope Valley Basin, and that each  
3 defendant claims a right to take water and threatens to increase its taking of water without regard  
4 to the rights of the District. Defendants' pumping reduces Basin water tables and contributes to  
5 the deficiency of the Basin water supply as a whole. The deficiency results in a shortage of water  
6 to the public who depend upon the District to supply water from the Basin. Defendants continued  
7 and increasing extraction of Basin water has resulted in, and will result in, a diminution, reduction  
8 and impairment of the Basin water supply; causes land subsidence; and has and will deprive the  
9 District of its rights to provide water for the public's health, welfare and benefit.

10  
11 17. The District is informed and believes and thereon alleges there are conflicting  
12 claims of rights to the Basin and/or its water.

13  
14 18. The District is informed and believes and thereon alleges that defendants who own  
15 real property in the Basin claim an overlying right to pump Basin water. The overlying right is  
16 limited to the native safe yield of the Basin. The District alleges that because subsidence is an  
17 undesirable result and is occurring in the Basin, defendants are and have been pumping more than  
18 the Basin's safe yield.

19  
20  
21 PARTIES

22  
23 19. The District is informed and believes that Diamond Farming Company is a  
24 California corporation doing business in Los Angeles County.

25  
26 20. The District is informed and believes that Wm. Bolthouse Farms, Inc. is a  
27 Michigan corporation doing business in Los Angeles County.



1           21.     The District is informed and believes that the California Water Service Company  
2 is a California corporation that provides water to consumers within Los Angeles County.

3  
4           22.     The District is informed and believes that the City of Lancaster is a municipal  
5 corporation situated within Los Angeles County.

6  
7           23.     The District is informed and believes that the City of Palmdale is a municipal  
8 corporation situated within Los Angeles County.

9  
10          24.     The District is informed and believes that the Littlerock Creek Irrigation District is  
11 a public agency that provides water to consumers within Los Angeles County.

12  
13          25.     The District is informed and believes that the Palmdale Water District is a public  
14 agency that provides water to consumers within Los Angeles County.

15  
16          26.     The District is informed and believes that the Palm Ranch Irrigation District is a  
17 public agency that provides water to consumers within Los Angeles County.

18  
19          27.     The District is informed and believes that the Quartz Hill Water District is a public  
20 agency that provides water to consumers within Los Angeles County.

21  
22          28.     The District is informed and believes, and on that basis alleges, that defendant  
23 Does 1 through 25,000, inclusive, own and/or lease real property within the Antelope Valley  
24 Groundwater Basin, extract water from the Basin, claim some right, title or interest to Basin  
25 water, and/or that their claims are adverse to the District's rights and claims. The District is  
26 unaware of their true names and capacities and therefore sues those defendants by fictitious  
27 names. The District will seek leave to amend this complaint to add such names and capacities  
28 when ascertained.

FIRST CAUSE OF ACTION

(For Declaratory Relief – Prescriptive Rights – Against all Defendants Except Public Entity Defendants)

29. The District alleges and incorporates by reference herein allegations in paragraphs 1 through 28, inclusive.

30. Prescriptive rights have been recognized by the California Supreme Court for public entities for over fifty years. The District alleges that it has continuously and for more than five years and before the date of this action pumped water from the Basin for reasonable and beneficial purposes and has done so under a claim of right in an actual, open, notorious, exclusive, continuous, hostile and adverse manner. The District further alleges that defendants have had actual and/or constructive notice of District's pumping either of which is sufficient to establish District's prescriptive right.

31. The District contends that defendants' rights to pump Basin water are subordinate to the prescriptive right of the District and to the general welfare of the citizens, inhabitants and customers serviced by Los Angeles County Waterworks District No. 40, Antelope Valley.

32. An actual controversy has arisen between the District and defendants. The District alleges, on information and belief, that defendants' dispute the contentions of the District as described in the immediately preceding paragraph.

33. The District seeks a judicial determination as to the correctness of its contentions and an *inter se* finding as to the priority and amount of Basin water to which the District and each defendant are entitled to pump from the Basin.

//

SECOND CAUSE OF ACTION

(For Declaratory Relief – Appropriative Rights – Against all Defendants)

34. The District alleges and incorporates by reference herein allegations in paragraphs 1 through 33, inclusive.

35. The District alleges that in addition to, or alternatively to, its prescriptive rights, it has appropriative rights to pump water from the Basin. Appropriative rights attach to surplus water from the Basin. There is surplus water in the Basin when the amount of water being extracted from it is less than the maximum that can be withdrawn without adverse effects on the Basin's long-term supply.

36. Surplus water exists when the pumping from the Basin is less than the safe yield. Safe yield is the maximum quantity of water which can be withdrawn annually from a groundwater Basin under a given set of conditions without causing an undesirable result. Undesirable result generally refers to a gradual lowering of the groundwater levels in the Basin, but also includes subsidence.

37. Overlying pumpers are only entitled to make reasonable and beneficial use of the native safe yield.

38. An actual controversy has arisen between the District and defendants. The District alleges, on information and belief, that defendants seek to prevent District from pumping surplus water.

39. The District seeks judicial determination as to the quantity of safe yield, the quantity of surplus water available, the correlative overlying rights of defendants to the safe yield

1 and an *inter se* determination of the rights of overlying, appropriative and prescriptive pumpers.

2  
3 THIRD CAUSE OF ACTION

4 (For Declaratory Relief – Physical Solution – Against all Defendants)

5  
6 40. The District alleges and incorporates by reference herein allegations in paragraphs  
7 1 through 39, inclusive.

8  
9 41. Upon information and belief, the District alleges that defendants claim an interest  
10 or rights to Basin water and further claim they can increase their pumping without regard to the  
11 rights of the District. Unless restrained by order of the court, defendants will continue to take  
12 increasing amounts of Basin water to the great and irreparable damage and injury to the District  
13 and to the Basin. The damage and injury to the Basin cannot be compensated for in money  
14 damages.

15  
16 42. By reason of the large and increasing amounts of Basin water extracted by  
17 defendants as alleged above, the amount of Basin water available to the District has been reduced.  
18 Unless defendants and each of them are enjoined and restrained, the aforementioned conditions  
19 will continue and will become more severe; and there will be further depletion of the Basin  
20 groundwater supply which will further permanently damage the Basin's ability to supply water to  
21 the public.

22  
23 43. Pursuant to California law it is the duty of the trial court to consider a "physical  
24 solution" to water rights disputes. A physical solution is a common sense approach to resolving  
25 water rights litigation that seeks to satisfy the reasonable and beneficial needs of all parties  
26 through augmenting the water supply or other practical measures. The physical solution is a  
27 practical way of fulfilling the mandate of Article X, section 2 of the California Constitution that  
28 the water resources of the State be put to use to the fullest extent of which they are capable.

1 44. To prevent irreparable injury to the Basin, it is necessary that the court determine,  
2 impose and retain continuing jurisdiction to enforce a physical solution upon the parties who  
3 pump water from the Basin. The solution to the Basin problems may include, but is not limited  
4 to, a monetary assessment, and metering and assessments upon Basin water extraction to pay for  
5 the purchase, delivery of supplemental supply of water to the Basin, and the court appointment of  
6 a watermaster.

7  
8 FOURTH CAUSE OF ACTION

9 (For Declaratory Relief – Municipal Priority – Against all Defendants)  
10

11 45. The District alleges and incorporates by reference herein allegations in paragraphs  
12 1 through 44, inclusive.

13  
14 46. The District has the right to pump water from the Basin not only to meet existing  
15 public needs for water, but also to take increased amounts of Basin water as necessary to meet  
16 future public needs. The District's rights to Basin water exist not only as a result of the priority  
17 and extent of the District's appropriative and prescriptive rights, but exist as a matter of law and  
18 public policy of the State of California: "It is hereby declared to be the established policy of this  
19 State that the use of water for domestic purposes is the highest use of water and that the next  
20 highest use is for irrigation." (*Water Code* §106.)  
21

22 47. *Water Code* Section 106.5 provides: "It is hereby declared to be the established  
23 policy of this State that the right of a municipality to acquire and hold rights to the use of water  
24 should be protected to the fullest extent necessary for existing and future uses. . . ."  
25

26 48. Under *Water Code* sections 106 and 106.5, the District has a prior and paramount  
27 right to Basin water as against all non-municipal uses.  
28

49. An actual controversy has arisen between the District and defendants. The District alleges, on information and belief, that defendants dispute the District's contentions as described in the paragraphs 46 through 48, inclusive. The District is informed and believes and on that basis alleges that the groundwater pumped by a majority of the defendants is used for irrigation purposes.

50. The District seeks a judicial determination as to the correctness of its contentions and to the amount of Basin water to which the parties are entitled to pump from the Basin. The District also seeks a declaration that it has the right to pump water from the Basin to meet its reasonable present and future needs, and that such rights are prior and paramount to the rights, if any, of defendants to the use of Basin water for irrigation purposes.

#### FIFTH CAUSE OF ACTION

(Declaratory Relief – Storage of Imported Water in The Basin – Against all Defendants)

51. The District alleges and incorporates by reference herein allegations in paragraphs 1 through 50, inclusive.

52. The District purchases and uses water from the State Water Project. The Project water is not native to the Basin and the imported Project water decreases the District's pumping from the Basin. This imported water would not otherwise have been brought to the Basin but for the District purchase and delivery. The District pays a substantial cost for this imported water supply which cost is an annual amount subject to cost increases over time.

53. The District alleges that there is available space in the Basin in which to store imported water.

54. As an importer of Project water, the District has the right to store imported Project

1 water in the Basin and the District has the sole right to pump or otherwise use its stored imported  
2 Project water. The rights, if any, of defendants are limited to the native supply of the Basin and  
3 to their own imported water, and defendants' rights, if any, do not extend to groundwater derived  
4 from any water imported into the Basin by the District.  
5

6 55. An actual controversy has arisen between the District and defendants. The District  
7 alleges, on information and belief, that defendants' dispute the District's contentions described in  
8 paragraphs 52 through 54, inclusive.  
9

10 56. The District seeks a judicial determination as to the correctness of its contentions,  
11 that the District can store and recapture its imported Project water in the Basin, and that the  
12 District has the sole right to pump or otherwise use such stored Project water.  
13  
14

### 15 SIXTH CAUSE OF ACTION

16 (Declaratory Relief – Recapture of Return Flows

17 From Imported Water Stored in The Basin – Against all Defendants)  
18

19 57. The District alleges and incorporates by reference herein allegations in paragraphs  
20 1 through 56, inclusive.  
21

22 58. A portion of the water that the District imports and uses and continues to import  
23 and use from outside the Basin returns or enters and will continue to return or enter the Basin and  
24 are commonly known as "return flows." These return flows augment the Basin's water supply.  
25

26 59. The District alleges that there is available space in the Basin to store return flows  
27 from us of the water imported by District.  
28

1           60.     The District has the sole right to recapture return flows attributable to the water it  
2 imports or is imported on the District's behalf. The rights, if any, of defendants are limited to the  
3 Basin's native supply and/or to their imported water, and do not extend to groundwater  
4 attributable to the District's return flows.

5  
6           61.     An actual controversy has arisen between the District and defendants. The  
7 District alleges, on information and belief, that defendants' dispute the contentions of the District  
8 as described in paragraphs 58 through 60, inclusive.

9  
10          62.     The District seeks a judicial determination as to the correctness of its contentions  
11 and that the District has the sole right to recapture its imported return flows in the Basin at the  
12 present and into the future.

13  
14  
15                   SEVENTH CAUSE OF ACTION

16                   (Unreasonable Use of Water - Against all Defendants Except Public Entity Defendants)

17  
18          63.     The District alleges and incorporates by reference herein allegations in paragraphs  
19 1 through 62, inclusive.

20  
21          64.     Article X, Section 2 of the California Constitution is the cardinal principle of  
22 California water law, superior to any water rights priorities and requires that water use not be  
23 unreasonable or wasteful. The reasonable use of water depends on the facts and circumstances of  
24 each case. What may be reasonable in areas of abundant water may be unreasonable in an area of  
25 scarcity, and what is a beneficial use at one time may become a waste of water at a later time.

26  
27          65.     The District is informed and believes and on that basis alleges that the use of water  
28 by some defendants for irrigation purposes is unreasonable in the arid Antelope Valley and



1 constitutes waste, unreasonable use or an unreasonable method of diversion or use within the  
2 meaning of Article X, Section 2 of the California Constitution, and is thereby unlawful.

3  
4 66. An actual controversy has arisen between the District and defendants. The District  
5 alleges, on information and belief, the defendants' dispute the District's contentions in paragraphs  
6 64 through 65, inclusive.

7  
8 67. The District seeks a judicial declaration that defendants have no rights to  
9 unreasonable use, unreasonable methods of use, or waste of water, and their rights, if any, should  
10 be determined *inter se* on the reasonable use of water in the arid Antelope Valley rather than upon  
11 the amount of water actually used.

12  
13  
14 EIGHTH CAUSE OF ACTION

15 (Unreasonable Use of Water - Against Defendants Diamond Farming and  
16 Wm. Bolthouse Farms)

17  
18 68. The District alleges and incorporates by reference herein allegations in paragraphs  
19 1 through 67, inclusive.

20  
21 69. Article X, Section 2 of the California Constitution is the cardinal principle of  
22 California water law, superior to any priorities and requires that water use not be unreasonable or  
23 wasteful. Reasonable use of water depends on the facts and circumstances of each case.

24  
25 70. The District is informed and believes and on that basis alleges that there were and  
26 are overdraft conditions in the Basin before defendants Diamond Farming and Wm. Bolthouse  
27 Farms began pumping Basin water in the 1990's. For their own private profit and in harm to the  
28 public's need for a secure supply of Basin water, Defendants Diamond Farming and Wm.

1 Bolthouse Farms have increased their pumping so that they collectively take more Basin water  
2 than any other single user of Basin water - despite existing Basin overdraft conditions including  
3 land subsidence.

4  
5 71. Defendants Diamond Farming and Wm. Bolthouse Farms recently commenced  
6 additional, excessive pumping of Basin water for their private profit that causes harm to existing  
7 agricultural users of Basin water and to the entities supplying water to the public all of whom  
8 depend upon a safe and secure Basin water supply. Given the water overdraft conditions in the  
9 Basin, the excessive uses of Basin water by defendants Diamond Farming and Wm. Bolthouse  
10 Farms require an unreasonable amount of Basin water in the arid Antelope Valley and threaten  
11 established communities and agricultural users that were and are already dependent upon Basin  
12 water.

13  
14 72. The District is informed and believes and on that basis alleges that the recently  
15 commenced use of Basin water by defendants Diamond Farming and Wm Bolthouse Farms is  
16 unreasonable in the arid Antelope Valley and constitutes waste, unreasonable use or an  
17 unreasonable method of diversion or use within the meaning of Article X, Section 2 of the  
18 California Constitution, and is injurious to the public and thereby unlawful.

19  
20 73. An actual controversy has arisen between the District and defendants Diamond  
21 Farming and Wm. Bolthouse Farms. The District alleges, on information and belief, the  
22 defendants' dispute the District's contentions in paragraphs 69 through 72, inclusive.

23  
24 74. The District seeks a judicial declaration that defendants Diamond Farming and  
25 Wm. Bolthouse Farms have no right to take Basin water in any way that harms the public, creates  
26 a risk of overdraft conditions in the Basin, constitutes unreasonable methods of use, or waste of  
27 water; and their rights, if any, should be determined *inter se* on the previously-existing public and  
28 agricultural needs and uses of Basin water in the arid Antelope Valley.

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# Exhibit 26

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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

Judicial Council Coordination Proceeding  
No. 4408

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

(Hon. Jack Komar)

**CROSS-COMPLAINT IN LOS  
ANGELES COUNTY SUPERIOR  
COURT CASE NO. BC325201**

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

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

4 City of Palmdale,

5 Cross-Complainant,

6 vs.

7 Los Angeles County Waterworks District  
8 No. 40; Palmdale Water District;  
9 Diamond Farming Company; Bolthouse  
10 Properties, Inc.; Wm. Bolthouse Farms,  
11 Inc.; City of Lancaster; Littlecreek  
12 Irrigation District; Palm Ranch Irrigation  
13 District; Quartz Hill Water District;  
14 California Water Service; City of Los  
15 Angeles; Rosamond Community  
16 Services District; B.J. Calandri; John  
17 Calandri; John Calandri, as Trustee of  
18 the John and B.J. Calandri 2001 Trust;  
19 Forrest G. Godde; Forrest G. Godde, as  
20 Trustee of the Forrest G. Godde Trust;  
21 Lawrence A. Godde; Lawrence A.  
22 Godde and Godde Trust; Kootenai  
23 Properties, Inc.; Gailen Kyle; Gailen  
24 Kyle, as Trustee of the Kyle Trust; James  
25 W. Kyle; James W. Kyle, as Trustee of  
26 the Kyle Family Trust; Julia Kyle;  
27 Wanda E. Kyle; Eugene B. Nebeker; R  
28 and M Ranch; Edgar C. Ritter; Paula E.  
Ritter; Paula E. Ritter, as Trustee of the  
Ritter Family Trust; and DOES 100,000  
through 125,000 inclusive,

20 Cross-Defendants.

1 Cross-complainant City of Palmdale hereby cross-complains as follows:  
2

3 **JURISDICTION AND VENUE**  
4

5 1. This Court has jurisdiction over this action pursuant to Code of Civil Procedure  
6 Sections 526 and 1060. Venue is proper before this Court pursuant to the coordination  
7 order issued by the Judicial Council.  
8

9 **PARTIES**  
10

11 2. The City of Palmdale ("Palmdale") is a municipal corporation located in the  
12 County of Los Angeles.

13 3. Palmdale is informed and believes and thereon alleges that the Los Angeles  
14 County Waterworks District No. 40 is a public agency which extracts water from and  
15 provides water to customers located within the geographic boundaries of the Antelope  
16 Valley Groundwater Basin ("the Basin").

17 4. Palmdale is informed and believes and thereon alleges that Palmdale Water  
18 District is a public agency which extracts water from and provides water to customers  
19 located within the geographic boundaries of the Basin.

20 5. Palmdale is informed and believes and thereon alleges that Diamond Farming  
21 Company is a California corporation which conducts agricultural operations within the  
22 geographic boundaries of the Basin, and which extracts water from the Basin.

23 6. Palmdale is informed and believes and thereon alleges that Bolthouse  
24 Properties, Inc. is a California corporation which conducts agricultural operations within  
25 the geographic boundaries of the Basin, and which extracts water from the Basin.

26 7. Palmdale is informed and believes and thereon alleges that William Bolthouse  
27 Farms, Inc. is a California corporation which conducts agricultural operations within the  
28 geographic boundaries of the Basin, and which extracts water from the Basin.

1 8. Palmdale is informed and believes and thereon alleges that the City of  
2 Lancaster is a municipal corporation located within the County of Los Angeles, and  
3 within the geographic boundaries of the Basin.

4 9. Palmdale is informed and believes and thereon alleges that Littlerock Creek  
5 Irrigation District is a public agency which provides water to customers located within  
6 the geographic boundaries of the Basin and which extracts water from the Basin.

7 10. Palmdale is informed and believes and thereon alleges that Palm Ranch  
8 Irrigation District is a public agency which provides water to customers located within  
9 the geographic boundaries of the Basin and which extracts water from the Basin.

10 11. Palmdale is informed and believes and thereon alleges that Quartz Hill Water  
11 District is a public agency which provides water to customers located within the  
12 geographic boundaries of the Basin and which extracts water from the Basin.

13 12. Palmdale is informed and believes and thereon alleges that California Water  
14 Service Company is a California corporation which provides water to customers located  
15 within the geographic boundaries of the Basin and which extracts water from the Basin.

16 13. Palmdale is informed and believes and thereon alleges that the City of Los  
17 Angeles is a municipal corporation that owns land overlying the Basin, including the  
18 Palmdale Regional Airport, and that the City of Los Angeles extracts water from the  
19 Basin.

20 14. Palmdale is informed and believes and thereon alleges that Rosamond  
21 Community Services District is a public agency which provides water to customers  
22 located within the geographic boundaries of the Basin and which extracts water from the  
23 Basin.

24 15. Palmdale is informed and believes and thereon alleges that B.J. Calandri, John  
25 Calandri, John Calandri, as Trustee of the John and B.J. Calandri 2001 Trust, Forrest G.  
26 Godde, Forrest G. Godde, as Trustee of the Forrest G. Godde Trust, Lawrence A. Godde,  
27 Lawrence A. Godde and Godde Trust, Kootenai Properties, Inc., Gailen Kyle, Gailen  
28 Kyle, as Trustee of the Kyle Trust, James W. Kyle, James W. Kyle, as Trustee of the



Kyle Family Trust, Julia Kyle, Wanda E. Kyle, Eugene B. Nebeker, R and M Ranch, Edgar C. Ritter, Paula E. Ritter, and Paula E. Ritter, as Trustee of the Ritter Family Trust are the owners of or beneficial interest holders in real property located within the geographical boundaries of the Basin, and who claim an overlying right to extract water from the basin, whether or not that overlying right has heretofore been exercised.

16. Palmdale is informed and believes and thereon alleges that cross-defendant Does 100,000 through 125,000 are the owners, lessees or other persons or entities holding or claiming to hold ownership or possessory interests in real property located within the boundaries of the Basin, or extract water from the Basin, or claim some right, title or interest to water located within the Basin, or that have or assert claims that are adverse to Palmdale's rights and claims. Palmdale is presently unaware of the true names and capacities of such Doe cross-defendants, and therefore sues those cross-defendants by fictitious names. Palmdale will seek leave to amend this cross-complaint to add such names and capacities when the same are ascertained.

### FACTUAL ALLEGATIONS

17. Through these coordinated proceedings, Palmdale and other responsible public entities seek a judicial determination of the rights to produce groundwater within the geographic boundaries of the Basin, which is located in Los Angeles and Kern counties. The Basin is located in the arid Antelope Valley in the Mojave Desert, approximately 50 miles northeast of the City of Los Angeles. The Basin encompasses approximately 940 square miles, and generally includes Palmdale, Lancaster, Rosamond and the Edwards Air Force Base. The Basin is bounded on the south by the San Gabriel Mountains and on the northwest by the Tehachapi Mountains.

18. This groundwater adjudication has become necessary to protect, to conserve and to supplement the groundwater supply of the Basin, which is increasingly at risk due to overpumping and a long-term state of overdraft. The Basin's groundwater supply is

1 vital to the health, safety and welfare of the many people residing and working in the  
 2 many growing communities of the Antelope Valley, including Palmdale. The Basin's  
 3 supply has been put under stress due to increased production by agricultural operations,  
 4 such as that of defendants Diamond Farming Company, Bolthouse Properties, Inc. and  
 5 Wm. Bolthouse Farms, among others, and due to increasing urbanization as the cities of  
 6 Palmdale and Lancaster build out.

7 19. Palmdale brings this cross-complaint to promote and to protect the welfare of  
 8 its residents and businesses, to protect its rights as a landowner to provide water to its  
 9 public facilities, to protect its residents and businesses against the harmful effects of long-  
 10 term overdraft, including land subsidence and water quality degradation, and to assure a  
 11 long-term, safe, reliable, economic and certain supply of water for itself and its residents  
 12 and businesses.

13 20. Palmdale is a growing community, both in terms of residential development  
 14 and new and existing businesses. Palmdale's City Council is responsible for making  
 15 informed land use decisions that include consideration of whether a safe and reliable  
 16 supply of water is and will be available to the land owners, development entities, persons  
 17 and businesses involved and affected by those land use decisions. Palmdale further has  
 18 an interest in the responsible development of the entire Antelope Valley and the  
 19 reliability of water supplies necessary to sustain and service that development.

20 21. When reviewing applications for land use approvals, Palmdale is required to  
 21 comply with the provisions of the California Environmental Quality Act ("CEQA")  
 22 (Public Resources Code §§ 21000, *et seq.*). In so doing, Palmdale must consider the  
 23 availability of water for any proposed project. Thus, if, for example, a proposed project  
 24 would require an increase in pumping from a given location to serve groundwater to the  
 25 proposed project which could potentially result in land subsidence or other forms of  
 26 property damage, Palmdale would be required to disapprove the project or impose certain  
 27 conditions thereon to mitigate the forecast impact, such as a condition to apply  
 28 supplemental water to the project, assuming that supplemental water would be available.

1 22. For future residential subdivisions of 500 units or more, as the local legislative  
2 bodies, Palmdale's Planning Commission and City Council are required by Government  
3 Code section 66473.7 to "include as a condition in any tentative map that includes a  
4 subdivision a requirement that a sufficient water supply shall be available." A sufficient  
5 water supply under the statute means:

6 " ... the total water supplies available during normal, single-dry, and  
7 multiple-dry years within a 20-year projection that will meet the projected  
8 demand associated with the proposed subdivision, in addition to existing  
9 and planned future uses, including, but not limited to, agricultural and  
10 industrial uses. In determining 'sufficient water supply,' all of the  
11 following factors shall be considered:

12 (A) The availability of water supplies over a historical record of at  
13 least 20 years.

14 (B) The applicability of an urban water shortage contingency  
15 analysis prepared pursuant to Section 10632 of the Water Code that  
16 includes actions to be undertaken by the public water system in  
17 response to water supply shortages.

18 (C) The reduction in water supply allocated to a specific water use  
19 sector pursuant to a resolution or ordinance adopted, or a contract  
20 entered into, by the public water system, as long as that resolution,  
21 ordinance, or contract does not conflict with Section 354 of the  
22 Water Code."

23 Further, Palmdale is precluded from approving a project subject to Government  
24 Code section 66463.7 unless a reliable water supply for the project over a twenty-year  
25 period is certified to be available by the proposed water supplier.

26 23. Palmdale owns land within the geographic boundaries of the Basin, including  
27 its Civic Center, an extensive park system and other public properties. As a landowner,  
28 Palmdale desires that its overlying right to produce groundwater from the Basin to be  
applied to its properties be recognized and established and that its priority to do so be  
adjudicated herein. To the extent that Palmdale does not presently extract groundwater  
itself for use on its property, Palmdale purchases water from other purveyors, and thus  
has a responsibility to its taxpayers and residents to assure that there will be stability in  
cost and certainty in the supply and quality of the water used by people utilizing  
Palmdale's facilities.

1           24. In order to assure a similarly reliable, efficient and certain supply of  
2 electricity, Palmdale is presently studying the feasibility of developing an electric power  
3 generation facility that would use locally supplied water in the generation of electricity.  
4 Palmdale may, as well, consider other public utility projects in the future that would  
5 require water, and may seek to expand its system of parks and other public properties for  
6 the use and enjoyment of its citizens. The certainty of water supply is an integral factor  
7 in Palmdale's ability to implement those public projects.

8           25. Palmdale is interested in preventing further land subsidence in the Basin  
9 which could damage public facilities owned and operated by Palmdale and/or privately  
10 owned property which constitute investments made by its residents and businesses.

11           26. Through the physical solution sought to be imposed through this cross-  
12 complaint, Palmdale seeks to prevent its citizens and businesses from suffering physical  
13 harm to their homes and places of work, and to avoid depressed property values and  
14 impediments to growth associated with a chronic water shortage and land subsidence.  
15 Such uncertainty as to long-term supply and harm from land subsidence could have  
16 negative impacts on Palmdale's property tax base and could result in reductions in the  
17 sales tax revenues upon which Palmdale bases its budgeting process.

18           27. Palmdale brings this cross-complaint generally to promote and protect the  
19 welfare of its citizens and businesses and to serve the numerous public purposes  
20 identified hereinabove.

21  
22                               **FIRST CAUSE OF ACTION**  
23                               **(DECLARATORY RELIEF AS TO WATER RIGHTS)**  
24                               **(AGAINST ALL CROSS-DEFENDANTS)**

25           28. Palmdale incorporates the allegations of paragraphs 1 through 27 as though set  
26 forth in full herein.

27           29. Palmdale is informed and believes, and based upon that information and  
28 belief, alleges that the Basin has been overdrafted for more than five consecutive years

1 immediately prior to the commencement of the first filed of these coordinated  
2 proceedings, that, during that period of time, total annual demands upon and water  
3 consumed from the Basin have exceeded, and do now exceed, the average annual supply  
4 of water to the Basin, that, concomitantly, there has been a progressive and general  
5 lowering of Basin water levels, the available supply of water contained in the Basin has  
6 been and is being gradually and increasingly depleted, and if demands upon the water  
7 supplies contained in the Basin are not limited, the Basin will suffer adverse effects  
8 including, but not limited to, increased pump lifts, interference with well production, land  
9 subsidence, decreased water quality and, eventually, exhaustion of the water supply.

10 30. Each cross-defendant has pumped, and is now pumping, water from the Basin  
11 or purports to represent parties who do so. Palmdale is informed and believes, and based  
12 upon that information and belief, alleges that said combined extraction and consumption  
13 of water from the Basin by cross-defendants constitutes a substantial portion of the  
14 annual production and consumption of water from the Basin, and that each cross-  
15 defendant claims a prior and paramount right to continue to produce Basin water and  
16 threatens to increase its taking of Basin water without regard to the rights and interests of  
17 Palmdale in and to Basin water. Cross-defendants' extractions have contributed and  
18 continue to contribute to the lowering of Basin water tables and land subsidence and that  
19 extraction of water will continue to contribute to the adverse effects to the Basin alleged  
20 herein. Cross-defendants continued and/or increased extraction of Basin water will result  
21 in a diminution, reduction and impairment of the Basin water supply and will deprive  
22 Palmdale of Basin water to which it is entitled.

23 31. Palmdale is informed and believes and on that basis alleges that there are  
24 conflicting claims of overlying, appropriative and prescriptive water rights to the Basin  
25 and/or its water among Palmdale and cross-defendants.

26 32. Palmdale asserts and contends that the right of any cross-defendant to continue  
27 to produce water from the Basin and/or to increase its production of water from the Basin  
28

1 is subordinate to the rights of Palmdale to do so pursuant to Palmdale's overlying water  
2 rights, and its statutory priorities protecting municipal water use.

3 33. Palmdale is informed and believes, and based upon that information and  
4 belief, alleges that an actual controversy has arisen between Palmdale and cross-  
5 defendants, and each of them, in that cross-defendants, and each of them, dispute the  
6 assertions and contentions of Palmdale set forth herein.

7 34. Palmdale desires a judicial determination and declaration as to the validity of  
8 its assertions and contentions set forth herein, the amount of Basin water to which each  
9 cross-defendant is entitled to produce from the Basin and the priority and character of  
10 each party's respective rights.

11  
12 **SECOND CAUSE OF ACTION**  
13 **(FOR DECLARATORY AND INJUNCTIVE RELIEF - PHYSICAL SOLUTION)**  
14 **(AGAINST ALL CROSS-DEFENDANTS)**

15 35. Palmdale incorporates the allegations of paragraphs 1 through 34 as though set  
16 forth in full herein.

17 36. Palmdale is informed and believes, and on based upon that information and  
18 belief, alleges that cross-defendants claim the right to take Basin water in increased  
19 amounts without regard to the water rights of Palmdale and the long term health of the  
20 Basin, and that unless restrained by order of the Court, cross-defendants will continue to  
21 take increasing amounts of Basin water thereby causing irreparable damage and injury to  
22 the Basin as a water bearing resource and, concomitantly, to Palmdale and the persons  
23 and businesses in Palmdale, which damages and injuries cannot be redressed adequately  
24 by the award of money damages.

25 37. Palmdale is informed and believes and on that basis alleges that due to the  
26 large and increasing amounts of Basin water extracted by cross-defendants, the amount of  
27 Basin water available has been reduced, and that unless and until cross-defendants and  
28 each of them are enjoined and restrained from continuing or increasing such water

1 production from the Basin, the aforementioned conditions of overdraft will continue and  
2 will become more severe and there will occur further depletion of water contained in the  
3 Basin as well as increased incidents of land subsidence, thereby endangering public and  
4 private property located in Palmdale and elsewhere in the Basin.

5 38. In order to prevent irreparable injury to the Basin and to Palmdale and the  
6 persons to whom water is served therein, it is necessary that the Court, acting pursuant to  
7 its equitable prerogatives, determine, impose and retain continuing jurisdiction to enforce  
8 a physical solution upon the parties who produce and/or use water produced from the  
9 Basin and who import and/or use water imported to the Basin, taking into consideration  
10 in doing so any and all water rights of the parties established during trial, the relative  
11 legal priorities thereof, priorities established by and through legislative provisions, and all  
12 other relevant physical, climatic and equitable factors. The physical solution may  
13 include, but not be limited to, injunctive limitations on water produced from, stored in  
14 and/or imported into or exported from the Basin, the appointment of a Watermaster to aid  
15 the Court in administering the physical solution, administrative monetary assessments to  
16 facilitate the implementation of the physical solution and, if indicated, metering of and  
17 assessments upon Basin water extractions to pay for the purchase, and delivery of  
18 supplemental water to relieve the demand for production of Basin water and curtail the  
19 condition of overdraft and provisions administering water sought to be stored in the  
20 Basin.

21  
22 WHEREFORE, Palmdale prays for judgment as against cross-defendants, and  
23 each of them, on this cross-complaint as follows:

24 1. For an *inter se* determination as to the priority and amount of Basin water to  
25 which each party is entitled to pump.

26 2. For a determination of the quantity of the safe yield, the quantity of surplus  
27 water available, the correlative overlying rights of the parties to the safe yield, and the  
28 rights *inter se* among overlying, appropriative and prescriptive pumpers from the Basin.

1 3. For the imposition of a physical solution, including declarations, orders and  
2 injunctions necessary to manage water production from the Basin in order to preserve the  
3 Basin as a resource and to supplement Basin supplies in order to maximize the beneficial  
4 use of water used in the Basin.

5 4. For a declaration of municipal priority.

6 5. For a determination of rights to store and recapture imported water, including  
7 return flows.

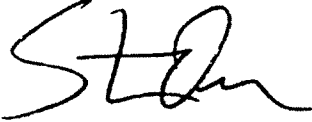
8 6. For a determination *inter se* as to reasonable uses of water in the Antelope  
9 Valley.

10 7. For its costs, including attorney's fees.

11  
12 8. For such other and further relief as the court deems just and proper.

13  
14 DATED: December 1, 2005

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

15  
16  
17  
18  
19 By:   
20 STEVEN R. ORR  
21 Attorney for Defendant and Cross-Complainant  
22 CITY OF PALMDALE  
23  
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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, 40<sup>th</sup> Floor, Los Angeles, California 90071. On December 1, 2005, I served the within documents:

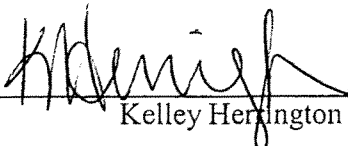
**CROSS-COMPLAINT IN LOS ANGELES COUNTY SUPERIOR COURT  
CASE NO. BC325201**

- ☐ 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 pre-paid 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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19	("AGWA")	
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30	Department of Water and Power	California
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32	Los Angeles, California 90051-0100	County Courthouse
33	(213) 367-4500	111 N. Hill Street
34	Attorneys for City of Los Angeles	Los Angeles, California 90012-3014
35	Chair, Judicial Council of California	R. Lee Leininger
36	Administrative Office of the Courts	U.S. Department of Justice
37	Attn: Appellate & Trial Court Judicial	Environmental and Natural Resources
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