LA Billionaires Sued Over Central Valley Water Sales

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In this July 24, 2009 photo, Lynda Resnick, co-owner and vice chairman of Roll International, speaks at Aspen Institute's Health Forum in Aspen, Colo. Lynda and her husband Stewart Resnick are among the nation’s largest corporate farmers and are generous philanthropists and political donors, giving $536,000 to Democratic and Republican California governors in the last decade. But as their market share rises worldwide, one of the billionaires’ competitors is fighting back, accusing the Western power couple of profiting at the public's expense, court records and interviews show.
FRESNO, Calif. — They grew their fortune in the California sun, turning pedestrian fruits and nuts into a vast and varied empire that secured their place in Hollywood.

Stewart and Lynda Resnick's flashy bottles of Fiji Water and POM Wonderful are now coveted across the globe. Their donations keep the lights on in art museums across the country. And Gov. Arnold Schwarzenegger and Arianna Huffington count them among their dearest friends.

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Now, as drought-stricken California weighs whether to give private companies more control in managing its scarce water supplies, a new lawsuit claiming the Resnicks violated utilities law by making money from a vast, taxpayer-funded underground reservoir is causing a stir in the state Capitol.

"Water is a public resource, owned by the people," said Democratic Assemblyman Jared Huffman of San Rafael. "We shouldn't be giving away public funds to private sector interests, let alone choosing winners and losers in the business world."

The Resnicks, who live in a Beverly Hills mansion and have a second home in Aspen, Colo., are among the nation's largest corporate farmers and are generous philanthropists and political donors, giving $536,000 to Democratic and Republican California governors in the last decade.

The Los Angeles Business Journal estimates the couple's empire is worth $1.5 billion. It includes about 120,000 acres in California's Central Valley — where they say they own more fresh citrus, almond and pistachio trees than anyone else in the country — and a facility akin to the Fort Knox of water.

That kind of success, Lynda Resnick said in a telephone interview, can inspire jealousy, and likely motivated this most recent "nuisance" lawsuit. Her husband declined to be interviewed.

After growing up working class in Highland Park, N.J., Stewart Resnick started a business waxing floors while in law school at the University of California, Los Angeles. The couple bought farmland in the 1980s as a hedge against inflation, gaining access to water contracts attached to those parcels.

As drought has hammered the region, leading farmers to abandon their dry fields, the Resnicks' 48 percent stake in the Kern Water Bank, an underground pool that stores billions of gallons of freshwater, has become increasingly valuable.

Court records show that in early 2007, the Resnicks' companies' combined water holdings reached 755,868 acre feet — more than twice the size of San Francisco's Hetch Hetchy reservoir. In 2007, that volume would
have qualified as California's 11th largest reservoir, but the firms' water holdings have diminished significantly since, company officials said.

That cache provided enough to nourish the Resnicks' orchards, but it also offered another benefit. From 2000 to 2007, records show the state paid the Resnicks an additional $30.6 million for water previously stored there as part of a program to protect fish native to the ecologically fragile Sacramento-San Joaquin Delta.

Lynda Resnick's marketing savvy helped build cachet around her otherwise obscure brands, such as POM Wonderful pomegranate juice, Cuties mandarins and Teleflora floral bouquets.

Revered among advertisers as the "Pom Queen," she has hired medical scientists to bear out health claims that their fruits and nuts help fight disease and extend life expectancy. Last year, following a nationwide recall of pistachios over salmonella fears, she hired Levi Johnston, the teen father of Sarah Palin's grandson, to promote the snack nuts. The domestic business grew by 40 percent over the last crop year.

"We've done more for the pistachio than anyone ever since it was planted in the Garden of Eden," she said in the phone interview. "My husband should be canonized for all the work he's done."

Others in agribusiness see it differently.

Ali Amin, a Persian immigrant who owns a competing processing plant, filed a lawsuit in late March in Fresno County Superior Court claiming the Resnicks violated California public utilities laws because they turned a profit by selling water to farmers who weren't members of their Bakersfield-based water company, Westside Mutual Water Co.

"You feel like David fighting Goliath," Amin said. "If they're allowed to keep doing this, the rest of the independents and small growers won't be able to compete."

Amin's lawsuit alleges he lost $22 million in revenue when growers lured by water supplies sold their nuts to the Resnicks' plant, which processes almost two-thirds of the nation's pistachios. Amin controls about 5 percent of the market.

Resnick and other water users in agricultural Kern County gained control of the Kern bank — the largest underground water storage facility in the nation — in the mid 1990s, following a round of negotiations with the state Department of Water Resources. Their position was that the state had shorted rural areas in allotting water in a previous drought.

To avoid potential litigation from unhappy water users, state officials ceded ownership of the Kern Water Bank — developed with $74 million from the department and $23 million in taxpayer-approved bonds — to a local water agency. In return, water users gave back 45,000 acre feet from the amount they contracted to receive each year.

The deal was a pivotal moment in the rise of the Resnicks' business interests. Ownership of the bank ultimately was transferred to a joint powers authority including the local water agency, the Resnicks' Westside Mutual Water Co. and four water districts.

Westside distributes water stored there to its members, the operations that grow Resnick's fruits and nuts, according to court records.
To prevent price-gouging, the California Public Utilities Commission requires most mutual water companies to register as public utilities and subject their rates to state regulation if they sell water to nonmembers for profit. There are some exceptions, such as a "water emergency," but the PUC rules require those sales to nonmembers to be at cost.

PUC staff attorney Fred Harris said Westside had not registered with the PUC. If the company skirted the law, by selling water to nonmembers at a profit — as the Amin suit alleges — Harris said Westside could be required to register and set up rates with the commission.

Assemblyman Huffman and Sen. Dean Florez, D-Shafter, said those allegations in the Amin lawsuit touch on a broader debate about whether companies should be able to profit from taxpayer-funded waterworks amid a drought.

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"I don't think anyone wants to see this become a gift of public funds to private corporations," said Huffman, who is considering introducing a bond amendment to remove or clarify the language.

Bill Phillimore, who directs Resnick's water company, said the company has managed scarce water supplies responsibly, and he and his bosses have spent "a considerable amount of time to make sure we get value out of the last drop."

Rob Six, a spokesman for the couple's private holding company, Roll International Corp., said the Amin suit was "frivolous," and said the company would seek sanctions against Amin's processing business.

After Amin's suit was filed, two of Resnick's companies filed a federal suit in Los Angeles against Amin, his processing plant and his agricultural consultant, alleging Amin's plant engaged in false advertising that Resnick's companies to suffer up to $15 million in damages.

"There are very jealous people out there," Lynda Resnick said. "But we usually win because we have such good in-house counsel."

The Resnicks, who have had legal tangles with everyone from Tiger Woods to the Diana, Princess of Wales Memorial Fund, have a good track record at winning.

Their suit to kill the California Pistachio Commission, a board farmers paid to do generic marketing for the snack nut, proved so expensive that after spending more than $2 million in legal fees, farmers gave up and voted to disband the commission three years ago.

"Here you had one man who had the money and thought he knew what was best, and didn't want to take part in a democratic organization," said Brian Blackwell, president of the Western Pistachio Association, which now represents smaller growers. "Whatever he's doing, he's going to try to run the show."  END