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SHEEP CREEK WATER COMPANY, INC.

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF LOS ANGELES**

11 Coordination Proceeding  
Special Title (Rule 1550(b))

) Judicial Council Coordination  
Proceeding No. 4408

12 ANTELOPE VALLEY GROUNDWATER  
13 CASES

) Santa Clara Case No. 1-05-CV-049053  
Assigned to the Honorable Jack Komar

14 Including Actions:

15 Los Angeles County Waterworks District No.  
16 40 v. Diamond Farming Co.  
Superior Court of California, County of Los  
17 Angeles, Case No. BC 325 201

) **SHEEP CREEK'S OBJECTIONS TO  
THE DECLARATION OF DR. JUNE  
OBERDORFER IN OPPOSITION TO  
SHEEP CREEK WATER COMPANY'S  
MOTION TO BE EXCLUDED FROM  
THE ANTELOPE VALLEY  
GROUNDWATER ADJUDICATION, OR  
IN THE ALTERNATIVE, FOR  
RECOGNITION OF ITS PRIOR  
RIGHTS TO THE WATERS OF SHEEP  
CREEK**

18 Los Angeles County Waterworks District No.  
19 40 v. Diamond Farming Co.  
Superior Court of California, County of Kern,  
Case No. S-1500-CV-254-348

20 Wm. Bolthouse Farms, Inc. v. City of  
Lancaster  
21 Diamond Farming Co. v. City of Lancaster  
22 Diamond Farming Co. v. Palmdale Water Dist.  
Superior Court of California, County of  
23 Riverside, consolidated actions, Case Nos. RIC  
353 840, RIC 344 436, RIC 344 668

) DATE: May 28, 2009  
TIME: 9:00 a.m.  
DEPT: 17C  
JUDGE: Hon. Jack Komar

24 AND RELATED CROSS-ACTIONS.

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28 **SHEEP CREEK'S OBJECTION TO THE DECLARATION OF DR. JUNE OBERDORFER IN OPPOSITION TO  
SHEEP CREEK WATER COMPANY'S MOTION TO BE EXCLUDED FROM THE ANTELOPE VALLEY  
GROUNDWATER ADJUDICATION, OR IN THE ALTERNATIVE, FOR RECOGNITION OF ITS PRIOR  
RIGHTS TO THE WATERS OF SHEEP CREEK**

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD HEREIN:**

2 **PLEASE TAKE NOTICE** that SHEEP CREEK WATER COMPANY (“Sheep Creek”)  
 3 hereby objects to the Declaration of Dr. June Oberdorfer filed by the “Federal Defendants” in  
 4 support of their Response In Opposition To Sheep Creek Water Company’s Motion To Be  
 5 Excluded From The Antelope Valley Groundwater Adjudication, Or In The Alternative, For  
 6 Recognition Of Its Prior Rights To The Waters Of Sheep Creek as follows:

DECLARATION OF DR. JUNE OBERDORFER <sup>1</sup>	SHEEP CREEK’S OBJECTIONS
<p>7</p> <p>8</p> <p>9 Page 2, Paragraph 3: “One geologic log (Izbicki et al., 2000, which is Sheep Creek’s Exhibit I) for a boring located in Sheep Creek wash about 3.5 miles to the southeast of the Site, within San Bernardino County, was examined and found to contain very similar alluvial material to a depth of at least 540 feet, indicating that similar aquifer materials <b>most likely</b> are continuously present to the east of the county line as well as to the west.” (<i>emphasis added.</i>)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p><u>Speculation</u>: Dr. Oberdorfer’s opinion regarding aquifer materials county line is speculative. (CAL. EVID. CODE § 801(b) (An expert opinion based on speculation or conjecture is inadmissible.))</p> <p><u>Hearsay</u>: Dr. Oberdorfer impermissibly seeks to testify to the contents of USGS documents to which she has no personal knowledge and which she has failed to authenticate; the reference materials in and of themselves are hearsay since they are not certified, authenticated and/or are not a business record, and the purposed statements in the referenced documents constitute inadmissible hearsay. (CAL. EVID. CODE § 1200; <i>Hayman v. Block</i> (1986) 176 Cal. App. 3d 629, 639 (“matters which would be excluded under the rules of evidence if proffered by a witness in a trial as hearsay, conclusions or impermissible opinions must be disregarded”); <i>Zuckerman v. Pacific Savings Bank</i> (1986) 187 Cal.App.3d 1394, 1400.))</p> <p><u>Lack of authentication</u>: Dr. Oberdorfer fails to testify to her ability to interpret, authenticate, explain, and/or certify the referenced documents. (CAL. EVID. CODE § 1400.))</p> <p>_____ Sustained</p> <p>_____ Overruled</p>

26 <sup>1</sup> Dr. Oberdorfer’s declaration incorporates all of its opinions via Exhibit A. Exhibit A is Dr. Oberdorfer’s analysis. Exhibit A is not on pleading paper, nor are the paragraphs numbered. Therefore, each objection will be identified by the page the text is on and the paragraph counting from the top.

1 Page 2, Paragraph 4: "A review of USGS  
2 documents could not find any faults mapped  
3 in the vicinity of the Site that could act as an  
4 impediment to flow between the Site and the  
5 rest of the AVAA."

Lack of Foundation: The declaration does not  
identify which USGS documents Dr.  
Oberdorfer reviewed. The declaration does  
not identify any facts that were relied upon  
within those documents. The declaration does  
not show that these facts are the type  
reasonably relied upon by experts to make  
these determinations.

Hearsay: Dr. Oberdorfer impermissibly seeks to  
testify to the contents of USGS documents to  
which she has no personal knowledge and  
which she has failed to authenticate; the  
reference materials in and of themselves are  
hearsay since they are not certified,  
authenticated and/or are not a business record,  
and the purposed statements in the referenced  
documents constitute inadmissible hearsay.  
(CAL. EVID. CODE § 1200; *Hayman v. Block*  
(1986) 176 Cal. App. 3d 629, 639 ("matters  
which would be excluded under the rules of  
evidence if proffered by a witness in a trial as  
hearsay, conclusions or impermissible opinions  
must be disregarded"); *Zuckerman v. Pacific  
Savings Bank* (1986) 187 Cal.App.3d 1394,  
1400.)

Lack of authentication: Dr. Oberdorfer fails to  
testify to her ability to interpret, authenticate,  
explain, and/or certify the referenced  
documents. (CAL. EVID. CODE § 1400).

\_\_\_\_\_ Sustained

\_\_\_\_\_ Overruled

18 Page 3, Paragraph 1: "A review of water  
19 levels in the area indicates that the general  
20 direction of flow near the county line in the  
21 vicinity of the Site is to the north. Although  
22 the data are [sic] sparse, the groundwater  
23 level contours are continuous across the  
24 county line, indicating no significant  
25 impediments to flow that would  
26 hydraulically separate the area into two  
27 basins."

Lack of Foundation: The declaration does not  
identify which data Dr. Oberdorfer reviewed.  
The declaration does not identify any facts  
that were relied upon within that data. The  
declaration does not show that these facts are  
the type reasonably relied upon by experts to  
make these determinations.

Hearsay: Dr. Oberdorfer impermissibly seeks to  
testify to the contents of data to which she has  
no personal knowledge and which she has  
failed to authenticate; the reference materials  
in and of themselves are hearsay since they are  
not certified, authenticated and/or are not a  
business record, and the purposed statements  
in the referenced documents constitute  
inadmissible hearsay. (CAL. EVID. CODE §  
1200; *Hayman v. Block* (1986) 176 Cal. App.

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SHEEP CREEK'S OBJECTION TO THE DECLARATION OF DR. JUNE OBERDORFER IN OPPOSITION TO  
SHEEP CREEK WATER COMPANY'S MOTION TO BE EXCLUDED FROM THE ANTELOPE VALLEY  
GROUNDWATER ADJUDICATION, OR IN THE ALTERNATIVE, FOR RECOGNITION OF ITS PRIOR  
RIGHTS TO THE WATERS OF SHEEP CREEK

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	<p>3d 629, 639 (“matters which would be excluded under the rules of evidence if proffered by a witness in a trial as hearsay, conclusions or impermissible opinions must be disregarded”); <i>Zuckerman v. Pacific Savings Bank</i> (1986) 187 Cal.App.3d 1394, 1400.)</p> <p><u>Lack of authentication</u>: Dr. Oberdorfer fails to testify to her ability to interpret, authenticate, explain, and/or certify the referenced documents. (CAL. EVID. CODE § 1400).</p> <p>_____ Sustained _____ Overruled</p>
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Page 3, Paragraph 1: “The well at the Site **almost certainly** draws water from both the AVAA and from the Mojave Area of Adjudication, the latter commencing just across the county line.” (*emphasis added.*)

Speculation: Dr. Oberdorfer’s opinion stating that the well “almost certainly draws water” from both areas is speculative. (CAL. EVID. CODE § 801(b) (An expert opinion based on speculation or conjecture is inadmissible.))

Lack of Foundation: The declaration does not identify any facts Dr. Oberdorfer investigated to show that the well is drawing from both areas. (CAL. EVID. CODE §§ 801, 802; *Kelley v. Trunk* (1998) 66 Cal App 4th 519, 523-524.)

\_\_\_\_\_ Sustained  
\_\_\_\_\_ Overruled

Page 3, Paragraph 2: “Exhibit 1 is a plot of carbon-14 activity, with arrows indicating the groundwater flow direction, from the report by Izbicki and Michels (2004).”

The Document Speaks for Itself

Hearsay: Dr. Oberdorfer impermissibly seeks to testify to the contents of a report to which she has no personal knowledge and which she has failed to authenticate; the reference materials in and of themselves are hearsay since they are not certified, authenticated and/or are not a business record, and the purposed statements in the referenced documents constitute inadmissible hearsay. (CAL. EVID. CODE § 1200; *Hayman v. Block* (1986) 176 Cal. App. 3d 629, 639 (“matters which would be excluded under the rules of evidence if proffered by a witness in a trial as hearsay, conclusions or impermissible opinions must be disregarded”); *Zuckerman v. Pacific Savings Bank* (1986) 187 Cal.App.3d 1394, 1400.)

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	<p><u>Lack of authentication:</u> Dr. Oberdorfer fails to testify to her ability to interpret, authenticate, explain, and/or certify the referenced documents. (CAL. EVID. CODE § 1400).</p> <p>_____ Sustained _____ Overruled</p>
<p>Page 3, Paragraph 2: "Exhibit 2 is a map showing the subareas in the Mojave adjudication. That adjudication recognized that there was a significant component of flow to the east. This dominant flow direction indicates that the majority of the flow from Sheep Creek is not towards the Site, so that the well at the Site is most likely not primarily pumping water recharged from Sheep Creek."</p>	<p><u>The Document Speaks for Itself</u></p> <p><u>Speculation:</u> Dr. Oberdorfer's opinion stating that the well "is most likely not primarily" drawing from Sheep Creek is speculative. (CAL. EVID. CODE § 801(b) (An expert opinion based on speculation or conjecture is inadmissible.))</p> <p><u>Lack of Foundation:</u> The declaration does not identify any facts Dr. Oberdorfer investigated to show the basis for the map, nor to show the basis for any opinions based on the map. (CAL. EVID. CODE §§ 801, 802; <i>Kelley v. Trunk</i> (1998) 66 Cal App 4th 519, 523-524.)</p> <p><u>Hearsay:</u> Dr. Oberdorfer impermissibly seeks to testify to the contents of a document to which she has no personal knowledge and which she has failed to authenticate; the reference materials in and of themselves are hearsay since they are not certified, authenticated and/or are not a business record, and the purposed statements in the referenced documents constitute inadmissible hearsay. (CAL. EVID. CODE § 1200; <i>Hayman v. Block</i> (1986) 176 Cal. App. 3d 629, 639 ("matters which would be excluded under the rules of evidence if proffered by a witness in a trial as hearsay, conclusions or impermissible opinions must be disregarded"); <i>Zuckerman v. Pacific Savings Bank</i> (1986) 187 Cal.App.3d 1394, 1400.)</p> <p><u>Lack of authentication:</u> Dr. Oberdorfer fails to testify to her ability to interpret, authenticate, explain, and/or certify the referenced documents. (CAL. EVID. CODE § 1400).</p> <p>_____ Sustained _____ Overruled</p>

1 Page 4, Paragraph 2: "A careful examination  
2 of the groundwater basin map indicates that  
3 this is not the case. Exhibit 3 presents the  
4 map of groundwater basins for the entire  
5 State of California."

The Document Speaks for Itself

Lack of Foundation: The declaration does not identify any facts Dr. Oberdorfer investigated to show the basis for the map, nor to show the basis for any opinions based on the map. (CAL. EVID. CODE §§ 801, 802; *Kelley v. Trunk* (1998) 66 Cal App 4th 519, 523-524.)

Hearsay: Dr. Oberdorfer impermissibly seeks to testify to the contents of a map to which she has no personal knowledge and which she has failed to authenticate; the reference materials in and of themselves are hearsay since they are not certified, authenticated and/or are not a business record, and the purposed statements in the referenced documents constitute inadmissible hearsay. (CAL. EVID. CODE § 1200; *Hayman v. Block* (1986) 176 Cal. App. 3d 629, 639 ("matters which would be excluded under the rules of evidence if proffered by a witness in a trial as hearsay, conclusions or impermissible opinions must be disregarded"); *Zuckerman v. Pacific Savings Bank* (1986) 187 Cal.App.3d 1394, 1400.)

Lack of authentication: Dr. Oberdorfer fails to testify to her ability to interpret, authenticate, explain, and/or certify the referenced documents. (CAL. EVID. CODE § 1400).

\_\_\_\_\_ Sustained  
\_\_\_\_\_ Overruled

18 Page 4, Paragraph 2: "Exhibit 4 is a close-up  
19 taken from that map showing the location of  
20 the El Mirage Valley Groundwater Basin  
21 relative to the county line."

The Document Speaks for Itself

Alteration of the Evidence: The declaration does not identify what alterations Dr. Oberdorfer made to the map. However, Dr. Oberdorfer added an asterisk to designate the Sheep Creek well site.

Lack of Foundation: The declaration does not identify any facts Dr. Oberdorfer used to plot the location of the Sheep Creek well site she added to the map. There is no evidence to suggest this is an accurate placement of the site. Further, the declaration does not identify any facts Dr. Oberdorfer investigated to show the basis for the map, nor to show the basis for any opinions based on the map. (CAL. EVID. CODE §§ 801, 802; *Kelley v. Trunk* (1998) 66 Cal App 4th 519, 523-524.)

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Hearsay: Dr. Oberdorfer impermissibly seeks to testify to the contents of a map to which she has no personal knowledge and which she has failed to authenticate; the reference materials in and of themselves are hearsay since they are not certified, authenticated and/or are not a business record, and the purposed statements in the referenced documents constitute inadmissible hearsay. (CAL. EVID. CODE § 1200; *Hayman v. Block* (1986) 176 Cal. App. 3d 629, 639 (“matters which would be excluded under the rules of evidence if proffered by a witness in a trial as hearsay, conclusions or impermissible opinions must be disregarded”); *Zuckerman v. Pacific Savings Bank* (1986) 187 Cal.App.3d 1394, 1400.)

Lack of authentication: Dr. Oberdorfer fails to testify to her ability to interpret, authenticate, explain, and/or certify the referenced documents. (CAL. EVID. CODE § 1400).

\_\_\_\_\_ Sustained  
\_\_\_\_\_ Overruled

Page 4, Paragraph 2: “The El Mirage Valley Groundwater Basin lies east of the county line in the vicinity of the Site, while the Site lies to the west. This map demonstrates that the Site is within what DWR defines as the Antelope Valley Groundwater Basin (DWR basin number 6-44), not within the El Mirage Valley Groundwater Basin.”

The Document Speaks for Itself

Alteration of the Evidence: The declaration does not identify what alterations Dr. Oberdorfer made to the map. However, Dr. Oberdorfer added an asterisk to designate the Sheep Creek Well Site.

Lack of Foundation: The declaration does not identify any facts Dr. Oberdorfer used to plot the location of the Sheep Creek well site she added to the map. There is no evidence to suggest this is an accurate placement of the site. Further, the declaration does not identify any facts Dr. Oberdorfer investigated to show the basis for the map, nor to show the basis for any opinions based on the map. (CAL. EVID. CODE §§ 801, 802; *Kelley v. Trunk* (1998) 66 Cal App 4th 519, 523-524.)

Hearsay: Dr. Oberdorfer impermissibly seeks to testify to the contents of a map to which she has no personal knowledge and which she has failed to authenticate; the reference materials in and of themselves are hearsay since they are not certified, authenticated and/or are not a business record, and the purposed statements

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in the referenced documents constitute inadmissible hearsay. (CAL. EVID. CODE § 1200; *Hayman v. Block* (1986) 176 Cal. App. 3d 629, 639 (“matters which would be excluded under the rules of evidence if proffered by a witness in a trial as hearsay, conclusions or impermissible opinions must be disregarded”); *Zuckerman v. Pacific Savings Bank* (1986) 187 Cal.App.3d 1394, 1400.)

Lack of authentication: Dr. Oberdorfer fails to testify to her ability to interpret, authenticate, explain, and/or certify the referenced documents. (CAL. EVID. CODE § 1400).

\_\_\_\_\_ Sustained  
\_\_\_\_\_ Overruled

Dated: May 20, 2009

GRESHAM SAVAGE NOLAN & TILDEN,  
A Professional Corporation

By: *M. Allen*  
Michael Duane Davis  
Marlene L. Allen-Hammarlund  
Ben A. Eilenberg  
Attorneys for Cross-Defendant,  
SHEEP CREEK WATER COMPANY, INC.



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**PROOF OF SERVICE**  
**STATE OF CALIFORNIA, COUNTY OF RIVERSIDE**

Re: *ANTELOPE VALLEY GROUNDWATER CASES*  
Los Angeles County Superior Court Judicial Council Coordinated  
Proceedings No. 4408; Santa Clara County Superior Court Case No. 1-05-CV-049053

I am employed in the County of Riverside, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 3750 University Avenue, Suite 250, Riverside, CA 92501-3335.

On May 20, 2009, I served the foregoing document(s) described as **SHEEP CREEK'S OBJECTIONS TO THE DECLARATION OF DR. JUNE OBERDORFER IN OPPOSITION TO SHEEP CREEK WATER COMPANY'S MOTION TO BE EXCLUDED FROM THE ANTELOPE VALLEY GROUNDWATER ADJUDICATION, OR IN THE ALTERNATIVE, FOR RECOGNITION OF ITS PRIOR RIGHTS TO THE WATERS OF SHEEP CREEK** on the interested parties in this action in the following manner:

(X) **BY ELECTRONIC SERVICE** – I posted the document(s) listed above to the Santa Clara County Superior Court website, <http://www.scefiling.org>, in the action of the Antelope Valley Groundwater Cases,

(X) **BY EXPRESS MAIL/OVERNIGHT DELIVERY** - I caused such envelope to be delivered by hand to the office of the addressee via overnight delivery pursuant to C.C.P. §1013(c), with delivery fees fully prepaid or provided for.

Honorable Jack Komar  
Santa Clara County Superior Court  
191 North First Street, Dept. 17C  
San Jose, CA 95113

Superior Court of California      **[Original Documents to be filed at this location]**  
County of Los Angeles  
Stanley Mosk Courthouse, Dept. 1, Room 534  
111 North Hill Street  
Los Angeles, CA 90012

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

Executed on May 20, 2009, at Riverside, California.

  
\_\_\_\_\_  
TERI D. GALLAGHER