

5 El Dorado 8

1 Michael Duane Davis, SBN 093678  
Marlene L. Allen-Hammarlund, SBN 26418  
2 **GRESHAM SAVAGE NOLAN & TILDEN,**  
A Professional Corporation  
3 3750 University Avenue, Suite 250  
Riverside, CA 92501-3335  
4 Telephone: (951) 684-2171  
Facsimile: (951) 684-2150

5 Attorneys for Cross-Defendant/Cross-Complainant,  
6 A.V. UNITED MUTUAL GROUP; and Cross-  
Defendants, ADAMS BENNETT INVESTMENTS,  
7 LLC; MIRACLE IMPROVEMENT CORPORATION  
dba GOLDEN SANDS MOBILE HOME PARK, aka  
8 GOLDEN SANDS TRAILER PARK, named as ROE  
1121; ST. ANDREW'S ABBEY, INC., named as ROE  
9 623; SERVICE ROCK PRODUCTS, L.P.; and  
SHEEP CREEK WATER COMPANY, INC.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **IN AND FOR THE COUNTY OF LOS ANGELES**

13 Coordination Proceeding )  
Special Title (Rule 1550(b)) )  
14 ANTELOPE VALLEY GROUNDWATER )  
15 CASES ) Santa Clara Case No. 1-05-CV-049053  
Assigned to the Honorable Jack Komar  
Department 17C  
16 Including Consolidated Actions: )  
17 Los Angeles County Waterworks District )  
No. 40 v. Diamond Farming Co. ) **CROSS-DEFENDANT/CROSS-**  
18 Superior Court of California, County of Los ) **COMPLAINANT, ANTELOPE VALLEY**  
Angeles, Case No. BC 325 201 ) **UNITED MUTUAL GROUP'S**  
19 ) **INFORMATION AND MATERIALS**  
20 Los Angeles County Waterworks District ) **RESPONSIVE TO DECEMBER 12, 2012**  
No. 40 v. Diamond Farming Co. ) **DISCOVERY ORDER FOR PHASE 4**  
21 Superior Court of California, County of Kern, ) **TRIAL**  
Case No. S-1500-CV-254-348 )  
22 **Wm. Bolthouse Farms, Inc. v. City of**  
**Lancaster** )  
23 **Diamond Farming Co. v. City of Lancaster**  
**Diamond Farming Co. v. Palmdale Water**  
24 **Dist.** )  
25 Superior Court of California, County of )  
Riverside, consolidated actions, Case Nos. RIC )  
353 840, RIC 344 436, RIC 344 668 )  
26 AND RELATED ACTIONS. )  
27

For Court's Use Only:  
Santa Clara County  
Case No. 1-05-CV-049053  
(For E-Posting/E-Service Purposes Only)

28 GRESHAM | SAVAGE  
ATTORNEYS AT LAW  
3750 UNIVERSITY AVE.  
STE. 250  
RIVERSIDE, CA 92501-3335  
(951) 684-2171

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 Cross-Defendant / Cross-Complainant, **A. V. UNITED MUTUAL GROUP** [comprised  
3 of Antelope Park Mutual Water Co., Aqua-J Mutual Water Co., Averydale Mutual Water Co.,  
4 Baxter Mutual Water Co., Bleich Flat Mutual Water Co., Colorado Mutual Water Co., Eldorado  
5 Mutual Water Co., Evergreen Mutual Water Co., Land Projects Mutual Water Co., Landale  
6 Mutual Water Co., Shadow Acres Mutual Water Co., Sundale Mutual Water Co., Sunnyside  
7 Farms Mutual Water Co., Tierra Bonita Mutual Water Co., Westside Park Mutual Water Co.,  
8 and White Fence Farms Mutual Water Co., Inc.], by and through their attorneys of record,  
9 Gresham Savage Nolan & Tilden, PC, by Michael Duane Davis and Marlene L. Allen-  
10 Hammarlund, submit the following information and materials, under penalty of perjury, in  
11 response to the December 12, 2012 Discovery Order for Phase 4 Trial ("*Discovery Order*"),  
12 issued by the Honorable Jack Komar, Trial Judge.

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Cross-Defendant / Cross-Complainant, **A. V. UNITED MUTUAL GROUP** have made a good faith effort to fully and accurately respond to the categories of information required by the *Discovery Order*. However, due to the shortness of time between the issuance of the order and the degree of detail required by the *Discovery Order*, Cross-Defendant / Cross-Complainant, **A. V. UNITED MUTUAL GROUP** reserve the right to supplement their responses to the extent they require, in as timely a manner as possible.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**EL DORADO MUTUAL WATER COMPANY:**

**I. CLAIMS OF OVERLYING GROUNDWATER RIGHTS:**

**1. Property situated with El Dorado Mutual Water Company (“El Dorado”):**

**a. Location of Property [Service Area]:** 640 acres; North Boundary: Ave N; East Boundary: 10th St West; South Boundary: Ave O; and West Boundary: 20th St West. Though the owner of the water rights and the production, storage and distribution facilities is El Dorado Mutual Water Company, a California mutual benefit non-profit corporation, at the direction of the Court, the Assessor’s Parcel Numbers (“APN”) of the members / shareholders is set forth on El Dorado Mutual Water Company “**Attachment I.1.a.**”

**b. Ownership Information:** El Dorado is an active California mutual benefit non-profit corporation, with an entity address of Post Office Box 900519, Palmdale, CA 93590. It was formed on July 14, 1948. Its Agent for Service of Process is Jeanne Miller at 40115 15<sup>th</sup> Street West, Palmdale, CA 93551. Its membership is comprised of the owners of the 276 mostly 1¼ and 2½ acre lots that are situated within its above-described service area. El Dorado’s 232 active meters serve the properties within the El Dorado service area that have been improved with a residence, and stand by to serve the unimproved properties when improved.

**c. Existence of Groundwater wells (2000 to 2004 and 2011 to 2012):** El Dorado owned 1 (metered) well that was situated within its service area during the years 2000 to 2004 and 2011 to 2012.

**d. Operation of Groundwater wells (2000 to 2004 and 2011 to 2012):** El Dorado operated the well described in I.1.c., above, during the years 2000 to 2004 and 2011 to 2012.

**e. Amount of Groundwater Produced:** El Dorado groundwater production during the years 2000 to 2004 and 2011 – 2012:

- i. 2000:** 389.8 acre feet
- ii. 2001:** 386.7 acre feet

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

- iii. 2002: 294.5 acre feet
- iv. 2003: 310.7 acre feet
- v. 2004: 365.5 acre feet
- vi. 2011: 272 acre feet
- vii. 2012 [1/1 – 11/30]: 280.1 acre feet

f. **Uses of Groundwater Produced:** During the years 2000 to 2004 and 2011 to 2012, El Dorado used the water produced from its well described in I.1.c., above, for the provision of domestic water service to its mutual members.

g. **Places of Groundwater Use:** All groundwater produced by El Dorado from the wells described in I.1.c., above, was used in its service area by its members.

h. **Uses of Parcels within Service Area:** The properties within the El Dorado service area are single family residential parcels.

i. **Crop Types:** None.

j. **Basis for Claim of Groundwater Rights:** Upon the formation of the mutual benefit, non-profit corporation, the overlying groundwater rights of the owners of the properties within the service area (who became the initial shareholders) became the rights of the mutual water company and have, ever since, been exercised by the mutual water company and not by the individual property owners / shareholders. There was no known express reservation of the overlying groundwater rights by the individual property owners at the time of formation. The property owners / shareholders simply pooled their collective water and (through the mutual water company) constructed, operated and maintained the production, storage and distribution system by which they all receive water for their domestic purposes. Simply stated, the property owners / shareholders exchanged their overlying water rights for the right to have water delivered to their individual properties. See *Erwin v. Gage Canal Company* (1964) 226 Cal.App.2d 189; see also *Hildreth v. Montecito Creek Water Co.* (1903) 139 Cal. 22, 29; see also *City of Glendale v. Crescenta etc. Water Co.* (1955) 135 Cal.App.2d 784,801. As such, each

1 shareholder has an interests in the water rights, production, storage and distribution facilities of  
2 the mutual water company and has the right to receive water upon development and demand.

3 k. **Amount of Groundwater Claim:** 389.8 acre feet [highest “base  
4 period” use].

5 l. **Other Facts Supporting Claim:** Pending receipt of additional data  
6 and information.

7 **2. Property Lease Information:**

8 a. **Lease of Property:** El Dorado leased no property during the years 2000  
9 to 2004 and 2011 to 2012.

10 b. **Name of Lessee:** N/A.

11 c. **ATN/APNs:** N/A.

12 d. **Written Agreements Allocating Credits:** N/A.

13 e. **Lessee Delivery of Water:** N/A.

14 f. **Uses of Groundwater by Lessee:** N/A.

15 **3. Additional Requested Information and Materials:**

16 a. **Prima Facie Groundwater Production Materials:**

17 i. See El Dorado Mutual Water Company “Attachment I.3.a.i.”

18 ii. Well No. 1 – Annual Notice of Groundwater Extraction for 2001

19 iii. Well No. 1 – Annual Notice of Groundwater Extraction for 2002

20 iv. Well No. 1 – Annual Notice of Groundwater Extraction for 2003

21 v. Well No. 1 – Annual Notice of Groundwater Extraction for 2004

22 vi. Pending receipt of additional data and information.

23 b. **Prima Facie Property Uses Materials:**

24 i. See El Dorado Mutual Water Company “Attachment I.3.b.i.”

25 ii. Pending receipt of additional data and information.

26 c. **Additional Materials:**

27 i. See El Dorado Mutual Water Company “Attachment I.3.c.i.”

1 ii. California Secretary of State, Business Entity Detail (December  
2 14, 2012)

3 iii. Pending receipt of additional data and information.

4 **II. CLAIMS OF NON-OVERLYING GROUNDWATER RIGHTS:**

5 1. **Specifically Requested Non-Overlying Information:**

6 a. **Amount of Production:** None.

7 b. **ATN/APNs:** N/A.

8 c. **Well Information:** N/A.

9 d. **Amount of Water Produced:** N/A.

10 e. **Methodology Used to Quantify Claim:** N/A.

11 f. **Reports to State Water Resources Control Board (2000 to 2004):** N/A.

12 g. **Uses other than Municipal Supply (2000 to 2004 and 2011 to 2012):**

13 N/A.

14 h. **Water for Outdoor Irrigation:** N/A.

15 **III. CLAIMS OF RETURN FLOW CREDITS:**

16 1. **Specifically Requested Non-Overlying Information:**

17 a. **Amount of Pumping of Return Flows from Imported Water:** 45%

18 b. **Amount of Return Flows Pumped:**

19 i. 2000: 2.7 acre feet

20 ii. 2001: 40.6 acre feet

21 iii. 2002: 46.4 acre feet

22 iv. 2003: 32.8 acre feet

23 v. 2004: 22.5 acre feet

24 vi. 2011: 0 acre feet

25 vii. 2012 [1/1 – 11/30]: 0 acre feet

26 c. **Methodology Used to Quantify Claim:** The figure of 45% of mutual  
27 water company imported water constituting return flows (in un-sewered areas) was derived from



1 Technical Committee's Problem Statement Report. Reference is made, generally, to the Problem  
2 Statement Report, and in particular Appendix D, pages D-25 and D-26.

3 **d. Amount of Water Imported:**

- 4 i. 2000: 6.0 acre feet  
5 ii. 2001: 90.3 acre feet  
6 iii. 2002: 103.1 acre feet  
7 iv. 2003: 72.9 acre feet  
8 v. 2004: 30.0 acre feet  
9 vi. 2011: 0 acre feet  
10 vii. 2012 [1/1 – 11/30]: 0 acre feet

11 **e. Water Quality Information:** Water delivered from AVEK is  
12 reported to satisfy regulatory potability standards.

13 **f. Uses of Imported Water:** During the years 2000 to 2004 and 2011 to  
14 2012, El Dorado used the water imported from AVEK described in 1.d., above, for the provision  
15 of domestic water service to its mutual members.

16 **g. Dates of Importation of Water:** Commenced prior to the base period.

17 **h. Geological Conditions Beneath Properties:** Pending receipt of  
18 data.

19 **i. Depth of Aquifer and Soil Type Beneath Surface:** Pending  
20 receipt of data.

21 **j. Time for Percolation to Aquifer:** Pending receipt of data.

22 **k. Physical Evidence that Return Flows Augment Basin:** Pending  
23 receipt of data.

24 **l. Geological Locations that Return Flows Augment Basin:** Pending  
25 receipt of data.

26 **m. Return Flows Entering Municipal Sewer System:** None. Members of  
27 the El Dorado Mutual Water Company are on septic, not sewer.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

n. Locations of Return Flows Wastewater Augmenting Basin: From the septic tanks situated on each of the properties within El Dorado Mutual Water Company.

IV. FOR THE FEDERAL PARTIES: N/A.

V. FOR ALL RESPONDING PARTIES:

1. Person most qualified to testify to the facts and materials above:

- a. Non-Expert Witness(es): Jeanne Miller and Murry Sprunger
- b. Expert Witness(es): Not determined at this time.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

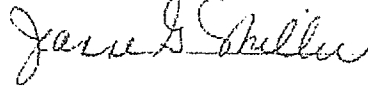
2. Verification by Authorized Individual:

Declaration under Penalty of Perjury:

I, Jeanne Miller, am the Secretary and Treasurer of the El Dorado Mutual Water Company and have personal knowledge of the facts set forth above.

If called to do so, I could and would competently testify to these facts under oath. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 20<sup>th</sup> day of December, 2012 at Lancaster, CA.



28  
10/10/12 10:00 AM  
10/10/12 10:00 AM  
10/10/12 10:00 AM  
10/10/12 10:00 AM  
10/10/12 10:00 AM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

DATED: December 21, 2012

Respectfully submitted,

GRESHAM SAVAGE NOLAN & TIDEN, PC

By: 

MICHAEL DUANE DAVIS, ESQ.  
MARLENE L. ALLEN-HAMMARLUND, ESQ.  
Attorneys for CROSS-DEFENDANT / CROSS-  
COMPLAINANT, A. V. UNITED MUTUAL GROUP;  
and CROSS-DEFENDANTS, ADAMS BENNETT  
INVESTMENTS, LLC, MIRACLE IMPROVEMENT  
CORPORATION dba GOLDEN SANDS MOBILE  
HOME PARK, aka GOLDEN SANDS TRAILER  
PARK [ROE 1121], ST. ANDREW'S ABBEY, INC.  
[ROE 623], SERVICE ROCK PRODUCTS, L.P., and  
SHEEP CREEK WATER COMPANY, INC.

GRESHAM | SAVAGE  
ATTORNEYS AT LAW  
3750 UNIVERSITY AVE.  
STE. 250  
RIVERSIDE, CA 92501-3335  
(951) 684-2171

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**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

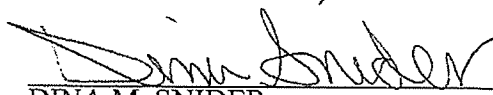
I am employed in the County of Riverside, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 3750 University Avenue, Suite 250, Riverside, CA 92501-3335.

On December 21, 2012, I served the foregoing document(s) described as **CROSS-DEFENDANT/CROSS-COMPLAINANT, ANTELOPE VALLEY UNITED MUTUAL GROUP'S INFORMATION AND MATERIALS RESPONSIVE TO DECEMBER 12, 2012 DISCOVERY ORDER FOR PHASE 4 TRIAL** 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,

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

Executed on December 21, 2012, at Riverside, California.

  
\_\_\_\_\_  
DINA M. SNIDER