

5 Landale 7

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9 Attorneys for Cross-Defendant/Cross-Complainant,  
10 A.V. UNITED MUTUAL GROUP; and Cross-  
11 Defendants, ADAMS BENNETT INVESTMENTS,  
12 LLC; MIRACLE IMPROVEMENT CORPORATION  
13 dba GOLDEN SANDS MOBILE HOME PARK, aka  
14 GOLDEN SANDS TRAILER PARK, named as ROE  
15 1121; ST. ANDREW'S ABBEY, INC., named as ROE  
16 623; SERVICE ROCK PRODUCTS, L.P.; and  
17 SHEEP CREEK WATER COMPANY, INC.

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
19 **IN AND FOR THE COUNTY OF LOS ANGELES**

20 Coordination Proceeding  
21 Special Title (Rule 1550(b))

) Judicial Council Coordination  
) Proceeding No. 4408

22 **ANTELOPE VALLEY GROUNDWATER**  
23 **CASES**

) Santa Clara Case No. 1-05-CV-049053  
) Assigned to the Honorable Jack Komar  
) Department 17C

24 Including Consolidated Actions:

25 **Los Angeles County Waterworks District**  
26 **No. 40 v. Diamond Farming Co.**  
27 Superior Court of California, County of Los  
28 Angeles, Case No. BC 325 201

) **CROSS-DEFENDANT/CROSS-**  
) **COMPLAINANT, ANTELOPE VALLEY**  
) **UNITED MUTUAL GROUP'S**  
) **INFORMATION AND MATERIALS**  
) **RESPONSIVE TO DECEMBER 12, 2012**  
) **DISCOVERY ORDER FOR PHASE 4**  
) **TRIAL**

29 **Los Angeles County Waterworks District**  
30 **No. 40 v. Diamond Farming Co.**  
31 Superior Court of California, County of Kern,  
32 Case No. S-1500-CV-254-348

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

33 **Wm. Bolthouse Farms, Inc. v. City of**  
34 **Lancaster**  
35 **Diamond Farming Co. v. City of Lancaster**  
36 **Diamond Farming Co. v. Palmdale Water**  
37 **Dist.**  
38 Superior Court of California, County of  
39 Riverside, consolidated actions, Case Nos. RIC  
40 353 840, RIC 344 436, RIC 344 668

41 **AND RELATED ACTIONS.**

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

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

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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 LANDALE MUTUAL WATER COMPANY:

2  
3 I. CLAIMS OF OVERLYING GROUNDWATER RIGHTS:

4 1. Property situated with Landale Mutual Water Company ("Landale"):

5 a. Location of Property [Service Area]: 574 acres; East Boundary: 10  
6 St West; West Boundary: Valley Line Rd; North Boundary: Ave L; and South Boundary: Ave  
7 M. Though the owner of the water rights and the production, storage and distribution facilities is  
8 Landale Mutual Water Company, a California mutual benefit non-profit corporation, at the  
9 direction of the Court, the Assessor's Parcel Numbers ("APN") of the members / shareholders is  
10 set forth on Landale Mutual Water Company "Attachment I.1.a."

11 b. Ownership Information: Landale is an active California mutual  
12 benefit non-profit corporation, with an entity address of Post Office Box 5808, Lancaster, CA  
13 93539. It was formed on June 25, 1948. Its Agent for Service of Process is Frank L. Purcell at  
14 44315 N. Date, Lancaster CA 93534. Its membership is comprised of the owners of the 308  
15 mostly 2½ acre lots that are situated within its above-described service area. Landale's 172  
16 active meters serve the properties within the Landale service area that have been improved with a  
17 residence, and stand by to serve the unimproved properties when improved.

18 c. Existence of Groundwater wells (2000 to 2004 and 2011 to 2012):  
19 Landale's operations consist of one (1) functioning well, three (3) booster pumps [2 x 40HP and  
20 1 x 50HP, with a 200HP well turbine pump). The pumps, well pump and motors were upgraded  
21 in 2007-2008 with a 4<sup>th</sup> booster under construction. "Well #2" (as it was identified in  
22 approximately 2000 – 2003) was recently replaced with the "New Well" due to sanding  
23 problems with Well #2. The operation of the New Well, starting in 2003, accounts for all water  
24 pumped since the change. Both Well #2 and the New Well are located on the NE corner of Ave  
25 L-8 and 5<sup>th</sup> Street E in the City of Lancaster.

26 d. Operation of Groundwater wells (2000 to 2004 and 2011 to 2012): See  
27 I.1.c., above.

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

- 3 i. 2000: 236.9 acre feet
- 4 ii. 2001: 241.1 acre feet
- 5 iii. 2002: data for this year is unavailable.<sup>1</sup>
- 6 iv. 2003: 246.3 acre feet
- 7 v. 2004: 272.1 acre feet
- 8 vi. 2011: 139.7 acre feet
- 9 vii. 2012 [1/1 – 11/30]: 175.8 acre feet

10 f. **Uses of Groundwater Produced:** During the years 2000 to 2004 and  
11 2011 to 2012, Landale used the water produced from its well described in I.1.c., above, for the  
12 provision of domestic water service to its mutual members.

13 g. **Places of Groundwater Use:** All groundwater produced by  
14 Landale from the well described in I.1.c., above, was used in its service area by its members.

15 h. **Uses of Parcels within Service Area:** Though Landale services  
16 residential properties, the City of Lancaster has designated the service area as a “heavy industrial  
17 zone”; and all future building must conform. Currently, there is one active concrete company in  
18 Landale’s service area and others are anticipated. Landale is less than 50% built out, due  
19 primarily to the City of Lancaster’s failure to commit to a sewer system and to pave the dirt  
20 roads in the service area.

21 i. **Crop Types:** None.

22 j. **Basis for Claim of Groundwater Rights:** Upon the formation of the  
23 mutual benefit, non-profit corporation, the overlying groundwater rights of the owners of the  
24 properties within the service area (who became the initial shareholders) became the rights of the  
25 mutual water company and have, ever since, been exercised by the mutual water company and

26  
27 <sup>1</sup> Cal Water managed the wellsite and testing in 2002. The failures in their operations (including clerical, meter reading, and failure to file the Annual Notice) caused Landale to terminate their services, following which they refused to delivery any records during the period of their operations.

1 not by the individual property owners / shareholders. There was no known express reservation  
2 of the overlying groundwater rights by the individual property owners at the time of formation.  
3 The property owners / shareholders simply pooled their collective water and (through the mutual  
4 water company) constructed, operated and maintained the production, storage and distribution  
5 system by which they all receive water for their domestic purposes. Simply stated, the property  
6 owners / shareholders exchanged their overlying water rights for the right to have water  
7 delivered to their individual properties. See *Erwin v. Gage Canal Company* (1964) 226  
8 Cal.App.2d 189; see also *Hildreth v. Montecito Creek Water Co.* (1903) 139 Cal. 22, 29; see also  
9 *City of Glendale v. Crescenta etc. Water Co.* (1955) 135 Cal.App.2d 784,801. As such, each  
10 shareholder has an interests in the water rights, production, storage and distribution facilities of  
11 the mutual water company and has the right to receive water upon development and demand.

12 k. **Amount of Groundwater Claim:** 272.1 acre feet [highest “base  
13 period” use].

14 l. **Other Facts Supporting Claim:** Pending receipt of additional data  
15 and information.

16 2. **Property Lease Information:**

17 a. **Lease of Property:** Landale leased no property during the years 2000 to  
18 2004 and 2011 to 2012.

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

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

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

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

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

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

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

26 i. See Landale Mutual Water Company “Attachment I.3.a.i.”

27 ii. Annual Notice of Groundwater Extraction for 2000

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- iii. Annual Notice of Groundwater Extraction for 2001
- iv. Annual Notice of Groundwater Extraction for 2003
- v. Annual Notice of Groundwater Extraction for 2004
- vi. Annual Notice of Groundwater Extraction for 2011
- vii. Pending receipt of additional data and information.

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

- i. See Landale Mutual Water Company "Attachment I.3.b.i."
- ii. Pending receipt of additional data and information.

c. **Additional Materials:**

- i. See Landale Mutual Water Company "Attachment I.3.c.i."
- ii. California Secretary of State, Business Entity Detail (December 14, 2012).
- iii. Pending receipt of additional data and information.

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

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

- a. **Amount of Production:** None.
- b. **ATN/APNs:** N/A.
- c. **Well Information:** N/A.
- d. **Amount of Water Produced:** N/A.
- e. **Methodology Used to Quantify Claim:** N/A.
- f. **Reports to State Water Resources Control Board (2000 to 2004):** N/A.
- g. **Uses other than Municipal Supply (2000 to 2004 and 2011 to 2012):**  
N/A.
- h. **Water for Outdoor Irrigation:** N/A.

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

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



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

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

- i. 2000: 5.4 acre feet
- ii. 2001: 5.4 acre feet
- iii. 2002: 5.4 acre feet
- iv. 2003: 5.4 acre feet
- v. 2004: 5.4 acre feet
- vi. 2011: 2.7 acre feet
- vii. 2012 [1/1 – 11/30]: 2.7 acre feet

c. **Methodology Used to Quantify Claim:** The figure of 45% of mutual water company imported water constituting return flows (in un-sewered areas) was derived from Technical Committee’s Problem Statement Report. Reference is made, generally, to the Problem Statement Report, and in particular Appendix D, pages D-25 and D-26.

d. **Amount of Water Imported:**

- i. 2000: 12 acre feet
- ii. 2001: 12 acre feet
- iii. 2002: 12 acre feet
- iv. 2003: 12 acre feet
- v. 2004: 12 acre feet
- vi. 2011: 6 acre feet
- vii. 2012 [1/1 – 11/30]: 6 acre feet

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

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

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

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- h. Geological Conditions Beneath Properties: Pending receipt of data.
- i. Depth of Aquifer and Soil Type Beneath Surface: Pending receipt of data.
- j. Time for Percolation to Aquifer: Pending receipt of data.
- k. Physical Evidence that Return Flows Augment Basin: Pending receipt of data.
- l. Geological Locations that Return Flows Augment Basin: Pending receipt of data.
- m. Return Flows Entering Municipal Sewer System: None. Members of the Landale Mutual Water Company are on septic, not sewer.
- n. Locations of Return Flows Wastewater Augmenting Basin: From the septic tanks situated on each of the properties within Landale 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): Frank L. Purcell
  - b. Expert Witness(es): Not determined at this time.

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

- a. Non-Expert Witness(es): Frank L. Purcell
- b. Expert Witness(es): Barry Munz

2. Verification by Authorized Individual:

Declaration under Penalty of Perjury:

I, Frank L. Purcell, am the PRESIDENT of the Landale 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 21<sup>st</sup> day of December, 2012 at Lancaster, CA.

*Frank L. Purcell*

-65-

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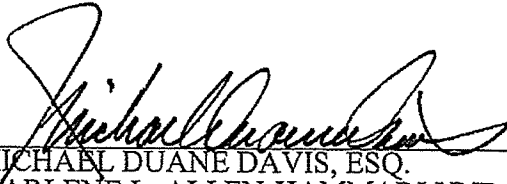
ANTELOPE VALLEY UNITED MUTUAL GROUP'S INFORMATION AND MATERIALS RESPONSIVE TO  
DECEMBER 12, 2012 DISCOVERY ORDER FOR PHASE 4 TRIAL

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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.

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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

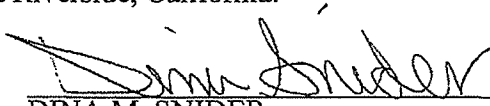
I am employed in the County of Riverside, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 3750 University Avenue, Suite 250, Riverside, CA 92501-3335.

On 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