

5 White Fence Farms 20

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

) Judicial Council Coordination
) Proceeding No. 4408

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**
18 **No. 40 v. Diamond Farming Co.**
19 Superior Court of California, County of Los
20 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**

20 **Los Angeles County Waterworks District**
21 **No. 40 v. Diamond Farming Co.**
22 Superior Court of California, County of Kern,
23 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)

22 **Wm. Bolthouse Farms, Inc. v. City of**
23 **Lancaster**
24 **Diamond Farming Co. v. City of Lancaster**
25 **Diamond Farming Co. v. Palmdale Water**
26 **Dist.**

25 Superior Court of California, County of
26 Riverside, consolidated actions, Case Nos. RIC
27 353 840, RIC 344 436, RIC 344 668

27 **AND RELATED ACTIONS.**

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.

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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.

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WHITE FENCE FARMS MUTUAL WATER COMPANY

I. CLAIMS OF OVERLYING GROUNDWATER RIGHTS:

1. Property situated with White Fence Farms Mutual Water Company (“White Fence Farms”):

a. Location of Property [Service Area]: 1280 acres; Bounded on Ave M to the North, South Boundary Ave N, East Boundary 20th St West, West Boundary 30th St West; and North Boundary Ave L, South Boundary Ave M, East Boundary 10th St West, West Boundary 20th St West. Though the owner of the water rights and the production, storage and distribution facilities is White Fence Farms 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 White Fence Farms Mutual Water Company “Attachment I.1.a.”

b. Ownership Information: White Fence Farms is an active California mutual benefit non-profit corporation, with an entity address of 41901 20th St. West, Palmdale, CA 93551. It was formed on June 17, 1948. Its Agent for Service of Process is Larry Jacobs at 41901 20th St. West, Palmdale, CA 93551. Its membership is comprised of the owners of the 514 mostly 2½ acre lots that are situated within its above-described service area. White Fence Farms’ 453 active meters serve the properties within the White Fence Farms 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): White Fence Farms owned two (2) metered wells that were 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): White Fence Farms operated the two (2) wells described in 1.c., above, during the years 2000 to 2004 and 2011 to 2012.

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

- 3 i. 2000: 681.6 acre feet
- 4 ii. 2001: 877.6 acre feet
- 5 iii. 2002: 815.6 acre feet
- 6 iv. 2003: 850.8 acre feet
- 7 v. 2004: 927 acre feet
- 8 vi. 2011: 989.2 acre feet
- 9 vii. 2012 [1/1 – 11/30]: 924.5 acre feet

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

13 g. Places of Groundwater Use: All groundwater produced by White
14 Fence Farms from the wells described in I.I.c., above, was used in its service area by its
15 members.

16 h. Uses of Parcels within Service Area: The properties within the
17 White Fence Farms service area are single family residential parcels (with the exception of 26
18 commercial buildings and 4 churches).

19 i. Crop Types: None.

20 j. Basis for Claim of Groundwater Rights: Upon the formation of the
21 mutual benefit, non-profit corporation, the overlying groundwater rights of the owners of the
22 properties within the service area (who became the initial shareholders) became the rights of the
23 mutual water company and have, ever since, been exercised by the mutual water company and
24 not by the individual property owners / shareholders. There was no known express reservation
25 of the overlying groundwater rights by the individual property owners at the time of formation.
26 The property owners / shareholders simply pooled their collective water and (through the mutual
27 water company) constructed, operated and maintained the production, storage and distribution

1 system by which they all receive water for their domestic purposes. Simply stated, the property
2 owners / shareholders exchanged their overlying water rights for the right to have water
3 delivered to their individual properties. See *Erwin v. Gage Canal Company* (1964) 226
4 Cal.App.2d 189; see also *Hildreth v. Montecito Creek Water Co.* (1903) 139 Cal. 22, 29; see also
5 *City of Glendale v. Crescenta etc. Water Co.* (1955) 135 Cal.App.2d 784,801. As such, each
6 shareholder has an interests in the water rights, production, storage and distribution facilities of
7 the mutual water company and has the right to receive water upon development and demand.

8 k. **Amount of Groundwater Claim:** 927 acre feet [highest “base period”
9 use].

10 a. **Other Facts Supporting Claim:** Pending receipt of additional
11 documentation and information.

12 2. **Property Lease Information:**

13 b. **Lease of Property:** White Fence Farms leased no property during the
14 years 2000 to 2004 and 2011 to 2012.

15 c. **Name of Lessee:** N/A.

16 d. **ATN/APNs:** N/A.

17 e. **Written Agreements Allocating Credits:** N/A.

18 f. **Lessee Delivery of Water:** N/A.

19 g. **Uses of Groundwater by Lessee:** N/A.

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

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

22 i. See White Fence Farms Mutual Water Company “Attachment
23 I.3.a.i.”

24 ii. Annual Statement – Cessation or Reduction of Groundwater for
25 October 1, 1999 – September 30, 2000

26 iii. Well #2 – Annual Notice of Groundwater Extraction for 2001
27

- 1 iv. Annual Statement – Cessation or Reduction of Groundwater for
- 2 October 1, 2000 – September 30, 2001
- 3 v. Annual Statement – Cessation or Reduction of Groundwater for
- 4 October 1, 2001 – September 30, 2002
- 5 vi. Annual Statement – Cessation or Reduction of Groundwater for
- 6 October 1, 2002 – September 30, 2003
- 7 vii. Well No. 3 WFF – Annual Notice of Groundwater Extraction for
- 8 2003
- 9 viii. Well No. 3 WFF – Annual Notice of Groundwater Extraction for
- 10 2004
- 11 ix. Well No. 2 – Annual Notice of Groundwater Extraction for 2004
- 12 x. Pending receipt of additional documentation and information.
- 13 b. **Prima Facie Property Uses Materials:**
- 14 i. See White Fence Farms Mutual Water Company “Attachment
- 15 **I.3.b.i.”**
- 16 ii. Pending receipt of additional documentation and information.
- 17 c. **Additional Materials:**
- 18 i. See White Fence Farms Mutual Water Company “Attachment
- 19 **I.3.c.i.”**
- 20 ii. California Secretary of State, Business Entity Detail (December
- 21 14, 2012).
- 22 iii. Pending receipt of additional documentation and information.

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

- 24 1. **Specifically Requested Non-Overlying Information:**
- 25 a. **Amount of Production:** None.
- 26 b. **ATN/APNs:** N/A.
- 27 c. **Well Information:** N/A.

- 1 d. Amount of Water Produced: N/A.
- 2 e. Methodology Used to Quantify Claim: N/A.
- 3 f. Reports to State Water Resources Control Board (2000 to 2004): N/A.
- 4 g. Uses other than Municipal Supply (2000 to 2004 and 2011 to 2012):
- 5 N/A.
- 6 h. Water for Outdoor Irrigation: N/A.

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

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

- 9 a. Amount of Pumping of Return Flows from Imported Water: 45%.
- 10 b. Amount of Return Flows Pumped:
 - 11 i. 2000: 86.4 acre feet
 - 12 ii. 2001: 99 acre feet
 - 13 iii. 2002: 140.0 acre feet
 - 14 iv. 2003: 127.4 acre feet
 - 15 v. 2004: 93.6 acre feet
 - 16 vi. 2011: 70.5 acre feet
 - 17 vii. 2012 [1/1 – 11/30]: 88.8 acre feet

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

- 22 d. Amount of Water Imported:
 - 23 i. 2000: 192 acre feet
 - 24 ii. 2001: 220 acre feet
 - 25 iii. 2002: 311 acre feet
 - 26 iv. 2003: 283 acre feet
 - 27 v. 2004: 208 acre feet

- 1 vi. 2011: 156.7 acre feet
- 2 vii. 2012 [1/1 – 11/30]: 197.4 acre feet
- 3 e. **Water Quality Information:** Water delivered from AVEK is
- 4 reported to satisfy regulatory potability standards.
- 5 f. **Uses of Imported Water:** During the years 2000 to 2004 and 2011 to
- 6 2012, White Fence Farms used the water imported from AVEK described in III.1.d., above, for
- 7 the provision of domestic water service to its mutual members.
- 8 g. **Dates of Importation of Water:** Since the 1983.
- 9 h. **Geological Conditions Beneath Properties:** Pending receipt of data.
- 10 i. **Depth of Aquifer and Soil Type Beneath Surface:** Pending
- 11 receipt of data.
- 12 j. **Time for Percolation to Aquifer:** Pending receipt of data.
- 13 k. **Physical Evidence that Return Flows Augment Basin:** Pending
- 14 receipt of data.
- 15 l. **Geological Locations that Return Flows Augment Basin:** Pending
- 16 receipt of data.
- 17 m. **Return Flows Entering Municipal Sewer System:** Almost none.
- 18 All but 15 of the 514 White Fence Farms Mutual Water Company properties are on septic, not
- 19 sewer.
- 20 n. **Locations of Return Flows Wastewater Augmenting Basin:** From
- 21 the septic tanks situated on each of the properties within White Fence Farms Mutual Water
- 22 Company.

23 IV. FOR THE FEDERAL PARTIES: N/A.

24 V. FOR ALL RESPONDING PARTIES:

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

26 a. Non-Expert Witness(es): John Ukkestad

27 b. Expert Witness(es): Barry Munz

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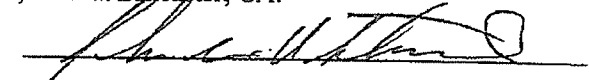
2. Verification by Authorized Individual:

Declaration under Penalty of Perjury:

I, John Ukkestad, am the General Manager of the White Fence Farms 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 2 / day of December, 2012 at Lancaster, CA.


JOHN UKKESTAD

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- 1 Dec -

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

1 DATED: December 21, 2012

Respectfully submitted,

2 GRESHAM SAVAGE NOLAN & TIDEN, PC

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4
5 By: 
6 MICHAEL DUANE DAVIS, ESQ.
7 MARLENE L. ALLEN-HAMMARLUND, ESQ.
8 Attorneys for CROSS-DEFENDANT / CROSS-
9 COMPLAINANT, A. V. UNITED MUTUAL GROUP;
10 and CROSS-DEFENDANTS, ADAMS BENNETT
11 INVESTMENTS, LLC, MIRACLE IMPROVEMENT
12 CORPORATION dba GOLDEN SANDS MOBILE
13 HOME PARK, aka GOLDEN SANDS TRAILER
14 PARK [ROE 1121], ST. ANDREW'S ABBEY, INC.
15 [ROE 623], SERVICE ROCK PRODUCTS, L.P., and
16 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

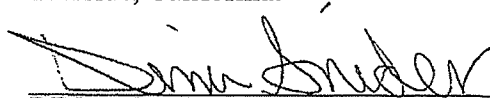
I am employed in the County of Riverside, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 3750 University Avenue, Suite 250, Riverside, CA 92501-3335.

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