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11 Service Rock Products Corporation, as successor-  
12 in-interest to Owl Properties, Inc., and Sheep  
13 Creek Water Company, Inc.

14  
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16  
17 **IN AND FOR THE COUNTY OF LOS ANGELES**

18 Coordination Proceeding  
19 Special Title (Rule 1550(b))

) Judicial Council Coordination  
) Proceeding No. 4408

20 **ANTELOPE VALLEY GROUNDWATER**  
21 **CASES**

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

22 Including Actions:

23 Los Angeles County Waterworks District No.  
24 40 v. Diamond Farming Co.  
25 Superior Court of California, County of Los  
26 Angeles, Case No. BC 325 201

) **NOTICE OF EX PARTE APPLICATION**  
) **AND APPLICATION BY SERVICE**  
) **ROCK PRODUCTS CORPORATION**  
) **AND SHEEP CREEK WATER**  
) **COMPANY, INC. FOR AN EXTENSION**  
) **OF TIME TO DESIGNATE AND TO**  
) **SUBMIT EXPERT DESIGNATIONS;**  
) **MEMORANDUM OF POINTS AND**  
) **AUTHORITIES IN SUPPORT**  
) **THEREOF**

27 Los Angeles County Waterworks District No.  
28 40 v. Diamond Farming Co.  
Superior Court of California, County of Kern,  
Case No. S-1500-CV-254-348

Wm. Bolthouse Farms, Inc. v. City of  
Lancaster

) [TELEPHONIC APPEARANCE]

Diamond Farming Co. v. City of Lancaster  
Diamond Farming Co. v. Palmdale Water Dist.  
Superior Court of California, County of  
Riverside, consolidated actions, Case Nos. RIC  
353 840, RIC 344 436, RIC 344 668

) DATE: June 25, 2008  
) TIME: 8:15 a.m.  
) DEPT.: 17

AND RELATED ACTIONS.

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1 Based upon *California Rule of Court*, Rule 3.1202(c), Cross-Defendants Service Rock  
2 Products Corporation, as successor-in-interest to Owl Properties, Inc., ("Service Rock") and  
3 Sheep Creek Water Company, Inc. ("Sheep Creek") apply to this Court for relief from the June  
4 27, 2008 expert designation deadline as set forth in the Court's May 27, 2008 *Amended Order*  
5 *After Case Management Conference*. Service Rock and Sheep Creek request that the Court  
6 extend their time to designate and to submit their expert designations for a period of sixty (60)  
7 days. This request will be made at 8:15 a.m. on June 25, 2008 before the Honorable Jack Komar  
8 sitting in Department 17 of the Superior Court for the State of California, County of Santa Clara.

9 Notice is provided by way of electronic filing and posting on the website in this matter.

10 Good cause exists for this Application in that it is impossible for Service Rock and Sheep  
11 Creek to meet the June 27, 2008 deadline, because no appropriate qualified experts have yet been  
12 located, since they have either already consulted with or been retained by other parties. (See,  
13 *Black Historical Society v. City of San Diego* (2005) 134 Cal.App.4th 670, 676.) Sheep Creek  
14 and Service Rock continue with their search, including potential experts from outside California.

15 This Application is based upon this Notice and Application, the Declaration of Michael  
16 Duane Davis, the files in this case, and all other pleadings or arguments submitted to the Court in  
17 this matter.

18  
19 Dated: June 24, 2008

GRESHAM SAVAGE NOLAN & TILDEN,  
A Professional Corporation

20  
21  
22 By: 

Michael Duane Davis  
Marlene L. Allen-Hammarlund  
Jamie E. Wrage  
Attorneys for Cross-Defendants, Service Rock  
Products Corporation, as successor-in-interest to  
Owl Properties, Inc., and Sheep Creek Water  
Company, Inc.

1     **I.       INTRODUCTION**

2             Pursuant to the Court's prior direction and its May 27, 2008 Amended Order After Case  
3     Management Conference, Cross-Defendants Service Rock Products Corporation, as successor-  
4     in-interest to Owl Properties, Inc., ("Service Rock") and Sheep Creek Water Company, Inc.  
5     ("Sheep Creek") respectfully request relief from the June 27, 2008 expert designation deadline.  
6     Service Rock and Sheep Creek request a sixty (60) day extension to designate experts. Sheep  
7     Creek and Service Rock believe that they will be able to either identify and designate an expert  
8     or experts qualified to testify to the geology and hydrology in the immediate areas of their  
9     respective properties within the period of the requested extension; or, possibly designate one or  
10    more of the experts presently being considered by the landowner-group Antelope Valley  
11    Groundwater Agreement Association ("AGWA"), which designation deadline has been extended  
12    by the Court to July 25, 2008.

13            Service Rock and Sheep Creek are landowners within the jurisdictional boundaries of the  
14    basin as determined by this Court in Phase One. They make this request to the Court because,  
15    despite diligent efforts, they have been unsuccessful in identifying and engaging an expert(s) to  
16    testify on the geological and hydrological conditions, and in particular surface water flows and  
17    groundwater migration, at the locations of their respective properties. Service Rock and Sheep  
18    Creek need additional time to continue the search outside of California or, if necessary and  
19    agreed to by the parties involved, to designate the same expert witness or witnesses ultimately  
20    retained by other landowners in the case. *Declaration of Michael Duane Davis* ("Davis Dec."),  
21    ¶2.

22     **II.     DESPITE DILIGENT EFFORTS TO RETAIN AN EXPERT IN CALIFORNIA,**  
23     **SERVICE ROCK AND SHEEP CREEK WILL BE UNABLE TO MEET THE**  
24     **JUNE 27, 2008 DESIGNATION DEADLINE**

25            Service Rock and Sheep Creek are situated differently in this litigation from most of the  
26    other non-public agency parties. Sheep Creek's properties are located on the southeastern  
27    jurisdictional boundary on the Adjudication area, bounding the Los Angeles / San Bernardino  
28    County line, where no other known interested party defendants are located. Service Rock also

1 has properties in the far southeastern corner of the Adjudication area, and in the Littlerock Creek  
2 area. *Davis Dec.*, ¶3.

3 Unlike any other party, to some extent, production from Sheep Creek's properties  
4 bounding the Los Angeles / San Bernardino County line for service to its mutual customers in  
5 the community of Phelan in San Bernardino County emanates from an earlier decision of the  
6 Division of Water Rights and the judgment in an earlier action between the County of Los  
7 Angeles and Sheep Creek. Likewise, well levels in the Service Rock wells serving the Littlerock  
8 Creek properties fluctuate seasonally, rather than indicating a declining groundwater table.  
9 *Davis Dec.*, ¶4.

10 The fact that Service Rock and Sheep Creek have issues which are unique means that to  
11 protect their interests, they must retain an expert or experts to address very specifically the  
12 hydrologic and geologic conditions in the areas where their properties are located. If Service  
13 Rock and Sheep Creek do not raise these issues via their own expert reports, they have no  
14 expectation that any other landowners' experts will raise or address the necessary issues. *Davis*  
15 *Dec.*, ¶5.

16 Counsel for Service Rock and Sheep Creek has been trying for approximately two (2)  
17 months to locate experts to retain for their own analysis and reports. Numerous experts were  
18 contacted directly and through other landowners' counsel. Unfortunately, many of the experts  
19 contacted have conflicts because they have already consulted with or have been retained by other  
20 parties, most notably the public water purveyors; and others did not appear to have the requisite  
21 qualifications to testify on the specific issues required by Service Rock and Sheep Creek. *Davis*  
22 *Dec.*, ¶6.

23 Because of the unique characteristics of the Antelope Valley Basin, Sheep Creek and  
24 Service Rock initially sought experts with existing experience dealing with Southern California  
25 hydrogeology issues. As it became apparent that those experts had already consulted with or  
26 been retained by other parties, raising conflicts that prevent those experts from working for  
27 Service Rock or Sheep Creek (or other landowners) on this matter, Sheep Creek was forced to  
28 look elsewhere for experts. *Davis Dec.*, ¶7.


1 The search for an expert for Service Rock and Sheep Creek, in conjunction with other  
2 landowners' counsel also searching for experts, was conducted throughout all of California, yet  
3 counsel was still was unable to locate a qualified expert who did not have a conflict. The search  
4 for an expert has now been expanded to other states, but thus far a qualified expert willing to  
5 take the case has still not been located. *Davis Dec.*, ¶18.

6  
7 **III. SERVICE ROCK AND SHEEP CREEK REQUEST A 28-DAY**  
8 **EXTENSION OF ITS TIME TO DISCLOSE THEIR EXPERT(S)**

9 Service Rock and Sheep Creek require more time to complete their search for an expert  
10 or experts. Counsel for Service Rock and Sheep Creek have spoken with AGWA and believe  
11 that, as a fall back position, they may be able to designate an expert from one of the experts now  
12 being considered by AGWA. *Davis Dec.*, ¶19. As AGWA's deadline to designate experts has  
13 been extended to July 25, 2008, Service Rock and Sheep Creek request that their deadline be  
14 extended to approximately thirty (30) days beyond AGWA's deadline, so that they can evaluate  
15 their designation options after AGWA's designation has occurred. As other parties are seeking  
16 like extentions of their deadlines to designate experts, this requested extension should not  
17 inconvenience the other parties or disproportionately affect the litigation schedule. While  
18 Service Rock and Sheep Creek will continue to do whatever it takes to locate a qualified,  
19 available expert to comply with any deadline set by the Court, Service Rock and Sheep Creek  
20 suggest that a sixty (60) day extension is appropriate given the current circumstances.

21  
22 Dated: June 24, 2008

GRESHAM SAVAGE NOLAN & TILDEN,  
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24  
25 By:   
26 Michael Duane Davis  
27 Marlene L. Allen-Hammarlund  
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