

1 Michael Duane Davis, State Bar No. 93678  
2 Marlene Allen-Hammarlund, State Bar No. 126418  
3 **GRESHAM SAVAGE NOLAN &**  
4 **TILDEN, A Professional Corporation**  
5 3750 University Avenue, Suite 250  
6 Riverside, CA 92501-3335  
7 Telephone: (951) 684-2171  
8 Facsimile: (951) 684-2150

9 Attorneys for Cross-Defendant,  
10 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  
14 Special Title (Rule 1550(b))

) Judicial Council Coordination  
) Proceeding No. 4408

15 ANTELOPE VALLEY GROUNDWATER  
16 CASES

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

17 Including Actions:

) **TRIAL BRIEF; WITNESS AND**  
) **EXHIBIT LIST**

18 Los Angeles County Waterworks District No.  
19 40 v. Diamond Farming Co.  
20 Superior Court of California, County of Los  
21 Angeles, Case No. BC 325 201

) DATE: October 6, 2008  
) TIME: 9:00 a.m.  
) DEPT: 1

22 Los Angeles County Waterworks District No.  
23 40 v. Diamond Farming Co.  
24 Superior Court of California, County of Kern,  
25 Case No. S-1500-CV-254-348

26 Wm. Bolthouse Farms, Inc. v. City of  
27 Lancaster  
28 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

29 **AND RELATED CROSS-ACTIONS.**

30 Sheep Creek Water Company ("Water Company") submits this Trial Brief; Witness and  
31 Exhibit List to the Court in connection with the Phase II Trial which is currently scheduled to  
32 commence on October 6, 2008.

1           **I. TRIAL BRIEF**

2           The Water Company hereby refers to, and incorporates herein by this reference, its  
3 *Motion to be Excluded from the Antelope Valley Groundwater Adjudication or, in the*  
4 *alternative, for Recognition of its Prior Rights to the Waters of Sheep Creek* (the "Motion") as its  
5 Trial Brief in this matter. That Motion was filed with this Court on September 10, 2008. The  
6 issues relating to the Water Company's Property are thoroughly set forth in that Motion. The  
7 evidence presented therein and in the Declaration of the Water Company's expert witness, Dr.  
8 Ram Arora, and the Water Company's General Manager, Chris Cummings, will be the issues  
9 and evidence to be presented at the Trial, to the extent that the Court does not rule on those  
10 issues prior to the commencement of the Trial.

11           The Water Company's Motion was scheduled to be heard on October 3, 2008, prior to the  
12 commencement of the Trial on October 6, 2008. The Motion has now been continued to the  
13 morning of the trial. The Water Company has requested that the Court grant the Motion on at  
14 least on the following issues prior to the commencement of Trial: (1) that the Water  
15 Company's Property is located in the El Mirage Basin, not the Antelope Valley Groundwater  
16 Basin; (2) that there is no material hydrogeologic connectivity between the El Mirage Basin and  
17 the Antelope Valley Groundwater Basin in the general vicinity of the Water Company's  
18 Property; and (3) that the waters of Sheep Creek arise and remain in the El Mirage Basin, and the  
19 waters extracted from the Water Company's Property are derivative of the waters of Sheep  
20 Creek, in the El Mirage Basin.

21           If the Courts grants the Motion on the above-referenced issues, the Water Company may  
22 not need to participate in the Phase II Trial. However, should any of those issues not be resolved  
23 prior to the commencement of the Trial, the Water Company refers to the arguments and  
24 evidence presented in its Motion.

25  
26           **II. WITNESS LIST**

- 27           A. Dr. Ram Arora (designated expert)  
28           B. Chris Cummings (General Manager of Sheep Creek)

1 The Water Company offers the Declarations of Chris Cummings and Dr. Ram Arora, and  
2 the exhibits thereto, that were filed in support of its Motion, as the testimony to be presented in  
3 connection with the Phase II Trial. Since there has not been any evidence or testimony presented  
4 thus far that contradict either Mr. Cummings or Dr. Arora's testimony contained in their  
5 Declarations, the Water Company requests that this Court permit these Declarations to be  
6 presented in lieu of live testimony at the Phase II Trial. To the extent that the Court requires live  
7 testimony, or any party wishes to cross-examine Dr. Arora or Mr. Cummings, the Water  
8 Company will arrange to have them appear in person. Since Dr. Arora resides out-of-state, the  
9 Water Company hereby requests at least forty-eight (48) hours notice of any requirement that Dr.  
10 Arora appear in Court.

11 **III. EXHIBIT LIST**

12 Sheep Creek hereby designates the Exhibits attached to its Motion and those attached to  
13 the Declaration of Dr. Ram Arora as the exhibits for the purpose of the Phase II Trial. Those  
14 exhibits include the following:

15 **Exhibits to Motion**

- 16 **A** USGS / National Geographic Quadrangle Map [Scale 1:30,750]  
17 overlain with Sheep Creek Water Company "District" boundaries  
and San Bernardino County Well Field
- 18 **B** Sheep Creek Water Company, ByLaws, Section 8.04
- 19 **C** California Department of Water Resources, *Bulletin 118, California's*  
20 *Groundwater*, Update 2003
- 21 **D** California Regional Water Quality Control Board, *Water Quality*  
*Control Plan for the Lahontan Region*, fig. Plate 1B
- 22 **E** *El Mirage Valley Groundwater Basin*, attachment to California  
23 Department of Water Resources, *Bulletin 118, California's*  
*Groundwater*, Update 10/1/2003
- 24 **F** *General Introductions and Hydrologic Definition*, Manual of Hydrology  
25 Part 1. General Surface-Water Techniques, Langbein and Iseri,  
Geological Survey Water-Supply Paper 1541-A (1960)
- 26 **G** *Movement and Age of Groundwater in the Western Part of the*  
27 *Mojave Desert, Southern California, USA*, Izbicki and Michel,  
U.S. Geological Survey, Water-Resources Investigations  
28 Report 03-4314 (2004)

- 1 **H** Composite of six (6) USGS / National Geographic 1:30,750 scale  
2 maps of the El Mirage Basin and southeastern Antelope Valley  
3 Groundwater Basin, overlain with Bloyd, Carlson et al,  
4 **I** *Data from a Thick Unsaturated Zone Underlying Oro Grande and*  
5 *Sheep Creek Washes in the Western Part of the Mojave Desert,*  
6 *near Victorville, San Bernardino County, California, Izbicki, Clark,*  
7 *Pimentel, Land, Radyk and Michel, U.S. Geological Survey Open-*  
8 *File Report 00-262 (2000)*
- 9 **J** *Sources and Movement of Ground Water in the Western Part of the*  
10 *Mojave Desert, Southern California, USA, Izbicki, U.S. Geological*  
11 *Survey, Water-Resources Investigations Report 03-4313 (2004)*
- 12 **K** *Water-Level Changes (1975-98) in the Antelope Valley, California,*  
13 *Carlson and Phillips, U.S. Geological Survey, Open-File Report*  
14 *98-561 (1998)*
- 15 **L** *Simulation of Ground-Water Flow and Land Subsidence, Antelope*  
16 *Valley Ground-Water Basin, California, Leighton and Phillips,*  
17 *U.S. Geological Survey, Water-Resources Investigations*  
18 *Report 03-4016 (2003)*
- 19 **M** *Revised Order after Hearing on Jurisdictional Boundaries,*  
20 *signed by Judge Jack Komar, March 12, 2007*
- 21 **N** Map of Antelope Valley Jurisdictional Boundary with Property location
- 22 **O** *Technical Memorandum Ground-Water Basin and Subbasin*  
23 *Boundaries Antelope Valley Ground-Water Basin, Joseph C.*  
24 *Scalmanini et al. (2002), fig. Plate 1 [Antelope Valley court*  
25 *document, parties: Bunn, Thomas, Filing date 5/3/06]*
- 26 **P** County of Los Angeles Assessor's Map, bk. 3089, p. 12
- 27 **Q** Mojave Basin Adjudication Appendix A with Service Area  
28 and Production Area overlaid
- R** County of San Bernardino, Phelan/Pinon Hills Community Plan,  
February 2007, p. 35, ¶ 3
- S** Map of Sheep Creek Water Company's Well Field
- T** USGS Geological Map Data for El Mirage Area,  
San Bernardino and Los Angeles Counties, California
- U** Cross-Complaint of Municipal Purveyors for Declaratory Relief  
and Injunctive Relief and Adjudication of Water Rights
- Exhibits to Dr. Arora's Declaration**
- 1** Curricula Vitae of Dr. Ram Arora
- Figures 1 and 2** – Interaction of Groundwater and Surface Water

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  
28

Additional Exhibit

Deed evidencing ownership of Property by Sheep Creek Water Company, Inc.

The Water Company respectfully submits this Trial Brief; Witness and Exhibit List in connection with the Phase II Trial.

Dated: September 26, 2008

GRESHAM SAVAGE NOLAN & TILDEN,  
A Professional Corporation

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

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  
28

**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 September 26, 2008, I served the foregoing document(s) described as **TRIAL BRIEF; WITNESS AND EXHIBIT LIST** 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 September 26, 2008, at Riverside, California.

  
TERI D. GALLAGHER