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SHEEP CREEK WATER COMPANY, INC.
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF LOS ANGELES**
10

11 Coordination Proceeding
Special Title (Rule 1550(b))

) Judicial Council Coordination
) Proceeding No. 4408
)

12 **ANTELOPE VALLEY GROUNDWATER**
13 **CASES**

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

14 Including Actions:

15 **Los Angeles County Waterworks District**
16 **No. 40 v. Diamond Farming Co.**

Superior Court of California, County of Los
Angeles, Case No. BC 325 201

) **[PROPOSED] STIPULATION**
) **REGARDING THE DEPOSITION AND**
) **TRIAL TESTIMONY OF CROSS-**
) **DEFENDANT SHEEP CREEK WATER**
) **COMPANY, INC.**
)

17 **Los Angeles County Waterworks District**
18 **No. 40 v. Diamond Farming Co.**

Superior Court of California, County of Kern,
19 Case No. S-1500-CV-254-348

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

21 **Diamond Farming Co. v. City of Lancaster**
22 **Diamond Farming Co. v. Palmdale Water**
Dist.

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

24 AND RELATED ACTIONS.
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1 This *Stipulation Regarding the Deposition and Trial Testimony of Cross-Defendant*
2 **SHEEP CREEK WATER COMPANY, INC.** ("Sheep Creek") is submitted in connection with
3 the deposition currently scheduled for Wednesday, January 23, 2013, at 9:00 a.m. and the Phase
4 4 Trial which is currently scheduled for Monday, February 11, 2013, in the above matter.

5 Sheep Creek has provided, under penalty of perjury, the facts, information and
6 documents submitted to the Court and posted on the Court's website on December 21, 2012,
7 including, but not limited to, the following:

8 1. Sheep Creek holds fee title to two parcels of real property totaling approximately
9 2.35 acres located in the extreme eastern portion of the Area of Adjudication on the Los Angeles
10 / San Bernardino County line (the "Los Angeles County Properties") and which are identified by
11 Assessor's Identification Number ("AIN") as follows:

12 a. AIN 3089-012-004, acquired by grant deed on December 14, 2005.

13 b. AIN 3089-012-008, acquired by grant deed on December 15, 2005.

14 The Sheep Creek service area is located entirely outside of the Area of Adjudication in a nine (9)
15 square mile area of the unincorporated Community of Phelan, County of San Bernardino.

16 Reference: *Cross-Defendant, Sheep Creek Water Company's* (verified)
17 *Information and Materials Responsive to December 12, 2012 Discovery Order for*
18 *Phase 4 Trial* ("Discovery Responses"), Paragraphs ("¶") I.1.a., I.1.a.i., I.1.a.ii.,
19 I.1.j.iii., I.3.b.i., I.3.b.ii., I.3.b.iii., I.3.b.iv., I.3.b.v.; Grant Deed from Gloria M.
20 Henry, Surviving Trustee of the Henry Revocable Trust, to Sheep Creek Water
21 Company, a Mutual Corporation, dated December 14, 2005, Los Angeles County
22 Recordation No. 060224419, conveying **AIN 3089-012-004**; Grant Deed from
23 Melvin W. Wingler and Margie Wingler, Husband and Wife as Joint Tenants,
24 dated December 15, 2005, Los Angeles County Recordation No. 060101045,
25 conveying **APN 3089-012-008**.

26 2. Sheep Creek is an active California mutual benefit non-profit corporation, with an
27 entity address of Post Office Box 291820, Phelan, CA 92329. It was formed on January 7, 1914.

1 Its membership is comprised of the owners of lots of varying sizes that are situated within its
2 above-described service area outside of the Area of Adjudication. Sheep Creek's 1,380 service
3 connections within the Community of Phelan served an approximate population of 3,175.

4 Reference: *Discovery Responses* ¶¶ I.1.b., I.3.c.i., I.3.c.ii., I.3.c.iii., I.3.c.iv.,
5 I.3.c.v.; California Secretary of State, Business Entity Detail (December 14,
6 2012); Articles of Incorporation of the Sheep Creek Water Company, with
7 Amendments dated December 5, 1913, October 11, 1956, March 25, 1969,
8 July 10, 1969, and August 3, 1978, and February 26, 1980; State of California
9 Department of Health Water Supply Permit No. 78-007 to furnish or supply water
10 for domestic purposes to Phelan, California and vicinity (February 6, 1978); By-
11 Laws of Sheep Creek Water Company.

12 3. In December 2005, prior to being joined in the present adjudication, Sheep Creek
13 purchased the Los Angeles County Properties described above with the intent of drilling a well
14 for the purpose of exporting groundwater to its service area in San Bernardino County pursuant
15 to an entitlement of 3,000 AF/yr (explained below). Sheep Creek was later joined in the present
16 groundwater adjudication when it was served with the *Cross-Complaint of Municipal Purveyors*
17 *For Declaratory and Injunctive Relief and Adjudication of Water Rights*. Though Sheep Creek
18 drilled a well in April 2007 on one of its Los Angeles County parcels (AIN 3089-012-004)
19 located within the Area of Adjudication (the "Los Angeles County Well"), it has not produced
20 groundwater from the Los Angeles County Well for any purpose other than testing, including
21 exportation to its service area in San Bernardino County, due to an earlier order of this court
22 prohibiting exportation of groundwater out of the Area of Adjudication.

23 Reference: *Discovery Responses* ¶¶ I.1.c., I.1.d., I.1.e., I.1.g., I.1.h, I.3.a.iv,
24 I.3.a.v., I.3.a.vi., I.3.a.vii., I.3.a.viii.; March 7, 2007 Well Permit Application for
25 production well on Los Angeles County AIN 3089-012-004; April 28, 2007 Well
26 Completion Report No. e052356; May 2007 Well Development materials
27 provided by Farm Pump and Irrigation, Co., Inc.; April 4, 2007 and April 9, 2007
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1 invoices from H2-0 To Go for delivery of well development water used on AIN
2 3089-012-004; April 12, 2007 invoice from Desert Design General Engineering
3 Contractor for delivery of well development water used on AIN 3089-012-004.

4 **4.** Sheep Creek did not operate the Los Angeles County Well, or produce
5 groundwater from within the Area of Adjudication, during the years 2000 to 2004 and 2011 to
6 2012.

7 Reference: *Discovery Responses* ¶¶ I.1.c., I.1.d., I.1.e., I.1.g., I.1.h.

8 **5.** Sheep Creek did not produce groundwater from within the Area of Adjudication
9 during the years 2000 to 2004 and 2011 to 2012.

10 Reference: *Discovery Responses* ¶¶ I.1.c., I.1.d., I.1.e., I.1.g., I.1.h.

11 **6.** Sheep Creek does not intend to produce groundwater originating within the Area
12 of Adjudication from the Los Angeles County Well or from any other source within the Area of
13 Adjudication. However, Sheep Creek seeks to use the parcels of real property located within the
14 Area of Adjudication to receive water from outside the Area of Adjudication, inject or spread
15 and store that water imported from its Sheep Creek Canyon Well Field in an amount of up to
16 2,000 AF/yr (the “Imported Water”) pursuant Sheep Creek’s remaining annual entitlement under
17 a 1926 order of the California Department of Public Works (explained below), and return that
18 imported and stored water to its service area in Phelan, County of San Bernardino, in order to
19 mitigate the effects of severe seasonal water shortages and provide a steady water supply to its
20 members.

21 Reference: *Discovery Responses* ¶ I.1.h.ii.

22 **7. Basis for Claim of Groundwater Rights:**

23 **a. Sheep Creek’s 3,000 AFY Entitlement Pursuant to 1926 Order of**
24 **California Department of Public Works:** Sheep Creek was awarded an entitlement to pump up
25 to 3,000 AF/yr pursuant to the State of California, Division of Water Rights, Department of
26 Public Works Decision No. 3883 D-119, decided on August 24, 1926, which reads in pertinent
27 part: “IT IS HEREBY ORDERED that said application No. 3883 be approved for 3,000 acre feet
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1 per annum only and a permit be granted to the applicant subject to such of the usual terms and
2 conditions as may be appropriate.” The Order is signed by Edward Hyatt, Jr., who was the Chief
3 of Division of Water Works, on August 24, 1926 (the “1926 Order”). Sheep Creek intends to
4 exercise this right outside the Area of Adjudication.

5 Reference: *Discovery Responses ¶¶ I.1.j.i., I.1.k.; In the Matter of Application No.*
6 *3883 of the Sheep Creek Water Company to Appropriate From Surface and Sub-*
7 *Surface Flow of Sheep Creek, Tributary to the Mojave Desert Drainage Area in*
8 *San Bernardino County for Irrigation and Domestic Purposes*, dated August 24,
9 1926 (1926 Order) .

10 **b. The 1931 Stipulation for Judgment:** Subsequent to the entry of the 1926
11 Order, the County of Los Angeles and other plaintiffs filed suit against Sheep Creek concerning
12 an old shaft that had been constructed by Sheep Creek. The parties to that lawsuit, which was
13 filed in Riverside County Superior Court as Case No. 15585, entered into an Agreement of
14 Parties in Connection with Stipulation for Judgment (the “Stipulation for Judgment”), which was
15 signed on September 24, 1931. That Judgment resulted in a line being drawn extending east and
16 west across Sheep Creek, with Sheep Creek being restricted to taking water that flows out of
17 Sheep Creek Canyon to the north of the line, and Los Angeles County being restricted to taking
18 water that flows to the south of the line. Despite this change to Sheep Creek’s pumping location,
19 Sheep Creek maintained its 3,000 AF/yr entitlement under the 1926 Order. Sheep Creek intends
20 to exercise this right outside the Area of Adjudication.

21 Reference: *Discovery Responses ¶¶ I.1.j.ii.; Agreement of Parties in Connection*
22 *with Stipulation for Judgment (the “1931 Stipulation for Judgment”), Engineer’s*
23 *Report, Judgment, Stipulation, and Order of Temporary Injunction.*

24 **c. Sheep Creek’s Current Production Outside the Area of Adjudication**
25 **Pursuant to Entitlement:** Sheep Creek currently produces water from its Sheep Creek Canyon
26 Well Field which is located outside of the Area of Adjudication in San Bernardino County.
27 Sheep Creek’s production from this facility ranges between 1,000 and 1,200 AF/yr.
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1 Reference: *Discovery Responses* ¶¶ I.1.a., I.1.b., I.1.j.iii.; State of California
2 Department of Health Water Supply Permit No. 78-007 to furnish or supply water
3 for domestic purposes to Phelan, California and vicinity (February 6, 1978).

4 **8. Amount of Groundwater Claim:** Pursuant to the 1926 Order, Sheep Creek is
5 entitled to produce an additional amount of between 1,800 and 2,000 AF/yr over its current
6 production level. Sheep Creek intends to exercise this right outside the Area of Adjudication.

7 Reference: *Discovery Responses* ¶ I.1.k.

8 **9.** Sheep Creek did not lease property to anyone during the Base Period years of
9 2000 to 2004 or the recent years of 2011 to 2012.

10 Reference: *Discovery Responses* ¶ I.2.a.

11 **10.** Sheep Creek did not import or acquire any imported water from the Antelope
12 valley – East Kern Water Agency, Palmdale Water District, Littlerock Creek Irrigation District
13 or any other entity having rights to State Water Project water, during the Base Period years of
14 2000 to 2004 or the recent years of 2011 to 2012.

15 Reference: *Discovery Responses* ¶ III.1.d.

16 **11.** Sheep Creek claims an unexercised overlying water right, in addition to the
17 riparian rights set forth above. Sheep Creek claims no other groundwater rights that are the
18 subject of this Adjudication for purposes of the Phase 4 Trial, and claims no return flows.

19 Reference: *Discovery Responses* ¶¶ I.1.a.i., I.1.k., III.1.a.

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IT IS SO STIPULATED.

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1 Dated: January ___, 2013.

RICHARDS, WATSON & GERSHON

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3 By: _____
4 Steven Orr
5 James L. Markman
6 Attorneys for Cross-Defendant, City of Palmdale

7 Dated: January ___, 2013.

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13 Dated: January ___, 2013.

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18 Dated: January ___, 2013.

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20 Wayne Lemieux
21 Attorneys for Littlerock Creek Irrigation District,
22 Palm Ranch Irrigation District, et al.

23 Dated: January ___, 2013.

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24 By: _____
25 Thomas Bunn III
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27 District

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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 January 15, 2013, I served the foregoing document(s) described as **[PROPOSED] STIPULATION REGARDING THE DEPOSITION AND TRIAL TESTIMONY OF CROSS-DEFENDANT SHEEP CREEK WATER COMPANY, INC.** 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 January 15, 2013, at Riverside, California.

Dina M. Snider
DINA M. SNIDER