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AQUA-J MUTUAL WATER COMPANY, INC.,
a member of the Antelope Valley United Mutual Group

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

Coordination Proceeding
Special Title (Rule 1550(b))

) Judicial Council Coordination
) Proceeding No. 4408

**ANTELOPE VALLEY GROUNDWATER
CASES**

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

Including Actions:

**Los Angeles County Waterworks District
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 AQUA-J MUTUAL
WATER COMPANY, INC., A MEMBER
OF THE ANTELOPE VALLEY UNITED
MUTUAL GROUP**

**Los Angeles County Waterworks District
No. 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**
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

AND RELATED ACTIONS.

1 This *Stipulation Regarding the Deposition and Trial Testimony of Cross-Defendant*
2 **AQUA-J MUTUAL WATER COMPANY, INC.**, a member of the Antelope Valley United
3 Mutual Group, is submitted pursuant to Paragraph 2 of the Court's January 17, 2013 *First*
4 *Amendment to Case Management Order for Phase Four Trial* and in connection with the
5 deposition and trial testimony therefore, which Trial which is currently scheduled to commence
6 on May 28, 2013, in the above-encaptioned matter.

7 Aqua-J Mutual Water Company, Inc. ("Aqua-J") has provided, under penalty of perjury,
8 the facts, information and documents submitted to the Court and posted on the Court's website
9 on December 21, 2012 (the "*Discovery Responses*") and on January 29, 2013 (the "*Supplemental*
10 *Discovery Responses*"), including, but not limited to, the following:

11 1. Aqua-J is an active California mutual benefit non-profit corporation, with an
12 entity address of 44503 N 92nd St East, Lancaster, CA 93535. It was formed on January 7,
13 1953. Its membership is comprised of the owners of the 98 mostly 1¼ acre lots that are situated
14 within its below-described service area. Aqua-J's 48 active meters serve the improved real
15 properties within the Aqua-J service area, and stand by to serve the unimproved properties when
16 improved.

17 Reference: *Cross-Defendant/Cross-Complainant, Antelope Valley United Mutual*
18 *Group's* (verified) *Information and Materials Responsive to December 12, 2012*
19 *Discovery Order for Phase 4 Trial* for Aqua-J Mutual Water Company
20 ("*Discovery Responses*"), Paragraphs ("¶") I.1.b., I.3.c.ii.; California Secretary of
21 State, Business Entity Detail (December 14, 2012); *Cross-Defendant/Cross-*
22 *Complainant, Antelope Valley United Mutual Group, Specifically Aqua-J Mutual*
23 *Water Company's*, (verified) *First Supplemental Response to December 12, 2012*
24 *Discovery Order for Phase 4 Trial* ("*Supplemental Discovery Responses*") ¶
25 I.3.c.; Aqua-J Mutual Water Company Articles of Incorporation.

26 2. Aqua-J's service area consists of 160 acres, which are bounded by Ave I-8 to the
27 North, Ave J to the South, 95th St East to the East, and 90th St. East to the West. Aqua-J is the
28

owner of the water rights and the production, storage and distribution facilities. Aqua-J services its members / shareholders identified by the Assessor's Parcel Numbers ("APN") listed in the *Discovery Responses*. The properties within the Aqua-J service area are single family residential parcels.

Reference: *Discovery Responses* ¶¶ I.1.a., I.1.h., I.1.j.; Aqua-J printed list of APNs.

3. Aqua-J owned and operated one (1) metered well that was situated within its service area during the Base Period years 2000 to 2004 and the recent years 2011 to 2012. During the years 2000 to 2004 and 2011 to 2012, Aqua-J used the water produced from these wells for the provision of domestic water service to its residential mutual members. All of the groundwater produced by Aqua-J from these wells was used in its service area by its members.

Reference: *Discovery Responses* ¶¶ I.1.c., I.1.d., I.1.f., I.1.g., I.1.h., I.3.a.i., I.3.a.ii., I.3.a.iii., I.3.a.iv., I.3.a.v., I.3.a.vi.; Water meter data log for January 2000 – December 2000; Water meter data log for January 2001 – December 2001; Water meter data log for January 2002 – December 2002; Water meter data log for January 2003 – December 2003; "Customer Status" report for January 2004 and water meter data log for February 2004 – December 2004; *Supplemental Discovery Responses* ¶ I.3.a.; Stand-by Owed Report as of 6-30-10; Aqua-J Water Meter Readings for 2011 (except January and April); Aqua-J Water Meter Readings for 2012; Southern California Edison electricity usage data for 2011 (except January, April, August and September); Southern California Edison electricity usage data for 2012.

4. Aqua-J groundwater production during the years 2000 through 2012 was as follows:

- i. **2000:** 80.7 acre feet
- ii. **2001:** 66.4 acre feet
- iii. **2002:** 58.7 acre feet

- iv. 2003: 63.4 acre feet
- v. 2004: 66.1 acre feet
- vi. 2011: 42.5 acre feet
- vii. 2012 [1/1 – 11/30]: 47.3 acre feet

Reference: *Discovery Responses* ¶¶ I.1.e.; I.3.a.i., I.3.a.ii., I.3.a.iii., I.3.a.iv., I.3.a.v., I.3.a.vi.; Water meter data log for January 2000 – December 2000; Water meter data log for January 2001 – December 2001; Water meter data log for January 2002 – December 2002; Water meter data log for January 2003 – December 2003; “Customer Status” report for January 2004 and water meter data log for February 2004 – December 2004; *Supplemental Discovery Responses* ¶ I.3.a.; Stand-by Owed Report as of 6-30-10; Aqua-J Water Meter Readings for 2011 (except January and April); Aqua-J Water Meter Readings for 2012; Southern California Edison electricity usage data for 2011 (except January, April, August and September); Southern California Edison electricity usage data for 2012.

5. Upon the formation of the mutual benefit, non-profit corporation, the overlying groundwater rights of the owners of the properties within the service area (who became the initial shareholders) became the rights of the mutual water company and have, ever since, been exercised by the mutual water company and not by the individual property owners / shareholders. There was no known express reservation of the overlying groundwater rights by the individual property owners at the time of formation. The property owners / shareholders simply pooled their collective water and (through the mutual water company) constructed, operated and maintained the production, storage and distribution system by which they all receive water for their domestic purposes. Simply stated, the property owners / shareholders exchanged their overlying water rights for the right to have water delivered to their individual properties. See *Erwin v. Gage Canal Company* (1964) 226 Cal.App.2d 189; see also *Hildreth v. Montecito Creek Water Co.* (1903) 139 Cal. 22, 29; see also *City of Glendale v. Crescenta etc.*

1 *Water Co.* (1955) 135 Cal.App.2d 784, 801. As such, each shareholder has an interest in the
2 water rights, production, storage and distribution facilities of the mutual water company and has
3 the right to receive water upon development and demand.

4 Reference: *Discovery Responses* ¶ I.1.j.; *Supplemental Discovery Responses* ¶
5 I.3.c.; Aqua-J Mutual Water Company Articles of Incorporation.

6 **6.** Aqua-J did not lease any property to anyone during the Base Period years of 2000
7 to 2004 or the recent years of 2011 to 2012.

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

9 **7.** Aqua-J did not import or acquire any imported water from the Antelope Valley –
10 East Kern Water Agency, Palmdale Water District, Littlerock Creek Irrigation District or any
11 other entity having rights to State Water Project water, during the Base Period years of 2000 to
12 2004 or the recent years of 2011 to 2012, and claims no return flows.

13 Reference: *Discovery Responses* ¶¶ III.1.a., III.1.b., III.1.d.

14 **8.** As stated above, the groundwater claimed by Aqua-J is an overlying water right.
15 The historic production upon which this claim is based, however, does not include water
16 produced for the undeveloped properties within Aqua-J's service areas, whose owners, as
17 members of Aqua-J, have the right to receive water service to their properties when built out.
18 Aqua-J also claims an amount of water sufficient to provide water to these presently un-served
19 properties when water service thereto has been demanded. Other than as set forth herein, Aqua-J
20 does not claim any other groundwater rights that are the subject of this Adjudication for purposes
21 of the Phase 4 Trial.

22 Reference: *Discovery Responses* ¶¶ I.1.g., I.1.j., II.1.a., III.1.a., III.1.b., III.1.d.

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The parties hereto stipulate and agree that the facts, information and documents provided herein and in the verified *Discovery Responses* posted on the Court's website on December 21, 2012 and in the verified *Supplemental Discovery Responses* that were posted on the Court's website on January 29, 2013, will not be contested, and are therefore deemed accepted, for purposes of the Phase 4 Trial which is currently scheduled for May 28, 2013.

The parties further stipulate and agree that neither deposition testimony nor trial testimony will be required of Aqua-J for purposes of the Phase 4 Trial.

IT IS SO STIPULATED.

Dated: January 30, 2013.

GRESHAM SAVAGE NOLAN & TILDEN, PC

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Dated: January ___, 2013.

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Dated: January __, 2013.

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1 Dated: January ___, 2013.

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8 Dated: January ___, 2013.

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25 Dated: January ___, 2013.

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