

1 Michael Duane Davis, SBN 093678
2 Marlene Allen-Hammarlund, SBN 126418
3 Derek R. Hoffman, SBN 285784
4 **GRESHAM SAVAGE NOLAN &**
5 **TILDEN, A Professional Corporation**
6 3750 University Avenue, Suite 250
7 Riverside, CA 92501-3335
8 Telephone: (951) 684-2171
9 Facsimile: (951) 684-2150

10 Attorneys for Cross-Defendant
11 **EVERYDALE MUTUAL WATER COMPANY, INC.,**
12 a member of the Antelope Valley United Mutual Group

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

15 Coordination Proceeding
16 Special Title (Rule 1550(b))

) Judicial Council Coordination
) Proceeding No. 4408

17 **ANTELOPE VALLEY GROUNDWATER**
18 **CASES**

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

19 Including Actions:

20 **Los Angeles County Waterworks District**
21 **No. 40 v. Diamond Farming Co.**

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

) **[PROPOSED] STIPULATION**
) **REGARDING THE DEPOSITION AND**
) **TRIAL TESTIMONY OF CROSS-**
) **DEFENDANT AVERYDALE MUTUAL**
) **WATER COMPANY, INC., A MEMBER**
) **OF THE ANTELOPE VALLEY UNITED**
) **MUTUAL GROUP**

24 **Los Angeles County Waterworks District**
25 **No. 40 v. Diamond Farming Co.**

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

28 **Wm. Bolthouse Farms, Inc. v. City of**
29 **Lancaster**

30 **Diamond Farming Co. v. City of Lancaster**
31 **Diamond Farming Co. v. Palmdale Water**
32 **Dist.**

33 Superior Court of California, County of
34 Riverside, consolidated actions, Case Nos. RIC
35 353 840, RIC 344 436, RIC 344 668

36 **AND RELATED ACTIONS.**

1 This *Stipulation Regarding the Deposition and Trial Testimony of Cross-Defendant*
2 ***EVERYDALE 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 Averydale Mutual Water Company, Inc. ("Averydale") has provided, under penalty of
8 perjury, the facts, information and documents submitted to the Court and posted on the Court's
9 website on December 21, 2012 (the "*Discovery Responses*") and on January 29, 2013 (the
10 "*Supplemental Discovery Responses*"), including, but not limited to, the following:

11 1. Averydale is an active California mutual benefit non-profit corporation, with an
12 entity address of Post Office Box 191, Lancaster, CA 93584. It was formed on August 6, 1948.
13 Its membership is comprised of the owners of the 367 mostly 1¼ acre lots as well as five (5)
14 mobile home parks, two (2) commercial buildings, and one (1) apartment complex, comprising
15 its below-described service area. Averydale's 293 active meters serve the improved real
16 properties within the Averydale service area, and stand by to serve the unimproved properties
17 when improved.

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

Averydale Mutual Water Company Service Area maps and aerals (3); Averydale Mutual Water Company – Articles of Incorporation; Averydale Mutual Water Company – By-Laws (multiple sets) and amendments; Averydale Mutual Water Company Share Certificate (example, Certificate No. 1540).

2. Averydale’s service area consists of 410 acres, which is service area is bounded as follows: North Boundary Ave H East to 37th St East and Ave H 37th St East South to Ave H-4 West to 36th St East South to Ave H-8 West to 35th East and Ave H-8 South on 35th St East to Ave I West to 30th St East South to Kettering West to 27th St East turn North on 27th St East to Ave H-8. Averydale is the owner of the water rights and the production, storage and distribution facilities. Averydale services its members / shareholders identified by the Assessor’s Parcel Numbers (“APN”) listed in the *Discovery Responses*. The properties within the Averydale service area, namely the 367 mostly 1¼ acre lots, the five (5) mobile home parks and one (1) apartment complex were use for residential purposes, and the two (2) commercial buildings were used for commercial purposes.

Reference: *Discovery Responses* ¶¶ I.1.a., I.1.h., I.1.j.; Averydale Mutual Water Company’s Jurisdiction APN’s; *Supplemental Discovery Responses* – Paragraph I.3.a. Averydale Mutual Water Company – pictures of water production and distribution facilities and infrastructure; Averydale Mutual Water Company – groundwater production and distribution system schematic; Paragraph I.3.b.; Averydale Mutual Water Company printed list of APN/AINs; Averydale Mutual Water Company 2012 Annual Property Tax Bill; Averydale Mutual Water Company Service Area maps and aerals (3).

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1 3. Averydale owned and operated two (2) metered wells that are situated within its
2 service area during the Base Period years 2000 to 2004 and the recent years 2011 to 2012.
3 During the years 2000 to 2004 and 2011 to 2012, Averydale used the water produced from these
4 wells for the provision of domestic water service to its residential mutual members. All of the
5 groundwater produced by Averydale from these wells was used in its service area by its
6 members.

7 Reference: *Discovery Responses* ¶¶ I.1.c., I.1.d., I.1.f., I.1.g., I.1.h., I.3.a.i.,
8 I.3.a.ii., I.3.a.iii., I.3.a.iv., I.3.a.v., I.3.a.vi., I.3.a.vii., I.3.a.viii., I.3.a.ix., I.3.a.x,
9 I.3.a.xi.; Well No. 1 – Annual Notice of Groundwater Extraction for 2000; Well
10 No. 1 – Annual Notice of Groundwater Extraction for 2001; Well No. 1 – Annual
11 Notice of Groundwater Extraction for 2002; Well No. 1 – Annual Notice of
12 Groundwater Extraction for 2003; Well No. 1 – Annual Notice of Groundwater
13 Extraction for 2004; Well No. 2 – Annual Notice of Groundwater Extraction for
14 2000; Well No. 2 – Annual Notice of Groundwater Extraction for 2001; Well No.
15 2 – Annual Notice of Groundwater Extraction for 2002; Well No. 2 – Annual
16 Notice of Groundwater Extraction for 2003; Well No. 2 – Annual Notice of
17 Groundwater Extraction for 2004; *Supplemental Discovery Responses* ¶ I.3.a.;
18 Averydale Mutual Water Company 2012 Water Meter Readings and Summary
19 Spreadsheets; Southern California Edison March 2002 Hydraulic Test Results;
20 California Department of Health Services Water Supply Permit for Averydale
21 Mutual Water Company; Averydale Mutual Water Company – pictures of water
22 production and distribution facilities and infrastructure; Averydale Mutual Water
23 Company – Google Maps Images of Below Ground Delivery System, Service
24 Area, Well Site Locations for Wells #1 and #2, and Aerial Pictures of Sites #1 and
25 #2; Averydale Mutual Water Company – groundwater production and distribution
26 system schematic; Southern California Edison electricity usage data – 2000;
27 Southern California Edison electricity usage data – 2001; Southern California
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Edison electricity usage data – 2002; Southern California Edison electricity usage data – 2003; Southern California Edison electricity usage data – 2004; Southern California Edison electricity usage data – 2011; Southern California Edison electricity usage data – 2012; Averydale Mutual Water Company – Water Meter Readings – 2000; Averydale Mutual Water Company – Water Meter Readings – 2001; Averydale Mutual Water Company – Water Meter Readings – 2002; Averydale Mutual Water Company – Water Meter Readings – 2003; Averydale Mutual Water Company – Water Meter Readings – 2004; Averydale Mutual Water Company – Water Meter Readings – 2011.

4. Averydale groundwater production during the years 2000 through 2012 was as follows:

- i. **2000:** 316.9 acre feet
- ii. **2001:** 312.1 acre feet
- iii. **2002:** 346 acre feet
- iv. **2003:** 333.9 acre feet
- v. **2004:** 365.5 acre feet
- vi. **2011:** 247.9 acre feet
- vii. **2012 [1/1 – 11/30]:** 268.0 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., I.3.a.vii., I.3.a.viii., I.3.a.ix., I.3.a.x, I.3.a.xi.; Well No. 1 – Annual Notice of Groundwater Extraction for 2000; Well No. 1 – Annual Notice of Groundwater Extraction for 2001; Well No. 1 – Annual Notice of Groundwater Extraction for 2002; Well No. 1 – Annual Notice of Groundwater Extraction for 2003; Well No. 1 – Annual Notice of Groundwater Extraction for 2004; Well No. 2 – Annual Notice of Groundwater Extraction for 2000; Well No. 2 – Annual Notice of Groundwater Extraction for 2001; Well No. 2 – Annual Notice of Groundwater Extraction for 2002; Well No. 2 – Annual Notice of Groundwater

1 Extraction for 2003; Well No. 2 – Annual Notice of Groundwater Extraction for
2 2004; *Supplemental Discovery Responses* ¶ I.3.a.; Averydale Mutual Water
3 Company 2012 Water Meter Readings and Summary Spreadsheets; Southern
4 California Edison March 2002 Hydraulic Test Results; California Department of
5 Health Services Water Supply Permit for Averydale Mutual Water Company;
6 Averydale Mutual Water Company – pictures of water production and distribution
7 facilities and infrastructure; Averydale Mutual Water Company – Google Maps
8 Images of Below Ground Delivery System, Service Area, Well Site Locations for
9 Wells #1 and #2, and Aerial Pictures of Sites #1 and #2; Averydale Mutual Water
10 Company – groundwater production and distribution system schematic; Southern
11 California Edison electricity usage data – 2000; Southern California Edison
12 electricity usage data – 2001; Southern California Edison electricity usage data –
13 2002; Southern California Edison electricity usage data – 2003; Southern
14 California Edison electricity usage data – 2004; Southern California Edison
15 electricity usage data – 2011; Southern California Edison electricity usage data –
16 2012; Averydale Mutual Water Company – Water Meter Readings – 2000;
17 Averydale Mutual Water Company – Water Meter Readings – 2001; Averydale
18 Mutual Water Company – Water Meter Readings – 2002; Averydale Mutual
19 Water Company – Water Meter Readings – 2003; Averydale Mutual Water
20 Company – Water Meter Readings – 2004; Averydale Mutual Water Company –
21 Water Meter Readings – 2011.

22 5. Upon the formation of the mutual benefit, non-profit corporation, the overlying
23 groundwater rights of the owners of the properties within the service area (who became the
24 initial shareholders) became the rights of the mutual water company and have, ever since, been
25 exercised by the mutual water company and not by the individual property owners /
26 shareholders. There was no known express reservation of the overlying groundwater rights by
27 the individual property owners at the time of formation. The property owners / shareholders
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1 simply pooled their collective water and (through the mutual water company) constructed,
2 operated and maintained the production, storage and distribution system by which they all
3 receive water for their domestic purposes. Simply stated, the property owners / shareholders
4 exchanged their overlying water rights for the right to have water delivered to their individual
5 properties. See *Erwin v. Gage Canal Company* (1964) 226 Cal.App.2d 189; see also *Hildreth v.*
6 *Montecito Creek Water Co.* (1903) 139 Cal. 22, 29; see also *City of Glendale v. Crescenta etc.*
7 *Water Co.* (1955) 135 Cal.App.2d 784, 801. As such, each shareholder has an interest in the
8 water rights, production, storage and distribution facilities of the mutual water company and has
9 the right to receive water upon development and demand.

10 Reference: *Discovery Responses* ¶ I.1.j.; *Supplemental Discovery Responses* ¶
11 I.3.b and I.3.c.; Averydale Mutual Water Company – Articles of Incorporation;
12 Averydale Mutual Water Company – By-Laws (multiple sets) and amendments;
13 Averydale Mutual Water Company Share Certificate (example, Certificate No.
14 1540)

15 **6.** Averydale did not lease any property to anyone during the Base Period years of
16 2000 to 2004 or the recent years of 2011 to 2012.

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

18 **7.** Averydale did not import or acquire any imported water from the Antelope Valley
19 – East Kern Water Agency, Palmdale Water District, Littlerock Creek Irrigation District or any
20 other entity having rights to State Water Project water, during the Base Period years of 2000 to
21 2004 or the recent years of 2011 to 2012, and claims no return flows.

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

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

4 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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STIPULATION

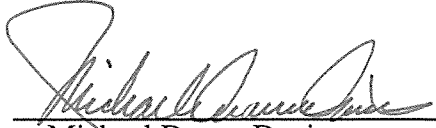
The parties hereto stipulate and agree that the facts, information and documents provided herein and in the verified *Discovery Responses* posted on the Court's website on December 21, 2012 and on the verified *Supplemental Discovery Responses* that were posted on the Court's website on January ³⁰29, 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 Averydale for purposes of the Phase 4 Trial.

IT IS SO STIPULATED.

Dated: January ³⁰, 2013.

GRESHAM SAVAGE NOLAN & TILDEN, PC

By: 
Michael Duane Davis
Marlene L. Allen-Hammarlund
Derek R. Hoffman
Attorneys for Cross-Defendant, Averydale
Mutual Water Company, a member of the
Antelope Valley United Mutual Group

Dated: January ___, 2013.

CHARLTON WEEKS LLP

By: _____
Bradley T. Weeks
Attorneys for Cross-Complainant, Quartz
Hill Water District

Dated: January ___, 2013.

BEST BEST & KRIEGER LLP

By: _____
Eric L. Garner
Jeffrey V. Dunn
Stefanie D. Hedlund
Attorneys for Cross-Complainant, Los
Angeles County Waterworks District No. 40

1 Dated: January ___, 2013.

RICHARDS, WATSON & GERSHON

2
3 By: _____
4 Steven Orr
5 James L. Markman
6 Attorneys for Cross-Complainant, City of
7 Palmdale

8 Dated: January ___, 2013.

MURPHY & EVERTZ

9 By: _____
10 Douglas J. Evertz
11 Attorneys for Cross-Complainant, City of
12 Lancaster and Rosamond Community
13 Services District

14 Dated: January ___, 2013.

CALIFORNIA WATER SERVICE COMPANY

15 By: _____
16 John Tootle
17 Attorneys for Cross-Complainant, California
18 Water Service Company

19 Dated: January ___, 2013.

LEMIEUX & O'NEILL

20 By: _____
21 Wayne Lemieux
22 Attorneys for Cross-Complainant, Littlerock
23 Creek Irrigation District, Palm Ranch
24 Irrigation District, et al.

25 Dated: January ___, 2013.

LAGERLOF SENECA GOSNEY & KRUSE

26 By: _____
27 Thomas Bunn III
28 Attorneys for Cross-Complainant, Palmdale
Water District

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