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BAXTER 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))

**ANTELOPE VALLEY GROUNDWATER
CASES**

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

**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.

) Judicial Council Coordination
) Proceeding No. 4408

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

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

1 This *Stipulation Regarding the Deposition and Trial Testimony of Cross-Defendant*
2 ***BAXTER 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 Baxter Mutual Water Company, Inc. ("Baxter") 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
10 "*Supplemental Discovery Responses*"), including, but not limited to, the following:

11 1. Baxter is an active California mutual benefit non-profit corporation, with an entity
12 address of 12501 East Avenue H, Lancaster, CA 93535. It was formed on September 20, 1954.
13 Its membership is comprised of the owners of 15 lots on 20 acres that are situated within its
14 below-described service area. Baxter's 14 active connections serve the properties within the
15 Baxter service area that have been improved with a residence, and stand by to serve the
16 unimproved properties when 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 Baxter Mutual Water Company
20 ("*Discovery Responses*"), Paragraphs ("¶") I.1.b., I.3.b.ii., I.3.c.ii.; Baxter Mutual
21 Water Company Shareholder Properties Overview; California Secretary of State,
22 Business Entity Detail (December 14, 2012); *Cross-Defendant/Cross-*
23 *Complainant, Antelope Valley United Mutual Group, Specifically Baxter Mutual*
24 *Water Company's*, (verified) *First Supplemental Response to December 12, 2012*
25 *Discovery Order for Phase 4 Trial* ("*Supplemental Discovery Responses*"); ¶
26 I.3.c.; Baxter Mutual Water Company Articles of Incorporation; By-laws of
27 Baxter Mutual Water Company; Baxter Mutual Water Company share certificate
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(sample); ¶ I.3.b.; Baxter Mutual Water Company property served (aerial photograph).

2. Baxter's service area consists of 20 acres, which are located approximately 10 miles east of Lancaster at 125th Street E and Avenue H. Baxter is the owner of the water rights and the production, storage and distribution facilities. Baxter services its members / shareholders identified by the Assessor's Parcel Numbers ("APN") listed in the *Discovery Responses*. The properties within the Baxter service area are single family residential parcels.

Reference: *Discovery Responses* ¶¶ I.1.a., I.1.h., I.1.j., I.3.b.ii.; Baxter Mutual Water Company Assessor's ID Numbers; Baxter Mutual Water Company parcel map; Baxter Mutual Water Company Shareholder Properties Overview; *Supplemental Discovery Responses* ¶ I.3.b.; Baxter Mutual Water Company property served (aerial photograph); ¶ I.3.c.; Baxter Mutual Water Company Articles of Incorporation; By-laws of Baxter Mutual Water Company; Baxter Mutual Water Company share certificate (sample).

3. Baxter owned one (1) well and booster with an Edison energy efficiency calibrated motor driven pump that was situated within its service area during the Base Period years 2000 to 2004 and the recent years 2011 to 2012. A water meter was installed and began metering water usage on November 15, 2011. During the years 2000 to 2004 and 2011 to 2012, Baxter used the water produced from this well for the provision of domestic water service to its residential mutual members. All of the groundwater produced by Baxter 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.; Southern California Edison Well Efficiency Test Results: February 16, 2012 test; Southern California Edison Booster Efficiency Test Results: February 16, 2012 test; Baxter Mutual Water Co. Water usage 2000-2004 (Jan 17, 2000 thru Jan 18, 2005); Baxter Mutual Water Co. Water usage Dec 1, 2011 through Dec 1, 2012; Southern California Edison

Electrical Billing History January 1988 – December 2011; Baxter Mutual Water Co. Well Water Extraction for Years 2000-2004 by Larry Gorden, Vice President, Baxter Mutual Water Co. (February 20, 2012); Baxter Mutual Water Co. Well Water Extraction for Years 2000-2004 by Larry Gorden, Vice President, Baxter Mutual Water Co. (February 23, 2012); Baxter Mutual Water Company Well Water Extraction (December 14, 2012); November 2, 2011 Propeller Meter Certified Test Report; *Supplemental Discovery Responses* ¶ I.3.a.; Baxter Mutual Water Co. Water usage 2000-2004 and 2011-2012 summary spreadsheets; Southern California Edison electrical billing history Jan. 1988 through Dec. 2011; Southern California Edison electrical usage data Jan. and Feb. 2012; Baxter Mutual Water Company Edison and Flowmeter readings, Dec. 2, 2011 through Jan. 1, 2013 (photographs); Baxter Mutual Water Company Well Water Extraction report by Larry Gorden, Dec. 22, 2012; Baxter Mutual Water Distribution aerial photograph.

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

- i. **2000:** 51.6 acre feet
- ii. **2001:** 46 acre feet
- iii. **2002:** 47.81 acre feet
- iv. **2003:** 47.61 acre feet
- v. **2004:** 52.45 acre feet
- vi. **2011:** 44.91 acre feet
- vii. **2012 [1/1 – 11/30]:** 44.6 acre feet

Reference: *Discovery Responses* ¶¶ I.1.e., I.1.l.; I.3.a.i., I.3.a.ii., I.3.a.iii, I.3.a.iv., I.3.a.v., I.3.a.vi.; Southern California Edison Well Efficiency Test Results: February 16, 2012 test; Southern California Edison Booster Efficiency Test Results: February 16, 2012 test; Baxter Mutual Water Co. Water usage 2000-2004

(Jan17, 2000 thru Jan18, 2005); Baxter Mutual Water Co. Water usage Dec 1, 2011 through Dec 1, 2012; Southern California Edison Electrical Billing History January 1988 – December 2011; Baxter Mutual Water Co. Well Water Extraction for Years 2000-2004 by Larry Gorden, Vice President, Baxter Mutual Water Co. (February 20, 2012); Baxter Mutual Water Co. Well Water Extraction for Years 2000-2004 by Larry Gorden, Vice President, Baxter Mutual Water Co. (February 23, 2012); Baxter Mutual Water Company Well Water Extraction (December 14, 2012); November 2, 2011 Propeller Meter Certified Test Report; *Supplemental Discovery Responses* I.3.a.; Baxter Mutual Water Co. Water usage 2000-2004 and 2011-2012 summary spreadsheets; Southern California Edison electrical billing history Jan. 1988 through Dec. 2011; Southern California Edison electrical usage data Jan. and Feb. 2012; Baxter Mutual Water Company Edison and Flowmeter readings, Dec. 2, 2011 through Jan. 1, 2013 (photographs); Baxter Mutual Water Company Well Water Extraction report by Larry Gorden, Dec. 22, 2012; Baxter Mutual Water Distribution aerial photograph.

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 nterest 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.; Baxter Mutual Water Company Articles
5 of Incorporation; *Supplemental Discovery Responses* ¶ I.3.c.; Baxter Mutual
6 Water Company Articles of Incorporation; By-laws of Baxter Mutual Water
7 Company; Baxter Mutual Water Company share certificate (sample).

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

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

11 **7.** Baxter did not import or acquire any imported water from the Antelope Valley –
12 East Kern Water Agency, Palmdale Water District, Littlerock Creek Irrigation District or any
13 other entity having rights to State Water Project water, during the Base Period years of 2000 to
14 2004 or the recent years of 2011 to 2012, and claims no return flows.

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

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

24 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 further stipulate and agree that neither deposition testimony nor trial testimony will be required of Baxter for purposes of the Phase 4 Trial.

Dated: January 30, 2013.

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1 Dated: January ___, 2013.

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25 Dated: January ___, 2013.

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