

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 COLORADO 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 COLORADO 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 ***COLORADO 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 Colorado Mutual Water Company, Inc. ("Colorado") 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. Colorado is an active California mutual benefit non-profit corporation, with an  
12 entity address of 43841 90th St. East, Lancaster, CA 93535. It was formed on May 18, 1954. Its  
13 membership is comprised of the owners of the 24 mostly 2½ acre lots that are situated within its  
14 below-described service area. Colorado's 13 active meters serve the improved real properties  
15 within the Colorado 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 Colorado 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 Colorado*  
23 *Mutual Water Company's*, (verified) *First Supplemental Response to December*  
24 *12, 2012 Discovery Order for Phase 4 Trial* ("*Supplemental Discovery*  
25 *Responses*") ¶ I.3.a.; California Department of Public Health Water Supply  
26 Permit; ¶ I.3.c.; Colorado Mutual Water Company – County of Los Angeles  
27 Health Department License.; Colorado Mutual Water Company – Articles of  
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Incorporation; Colorado Mutual Water Company By-Laws as Amended; Share Certificate (exemplar); Colorado Mutual Water Co. Statement of Information, including members of current board of directors; State of California Secy. of State Resignation of Agent Upon Whom Process May be Served.

2. Colorado's service area consists of 80 acres, which are bounded as follows: Ave J-8 North 90th St East on South by Ave J-12 West 85th St East. Colorado is the owner of the water rights and the production, storage and distribution facilities. Colorado services its members / shareholders identified by the Assessor's Parcel Numbers ("APN") listed in the *Discovery Responses*. The properties within the Colorado service area are single family residential parcels.

Reference: *Discovery Responses* ¶¶ I.1.a., I.1.h., I.1.j.; Colorado Mutual Water Co. list of APNs; *Supplemental Discovery Responses* ¶ I.3.a.; Colorado Mutual Water Company – County of Los Angeles Health Department License.

3. Colorado owned and operated two (2) wells and boosters with Edison energy efficiency calibrated motor driven pumps that were 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, Colorado 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 Colorado 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.; Southern California Edison Well Efficiency Test Results: 20 HP Well (May 4, 2007); Southern California Edison Booster Efficiency Test Results: 10 HP Booster (May 4, 2007); Edison Usage – Colorado Mutual Water Co. summary spreadsheet for years 2000-2004; Colorado Mutual Water Co. Well Water Extracted in years 2000 through 2004 summary report of kWh used and water pumped; Colorado Mutual Water Co. Data from Power Usage Bills – summary report of kWh used and water pumped for years 2011 and

2012; Colorado Mutual Water Co. Well Water Extraction for Years 2000 – 2004 and 2011 – 2012 by Larry Gorden (December 14, 2012); *Supplemental Discovery Responses* ¶¶ I.3.a., I.3.a.ii.; California Department of Public Health Water Supply Permit; Check to Southern California Edison for October 2001 electric usage; Southern California Edison data for December 2001; Southern California Edison Monthly Billing Summaries and Statements for the years 2000 (excluding March and August 2000), for 2001 (excluding September and October 2001) and miscellaneous checks, for 2002, for 2003, for 2004, for 2011, and for January 2012 through November 2012; Colorado Mutual Water Co. – County of Los Angeles Health Dept. License; Colorado Mutual Water Co. – Calif. Dept. of Public Health, Water Supply Permit; Colorado Mutual Water Co. – production, storage and distribution system schematic; Colorado Mutual Water Co. – 2012 Annual Property Tax Bill; Colorado Mutual Water Co. – photographs of groundwater production, storage and distribution system and infrastructure.

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

- i. 2000: 40.1 acre feet
- ii. 2001: 37.3 acre feet
- iii. 2002: 39.8 acre feet
- iv. 2003: 26.6 acre feet
- v. 2004: 37.7 acre feet
- vi. 2011: 24.1 acre feet
- vii. 2012 [1/1 – 11/30]: 27.7 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.; Southern California Edison Well Efficiency Test Results: 20 HP Well (May 4, 2007); Southern California Edison Booster Efficiency Test Results: 10 HP Booster (May 4, 2007); Edison Usage – Colorado Mutual Water Co. summary

1 spreadsheet for years 2000-2004; Colorado Mutual Water Co. Well Water  
2 Extracted in years 2000 through 2004 summary report of kWh used and water  
3 pumped; Colorado Mutual Water Co. Data from Power Usage Bills – summary  
4 report of kWh used and water pumped for years 2011 and 2012; Colorado Mutual  
5 Water Co. Well Water Extraction for Years 2000 – 2004 and 2011 – 2012 by  
6 Larry Gorden (December 14, 2012); *Supplemental Discovery Response* I.3.a.;  
7 California Department of Public Health Water Supply Permit; *Supplemental*  
8 *Discovery Responses* ¶¶ I.3.a., I.3.a.ii.; California Department of Public Health  
9 Water Supply Permit; Check to Southern California Edison for October 2001  
10 electric usage; Southern California Edison data for December 2001; Southern  
11 California Edison Monthly Billing Summaries and Statements for the years 2000  
12 (excluding March and August 2000), for 2001 (excluding September and October  
13 2001) and miscellaneous checks, for 2002, for 2003, for 2004, for 2011, and for  
14 January 2012 through November 2012; Colorado Mutual Water Co. – County of  
15 Los Angeles Health Dept. License; Colorado Mutual Water Co. – Calif. Dept. of  
16 Public Health, Water Supply Permit; Colorado Mutual Water Co. – production,  
17 storage and distribution system schematic; Colorado Mutual Water Co. – 2012  
18 Annual Property Tax Bill; Colorado Mutual Water Co. – photographs of  
19 groundwater production, storage and distribution system and infrastructure.

20 5. Upon the formation of the mutual benefit, non-profit corporation, the overlying  
21 groundwater rights of the owners of the properties within the service area (who became the  
22 initial shareholders) became the rights of the mutual water company and have, ever since, been  
23 exercised by the mutual water company and not by the individual property owners /  
24 shareholders. There was no known express reservation of the overlying groundwater rights by  
25 the individual property owners at the time of formation. The property owners / shareholders  
26 simply pooled their collective water and (through the mutual water company) constructed,  
27 operated and maintained the production, storage and distribution system by which they all

1 receive water for their domestic purposes. Simply stated, the property owners / shareholders  
2 exchanged their overlying water rights for the right to have water delivered to their individual  
3 properties. See *Erwin v. Gage Canal Company* (1964) 226 Cal.App.2d 189; see also *Hildreth v.*  
4 *Montecito Creek Water Co.* (1903) 139 Cal. 22, 29; see also *City of Glendale v. Crescenta etc.*  
5 *Water Co.* (1955) 135 Cal.App.2d 784, 801. As such, each shareholder has an interest in the  
6 water rights, production, storage and distribution facilities of the mutual water company and has  
7 the right to receive water upon development and demand.

8 Reference: *Discovery Responses* ¶ I.1.j.; *Supplemental Discovery Responses* ¶  
9 I.3.c.; Colorado Mutual Water Company – County of Los Angeles Health  
10 Department License; Colorado Mutual Water Company – Articles of  
11 Incorporation; Colorado Mutual Water Company By-Laws as Amended; and  
12 Share Certificate (exemplar); Colorado Mutual Water Co. Statement of  
13 Information, including members of current board of directors; State of California  
14 Secy. of State Resignation of Agent Upon Whom Process May be Served.

15 6. Colorado 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. Colorado 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 Colorado 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 Colorado's service areas, whose owners, as  
26 members of Colorado, have the right to receive water service to their properties when built out.  
27 Colorado also claims an amount of water sufficient to provide water to these presently un-served  
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1 properties when water service thereto has been demanded. Other than as set forth herein,  
2 Colorado 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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The parties further stipulate and agree that neither deposition testimony nor trial testimony will be required of Colorado for purposes of the Phase 4 Trial.

Dated: January 30, 2013.

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

CHARLTON WEEKS LLP

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

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



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Dated: January \_\_\_, 2013.

RICHARDS, WATSON & GERSHON

By: \_\_\_\_\_  
Steven Orr  
James L. Markman  
Attorneys for Cross-Complainant, City of  
Palmdale

Dated: January \_\_\_, 2013.

MURPHY & EVERTZ

By: \_\_\_\_\_  
Douglas J. Evertz  
Attorneys for Cross-Complainant, City of  
Lancaster and Rosamond Community  
Services District

Dated: January \_\_\_, 2013.

CALIFORNIA WATER SERVICE COMPANY

By: \_\_\_\_\_  
John Tootle  
Attorneys for Cross-Complainant, California  
Water Service Company

Dated: January \_\_\_, 2013.

LEMIEUX & O'NEILL

By: \_\_\_\_\_  
Wayne Lemieux  
Attorneys for Cross-Complainant, Littlerock  
Creek Irrigation District, Palm Ranch  
Irrigation District, et al.

Dated: January \_\_\_, 2013.

LAGERLOF SENEAL GOSNEY & KRUSE

By: \_\_\_\_\_  
Thomas Bunn III  
Attorneys for Cross-Complainant, Palmdale  
Water 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.

(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 March 15, 2013 at Riverside, California.

  
DINA M. SNIDER