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LANDALE MUTUAL WATER COMPANY, INC.,
7 a member of the Antelope Valley United Mutual Group

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

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

) Judicial Council Coordination
) Proceeding No. 4408

13 **ANTELOPE VALLEY GROUNDWATER**
14 **CASES**

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

15 Including Actions:

16 **Los Angeles County Waterworks District**
No. 40 v. Diamond Farming Co.
Superior Court of California, County of Los
17 Angeles, Case No. BC 325 201

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

18 **Los Angeles County Waterworks District**
No. 40 v. Diamond Farming Co.
19 Superior Court of California, County of Kern,
Case No. S-1500-CV-254-348

20 **Wm. Bolthouse Farms, Inc. v. City of**
21 **Lancaster**
22 **Diamond Farming Co. v. City of Lancaster**
Diamond Farming Co. v. Palmdale Water
Dist.

23 Superior Court of California, County of
Riverside, consolidated actions, Case Nos. RIC
24 353 840, RIC 344 436, RIC 344 668

25 **AND RELATED ACTIONS.**
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27
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1 This *Stipulation Regarding the Deposition and Trial Testimony of Cross-Defendant*
2 **LANDALE 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 Landale Mutual Water Company, Inc. ("Landale") 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. Landale is an active California mutual benefit non-profit corporation, with an
12 entity address of Post Office Box 5808, Lancaster, CA 93539. It was formed on June 25, 1948.
13 Its membership is comprised of the owners of the 308 mostly 2½ acre lots that are situated within
14 its below-described service area. Landale's 172 active meters serve the improved real properties
15 within the Landale service area, and stand by to serve the unimproved properties when improved.

16 Reference: *Cross-Defendant/Cross-Complainant, Antelope Valley United Mutual*
17 *Group's* (verified) *Information and Materials Responsive to December 12, 2012*
18 *Discovery Order for Phase 4 Trial* for Landale Mutual Water Company
19 ("*Discovery Responses*"), Paragraphs ("¶") I.1.b., I.1.h., I.3.c.ii.; California
20 Secretary of State, Business Entity Detail (December 14, 2012); *Cross-*
21 *Defendant/Cross-Complainant, Antelope Valley United Mutual Group,*
22 *Specifically Landale Mutual Water Company's*, (verified) *First Supplemental*
23 *Response to December 12, 2012 Discovery Order for Phase 4 Trial*
24 ("*Supplemental Discovery Responses*") ¶ I.3.b.; Landale Mutual Water Company
25 – Annual Property Tax Bills for 2011 and 2012; ¶ I.3.c.; Landale Mutual Water
26 Company – Permit authorizing the sale and issuance of securities; Landale Mutual
27 Water Company – By-Laws (as amended).

1 2. Landale's service area consists of 574 acres, which are bounded by Ave L to the
2 North, Ave M to the South, 10 St West to the East, Valley Line Rd to the West. Landale is the
3 owner of the water rights and the production, storage and distribution facilities. Landale services
4 its members / shareholders identified by the Assessor's Parcel Numbers ("APN") listed in the
5 *Discovery Responses*. The properties within the Landale service area are single family
6 residential parcels, with the exception of one active commercial concrete company. The City of
7 Lancaster has, however, designated the service area as a "heavy industrial zone" and all future
8 building must conform.

9 Reference: *Discovery Responses* ¶¶ I.1.a., I.1.h., I.1.j.; Landale Mutual Water
10 Company printed list of APNs; *Supplemental Discovery Responses* ¶ I.3.b.;
11 Landale Mutual Water Company – Annual Property Tax Bills for 2011 and 2012.

12 3. Landale's pumping operations during the years 2000 to 2004 and 2011 to 2012
13 consisted of one (1) functioning well and three (3) booster pumps [2 x 40HP and 1 x 50HP, with
14 a 200HP well turbine pump]. The pumps, well pump and motors were upgraded in 2007-2008
15 with a 4th booster under construction. "Well #2" (as it was identified in approximately 2000 –
16 2003) was recently replaced with the "New Well" due to sanding problems with Well #2. The
17 operation of the New Well, starting in 2003, accounts for all water pumped since the change.
18 Both Well #2 and the New Well are located on the NE corner of Ave L-8 and 5th Street E in the
19 City of Lancaster, within Landale's service area. During the years 2000 to 2004 and 2011 to
20 2012, Landale used the water produced from these wells for the provision of domestic water
21 service to its residential mutual members, and commercial water service to its sole commercial
22 and mutual members. All of the groundwater produced by Landale from these wells was used in
23 its service area by its members.

24 Reference: *Discovery Responses* ¶¶ I.1.c., I.1.d., I.1.f., I.1.g., I.1.h., I.3.a.i.,
25 I.3.a.ii., I.3.a.iii., I.3.a.iv., I.3.a.v., I.3.a.vi.; Annual Notice of Groundwater
26 Extraction for 2000; Annual Notice of Groundwater Extraction for 2001; Annual
27 Notice of Groundwater Extraction for 2003; Annual Notice of Groundwater
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Extraction for 2004; Annual Notice of Groundwater Extraction for 2011; Landale Water Consumption for 2012 – summary report reflecting monthly gallons used; Landale Mutual Water Company – facsimile report of water pumped and AVEK delivery water for 2011 and 2012 (December 14, 2012); *Supplemental Discovery Responses* ¶ I.3.a.; Landale Mutual Water Company – County of Los Angeles Public Health License; Landale Mutual Water Company – Southern California Edison electricity usage bills, 2011 and 2012.

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

- i. **2000:** 236.9 acre feet
- ii. **2001:** 241.1 acre feet
- iii. **2002:** data for this year is unavailable.¹
- iv. **2003:** 246.3 acre feet
- v. **2004:** 272.1 acre feet
- vi. **2011:** 139.7 acre feet
- vii. **2012 [1/1 – 11/30]:** 175.8 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.; Annual Notice of Groundwater Extraction for 2000; Annual Notice of Groundwater Extraction for 2001; Annual Notice of Groundwater Extraction for 2003; Annual Notice of Groundwater Extraction for 2004; Annual Notice of Groundwater Extraction for 2011; Landale Water Consumption for 2012 – summary report reflecting monthly gallons used; Landale Mutual Water Company – facsimile report of water pumped and AVEK delivery water for 2011 and 2012 (December 14, 2012); *Supplemental Discovery Responses* ¶ I.3.a., Landale Mutual Water Company – County of Los Angeles Public Health License;

¹ Cal Water managed the wellsite and testing in 2002. The failures in their operations (including clerical, meter reading, and failure to file the Annual Notice) caused Landale to terminate their services, following which they refused to deliver any records during the period of their operations.

1 Landale Mutual Water Company – Southern California Edison electricity usage
2 bills, 2011 and 2012.

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

18 Reference: *Discovery Responses* ¶ I.1.j.; *Supplemental Discovery Responses*
19 ¶ I.3.b.; Landale Mutual Water Company – Annual Property Tax Bills for 2011
20 and 2012; ¶ I.3.c.; Landale Mutual Water Company – Permit authorizing the sale
21 and issuance of securities; Landale Mutual Water Company – By-Laws (as
22 amended).

23 6. Landale did not lease any property to anyone during the Base Period years of
24 2000 to 2004 or the recent years of 2011 to 2012.

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

26 7. Landale imported water from the Antelope Valley – East Kern Water Agency
27 (“AVEK”) during the Base Period years of 2000 to 2004 and the recent years of 2011 to 2012,
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1 and claims return flows. All imported water was used to provide domestic water to its members.
2 In addition, all of Landale's properties are on septic, not sewer and, therefore, water from the
3 septic tanks also results in some return flows that augment the basin.

4 **a. The Amount of Water Imported:**

- 5 i. **2000:** 12 acre feet
6 ii. **2001:** 12 acre feet
7 iii. **2002:** 12 acre feet
8 iv. **2003:** 12 acre feet
9 v. **2004:** 12 acre feet
10 vi. **2011:** 6.8 acre feet
11 vii. **2012 [1/1 – 11/30]:** 6 acre feet

12 **b. Amount of Pumping of Return Flows from Imported Water: 45%.**

13 **c. Amount of Return Flows Pumped:**

- 14 i. **2000:** 5.4 acre feet
15 ii. **2001:** 5.4 acre feet
16 iii. **2002:** 5.4 acre feet
17 iv. **2003:** 5.4 acre feet
18 v. **2004:** 5.4 acre feet
19 vi. **2011:** 3.1 acre feet
20 vii. **2012 [1/1 – 11/30]:** 2.7 acre feet

21 **d. Methodology Used to Quantify Claim:** The figure of 45% of mutual
22 water company imported water constituting return flows (in un-sewered areas) was derived from
23 Technical Committee's Problem Statement Report. Reference is made, generally, to the Problem
24 Statement Report, and in particular Appendix D, pages D-25 and D-26.

25 Reference: *Discovery Responses* ¶¶ III.1.a., III.1.b., III.1.c., III.1.d., III.1.e.,
26 III.1.f., III.1.g., III.1.m., III.1.n.; Landale Mutual Water Company – facsimile
27 report of water pumped and AVEK delivery water for 2011 and 2012 (December
28

1 14, 2012); *Supplemental Discovery Response* ¶ III.1.d.; Landale Mutual Water
2 Company – AVEK Water District invoices for 2011; and Los Angeles County,
3 Dept. of Public Health, Water System Bacteriological Sampling Plan.

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

12 Reference: *Discovery Responses* ¶¶ I.1.g., I.1.j., II.1.a.

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1 **STIPULATION**

2 The parties hereto stipulate and agree that the facts, information and documents provided
3 herein and in the verified *Discovery Responses* posted on the Court's website on December 21,
4 2012 and on the verified *Supplemental Discovery Responses* that were posted on the Court's
5 website on January ³⁰~~29~~, 2013, will not be contested, and are therefore deemed accepted, for
6 purposes of the Phase 4 Trial which is currently scheduled for May 28, 2013.

7 The parties further stipulate and agree that neither deposition testimony nor trial
8 testimony will be required of Landale for purposes of the Phase 4 Trial.

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10 IT IS SO STIPULATED.

11 Dated: January 30, 2013.

GRESHAM SAVAGE NOLAN & TILDEN, PC

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17 Dated: January ___, 2013.

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Dated: January ___, 2013.

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