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11 **SUNDALE 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 SUNDALE 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 **SUNDALE 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 Sundale Mutual Water Company, Inc. ("Sundale") 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. Sundale is an active California mutual benefit non-profit corporation, with an
12 entity address of 1900 Birch Ave, Rosamond, CA 93560. It was formed on December 30, 1971.
13 Its membership is comprised of the owners of the 824 mostly 2½ acre lots that are situated within
14 its below-described service area. Sundale's 331 active meters serve the improved real properties
15 within the Sundale 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 Sundale Mutual Water Company
19 ("*Discovery Responses*"), Paragraphs ("¶") I.1.b., I.3.c.ii.; California Secretary of
20 State, Business Entity Detail (December 14, 2012); *Cross-Defendant/Cross-*
21 *Complainant, Antelope Valley United Mutual Group, Specifically Sundale Mutual*
22 *Water Company's*, (verified) *First Supplemental Response to December 12, 2012*
23 *Discovery Order for Phase 4 Trial* ("*Supplemental Discovery Responses*") ¶
24 I.3.c.; Sundale Mutual Water Company – Articles of Incorporation, By-Laws, and
25 Share Certificate (exemplar).

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1 2. Sundale's service area consists of 2080 acres, which are bounded as follows: Kern
2 County Side, North Boundary: Elder; South Boundary: Ave A; East Boundary: 65th St West;
3 and West Boundary: 80th St West. Los Angeles County Side, North Boundary: Ave A; South
4 Boundary: Ave B; East Boundary: 65th St West; West Boundary: 80th St West ("**Zone A**"); and,
5 Noncontiguous part: North Boundary: Ave C; South Boundary: Ave D; East Boundary: 80th St
6 West; and West Boundary: 90th St West ("**Zone B**"). Sundale is the owner of the water rights
7 and the production, storage and distribution facilities. Sundale services its members /
8 shareholders identified by the Assessor's Parcel Numbers ("APN") listed in the *Discovery*
9 *Responses*. The properties within the Sundale service area are single family residential parcels.

10 Reference: *Discovery Responses* ¶¶ I.1.a., I.1.h., I.1.j., I.3.a.i., I.3.a.ii., I.3.b.i.;
11 Sundale printed list of APNs; Sundale Mutual Water Company Pump Data
12 Analysis for Year 2008 [with data for years 2000-2004] explaining Sundale's two
13 pumping zones, its four wells, and computations for well pumping for years 2000-
14 2004; Sundale Mutual Water Company letter summarizing Zone A and Zone B
15 locations and Water Service Areas within both Los Angeles and Kern Counties.

16 3. Sundale owned and operated four (4) metered wells and boosters with Edison
17 energy efficiency calibrated motor driven pumps that were situated within its service area during
18 the Base Period years 2000 to 2004 and from 2005 to 2012. During the years 2000 through
19 2012, Sundale used the water produced from these wells for the provision of domestic water
20 service to its residential mutual members. All of the groundwater produced by Sundale from
21 these wells was used in its service area by its members.

22 Reference: *Discovery Responses* ¶¶ I.1.c., I.1.d., I.1.f., I.1.g., I.1.h., I.3.a.i.,
23 I.3.a.ii., I.3.a.iii., I.3.a.iv., I.3.a.v., I.3.a.vi., I.3.a.vii.; Sundale Mutual Water
24 Company Pump Data Analysis for Year 2008 [with data for years 2000-2004]
25 explaining Sundale's two pumping zones, its four wells, and computations for
26 well pumping for years 2000-2004; Sundale Total Acre Feet Pumped for 2000-
27 2004 summary spreadsheet; State Water Resources Control Board First Notice of
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Extraction for 2011 ("Zone A" Well); State Water Resources Control Board First Notice of Extraction for 2011 ("Zone B" Well); Sundale Average kW/AF for 2008; Wells 1, 2, 3, and 4 – Southern California Edison Multiple Point Well Efficiency Test Summary (December 4, 2007; Southern California Edison Well Efficiency Test Results – Well #2 (July 26, 2006); Sundale total acre feet pumped summary spreadsheet for the year 2011; Sundale total acre feet pumped summary spreadsheet for the January - November 2012; *Supplemental Discovery Responses* ¶¶ I.3.a., I.3.a.iii., I.3.a.vi.; Southern California Edison Account Overview for 002-6269-46 [Zone A] for 2008, (12/08/2008); Southern California Edison Account Overview for 003-1510-65 [Zone B] for 2008 (12/08/2008); Southern California Edison electricity usage bill for Zone A – 2005 through 2012; Sundale total acre feet pumped for 2005 through 2012; Summary Spreadsheets for 2005 through 2010; Summary Spreadsheets for 2000 to 2004 and 2008 (revised); Southern California Edison Multiple Test Summary for Nov. 2007 and Dec. 2007; Sundale Mutual Water Company Pump Data Analysis for 2008; Sundale Mutual Water Company – photographs of groundwater production, storage and distribution system and infrastructure, Zones A and B; Sundale Mutual Water Company – Kern County Water Distribution Schematic Zones A and B; Sundale Mutual Water Company – Well Readings Summary Zones A and B, 2011 and 2012; Sundale Mutual Water Company – Southern California Edison Electricity Usage Data for Zones A and B, 2000 through 2004, and 2011 and 2012.

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

- i. **2000:** 636.5 acre feet
- ii. **2001:** 626.1 acre feet
- iii. **2002:** 719.0 acre feet
- iv. **2003:** 581.6 acre feet

- v. **2004:** 628.8 acre feet
vi. **2005:** 608.3 acre feet
vii. **2006:** 641.0 acre feet
viii. **2007:** 717.8 acre feet
ix. **2008:** 678.7 acre feet
x. **2009:** 593.6 acre feet
xi. **2010:** 458.9 acre feet
xii. **2011:** 430.7 acre feet
xiii. **2012 [1/1 – 11/30]:** 457.8 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., I.3.a.vii.; Sundale Mutual Water Company Pump Data Analysis for Year 2008 [with data for years 2000-2004] explaining Sundale’s two pumping zones, its four wells, and computations for well pumping for years 2000-2004; Sundale Total Acre Feet Pumped for 2000-2004 summary spreadsheet; State Water Resources Control Board First Notice of Extraction for 2011 (“Zone A” Well); State Water Resources Control Board First Notice of Extraction for 2011 (“Zone B” Well); Sundale Average kW/AF for 2008; Wells 1, 2, 3, and 4 – Southern California Edison Multiple Point Well Efficiency Test Summary (December 4, 2007; Southern California Edison Well Efficiency Test Results – Well #2 (July 26, 2006); Sundale total acre feet pumped summary spreadsheet for the year 2011; Sundale total acre feet pumped summary spreadsheet for the January – November 2012; *Supplemental Discovery Responses* ¶¶ I.3.a., I.3.a.iii., I.3.a.vi.; Southern California Edison Account Overview for 002-6269-46 [Zone A] for 2008, (12/08/2008); Southern California Edison Account Overview for 003-1510-65 [Zone B] for 2008 (12/08/2008);); Southern California Edison electricity usage bill for Zone A – 2005 through 2012; Sundale total acre feet pumped for 2005 through 2012; Summary Spreadsheets for 2005 through 2010;

Summary Spreadsheets for 2000 to 2004 and 2008 (revised); Southern California Edison Multiple Test Summary for Nov. 2007 and Dec. 2007; Sundale Mutual Water Company Pump Data Analysis for 2008; Sundale Mutual Water Company – photographs of groundwater production, storage and distribution system and infrastructure, Zones A and B; Sundale Mutual Water Company – Kern County Water Distribution Schematic Zones A and B; Sundale Mutual Water Company – Well Readings Summary Zones A and B, 2011 and 2012; Sundale Mutual Water Company – Southern California Edison Electricity Usage Data for Zones A and B, 2000 through 2004, and 2011 and 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. Water Co.* (1955) 135 Cal.App.2d 784, 801. As such, each shareholder has an interest in the water rights, production, storage and distribution facilities of the mutual water company and has the right to receive water upon development and demand.

Reference: *Discovery Responses* ¶ I.1.j.; *Supplemental Discovery Responses* ¶ I.3.c.; Sundale Mutual Water Company – Articles of Incorporation, By-Laws, and Share Certificate (exemplar).

1 6. Sundale did not lease any property to anyone during the Base Period years of
2 2000 to 2004 or the recent years of 2011 to 2012.

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

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

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

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

17 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

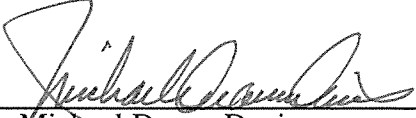
The parties hereto stipulate and agree that the facts, information and documents provided herein and in the verified *Discovery Responses* posted on the Court's website on December 21, 2012 and on the verified *Supplemental Discovery Responses* that were posted on the Court's website on January ³⁰~~29~~, 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 Sundale for purposes of the Phase 4 Trial.

IT IS SO STIPULATED.

Dated: January 30, 2013.

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Dated: January ___, 2013.

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25 Dated: January ___, 2013.

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