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

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

10
11 Coordination Proceeding) Judicial Council Coordination
12 Special Title (Rule 1550(b))) Proceeding No. 4408
13 **ANTELOPE VALLEY GROUNDWATER**) Santa Clara Case No. 1-05-CV-049053
14 **CASES**) Assigned to the Honorable Jack Komar
Department 17
15 Including Actions:)
16 **Los Angeles County Waterworks District**) **[PROPOSED] STIPULATION**
17 **No. 40 v. Diamond Farming Co.**) **REGARDING THE DEPOSITION AND**
Superior Court of California, County of Los) **TRIAL TESTIMONY OF CROSS-**
18 Angeles, Case No. BC 325 201) **DEFENDANT WEST SIDE PARK**
19 **Los Angeles County Waterworks District**) **MUTUAL WATER COMPANY, INC., A**
20 **No. 40 v. Diamond Farming Co.**) **MEMBER OF THE ANTELOPE**
Superior Court of California, County of Kern,) **VALLEY UNITED MUTUAL GROUP**
21 Case No. S-1500-CV-254-348)
22 **Wm. Bolthouse Farms, Inc. v. City of**)
23 **Lancaster**)
24 **Diamond Farming Co. v. City of Lancaster**)
Diamond Farming Co. v. Palmdale Water)
Dist.)
Superior Court of California, County of)
25 Riverside, consolidated actions, Case Nos. RIC)
353 840, RIC 344 436, RIC 344 668)
26 **AND RELATED ACTIONS.**)
27
28

1 This *Stipulation Regarding the Deposition and Trial Testimony of Cross-Defendant*
2 ***WEST SIDE PARK MUTUAL WATER COMPANY, INC.***, a member of the *Antelope Valley*
3 *United 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 West Side Park Mutual Water Company, Inc. (“West Side Park”) has provided, under
8 penalty of perjury, the facts, information and documents submitted to the Court and posted on
9 the Court’s website on December 21, 2012 (the “*Discovery Responses*”) and on January 29,
10 2013 (the “*Supplemental Discovery Responses*”), including, but not limited to, the following:

11 1. West Side Park is an active California mutual benefit non-profit corporation, with
12 an entity address of 40317 11th Street West, Palmdale, CA 93551. It was formed on November
13 27, 1950. Its membership is comprised of the owners of the 174 mostly 2½ acre lots that are
14 situated within its below-described service area. West Side Park’s 155 active meters serve the
15 improved real properties within the West Side Park service area, 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 West Side Park 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 West Side Park*
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.b.; West Side Park Mutual Water Company – 2012 Annual
26 Property Tax Bill; ¶ I.3.c.; West Side Park Mutual Water Company - Articles of
27 Incorporation, By-Laws (as amended) and Share Certificate (exemplar).

1 2. West Side Park’s service area consists of 400 acres, which are bounded by
2 Avenue O to the North, Avenue O-8 to the South, 15th Street West to the East, and 20th Street
3 West to the West. West Side Park is the owner of the water rights and the production, storage
4 and distribution facilities. West Side Park services its members / shareholders identified by the
5 Assessor’s Parcel Numbers (“APN”) listed in the *Discovery Responses*. The properties within
6 the West Side Park service area are single family residential parcels.

7 Reference: *Discovery Responses* ¶¶ I.1.a., I.1.h., I.1.j.; West Side Park printed list
8 of APNs.

9 3. West Side Park owned and operated a total of two (2) metered wells, only one of
10 which existed within its service area during the Base Period years of 2000 to 2004 while both
11 existed from 2005 to 2012 after Well #2 was constructed in 2005. During the years 2000
12 through 2012, West Side Park used the water produced from these wells for the provision of
13 domestic water service to its residential mutual members. All of the groundwater produced by
14 West Side Park from these wells was used in its service area by its members.

15 Reference: *Discovery Responses* ¶¶ I.1.c., I.1.d., I.1.f., I.1.g., I.1.h.; I.3.a.i.,
16 I.3.a.ii., I.3.a.iii., I.3.a.iv., I.3.a.v., I.3.a.vi.; WSP Well – Annual Notice of
17 Groundwater Extraction for 2001; WSP Well – Annual Notice of Groundwater
18 Extraction for 2002; WSP Well – Annual Notice of Groundwater Extraction for
19 2003; WSP Well – Annual Notice of Groundwater Extraction for 2004; Annual
20 Notice of Groundwater Extraction for 2011 Recordation No. G193479; Annual
21 Notice of Groundwater Extraction for 2011 Recordation No. G193210; West Side
22 Park Mutual Water Company Summary Report of water pumped during 2011 and
23 January – November 2012; *Supplemental Discovery Responses* ¶ I.3.a.; West Side
24 Park Mutual Water Company – California Department of Public Health, Water
25 Supply Permit; West Side Park Mutual Water Company – Water Distribution
26 Schematics; West Side Park Mutual Water Company – Well Data Sheets for Well
27 Numbers 1, 2 and 3; Well Completion Report for Well No. 2; West Side Park
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1 Mutual Water Company – photographs of production, storage and distribution
2 facilities and infrastructure; West Side Park Mutual Water Company – Southern
3 California Edison Multiple Point Test Summary; Meter Reading Data, 2000
4 through 2007; Southern California Edison hydraulic test results, meter reading
5 data, Edison records, Statement of Account, 2011 and 2012; West Side Park
6 Mutual Water Co. “Report to DWR” summary spreadsheet of groundwater
7 pumped and AVEK water purchased; Annual Notices of Groundwater Extraction
8 for WSP Well #1 and #2 for years 2008 – 2010.

9 4. West Side Park groundwater production during the years 2000 through 2012 was
10 as follows:

- 11 i. 2000: 298.6 acre feet
- 12 ii. 2001: 240.6 acre feet
- 13 iii. 2002: 279 acre feet
- 14 iv. 2003: 291 acre feet
- 15 v. 2004: 310 acre feet
- 16 vi. 2005: 304 acre feet
- 17 vii. 2006: 302.9 acre feet
- 18 viii. 2007: 326 acre feet
- 19 ix. 2008: 323.7 acre feet
- 20 x. 2009: 307.4 acre feet
- 21 xi. 2010: 289 acre feet
- 22 xii. 2011: 294 acre feet
- 23 xiii. 2012 [1/1 – 11/30]: 267.5 acre feet

24 Reference: *Discovery Responses* ¶¶ I.1.e., I.3.a.i., I.3.a.ii., I.3.a.iii., I.3.a.iv.,
25 I.3.a.v., I.3.a.vi.; WSP Well – Annual Notice of Groundwater Extraction for 2001;
26 WSP Well – Annual Notice of Groundwater Extraction for 2002; WSP Well –
27 Annual Notice of Groundwater Extraction for 2003; WSP Well – Annual Notice
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1 of Groundwater Extraction for 2004; Annual Notice of Groundwater Extraction
2 for 2011 Recordation No. G193479; Annual Notice of Groundwater Extraction
3 for 2011 Recordation No. G193210; West Side Park Mutual Water Company
4 Summary Report of water pumped during 2011 and January – November 2012;
5 *Supplemental Discovery Responses* ¶ I.3.a.; West Side Park Mutual Water
6 Company – California Department of Public Health, Water Supply Permit; West
7 Side Park Mutual Water Company – Water Distribution Schematics; West Side
8 Park Mutual Water Company – Well Data Sheets for Well Numbers 1, 2 and 3;
9 Well Completion Report for Well No. 2; West Side Park Mutual Water Company
10 – photographs of production, storage and distribution facilities and infrastructure;
11 West Side Park Mutual Water Company – Southern California Edison Multiple
12 Point Test Summary; Meter Reading Data, 2000 through 2007; Southern
13 California Edison hydraulic test results, meter reading data, Edison records,
14 Statement of Account, 2011 and 2012; West Side Park Mutual Water Co. “Report
15 to DWR” summary spreadsheet of groundwater pumped and AVEK water
16 purchased; Annual Notices of Groundwater Extraction for WSP Well #1 and #2
17 for years 2008 – 2010.

18 5. Upon the formation of the mutual benefit, non-profit corporation, the overlying
19 groundwater rights of the owners of the properties within the service area (who became the
20 initial shareholders) became the rights of the mutual water company and have, ever since, been
21 exercised by the mutual water company and not by the individual property owners /
22 shareholders. There was no known express reservation of the overlying groundwater rights by
23 the individual property owners at the time of formation. The property owners / shareholders
24 simply pooled their collective water and (through the mutual water company) constructed,
25 operated and maintained the production, storage and distribution system by which they all
26 receive water for their domestic purposes. Simply stated, the property owners / shareholders
27 exchanged their overlying water rights for the right to have water delivered to their individual
28

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

6 Reference: *Discovery Responses* ¶ I.1.j; *Supplemental Discovery Responses* ¶
7 I.3.b.; West Side Park Mutual Water Company – 2012 Annual Property Tax Bill;
8 ¶ I.3.c.; West Side Park Mutual Water Company – Articles of Incorporation, By-
9 Laws (as amended) and Share Certificate (exemplar).

10 6. West Side Park did not lease any property to anyone during the Base Period years
11 of 2000 to 2004 or the recent years of 2011 to 2012.

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

13 7. West Side Park imported water from the Antelope Valley – East Kern Water
14 Agency (“AVEK”) during the period of 2000 through 2012, and claims return flows. All
15 imported water was used to provide domestic water to its members. In addition, all of the West
16 Side Park properties are on septic, not sewer and, therefore, water from the septic tanks also
17 results in some return flows that augment the basin.

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

- 19 i. 2000: 23.4 acre feet
20 ii. 2001: 65.4 acre feet
21 iii. 2002: 77 acre feet
22 iv. 2003: 57.6 acre feet
23 v. 2004: 73.1 acre feet
24 vi. 2005: 19 acre feet
25 vii. 2006: 28.1 acre feet
26 viii. 2007: 3.6 acre feet
27 ix. 2008: 0.5 acre feet

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- x. 2009: 0 acre feet
- xi. 2010: 0 acre feet
- xii. 2011: 0 acre feet
- xiii. 2012 [1/1 – 11/30]: 0 acre feet

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

c. Amount of Return Flows Pumped:

- i. 2000: 10.5 acre feet
- ii. 2001: 29.4 acre feet
- iii. 2002: 34.7 acre feet
- iv. 2003: 25.9 acre feet
- v. 2004: 32.9 acre feet
- vi. 2005: 8.6 acre feet
- vii. 2006: 12.6 acre feet
- viii. 2007: 1.6 acre feet
- ix. 2008: 0.2 acre feet
- x. 2009: 0 acre feet
- xi. 2010: 0 acre feet
- xii. 2011: 0 acre feet
- xiii. 2012 [1/1 – 11/30]: 0 acre feet

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

Reference: *Discovery Responses* ¶¶ I.3.a.i., I.3.a.ii., I.3.a.iii., I.3.a.iv., I.3.a.v., III.1.a., III.1.b., III.1.c., III.1.d., III.1.e., III.1.f., III.1.g., III.1.m., III.1.n.; WSP Well – Annual Notice of Groundwater Extraction for 2001; WSP Well – Annual Notice of Groundwater Extraction for 2002; WSP Well – Annual Notice of

1 STIPULATION

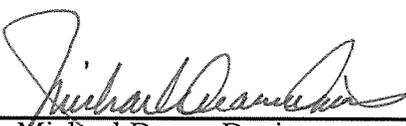
2 The parties hereto stipulate and agree that the facts, information and documents provided
3 herein and in the verified *Discovery Responses* posted on the Court's website on December 21,
4 2012 and on the verified *Supplemental Discovery Responses* that were posted on the Court's
5 website on January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

9
10 IT IS SO STIPULATED.

11 Dated: January ³⁰29, 2013.

GRESHAM SAVAGE NOLAN & TILDEN, PC

12
13 By: 
14 Michael Duane Davis
15 Marlene L. Allen-Hammarlund
16 Derek R. Hoffman
17 Attorneys for Cross-Defendant, West Side
18 Park Mutual Water Company, a member of
19 the Antelope Valley United Mutual Group

20 Dated: January ___, 2013.

CHARLTON WEEKS LLP

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

26 Dated: January ___, 2013.

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28 By: _____
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Dated: January ___, 2013.

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Dated: January ___, 2013.

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Dated: January ___, 2013.

LAGERLOF SENEAL GOSNEY & KRUSE

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

1 **PROOF OF SERVICE**
2 **STATE OF CALIFORNIA, COUNTY OF RIVERSIDE**

3 Re: *ANTELOPE VALLEY GROUNDWATER CASES*
4 Los Angeles County Superior Court Judicial Council Coordinated
5 Proceedings No. 4408; Santa Clara County Superior Court Case No. 1-05-CV-049053

6 I am employed in the County of Riverside, State of California. I am over the age of 18
7 years and not a party to the within action; my business address is: 3750 University Avenue,
8 Suite 250, Riverside, CA 92501-3335.

9 On March 15, 2013, I served the foregoing document(s) described [**PROPOSED**]
10 **STIPULATION REGARDING THE DEPOSITION AND TRIAL TESTIMONY OF**
11 **CROSS-DEFENDANT, WEST SIDE PARK MUTUAL WATER COMPANY, INC., A**
12 **MEMBER OF THE ANTELOPE VALLEY UNITED MUTUAL GROUP** on the interested
13 parties in this action in the following manner:

14 (X) **BY ELECTRONIC SERVICE** – I posted the document(s) listed above to the
15 Santa Clara County Superior Court website, <http://www.scefilng.org>, in the action of the
16 Antelope Valley Groundwater Cases,

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed on March 15, 2013 at Riverside, California.

20 
21 _____
22 DINA M. SNIDER