

5 Shadow Acres 7

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9 Attorneys for Cross-Defendant/Cross-Complainant,
10 A.V. UNITED MUTUAL GROUP; and Cross-
11 Defendants, ADAMS BENNETT INVESTMENTS,
12 LLC; MIRACLE IMPROVEMENT CORPORATION
13 dba GOLDEN SANDS MOBILE HOME PARK, aka
14 GOLDEN SANDS TRAILER PARK, named as ROE
15 1121; ST. ANDREW'S ABBEY, INC., named as ROE
16 623; SERVICE ROCK PRODUCTS, L.P.; and
17 SHEEP CREEK WATER COMPANY, INC.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF LOS ANGELES**

13 Coordination Proceeding
14 Special Title (Rule 1550(b))

) Judicial Council Coordination
) Proceeding No. 4408

15 **ANTELOPE VALLEY GROUNDWATER**
16 **CASES**

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

16 Including Consolidated Actions:

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

) **CROSS-DEFENDANT/CROSS-**
) **COMPLAINANT, ANTELOPE VALLEY**
) **UNITED MUTUAL GROUP'S**
) **INFORMATION AND MATERIALS**
) **RESPONSIVE TO DECEMBER 12, 2012**
) **DISCOVERY ORDER FOR PHASE 4**
) **TRIAL**

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

) For Court's Use Only:
) Santa Clara County
) Case No. 1-05-CV-049053
) (For E-Posting/E-Service Purposes Only)

22 **Wm. Bolthouse Farms, Inc. v. City of**
23 **Lancaster**
24 **Diamond Farming Co. v. City of Lancaster**
25 **Diamond Farming Co. v. Palmdale Water**
26 **Dist.**
27 Superior Court of California, County of
28 Riverside, consolidated actions, Case Nos. RIC
353 840, RIC 344 436, RIC 344 668

26 **AND RELATED ACTIONS.**

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 Cross-Defendant / Cross-Complainant, **A. V. UNITED MUTUAL GROUP** [comprised
3 of Antelope Park Mutual Water Co., Aqua-J Mutual Water Co., Averydale Mutual Water Co.,
4 Baxter Mutual Water Co., Bleich Flat Mutual Water Co., Colorado Mutual Water Co., Eldorado
5 Mutual Water Co., Evergreen Mutual Water Co., Land Projects Mutual Water Co., Landale
6 Mutual Water Co., Shadow Acres Mutual Water Co., Sundale Mutual Water Co., Sunnyside
7 Farms Mutual Water Co., Tierra Bonita Mutual Water Co., Westside Park Mutual Water Co.,
8 and White Fence Farms Mutual Water Co., Inc.], by and through their attorneys of record,
9 Gresham Savage Nolan & Tilden, PC, by Michael Duane Davis and Marlene L. Allen-
10 Hammarlund, submit the following information and materials, under penalty of perjury, in
11 response to the December 12, 2012 Discovery Order for Phase 4 Trial ("*Discovery Order*"),
12 issued by the Honorable Jack Komar, Trial Judge.

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1 Cross-Defendant / Cross-Complainant, **A. V. UNITED MUTUAL GROUP** have made a
2 good faith effort to fully and accurately respond to the categories of information required by the
3 *Discovery Order*. However, due to the shortness of time between the issuance of the order and
4 the degree of detail required by the *Discovery Order*, Cross-Defendant / Cross-Complainant, **A.**
5 **V. UNITED MUTUAL GROUP** reserve the right to supplement their responses to the extent
6 they require, in as timely a manner as possible.

1 **SHADOW ACRES MUTUAL WATER COMPANY:**

2
3 **I. CLAIMS OF OVERLYING GROUNDWATER RIGHTS:**

4 1. **Property situated with Shadow Acres Mutual Water Company** ("Shadow
5 Acres"):

6 a. **Location of Property [Service Area]:** 480 acres; North Boundary:
7 Ave O; South Boundary, Ave O-12; East Boundary: 20th St West; and West Boundary: 30th St
8 West. Though the owner of the water rights and the production, storage and distribution
9 facilities is Shadow Acres Mutual Water Company, a California mutual benefit non-profit
10 corporation, at the direction of the Court, the Assessor's Parcel Numbers ("APN") of the
11 members / shareholders is set forth on Shadow Acres Mutual Water Company "**Attachment**
12 **I.1.a.**"

13 b. **Ownership Information:** Shadow Acres is an active California mutual
14 benefit non-profit corporation, with an entity address of Post Office Box 900669, Palmdale, CA
15 93590. It was formed on May 23, 1980. Its Agent for Service of Process is Jeanne G. Miller at
16 40115 15th St. West, Palmdale, CA 93551. Its membership is comprised of the owners of the
17 182 mostly 2½ acre lots that are situated within its above-described service area. Shadow Acres'
18 156 active meters serve the properties within the Shadow Acres service area that have been
19 improved with a residence, and stand by to serve the unimproved properties when improved.

20 c. **Existence of Groundwater wells (2000 to 2004 and 2011 to 2012):**
21 Shadow Acres owned 2 wells and boosters with Edison energy efficiency calibrated motor
22 driven pumps that were situated within its service area during the years 2000 to 2004 and 2011 to
23 2012.

24 d. **Operation of Groundwater wells (2000 to 2004 and 2011 to 2012):**
25 Shadow Acres operated the 2 wells described in I.1.c., above, during the years 2000 to 2004 and
26 2011 to 2012.

- 1 e. **Amount of Groundwater Produced:** Shadow Acres groundwater
2 production during the years 2000 to 2004 and 2011 – 2012:
- 3 i. 2000: 98 acre feet
4 ii. 2001: 102 acre feet
5 iii. 2002: 106 acre feet
6 iv. 2003: 103 acre feet
7 v. 2004: 111 acre feet
8 vi. 2011: 55.7 acre feet
9 vii. 2012 [1/1 – 11/30]: 49.5 acre feet
- 10 f. **Uses of Groundwater Produced:** During the years 2000 to 2004 and
11 2011 to 2012, Shadow Acres used the water produced from its wells described in I.1.c., above,
12 for the provision of domestic water service to its mutual members.
- 13 g. **Places of Groundwater Use:** All groundwater produced by
14 Shadow Acres from the wells described in I.1.c., above, was used in its service area by its
15 members.
- 16 h. **Uses of Parcels within Service Area:** The properties within the
17 Shadow Acres service area are single family residential parcels.
- 18 i. **Crop Types:** None.
- 19 j. **Basis for Claim of Groundwater Rights:** Upon the formation of the
20 mutual benefit, non-profit corporation, the overlying groundwater rights of the owners of the
21 properties within the service area (who became the initial shareholders) became the rights of the
22 mutual water company and have, ever since, been exercised by the mutual water company and
23 not by the individual property owners / shareholders. There was no known express reservation
24 of the overlying groundwater rights by the individual property owners at the time of formation.
25 The property owners / shareholders simply pooled their collective water and (through the mutual
26 water company) constructed, operated and maintained the production, storage and distribution
27 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 interests 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.

k. **Amount of Groundwater Claim:** 111 acre feet [highest "base period" use].

l. **Other Facts Supporting Claim:** Pending receipt of additional data and information.

2. **Property Lease Information:**

a. **Lease of Property:** Shadow Acres leased no property during the years 2000 to 2004 and 2011 to 2012

b. **Name of Lessee:** N/A.

c. **ATN/APNs:** N/A.

d. **Written Agreements Allocating Credits:** N/A.

e. **Lessee Delivery of Water:** N/A.

f. **Uses of Groundwater by Lessee:** N/A.

3. **Additional Requested Information and Materials:**

a. **Prima Facie Groundwater Production Materials:**

i. See Shadow Acres Mutual Water Company "Attachment I.3.a.i."

ii. Well #1 – Southern California Edison Multiple Point Well Efficiency Test Summary (April 11, 2012)

iii. Well #2 – Southern California Edison Multiple Point Well Efficiency Test Summary (April 11, 2012)

iv. Southern California Edison Booster Efficiency Test Results.

v. Southern California Edison Electrical Billing History (January 2000 – December 2004)

vi. Southern California Edison Electrical Billing History (January 2011 – January 2012)

vii. Pending receipt of additional data and information.

b. **Prima Facie Property Uses Materials:**

i. See Shadow Acres Mutual Water Company “Attachment I.3.b.i.”

ii. Pending receipt of additional data and information.

c. **Additional Materials:**

i. See Shadow Acres Mutual Water Company “Attachment I.3.c.i.”

ii. California Secretary of State, Business Entity Detail (December 14, 2012)

iii. Pending receipt of additional data and information.

II. **CLAIMS OF NON-OVERLYING GROUNDWATER RIGHTS:**

1. **Specifically Requested Non-Overlying Information:**

a. **Amount of Production:** None.

b. **ATN/APNs:** N/A.

c. **Well Information:** N/A.

d. **Amount of Water Produced:** N/A.

e. **Methodology Used to Quantify Claim:** N/A.

f. **Reports to State Water Resources Control Board (2000 to 2004):** N/A.

g. **Uses other than Municipal Supply (2000 to 2004 and 2011 to 2012):**
N/A.

h. **Water for Outdoor Irrigation:** N/A.

III. **CLAIMS OF RETURN FLOW CREDITS:**

1. **Specifically Requested Non-Overlying Information:**

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

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b. Amount of Return Flows Pumped:

- i. 2000: 91.3 acre feet
- ii. 2001: 100.2 acre feet
- iii. 2002: 101.4 acre feet
- iv. 2003: 101.4 acre feet
- v. 2004: 119.7 acre feet
- vi. 2011: 84.9 acre feet
- vii. 2012 [1/1 – 11/30]: 77.7 acre feet

c. 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.

d. Amount of Water Imported:

- i. 2000: 234 acre feet
- ii. 2001: 257 acre feet
- iii. 2002: 260 acre feet
- iv. 2003: 260 acre feet
- v. 2004: 307 acre feet
- vi. 2011: 217.6 acre feet
- vii. 2012 [1/1 – 11/30]: 199.1 acre feet

e. Water Quality Information: Water delivered from AVEK is reported to satisfy regulatory potability standards.

f. Uses of Imported Water: During the years 2000 to 2004 and 2011 to 2012, Shadow Acres used the water imported from AVEK described in III.1.d., above, for the provision of domestic water service to its mutual members.

g. Dates of Importation of Water: Commenced prior to the base period.

- 1 h. Geological Conditions Beneath Properties: Pending receipt of
2 data.
- 3 i. Depth of Aquifer and Soil Type Beneath Surface: Pending
4 receipt of data.
- 5 j. Time for Percolation to Aquifer: Pending receipt of data.
- 6 k. Physical Evidence that Return Flows Augment Basin: Pending
7 receipt of data.
- 8 l. Geological Locations that Return Flows Augment Basin: Pending
9 receipt of data.
- 10 m. Return Flows Entering Municipal Sewer System: None. Members of
11 the Shadow Acres Mutual Water Company are on septic, not sewer.
- 12 n. Locations of Return Flows Wastewater Augmenting Basin: From
13 the septic tanks situated on each of the properties within Shadow Acres Mutual Water Company.

14 IV. FOR THE FEDERAL PARTIES: N/A.

15 V. FOR ALL RESPONDING PARTIES:

- 16 1. Person most qualified to testify to the facts and materials above:
- 17 a. Non-Expert Witness(es): Jeanne G. Miller and Tim Sullivan.
- 18 b. Expert Witness(es): Not determined at this time.
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2. Verification by Authorized Individual:

Declaration under Penalty of Perjury:

I, Jeanne Miller, am the Record Keeper and Office Manager of the Shadow Acres Mutual Water Company and have personal knowledge of the facts set forth above.

If called to do so, I could and would competently testify to these facts under oath. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 20th day of December, 2012 at Lancaster, CA,

James G. Miller

Jeanne Miller

1 DATED: December 21, 2012

Respectfully submitted,

2 GRESHAM SAVAGE NOLAN & TIDEN, PC

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4
5 By: 

6 MICHAEL DUANE DAVIS, ESQ.
MARLENE L. ALLEN-HAMMARLUND, ESQ.
7 Attorneys for CROSS-DEFENDANT / CROSS-
COMPLAINANT, A. V. UNITED MUTUAL GROUP;
8 and CROSS-DEFENDANTS, ADAMS BENNETT
INVESTMENTS, LLC, MIRACLE IMPROVEMENT
9 CORPORATION dba GOLDEN SANDS MOBILE
HOME PARK, aka GOLDEN SANDS TRAILER
10 PARK [ROE 1121], ST. ANDREW'S ABBEY, INC.
[ROE 623], SERVICE ROCK PRODUCTS, L.P., and
11 SHEEP CREEK WATER COMPANY, INC.

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ANTELOPE VALLEY UNITED MUTUAL GROUP'S INFORMATION AND MATERIALS RESPONSIVE TO
DECEMBER 12, 2012 DISCOVERY ORDER FOR PHASE 4 TRIAL

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

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

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.

On December 21, 2012, I served the foregoing document(s) described as **CROSS-DEFENDANT/CROSS-COMPLAINANT, ANTELOPE VALLEY UNITED MUTUAL GROUP'S INFORMATION AND MATERIALS RESPONSIVE TO DECEMBER 12, 2012 DISCOVERY ORDER FOR PHASE 4 TRIAL** on the interested parties in this action in the following manner:

(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 December 21, 2012, at Riverside, California.


DINA M. SNIDER