

5 West Side Park 10

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**A Professional Corporation**  
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5 Attorneys for Cross-Defendant/Cross-Complainant,  
6 A.V. UNITED MUTUAL GROUP; and Cross-  
Defendants, ADAMS BENNETT INVESTMENTS,  
7 LLC; MIRACLE IMPROVEMENT CORPORATION  
dba GOLDEN SANDS MOBILE HOME PARK, aka  
8 GOLDEN SANDS TRAILER PARK, named as ROE  
1121; ST. ANDREW'S ABBEY, INC., named as ROE  
9 623; SERVICE ROCK PRODUCTS, L.P.; and  
SHEEP CREEK WATER COMPANY, INC.

10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **IN AND FOR THE COUNTY OF LOS ANGELES**

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

) Judicial Council Coordination  
) Proceeding No. 4408

14 **ANTELOPE VALLEY GROUNDWATER**  
15 **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**  
**No. 40 v. Diamond Farming Co.**  
18 Superior Court of California, County of Los  
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**

19 **Los Angeles County Waterworks District**  
20 **No. 40 v. Diamond Farming Co.**  
Superior Court of California, County of Kern,  
21 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**  
**Lancaster**  
23 **Diamond Farming Co. v. City of Lancaster**  
**Diamond Farming Co. v. Palmdale Water**  
24 **Dist.**

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

26 **AND RELATED ACTIONS.**  
27

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.

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1 WEST SIDE PARK MUTUAL WATER COMPANY

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

4 **1. Property situated with West Side Park Mutual Water Company (“West Side**  
5 **Park”):**

6 **a. Location of Property [Service Area]:** 400 acres; Bounded on the  
7 north by Avenue O, on the east by 10th Street West, on the south by Avenue O-8, on the East by  
8 15th Street West, on the south by Avenue O-12, and on the West by 20th Street West. Though  
9 the owner of the water rights and the production, storage and distribution facilities is West Side  
10 Park Mutual Water Company, a California mutual benefit non-profit corporation, at the direction  
11 of the Court, the Assessor’s Parcel Numbers (“APN”) of the members / shareholders is set forth  
12 on West Side Park Mutual Water Company “Attachment I.1.a.”

13 **b. Ownership Information:** West Side Park is an active California  
14 mutual benefit non-profit corporation, with an entity address of 40317 11th Street West,  
15 Palmdale, CA 93551. It was formed on November 27, 1950. Its Agent for Service of Process is  
16 Cliff Kos at 1737 West Avenue O-12, Palmdale, CA 93551. Its membership is comprised of the  
17 owners of the 174 mostly 2½ acre lots that are situated within its above-described service area.  
18 West Side Park’s 155 active meters serve the approximately ninety percent (90%) of the  
19 properties within the West Side Park service area that have been improved with a residence, and  
20 stand by to serve the unimproved properties when improved.

21 **c. Existence of Groundwater wells (2000 to 2004 and 2011 to 2012):**  
22 West Side Park owned a total of two (2) metered wells, only one of which was existed situated  
23 within its service area during the years 2000 to 2004 while both were existed in 2011 to 2012  
24 after Well #2 was constructed in 2005.

25 **d. Operation of Groundwater wells (2000 to 2004 and 2011 to 2012):**  
26 West Side Park operated only one of the wells described in I.1.c., above, during the years 2000 to  
27 2004; and both wells during the period of 2011 to 2012.

1 e. **Amount of Groundwater Produced:** West Side Park groundwater  
2 production during the years 2000 to 2004 and 2011 – 2012:

- 3 i. 2000: 298.6 acre feet
- 4 ii. 2001: 240.6 acre feet
- 5 iii. 2002: 279 acre feet
- 6 iv. 2003: 291 acre feet
- 7 v. 2004: 310 acre feet
- 8 vi. 2011: 294 acre feet
- 9 vii. 2012 [1/1 – 11/30]: 267.5 acre feet

10 f. **Uses of Groundwater Produced:** During the years 2000 to 2004 and  
11 2011 to 2012, West Side Park used the water produced from its well 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 West  
14 Side Park from the well described in I.1.c., above, was used in its service area by its members.

15 h. **Uses of Parcels within Service Area:** The properties within the  
16 West Side Park service area are single family residential parcels.

17 i. **Crop Types:** None.

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

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

6 k. **Amount of Groundwater Claim:** 310 acre feet [highest “base period”  
7 use].

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

10 2. **Property Lease Information:**

11 a. **Lease of Property:** West Side Park leased no property during the years  
12 2000 to 2004 and 2011 to 2012

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

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

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

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

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

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

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

- 20 i. See West Side Park Mutual Water Company “Attachment I.3.a.i.”  
21 ii. WSP Well – Annual Notice of Groundwater Extraction for 2001  
22 iii. WSP Well – Annual Notice of Groundwater Extraction for 2002  
23 iv. WSP Well – Annual Notice of Groundwater Extraction for 2003  
24 v. WSP Well – Annual Notice of Groundwater Extraction for 2004  
25 vi. “Water Use” and “Well Data” form providing new well  
26 information for Well #2 installed in 2005.

27 vii. Pending receipt of additional data and information.

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b. Prima Facie Property Uses Materials:

- i. See West Side Park Mutual Water Company "Attachment I.3.b.i."
- ii. Pending receipt of additional data and information.

c. Additional Materials:

- i. See West Side Park 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%.
- b. 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: 31.5 acre feet

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- v. 2004: 22.5 acre feet
- vi. 2011: 0 acre feet
- vii. 2012 [1/1 – 11/30]: 0 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: 23.4 acre feet
- ii. 2001: 65.4 acre feet
- iii. 2002: 77 acre feet
- iv. 2003: 70 acre feet
- v. 2004: 50 acre feet
- vi. 2011: 0 acre feet
- vii. 2012 [1/1 – 11/30]: 0 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, West Side Park 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:** 2000 through 2004.

h. **Geological Conditions Beneath Properties:** Pending receipt of data.

i. **Depth of Aquifer and Soil Type Beneath Surface:** Pending receipt of data.

j. **Time for Percolation to Aquifer:** Pending receipt of data.

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- k. **Physical Evidence that Return Flows Augment Basin:** Pending receipt of data.
- l. **Geological Locations that Return Flows Augment Basin:** Pending receipt of data.
- m. **Return Flows Entering Municipal Sewer System:** None. Members of the West Side Park Mutual Water Company are on septic, not sewer.
- n. **Locations of Return Flows Wastewater Augmenting Basin:** From the septic tanks situated on each of the properties within West Side Park Mutual Water Company.

IV. FOR THE FEDERAL PARTIES: N/A.

V. FOR ALL RESPONDING PARTIES:

- 1. **Person most qualified to testify to the facts and materials above:**
  - a. Non-Expert Witness(es): Mary Wood
  - b. Expert Witness(es): Not determined at this time.

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2. Verification by Authorized Individual:

Declaration under Penalty of Perjury:

I, Mary Wood, am the ~~Board Member~~ of the West Side Park 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 \_\_\_\_ day of December, 2012 at Lancaster, CA.

Mary Wood

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DATED: December 21, 2012

Respectfully submitted,

GRESHAM SAVAGE NOLAN & TIDEN, PC

By: 

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

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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

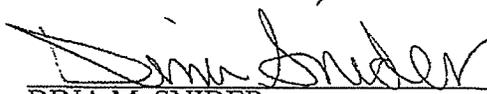
I am employed in the County of Riverside, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 3750 University Avenue, Suite 250, Riverside, CA 92501-3335.

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