

5 West Side Park 10

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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

17 Including Consolidated Actions:

18 **Los Angeles County Waterworks District**
19 **No. 40 v. Diamond Farming Co.**
20 Superior Court of California, County of Los
21 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**

22 **Los Angeles County Waterworks District**
23 **No. 40 v. Diamond Farming Co.**
24 Superior Court of California, County of Kern,
25 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)

26 **Wm. Bolthouse Farms, Inc. v. City of**
27 **Lancaster**
28 **Diamond Farming Co. v. City of Lancaster**
29 **Diamond Farming Co. v. Palmdale Water**
30 **Dist.**
31 Superior Court of California, County of
32 Riverside, consolidated actions, Case Nos. RIC
33 353 840, RIC 344 436, RIC 344 668

34 **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.

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

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

f. **Uses of Groundwater Produced:** During the years 2000 to 2004 and 2011 to 2012, West Side Park used the water produced from its well described in I.l.c., above, for the provision of domestic water service to its mutual members.

g. **Places of Groundwater Use:** All groundwater produced by West Side Park from the well described in I.l.c., above, was used in its service area by its members.

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

i. **Crop Types:** None.

j. **Basis for Claim of Groundwater Rights:** 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 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:** 310 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:** West Side Park 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 West Side Park Mutual Water Company “Attachment I.3.a.i.”
- ii. WSP Well – Annual Notice of Groundwater Extraction for 2001
- iii. WSP Well – Annual Notice of Groundwater Extraction for 2002
- iv. WSP Well – Annual Notice of Groundwater Extraction for 2003
- v. WSP Well – Annual Notice of Groundwater Extraction for 2004
- vi. “Water Use” and “Well Data” form providing new well information for Well #2 installed in 2005.

vii. Pending receipt of additional data and information.

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.

- 1 k. Physical Evidence that Return Flows Augment Basin: Pending
2 receipt of data.
- 3 l. Geological Locations that Return Flows Augment Basin: Pending
4 receipt of data.
- 5 m. Return Flows Entering Municipal Sewer System: None. Members of
6 the West Side Park Mutual Water Company are on septic, not sewer.
- 7 n. Locations of Return Flows Wastewater Augmenting Basin: From
8 the septic tanks situated on each of the properties within West Side Park Mutual Water
9 Company.
- 10 IV. FOR THE FEDERAL PARTIES: N/A.
- 11 V. FOR ALL RESPONDING PARTIES:
- 12 1. Person most qualified to testify to the facts and materials above:
- 13 a. Non-Expert Witness(es): Mary Wood
- 14 b. Expert Witness(es): Not determined at this time.
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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.
7 MARLENE L. ALLEN-HAMMARLUND, ESQ.
8 Attorneys for CROSS-DEFENDANT / CROSS-
9 COMPLAINANT, A. V. UNITED MUTUAL GROUP;
10 and CROSS-DEFENDANTS, ADAMS BENNETT
11 INVESTMENTS, LLC, MIRACLE IMPROVEMENT
12 CORPORATION dba GOLDEN SANDS MOBILE
13 HOME PARK, aka GOLDEN SANDS TRAILER
14 PARK [ROE 1121], ST. ANDREW'S ABBEY, INC.
15 [ROE 623], SERVICE ROCK PRODUCTS, L.P., and
16 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

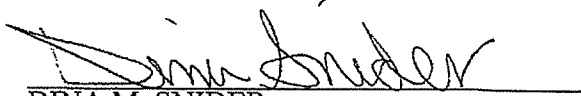
I am employed in the County of Riverside, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 3750 University Avenue, Suite 250, Riverside, CA 92501-3335.

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