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11 SHADOW ACRES 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 SHADOW ACRES**  
) **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 **SHADOW ACRES 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 Shadow Acres Mutual Water Company, Inc. ("Shadow Acres") 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. Shadow Acres is an active California mutual benefit non-profit corporation, with  
12 an entity address of Post Office Box 900669, Palmdale, CA 93590. It was formed on May 23,  
13 1980. Its membership is comprised of the owners of the 182 mostly 2½ acre lots that are situated  
14 within its below-described service area. Shadow Acres' 156 active meters serve the improved  
15 real properties within the Shadow Acres service area, and stand by to serve the unimproved  
16 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 Shadow Acres 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 Shadow Acres*  
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.c.; Shadow Acres Mutual Water Company – Articles of  
26 Incorporation (as amended), By-Laws (as amended), and Share Certificate  
27 (exemplar).

1           2.       Shadow Acres’ service area consists of 480 acres, which are bounded by Ave O to  
2 the North, Ave O-12 to the South, 20th St West to the East, 30th St West to the West. Shadow  
3 Acres is the owner of the water rights and the production, storage and distribution facilities.  
4 Shadow Acres services its members / shareholders identified by the Assessor’s Parcel Numbers  
5 (“APN”) listed in the *Discovery Responses*. The properties within the Shadow Acres service  
6 area are single family residential parcels.

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

9           3.       Shadow Acres owned and operated two (2) wells and boosters with Edison energy  
10 efficiency calibrated motor driven pumps that were situated within its service area during the  
11 Base Period years 2000 to 2004 and the recent years 2011 to 2012. During the years 2000 to  
12 2004 and 2011 to 2012, Shadow Acres used the water produced from these wells for the  
13 provision of domestic water service to its residential mutual members. All of the groundwater  
14 produced by Shadow Acres 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.; Well #1 – Southern California Edison  
17 Multiple Point Well Efficiency Test Summary (April 11, 2012); Well #2 –  
18 Southern California Edison Multiple Point Well Efficiency Test Summary (April  
19 11, 2012); Southern California Edison Electrical Billing History (January 2000 –  
20 December 2004); Southern California Edison Electrical Billing History (January  
21 2011 – January 2012); Southern California Edison Electrical Billing History  
22 (January 1991 – December 1999 and January 2005 – December 2010); Summary  
23 report of water pumped and AVEK delivery water for 2010, 2011 and 2012;  
24 *Supplemental Discovery Responses* ¶ I.3.a.; Google photographs of Shadow Acres  
25 Mutual Water Company well site; Shadow Acres Mutual Water Company –  
26 Southern California Edison Past Billing History, and Multiple Point Test  
27 Summaries, January 1991 through December 2012; Shadow Acres Mutual Water  
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1 Company - Southern California Edison hydraulic test results between September  
2 1995 and July 2012; Shadow Acres Mutual Water Company – Southern California  
3 Edison Statement of Accounts for 2012; Shadow Acres Mutual Water Company –  
4 Parcel Map Schematic; Shadow Acres Mutual Water Company – Morrison Well  
5 Maintenance Monthly Reports for 2011.

6 4. Shadow Acres groundwater production during the years 2000 to 2004 and from  
7 2011 to 2012 was as follows:

- 8 i. 2000: 98 acre feet
- 9 ii. 2001: 102 acre feet
- 10 iii. 2002: 106 acre feet
- 11 iv. 2003: 103 acre feet
- 12 v. 2004: 111 acre feet
- 13 vi. 2011: 55.7 acre feet
- 14 vii. 2012 [1/1 – 11/30]: 49.5 acre feet

15 Reference: *Discovery Responses* ¶¶ I.1.e., I.3.a.i., I.3.a.ii., I.3.a.iii., I.3.a.iv.,  
16 I.3.a.v., I.3.a.vi.; Well #1 – Southern California Edison Multiple Point Well  
17 Efficiency Test Summary (April 11, 2012); Well #2 – Southern California Edison  
18 Multiple Point Well Efficiency Test Summary (April 11, 2012); Southern  
19 California Edison Electrical Billing History (January 2000 – December 2004);  
20 Southern California Edison Electrical Billing History (January 2011 – January  
21 2012); Southern California Edison Electrical Billing History (January 1991 –  
22 December 1999 and January 2005 – December 2010); Summary report of water  
23 pumped and AVEK delivery water for 2010, 2011 and 2012; *Supplemental*  
24 *Discovery Responses* ¶ I.3.a.; Google photographs of Shadow Acres Mutual  
25 Water Company well site; Shadow Acres Mutual Water Company – Southern  
26 California Edison Past Billing History, and Multiple Point Test Summaries,  
27 January 1991 through December 2012; Shadow Acres Mutual Water Company –  
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Southern California Edison hydraulic test results between September 1995 an July 2012; Shadow Acres Mutual Water Company – Southern California Edison Statement of Accounts for 2012; Shadow Acres Mutual Water Company – Parcel Map Schematic; Shadow Acres Mutual Water Company – Morrison Well Maintenance Monthly Reports for 2011.

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.; Shadow Acres Mutual Water Company – Articles of Incorporation (as amended), By-Laws (as amended), and Share Certificate (exemplar).

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

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

1 7. Shadow Acres imported water from the Antelope Valley – East Kern Water  
2 Agency (“AVEK”) during the Base Period years of 2000 to 2004 and the recent years of 2011 to  
3 2012, and claims return flows. All imported water was used to provide domestic water to its  
4 members. In addition, all of the Shadow Acres properties are on septic, not sewer and, therefore,  
5 water from the septic tanks also results in some return flows that augment the basin.

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

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

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

15 c. **Amount of Return Flows Pumped:**

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

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

27 Reference: *Discovery Responses* ¶¶ I.3.a.i., III.1.a., III.1.b., III.1.c., III.1.d.,  
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**STIPULATION**

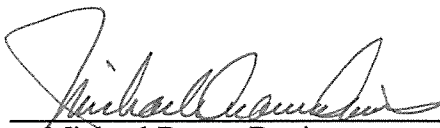
The parties hereto stipulate and agree that the facts, information and documents provided herein and in the verified *Discovery Responses* posted on the Court's website on December 21, 2012 and on the verified *Supplemental Discovery Responses* that were posted on the Court's website on January <sup>30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

IT IS SO STIPULATED.

Dated: January 30, 2013.

GRESHAM SAVAGE NOLAN & TILDEN, PC

By:   
Michael Duane Davis  
Marlene L. Allen-Hammarlund  
Derek R. Hoffman  
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Dated: January \_\_\_\_, 2013.

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By: \_\_\_\_\_  
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Dated: January \_\_\_\_, 2013.

BEST BEST & KRIEGER LLP

By: \_\_\_\_\_  
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Dated: January \_\_\_\_, 2013.

RICHARDS, WATSON & GERSHON

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Dated: January \_\_\_\_, 2013.

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Dated: January \_\_\_\_, 2013.

CALIFORNIA WATER SERVICE COMPANY

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Dated: January \_\_\_\_, 2013.

LEMIEUX & O'NEILL

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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, SHADOW ACRES 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.

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DINA M. SNIDER