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

12	Coordination Proceeding	)	Judicial Council Coordination
	Special Title (Rule 1550(b))	)	Proceeding No. 4408
13		)	
14	<b>ANTELOPE VALLEY</b>	)	Santa Clara Case No. 1-05-CV-049053
	<b>GROUNDWATER CASES</b>	)	Assigned to the Honorable Jack Komar
		)	Department 17C
15	Including <u>Consolidated</u> Actions:	)	
16	<b>Los Angeles County Waterworks District</b>	)	<b>MALWA 165 STREET LLC NOTICE OF</b>
	<b>No. 40 v. Diamond Farming Co.</b>	)	<b>MOTION AND MOTION FOR LEAVE TO</b>
17	Superior Court of California, County of Los	)	<b>INTERVENE IN JUDGMENT;</b>
	Angeles, Case No. BC 325 201	)	<b>MEMORANDUM OF POINTS AND</b>
18		)	<b>AUTHORITIES</b>
19	<b>Los Angeles County Waterworks District</b>	)	[Declarations of Chris Carrillo and Harjit Singh;
	<b>No. 40 v. Diamond Farming Co.</b>	)	and [Proposed] Order filed concurrently]
	Superior Court of California, County of	)	
20	Kern, Case No. S-1500-CV-254-348	)	Date: September 29, 2020
		)	Time: 9:00 a.m.
21	<b>Wm. Bolthouse Farms, Inc. v. City of</b>	)	Dept.: 1 – Appearance By CourtCall
	<b>Lancaster</b>	)	Judge: Hon. Jack Komar, Judge
22	<b>Diamond Farming Co. v. City of</b>	)	
	<b>Lancaster</b>	)	<b>[Hearing to be conducted by CourtCall]</b>
23	<b>Diamond Farming Co. v. Palmdale</b>	)	
	<b>Water Dist.</b>	)	
24	Superior Court of California, County of	)	
	Riverside, consolidated actions, Case Nos.	)	
25	RIC 353 840, RIC 344 436, RIC 344 668	)	
26	AND RELATED ACTIONS.	)	
27	_____	)	

1 **TO THE COURT, ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on September 29, 2020 at 9:00 a.m. or as soon as the  
3 Santa Clara County Superior Court [for above-entitled court located at 111 North Hill Street, Los  
4 Angeles, California] may hear the matter telephonically by CourtCall, with the parties to appear  
5 by CourtCall, Malwa 165 Street LLC (“Malwa”), will and hereby does move the Court for an  
6 order granting it leave to intervene in the December 23, 2015 Judgment and Physical Solution  
7 (“Judgment”) in the above-captioned Antelope Valley Groundwater Adjudication, pursuant to  
8 Section 20.9 of the Judgment and Section 387 of the California *Code of Civil Procedure*. This  
9 notice and motion is based on the attached Memorandum of Points and Authorities, the  
10 concurrently-filed Declarations of Chris Carrillo and Harjit Singh, on all papers filed and records  
11 in this action, and on any evidence received at the hearing.

12 The grounds for granting this Motion are as follows:

13 1. As set forth in the Judgment, this Court retained continuing jurisdiction over the  
14 groundwater adjudication action to make such further supplemental orders or directions as may  
15 be necessary or appropriate to implement the Judgment for the proper management of the  
16 Antelope Valley Area of Adjudication’s (“Basin”) water resources. (Judgment § 6.5.)

17 2. The Judgment provides that any person or entity, who is not a Party or successor  
18 to a Party and who proposes to Produce Groundwater from the Basin, to acquire a Production  
19 Right or to otherwise take actions that may affect the Basin’s Groundwater is required to seek to  
20 become a Party subject to the Judgment through a noticed motion to intervene in this Judgment  
21 prior to commencing Production, following consultation with the Antelope Valley Watermaster  
22 (“Watermaster”) Engineer (“Engineer”) and requesting the Watermaster’s stipulation to the  
23 proposed intervention. (Judgment § 20.9.)

24 3. Malwa’s Motion to intervene and become a party to the Judgment is proper under  
25 Section 20.9 of the Judgment because Malwa completed all prerequisite steps under the  
26 Judgment and Watermaster Rules and Regulations to qualify for New Production prior to filing  
27 this Motion. Malwa procured, through Antelope Valley Engineering, Inc., a projection of its  
28 estimated annual water demand of 3.53 acre-feet for the property located at the northeast corner

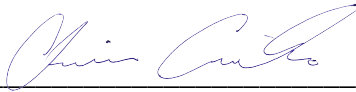
1 of Pearblossom Highway (Highway 138) and 165<sup>th</sup> Street East in the unincorporated community  
2 of Llano, CA 93544 which bears Los Angeles County Assessor's Parcel Number 3036-011-033.  
3 Malwa submitted a *New Production Application* to the Watermaster Engineer in accordance with  
4 Judgment Section 18.5.13 and the applicable Watermaster Rules and Regulations. The  
5 Application was recommended by the Engineer and approved by the Watermaster on July 22,  
6 2020 in accordance with Judgment Section 18.4.9. Malwa has filed this Motion within the thirty  
7 (30) day time period following Watermaster approval, as required by the Watermaster.

8 4. Malwa's intervention in the Judgment is also proper under California *Code of*  
9 *Civil Procedure* section 387 because it owns property subject to the Judgment, because  
10 intervention is necessary to protect Malwa's interest in that property and its ability to produce  
11 groundwater in accordance with the Judgment, and because Malwa's interests are not adequately  
12 represented by existing parties to the Judgment.

13 DATED: August 19, 2020

Respectfully submitted,

GRESHAM SAVAGE NOLAN & TILDEN, PC

15  
16 By: 

DEREK R. HOFFMAN, ESQ.  
CHRIS CARRILLO, ESQ.  
Attorneys for Malwa 165 Street LLC

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Malwa 165 Street LLC (“Malwa”), brings this Motion to Intervene (“Motion”) in the  
4 December 23, 2015 Judgment and Physical Solution (“Judgment”) in the above-captioned action  
5 pursuant to Section 20.9 of the Judgment. That section provides that any person or entity, who is  
6 not a Party or successor to a Party and who proposes to Produce Groundwater from the Basin, to  
7 acquire a Production Right or to otherwise take actions that may affect the Basin’s Groundwater  
8 is required to seek to become a Party subject to the Judgment through a noticed motion to  
9 intervene in this Judgment prior to commencing Production, following consultation with the  
10 Antelope Valley Watermaster (“Watermaster”) Engineer (“Engineer”) and requesting the  
11 Watermaster’s approval of the proposed intervention. (Judgment §§ 18.4.9, 18.5.13, 20.9.)  
12 Malwa seeks an order of the Court allowing it to intervene in the Judgment and establish its right  
13 for New Production of groundwater under the Judgment and become subject, in all material  
14 respects, to the Judgment as an intervenor.

15 **II. STATEMENT OF FACTS**

16 Malwa owns approximately thirteen (13) acres of land located at the northeast corner of  
17 Pearblossom Highway (Highway 138) and 165<sup>th</sup> Street East in the unincorporated community of  
18 Llano, CA 93544 which bears Los Angeles County Assessor’s Parcel Number 3036-011-033  
19 (“Property”). Malwa plans to construct a gas station and convenience store (“Project”) that will  
20 consist of 4,800 total square feet with a convenience store and a sandwich shop which will  
21 consist of approximately 2,000 square feet. (Singh Decl., ¶ 2; Carrillo Decl., ¶ 3.)

22 Water demands for the Project will include commercial usage (including  
23 handwashing/sanitation, food preparation, restrooms), slight landscaping, cooling and fire  
24 protection. The amount of New Production is estimated to be 3.53 acre-feet per year (2.97 acre-  
25 feet proposed for commercial use and .56 acre-feet per year for irrigation). There is an existing  
26 well on the property that Malwa plans to use for irrigation of the Project landscaping. Malwa will  
27 construct a new well for the commercial water usage for the building and improvements. (Singh  
28 Decl., ¶ 3; Carrillo Decl., ¶ 4.)

1 On May 28, 2020, Malwa’s engineer, Antelope Valley Engineering, Inc., submitted an  
2 Estimate of Annual Water Demands for the Project, which demands are projected to be 3.53 acre  
3 feet per year. (Singh Decl., ¶ 4, Ex. “A”; Carrillo Decl., ¶ 5.)

4 Malwa submitted a *New Production Application* (“Application”) to the Antelope Valley  
5 Watermaster on June 8, 2020. (Singh Decl., ¶5. Ex. “A”; Carrillo Decl., ¶ 6.)

6 In order to ensure that this Project does not cause a Material Injury to the Basin, Malwa  
7 agreed to meter the wells, pay Replacement Assessments, and abide by the terms of the  
8 Judgment applicable to the Property and the Project. (Singh Decl., ¶ 6; Carrillo Decl., ¶ 7.)

9 On July 1, 2020 Todd Groundwater, the Watermaster Engineer, found and informed the  
10 Watermaster that the Project’s potential for Material Injury as defined by the Judgment is  
11 negligible. (Singh Decl., ¶ 7, Ex. “B”; Carrillo Decl., ¶ 8.)

12 The Watermaster approved Malwa’s Application on July 22, 2020, through Watermaster  
13 Resolution No. R-20-23. (Singh Decl., ¶ 8, Ex. “C”; Carrillo Decl., ¶ 9.)

14 Intervention is appropriate under the Judgment because Malwa has acquired property that  
15 is within the jurisdiction boundaries of the Judgment, has applied for and obtained the Engineer’s  
16 recommendation and the Watermaster’s approval for intervention in accordance with Judgment  
17 Sections 18.4.9 and 18.5.13, and seeks an order of the Court making it an intervenor under and  
18 subject to the Judgment in accordance with Judgment Section 20.9. Malwa’s intervention will  
19 not cause a Material Injury to the Basin. (Singh Decl., ¶ 9; Carrillo Decl., ¶ 10.)

20 **III. MALWA IS ENTITLED TO INTERVENE IN THIS ACTION**

21 **a. Malwa Has Complied with the Requirements of the Judgment.**

22 As required by Sections 18.4.9, 18.5.13 and 20.9 of the Judgment, and the applicable  
23 Watermaster Rules and Regulations, Malwa applied to and secured the approval of the Engineer  
24 and Watermaster for Malwa’s New Production. The Engineer and Watermaster made findings  
25 that Malwa’s projected groundwater production would not cause a Material Injury to the Basin as  
26 defined by Section 3.5.18 of the Judgment, and that it is appropriate to allow Malwa to intervene  
27 in the Judgment. (Singh Decl., ¶ 10; Carrillo Decl., ¶ 11.) Malwa will serve this Motion in  
28 accordance with Section 20.7 of the Judgment by e-filing on the Court’s website.

1           **b. Malwa’s Intervention is Necessary and Appropriate.**

2           Malwa’s intervention is also necessary and appropriate under California *Code of Civil*  
3 *Procedure* section 387. Section 387 provides that a court *shall* permit a nonparty to intervene in  
4 an action or proceeding when that person claims an interest relating to the property that is the  
5 subject of the action, when the disposition of the action may impair or impede that person’s  
6 ability to protect that interest, and when that interest is not adequately represented by an existing  
7 party. A court *may* also permit intervention upon timely application by a nonparty that has an  
8 interest in the subject matter of the litigation that may be affected, when the intervention will not  
9 enlarge the issues in the litigation and when the reasons for the intervention outweigh any  
10 opposition by the parties presently in the action. (Code Civ. Proc. § 387, subd. (d); *US Ecology,*  
11 *Inc. v. State of California* (2001) 92 Cal.App.4<sup>th</sup> 113, 139; *Timberidge Enterprises, Inc. v. City of*  
12 *Santa Rosa* (1978) 86 Cal.App.3d 873, 881.) As reflected by Section 20.9 of the Judgment,  
13 intervention may be granted at any time, even after judgment has been rendered. (*Mallick v.*  
14 *Superior Court* (1979) Cal.App.3d 434, 437.) The intervention statute is designed to promote  
15 fairness and to ensure maximum involvement by all responsible, interested and affected parties.  
16 (*Mary R. v. B. & R. Corp.* (1983) 149 Cal.App.3d 308, 314.) The statute “should be liberally  
17 construed in favor of intervention.” (*Lindelli v. Town of San Anselmo* (2006) 139 Cal.App.4<sup>th</sup>  
18 1499, 1505.)

19           Malwa’s intervention is necessary to protect its Property and its ability to produce  
20 groundwater in accordance with the Judgment. Having acquired all of the rights to the Property  
21 within the jurisdiction of the Judgment, Malwa’s interests are not now represented by an existing  
22 party to the Judgment. Malwa requires water for the Project and intervention is necessary to  
23 develop and operate the Project and to accomplish its objectives for the use of the Property  
24 overlying the Basin. (Singh Decl., ¶ 11; Carrillo Decl., ¶ 12.)

25           Neither Section 387 of the *Code of Civil Procedure* nor Section 20.9 of the Judgment  
26 impose a specific deadline for seeking intervention. Section 387 requires a “timely application”,  
27 which courts have construed broadly and “liberally ... in favor of intervention.” (*Lindelli v.*  
28 *Town of San Anselmo* (2006) 139 Cal.App.4<sup>th</sup> 1499, 1505.). In its approval of Malwa’s

1 Application, the Watermaster required Malwa file this Motion within thirty (30) days of the July  
2 22, 2020 Watermaster approval. This Motion is timely filed in accordance with that requirement.

3 Malwa does not seek to modify the Judgment, except to reflect Malwa as a party  
4 intervenor to the Judgment for approved New Production. (Singh Decl., ¶ 12; Carrillo Decl., ¶  
5 13.) Malwa’s groundwater production will not cause Material Injury to the Basin. (Singh Decl.,  
6 ¶ 9; Carrillo Decl., ¶ 10.) For these reasons, no reasonable or good faith basis exists for any  
7 opposition to Malwa’s Motion to Intervene in the Judgment.


8 **IV. CONCLUSION**

9 Malwa has complied with the prerequisites of the Judgment and the Watermaster Rules  
10 and Regulations, and the intervention is necessary and appropriate under Section 387 of the *Code*  
11 *of Civil Procedure*. Malwa respectfully requests that this Court grant Malwa’s Motion to  
12 Intervene.

13 DATED: August 19, 2020

Respectfully submitted,

GRESHAM SAVAGE NOLAN & TILDEN, PC

15  
16 By:   
DEREK R. HOFFMAN, ESQ.  
CHRIS CARRILLO, ESQ.  
Attorneys for Malwa 165 Street LLC

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**PROOF OF SERVICE**  
**STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO**

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 San Bernardino, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 550 East Hospitality Lane, Suite 300, San Bernardino, CA 92408-4205.

On August 19, 2020, I served the foregoing document(s) described **MALWA'S NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE IN JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES** on the interested parties in this action in the following manner:

( X ) **BY ELECTRONIC SERVICE** – I caused such document(s) listed above to be electronically served, via One Legal, to all parties appearing on the Santa Clara County Superior Court website, <http://www.scefiling.org>, in the action of the Antelope Valley Groundwater Cases; proof of electronic-filing through One Legal is then printed and maintained with the original documents in our office. Electronic service is complete at the time of transmission. My electronic notification email address is [dina.snider@greshamsavage.com](mailto:dina.snider@greshamsavage.com),

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

Executed on August 19, 2020 at San Bernardino, California.



DINA M. SNIDER