Exempt from filing fee 1 DOUGLAS J. EVERTZ, SBN 123066 Government Code § 6103 MURPHY & EVERTZ LLP 2 650 Town Center Drive, Suite 550 Costa Mesa, California 92626 Telephone: (714) 277-1700 3 Fax: (714) 277-1777 4 Attorneys for City of Lancaster and 5 Rosamond Community Services District 6 7 SUPERIOR COURT OF THE STATE OF CALIFORNIA 8 FOR THE COUNTY OF LOS ANGELES 9 10 ANTELOPE VALLEY GROUNDWATER LASC Case No. BC 325201 11 **CASES** Judicial Council Coordination 12 **Included Actions:** Proceeding No. 4408 **CLASS ACTION** 13 Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. Santa Clara Case No. 1-05-CV 049053 Superior Court of California, County of 14 Los Angeles, Case No. BC325201; Assigned to The Honorable Jack Komar 15 Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. PUBLIC WATER SUPPLIERS' 16 Superior Court of California, County of Kern, EVIDENTIARY OBJECTIONS TO THE Case No. S-1500-CV-254-348 17 DECLARATION OF DWAYNE CHISAM IN SUPPORT OF ANTELOPE VALLEY-Wm. Bolthouse Farms, Inc. v. City of EAST KERN WATER AGENCY'S 18 **MOTION FOR SUMMARY** Lancaster, Diamond Farming Co. v. City of 19 Lancaster, Diamond Farming Co. v. Palmdale ADJUDICATION; [PROPOSED] ORDER Water Dist., Superior Court of California County of Riverside, consolidated actions; Case 20 Date: January 27, 2014 Nos. RIC 353 840, RIC 344 436, RIC 344 668. Time: 9:00 a.m. Dept.: **TBD** 21 22 Trial Date: February 10, 2014 (Phase V) 23 24 25 26 27 28

EVIDENTIARY OBJECTIONS TO THE DECLARATION OF DWAYNE CHISAM; [PROPOSED] ORDER

{00053093.2}

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EVIDENTIARY OBJECTIONS TO DECLARATION OF DWAYNE CHISAM

The Public Water Suppliers¹ hereby submit their Objections to the Declaration of Dwayne Chisam ("Chisam") submitted by Antelope Valley-East Kern Water Agency ("AVEK") in support of its Motion for Summary Adjudication.

	Iaterial jected to:	Grounds for Objection:	Ruling on the Objection:
8: "Fro		Lacks personal knowledge, lacks foundation, inadmissible hearsay	Sustained:
incepti AVEK		Chisam's statement lacks personal knowledge as	Overruled:
particip	oation in the	to how Chisam knows how much AVEK's	Overruicu.
	vater , AVEK's ers have paid	taxpayers have paid to ensure participation in the State Water Project and to construct, maintain and operate the "infrastructure." Chisam's	
a total o	of 77,218.84 to	statement further provides no foundation regarding how he determined the amount paid or	
therein,		the use of those funds. To the extent this statement is based on writings reviewed by	
and ope	Chisam, the statement is based on inadmissible hearsay. Chisam, the statement is based on inadmissible hearsay. (Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on		
needed			
deliver importe its custo	ed water to	the existence of the preliminary fact."], 702, subd. (a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v.</i>	
its custo	omers.	Super. Ct. (1964) 224 Cal.App.2d 442, 445 [36 Cal.Rptr. 750] ["In an affidavit facts must be positively set forth, and an affidavit which merely	
		states conclusions or opinions of the affiant is insufficient."]; Ware v. Stafford (1962) 206	
		Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] ["[A]llegations in an affidavit must show facts	
		and circumstances from which the ultimate facts sought to be proved may be deduced by the court."]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d	
		741 750-754 [19 Cal.Rptr. 709].)	
		Inadmissible testimony regarding content of a writing	
		If Chisam's statement is based on a writing, then	
		the statement amounts to testimony to prove the content of a writing AVEK's records where	

¹ The Public Water Suppliers, for the purposes of these objections, consist of City of Lancaster, Rosamond Community Services District, Los Angeles County Waterworks District No. 40, Quartz Hill Water District, California Water Service Company, Palm Ranch Irrigation District, Palmdale Water District, North Edwards Water District and Desert Lakes Community Services District.

	Material Objected to:	Grounds for Objection:	Ruling on the Objection
		Chisam and/or AVEK are in possession and control of the writing. A copy of the writing should have been attached and properly authenticated to prove its content.	
		(Evid. Code, §§ 1521, subd.)	
2.	Page 2, ¶ 3, lines 9- 10: "AVEK also has	Lacks personal knowledge, lacks foundation, inadmissible hearsay	Sustained
	incurred and paid energy and related costs related to the	Chisam's statement lacks personal knowledge as to how Chisam knows the energy and related	Overruled
	actual transportation of SWP water which total	costs that AVEC has incurred related to the transportation of water. Chisam's statement further provides no foundation regarding how he	
	\$331,663,051.00."	further provides no foundation regarding how he determined the amount paid, the time period referenced or the specific use of those funds. To	
		the extent this statement is based on writings reviewed by Chisam, the statement is based on	
		inadmissible hearsay.	
		(Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on	
		the existence of the preliminary fact."], 702, subd. (a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v.</i>	
		Super. Ct. (1964) 224 Cal.App.2d 442, 445 [36 Cal.Rptr. 750] ["In an affidavit facts must be positively set forth, and an affidavit which merely	
		states conclusions or opinions of the affiant is insufficient."]; <i>Ware v. Stafford</i> (1962) 206	
		Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] ["[A]llegations in an affidavit must show facts	
		and circumstances from which the ultimate facts sought to be proved may be deduced by the	
		court."]; Snider v. Snider (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)	
		Inadmissible testimony regarding content of a	
		writing If Chisam's statement is based on a writing, then	
		the statement amounts to testimony to prove the content of a writing AVEK's records where	
		Chisam and/or AVEK are in possession and control of the writing. A copy of the writing	
		should have been attached and properly authenticated to prove its content.	
		(Evid. Code, §§ 1521, subd.)	
3.	Page 2, ¶4, lines 11-13: "Accordingly,	Lacks personal knowledge, lacks foundation,	Sustained:

	Material Objected to:	Grounds for Objection:	Ruling on the Objection
	the total cost incurred	inadmissible hearsay	
	and paid by AVEK and its taxpayers to	Chisam's statement lacks personal knowledge as	Overruled
	obtain, transport, treat and deliver SWP water to its	to how Chisam knows how much AVEK and its taxpayers have paid to obtain, transport, treat and deliver SWP water to its customers. Chisam's	
	customers is \$807,440,269.84	statement further provides no foundation regarding how he determined the amount paid or	
	(i.e., \$475,777,218.84 + \$331,663,051.00)."	the use of those funds. To the extent this statement is based on writings reviewed by Chisam, the statement is based on inadmissible	
		hearsay.	
		(Evid. Code, §§ 350, 403, subd. (a)(2), ["The	
		relevance of the proffered evidence depends on the existence of the preliminary fact."], 702, subd. (a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v.</i>	
		Super. Ct. (1964) 224 Cal.App.2d 442, 445 [36 Cal.Rptr. 750] ["In an affidavit facts must be positively set forth, and an affidavit which merely	
		states conclusions or opinions of the affiant is insufficient."]; <i>Ware v. Stafford</i> (1962) 206	
		Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] ["[A]llegations in an affidavit must show facts	
		and circumstances from which the ultimate facts sought to be proved may be deduced by the	
		court."]; <i>Snider v. Snider</i> (1962) 200 Čal.App.2d 741 750-754 [19 Cal.Rptr. 709].)	
		Inadmissible testimony regarding content of a	
		writing	
		If Chisam's statement is based on a writing, then the statement amounts to testimony to prove the	
		content of a writing AVEK's records where Chisam and/or AVEK are in possession and	
		control of the writing. A copy of the writing should have been attached and properly authenticated to prove its content.	
		(Evid. Code, §§ 1521, subd.)	
4.	Page 2, ¶ 5, lines 14-	Lacks personal knowledge, lacks foundation,	Sustained
	15: "From 1972 (when AVEK first	<u>inadmissible hearsay</u>	
	began importing SWP water) through	Chisam's statement lacks personal knowledge as to how Chisam knows when AVEK first began	Overruled
	2012, AVEK has imported a total of 1,976,971AF of SWP water."	importing SWP water and how much it has imported. Chisam's statement further provides no foundation regarding how he determined the amount imported. To the extent this statement is	
	Swr water.	amount imported. To the extent this statement is based on writings reviewed by Chisam, the	

1		Material Objected to:	Grounds for Objection:	Ruling on the Objection:
3			statement is based on inadmissible hearsay.	
4			(Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on	
5			the existence of the preliminary fact."], 702, subd. (a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v.</i>	
6			Super. Ct. (1964) 224 Cal. App.2d 442, 445 [36 Cal. Rptr. 750] ["In an affidavit facts must be	
7			positively set forth, and an affidavit which merely states conclusions or opinions of the affiant is	
8			insufficient."]; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] ["[A]llegations in an affidavit must show facts	
9 10			and circumstances from which the ultimate facts sought to be proved may be deduced by the court."]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d	
11			741 750-754 [19 Cal.Rptr. 709].)	
12			Inadmissible testimony regarding content of a writing	
13			If Chisam's statement is based on a writing, then	
14			the statement amounts to testimony to prove the content of a writing AVEK's records where Chisam and/or AVEK are in possession and	
15 16			control of the writing. A copy of the writing should have been attached and properly	
17			authenticated to prove its content.	
18	5.	Page 2, ¶ 6, lines	(Evid. Code, §§ 1521, subd.) Lacks personal knowledge, lacks foundation,	Sustained:
19		16-18: "Some loss unavoidably results	inadmissible hearsay	Sustaineu.
20		during the transportation,	Chisam's statement lacks personal knowledge and contains no facts to support or explain the	Overruled:
21		treatment and delivery stages; as a	conclusions asserted that some loss	·····
22		result, AVEK	unavoidably results during the transportation and delivery stages. Chisam's statement further	
		delivered to its customers during	provides no foundation regarding how he determined the amount imported and provides no	
23		the same time period a total of	facts as to his personal knowledge. To the extent this statement is based on writings reviewed by	····
24 25		1,923,039 AF."	Chisam, the statement is based on inadmissible hearsay.	
26			(Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on	
27			the existence of the preliminary fact."], 702, subd. (a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v. Super. Ct.</i> (1964) 224 Cal.App.2d 442, 445 [36]	
28			Cal.Rptr. 750] ["In an affidavit facts must be	

	Material Objected to:	Grounds for Objection:	Ruling or the Objection
		positively set forth, and an affidavit which merely states conclusions or opinions of the affiant is insufficient."]; <i>Ware v. Stafford</i> (1962) 206	
		Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] ["[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts	
		sought to be proved may be deduced by the court."]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)	
		Inadmissible testimony regarding content of a writing	
		If Chisam's statement is based on a writing, then	
		the statement amounts to testimony to prove the content of a writing AVEK's records where	
		Chisam and/or AVEK are in possession and control of the writing. A copy of the writing should have been attached and properly	
		authenticated to prove its content.	
		(Evid. Code, §§ 1521, subd.)	
6.	Page 2, ¶ 7, lines 19- 21: "Accordingly, the average total cost	Lacks personal knowledge, lacks foundation, inadmissible hearsay	Sustained
:	per acre feet to AVEK and its	Chisam's statement lacks personal knowledge as to how Chisam knows the quantity and amounts	Overruled
	taxpayers for the water delivered to AVEK customers	used in the calculations shown. To the extent this statement is based on writings or statistics reviewed by Chisam, the statement is based on	***************************************
	from 1972 through 2012 is \$419.88 per	inadmissible hearsay.	
	AF (i.e., \$807,440.269.84 +	(Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on	
	1,923,039)."	the existence of the preliminary fact."], 702, subd. (a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v. Super. Ct.</i> (1964) 224 Cal.App.2d 442, 445 [36]	
		Cal.Rptr. 750] ["In an affidavit facts must be positively set forth, and an affidavit which merely	
		states conclusions or opinions of the affiant is insufficient."]; Ware v. Stafford (1962) 206	
		Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] ["[A]llegations in an affidavit must show facts	
		and circumstances from which the ultimate facts sought to be proved may be deduced by the court."]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d	
		741 750-754 [19 Cal.Rptr. 709].)	
	ļ	Inadmissible testimony regarding content of a	

		Material Objected to:	Grounds for Objection:	Ruling on the Objection:
			If Chisam's statement is based on a writing or statistic, then the statement amounts to testimony to prove the content of a writing AVEK's records where Chisam and/or AVEK are in possession and control of the writing. A copy of the writing should have been attached and properly authenticated to prove its content.	
			(Evid. Code, §§ 1521, subd.)	
	7.	Page 2, ¶ 8, lines 22-23: "During the	Lacks personal knowledge, lacks foundation, inadmissible hearsay	Sustained:
		same time period, AVEK has delivered to Waterworks District	Chisam's statement lacks personal knowledge as to how Chisam knows how much AVEK has delivered to Waterworks District #40. Chisam's	Overruled
		#40 a total of 808,790 AF."	statement provides no foundation regarding how he determined the amount. To the extent this statement is based on writings reviewed by	
			Chisam, the statement is based on inadmissible hearsay.	
			(Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on the existence of the preliminary fact."], 702, subd.	
			(a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v. Super. Ct.</i> (1964) 224 Cal.App.2d 442, 445 [36 Cal.Rptr. 750] ["In an affidavit facts must be positively set forth, and an affidavit which merely	
-			states conclusions or opinions of the affiant is insufficient."]; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153]	
			["[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts	
			sought to be proved may be deduced by the court."]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)	
			Inadmissible testimony regarding content of a writing	
			If Chisam's statement is based on a writing, then	
		•	the statement amounts to testimony to prove the content of a writing AVEK's records where	
			Chisam and/or AVEK are in possession and control of the writing. A copy of the writing should have been attached and properly authenticated to prove its content.	
			(Evid. Code, §§ 1521, subd.)	
	8.	Page 2, ¶ 9, lines	Lacks personal knowledge, lacks foundation,	Sustained:

1 2		Material Objected to:	Grounds for Objection:	Ruling on the Objection:
3		24-26: "The total	<u>inadmissible hearsay</u>	
4		cost incurred and paid by AVEK and	Chisam's statement lacks personal knowledge as	Overruled:
5		its taxpayers in procuring and delivering the SWP	to how Chisam knows the quantity and amounts used in the calculations shown. To the extent this statement is based on writings or statistics	
6		water that was sold and delivered to	reviewed by Chisam, the statement is based on inadmissible hearsay.	
7		Waterworks District #40 is	(Evid. Code, §§ 350, 403, subd. (a)(2), ["The	
8		approximately \$339,594,745.20 (i.e., 808,790 AF x	relevance of the proffered evidence depends on the existence of the preliminary fact."], 702, subd. (a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v.</i>	
$\frac{9}{0}$		\$419.88 per AF)."	Super. Ct. (1964) 224 Cal. App. 2d 442, 445 [36 Cal. Rptr. 750] ["In an affidavit facts must be	
1			positively set forth, and an affidavit which merely states conclusions or opinions of the affiant is insufficient."]; <i>Ware v. Stafford</i> (1962) 206	
2		į	Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] ["[A]llegations in an affidavit must show facts	
3			and circumstances from which the ultimate facts sought to be proved may be deduced by the	٠
4			court."]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)	
5 6			Inadmissible testimony regarding content of a writing	
7 8			If Chisam's statement is based on a writing or statistic, then the statement amounts to testimony to prove the content of a writing AVEK's records where Chisam and/or AVEK are in	
9			possession and control of the writing. A copy of the writing should have been attached and properly authenticated to prove its content.	
1			(Evid. Code, §§ 1521, subd.)	
2	9.	Page 3, ¶ 10, lines 1-3: "Waterworks	Lacks personal knowledge, lacks foundation, inadmissible hearsay	Sustained:
3		District #40 has paid a total of only	Chisam's statement lacks personal knowledge as	Overruled:
1		\$177,693,610.00 for the aforesaid 808,790 AF of SWP water it	to how Chisam knows what quantity or amount Waterworks District #40 has paid or used. To the extent this statement is based on writings or	
5		purchased and received from	statistics reviewed by Chisam, the statement is based on inadmissible hearsay.	
6 7		AVEK, or \$219.70AF (i.e., \$177,693,610.00 ± 808,790 AF)."	(Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on the existence of the preliminary fact."], 702, subd.	
8		000,770 2317.	(a), 1200, subds. (a), (b); see Tri-State Mfg. Co. v.	

1		Material		Ruling on
2		Objected to:	Grounds for Objection:	the Objection:
3 4			Super. Ct. (1964) 224 Cal.App.2d 442, 445 [36 Cal.Rptr. 750] ["In an affidavit facts must be positively set forth, and an affidavit which merely	
5			states conclusions or opinions of the affiant is insufficient."]; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153]	
6			["[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts	į
7 8			sought to be proved may be deduced by the court."]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)	
9			Inadmissible testimony regarding content of a writing	
10			If Chisam's statement is based on a writing or	
11			statistic, then the statement amounts to testimony to prove the content of a writing AVEK's	
12			records where Chisam and/or AVEK are in possession and control of the writing. A copy of the writing should have been attached and	
13			properly authenticated to prove its content.	
		D 0 511 1:	(Evid. Code, §§ 1521, subd.)	
15 16	10.	Page 3, ¶ 11, lines 4-6: "Thus, for the water received by it,	Lacks personal knowledge, lacks foundation, inadmissible hearsay	Sustained:
17		Waterworks District #40 paid \$200.28AF	Chisam's statement lacks personal knowledge as to how Chisam knows what quantity or amount	Overruled:
18		less than the actual cost of the water (i.e., \$419.88 -	Waterworks District #40 has paid or used. To the extent this statement is based on writings or statistics reviewed by Chisam, the statement is	180 00000000000000000000000000000000000
19		\$219.70) or only 52% of the total cost	based on inadmissible hearsay.	
20		of the water it received (i.e.,	(Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on	
21 22		\$177,693,610.00 ± \$339,594,745.20)."	the existence of the preliminary fact."], 702, subd. (a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v. Super. Ct.</i> (1964) 224 Cal.App.2d 442, 445 [36]	
23			Cal.Rptr. 750] ["In an affidavit facts must be positively set forth, and an affidavit which merely	
24			states conclusions or opinions of the affiant is insufficient."]; Ware v. Stafford (1962) 206	
25			Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] ["[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts	
26			sought to be proved may be deduced by the court."]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d	
27			741 750-754 [19 Cal.Rptr. 709].)	
28	(00052002.2.)		Inadmissible testimony regarding content of a	

	Material Objected to:	Grounds for Objection:	Ruling on the Objections
		writing	
		If Chisam's statement is based on a writing or statistic, then the statement amounts to testimony to prove the content of a writing AVEK's records where Chisam and/or AVEK are in possession and control of the writing. A copy of the writing should have been attached and properly authenticated to prove its content.	
		(Evid. Code, §§ 1521, subd.)	
11.	Page 3, ¶ 12, lines 7-9: "Therefore,	Lacks personal knowledge, lacks foundation, inadmissible hearsay	Sustained
	AVEK and its taxpayers have	Chisam's statement lacks personal knowledge	Overruled
	subsidized the cost of the water delivered to	and contains no facts to support or explain the conclusions asserted as to how Chisam knows	
	Waterworks District #40, by paying the	what quantity or amount Waterworks District #40 has paid or used. To the extent this statement is	
	additional cost of such water in the	based on writings or statistics reviewed by Chisam, the statement is based on inadmissible	
	amount of	hearsay.	
	\$161,901,135.20 (i.e., \$339,594,745.20 -	(Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on	
	\$177,693,610.00)."	the existence of the preliminary fact."], 702, subd. (a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v.</i>	
		Super. Ct. (1964) 224 Cal.App.2d 442, 445 [36 Cal.Rptr. 750] ["In an affidavit facts must be	
		positively set forth, and an affidavit which merely states conclusions or opinions of the affiant is	
		insufficient."]; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153]	
		["[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts	
		sought to be proved may be deduced by the court."]; Snider v. Snider (1962) 200 Cal.App.2d	
		741 750-754 [19 Cal.Rptr. 709].)	
		Inadmissible testimony regarding content of a writing	
		If Chisam's statement is based on a writing or statistic, then the statement amounts to testimony	
		to prove the content of a writing AVEK's records where Chisam and/or AVEK are in	
		possession and control of the writing. A copy of the writing should have been attached and properly authenticated to prove its content.	

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	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
		(Evid. Code, §§ 1521, subd.)	~
12.	Page 3, ¶ 13, lines 10-12: "Considered in a slightly different	<u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u>	Sustained:
	way, Waterworks District #40 received	Chisam's statement lacks personal knowledge and contains no facts to support or explain the	Overruled:
	42% of the total water delivered to AVEK's customers	conclusions asserted regarding the quantity or amount Waterworks District #40 has paid or used and the quantity and cost of the total amount	
	(i.e., 808,790AF ± 1,923,039AF), but	delivered to AVEK's customers. To the extent this statement is based on writings or statistics	
	paid only 22% of the total cost of that	reviewed by Chisam, the statement is based on inadmissible hearsay.	
	water (i.e., \$177,693,610 ±	(Evid. Code, §§ 350, 403, subd. (a)(2), ["The	
	\$807,440,269.84)"	relevance of the proffered evidence depends on the existence of the preliminary fact."], 702, subd.	
		(a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v. Super. Ct.</i> (1964) 224 Cal.App.2d 442, 445 [36 Cal.Rptr. 750] ["In an affidavit facts must be	
		positively set forth, and an affidavit which merely states conclusions or opinions of the affiant is	
		insufficient."]; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153]	
	:	["[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the	
		court."]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)	
		Inadmissible testimony regarding content of a writing	
		If Chisam's statement is based on a writing or statistic, then the statement amounts to testimony to prove the content of a writing AVEK's	
		records where Chisam and/or AVEK are in possession and control of the writing. A copy of the writing should have been attached and	
		properly authenticated to prove its content.	
		(Evid. Code, §§ 1521, subd.)	
13.	Page 3, ¶ 14, lines 13- 16: "The amount of money paid directly by	Lacks personal knowledge, lacks foundation, inadmissible hearsay	Sustained
	Waterworks District #40, combined with	Chisam's statement lacks personal knowledge and contains no facts to support or explain the	Overruled
	the payments made by taxpayers located within the area of	conclusions asserted the quantity or amount Waterworks District #40 has paid or used and the quantity and cost of the total amount delivered to	***************************************

	Material Objected to:	Grounds for Objection:	Ruling or the Objection
	adjudication serviced by both Waterworks District #40 and	AVEK's customers. To the extent this statement is based on writings or statistics reviewed by Chisam, the statement is based on inadmissible	
	AVEK, is still less than the total actual	hearsay.	
	cost of the water AVEK delivered to	(Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on	
	Waterworks District #40."	the existence of the preliminary fact."], 702, subd. (a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v.</i>	
		Super. Ct. (1964) 224 Cal.App.2d 442, 445 [36 Cal.Rptr. 750] ["In an affidavit facts must be	
		positively set forth, and an affidavit which merely states conclusions or opinions of the affiant is	
		insufficient."]; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] ["[A]llegations in an affidavit must show facts	
		and circumstances from which the ultimate facts sought to be proved may be deduced by the	
		court."]; Snider v. Snider (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)	
		Inadmissible testimony regarding content of a writing	
		If Chisam's statement is based on a writing or statistic, then the statement amounts to testimony	
		to prove the content of a writing AVEK's records where Chisam and/or AVEK are in possession and control of the writing. A copy of the writing should have been attached and properly authenticated to prove its content.	
		(Evid. Code, §§ 1521, subd.)	
14.	Page 3, ¶ 15, lines 17-20: "Some of Waterworks District	Lacks personal knowledge, lacks foundation, inadmissible hearsay	Sustained
	#40's customers are located outside of	Chisam's statement lacks personal knowledge and contains no facts to support or explain the	Overruled
	both AVEK's service area and the	conclusions asserted that Waterworks District #40's customers are located outside AVEK's	
	area of the adjudication;	service area and the area of adjudication and that they do not pay property taxes that support	
	accordingly, those customers of	AVEK's importation of SWP water. To the extent this statement is based on writings or	
	Waterworks District #40 do not pay	statistics reviewed by Chisam, the statement is based on inadmissible hearsay.	
	property taxes which support AVEK's importation of SWP water at all."	(Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on the existence of the preliminary fact."], 702, subd. (a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v.</i>	
l	1	- [0] [1][[0][hd0 [0] [h] 000 [iu 1/4~4 4/4~ ['	

1		Material Objected to:	Grounds for Objection:	Ruling on the
2				Objection:
3 4			Super. Ct. (1964) 224 Cal.App.2d 442, 445 [36 Cal.Rptr. 750] ["In an affidavit facts must be positively set forth, and an affidavit which merely	
5			states conclusions or opinions of the affiant is insufficient."]; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153]	
6			["[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts	
7			sought to be proved may be deduced by the court."]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d 741 750-754 [19 Cal.Rptr. 709].)	
8 9			Inadmissible testimony regarding content of a	
			writing	
10 11			If Chisam's statement is based on a writing or statistic, then the statement amounts to testimony	
12			to prove the content of a writing AVEK's records where Chisam and/or AVEK are in	
13			possession and control of the writing. A copy of the writing should have been attached and properly authenticated to prove its content.	
[4			(Evid. Code, §§ 1521, subd.)	
.5	15.	Page 3, ¶ 16. Lines	Lacks personal knowledge, lacks foundation,	Sustained:
6		21-24: "Many of AVEK's taxpayers	<u>inadmissible hearsay</u>	***************************************
7		are "non-users," i.e., they either take	Chisam's's statement lacks personal knowledge as to whether "many" of AVEK's taxpayers are	Overruled:
8		water from wells or leave their properties fallow; as	non-users and if their property taxes "significantly subsidize" the SWP water purchase by Waterworks District #40 and other AVEK	
9		a result, such non-	customers. To the extent this statement is based	
20		users do not benefit directly from the SWP, although their	on writings or statistics reviewed by Chisam, the statement is based on inadmissible hearsay.	
1		property taxes significantly	(Evid. Code, §§ 350, 403, subd. (a)(2), ["The relevance of the proffered evidence depends on	
22		subsidize the SWP water purchased by	the existence of the preliminary fact."], 702, subd.	
23		Waterworks District	(a), 1200, subds. (a), (b); see <i>Tri-State Mfg. Co. v.</i> Super. Ct. (1964) 224 Cal.App.2d 442, 445 [36	
24		#40 and other AVEK customers."	Cal.Rptr. 750] ["In an affidavit facts must be positively set forth, and an affidavit which merely	
25			states conclusions or opinions of the affiant is insufficient."]; Ware v. Stafford (1962) 206	
26			Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] ["[A]llegations in an affidavit must show facts	
27			and circumstances from which the ultimate facts sought to be proved may be deduced by the court."]; <i>Snider v. Snider</i> (1962) 200 Cal.App.2d	
28	<u> </u>	<u> </u>	Court. 1, Sinuel v. Sinuel (1702/200 Cal.App.20	

	Material Objected to:	Grounds for Objection:	Ruling on the Objection
		741 750-754 [19 Cal.Rptr. 709].)	
		Inadmissible testimony regarding content of a writing	
		If Chisam's statement is based on a writing or statistic, then the statement amounts to testimony to prove the content of a writing AVEK's records where Chisam and/or AVEK are in possession and control of the writing. A copy of the writing should have been attached and properly authenticated to prove its content.	
		(Evid. Code, §§ 1521, subd.)	
D ,	27 .	013 MURPHY & EVERTZ LLP	
DATEI	D: December $(//)$, 20	013 MURPHY & EVERTZ LLP	
		A Muslin (///uh	
		By: /// /// // Bouglas J. Evertz, Attorney for City of Lar	ıcaster
		and Rosamond Community Services Distri-	ct
		<u>ORDER</u>	
IT IS S	O ORDERED.		
Dated:			
Daicu.		JUDGE OF THE SUPERIOR C	OURT
1			

1	PROOF OF SERVICE
2	ANTELOPE VALLEY GROUNDWATER CASES Judicial Council Coordination, Proceeding No. 4408
3	Santa Clara Case No. 1-05-CV 049053
4	Assigned to the Honorable Jack Komar Los Angeles County Superior Court, Central, Dept. 1
5	I am a resident of the State of California, over 18 years of age and not a party to this action.
6 7	am employed in the County of Orange, State of California. My business address is 650 Town Center Drive, Suite 550, Costa Mesa, California 92626.
8	On December, 2013, I served the within document(s):
9 10	PUBLIC WATER SUPPLIERS' EVIDENTIARY OBJECTIONS TO THE DECLARATION OF DWAYNE CHISAM IN SUPPORT OF ANTELOPE VALLEY-EAST KERN WATER AGENCY'S MOTION FOR SUMMARY ADJUDICATION; [PROPOSED] ORDER
11 12 13	by posting the document(s) listed above to the website http://www.scefiling.org , a dedicated link to the Antelope Valley Groundwater Cases; Santa Clara Case No. 1-05-CV 049053, Assigned to the Honorable Jack Komar, said document(s) is electronically served/distributed therewith.
14	By transmitting via e-mail the document(s) listed above to the e-mail address(es) and/or fax number(s) set forth below on this date.
16	by placing the document(s) listed above in a sealed Overnite Express envelope/package for overnight delivery at Costa Mesa, California addressed as set forth below.
17 18	by causing personal delivery by Nationwide Legal of the document(s) listed above, to the person(s) at the address(es) set forth below.
19 20 21 22	I am readily familiar with Murphy & Evertz, LLP's practice for collecting and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
23	I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
24	Executed on December, 2013, at Costa Mesa, California.
25	
26	Jephanie (ali 8
27	Stephanie Pattis
28	
	{00053093.2 }
	PROOF OF SERVICE