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Exempt from filing fee
Government Code § 6103

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Rosamond Community Services District

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

**ANTELOPE VALLEY GROUNDWATER
CASES**

Included Actions:

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
Superior Court of California, County of
Los Angeles, Case No. BC325201;

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
Superior Court of California, County of Kern,
Case No. S-1500-CV-254-348

Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
Lancaster, Diamond Farming Co. v. Palmdale
Water Dist., Superior Court of California
County of Riverside, consolidated actions; Case
Nos. RIC 353 840, RIC 344 436, RIC 344 668.

LASC Case No. BC 325201

Judicial Council Coordination
Proceeding No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV 049053
Assigned to The Honorable Jack Komar

**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**

Date: January 27, 2014
Time: 9:00 a.m.
Dept.: TBD

Trial Date: February 10, 2014 (Phase V)

1 **EVIDENTIARY OBJECTIONS TO DECLARATION OF DWAYNE CHISAM**

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

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
1. 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 2, ¶ 2, lines 5-8: “From the inception of AVEK's participation in the State Water Project, AVEK's taxpayers have paid a total of \$475,777,218.84 to insure participation therein, and to construct, maintain and operate the "infrastructure" needed to import, transport, treat and deliver AVEK imported water to its customers.”	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge as to how Chisam knows how much AVEK’s taxpayers have paid to ensure participation in the State Water Project and to construct, maintain and operate the “infrastructure.” Chisam’s statement further provides no foundation regarding how he determined the amount paid or the use of those funds. To the extent this statement is based on writings reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

26 ¹ The Public Water Suppliers, for the purposes of these objections, consist of City of Lancaster,
 27 Rosamond Community Services District, Los Angeles County Waterworks District No. 40, Quartz
 28 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:
		<p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	
<p>2.</p>	<p>Page 2, ¶ 3, lines 9-10: "AVEK also has incurred and paid energy and related costs related to the actual transportation of SWP water which total \$331,663,051.00."</p>	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam's statement lacks personal knowledge as to how Chisam knows the energy and related costs that AVEC has incurred related to the transportation of water. Chisam's statement 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.</p> <p>(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, subs. (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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>
<p>3.</p>	<p>Page 2, ¶ 4, lines 11-13: "Accordingly,</p>	<p><u>Lacks personal knowledge, lacks foundation,</u></p>	<p>Sustained:</p>

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p>the total cost incurred and paid by AVEK and its taxpayers to obtain, transport, treat and deliver SWP water to its customers is \$807,440,269.84 (i.e., \$475,777,218.84 + \$331,663,051.00).”</p>	<p><u>inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge as 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 statement further provides no foundation regarding how he determined the amount paid or the use of those funds. To the extent this statement is based on writings reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	<p>_____</p> <p>Overruled:</p> <p>_____</p>
<p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>4. Page 2, ¶ 5, lines 14-15: “From 1972 (when AVEK first began importing SWP water) through 2012, AVEK has imported a total of 1,976,971AF of SWP water.”</p>	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge as to how Chisam knows when AVEK first began 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 based on writings reviewed by Chisam, the</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

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	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
		<p>statement is based on inadmissible hearsay.</p> <p>(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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	
5.	Page 2, ¶ 6, lines 16-18: “Some loss unavoidably results during the transportation, treatment and delivery stages; as a result, AVEK delivered to its customers during the same time period a total of 1,923,039 AF.”	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge and contains no facts to support or explain the conclusions asserted - - that some loss unavoidably results during the transportation and delivery stages. Chisam’s statement further provides no foundation regarding how he determined the amount imported and provides no facts as to his personal knowledge. To the extent this statement is based on writings reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
		<p>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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	
6.	Page 2, ¶ 7, lines 19-21: “Accordingly, the average total cost per acre feet to AVEK and its taxpayers for the water delivered to AVEK customers from 1972 through 2012 is \$419.88 per AF (i.e., \$807,440.269.84 + 1,923,039).”	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge as to how Chisam knows the quantity and amounts used in the calculations shown. To the extent this statement is based on writings or statistics reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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, subs. (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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
		<p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	
7.	<p>Page 2, ¶ 8, lines 22-23: “During the same time period, AVEK has delivered to Waterworks District #40 a total of 808,790 AF.”</p>	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge as to how Chisam knows how much AVEK has delivered to Waterworks District #40. Chisam’s 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.</p> <p>(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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>
8.	Page 2, ¶ 9, lines	<u>Lacks personal knowledge, lacks foundation,</u>	Sustained:

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	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
	24-26: “The total cost incurred and paid by AVEK and its taxpayers in procuring and delivering the SWP water that was sold and delivered to Waterworks District #40 is approximately \$339,594,745.20 (i.e., 808,790 AF x \$419.88 per AF).”	<p><u>inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge as to how Chisam knows the quantity and amounts used in the calculations shown. To the extent this statement is based on writings or statistics reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	<p>_____</p> <p>Overruled:</p> <p>_____</p>
9.	Page 3, ¶ 10, lines 1-3: “Waterworks District #40 has paid a total of only \$177,693,610.00 for the aforesaid 808,790 AF of SWP water it purchased and received from AVEK, or \$219.70AF (i.e., \$177,693,610.00 ÷ 808,790 AF).”	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge as 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 statistics reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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></p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
		<p><i>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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	
10.	Page 3, ¶ 11, lines 4-6: "Thus, for the water received by it, Waterworks District #40 paid \$200.28AF less than the actual cost of the water (i.e., \$419.88 - \$219.70) or only 52% of the total cost of the water it received (i.e., \$177,693,610.00 ± \$339,594,745.20)."	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam's statement lacks personal knowledge as 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 statistics reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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].)</p> <p><u>Inadmissible testimony regarding content of a</u></p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
		<p><u>writing</u></p> <p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	
11.	<p>Page 3, ¶ 12, lines 7-9: “Therefore, AVEK and its taxpayers have subsidized the cost of the water delivered to Waterworks District #40, by paying the additional cost of such water in the amount of \$161,901,135.20 (i.e., \$339,594,745.20 - \$177,693,610.00).”</p>	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge and contains no facts to support or explain the conclusions asserted as 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 statistics reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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.</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

	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 way, Waterworks District #40 received 42% of the total water delivered to AVEK’s customers (i.e., 808,790AF ± 1,923,039AF), but paid only 22% of the total cost of that water (i.e., \$177,693,610 ± \$807,440,269.84)”	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge and contains no facts to support or explain the conclusions asserted regarding the quantity or amount Waterworks District #40 has paid or used and the quantity and cost of the total amount delivered to AVEK’s customers. To the extent this statement is based on writings or statistics reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>
13.	Page 3, ¶ 14, lines 13-16: “The amount of money paid directly by Waterworks District #40, combined with the payments made by taxpayers located within the area of	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge and contains no facts to support or explain the conclusions asserted - - the quantity or amount Waterworks District #40 has paid or used and the quantity and cost of the total amount delivered to</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

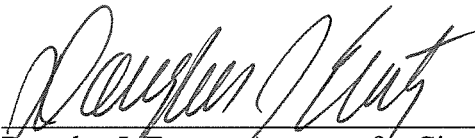
	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
	<p>adjudication serviced by both Waterworks District #40 and AVEK, is still less than the total actual cost of the water AVEK delivered to Waterworks District #40.”</p>	<p>AVEK’s customers. To the extent this statement is based on writings or statistics reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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, subs. (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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	
14.	<p>Page 3, ¶ 15, lines 17-20: “Some of Waterworks District #40’s customers are located outside of both AVEK’s service area and the area of the adjudication; accordingly, those customers of Waterworks District #40 do not pay property taxes which support AVEK’s importation of SWP water at all.”</p>	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam’s statement lacks personal knowledge and contains no facts to support or explain the conclusions asserted - - that Waterworks District #40’s customers are located outside AVEK’s service area and the area of adjudication and that they do not pay property taxes that support AVEK’s importation of SWP water. To the extent this statement is based on writings or statistics reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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, subs. (a), (b); see <i>Tri-State Mfg. Co. v.</i></p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
		<p><i>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].)</p> <p><u>Inadmissible testimony regarding content of a writing</u></p> <p>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.</p> <p>(Evid. Code, §§ 1521, subd.)</p>	
15.	<p>Page 3, ¶ 16. Lines 21-24: "Many of AVEK's taxpayers are "non-users," i.e., they either take water from wells or leave their properties fallow; as a result, such non-users do not benefit directly from the SWP, although their property taxes significantly subsidize the SWP water purchased by Waterworks District #40 and other AVEK customers."</p>	<p><u>Lacks personal knowledge, lacks foundation, inadmissible hearsay</u></p> <p>Chisam's's statement lacks personal knowledge as to whether "many" of AVEK's taxpayers are non-users and if their property taxes "significantly subsidize" the SWP water purchase by Waterworks District #40 and other AVEK customers. To the extent this statement is based on writings or statistics reviewed by Chisam, the statement is based on inadmissible hearsay.</p> <p>(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</p>	<p>Sustained:</p> <p>_____</p> <p>Overruled:</p> <p>_____</p>

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	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
		741 750-754 [19 Cal.Rptr. 709].) <u>Inadmissible testimony regarding content of a writing</u> 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.)	

DATED: December 27, 2013 MURPHY & EVERTZ LLP

By: 
Douglas J. Evertz, Attorney for City of Lancaster and Rosamond Community Services District

ORDER

IT IS SO ORDERED.

Dated: _____

JUDGE OF THE SUPERIOR COURT

1 **PROOF OF SERVICE**

2 **ANTELOPE VALLEY GROUNDWATER CASES**
3 Judicial Council Coordination, Proceeding No. 4408

4 Santa Clara Case No. 1-05-CV 049053
5 Assigned to the Honorable Jack Komar
6 Los Angeles County Superior Court, Central, Dept. 1

7 I am a resident of the State of California, over 18 years of age and not a party to this action. I
8 am employed in the County of Orange, State of California. My business address is 650 Town Center
9 Drive, Suite 550, Costa Mesa, California 92626.

10 On December 21, 2013, I served the within document(s):

11 **PUBLIC WATER SUPPLIERS' EVIDENTIARY OBJECTIONS TO THE**
12 **DECLARATION OF DWAYNE CHISAM IN SUPPORT OF ANTELOPE VALLEY-EAST**
13 **KERN WATER AGENCY'S MOTION FOR SUMMARY ADJUDICATION; [PROPOSED]**
14 **ORDER**

15 by posting the document(s) listed above to the website <http://www.scefiling.org>, a
16 dedicated link to the Antelope Valley Groundwater Cases; Santa Clara Case
17 No. 1-05-CV 049053, Assigned to the Honorable Jack Komar, said document(s) is
18 electronically served/distributed therewith.

19 By transmitting via e-mail the document(s) listed above to the e-mail address(es) and/or
20 fax number(s) set forth below on this date.

21 by placing the document(s) listed above in a sealed Overnight Express envelope/package for
22 overnight delivery at Costa Mesa, California addressed as set forth below.

23 by causing personal delivery by Nationwide Legal of the document(s) listed above, to the
24 person(s) at the address(es) set forth below.

25 I am readily familiar with Murphy & Evertz, LLP's practice for collecting and processing
26 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on
27 the same day that the correspondence is placed for collection and mailing, it is deposited in the
28 ordinary course of business with the United States Postal Service, in a sealed envelope with postage
fully prepaid.

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, 2013, at Costa Mesa, California.


Stephanie Patis