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Attorneys for Cross-Defendant/Cross-Complainant,  
A.V. UNITED MUTUAL GROUP; and Cross-  
Defendants, ADAMS BENNETT INVESTMENTS,  
LLC; MIRACLE IMPROVEMENT CORPORATION  
dba GOLDEN SANDS MOBILE HOME PARK, aka  
GOLDEN SANDS TRAILER PARK, named as ROE  
1121; ST. ANDREW'S ABBEY, INC., named as ROE  
623; SERVICE ROCK PRODUCTS, L.P.; and  
SHEEP CREEK WATER COMPANY, INC.

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

Coordination Proceeding  
Special Title (Rule 1550(b))

) Judicial Council Coordination  
) Proceeding No. 4408

**ANTELOPE VALLEY  
GROUNDWATER CASES**

) Santa Clara Case No. 1-05-CV-049053  
) Assigned to the Honorable Jack Komar  
) Department 17C

Including Consolidated Actions:

**Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co.**  
Superior Court of California, County of Los  
Angeles, Case No. BC 325 201

) **OPPOSITION OF CROSS-DEFENDANTS,  
ADAMS BENNETT INVESTMENTS, LLC;  
MIRACLE IMPROVEMENT  
CORPORATION dba GOLDEN SANDS  
MOBILE HOME PARK, aka GOLDEN  
SANDS TRAILER PARK [ROE 1121]; ST.  
ANDREW'S ABBEY, INC. [ROE 623];  
SERVICE ROCK PRODUCTS, L.P.; AND  
SHEEP CREEK WATER COMPANY, INC.  
TO MOTION FOR ORDER CLARIFYING  
AND MODIFYING THE ORDER RE:  
MOTION FOR AN ORDER AUTHORIZING  
COURT-APPOINTED EXPERT WORK,  
ENTERED DECEMBER 11, 2012**

**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.**

) For Court's Use Only:  
) Santa Clara County  
) Case No. 1-05-CV-049053  
) (For E-Posting/E-Service Purposes Only)

Superior Court of California, County of  
Riverside, consolidated actions, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668

AND RELATED ACTIONS.

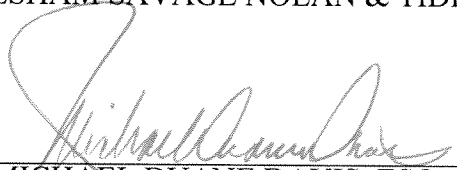
1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 Cross-Defendants, **ADAMS BENNETT INVESTMENTS, LLC; MIRACLE**  
3 **IMPROVEMENT CORPORATION dba Golden Sands Mobile Home Park, aka Golden**  
4 **Sands Trailer Park**, named as ROE 1121; **ST. ANDREW'S ABBEY, INC.**, named as ROE  
5 623; **SERVICE ROCK PRODUCTS, L.P.**; and, **SHEEP CREEK WATER COMPANY,**  
6 **INC.**, ("Opposing Parties") by and through their attorneys of record, Gresham Savage Nolan &  
7 Tilden, PC, by Michael Duane Davis, Marlene L. Allen-Hammarlund and Derek R. Hoffman,  
8 submit this *Opposition to Motion for an Order Clarifying and Modifying the Order re Motion for*  
9 *an Order Authorizing Court-Appointed Expert Work, Entered December 11, 2012*  
10 ("Opposition") in connection with the Notice of Motion and Motion for an Order Clarifying and  
11 Modifying the Order Re: Motion for an Order Authorizing Court-Appointed Expert Work,  
12 Entered December 11, 2012, ("Motion") which was filed on July 1, 2013 by Lemieux & O'Neill,  
13 on behalf of Littlerock Creek Irrigation District, Palm Ranch Irrigation District, North Edwards  
14 Water District, Desert Lake Community Services District, Llano Del Rio Water co., Llano  
15 Mutual Water Do., and Big Rock Mutual Water Co.

16  
17 DATED: July 16, 2013.

Respectfully submitted,

18 GRESHAM SAVAGE NOLAN & TIDEN, PC

19  
20  
21 By:   
22 MICHAEL DUANE DAVIS, ESQ.  
23 MARLENE L. ALLEN-HAMMARLUND, ESQ.  
24 DEREK R. HOFFMAN, ESQ.  
25 Attorneys for CROSS-DEFENDANTS, ADAMS  
26 BENNETT INVESTMENTS, LLC, MIRACLE  
27 IMPROVEMENT CORPORATION dba GOLDEN  
28 SANDS MOBILE HOME PARK, aka GOLDEN  
SANDS TRAILER PARK [ROE 1121], ST.  
ANDREW'S ABBEY, INC. [ROE 623], SERVICE  
ROCK PRODUCTS, L.P., and SHEEP CREEK WATER  
COMPANY, INC.

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GE

1 Antelope Valley Groundwater Basin. A review of the transcript of the November 9, 2012  
2 hearing, at which the Order was issued, reveals that the Court based its determinations upon the  
3 facts that the Public Water Suppliers are the parties adverse to the Wood Class and that it is the  
4 Public Water Suppliers who are seeking prescriptive claims against the members of the Wood  
5 Class.

6 As directed by the Court, a portion of the transcript of the November 9, 2012 proceedings  
7 has been filed with the Court by Attorney Jeffrey Dunn. A copy of that partial transcript is  
8 attached hereto as *Exhibit C* for the Court's convenience. In that transcript, the Court stated that  
9 the "Class Complaint is against the public water suppliers . . . [and] only them." [R.T. 50:5-10,  
10 pg. 49 of transcript]<sup>1</sup> The Court then stated that: "I think the top dollar that he [Mr. Thompson]  
11 is going to be entitled to, by his offer, is about \$80,000." [R.T. 50:24-25, pg. 49 of transcript]  
12 The Court went on to say that: "I'm going to order that the public water providers who have  
13 prescriptive claims be responsible among themselves for the reimbursement or payment of that  
14 amount of \$80,000." [R.T. 51:1-4, pg. 49 of transcript]

15 Although the Court did state that the amount paid for the expert would be a "taxable  
16 amount" which could become a cost that is allocated to other parties in this lawsuit – the Court  
17 made it clear that any reallocation would be done **at the conclusion of the case** "depending upon  
18 the outcome of this lawsuit." [R.T. 51:5-8, pg. 50 of the transcript]

19 Accordingly, it would be unjust and unfair to the parties who are not adverse to the Wood  
20 Class, for the Court to modify that Order at this stage of the proceedings and to require any party,  
21 other than the Public Water Suppliers, to bear any portion of the burden of paying for the expert.  
22 The Court left open the possibility that other parties might have to share in that expense at the  
23 conclusion of the case – but to do so before then would be contrary to the Court's own order and  
24 unfair to the non-adverse parties.

25  
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27 <sup>1</sup> All references to "R.T." are to the Reporter's Transcript of Proceedings of Friday, November 9, 2012, which  
28 reference the page and line numbers of that transcript.

1 The Public Water Suppliers choose to assert prescriptive claims against the members of  
2 the Wood Class. That choice exposed them to the potential for payment of the court-appointed  
3 expert's costs on an ongoing basis.

4 The Court indicated that, depending on the outcome of the case, it might consider a re-  
5 allocation of those expert costs, based on the findings made in the case.

6 At this phase of the proceedings, however, the Court should uphold its December 11<sup>th</sup>  
7 Order.

8 **CONCLUSION**

9 For the reasons stated herein, the Court should not modify its December 11, 2012 Order.  
10 The Order requiring the Public Water Suppliers to be the parties sharing the expense of the court-  
11 appointed expert in connection with the Wood Class action was well reasoned when it was  
12 issued and remains sound today. These Opposing Parties, along with the other non-adverse  
13 parties to the Wood Class, are not claiming prescriptive rights and should not be ordered to bear  
14 any portion of the expert expenses at least at this stage of the proceedings.

15 The Court's Order of December 11, 2102, was correct, fair and reasonable, and should  
16 not be modified at this time.

17 DATED: July 16, 2013

Respectfully submitted,

18 GRESHAM SAVAGE NOLAN & TIDEN, PC

19  
20  
21 By: 

MICHAEL DUANE DAVIS, ESQ.  
MARLENE L. ALLEN-HAMMARLUND, ESQ.  
Attorneys for CROSS-DEFENDANTS, ADAMS  
BENNETT INVESTMENTS, LLC, MIRACLE  
IMPROVEMENT CORPORATION dba GOLDEN  
SANDS MOBILE HOME PARK, aka GOLDEN  
SANDS TRAILER PARK [ROE 1121], ST.  
ANDREW'S ABBEY, INC. [ROE 623], SERVICE  
ROCK PRODUCTS, L.P., and SHEEP CREEK WATER  
COMPANY, INC.

# **Exhibit A**

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

Coordination Proceeding  
Special Title (Rule 1550(b))

Judicial Council Coordination  
Proceeding No. 4408

ANTELOPE VALLEY GROUNDWATER  
CASES

(Santa Clara Case No. 1-05-CV-049053,  
Honorable Jack Komar)

RICHARD A. WOOD, an individual, on  
behalf of himself and all others similarly  
situated,

Case No.: BC 391869

Plaintiff,

~~[amended, proposed]~~ ORDER RE:  
MOTION FOR AN ORDER  
AUTHORIZING COURT-  
APPOINTED EXPERT WORK

v.

LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40; et al.

Defendants.

1 On November 9, 2012, the Court heard argument on Richard Wood's Motion for  
2 an Order Authorizing the Court-Appointed Expert Witness Work (the "Motion"). After  
3 considering the pleadings filed by all parties and the argument of counsel, the Court  
4 hereby lifts the stay on the Court-Appointed expert witness work as detailed in the  
5 written estimate which is Exhibit 5 to the Motion (dated January 18, 2012). The Court-  
6 appointed expert will generate a report detailing the work conducted and the resulting  
7 analysis and data generated. Such report or reports will be posted to the court website for  
8 this matter by either Class counsel or designated liason counsel for the public water  
9 suppliers.

10  
11 Expert Communication and Liason Counsel.

12 It is anticipated that the expert will need to communicate with counsel and class  
13 members in the conduct of his work. Such communications will occur in writing where  
14 practicable and posted to the case website. Jeffrey Dunn or other attorney representative  
15 for the public water suppliers, and a designated landowner attorney, shall be copied on  
16 such communications.

17  
18 Payment

19 The bills of the court-appointed expert will be sent to Class counsel, who will file  
20 notice of such bills within ten days of receipt. Such payments will be made on a per  
21 capita basis in equal amounts on each bill from the court-appointed expert.

22 The Court orders the following parties to tender payment of checks, payable to  
23 "Cardno Entrix," to the Law Offices of Michael D. McLachlan, APC within fifteen (15)  
24 days of posting of the notice of payments being due: Rosamond Community Services  
25 District, Los Angeles County Waterworks District No. 40, Littlerock Creek Irrigation  
26 District, Palm Ranch Irrigation District, North Edwards Water District, Desert Lake  
27 Community Services District, California Water Service Company, Quartz Hill Water  
28



1 District, the Palmdale Water District, and Phelan Pinon Hills Community Services  
2 District.

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6 IT IS SO ORDERED.

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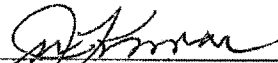
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Dated: 12-11-2012

  
Honorable Jack Komar  
Judge of the Superior Court

# **Exhibit B**

Michael D. McLachlan (State Bar No. 181705)  
**LAW OFFICES OF MICHAEL D. McLACHLAN, APC**  
523 West Sixth Street, Suite 215  
Los Angeles, California 90014  
Telephone: (213) 630-2884  
Facsimile: (213) 630-2886  
[mike@mclachlanlaw.com](mailto:mike@mclachlanlaw.com)

Attorneys for Plaintiff

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

RICHARD A. WOOD, an individual, on behalf  
of himself and all others similarly situated,

Plaintiff,

v.

LOS ANGELES COUNTY WATERWORKS  
DISTRICT NO. 40; CITY OF LANCASTER;  
CITY OF LOS ANGELES; CITY OF  
PALMDALE; PALMDALE WATER  
DISTRICT; LITTLEROCK CREEK  
IRRIGATION DISTRICT; PALM RANCH  
IRRIGATION DISTRICT; QUARTZ HILL  
WATER DISTRICT; ANTELOPE VALLEY  
WATER CO.; ROSAMOND COMMUNITY  
SERVICE DISTRICT; MOJAVE PUBLIC  
UTILITY DISTRICT; CALIFORNIA WATER  
SERVICE COMPANY and DOES 1 through  
100;

Defendants.

Case No.:

(related to JUDICIAL COUNCIL  
COORDINATION PROCEEDING No. 4408;  
Santa Clara Case No. 1-05-CV-049053,  
Honorable Jack Komar)

**CLASS ACTION COMPLAINT**

**REQUEST FOR JURY TRIAL**

Plaintiff, Richard A. Wood, by his counsel, alleges on information and belief as follows:

I.

**NATURE OF THE ACTION**

1. Plaintiff brings this action on behalf of himself and the class of certain other private landowners in the Antelope Valley (as defined below) seeking a judicial determination of their rights to use the groundwater within the Antelope Valley Groundwater Basin ("the Basin"). In addition, Plaintiff seeks damages and just compensation for himself and the Class arising from the government entity defendants taking and interfering with plaintiff's and the Class' property rights. This action is necessary in that defendants assert a common law prescriptive right to the groundwater in the Basin which right they claim is superior to that of Plaintiff and the Class. By definition, a prescriptive right requires a wrongful taking of non-surplus water from the Basin, in an open, notorious, continuous, uninterrupted, hostile and adverse manner to the original owner for the statutory period of five years. To the extent defendants fail to prove any element of prescription or the evidence shows that defendants have indeed taken non-surplus water in derogation of the rights of overlying landowners, plaintiff's and the Class's property interests have been damaged and/or infringed.

2. As overlying landowners, Plaintiff and the Class have a property right in the water within the Basin. Plaintiff and the Class also have a priority to the use of the Basin's groundwater. To the extent the Government entity defendants assert rights to that ground water or have taken non-surplus groundwater in derogation of the rights of the overlying landowners. Plaintiff and the Class are entitled to damages and just compensation under the Fifth and Fourteenth Amendments of the United States Constitution and Article 1, Section 19 of the California Constitution.

II.

**JURISDICTION AND VENUE**

3. This Court has jurisdiction over this action pursuant to the California Constitution, Article XI, § 10 and under California Code of Civil Procedure ("CCP") § 410.10.

### III.

## THE PARTIES

6. Plaintiff RICHARD A. WOOD ("Wood" or "Plaintiff") resides in Lancaster, California. Wood owns approximately 10 acres of property at 45763 North 90<sup>th</sup> Street East in Lancaster, California, within the Basin. Plaintiff's property overlies percolating groundwater, the precise extent of which is unknown.

7. Defendants (referred to alternatively as “Appropriators”) are persons and entities who claim rights to use groundwater from the Basin, whose interests are in conflict with Plaintiff’s interests. On information and belief, they are as follows:

A. Defendant LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 is a public agency governed by the Los Angeles County Board of supervisors that drills and pumps water in the Basin and sells such water to the public in portions of the Antelope Valley.

B. Defendant PALMDALE WATER DISTRICT is a public agency that pumps and/or provides groundwater from the Basin.

C. Defendant LITTLEROCK CREEK IRRIGATION DISTRICT is a public agency that pumps and/or provides groundwater from the Basin.

D. Defendant PALM RANCH IRRIGATION DISTRICT is a public agency that pumps and/or provides groundwater from the Basin.

E. Defendant QUARTZ HILL WATER DISTRICT is a public agency that pumps and/or provides groundwater from the Basin.

1 F. Defendant ANTELOPE VALLEY WATER CO. is an entity that pumps  
2 and/or provides groundwater from the Basin.

3 G. Defendant ROSAMOND COMMUNITY SERVICE DISTRICT is an  
4 entity that pumps and/or provides groundwater from the Basin.

5 H. Defendant MOJAVE PUBLIC UTILITY DISTRICT is a public agency  
6 that pumps and/or provides groundwater from the Basin.

7 I. Defendant CALIFORNIA WATER SERVICE COMPANY is a California  
8 Corporation that pumps and/or provides groundwater from the Basin and is added herein  
9 as Doe 1. Defendants A-I shall collectively be referred to as "Appropriators."

10 J. Defendant CITY OF LANCASTER is a municipal corporation located  
11 within the County of Los Angeles.

12 K. Defendant CITY OF PALMDALE is a municipal corporation located  
13 within the County of Los Angeles.

14 L. DOE DEFENDANTS 1 through 100. Plaintiff alleges on information and  
15 belief that at all relevant times DOE DEFENDANTS 1 through 100, inclusive, are  
16 persons or entities who either are currently taking or providing water from the Basin or  
17 claim rights to take groundwater from the Basin. Plaintiff is presently unaware of the  
18 true names and identities of those persons sued herein as DOE Defendants 1 through 100  
19 and therefore sues these Defendants by these fictitious names. Plaintiff will amend this  
20 Complaint to allege the Doe Defendants' legal names and capacities when that  
21 information is ascertained.

22 IV.

23 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

24 8. The Antelope Valley Groundwater Basin is part of the South Lahontan  
25 Hydrologic Region. The Basin underlies an extensive alluvial valley in the western Mojave  
26 Desert. The Basin is bounded on the northwest by the Garlock fault zone at the base of the  
27 Tehachapi Mountains and on the southwest by the San Andreas fault at the base of the San  
28 Gabriel Mountains. The Basin is bounded on the east by ridges and low hills that form a

1 groundwater divide and on the north by various geographic features that separate it from the  
2 Fremont Valley Basin.

3 9. Average annual rainfall in the Basin ranges from 5 to 10 inches. Most of the  
4 Basin's recharge comes from runoff from the surrounding mountains and hills – in particular,  
5 from the San Gabriel and Tehachapi Mountains and from hills and ridges surrounding other  
6 portions of the Valley.

7 10. The Basin has two main aquifers – an upper aquifer, which is the primary source  
8 of groundwater for the Valley, and a lower aquifer. Generally, in the past, wells in the Basin  
9 have been productive and have met the needs of users in conjunction with other sources of water,  
10 including the State Water Project.

11 11. In recent years, however, population growth and urban demands have led to  
12 increased pumping and declining groundwater levels. Plaintiff and the Class are informed and  
13 believe that at some yet unidentified point in the past, the Appropriators began to extract  
14 groundwater from the Antelope Valley to a point above and beyond an average annual safe yield.  
15 Plaintiff and the Class are further informed and believe that future population growth and  
16 demands will place increased burdens on the Basin. If the trend continues, demand may exceed  
17 supply which will cause damage to private rights and ownership in real property. Presently, the  
18 rights to the Basin's groundwater have not been adjudicated and there are no legal restrictions on  
19 pumping. Each of the Defendants is pumping water from the Basin and /or claims an interest in  
20 the Basin's groundwater. Despite the actual and potential future damage to the water supply and  
21 the rights of owners of real property within the Valley, the Appropriators have knowingly  
22 continued to extract groundwater from the Basin, and increased and continue to increase their  
23 extractions of groundwater over time. The Appropriators continued the act of pumping with the  
24 knowledge that the continued extractions were damaging, long term, the Antelope Valley and in  
25 the short term, impairing the rights of the property owners.

26 12. Plaintiff and the Class are informed and believe that the Appropriators may have  
27 pumped water in excess of the safe yield with the knowing intent and belief that they could take  
28 by claim of prescription, without compensation, the water rights of all landowners overlying the

1 Antelope Valley. Additionally, all Appropriators continued to pump ever increasing quantities  
2 of groundwater, knowing that even if their prescriptive claims failed, they could preserve the  
3 right to continue their pumping under a claim of an intervening public use. Despite the knowing  
4 intent to take the overlying property landowners' rights, no Appropriator took any steps to  
5 inform or otherwise notify Plaintiff or the Class of their adverse and hostile claim or that their  
6 pumping of groundwater was an invasion of and a taking of the landowners' property rights.

7 13. None of the Appropriators have invoked the power of eminent domain nor paid  
8 any compensation to overlying owners of land located within Antelope Valley for the property  
9 rights they have knowingly taken.

10 14. Various water users have instituted suit to assert rights to pump water from the  
11 Basin. In particular, Defendant L.A. Waterworks District 40 and other municipal Appropriators  
12 have brought suit asserting that they have prescriptive rights to pump water from the Basin,  
13 which they claim are paramount and superior to the overlying rights of Plaintiff and the Class.  
14 Those claims threaten Plaintiff's right to pump water on his property.

15 15. In 1983, Plaintiff purchased his ten (10) acre property in the Antelope Valley to  
16 serve as his sole residence, which has continued to be the case to date. The most important and  
17 fundamental aspect of his purchase was the property right to use water below his land. At all  
18 relevant times, Plaintiff has extracted and used groundwater from beneath his property for  
19 standard residential purposes. Plaintiff's right to use water below the surface of the land is a  
20 valuable property right. Without the right to use the water below his property, the value of  
21 Plaintiff's land is substantially reduced.

22 16. Plaintiff is informed and believes that defendant Appropriators have extracted so  
23 much water from the Basin, by extracting non-surplus water that exceeds a safe yield for a period  
24 as yet undetermined, that his ability to pump water is threatened. Plaintiff is further informed  
25 and believes that the water level has fallen to such an unreasonable level that his property right in  
26 the use of the water has been infringed or extinguished and his interest in the real property has  
27 been impaired by the diminution of its fair market value. The Appropriators have made it  
28 economically difficult, if not impossible, for him to exercise his future right to use the water



1 because they have extracted too much water from the supply in the Basin. His water rights and  
2 the value in the real property have been damaged and will continue to be damaged unless this  
3 court intervenes on his behalf and on behalf of all class members.

4 17. Plaintiff brings this action on behalf of the following class:

5 All private (i.e., non-governmental) persons and entities that own real property  
6 within the Basin, as adjudicated, and that have been pumping on their property and have not  
7 within the five year period preceding the filing of this action. The Class excludes the defendants  
8 herein, any person, firm, trust, corporation, or other entity in which any defendant has a  
9 controlling interest or which is related to or affiliated with any of the defendants, and the  
10 representatives, heirs, affiliates, successors-in-interest or assigns of any such excluded party. The  
11 Class also excludes all persons to the extent their properties are connected to a municipal water  
12 system, public utility, or mutual water company from which they receive water service, as well  
13 as all persons who are required by law to report their water usage to any government agency.

14 18. The Class is so numerous that joinder of all members is impracticable. Plaintiff's  
15 claims are typical of the claims of the members of the Class. Plaintiff and members of the class  
16 have sustained damages arising out of the conduct complained of herein.

17 19. Plaintiff will fairly and adequately protect the interests of the members of the  
18 Class and Plaintiff has no interests which are contrary to or in conflict with those of the Class  
19 members he seeks to represent. Plaintiff has retained competent counsel experienced in class  
20 action litigation to ensure such protection.

21 20. A class action is superior to other available methods for the fair and efficient  
22 adjudication of this controversy since joinder of all members is impracticable. Plaintiff knows of  
23 no difficulty that will be encountered in the management of this litigation that would preclude its  
24 maintenance as a class action.

25 21. There are common question of law and fact as to all members of the Class, which  
26 predominate over any questions affecting solely individual members of the Class. Specifically,  
27 the Class members are united in establishing (1) their priority to the use of the Basin's  
28 groundwater given their capacity as overlying landowners; (2) the determination of the Basin's

characteristics including yield; (3) adjudication of the Public Water Suppliers' groundwater rights including prescriptive rights; (4) determination of a physical solution to water shortage conditions including all parties' rights to store and recover non-native water in the Basin; (5) a taking, if any, under the U.S. and California Constitution; (6) damages for trespass, interference, nuisance and conversion; (7) due process violations; and (8) availability of injunctive relief.

### **FIRST CAUSE OF ACTION**

#### **(For Declaratory Relief Against All Defendants)**

22. Plaintiff realleges and incorporates herein by reference each of the allegations contained in the preceding paragraphs of this Complaint, and further alleges against Defendants as follows:

23. By virtue of their property ownership, Plaintiff and the Class hold overlying rights to the Basin's groundwater, which entitle them to extract that water and put it to reasonable and beneficial uses on their respective properties.

24. Plaintiff is informed and believes, and on the basis of that information and belief alleges, that each of the defendants presently extracts and/or purveys groundwater from the Basin and/or asserts rights to that groundwater which conflict with the overlying rights of Plaintiff and the Class.

25. Plaintiff is informed and believes and, on the basis of that information and belief, alleges that each of the Defendants extracts groundwater primarily for non-overlying use – i.e., for use on properties other than the property on which the water is extracted. In addition, certain of those defendants have asserted that they hold prescriptive rights to such water which they claim are superior to the rights of Plaintiff and the Class.

26. Plaintiff's and the Class' present overlying uses of the Basin's groundwater are superior in right to any non-overlying rights held by the Appropriator Defendants.

27. Plaintiff's and the Class' overlying rights need to be apportioned in a fair and equitable manner among all persons holding rights to the Basin's water.

1           28.     Plaintiff and the Class seek a judicial determination that their rights as overlying  
2 users are superior to the rights of all non-overlying users and that they have correlative rights vis-  
3 a-vis other overlying landowners.

4           29.     Plaintiff and the Class further seek a judicial determination as to the priority and  
5 amount of water that all parties in interest are entitled to pump from the Basin.

6           30.     By virtue of their property ownership, Plaintiff and the Class hold rights to utilize  
7 or derive benefit from the storage capacity of the Basin. Plaintiff and the Class seek a judicial  
8 determination as to priority and ownership of those rights. In addition, Plaintiff and the Class  
9 contend that California Water Code Sections 55370, 22456, and 31040 limit the method, manner  
10 and mode by which Appropriators may acquire private property and requires payment of  
11 compensation through eminent domain proceedings. Plaintiff and the Class seek a declaration of  
12 rights with respect to the constitutionality and applications of these Statutes.

13                           **SECOND CAUSE OF ACTION**

14                           **(Against All Defendants to Quiet Title)**

15           31.     Plaintiff realleges and incorporates herein by reference each of the allegations  
16 contained in the preceding paragraphs of this Complaint, and further alleges against Defendants  
17 as follows:

18           32.     Plaintiff and the Class own land overlying the Antelope Valley alluvial  
19 groundwater basin. Accordingly, Plaintiff and the Class have appurtenant rights to pump and  
20 reasonably use groundwater on their land.

21           33.     Plaintiff and the Class herein request a declaration from the Court quieting title to  
22 their appurtenant rights to pump and reasonably use groundwater on their land in the future.

23                           **THIRD CAUSE OF ACTION**

24                           **(Against All Defendant Appropriators For Damages Pursuant to**  
25                           **The California Constitution Takings Clause)**

26           34.     Plaintiff realleges and incorporates herein by reference each of the allegations  
27 contained in the preceding paragraphs of this Complaint, and further alleges against Defendants  
28 as follows:

1           35.     Article 1 Section 19 of the California Constitution provides as follows:

2           Private Property may be *taken or damaged* for public use only when just  
3           compensation, ascertained by a jury unless waived, has first been paid to, or  
4           into court for, the owner.

5           The scope of compensable injury to property is broader in California than other States or  
6           under the U.S. Constitution. It includes a "taking" or "damage" to property. Here, Plaintiff's  
7           and the Class' interests have been infringed by the defendants. On information and belief,  
8           defendant Appropriators have extracted and will continue to extract non-surplus groundwater  
9           from the Basin in excess of a safe yield. Defendants allege that the production forms the basis of  
10          their claim for prescriptive rights. Defendants' extraction of water above a safe yield has made it  
11          more difficult and expensive for Plaintiff and the Class to use the water under their properties  
12          and constitutes an invasion of Plaintiff's property interests and therefore a taking in violation of  
13          the California Constitution. On information and belief, Plaintiff's and the Class' properties have  
14          been injured in the form of degradation of the water level and degradation of the quality of the  
15          water, in addition to the actual taking of non-surplus water.

16          36.     The public entity Defendants claim priority rights to take and use the Basin's  
17          groundwater by "prescription" and as a matter of public interest and need.

18          37.     If and to the extent the public entities are granted rights to use the Basin's  
19          groundwater with priority to the rights held by Plaintiff and other overlying landowners, Plaintiff  
20          and the Class are entitled to just and fair compensation pursuant to Article 1, Section 19 of the  
21          California Constitution for the diminution in fair market value of the real property. If and to the  
22          extent the public entities are not granted rights to use the Basin's groundwater with priority to the  
23          rights held by Plaintiff and other overlying landowners, Plaintiff and the Class are entitled to just  
24          and fair compensation pursuant Article 1, Section 19 of the California Constitution for wrongful  
25          taking of water rights.

1 **FOURTH CAUSE OF ACTION**

2 **(Against All Defendant Appropriators For Damages Pursuant to**  
3 **The United States Constitution Takings Clause)**

4 38. Plaintiff realleges and incorporates herein by reference each of the allegations  
5 contained in the preceding paragraphs of this Complaint, and further alleges against Defendants  
6 as follows:

7 39. This cause of action is brought to recover damages against the Appropriators for  
8 violation of Plaintiff's and the Class's right under the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the U.S.  
9 Constitution through the Appropriator's taking of private property for public use without paying  
10 just compensation and depriving them of both substantive and procedural due process of law.

11 40. The Appropriators, and each of them are, and at all times mentioned in this  
12 second amended complaint were, governmental entities with the capacity to sue and be sued.  
13 The Appropriators, and each of them, were, at all times mentioned in this second amended  
14 complaint, acting under color of state law.

15 41. At a yet unidentified historical point in time, the Appropriators began pumping  
16 water from the Antelope Valley as permissive appropriators. Over the course of time, it is  
17 believed that the aggregate amount of water being extracted from the Valley began to exceed the  
18 safe yield. Each Appropriator continued to pump and increased its pumping of groundwater  
19 believing that given the intervention of the committed public use, no injunction would issue to  
20 restrain and/or compel the Appropriator to reduce its dependence upon such groundwater. Each  
21 Appropriator contends that despite its status as a governmental entity, it can nonetheless take  
22 private property for a public use under a theory of prescription and without compensation. Each  
23 Appropriator did not undertake any affirmative action reasonably calculated and intended to  
24 provide notice and inform any affected landowner of its adverse and hostile claim.

25 42. Plaintiff is informed and believes and thereon alleges that he was denied due  
26 process of law prior to the taking of his property. This violation was a direct result of the  
27  
28

1 knowing customs, practices, and policies of the Appropriators to continue to pump in excess of  
2 the supply, to suppress the assertion of their adverse and hostile claim, and the resulting ever  
3 increasing intervening public use and dependence, without acceding to Constitutional limits.

4 43. The customs, practices, and policies of the Appropriators to prescript or adversely  
5 possess the property rights of property owners and/or to establish a nonenjoinable intervening  
6 use amounted to deliberate indifference to the rights of persons who stand to lose their rights to  
7 extract water from the Antelope Valley for use on their property through the actions of each  
8 Appropriator and all of them.

9 44. As a direct and proximate result of the acts of the Appropriators, Plaintiff and the  
10 Class have suffered injury, loss, and damage, including a cloud upon the title to their real  
11 property, a reduction in value, and the loss of rights in the future to extract and use groundwater  
12 from the Valley.

#### 13 **FIFTH CAUSE OF ACTION**

##### 14 **(Public and Private Nuisance Against All Defendant Appropriators)**

15 45. Plaintiff realleges and incorporates herein by reference each of the allegations  
16 contained in the preceding paragraphs of this Complaint, and further alleges against Defendants  
17 as follows:

18 46. The Appropriators' extractions of groundwater from the supply constitute a  
19 continuing progressive nuisance within the meaning of Section 3479 of the Civil Code, in that  
20 the Appropriators have interfered with the future supply of available water that is injurious to  
21 Plaintiff's and the Class' rights to freely use and exercise their overlying property rights to  
22 extract groundwater from the Basin. The Appropriators are attempting, through the combined  
23 efforts of their pumping groundwater to take, and or alter, overlying property rights to use and  
24 access the Antelope Valley supply.

25 47. The Appropriators, and each of them, have continued to and have increased their  
26 pumping, despite the knowledge of the damage caused by pumping. The Appropriators have  
27 refused, and continue to refuse, to stop or reduce their pumping despite the damage to the supply  
28 of water. This nuisance affects a substantial number of persons in that the Appropriators claim

1 that the continued pumping in excess of the supply's safe yield is, and will, eventually cause a  
2 chronic decline in water levels and the available natural water supply will be chronically  
3 depleted. If the present trend continues, demand will continue to exceed supply which will  
4 continue to cause a reduction in the long term supply. Additionally, the continued pumping by  
5 the Appropriators under these conditions will result in the unlawful obstruction of the overlying  
6 landowner's rights to use the water supply in the customary manner.

7 48. The Appropriators, and each of them, have threatened to and will, unless  
8 restrained by this court, continue to pump groundwater in increasing amounts, and each and  
9 every act has been, and will be, without the consent, against the will, and in violation of the  
10 rights of plaintiff and the Class.

11 49. As a proximate result of the nuisance created by the Appropriators, and each of  
12 them, plaintiff and the Class have been, and will be, damaged in a sum to be proven at trial.

13 50. In maintaining this nuisance, the Appropriators, and each of them are, and have  
14 been, acting with full knowledge of the consequences and damage being caused and their  
15 conduct is willful, oppressive, malicious and designed to interfere with and take plaintiff's right  
16 to freely access the water supply in its customary manner.

#### 17 **SIXTH CAUSE OF ACTION**

#### 18 **(Trespass Against All Defendant Appropriators)**

19 51. Plaintiff realleges and incorporates herein by reference each of the allegations  
20 contained in the preceding paragraphs of this Complaint, and further alleges against Defendants  
21 as follows:

22 52. On information and belief, each Defendant alleges that it has produced more  
23 water from the Basin than it has a right to produce as an Appropriator. Defendants allege that  
24 this production forms the basis for their claims of prescriptive rights. To the extent that the  
25 alleged production in excess of rights actually occurred, this alleged production of water  
26 constitutes a trespass against plaintiff and the Class.

27 53. Defendants' use of the Basin's water has interfered with and made it more  
28 difficult for plaintiff and the Class to exercise their rights.

54. Plaintiff requests that the Court award monetary damages to compensate for any past injury that may have occurred to plaintiff and the Class by Defendants' trespass in an amount to be determined at trial.

**SEVENTH CAUSE OF ACTION**

**(Conversion Against All Defendant Appropriators)**

55. Plaintiff realleges and incorporates herein by reference each of the allegations contained in the preceding paragraphs of this Complaint, and further alleges against Defendants as follows:

56. Plaintiff and the Class are, and at all times relevant herein were, the owners of or entitled to water rights in the Basin as overlying landowners.

57. Defendants wrongfully interfered with Plaintiff's interests in the above-described property by extracting non-surplus water that exceed a safe yield and by claiming priority over overlying landowners to water rights. Defendants conduct was without notice to plaintiff or the Class.

**EIGHTH CAUSE OF ACTION**

**(Against All Defendants For Violation of 42 U.S.C. § 1983)**

58. Plaintiff realleges and incorporates herein by reference each of the allegations contained in the preceding paragraphs of this Complaint, and further alleges against Defendants as follows:

59. In committing the acts alleged above, Defendants violated plaintiff's rights guaranteed under the Constitution of the United States, including the due process clauses of the 5<sup>th</sup> and 14<sup>th</sup> Amendments and the Takings Clause. These rights include the right not to be deprived of property with out due process by persons and entities acting under color of law. These rights include the right to be free from the use of excessive force by the police.

60. As a direct and proximate result of defendants' conduct, and each of them, including Does 1 through 100, and their agents, supervisors, managers and employees, plaintiff has suffered damages as alleged in this complaint above.



**NINTH CAUSE OF ACTION**

**(Against All Defendants For Injunctive Relief)**

61. Plaintiff and the Class reallege and incorporate herein by reference each of the allegations contained in the preceding paragraphs of this Complaint, and further allege against Defendants as follows:

62. As overlying landowners, Plaintiff and the Class have superior rights to take and make reasonable and beneficial use of the Basin's groundwater.

63. By pumping and selling water from the Basin, Defendants have interfered with and made it more difficult for Plaintiff and the Class to exercise their rights to use that groundwater. If allowed to continue, Defendants' pumping from and depletion of the Basin's groundwater will further interfere with Plaintiff's and the Class's ability to exercise their lawful and superior rights as overlying landowners to make reasonable use of the Basin's groundwater.

64. Plaintiff and the Class have no adequate remedy at law.

65. Unless the Court enjoins or limits Defendants production of water from the Basin, Plaintiff and the Class will suffer irreparable injury in that they will be deprived of their rights to use and enjoy their properties.

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as follows:

1. For economic and compensatory damages according to proof at trial;
2. Declaring that Plaintiff's and the Class' overlying rights to use water from the Basin are superior and have priority vis-a-vis all non-overlying users and Appropriators;
3. Apportioning water rights from the Basin in a fair and equitable manner and enjoining any and all uses inconsistent with such apportionment;
4. Awarding Plaintiff and members of the Class damages from the public entity defendants in the full amount that will compensate Plaintiff and the Class for past and future takings by those Defendants and damages for past and future property infringement;

5. Awarding Plaintiff and the Class the costs of this suit, including reasonable attorneys' and experts' fees and other disbursements; as well as such other and further relief as may be just and proper.

## JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable as a matter of right.

DATED: June 2, 2008

LAW OFFICES OF MICHAEL D. McLACHLAN, APC

By: \_\_\_\_\_

Michael D. McLachlan  
Attorneys for Plaintiff

# **Exhibit C**

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT 1 HON. JACK KOMAR, JUDGE

4 COORDINATION PROCEEDING ) JUDICIAL COUNCIL  
5 SPECIAL TITLE (RULE 1550(B) ) COORDINATION NO.  
6 ANTELOPE VALLEY GROUNDWATER CASES ) JCCP4408  
7 ) SANTA CLARA CASE NO.  
8 ) 1-05-CV-049053  
9 PALMDALE WATER DISTRICT AND QUARTZ )  
HILL WATER DISTRICT, )  
10 CROSS-COMPLAINANTS, )  
11 VS. )  
12 LOS ANGELES COUNTY WATERWORKS )  
DISTRICT NO. 40, ET AL., )  
13 CROSS-DEFENDANTS. )  
14 )  
15 )

16 REPORTER'S TRANSCRIPT OF PROCEEDINGS

17 FRIDAY, NOVEMBER 9, 2012

18 APPEARANCES:

19 FOR LOS ANGELES LEMIEUX & O'NEILL  
COUNTY WATERWORKS BY: WAYNE LEMIEUX, ESQ.  
20 DISTRICT 40, 4165 E. THOUSAND OAKS BLVD, SUITE 350  
ET. AL. WESTLAKE VILLAGE, CALIFORNIA 91362  
21 (805) 495-4770  
22 FOR CITY OF RICHARDS WATSON & GERSHON  
PALMDALE: BY: STEVEN R. ORR, ESQ.  
23 355 SOUTH GRAND AVENUE, 40TH FL.  
24 LOS ANGELES, CALIFORNIA 90071-3101  
(213) 626-8484  
25 FOR ANTELOPE BROWNSTEIN HYATT FARBER SCHRECK  
VALLEY BY: MICHAEL FIFE, ESQ.  
26 GROUNDWATER 21 EAST CARRILLO STREET  
ASSOCIATION: SANTA BARBARA, CALIFORNIA 93101  
27 (805) 882-1453

28 (APPEARANCES CONTINUED ON NEXT PAGE.)

1 FOR RICHARD A. LAW OFFICES OF MICHAEL MC LACHLAN  
Page 1

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2 WOOD: BY: MICHAEL MC LACHLAN, ESQ.  
10490 SANTA MONICA BOULEVARD  
3 LOS ANGELES, CALIFORNIA 90025  
(310) 954-8270

4 FOR LOS ANGELES BEST BEST & KRIEGER  
COUNTY WATERWORKS BY: JEFFREY V. DUNN, ESQ.  
5 DISTRICT 40: 5 PARK PLAZA, SUITE 1500  
6 IRVINE, CA 92614  
(949) 263-2600

7 FOR ROSAMOND LAW OFFICES OF FRANK SATALINO  
RANCH; ELIAS BY: FRANK SATALINO, ESQ.  
8 SHOKRIAN; SHIRLEY 19 VELARDE COURT  
9 SHOKRIAN: RANCHO SANTA MARGARITA, CA. 92688  
(949) 735-7604

10 FOR UNITED U.S. DEPARTMENT OF JUSTICE  
11 STATES: ENVIRONMENT AND NATURAL  
RESOURCES DIVISION  
12 BY: R. LEE LEININGER, ESQ.  
999 18TH STREET, SUITE 370  
13 DENVER, CO 80202  
(303) 844-1364

14 APPEARANCES BY TELEPHONE:

15 SHELDON BLUM  
16 WILLIAM BRUNICK  
MARLENE ALLEN  
17 THEODORE CHESTER  
JANET GOLDSMITH  
18 KATRINA GONZALEZ  
STEFANIE HEDLUND  
19 BRAD HERREMA  
JOSEPH HUGHES  
20 BOB JOYCE  
RALPH KALFAYAN  
ROBERT KUHS  
21 SCOTT KUNEY  
JAMES LEWIS  
22 ANTHONY LEGGIO  
EMILY MADUENO  
23 WESLEY MILLIBAND  
MANUEL RIVAS  
24 CHRISTOPHER SANDERS  
WILLIAM SLOAN  
25 JENNIFER SPALETTA  
JOHN TOOTLE  
26 JOHN UKKESTAD  
JAMES WORTH  
27 RICHARD ZIMMER

28 SANDRA GECO, CSR NO. 3806  
OFFICIAL REPORTER

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT 1 HON. JACK KOMAR, JUDGE

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4	COORDINATION PROCEEDING	)	JUDICIAL COUNCIL
5	SPECIAL TITLE (RULE 1550(B)	)	COORDINATION NO.
6	ANTELOPE VALLEY GROUNDWATER CASES	)	JCCP4408
7	_____	)	SANTA CLARA CASE NO.
		)	1-05-CV-049053
8	PALMDALE WATER DISTRICT AND QUARTZ	)	
9	HILL WATER DISTRICT,	)	
10	CROSS-COMPLAINANTS,	)	
11	VS.	)	
12	LOS ANGELES COUNTY WATERWORKS	)	
	DISTRICT NO. 40, ET AL.,	)	
13	CROSS-DEFENDANTS.	)	
14	_____	)	
15			

REPORTER'S CERTIFICATE

17 STATE OF CALIFORNIA )

18 COUNTY OF LOS ANGELES ) SS

19 I, SANDRA GECO, OFFICIAL REPORTER OF THE

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY

21 OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING

22 PAGES, 1 THROUGH 57, INCLUSIVE, COMPRISE A FULL, TRUE AND

23 CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE

24 ABOVE-ENTITLED MATTER, REPORTED BY ME ON FRIDAY, NOVEMBER

25 9, 2012.

26 DATED THIS 12TH DAY OF NOVEMBER, 2012.

28 \_\_\_\_\_, CSR NO. 3806  
OFFICIAL REPORTER

1

1 CASE NUMBER: JCCP4408

2 CASE NAME: COORDINATION PROCEEDING SPECIAL

3 TITLE (RULE 1550(B))

4 ANTELOPE VALLEY GROUNDWATER CASES

5 LOS ANGELES, CA; FRIDAY, NOVEMBER 9, 2012

7681660\_1.TXT  
6 DEPARTMENT NO. 1 HON. JACK KOMAR, JUDGE  
7 REPORTER: SANDRA GECO, CSR NO. 3806  
8 TIME: 09:00 A.M.  
9 APPEARANCES: (AS NOTED ON TITLE PAGE.)

10

11 (THE FOLLOWING PROCEEDINGS WERE HELD  
12 IN OPEN COURT:)

13

14 THE COURT: GOOD MORNING. THIS IS THE CASE, I  
15 BELIEVE, CALLED THE ANTELOPE VALLEY COORDINATED CASES.  
16 ALSO CONSOLIDATED.

17 OKAY. I UNDERSTAND THAT ROLL CALL HAS BEEN  
18 MADE OF THOSE ON THE TELEPHONE.

19 I WOULD JUST REMIND YOU, IF YOU'RE ON THE  
20 TELEPHONE AND YOU WISH TO BE HEARD, BE SURE EACH TIME YOU  
21 IDENTIFY YOURSELF BY NAME SO THE REPORTER WILL BE ABLE TO  
22 KEEP TRACK OF WHO'S TALKING, AS WILL I.

23 THOSE IN THE COURTROOM, I WOULD EXPECT YOU  
24 TO IDENTIFY YOURSELVES EACH TIME YOU SPEAK FOR THE  
25 BENEFIT OF THE COURT REPORTER. AND THAT WAY WE'LL HAVE A  
26 CLEAR RECORD.

27 MR. BLUM: YOUR HONOR, IF I MAY SAY. THIS IS  
28 SHELDON BLUM. I WAS NOT PRESENT WHEN ROLL CALL WAS MADE, 2

1 BUT I AM CURRENTLY ON THE PHONE.

2 THE COURT: ALL RIGHT. THANK YOU, MR. BLUM.

3 MR. TOOTLE: YOUR HONOR, THIS IS JOHN TOOTLE. AND  
4 I WAS NOT ON THE PHONE WHEN ROLL CALL WAS CALLED. AND I  
5 AM PRESENT AS WELL.

6 THANK YOU, YOUR HONOR.

7 THE COURT: THANK YOU.

8 MS. GOLDSMITH: YOUR HONOR, THIS IS JAN GOLDSMITH  
Page 4

1 GOING TO SETTLE.

2 WE'RE BEING HELD HOSTAGE ON ONE SIDE BY THE  
3 LANDOWNERS. AND I DON'T REALLY FAULT THE PUBLIC WATER  
4 SUPPLIERS BECAUSE IN SOME SENSE, AS LONG AS THE  
5 LANDOWNERS WANT TO USE US AS A HOSTAGE, PUBLIC WATER  
6 SUPPLIERS ARE A LITTLE BIT STUCK.

7 AND THE PUBLIC WATER SUPPLIERS COULD ENTER  
8 INTO THAT STRIPPED DOWN AGREEMENT WITHOUT THE WATER  
9 RIGHTS, BUT THEN YOU STILL HAVE A PROBLEM OF NOT  
10 ADJUDICATING THE WATER USING GROUP. WE REPRESENT THE  
11 LARGEST NUMBER OF WELLS IN THE VALLEY. NOW, IT'S NOT THE  
12 LARGEST CLAIM, BUT IT'S STILL SUBSTANTIAL ENOUGH THAT I  
13 THINK IT HAS TO BE ADJUDICATED.

14 SO I THINK WE REALLY NEED TO GET THE  
15 COURT-APPOINTED EXPERT MOVING. IT COMPLETELY TIES MY  
16 HANDS. I'M DEAD IN THE WATER AND I CAN'T DO ANYTHING.  
17 AND THIS CASE IS NOT GOING TO SETTLE.

18 IF I THOUGHT IT WAS GOING TO SETTLE, I'D BE  
19 STRAIGHT WITH YOU, YOUR HONOR. BUT IT'S NOT.

20 THE COURT: OKAY. AND YOUR VIEW IS THAT THE  
21 DIFFICULTY IS THE LANDOWNER GROUP?

22 MR. MC LACHLAN: YEAH. I THINK SO. I'VE BROACHED  
23 THE LEAD COUNSEL THE IDEA OF LOOK, YOU KNOW OUR NUMBER.  
24 LET'S JUST AGREE TO IT AND GET US OUT.

25 AND THERE'S ESSENTIALLY VERY LITTLE  
26 INTEREST IN IT.

27 AND IF I HAVE THE COURT-APPOINTED EXPERT --  
28 TO BE BLUNT, I'M PROBABLY GOING TO THREATEN TO FILE A

50

1 CLASS CASE AGAINST THEM IN ORDER TO GET IT ACCOMPLISHED,



2 BECAUSE THAT'S WHAT IT'S GOING TO TAKE.

3 AND I THINK IT'S UNFORTUNATE, BUT THAT'S  
4 WHERE WE ARE.

5 THE COURT: RIGHT NOW, YOUR COMPLAINTS AND THE  
6 CLASS COMPLAINT IS AGAINST THE PUBLIC WATER SUPPLIERS; IS  
7 THAT TRUE?

8 MR. MC LACHLAN: THAT'S RIGHT. ONLY THEM.

9 THE COURT: ONLY THEM.

10 MR. MC LACHLAN: RIGHT.

11 THE COURT: AND I UNDERSTAND HOW THAT CAME ABOUT  
12 AND IT WAS A VERY SENSIBLE THING TO DO.

13 AND AS A MATTER OF FACT, THE COURT  
14 APPRECIATES YOU HAVING DONE THAT.

15 WELL, I AM GOING TO NEED EITHER A  
16 STIPULATION OF AGREEMENT BETWEEN THE PARTIES. I ASKED  
17 YOU WHAT THE WOOD CLASS PUMPING IS AND HAS BEEN; OR I'M  
18 GOING TO NEED AN EXPERT TO TESTIFY TO IT.

19 AND IF THERE'S NOT GOING TO BE AN  
20 AGREEMENT, THEN I'M TAKING THAT AT FACE VALUE.

21 THEN I'M GOING TO MAKE THE APPOINTMENT OF  
22 MR. THOMPSON AS HE HAS REQUESTED -- YOU HAVE REQUESTED, I  
23 SHOULD SAY -- AND PROVIDED HIS PROPOSAL.

24 AND I THINK THAT THE TOP DOLLAR THAT HE IS  
25 GOING TO BE ENTITLED TO, BY HIS OFFER, IS ABOUT \$80,000.

26 THAT HAS TO BE PAID.

27 THE COURT'S EXPERT, I'M GOING TO APPOINT  
28 HIM AND HIS FIRM. ENTRIX, I BELIEVE, IS THE FIRM.

51

1 AND I'M GOING TO ORDER THAT THE PUBLIC  
2 WATER PROVIDERS WHO HAVE PRESCRIPTIVE CLAIMS BE  
3 RESPONSIBLE AMONG THEMSELVES FOR THE REIMBURSEMENT OR  
4 PAYMENT OF THAT AMOUNT OF \$80,000.

5                   THAT IS GOING TO BE A TAXABLE AMOUNT, SO  
6   THAT IT COULD BECOME A COST THAT IS ALLOCATED TO OTHER  
7   PARTIES IN THIS LAWSUIT DEPENDING UPON THE OUTCOME OF  
8   THIS LAWSUIT.

9                   BUT THE \$80,000 WILL BE ADVANCED BY THE  
10   PUBLIC WATER PROVIDERS.

11                  THAT'S THE ORDER.

12                 MR. MC LACHLAN: YOUR HONOR IS REFERRING TO  
13   EXHIBIT 5 IN THE MOTION, WHICH IS THE TWO PAGE RIGHT DOWN  
14   BY ENTRIX.

15                 THE COURT: AND I WANT YOU TO PREPARE AN ORDER FOR  
16   THE COURT TO SIGN AS I'VE INDICATED.

17                 MR. MC LACHLAN: THERE'S ONE OTHER -- I GOT A --  
18   MR. THOMPSON CHECKS THE DOCKET PERIODICALLY AND IS AWARE  
19   THAT THIS IS GOING ON.

20                 I GOT A VOICE MAIL FROM HIM IN THE LAST --  
21   I THINK TWO DAYS AGO, INDICATING THAT HIS FIRM, ON THE  
22   FRONT END, I GUESS, NEVER GOT -- THEIR CUSTOM AND  
23   PRACTICE IS TO GET A CONTRACT WHEN THEY DO THIS SORT OF  
24   WORK. AND I'M NOT SURE WHO SHOULD SIGN THAT CONTRACT.

25                 I HAVEN'T SEEN THE CONTRACT. BUT WHAT I  
26   PLANNED TO DO WHEN I GO BACK IS TO SEND AN EMAIL TO HIM,  
27   AND OBVIOUSLY COPY MR. DUNN.

28                 AND I THINK MR. FIFE CAN AGREE AT SOME

52

1   POINT TO BE THE LANDOWNER'S LIAISON AND SAY, "CAN YOU  
2   SEND US THE CONTRACT IF YOUR FIRM REQUIRES IT?"

3                 THE COURT: WELL, YOU KNOW, THE COURT DOESN'T  
4   ORDINARILY ENTER INTO CONTRACTS WITH THE PARTIES.

5                 MR. MC LACHLAN: RIGHT.

6                 THE COURT: WHAT THE COURT DOES IS ORDERS THAT

7 THINGS OCCUR.

8 MR. MC LACHLAN: MAYBE ORDER -- CAN I SIGN IT? OR  
9 MR. DUNN?

10 THE COURT: I THINK I'D LIKE TO HAVE MR. DUNN SIGN  
11 IT AND TO HAVE YOU SIGN IT AS WELL.

12 MR. MC LACHLAN: THAT'S FINE.

13 THE COURT: AND MAYBE WE OUGHT TO HAVE ALL THE  
14 WATER PROVIDERS WHO ARE BEING SUED HERE, AND WHO HAVE  
15 SUED, FOR PRESCRIPTIVE CLAIMS SIGN IT AS WELL.

16 BUT I WANT THAT TO OCCUR.

17 AND I'M SORRY THAT WE HAVE TO DO THIS. BUT  
18 THE COURT HAS TO BE INFORMED IN ORDER TO COMPLETE  
19 COMMUNICATION IN THIS CASE. AND IF THAT'S THE ONLY WAY I  
20 CAN BE INFORMED, THEN I HAVE TO HAVE THAT EXPERT TESTIFY.

21 AND I JUST WANT YOU TO INSURE THAT HE  
22 UNDERSTANDS -- THAT ENTRIX UNDERSTANDS THAT THEY ARE  
23 COURT EXPERT, AND THEY ARE TO COMPORT THEMSELVES  
24 ACCORDINGLY WITHOUT CHOOSING UP SIDES.

25 MR. MC LACHLAN: WE UNDERSTAND. I'LL TALK TO  
26 MR. DUNN AND ANYONE ELSE THAT'S INTERESTED. I'LL PUT  
27 SOME LANGUAGE IN THE ORDER RELATIVE TO -- WELL, I'M  
28 OBVIOUSLY GOING TO HAVE TO COMMUNICATE WITH ENTRIX

53

1 BECAUSE THEY'RE GOING TO HAVE TO GET IN TOUCH WITH CLASS  
2 MEMBERS.

3 SO I THINK I'VE GOT A WAY IN WHICH WE CAN  
4 DO THAT THROUGH EMAIL. AND WE CAN FILE THIS STUFF WITH  
5 THE COURT SO IT'S PUBLIC.

6 THE COURT: OKAY. LET ME MAKE ONE OTHER  
7 OBSERVATION HERE THAT I'VE BEEN THINKING ABOUT. AND I'M  
8 NOT SURE -- THIS IS NOT RELATED TO THE WOOD CLASS  
9 PARTICULARLY. I'M NOT SURE IF IT'S POSSIBLE TO DO THIS.

**PROOF OF SERVICE**

I, Kerry V. Keefe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 5 Park Plaza, Suite 1500, Irvine, California, 92614. On July 11, 2013, I served the within document(s):

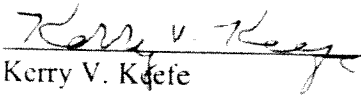
**PARTIAL REPORTER'S TRANSCRIPT OF PROCEEDINGS OF NOVEMBER 9, 2012**

- ☒ by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- ☐ by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on July 11, 2013, at Irvine, California.

  
Kerry V. Keefe

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**PROOF OF SERVICE**  
**STATE OF CALIFORNIA, COUNTY OF RIVERSIDE**

Re: *ANTELOPE VALLEY GROUNDWATER CASES*  
Los Angeles County Superior Court Judicial Council Coordinated  
Proceedings No. 4408; Santa Clara County Superior Court Case No. 1-05-CV-049053

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

On July 16, 2013, I served the foregoing document(s) described as

**OPPOSITION OF CROSS-DEFENDANTS, ADAMS BENNETT INVESTMENTS, LLC; MIRACLE IMPROVEMENT CORPORATION dba GOLDEN SANDS MOBILE HOME PARK, aka GOLDEN SANDS TRAILER PARK [ROE 1121]; ST. ANDREW'S ABBEY, INC. [ROE 623]; SERVICE ROCK PRODUCTS, L.P.; AND SHEEP CREEK WATER COMPANY, INC. TO MOTION FOR ORDER CLARIFYING AND MODIFYING THE ORDER RE: MOTION FOR AN ORDER AUTHORIZING COURT-APPOINTED EXPERT WORK, ENTERED DECEMBER 11, 2012**

on the interested parties in this action in the following manner:

( X ) **BY ELECTRONIC SERVICE** – I posted the document(s) listed above to the Santa Clara County Superior Court website, <http://www.scefilings.org>, in the action of the Antelope Valley Groundwater Cases,

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

Executed on July 16, 2013, at Riverside, California.

  
DINA M. SNIDER