

Attorneys for Cross-Defendant, ADAMS BENNETT INVESTMENTS, LLC; Cross-Defendants and Cross-Complainants, ANTELOPE VALLEY UNITED MUTUALS GROUP [comprised of Antelope Park Mutual Water Co., Aqua-J Mutual Water Co., Averydale Mutual Water Co., Baxter Mutual Water Co., Bleich Flat Mutual Water Co., Colorado Mutual Water Co., Eldorado Mutual Water Co., Evergreen Mutual Water Co., Land Projects Mutual Water Co., Landale Mutual Water Co., Shadow Acres Mutual Water Co., Sundale Mutual Water Co., Sunnyside Farms Mutual Water Co., Tierra Bonita Mutual Water Co., Westside Park Mutual Water Co. and White Fence Farms Mutual Water Co.]; and Cross-Defendants, MIRACLE IMPROVEMENT CORPORATION DBA GOLDEN SANDS MOBILE HOME PARK, AKA GOLDEN SANDS TRAILER PARK, NAMED AS ROE 1121; SAINT ANDREW'S ABBEY, INC., NAMED AS ROE 623; SERVICE ROCK PRODUCTS, L.P.; and SHEEP CREEK WATER COMPANY

Coordination Proceeding	)	Judicial Council Coordination
Special Title (Rule 1550(b))	)	Proceeding No. 4408
	)	
<b>ANTELOPE VALLEY GROUNDWATER</b>	)	Santa Clara Case No. 1-05-CV-049053
<b>CASES</b>	)	Assigned to the Honorable Jack Komar
	)	Department 17C
Including <b><u>Consolidated</u></b> Actions:	)	
	)	<b>DECLARATION OF A MEMBER OF</b>
<b>Los Angeles County Waterworks District No.</b>	)	<b>CROSS-DEFENDANTS / CROSS-</b>
<b>40 v. Diamond Farming Co.</b>	)	<b>COMPLAINANTS, ANTELOPE</b>
Superior Court of California, County of Los	)	<b>VALLEY UNITED MUTUALS GROUP,</b>
Angeles, Case No. BC 325 201	)	<b>SPECIFICALLY, EVERGREEN</b>
	)	<b>MUTUAL WATER COMPANY, IN</b>
	)	<b>SUPPORT OF PROVE-UP TRIAL</b>
	)	
<b>CAPTION CONTINUED ON NEXT PAGE</b>	)	
	)	
	)	

1	<b>Los Angeles County Waterworks District No. 40 v. Diamond Farming Co.</b>	)	<b>PROVE-UP</b>
2	Superior Court of California, County of Kern,	)	Trial Date: September 28, 2015
3	Case No. S-1500-CV-254-348	)	Time: 10:00 A.M.
4	<b>Wm. Bolthouse Farms, Inc. v. City of Lancaster</b>	)	Dept.: Dept. 1, Los Angeles
5	<b>Diamond Farming Co. v. City of Lancaster</b>	)	Judge: Hon. Jack Komar
6	<b>Diamond Farming Co. v. Palmdale Water Dist.</b>	)	
7	Superior Court of California, County of	)	
8	Riverside, consolidated actions, Case Nos.	)	
9	RIC 353 840, RIC 344 436, RIC 344 668	)	
10	<b>AND RELATED ACTIONS.</b>	)	

11           1.       This declaration is made in support of the [Proposed] Judgment and Physical  
12 Solution filed with the court on March 4, 2015 on behalf of Cross-Defendants / Cross-  
13 Complainants, Antelope Valley United Mutuals Group, specifically **EVERGREEN MUTUAL**  
14 **WATER COMPANY** ("Declarant").

15           2.       The signatory to this Declaration has personal knowledge of each fact herein and  
16 would testify competently thereto under oath.

17           3.       The signatory to this Declaration is Declarant's President.

18           4.       Declarant is an active California mutual benefit non-profit corporation, with an  
19 entity address of 4646 East Lumber Street, Lancaster, CA 93535. It was formed on November 9,  
20 1954. Its membership is comprised of the owners of the 48 mostly 1½ acre lots that are situated  
21 within its hereafter-described service area. Declarant's 46 active services serve the properties  
22 within Declarant's service area that have been improved with a residence, and stand by to serve  
23 the unimproved properties when improved. Upon the formation of Declarant as a mutual benefit,  
24 non-profit corporation, the overlying groundwater rights of the owners of the properties within  
25 the service area (who became the initial shareholders) became the rights of the mutual water  
26 company and have, ever since, been exercised by the mutual water company and not by the  
27 individual property owners/shareholders. There was no known express reservation of the  
28

1 overlying groundwater rights by the individual property owners at the time of formation. The  
2 property owners/shareholders simply pooled their collective water and (through the mutual water  
3 company) constructed, operated and maintained the production, storage and distribution system  
4 by which they all receive water for their domestic purposes. Accordingly, the property owners/  
5 shareholders exchanged their overlying water rights for the right to have water delivered to their  
6 individual properties. [See *Erwin v. Gage Canal Company* (1964) 226 Cal.App.2d 189; see also  
7 *Hildreth v. Montecito Creek Water Co.* (1903) 139 Cal. 22, 29; see also *City of Glendale v.*  
8 *Crescenta etc. Water Co.* (1955) 135 Cal.App.2d 784, 801]. As such, though each shareholder  
9 has an interest in the Declarant which owns the water rights, production, storage and distribution  
10 facilities, and has the right to receive water upon development and demand, the Declarant is the  
11 owner of those certain rights, titles and interests in properties that overlie the Antelope Valley  
12 Area of Adjudication as determined by the Court. **[From Declarant's Responses to December**  
13 **12, 2012 Discovery Order for Phase 4 Trial, Responses I.1.a., I.1.b., I.1.j. and I.3.c.; and**  
14 **supporting documents at Attachments I.1.a. and I.3.c.i. thereto; Declarant's First**  
15 **Supplemental Response to December 12, 2012 Discovery Order for Phase 4 Trial,**  
16 **Responses I.3.a. and I.3.c.; and supporting documents at Attachments I.3.a.i. and I.3.c.i.**  
17 **thereto].**

18 5. Declarant's service area ("Property"), including the production, storage and  
19 distribution facilities thereto appertaining, is located in the County of Los Angeles, and is  
20 described as follows: North Boundary: Ave I; South Boundary: Lancaster Blvd; West Boundary:  
21 42nd St East; and East Boundary: 47th St East. **[From Declarant's Responses to December 12,**  
22 **2012 Discovery Order for Phase 4 Trial, Response I.1.a.; and supporting documents at**  
23 **Attachment I.1.a. thereto; Declarant's First Supplemental Response to December 12, 2012**  
24 **Discovery Order for Phase 4 Trial, Response I.3.a.; and supporting documents at**  
25 **Attachment I.3.a.i. thereto].**

26 6. Based on Los Angeles County Assessor's Map information, Declarant's service  
27 area is comprised of one hundred twenty (120) acres. **[From Declarant's Responses to**  
28

December 12, 2012 Discovery Order for Phase 4 Trial, Response I.1.a.; and supporting documents at Attachment I.1.a. thereto; Declarant's First Supplemental Response to December 12, 2012 Discovery Order for Phase 4 Trial, Response I.3.a.; and supporting documents at Attachment I.3.a.i. thereto].

7. Declarant claims the right to produce and use groundwater to serve its shareholders / customers within its service area(s), as described in Paragraph 5, above. [From Declarant's Responses to December 12, 2012 Discovery Order for Phase 4 Trial, Responses I.1., I.1.g., I.2. and I.3.; and supporting documents at Attachments I.1. and I.3. thereto; Declarant's First Supplemental Response to December 12, 2012 Discovery Order for Phase 4 Trial, Responses I.1., I.3.a. and I.3.b.; and supporting documents at Attachments I.3.a.i. and I.3.b.i. thereto].

8. The maximum amount of groundwater produced from the Property, measured in acre feet, for the following calendar years is as follows:

- a. 2000: 72
- b. 2001: 72
- c. 2002: 89
- d. 2003: 86
- e. 2004: 92
- f. 2011: 66.4
- g. 2012 [January through November]: 72.6

The maximum amount of groundwater produced from the Property for the members of the Antelope Valley United Mutuals Group (which was allocated by and amongst them), including that supplemented by the In-Lieu Water purchased from AVEK by some of the members, is collectively greater than both the Pre-Rampdown Production and Overlying Production Right stated in the Proposed Judgment and Physical Solution. [From Declarant's Responses to December 12, 2012 Discovery Order for Phase 4 Trial, Responses I.1.e., I.3.a. and III.1.d.; and supporting documents at Attachments I.1. and I.3.a.i. thereto; Declarant's First

1 **Supplemental Response to December 12, 2012 Discovery Order for Phase 4 Trial,**  
2 **Responses I.1. and I.3.a.; and supporting documents at Attachment I.3.a.i. thereto; Exhibit**  
3 **4 to [Proposed] Judgment and Physical Solution].**

4           9.       The use(s) to which the groundwater produced from the Property for the calendar  
5 years listed in Paragraph 8 was for the provision of domestic water service to its mutual  
6 members, all of which are single family residential properties. **[From Declarant's Responses to**  
7 **December 12, 2012 Discovery Order for Phase 4 Trial, Responses I.1.f., I.1.g. and I.1.h.;**  
8 **and supporting documents at Attachment I.1.a. thereto; Declarant's First Supplemental**  
9 **Response to December 12, 2012 Discovery Order for Phase 4 Trial, Responses I.1.f. and**  
10 **I.3.a.; and supporting documents at Attachments I.3.a.i. thereto].**

11           10.       The manner and method for determining the amount of groundwater produced  
12 from the Property included: well logs and meter records, pump tests and SCE electric power  
13 records. **[From Declarant's Responses to December 12, 2012 Discovery Order for Phase 4**  
14 **Trial, Response I.3.; and supporting documents at Attachment I.3.a.i. thereto; Declarant's**  
15 **First Supplemental Response to December 12, 2012 Discovery Order for Phase 4 Trial,**  
16 **Responses I.1.c. and I.3.a.; and supporting documents at Attachment I.3.a.i. thereto].**

17           11.       All the information contained in the evidence introduced at the Phase 4 Trial is  
18 expressly incorporated herein and made a part of this Declaration for the benefit of the Declarant,  
19 as if stated verbatim as follows:

20                   a.       Declarant's Responses to December 12, 2012 Discovery Order for Phase 4  
21 Trial, dated December 21, 2012, which was marked for identification and admitted into evidence  
22 as 4-EVERGREEN-1.

23                   b.       Declarant's First Supplemental Responses to December 12, 2012  
24 Discovery Order for Phase 4 Trial, dated January 30, 2013, which was marked for identification  
25 and admitted into evidence as 4-EVERGREEN-2.

26 ///

27 ///

1 The undersigned declare under penalty of perjury under the laws of the State of  
2 California that the foregoing is true and correct.

3 Executed this 20<sup>th</sup> of April, 2015, at Laconaster, California.  
4

5 By:   
6

ERICH GROSSE

ITS: President  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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


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

On Sept. 16, 2015 , I served the foregoing document(s) described as **DECLARATION OF A MEMBER OF CROSS-DEFENDANTS / CROSS-COMPLAINANTS, ANTELOPE VALLEY UNITED MUTUALS GROUP, SPECIFICALLY, EVERGREEN MUTUAL WATER COMPANY, IN SUPPORT OF PROVE-UP TRIAL** 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.scefiling.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 Sept. 16, 2015, at San Bernardino, California.

  
DINA SNIDER