

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  
Special Title (Rule 1550(b))

) Judicial Council Coordination  
) Proceeding No. 4408

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

**PROVE-UP TRIAL BRIEF OF CROSS-  
DEFENDANT/CROSS-COMPLAINANT,  
LAND PROJECTS MUTUAL WATER  
CO., A MEMBER OF THE ANTELOPE  
VALLEY UNITED MUTUALS GROUP**

**CAPTION CONTINUED ON NEXT PAGE**

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

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

12 Cross-Defendant, **LAND PROJECTS MUTUAL WATER CO., A MEMBER OF**  
13 **THE ANTELOPE VALLEY UNITED MUTUAL GROUP** ("Land Projects MWC") by and  
14 through its attorneys of record, Michael Duane Davis, Esq., Marlene L. Allen-Hammarlund, Esq.  
15 and Derek R. Hoffman, Esq. of Gresham Savage Nolan & Tilden, PC, hereby submits the  
16 following Trial Brief for the Phase 6 [Prove-Up] Trial proceedings. Land Projects MWC's  
17 Witness List, Exhibit List and Declaration in Support of Phase 6 [Prove-Up] Trial have been  
18 separately submitted.

19 **1. PARTY:** Land Projects MWC is an active California mutual benefit non-  
20 profit corporation, with an entity address of 8810 West Ave E8, Lancaster, CA 93536. It was  
21 formed on January 29, 1948. Its membership is comprised of the owners of the 762 mostly 2½  
22 acre lots that are situated within its hereafter-described service area. Land Projects MWC's 559  
23 active services serve the properties within Land Projects MWC's service area that have been  
24 improved with a residence, and stand by to serve the unimproved properties when improved.  
25 Upon the formation of Land Projects MWC as a mutual benefit, non-profit corporation, the  
26 overlying groundwater rights of the owners of the properties within the service area (who  
27 became the initial shareholders) became the rights of the mutual water company and have, ever  
28 since, been exercised by the mutual water company and not by the individual property

1 owners/shareholders. There was no known express reservation of the overlying groundwater  
2 rights by the individual property owners at the time of formation. The property  
3 owners/shareholders simply pooled their collective water and (through the mutual water  
4 company) constructed, operated and maintained the production, storage and distribution system  
5 by which they all receive water for their domestic purposes. Accordingly, the property owners/  
6 shareholders exchanged their overlying water rights for the right to have water delivered to their  
7 individual properties. [See *Erwin v. Gage Canal Company* (1964) 226 Cal.App.2d 189; see also  
8 *Hildreth v. Montecito Creek Water Co.* (1903) 139 Cal. 22, 29; see also *City of Glendale v.*  
9 *Crescenta etc. Water Co.* (1955) 135 Cal.App.2d 784, 801]. As such, though each shareholder  
10 has an interest in the Land Projects MWC which owns the water rights, production, storage and  
11 distribution facilities, and has the right to receive water upon development and demand, the Land  
12 Projects MWC is the owner of those certain rights, titles and interests in properties that overlie  
13 the Antelope Valley Area of Adjudication as determined by the Court.

14       **2. PROPERTY [Service Area]:** Land Projects MWC's service area  
15 ("Property"), which is comprised of one thousand eight hundred (1800) acres including the  
16 production, storage and distribution facilities thereto appertaining, is located in the County of  
17 Los Angeles, and is described as follows: South of Ave D to the North of Ave F, except for the  
18 West of 90th St West between Ave D and Ave E Plus West of 90th St West from the South of Ave  
19 E to the North of Ave F-8 (between 90th St West and 93rd St West) Plus between 80th St West  
20 and 77th St West from Ave South of E-8 and North of Ave F ("Service Area").

21       **3. CLAIMS TO GROUNDWATER PRODUCTION WITHIN THE**  
22 **ADJUDICATION AREA:** Land Projects MWC claims the right to produce and use  
23 groundwater to serve its shareholders / customers within its Service Area. The maximum  
24 amount of groundwater produced from the Property, measured in acre feet, for the following  
25 calendar years is as follows:

- 26           a. 2000: 850
- 27           b. 2001: 803
- 28           c. 2002: 881

1 d. 2003: 854

2 e. 2004: 853

3 f. 2011: 621

4 g. 2012 [January through November]: 624

5 The maximum amount of groundwater produced from the Property for the members of  
6 the Antelope Valley United Mutuals Group (which was allocated by and amongst the members of  
7 the Group), including that supplemented by the In-Lieu Water purchased from AVEK by some of  
8 the members of the Group, is collectively greater than both the Pre-Rampdown Production and  
9 Overlying Production Right stated in the Proposed Judgment and Physical Solution.

10 **4. DETERMINATION OF PRODUCTION:** Land Projects MWC determined the  
11 amount of groundwater produced from the Property from well logs and meter records, pump  
12 tests and SCE electric power records.

13 **5. USE:** The use(s) to which the groundwater produced from the Property for the  
14 calendar years listed above was for the provision of domestic water service to its mutual  
15 members, all of which are single family residential properties. As such, the domestic purposes to  
16 which Land Projects MWC puts its water is the highest use under *Water Code* § 106.

17 **6. SUPPORTING INFORMATION AND DATA:**

18 a. Responses to December 12, 2012 Discovery Order for Phase 4 Trial,  
19 submitted under penalty of perjury, and filed by posting on December 21, 2012  
20 [Court Website, Document Nos. 5573 and 5583]; and

21 b. First Supplemental Responses to December 12, 2012 Discovery Order for  
22 Phase 4 Trial, submitted under penalty of perjury, and filed by posting on January  
23 31, 2013 [Court Website, Document Nos. 5930 through 5933].

24 **7. OFFER OF PROOF:** On September 16, 2015, Land Projects MWC  
25 posted its *Declaration of Land Projects Mutual Water Company In Support of Prove-Up Trial*  
26 [Court Website, Document No. 10468], which details its existence as a California corporate  
27 mutual water company; describes its Property [Service Area] boundaries; states the [above-  
28 stated] amount of groundwater that it produced from 2000 through 2004 and from 2011 through


1 2012 [the 2011 and 2012 production having been established by the Court in the Phase 4 Trial]  
2 and how it was determined; and describes the uses to which the produced water has been put.

3 Land Projects MWC will offer the *Declaration of Land Projects Mutual Water Company*  
4 *In Support of Prove-Up Trial* to establish the facts declared therein and ask the Court, subject to  
5 proper objection(s) and cross-examination(s), to admit the facts therein declared into evidence to  
6 establish Land Projects MWC's claims and rights under the [Proposed] Judgment and Physical  
7 Solution.

8 Should the Court require Land Projects MWC to call its designated witness(es), it  
9 requests that the Court give it time to arrange for the designated witness(es) to appear in Court  
10 and submit their testimony, to the extent required.

11 Dated: September 22, 2015

GRESHAM SAVAGE NOLAN & TILDEN, PC

12  
13 By:   
14 MICHAEL DUANE DAVIS, ESQ.  
15 MARLENE L. ALLEN-HAMMARLUND, ESQ.  
16 DEREK R. HOFFMAN, ESQ.  
17 Attorneys for CROSS-DEFENDANT / CROSS-  
18 COMPLAINANT, A. V. UNITED MUTUAL  
19 GROUP [comprised of Antelope Park Mutual  
20 Water Co., Aqua-J Mutual Water Co., Averydale  
21 Mutual Water Co., Baxter Mutual Water Co.,  
22 Bleich Flat Mutual Water Co., Colorado Mutual  
23 Water Co., Eldorado Mutual Water Co.,  
24 Evergreen Mutual Water Co., Land Projects  
25 Mutual Water Co., Landale Mutual Water Co.,  
26 Shadow Acres Mutual Water Co., Sundale  
27 Mutual Water Co., Sunnyside Farms Mutual  
28 Water Co., Tierra Bonita Mutual Water Co.,  
Westside Park Mutual Water Co. and White  
Fence Farms Mutual Water Co.]; and 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], WHITE FENCE FARMS PRODUCTS,  
L.P., and SHEEP CREEK WATER COMPANY,  
INC.

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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.

(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,

Executed on September 22, 2015, at San Bernardino, California.

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