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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
ABBAY, INC., NAMED AS ROE 623; SERVICE
ROCK PRODUCTS, L.P.; and SHEEP CREEK
WATER COMPANY

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

) **PROVE-UP TRIAL BRIEF OF CROSS-
DEFENDANT/CROSS-COMPLAINANT,
SUNDALE MUTUAL WATER
COMPANY, A MEMBER OF THE
ANTELOPE VALLEY UNITED
MUTUALS GROUP**

CAPTION CONTINUED ON NEXT PAGE

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

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

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

1. PARTY: Sundale MWC is an active California mutual benefit non-profit corporation, with an entity address of 1900 Birch Ave, Rosamond, CA 93560. It was formed on December 30, 1971. Its membership is comprised of the owners of the 824 mostly 2½ acre lots that are situated within its hereafter-described service area. Sundale MWC's 331 active services serve the properties within Sundale MWC's service area that have been improved with a residence, and stand by to serve the unimproved properties when improved. Upon the formation of Sundale MWC as a mutual benefit, non-profit corporation, the overlying groundwater rights of the owners of the properties within the service area (who became the initial shareholders) became the rights of the mutual water company and have, ever since, been exercised by the mutual water company and not by the individual property owners/shareholders. There was no

1 known express reservation of the overlying groundwater rights by the individual property owners
2 at the time of formation. The property owners/shareholders simply pooled their collective water
3 and (through the mutual water company) constructed, operated and maintained the production,
4 storage and distribution system by which they all receive water for their domestic purposes.
5 Accordingly, the property owners/ shareholders exchanged their overlying water rights for the
6 right to have water delivered to their individual properties. [See *Erwin v. Gage Canal Company*
7 (1964) 226 Cal.App.2d 189; see also *Hildreth v. Montecito Creek Water Co.* (1903) 139 Cal. 22,
8 29; see also *City of Glendale v. Crescenta etc. Water Co.* (1955) 135 Cal.App.2d 784, 801]. As
9 such, though each shareholder has an interest in the Sundale MWC which owns the water rights,
10 production, storage and distribution facilities, and has the right to receive water upon
11 development and demand, the Sundale MWC is the owner of those certain rights, titles and
12 interests in properties that overlie the Antelope Valley Area of Adjudication as determined by the
13 Court.

14 **2. PROPERTY [Service Area]:** Sundale MWC's service area ("Property"),
15 which is comprised of two thousand eighty (2080) acres including the production, storage and
16 distribution facilities thereto appertaining, is located in the Counties of Los Angeles and Kern,
17 and is described as follows: Kern County Side, North Boundary: Elder; South Boundary: Ave A;
18 East Boundary: 65th St West; and West Boundary: 80th St West. Los Angeles County Side,
19 North Boundary: Ave A; South Boundary: Ave B; East Boundary: 65th St West; West Boundary:
20 80th St West ("**Zone A**"); and, Noncontiguous part: North Boundary: Ave C; South Boundary:
21 Ave D; East Boundary: 80th St West; and West Boundary: 90th St West ("**Zone B**") ("Service
22 Area").

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

28 a. 2000: 636.5

- 1 b. 2001: 626.1
2 c. 2002: 719
3 d. 2003: 581.6
4 e. 2004: 628.8
5 f. 2011: 430.7
6 g. 2012 [January through November]: 457.8

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

12 **4. DETERMINATION OF PRODUCTION:** Sundale MWC determined the
13 amount of groundwater produced from well logs and meter records, pump tests and SCE electric
14 power records.

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

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

20 a. Responses to December 12, 2012 Discovery Order for Phase 4 Trial,
21 submitted under penalty of perjury, and filed by posting on December 21, 2012
22 [Court Website, Document Nos. 5573 and 5588]; and

23 b. First Supplemental Responses to December 12, 2012 Discovery Order for
24 Phase 4 Trial, submitted under penalty of perjury, and filed by posting on January
25 30, 2013 [Court Website, Document Nos. 5920 through 5923].

26 **7. OFFER OF PROOF:** On September 16, 2015, Sundale MWC posted its
27 *Declaration of Sundale Mutual Water Company In Support of Prove-Up Trial* [Court Website,
28 Document No. 10471], which details its existence as a California corporate mutual water

1 company; describes its Property [Service Area] boundaries; states the [above-stated] amount of
2 groundwater that it produced from 2000 through 2004 and from 2011 through 2012 [the 2011
3 and 2012 production having been established by the Court in the Phase 4 Trial] and how it was
4 determined; and describes the uses to which the produced water has been put.

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

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

13 Dated: September 22, 2015

GRESHAM SAVAGE NOLAN & TILDEN, PC

14
15 By: 

16 MICHAEL DUANE DAVIS, ESQ.
17 MARLENE L. ALLEN-HAMMARLUND, ESQ.
18 DEREK R. HOFFMAN, ESQ.
19 Attorneys for CROSS-DEFENDANT / CROSS-
20 COMPLAINANT, A. V. UNITED MUTUAL
21 GROUP [comprised of Antelope Park Mutual
22 Water Co., Aqua-J Mutual Water Co., Averdale
23 Mutual Water Co., Baxter Mutual Water Co.,
24 Bleich Flat Mutual Water Co., Colorado Mutual
25 Water Co., Eldorado Mutual Water Co.,
26 Evergreen Mutual Water Co., Land Projects
27 Mutual Water Co., Landale Mutual Water Co.,
28 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, 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.


DINA M. SNIDER