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

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

20 Coordination Proceeding  
21 Special Title (Rule 1550(b))

) Judicial Council Coordination  
) Proceeding No. 4408

22 **ANTELOPE VALLEY GROUNDWATER**  
23 **CASES**

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

24 Including Consolidated Actions:

25 **Los Angeles County Waterworks District No.**  
26 **40 v. Diamond Farming Co.**  
27 Superior Court of California, County of Los  
28 Angeles, Case No. BC 325 201

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

27 **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  
Lancaster )  
5 Diamond Farming Co. v. City of Lancaster )  
Diamond Farming Co. v. Palmdale Water )  
6 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

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

12 Cross-Defendant, **TIERRA BONITA MUTUAL WATER COMPANY, A MEMBER**  
13 **OF THE ANTELOPE VALLEY UNITED MUTUAL GROUP** ("Tierra Bonita MWC") by  
14 and through its attorneys of record, Michael Duane Davis, Esq., Marlene L. Allen-Hammarlund,  
15 Esq. 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. Tierra Bonita 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:** Tierra Bonita MWC is an active California mutual benefit non-  
20 profit corporation, with an entity address of 5159 E Avenue K-8, Lancaster, CA 93535. It was  
21 formed on September 7, 1954. Its membership is comprised of the owners of the 32 mostly 2½  
22 acre lots that are situated within its hereafter-described service area. Tierra Bonita MWC's 22  
23 active services serve the properties within Tierra Bonita 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 Tierra Bonita 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 Tierra Bonita MWC which owns the water rights, production, storage and  
11 distribution facilities, and has the right to receive water upon development and demand, the  
12 Tierra Bonita MWC is the owner of those certain rights, titles and interests in properties that  
13 overlie the Antelope Valley Area of Adjudication as determined by the Court.

14       **2. PROPERTY [Service Area]:** Tierra Bonita MWC's service area  
15 ("Property"), which is comprised of eighty (80) acres including the production, storage and  
16 distribution facilities thereto appertaining, is located in the County of Los Angeles, and is  
17 described as follows: West Boundary: 50th East; East Boundary: 55th St East; North Boundary:  
18 Ave K-4; and South Boundary: Ave K-8 ("Service Area").

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

- 24           a. 2000: 57.8
- 25           b. 2001: 61.7
- 26           c. 2002: 48.5
- 27           d. 2003: 51.1
- 28           e. 2004: 57.6

1 f. 2011: 43.0

2 g. 2012 [January through November]: 38.5

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

8 **4. DETERMINATION OF PRODUCTION:** Tierra Bonita MWC determined the  
9 amount of groundwater produced from the Property from pump tests and SCE electric power  
10 records.

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

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

16 a. Responses to December 12, 2012 Discovery Order for Phase 4 Trial,  
17 submitted under penalty of perjury, and filed by posting on December 21, 2012  
18 [Court Website, Document Nos. 5573 and 5590]; and

19 b. First Supplemental Responses to December 12, 2012 Discovery Order for  
20 Phase 4 Trial, submitted under penalty of perjury, and filed by posting on January  
21 30, 2013 [Court Website, Document No. 5902].

22 **7. OFFER OF PROOF:** On September 16, 2015, Tierra Bonita MWC posted  
23 its *Declaration of Tierra Bonita Mutual Water Company In Support of Prove-Up Trial* [Court  
24 Website, Document No. 10473], which details its existence as a California corporate mutual  
25 water company; describes its Property [Service Area] boundaries; states the [above-stated]  
26 amount of groundwater that it produced from 2000 through 2004 and from 2011 through 2012  
27 [the 2011 and 2012 production having been established by the Court in the Phase 4 Trial] and  
28 how it was determined; and describes the uses to which the produced water has been put.

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

6           Should the Court require Tierra Bonita MWC to call its designated witness(es), it  
7 requests that the Court give it time to arrange for the designated witness(es) to appear in Court  
8 and submit their testimony, to the extent required.

9     Dated: September 22, 2015

GRESHAM SAVAGE NOLAN & TILDEN, PC

11     By: 

MICHAEL DUANE DAVIS, ESQ.

MARLENE L. ALLEN-HAMMARLUND, ESQ.

DEREK R. HOFFMAN, ESQ.

Attorneys for CROSS-DEFENDANT / CROSS-  
COMPLAINANT, A. V. UNITED MUTUAL  
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, 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