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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, SERVICE ROCK
PRODUCTS, LP**

CAPTION CONTINUED ON NEXT PAGE

1 Los Angeles County Waterworks District No.)
2 40 v. Diamond Farming Co.)
3 Superior Court of California, County of)
4 Kern, Case No. S-1500-CV-254-348)

5 Wm. Bolthouse Farms, Inc. v. City of)
6 Lancaster)
7 Diamond Farming Co. v. City of Lancaster)
8 Diamond Farming Co. v. Palmdale Water)
9 Dist.)

10 Superior Court of California, County of)
11 Riverside, consolidated actions, Case Nos. RIC)
12 353 840, RIC 344 436, RIC 344 668)

13 AND RELATED ACTIONS)
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PROVE-UP

Trial Date: September 28, 2015

Time: 10:00 A.M.

Dept.: Dept. 1, Los Angeles

Judge: Hon. Jack Komar

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

13 Cross-Defendant, **SERVICE ROCK PRODUCTS, LP** ("Service Rock") by and through
14 its attorneys of record, Michael Duane Davis, Esq., Marlene L. Allen-Hammarlund, Esq. and
15 Derek R. Hoffman, Esq. of Gresham Savage Nolan & Tilden, PC, hereby submits the following
16 Trial Brief for the Phase 6 [Prove-Up] Trial proceedings. Service Rock's Witness List, Exhibit
17 List and Declaration in Support of Phase 6 [Prove-Up] Trial have been separately submitted.

18 **1. PARTY:** Service Rock is an active California limited partnership, with an
19 entity address of 200 South Main Street, Suite 200, Corona, CA 92882. It was formed on
20 December 22, 2009, as the successor-in-interest to Service Rock Products Corporation ("Service
21 Rock Corp."), which was the successor-in-interest to Owl Properties, Inc., a California
22 corporation ("Owl Properties"), a member of the Owl Companies, Inc., a California corporation
23 ("Owl Companies") family of companies.

24 **2. PROPERTY:** Service Rock is the lessee of that assemblage of properties that are
25 located in and adjacent to the Littlerock Creek Wash, between East Palmdale Boulevard on the
26 north and California State Highway 138 on the south, and to the southeast of the City of
27 Palmdale, which is comprised of APNs 3064-003-031 [20 acres], 3064-003-064 [116.92 acres],
28 3064-003-065 [38.75 acres], 3064-003-066 [40 acres], 3064-003-067 [39.09 acres], 3064-003-

1 068 [36.7 acres] and 3064-003-069 [38.5 acres] ("Primary Quarry"), and upon which Service
2 Rock conducts aggregates mining and processing, and ready mixed concrete operations, having
3 succeeded to the leasehold interests of its predecessor-in-interest, the Owl Companies pursuant
4 to the *Lease Agreement* dated June 10, 1988 with Healy Enterprises, Inc., an Illinois corporation
5 qualified to do business in California ("Healy Enterprises"). Service Rock has the right to extend
6 the term of the *Lease Agreement* through October 11, 2034, and a first right to acquire the
7 Primary Quarry during the extended term of the *Lease Agreement*. Pursuant to the Lease
8 Agreement, Service Rock has " ... the sole and exclusive right to ... use the ... wells, water
9 storage and delivery facilities ... [and] ... to develop and use such water from the [Leasehold]
10 Premises as may be needed in quarrying, washing down gravel, wetting loads, watering of access
11 roads, and other activities permitted hereunder." Service Rock and its predecessor-in-interest,
12 Service Rock Corp. operated the Primary Quarry during the Base Period years of 2000 to 2004
13 and through 2012.

14 Service Rock is also the fee owner of that assemblage of properties that are situated on
15 the North Slope of the San Gabriel Mountains to the south of the California Aqueduct, to the
16 north of the Angeles National Forest, and to the immediate south of California State Highway
17 138 and to the west of the Los Angeles County/San Bernardino County line, which is comprised
18 of APNs 3024-015-055 [80 acres], 3051-008-004 and 3051-008-006 [80 acres], 3024-016-001
19 [80 acres] and 3051-008-002 [80 acres], and upon which Service Rock is in the process of
20 permitting another aggregates quarry and processing facility ("Future Quarry"). The Primary
21 Quarry and the Future Quarry are referred to as the "Property."

22 The totality of Service Rock's Property, all of which is located in the County of Los
23 Angeles, is comprised of approximately six hundred fifty (650) acres and includes the
24 production, storage and distribution facilities thereto appertaining.

25 **3. CLAIMS TO GROUNDWATER PRODUCTION WITHIN THE**
26 **ADJUDICATION AREA:** Service Rock claims the right to produce and use groundwater to
27 conduct industrial mining and aggregate and concrete production operations, and for supporting
28

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

- a. 2000: 466 AF
- b. 2001: 359 AF
- c. 2002: 445 AF
- d. 2003: 436 AF
- e. 2004: 542 AF
- f. 2005: 429 AF
- g. 2006: 439 AF
- h. 2007: 705 AF
- i. 2008: 470 AF
- j. 2009: 463 AF
- k. 2010: 482 AF
- l. 2011: 561 AF
- m. 2012: 445 AF

4. DETERMINATION OF PRODUCTION: Service Rock determined the amount of groundwater produced from the Property from well logs and meter records, and expert opinion.

5. USE: The use(s) to which the groundwater produced from the Property for the calendar years listed above was to conduct industrial mining and aggregate and concrete production operations, and for supporting domestic purposes on its Property. As such, the domestic and irrigation purposes to which Service Rock puts its water is the highest and next highest uses under *Water Code* § 106.

6. SUPPORTING INFORMATION AND DATA:

- a. Responses to December 12, 2012 Discovery Order for Phase 4 Trial, submitted under penalty of perjury, and filed by posting on December 21, 2012 [Court Website, Document No. 5556];

1 b. First Supplemental Responses to December 12, 2012 Discovery Order for
2 Phase 4 Trial, submitted under penalty of perjury, and filed by posting on January
3 16, 2013 [Court Website, Document No. 5827]]; and

4 c. Stipulation regarding the Deposition and Trial Testimony for Phase 4 Trial
5 of Cross-Defendant Service Rock Products, LP, filed by posting on May 15, 2013
6 [Court Website, Document No. 6596].

7 **7. OFFER OF PROOF:** On September 16, 2015, Service Rock posted its
8 *Declaration of Service Rock in Support of Prove-Up Trial* [Court Website, Document No.
9 10477] which details its existence as a California corporation; describes its Property; states the
10 [above-stated] amount of groundwater that it produced from 2000 through 20014 and 2011
11 through 2012 [the 2011 and 2012 production having been established by the Court in the Phase 4
12 Trial] and how it was determined; explains that Service Rock has an agreement to the purchase
13 of imported SWP water from AVEK; and describes the uses to which the produced and imported
14 SWP water has been put.

15 Service Rock will offer the *Declaration of Service Rock in Support of Prove-Up Trial* to
16 establish the facts declared therein and ask the Court, subject to proper objection(s) and cross-
17 examination(s), to admit the facts therein declared into evidence to establish Service Rock's
18 claims and rights under the [Proposed] Judgment and Physical Solution.

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1 Should the Court require Service Rock to call its designated witness(es), it requests that the
2 Court give it time to arrange for the designated witness(es) to appear in Court and submit their
3 testimony, to the extent required.

4 Dated: September 22, 2015

GRESHAM SAVAGE NOLAN & TILDEN, PC

By: 

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COMPLAINANT, A. V. UNITED MUTUAL
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Mutual Water Co., Baxter Mutual Water Co.,
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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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DINA M. SNIDER