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Attorneys for Land Projects Mutual Water Company

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

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:

) **DECLARATION OF MICHAEL DUANE
DAVIS DECLARATION IN SUPPORT
OF MOTION TO BE RELIEVED AS
COUNSEL**

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

) Date: August 9, 2018
) Time: 9:00 a.m.
) Dept: By Courtcall
) Judge: Jack Komar (Ret.)

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

**Wm. Bolthouse Farms, Inc. v. City of
Lancaster**
Diamond Farming Co. v. City of Lancaster
**Diamond Farming Co. v. Palmdale Water
Dist.**
Superior Court of California, County of
Riverside, consolidated actions, Case Nos. RIC
353 840, RIC 344 436, RIC 344 668

AND RELATED ACTIONS.

I, Michael Duane Davis, declare as follows:

1. I am an attorney at law duly admitted to practice before all the courts of the State of California, and I am a shareholder with the law firm of Gresham Savage Nolan & Tilden, a

1 Professional Corporation (“Gresham|Savage”) attorney for Land Projects Mutual Water
2 Company (“Land Projects”) in the above-entitled action. The following matters are within my
3 own personal knowledge, and if called as a witness, I could and would competently to testify.

4 2. I am personally familiar with the records and files of this litigation.

5 3. Land Project participated in the instant action as a member of the Antelope Valley
6 United Mutuals Group.

7 4. Gresham|Savage appeared as legal counsel of record for the Antelope Valley
8 United Mutuals Group, including Cross-Defendant, Land Projects, on or about August 13, 2009.

9 5. Land Projects participated in the formal and informal proceedings from that date
10 forward; proved up its groundwater production for the years 2000 through 2004 and 2011 and
11 2012; stipulated to the [Proposed Judgment and Physical Solution]; received a Pre-Rampdown
12 Production of 622.50 acre feet and an Overlying Production Right of 613.54 acre feet as
13 reflected on Page 2 of Exhibit 4 to the [Proposed] Judgment and Physical Solution (“Water
14 Rights”); and, was made subject to the Judgment on December 23, 2015.

15 6. In May of 2017, Gresham|Savage was informed by the Antelope Valley United
16 Mutuals Group that Land Projects was no longer a member of the Group and that it was no
17 longer interested in being represented by Gresham|Savage. Accordingly, on May 25, 2017,
18 Gresham|Savage wrote a letter to Costy Von Massenbach, President of Land Projects, advising
19 him that Land Projects, as a corporation, would need to be represented by counsel and requesting
20 that he secure new counsel for Land Projects. A copy of my May 25th letter is attached as
21 Exhibit “A.”

22 7. On or about June 25, 2017, Gresham|Savage received a call from “Dolly” who
23 works for Land Projects, requesting an extension of time to decide how Land Projects wished to
24 proceed. That request was granted.

25 8. On or about June 29, 2017, Gresham|Savage received another call from Dolly
26 informing us that the Land Project Board of Directors had decided that it no longer wished to
27 participate in the Adjudication.

9. On or about July 3, 2017, Gresham|Savage transmitted a confirmatory email to President Von Massenbach, informing him that a Substitution of Attorney (Pursuant to Code of Civil Procedure Section 284 (1)) form would be transmitted to him, that it would need to be signed by its President, Costy Von Massenbach, that Land Projects would need to obtain the signature of its new counsel on the form, and return the form to Gresham|Savage for filing with the Court as our office were no longer serving as its legal counsel in the Adjudication.

10. I subsequently received a telephone message from a caller on behalf of Land Projects requesting that I hold up transmitting the Substitution of Attorney form, so that Land Projects could reconsider whether it wanted to formally terminate our representation. On the basis of that message, I withheld transmitting the Substitution of Attorney form and awaited a follow up communication from Land Projects. When Land Projects did not follow up, I left other messages for Land Projects, however, I have received no further communications from Land Projects.

11. Subsequent communications with representatives of the Antelope Valley United Mutuals Group have also been unfruitful.

12. I am not aware of any circumstance which indicated that Land Projects will suffer any undue prejudice if the Court issues the accompanied Order Granting Attorney's Motion to be Relieved as Counsel as requested.

13. I respectfully request that the Court exercise its sound discretion and grant this Attorney's Motion to be Relieved as Counsel as requested.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 12th day of July, 2018, at San Bernardino, California.


MICHAEL DUANE DAVIS

EXHIBIT “A”

May 25, 2017

*Confidential Communication
Attorney / Client Privileged*

VIA EMAIL, CERTIFIED and FIRST CLASS MAIL

Costy Von Mossenbach, President
LAND PROJECTS MUTUAL WATER CO.
8810 W. Avenue E8
Lancaster, CA 93536

Re: *Antelope Valley Groundwater Adjudication – Potential Withdrawal of Representation*

Dear Costy:

It has come to my attention that Land Projects Mutual Water Co. ("Land Projects") is no longer a member of the Antelope Valley United Mutuals Group ("AVUMG"), and that Land Projects may wish to explore alternatives to Gresham Savage Nolan & Tilden, PC's ("Gresham|Savage") continued legal representation in this matter. If that is Land Project's preference, please let me know **immediately**.

Please be advised that as a corporate entity, Land Projects cannot legally represent itself in this Adjudication including in the appellate process. Only legal counsel can represent Land Projects in these proceedings. Moreover, while appeals are pending, it may be necessary for me to obtain the court's permission to withdraw from legal representation of Land Projects. If Land Projects has already retained new legal counsel to represent it in this matter, please provide me with their contact information, so that I can seek the required approval of the court to withdraw from legal representation and substitute in Land Projects's new legal counsel.

Having represented the members of AVUMG for many years in this matter, I strongly encourage Land Projects to consider rejoining AVUMG and continuing with Gresham|Savage's legal representation in this matter. Together, we have worked hard for many years to achieve the Judgment. As you know, maintaining the integrity of the Judgment and the rights afforded to each member of the AVUMG, including Land Projects, under the Judgment will depend both on the appellate process and the manner of implementation by the Watermaster.

Since 1910

RIVERSIDE 3403 Tenth Street, Suite 700 • Riverside, California 92501
SAN BERNARDINO 550 East Hospitality Lane, Suite 300 • San Bernardino, California 92408
SAN DIEGO 550 West C Street, Suite 1810 • San Diego, California 92101
GreshamSavage.com

A785-000 -- 3117066.1


Costy Von Mossenbach
Re: *Antelope Valley Groundwater Adjudication* –
May 25, 2017
Page 2

*Confidential Communication
Attorney / Client Privileged*

In light of the ongoing nature of both the trial court and appellate proceedings, if I have not heard from you by June 15th, I will ask the Court to be relieved as Land Projects' attorney of record.

Please let me know how Land Projects wishes to proceed.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael Duane Davis". The signature is fluid and cursive, with a large, sweeping initial "M".

Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MDD:dms

cc: AVUMG

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO


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 E. Hospitality Lane, Suite 300, San Bernardino, CA 92408-4205. On July 16, 2018 **DECLARATION OF MICHAEL DUANE DAVIS DECLARATION IN SUPPORT OF MOTION TO BE RELIEVED AS COUNSEL**, I served copies of the within documents described as on the interested parties in this action in a sealed envelope addressed as follows:

See attached Service List

- ☒ **BY MAIL** - I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on the same day in the ordinary course of business, with postage thereon fully prepaid at San Bernardino, California. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☐ **BY PERSONAL SERVICE** - I caused such envelope to be delivered by hand to the offices of the addressee pursuant to C.C.P. § 1011.
- ☐ **BY EXPRESS MAIL/OVERNIGHT DELIVERY** - I caused such envelope to be delivered by hand to the office of the addressee via overnight delivery pursuant to C.C.P. § 1013(c), with delivery fees fully prepaid or provided for.
- ☐ **BY FACSIMILE** - I caused such document to be delivered to the office of the addressee via facsimile machine pursuant to C.C.P. § 1013(e). Said document was transmitted to the facsimile number of the office of the addressee from the office of Gresham Savage Nolan & Tilden, in San Bernardino, California, on the date set forth above. The facsimile machine I used complied with California Rules of Court, Rule 2003(3) and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2009(i), I caused the machine to print a record of the transmittal, a copy of which is attached to this declaration.
- ☐ **BY ELECTRONIC/EMAIL** - I caused such document to be delivered to the office of the addressee via electronic e-mail pursuant to C.C.P. § 1013(a). Said document was transmitted to the email address of that office which is listed on the above Service List. Said document was served electronically and the transmission was reported as complete and without error.
- ☐ **FEDERAL** - I am employed in the office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 16, 2018, at San Bernardino, California.


Dina Snider

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SERVICE LIST

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

Costy Von Mossenbach- Land Projects Mutual Water Co. 8810 W. Avenue E8 Lancaster, CA 93536	
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DINA M. SNIDER