

Exhibit A

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NOV 19 2012

LOS ANGELES SUPERIOR COURT

By Fax

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 WESLEY A. MILIBAND, Bar No. 241283
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7 Attorneys for Defendant and Cross-Complainant,
 Phelan Piñon Hills Community Services District
 8

9 SUPERIOR COURT OF CALIFORNIA
 10 COUNTY OF LOS ANGELES - CENTRAL DISTRICT
 11

12 Coordination Proceeding) Judicial Council Coordination Proceeding
 Special Title (Rule 1550(b))) No. 4408
 13)
 14 ANTELOPE VALLEY) (For Filing Purposes Only: Santa Clara
 GROUNDWATER CASES) County Case No.: 1-05-CV-049053)
 15 Included Actions:) Assigned for All Purposes To:
) Judge: Hon. Jack Komar
 16 Los Angeles County Waterworks District)
 No. 40 v.) (Filing Fees Exempt; Per Gov't Code § 6103)
 17 Diamond Farming Co., et al.)
 Los Angeles County Superior Court, Case)
 18 No. BC 325 201) **OBJECTION BY PHELAN PIÑON
 HILLS COMMUNITY SERVICES
 DISTRICT TO PROPOSED ORDER(S)
 REGARDING DISCOVERY FOR
 PHASE FOUR; DECLARATION OF
 WESLEY A. MILIBAND IN SUPPORT
 THEREOF**
 19 Los Angeles County Waterworks District)
 No. 40 v.)
 20 Diamond Farming Co., et al.)
 Kern County Superior Court, Case No.)
 21 S-1500-CV-254-348)
 22)
 23 Wm. Bolthouse Farms, Inc. v. City of)
 Lancaster)
 24 Diamond Farming Co. v. City of Lancaster)
 Diamond Farming Co. v. Palmdale Water)
 25 Dist.)
 Riverside County Superior Court,)
 26 Consolidated Action, Case Nos. RIC 353)
 840, RIC 344 436, RIC 344 668)
 27)
 28 AND RELATED CROSS-ACTIONS)

COPY

OBJECTION BY PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT TO PROPOSED ORDER(S) RE DISCOVERY FOR PHASE FOUR

1 TO THE HONORABLE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF
2 RECORD HEREIN:

3 Phelan Piñon Hills Community Services District (“PPHCSD”) hereby objects to the
4 proposed orders submitted regarding discovery for Phase Four to the extent that the proposed
5 orders do not reflect the Court’s position as stated during the Case Management Conference on
6 November 9, 2012 (“CMC”) allowing for production information to be provided for years 2005
7 through 2011.

8 During the CMC, the Court indicated that a party is “...entitled to provide as much
9 information” as desired, including for years 2005 through 2011. (Declaration of
10 Wesley A. Miliband (“Miliband Decl.”), ¶ 2, Exhibit A, Reporter’s Transcript of Proceedings from
11 November 9, 2012 (“Reporter’s Transcript”), pp. 20:8-22:6). Moreover, discovery beyond the
12 2000 through 2004 time period may be relevant to what the Court indicated it seeks in the next
13 phase of trial: “...what production of water is claimed by each party – irrespective of claims of
14 prescription, irrespective of whether parties are appropriators or overlying landowners, whether
15 they are governmental entities, or farmers...” (*Ibid.* at p. 10:16-22.)

16 To conform to the CMC, an Order involving discovery for Phase Four should state: “A
17 party may produce as much information as desired, including for years 2005 through 2011.”
18 Counsel for PPHCSD received confirmation from the “designated lead counsel” for public water
19 suppliers and overlayers that this language would be included, however, it was not included in a
20 proposed order, and other counsel has since indicated the omission was inadvertent. (Miliband
21 Decl., ¶ 3.)

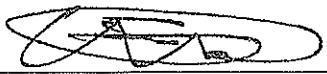
22 In addition, and to conform to relevant legal authorities in determining a party’s water
23 rights including as set forth in *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224,
24 discovery beyond the 2000 through 2004 time period may be appropriate for some parties.

25 ///
26 ///
27 ///
28 ///

1 Accordingly, PPHCSD respectfully requests that the Court's Order regarding discovery for
2 Phase Four state that production information between years 2005 through 2011 is permissible, as
3 proposed above.

4
5 Dated: November 19, 2012

ALESHIRE & WYNDER, LLP
DAVID J. ALESHIRE
WILLIAM W. WYNDER
WESLEY A. MILIBAND

6
7
8 By: 
9 _____
10 Wesley A. Miliband
11 Attorneys for Cross-Defendant and
12 Cross-Complainant,
13 Phelan Piñon Hills Community
14 Services District
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DECLARATION OF WESLEY A. MILIBAND

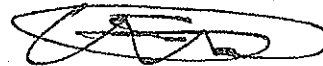
I, Wesley A. Miliband, declare:

1. I am an attorney at law duly licensed to practice before the Court of the State of California, and I am an attorney of record for Phelan Piñon Hills Community Services District (“PPHCSD”). I have personal knowledge of the facts contained herein as one of the attorneys handling this matter, and could and would testify competently thereto. This declaration is made in support of PPHCSD’s Objection to Proposed Order(s) Regarding Discovery for Phase Four.

2. Attached hereto as Exhibit “A” is a true and correct copy of the relevant pages from the Reporter’s Transcript of Proceedings for the Case Management Conference held on November 19, 2012.

3. Through email correspondence, I received confirmation from Mr. Steven R. Orr on Monday, November 12, 2012 and confirmation from Mr. Michael Fife on Wednesday, November 14, 2012 that the proposed order would include the following language: “A party may produce as much information as desired, including for years 2005 through 2011.” On Friday, November 16, 2012, Mr. Orr indicated to me that he inadvertently omitted this language from the proposed order that Mr. Orr submitted earlier that day.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed on the 19th day of November, 2012, in Irvine, California.



Wesley A. Miliband

Exhibit A

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 1 HON. JACK KOMAR, JUDGE
4 COORDINATION PROCEEDING) JUDICIAL COUNCIL
5 SPECIAL TITLE (RULE 1550(B)) COORDINATION NO.
6 ANTELOPE VALLEY GROUNDWATER CASES) JCCP4408
7) SANTA CLARA CASE NO.
8) 1-05-CV-049053
9 PALMDALE WATER DISTRICT AND QUARTZ)
HILL WATER DISTRICT,)
10 CROSS-COMPLAINANTS,)
11 VS.)
12 LOS ANGELES COUNTY WATERWORKS)
DISTRICT NO. 40, ET AL.,)
13 CROSS-DEFENDANTS.)
14)

15 REPORTER'S TRANSCRIPT OF PROCEEDINGS
16 FRIDAY, NOVEMBER 9, 2012
17

18 APPEARANCES:

19 FOR LOS ANGELES LEMIEUX & O'NEILL
COUNTY WATERWORKS BY: WAYNE LEMIEUX, ESQ.
20 DISTRICT 40, 4165 E. THOUSAND OAKS BLVD, SUITE 350
ET. AL. WESTLAKE VILLAGE, CALIFORNIA 91362
21 (805) 495-4770
22 FOR CITY OF RICHARDS WATSON & GERSHON
PALMDALE: BY: STEVEN R. ORR, ESQ.
23 355 SOUTH GRAND AVENUE, 40TH FL.
LOS ANGELES, CALIFORNIA 90071-3101
24 (213) 626-8484
25 FOR ANTELOPE BROWNSTEIN HYATT FARBER SCHRECK
VALLEY BY: MICHAEL FIFE, ESQ.
26 GROUNDWATER 21 EAST CARRILLO STREET
ASSOCIATION: SANTA BARBARA, CALIFORNIA 93101
27 (805) 882-1453

28 (APPEARANCES CONTINUED ON NEXT PAGE.)

‡

1 FOR RICHARD A. LAW OFFICES OF MICHAEL MC LACHLAN
Page 1

ANTE1109

2 WOOD: BY: MICHAEL MC LACHLAN, ESQ.
10490 SANTA MONICA BOULEVARD
3 LOS ANGELES, CALIFORNIA 90025
(310) 954-8270

4 FOR LOS ANGELES BEST BEST & KRIEGER
COUNTY WATERWORKS BY: JEFFREY V. DUNN, ESQ.
5 DISTRICT 40: 5 PARK PLAZA, SUITE 1500
IRVINE, CA 92614
6 (949) 263-2600

7 FOR ROSAMOND LAW OFFICES OF FRANK SATALINO
RANCH; ELIAS BY: FRANK SATALINO, ESQ.
8 SHOKRIAN; SHIRLEY 19 VELARDE COURT
SHOKRIAN: RANCHO SANTA MARGARITA, CA. 92688
9 (949) 735-7604

10 FOR UNITED U.S. DEPARTMENT OF JUSTICE
STATES: ENVIRONMENT AND NATURAL
11 RESOURCES DIVISION
BY: R. LEE LEININGER, ESQ.
12 999 18TH STREET, SUITE 370
DENVER, CO 80202
13 (303) 844-1364

14 APPEARANCES BY TELEPHONE:

15 SHELDON BLUM
WILLIAM BRUNICK
16 MARLENE ALLEN
THEODORE CHESTER
JANET GOLDSMITH
17 KATRINA GONZALEZ
STEFANIE HEDLUND
18 BRAD HERREMA
JOSEPH HUGHES
19 BOB JOYCE
RALPH KALFAYAN
20 ROBERT KUHS
SCOTT KUNEY
21 JAMES LEWIS
ANTHONY LEGGIO
22 EMILY MADUENO
WESLEY MILLIBAND
23 MANUEL RIVAS
CHRISTOPHER SANDERS
24 WILLIAM SLOAN
JENNIFER SPALETTA
25 JOHN TOOTLE
JOHN UKKESTAD
26 JAMES WORTH
RICHARD ZIMMER

27
28 SANDRA GECO, CSR NO. 3806
OFFICIAL REPORTER

‡

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 1 HON. JACK KOMAR, JUDGE

ANTE1109

4	COORDINATION PROCEEDING)	JUDICIAL COUNCIL
	SPECIAL TITLE (RULE 1550(B))	COORDINATION NO.
5)	JCCP4408
6	ANTELOPE VALLEY GROUNDWATER CASES)	SANTA CLARA CASE NO.
)	1-05-CV-049053
7	_____)	
8	PALMDALE WATER DISTRICT AND QUARTZ)	
	HILL WATER DISTRICT,)	
9)	
	CROSS-COMPLAINANTS,)	
10)	
	VS.)	
11)	
	LOS ANGELES COUNTY WATERWORKS)	
12	DISTRICT NO. 40, ET AL.,)	
)	
13	CROSS-DEFENDANTS.)	
14	_____)	

REPORTER'S CERTIFICATE

17 STATE OF CALIFORNIA)
18 COUNTY OF LOS ANGELES) SS

19 I, SANDRA GECO, OFFICIAL REPORTER OF THE
20 SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
21 OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING
22 PAGES, 1 THROUGH 57, INCLUSIVE, COMPRISE A FULL, TRUE AND
23 CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
24 ABOVE-ENTITLED MATTER, REPORTED BY ME ON FRIDAY, NOVEMBER
25 9, 2012.

DATED THIS 12TH DAY OF NOVEMBER, 2012.

27 _____, CSR NO. 3806
28 OFFICIAL REPORTER

‡

1

1	CASE NUMBER:	JCCP4408
2	CASE NAME:	COORDINATION PROCEEDING SPECIAL
3		TITLE (RULE 1550(B))
4		ANTELOPE VALLEY GROUNDWATER CASES
5	LOS ANGELES, CA;	FRIDAY, NOVEMBER 9, 2012

6 DEPARTMENT NO. 1 ANTE1109 HON. JACK KOMAR, JUDGE
7 REPORTER: SANDRA GECO, CSR NO. 3806
8 TIME: 09:00 A.M.
9 APPEARANCES: (AS NOTED ON TITLE PAGE.)

10

11 (THE FOLLOWING PROCEEDINGS WERE HELD
12 IN OPEN COURT:)

13

14 THE COURT: GOOD MORNING. THIS IS THE CASE, I
15 BELIEVE, CALLED THE ANTELOPE VALLEY COORDINATED CASES.
16 ALSO CONSOLIDATED.

17 OKAY. I UNDERSTAND THAT ROLL CALL HAS BEEN
18 MADE OF THOSE ON THE TELEPHONE.

19 I WOULD JUST REMIND YOU, IF YOU'RE ON THE
20 TELEPHONE AND YOU WISH TO BE HEARD, BE SURE EACH TIME YOU
21 IDENTIFY YOURSELF BY NAME SO THE REPORTER WILL BE ABLE TO
22 KEEP TRACK OF WHO'S TALKING, AS WILL I.

23 @ THOSE IN THE COURTROOM, I WOULD EXPECT YOU
24 TO IDENTIFY YOURSELVES EACH TIME YOU SPEAK FOR THE
25 BENEFIT OF THE COURT REPORTER. AND THAT WAY WE'LL HAVE A
26 CLEAR RECORD.

27 MR. BLUM: YOUR HONOR, IF I MAY SAY. THIS IS
28 SHELDON BLUM. I WAS NOT PRESENT WHEN ROLL CALL WAS MADE,

♀

1 BUT I AM CURRENTLY ON THE PHONE.

2 THE COURT: ALL RIGHT. THANK YOU, MR. BLUM.

3 MR. TOOTLE: YOUR HONOR, THIS IS JOHN TOOTLE. AND
4 I WAS NOT ON THE PHONE WHEN ROLL CALL WAS CALLED. AND I
5 AM PRESENT AS WELL.

6 THANK YOU, YOUR HONOR.

7 THE COURT: THANK YOU.

8 MS. GOLDSMITH: YOUR HONOR, THIS IS JAN GOLDSMITH

24 EVENT THAT ALL MATTERS HAVE TO BE -- THERE ARE NO EVEN
25 PARTIAL SETTLEMENTS.

26 AND I'VE REVIEWED THOSE SUGGESTIONS. AND
27 FRANKLY, THERE'S A LOT OF COMMONALITY TO THE VARIOUS
28 PROPOSALS.

♀

9

1 AND IT DOES SEEM TO ME THAT ONE OF THE
2 THINGS THAT WILL HELP US TO HAVE A TRIAL DURING THAT
3 PERIOD OF TIME THAT WILL BE EFFECTIVE TO RESOLVE A NUMBER
4 OF THE ISSUES WILL BE IF THE COURT MAKES AN ORDER FOR
5 SOME FORM DISCOVERY, AS I INDICATED THE LAST TIME WE WERE
6 IN SESSION.

7 AND I HAD ASKED THAT SOME OF THE
8 ADVERSARIES TO MEET AND CONFER. WE TOOK A BRIEF RECESS.
9 AND WHEN I TOOK THE BENCH AGAIN FOLLOWING THE RECESS, I
10 WAS TOLD THAT THERE WAS NO AGREEMENT AND THERE COULDN'T
11 BE.

12 SO AT THIS POINT, I THINK I'M GOING TO HAVE
13 TO MAKE SOME SPECIFIC ORDERS CONCERNING WHAT THAT
14 DISCOVERY OUGHT TO BE.

15 AND I'M PREPARED TO DO THAT.

16 AND I WILL TELL YOU THAT I THINK IN THAT
17 PHASE OF TRIAL, I WILL BE INTERESTED IN KNOWING WHAT
18 PRODUCTION OF WATER IS CLAIMED BY EACH PARTY --
19 IRRESPECTIVE OF CLAIMS OF PRESCRIPTION, IRRESPECTIVE OF
20 WHETHER PARTIES ARE APPROPRIATORS OR OVERLYING
21 LANDOWNERS, WHETHER THEY ARE GOVERNMENTAL ENTITIES, OR
22 FARMERS, OR SOUP COMPANIES OR ANYTHING ELSE -- SO THAT
23 I'M GOING TO EXPECT THAT WE HAVE ENOUGH INFORMATION SO
24 THAT PARTIES CAN DECIDE WHETHER OR NOT THEY WISH TO
25 DISPUTE ANY OF THE PARTICULAR CLAIMS.

17 CLAIMS ARE.

18 THERE ARE LEGAL ISSUES. THERE HAVE BEEN,
19 IN THE PAST, CONCERNS THAT IT'S INAPPROPRIATE FOR THE
20 GOVERNMENT TO OBTAIN RIGHTS AS A RESULT OF PRESCRIPTION.

21 THERE ARE A NUMBER OF CLAIMS THAT THAT
22 SHOULD BE, AT THE VERY LEAST, INVERSE CONDEMNATION, OR
23 EXPRESS CONDEMNATION.

24 AND I'M NOT RULING ON THOSE THINGS. BUT
25 THOSE ARE LEGAL ISSUES THAT ULTIMATELY ARE GOING TO HAVE
26 TO BE DECIDED IF THEY'RE RAISED.

27 AND AT THIS POINT IN TIME, I'M TELLING YOU
28 THAT I'M NOT GOING TO CONSIDER THOSE IN THE NEXT PHASE OF
19

1 THE TRIAL.

2 MR. LEMIEUX: OKAY.

3 THE COURT: WE'RE GOING TO TRY AND CONSIDER
4 EVERYTHING ELSE OTHER THAN THAT. AND THEN WE'LL PROBABLY
5 HAVE TO -- IF THE PARTIES REQUIRE IT -- IMPANEL A JURY TO
6 DEAL WITH PRESCRIPTION CLAIMS.

7 MR. LEMIEUX: OKAY. THANK YOU, YOUR HONOR.

8 MR. MILIBAND: YOUR HONOR, THIS IS WEST MILIBAND
9 FOR PHELAN PINON HILLS CSD.

10 THE COURT: YES.

11 MR. MILIBAND: GOING BACK TO THE HISTORICAL PERIOD
12 OF 2000 TO 2004, WE BECAME A PARTY AT THE END OF 2008.
13 SO I'D REQUEST THAT THE COURT ALLOW HISTORICAL PRODUCTION
14 OF INFORMATION TO INCLUDE THE PERIOD AFTER 2004. IN
15 OTHER WORDS, FROM 2005 TO 2011.

16 THE COURT: WELL, I'LL MAKE THAT DECISION AT THE
17 APPROPRIATE TIME.

18 IF YOU HAVE THE INFORMATION THAT YOU WISH
19 TO PROVIDE, YOU SHOULD DO SO.

20 AND I'M NOT SURE THAT IT'S GOING TO MAKE A
 21 LOT OF DIFFERENCE.
 22 OBVIOUSLY, THIS MAY HAVE TO BE BRIEFED AT
 23 AN APPROPRIATE TIME. BUT IT DOES OCCUR TO ME THAT -- THE
 24 CLAIM OF PRESCRIPTION IS BASICALLY A CLAIM OF ADVERSE
 25 POSSESSION. AND THE TIME FOR THE PERIOD TO RUN COMMENCES
 26 AT THE TIME WHEN THERE IS OVERDRAFT, WHENEVER THAT WAS.
 27 AND THE PERIOD OF THE STATUTE OF LIMITATIONS DETERMINES
 28 WHEN THE RIGHT ACCRUES.

20

♀

1 I'M NOT MAKING AN ORDER CONCERNING THAT.
 2 I'M NOT MAKING A DECISION. I'M OPINING.
 3 GENERALLY, I WILL EXPECT THE PARTIES TO
 4 PROVIDE ME WITH BRIEFING AT THE APPROPRIATE TIME
 5 CONCERNING WHAT THE PERIOD OF THE STATUTE OF LIMITATIONS
 6 MIGHT BE. BUT IT'S NOT AS IF YOU TAKE THE TIME OF THE
 7 FILING OF THE COMPLAINT AND THEN GO BACK FIVE YEARS.
 8 THAT IS NOT THE WAY ADVERSE POSSESSION IS
 9 ESTABLISHED AS I UNDERSTAND THE LAW, NOR IS IT THE WAY
 10 PRESCRIPTION IS ESTABLISHED AS I UNDERSTAND THE LAW.
 11 BASICALLY, PRESCRIPTION AND ADVERSE
 12 POSSESSION ARE NOTHING MORE THAN A PERIOD WHERE THE
 13 STATUTE OF LIMITATIONS ON A CLAIM IS RUN.
 14 NOW, THERE ARE PROBABLY SOME EXCEPTIONS TO
 15 THAT. AND CERTAINLY WHEN THE RIGHT IS ESTABLISHED MAY BE
 16 AT ISSUE, AS IT CLEARLY WILL BE IN THIS CASE.
 17 IT'S NOT TOTALLY CLEAR AS TO WHAT FORM THE
 18 PRESCRIPTION CLAIM TRIAL WILL TAKE AT THIS POINT.
 19 MR. FIFE, YOU'RE STANDING THERE PATIENTLY.
 20 MR. MILIBAND: YOUR HONOR, MAY I JUST PROVIDE A
 21 QUICK RESPONSE? WEST MILIBAND FOR PHELAN CSD.

22 THE COURT: YES.

23 MR. MILIBAND: I UNDERSTAND EVERYTHING THE COURT
24 IS SAYING. AND IT'S PRECISELY FOR THOSE REASONS THAT I
25 JUST WANTED TO MAKE IT CLEAR, OR ASK FOR CLARIFICATION,
26 THAT A PARTY SUCH AS MY CLIENT IS NOT PRECLUDED FROM
27 PROVIDING ADDITIONAL INFORMATION BEYOND THE 2004 PERIOD
28 ARTICULATED BY THE COURT.

21

1 THE COURT: MR. MILIBAND, THAT'S TRUE. AND YOU'RE
2 CERTAINLY ENTITLED TO PROVIDE AS MUCH INFORMATION AS YOU
3 CAN, RECOGNIZING THAT THERE ARE SOME, I THINK, HAZY
4 ISSUES CONCERNING THE LOCATION OF YOUR PRODUCTION IN THAT
5 PORTION OF THE VALLEY, GIVEN THE MOJAVE LITIGATION, WHICH
6 IS ADJACENT TO IT.

7 ALL RIGHT. NOW, MR. FIFE.

8 MR. FIFE: GOOD MORNING, YOUR HONOR. MICHAEL FIFE
9 FOR THE ANTELOPE VALLEY GROUNDWATER AGREEMENT
10 ASSOCIATION.

11 TWO ISSUES. ONE ON RETURN FLOWS AND ONE ON
12 THE FEDERAL RIGHTS.

13 THE RETURN FLOWS WERE ACTUALLY VERY
14 CONTESTED IN PHASE THREE. SO I JUST WANT TO CORRECT
15 THAT. THERE WAS A LOT OF CROSS-EXAMINATION ON THAT.

16 BUT MORE --

17 THE COURT: CROSS-EXAMINATION DOESN'T NECESSARILY
18 ESTABLISH CONFLICT OR DISPUTE. IT MAY BE AN ATTEMPT.

19 MR. FIFE: I'LL SIMPLY STATE, THERE WAS -- WE
20 DISPUTE THEM.

21 BUT MORE IMPORTANTLY, THE CALCULATIONS THAT
22 WERE DONE IN PHASE THREE WERE DONE ON A GROSS BASIS. SO
23 SIMPLY LOOKING AT THE GROSS TOTAL OF WATER THAT WAS
24 IMPORTED AND APPLYING A PERCENTAGE TO IT.

2
3 **PROOF OF SERVICE**

4 I, Linda Yarvis,

5 I am employed in the County of Orange, State of California. I am over the age of 18 and
6 not a party to the within action. My business address is 18881 Von Karman Avenue, Suite 1700,
Irvine, CA 92612.

7 On November 19, 2012, I served the within document(s) described as **OBJECTION BY
8 PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT TO PROPOSED
ORDER(S) REGARDING DISCOVERY FOR PHASE FOUR; DECLARATION OF
9 WESLEY A. MILIBAND IN SUPPORT THEREOF** as follows:

10 (ELECTRONIC SERVICE) By posting the document(s) listed above to the Santa Clara
County Superior Court website in regard to Antelope Valley Groundwater matter pursuant to the
11 Court's Clarification Order. Electronic service and electronic posting completed through
www.scefiling.org.

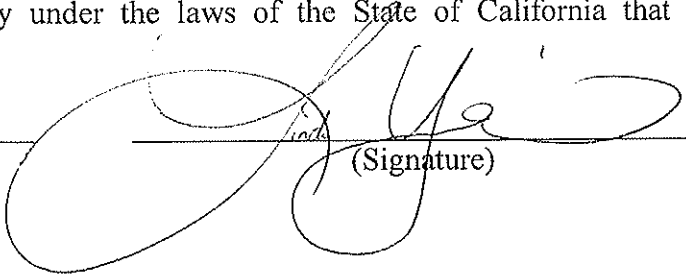
12 (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope
13 addressed as set forth above. I placed each such envelope for collection and mailing following
ordinary business practices. I am readily familiar with this Firm's practice for collection and
14 processing of correspondence for mailing. Under that practice, the correspondence would be
deposited with the United States Postal Service on that same day, with postage thereon fully
15 prepaid at Irvine, California, in the ordinary course of business. I am aware that on motion of the
party served, service is presumed invalid if postal cancellation date or postage meter date is more
16 than one day after date of deposit for mailing in affidavit.

17 (BY OVERNIGHT DELIVERY) I deposited in a box or other facility regularly maintained
by Overnight Express, an express service carrier, or delivered to a courier or driver authorized by
18 said express service carrier to receive documents, a true copy of the foregoing document(s) in a
sealed envelope or package designated by the express service carrier, addressed as set forth above,
with fees for overnight delivery paid or provided for.

19 Executed on November 19, 2012, at Irvine, California.

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

22 Linda Yarvis
23 (Type or print name)

24 
25 (Signature)