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10 of the John and B.J. Calandri 2001 Trust, Son Rise Farms, Calmat Land Company, Sal and Connie
11 L. Cardile, Efren and Luz Chavez, Consolidated Rock Products, Del Sur Ranch LLC, Steven Godde
12 as Trustee of the Forrest G. Godde Trust, Lawrence A. Godde, Lawrence A. Godde and Godde
13 Trust, Robert and Phillip Gorrindo, Gorrindo Family Trust, Laura Griffin, Healy Farms, Healy
14 Enterprises, Inc., Habod Javadi, Juniper Hills Water Group, Eugene V., Beverly A., & Paul S.
15 Kindig, Paul S. & Sharon R. Kindig, Kootenai Properties, Inc., Gailen Kyle, Gailen Kyle as Trustee
16 of the Kyle Trust, James W. Kyle, James W. Kyle as Trustee of the Kyle Family Trust, Julia Kyle,
17 Wanda E. Kyle, Maritorena Living Trust, Jose and Marie Maritorena, Richard H. Miner, Barry S.
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19 and Michael Nelson, Robert Jones, John and Adrienne Reca, Edgar C. Ritter, Paula E. Ritter, Paula
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21 Siebert, Dr. Samuel Kremen, Tierra Bonita Ranch Company, Beverly Tobias, Triple M Property
22 FKA and 3M Property Investment Co., Vulcan Materials Co. and Vulcan Lands Inc., Willow
23 Springs Company, Donna and Nina Wilson, Ramin Zomorodi, Genz Development and Castle Ranch
24 Estate, **collectively known as the Antelope Valley Ground Water Agreement Association**
25 **(“AGWA”)**

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

17 **FOR THE COUNTY OF LOS ANGELES**

18 **ANTELOPE VALLEY**)
19 **GROUNDWATER CASES**) Judicial Council Coordination Proceeding
20) No. 4408

21 Included Actions:)
22) **Santa Clara Case No. 1-05-CV-049053**
23) Assigned to The Honorable Jack Komar

24 Los Angeles County Waterworks District No.)
25 40 v. Diamond Farming Co. Superior Court of)
26 California County of Los Angeles, Case No. BC)
27 325 201 Los Angeles County Waterworks)
28 District No. 40 v. Diamond Farming Co.)
29 Superior Court of California, County of Kern,)
30 Case No. S-1500-CV-254-348 Wm. Bolthouse)
31 Farms, Inc. v. City of Lancaster Diamond)
32 Farming Co. v. City of Lancaster Diamond)
33 Farming Co. v. Palmdale Water Dist. Superior)
34 Court of California, County of Riverside,)
35 consolidated actions, Case No. RIC 353 840,)
36 RIC 344 436, RIC 344 668)

37 **NOTICE OF MOTION AND MOTION FOR**
38 **PROTECTIVE ORDER; MEMORANDUM**
39 **OF POINTS AND AUTHORITIES**

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TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD;

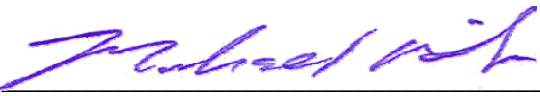
PLEASE TAKE NOTICE that on October 12, 2012, at 9:00 a.m., or as soon thereafter as the matter may be heard in Department 1 of the above-entitled court, the Antelope Valley Groundwater Agreement Association (“AGWA”) will and hereby does move this court for a protective order, as justice requires, that as to the Form Interrogatories (Set One), Form Interrogatories (Set Two), Special Interrogatories (Set One); Request for Production of Documents (Set One); Request for Admissions (Set One); and Request for Admissions (Set Two) propounded by Quartz Hill Water District, all of the interrogatories need not be answered, that the interrogatories are unduly burdensome and unwarranted at this time, that all of the documents requested need not be produced, and that the interrogatories and requests for production and admissions be limited in scope to conform to the Court’s guidance on the scope and limits on any future phase of trial.

This motion is made on the grounds that there is good cause for the issuance of said order in that the discovery propounded is overly burdensome and oppressive insofar as it is vague, ambiguous, and premature, especially given that the parties in this proceeding do not know the subject of the next phase of trial, or even if, in fact, there will be a next phase of trial due to ongoing settlement negotiations between the parties. Accordingly, AGWA has no way of even knowing if the discovery propounded is relevant and within the permissible scope of discovery.

This motion is based on this notice, the accompanying memorandum of points and authorities attached hereto, the declaration of Michael T. Fife in support, the complete files and records in this action, and upon such other oral and documentary evidence as this court may allow at the time of the hearing.

Dated: September 19, 2012

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: 
MICHAEL T. FIFE
BRADLEY J. HERREMA
ATTORNEYS FOR AGWA

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND STATEMENT OF FACTS

The Antelope Valley Groundwater Agreement Association (“AGWA”), on behalf of its members, respectfully requests that this Court issue a protective order to relieve AGWA of the undue burden of having to respond to overly burdensome and premature requests for production of documents and admissions, as well as form and special interrogatories, propounded by Quartz Hill Water District (“Quartz Hill”).

On November 10, 2011, Quartz Hill served on the landowner parties in this proceeding its Special Interrogatories (Set One), Request for Production of Documents (Set One), Request for Admissions (Set One), and Form Interrogatories (Set One). Copies of these documents were served again on September 12, 2012, adding AGWA members as parties required to respond to the requests. Quartz Hill served its Request for Admissions (Set Two) and Form Interrogatories (Set Two), on November 11, 2011. Collectively, the propounded discovery will hereafter be referred as the “Discovery Requests.” Copies of each of these Discovery Requests are attached to this motion for the Court’s reference. (See Exhibits A, B, C, D, E and F, attached to the Declaration of Michael T. Fife, filed concurrently with this Motion (“Fife Decl.”).)

The Discovery Requests demand detailed information on AGWA members’ historical pumping of groundwater dating back to 1951, historical parcel ownership in the Basin for all parcels, the number of wells on each parcel owned, annual pumping records for each parcel, as well as detailed information on well casings, horsepower of well pumps, standing water levels in wells for each year since 1951, and a wide variety of crop and meter records. (See Special Interrogatories (Set One), Exh. A to Fife Decl., pp. 3-6; Request for Production of Documents, Set One, Exh. B to Fife Decl., p. 3:25-5:25.) The Requests for Admission similarly seek admissions related to historical groundwater use on landowner properties dating back to 1951. (See Requests for Admission (Set Two), Exh. E to Fife Decl., p. 2:5-2:11.)

On December 5, 2011, Quartz Hill filed its Notice of Discovery Extensions and Withdrawals, and a second Notice of Discovery Extensions and Withdrawals on December 23,

1 2011. The subsequent ongoing mediation efforts in this case before Justice Robie are well-known
2 to the Court.

3 On September 12, 2012, Quartz Hill served a Notice of Withdrawal of Discovery
4 Extensions, withdrawing all extensions to respond to discovery previously served by Quartz Hill
5 on November 10 and 11, 2012. The Notice of Withdrawal of Discovery Extension does not
6 provide any justification for the withdrawal.

7 Counsel for AGWA made a good faith effort to meet and confer with counsel for Quartz
8 Hill, Mr. Bradley Weeks, to resolve this dispute. On September 13, 2012, counsel for AGWA,
9 Michael T. Fife, telephoned Mr. Weeks in an effort to informally resolve AGWA's concerns with
10 the discovery propounded. (Fife Decl., at ¶ 13.) Mr. Fife discussed his concern that the
11 Discovery Requests propounded by Quartz Hill are unduly burdensome and improper in light of
12 ongoing mediation and the lack of detail on the scope of any upcoming phase of trial, if indeed
13 another phase of trial will be scheduled. (Fife Decl., ¶ 13.) Mr. Weeks declined to provide any
14 additional extension to AGWA, and the parties have been unable to resolve this matter
15 informally. (Fife Decl., ¶ 14.) Because Mr. Weeks was unwilling to continue AGWA's efforts to
16 resolve this issue without court intervention, AGWA respectfully requests the Court's assistance
17 in fashioning a protective order to safeguard the rights of AGWA members during the ongoing
18 mediation proceedings and before the Court sets any future phase of trial.

19 Quartz Hill's Form and Special Interrogatories, Requests for Admissions, and Request for
20 Production of Documents are unduly burdensome and overbroad, and are unjustly premature
21 ahead of further guidance from the Court as to the scope of a potential next phase of trial.
22 Requiring AGWA to produce the requested information by the October 12, 2012 Case
23 Management Conference currently scheduled would place an undue burden on AGWA to provide
24 responses at this time, before AGWA can determine the relevancy of the Discovery Requests.
25 For these reasons and the other reasons detailed herein, good cause exists for the Court to grant a
26 motion for protective order relieving AGWA from the burden of responding to Quartz Hill's
27 Discovery Requests before the Court has determined the subject matter of any subsequent phase
28 of trial.

1 **II. ARGUMENT**

2 Code of Civil Procedure section 2033.080(b) authorizes the Court to issue protective
3 orders restricting the use of interrogatories and other discovery methods where the Court
4 determines that a selected method of discovery is unduly burdensome or expensive, taking into
5 account the needs of the case. A court has the discretion to limit the scope of discovery if it
6 determines that “the burden, expense, or intrusiveness of that discovery clearly outweighs the
7 likelihood that the information sought will lead to the discovery of admissible evidence.” (Code
8 Civ. Proc., § 2017.020(a); see also, Code Civ. Proc., § 2033.080(b) (regarding requests for
9 admission).)¹ With respect to interrogatories, section 2025.420(b) of the Code of Civil Procedure
10 provides:

11
12 The court, for good cause shown, may make any order that justice
13 requires to protect any party or other natural person or organization
14 from unwarranted annoyance, embarrassment, or oppression, or
15 undue burden and expense. (Code Civ. Proc. § 2025.420(b).)

16 According to well-established California law, protective order motions are directed to the
17 court’s inherent power to control the proceedings before it; thus, a protective order may be
18 granted on the court’s own determination that “justice so requires.” (*Greyhound Corp. v. Superior*
19 *Court* (1961) 56 Cal.2d 355, 379-381.) For this reason, the grant or denial of relief therefore lies
20 within the sound discretion of the law and motion judge and is reviewable only for abuse of
21 discretion. (*Ibid.*)

22 Quartz Hill’s Discovery Requests unduly burden AGWA members because the Discovery
23 Requests are overly broad and premature at this point, where the Court has not ordered or defined
24 the scope of a future phase of trial. Justice requires that the Court grant AGWA’s motion for a
25 protective order to protect AGWA from an undue burden and expense, and from the potential of
26 disclosing overbroad information that may not be relevant to the next phase of trial.

27 **A. Justice Requires Granting AGWA’s Motion to Protect its Members from**
28 **Quartz Hill’s Unduly Burdensome and Overbroad Discovery Requests**

First, the Discovery Requests seek historical property information and pumping records

¹ All section references are to the Code of Civil Procedure unless otherwise indicated.
SB 626655 v3:037966.0001

1 for all of AGWA members' parcels owned in the Basin dating back to 1951, as well as detailed
2 information on well casings, well levels, any and all information relating to pumping records,
3 electrical records, diesel records, meter records, and information based on predecessor owners of
4 the property. (See, e.g., Special Interrogatories, Set One, Exh. A, pp. 3-6.) Considering AGWA
5 is presently composed of more than approximately 136 individual landowners, many of whom
6 own multiple parcels, (Fife Decl., ¶ 11), Quartz Hill's Request for Production and Special
7 Interrogatories are unduly burdensome.

8 The Discovery Requests are very overbroad if their purpose is to acquire individualized
9 pumping information. If Quartz Hill's goal is to acquire pumping information, then there is no
10 reason to require the landowners targeted by the Discovery Requests to identify each and every
11 document that evidences, refers or relates in any way to records of property ownership Basin held
12 by each of those landowners dating back to 1951. Further, as explained below, without any
13 present idea as to the scope of any future trial phase, AGWA cannot determine the earliest date of
14 pumping and crop records that could possibly be relevant to Quartz Hill's claims, because the
15 court has not determined a potential prescriptive period or other definitions likely necessary for
16 any future trial phase.

17 **B. Quartz Hill's Discovery Requests are Premature Before The Next Phase of**
18 **Trial**

19 Even if the Discovery Requests included a more limited scope and reasonable timeline
20 within which to respond, the Discovery Requests are nonetheless prejudicially premature in light
21 of the fact that the Court has yet to define the scope of the next phase of trial or determine if there
22 even will be a next phase of trial. Without such limitation on the scope of the next phase of trial,
23 it is unduly burdensome to ask AGWA members to provide all historical records of water use in
24 the Basin, encompassing records that may not even be relevant.

25 In the absence of an order from the Court defining the scope of or even setting any future
26 phase of trial, Quartz Hill's Discovery Requests unduly burden AGWA members because they
27 demand not only voluminous individualized information for each and every parcel held by each
28 of the landowners targeted by those Discovery Requests, but also demand information for the

1 entire period from 1951 to the present in most cases. Without a ruling on the scope of a future
2 phase of trial, and in the middle of ongoing mediation efforts, it is impossible to tell if the scope
3 of information demanded by the Discovery Requests exceeds the scope of information that Quartz
4 Hill needs to litigate a subsequent phase of trial, as the issue of prescription has not arisen, and
5 the requested information appears only relevant to prove up prescriptive claims. The Court
6 should not require responses to Discovery Requests concerning individual pumping information
7 until the potentially-dispositive issues that can be resolved with generalized information about the
8 Basin have been resolved. Justice thus requires that the court issue a protective order to prevent
9 an undue burden and expense on AGWA members.

10 C. **If the Court Allows Quartz Hill to Proceed With Its Discovery Requests, the**
11 **Court Should Allow AGWA an Extension of Time to Respond**

12 Code of Civil Procedure section 2033.080(b)(3) specifically allows the Court to extend a
13 party's time to respond to interrogatories. (Code Civ. Proc. § 20333.080(b)(3).) If the
14 landowners targeted by the Discovery Requests are required to respond to them for the next phase
15 of trial, then the landowners will be required to expend a substantial amount of time and energy in
16 preparing those responses.

17 Accordingly, if the Court requires AGWA members to respond to the Discovery Requests,
18 then the Court should grant AGWA a substantial extension of time to respond to those requests.
19 Any landowner would be hard pressed to assemble and organize the over 60 years' worth of
20 information that Quartz Hill demands. If the Court grants AGWA no other relief, the Court thus
21 still should extend AGWA members' time to respond to Discovery Requests for a substantial
22 period of time, at least 120 days after the Court issues an order defining the scope of the next
23 phase of trial, if this matter proceeds to a next phase of trial at all in light of productive settlement
24 negotiations.

25 Dated: September 19, 2012

BROWNSTEIN HYATT FARBER SCHRECK, LLP

26 By: 

27 MICHAEL T. FIFE
28 BRADLEY J. HERREMA
ATTORNEYS FOR AGWA