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8 **Attorneys for:** Gene T. Bahlman, William Barnes, William R. Barnes & Eldora M. Barnes Family
9 Trust of 1989, Thomas M. Bookman, B.J. Calandri, John Calandri, John Calandri as Trustee of the
10 John and B.J. Calandri 2001 Trust, Son Rise Farms, Calmat Land Company, Sal and Connie L.
11 Cardile, Efren and Luz Chavez, Consolidated Rock Products, Del Sur Ranch LLC, Steven Godde as
12 Trustee of the Forrest G. Godde Trust, Lawrence A. Godde, Lawrence A. Godde and Godde Trust,
13 Robert and Phillip Gorrindo, Gorrindo Family Trust, Laura Griffin, Healy Farms, Healy Enterprises,
14 Inc., John Javadi and Sahara Nursery, Juniper Hills Water Group, Gailen Kyle, Gailen Kyle as
15 Trustee of the Kyle Trust, James W. Kyle, James W. Kyle as Trustee of the Kyle Family Trust, Julia
16 Kyle, Wanda E. Kyle, Maritorena Living Trust, Jose and Marie Maritorena, Richard H. Miner, Barry
17 S. Munz, Terry A. Munz and Kathleen M. Munz, Eugene B. Nebeker, R and M Ranch, Inc., Richard
18 and Michael Nelson, Robert Jones, John and Adrienne Reza, Mabel Selak, Jeffrey L. & Nancee J.
19 Siebert, Dr. Samuel Kremen and Tierra Bonita Ranch Company, Beverly Tobias, Triple M Property
20 FKA and 3M Property Investment Co., Vulcan Materials Co. and Vulcan Lands Inc., Willow
21 Springs Company, Donna Wilson, **collectively known as the Antelope Valley Groundwater
22 Agreement Association (“AGWA”)**

23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

24 **FOR THE COUNTY OF LOS ANGELES**

25 **ANTELOPE VALLEY**)
26 **GROUNDWATER CASES**)
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29 Included Actions:)
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Santa Clara Case No. 1-05-CV-049053
Assigned to The Honorable Jack Komar

**AGWA’s CASE MANAGEMENT
CONFERENCE STATEMENT**

Date: March 25, 2013
Time: 9:00 a.m.
Dept: 1

1 The Antelope Valley Groundwater Agreement Association (“AGWA”) submits this Case
2 Management Statement ahead of the Further Case Management Conference with reference to the
3 Phase IV trial.

4 At prior case management conferences, confusion has been expressed by parties
5 concerning the scope of the Phase IV trial with regard to the issue of “current pumping.” This
6 confusion resulted in a proposed first amendment to the Case Management Order, which was
7 signed by the Court on January 17, 2013. The Court’s recently signed third amendment to the
8 Case Management Order has prompted the parties to engage in substantive discussions
9 concerning the proper scope of depositions and AGWA believes these discussions have brought
10 to light further uncertainties regarding the scope of the Phase IV trial.

11 AGWA believes this uncertainty is due to lack of clarity regarding the purpose of the
12 Court’s ultimate Phase IV finding regarding the issue of current pumping. The Court has stated
13 that the Phase IV trial will include a determination of current pumping, return flows, and the
14 scope of the United States’ federal reserved rights. While the issues of return flows and the rights
15 of the Federal Government are relevant to specific causes of action pled in the Public Water
16 Suppliers’ First Amended Cross-Complaint, there is currently no cause of action pled by any
17 party associated with a determination of current pumping.

18 A determination of specific landowner pumping is relevant to the issue of “self help,” but
19 this issue is relevant only if prescription is shown to exist. If the purpose of determining current
20 pumping is to determine landowner self help, then the issue of current pumping should naturally
21 follow trial of the preliminary issue of prescription, or at least an identification of the applicable
22 prescriptive period. Trying self help prior to prescription presumes that a decision has already
23 been reached as to whether prescription exists, and if the prescriptive period turns out to be
24 something other than 2000 to 2004, then another trial, nearly identical to Phase IV, will need to
25 be held to determine pumping during that period. There is good reason to think that the period of
26 2000 through 2004 cannot be the prescriptive period because the first of the landowner
27 complaints to preserve their rights was filed in 1999, thereupon tolling the running of a
28

1 prescriptive period. (*Diamond Farming Company's Complaint to Quiet Title*, filed October 29,
2 1999.)

3 The uncertainty regarding the purpose of the Phase IV trial of current pumping has been
4 further highlighted by the withdrawal of Cal-Golf, Inc. from participation in the Phase IV trial.
5 (Cal-Golf, Inc., *Withdrawal of Notice of Intent to Participate in Phase IV Trial*, filed March 13,
6 2013.) Cal-Golf previously indicated that it pumped 3,000 acre-feet per year between 2000 and
7 2003. (*Amended Response of Cal-Golf, Inc. to the Court's Discovery Order for Phase IV Trial*,
8 filed January 4, 2013.) This is a significant claim making Cal-Golf one of the larger individual
9 landowner claimants. What will be the effect of non-participation in Phase IV on Cal Golf's
10 claim?

11 AGWA respectfully requests that the Court clarify the purpose of including current
12 pumping within the scope of Phase IV at the scheduled Further Case Management Conference.

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15 Dated: March 21, 2013

BROWNSTEIN HYATT FARBER SCHRECK, LLP



16
17 By: _____

18 MICHAEL T. FIFE
19 BRADLEY J. HERREMA
20 ATTORNEYS FOR AGWA

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