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R. Lee Leininger
United States Department of Justice
Environment and Natural Resources Division
1961 Stout Street, Suite 800
Denver, CO 80294

Re: Antelope Valley Groundwater Cases
Supplemental Expert Witness Declaration

Dear Mr. Leininger:

We are in receipt of the Supplemental Expert Witness Declaration filed on behalf of the United States of America. The disclosure is not adequate.

The Expert Witness Declaration must include (a) "a brief narrative statement of the general substance of the testimony that the expert is expected to give." (Code Civ. Proc., § 2034.260(c)(2).) The purpose of the expert witness discovery statute is to give "fair notice of what an expert will say at trial." (*Bonds v. Roy* (1999) 20 Cal.4th 140, 146.) "This allows the parties to assess whether to take the expert's deposition, to fully explore the relevant subject area at any such deposition, and to select an expert who can respond with a competing opinion on the subject." (*Id.* at pp. 146-147.)

At paragraph 2 of your declaration you state: "Dr. Sun may provide rebuttal testimony to refute opinions of other experts on the use of hydrogeological modeling to establish the existence of subbasins in the Antelope Valley." Although the declaration discloses the subject matter, the declaration falls far short of disclosing "the general substance of the testimony that the expert is expected to give."

The purpose of this letter is to request that the United States submit a supplemental declaration in compliance with section 2034.260(c)(2). Absence such compliance, we will move to exclude Mr. Sun's opinion. (Code Civ. Proc., § 2034.300.)

Very truly yours,



Robert G. Kuhs

RGK/lel

cc: Counsel and Parties