

1 The Antelope Valley Groundwater Agreement Association (“AGWA”) hereby objects to
2 the Joint Stipulation of Facts for Trial Pursuant to Case Management Order for Phase IV Trial
3 (“Stipulation”) filed March 15, 2013 by and amongst the State of California, the City of Los
4 Angeles, by and through its Department of Airports, Los Angeles World Airports (“LAWA”), the
5 County Sanitation Districts of Los Angeles County Nos. 14 and 20 (“LA County Sanitation”) and
6 Antelope Valley-East Kern Water Agency (“AVEK”) (collectively, the “Public Parties”).

7 AGWA has not yet had the opportunity to depose any of the stipulating parties, and
8 specifically objects to the portions of the Stipulation identified below on the following grounds:

9 **I. State of California**

10 The California Department of Parks and Recreation (“Parks”) alleges that it “owns,
11 operates and/or controls” property within the Antelope Valley Adjudication Area. (Stipulation, ¶
12 19.) Based on the Stipulation and information submitted in response to the Court’s Phase IV
13 Discovery Order, it is unclear how much property Parks actually owns, versus how much it
14 operates or controls. Further explanation is needed as to the property actually owned by the
15 Department.

16 **II. LAWA**

17 The Stipulation states that LAWA “leases properties that it owns that overlie the
18 groundwater basin...,” (Stipulation, ¶ 64), but does not identify the lessees of such property, and
19 it cannot be determined whether the lessees are also claiming some rights. Although Exhibit C to
20 the Declaration of Vivian D. Howell submitted January 31, 2013 contains copies of lease
21 documents related to leased parcels, the Stipulation does not identify whether or not LAWA
22 retained the groundwater rights under all of these leases. The Stipulation also fails to identify
23 how much LAWA’s water use is groundwater, and how much is recycled water or surface water.

24 **III. LA County Sanitation**

25 Based on its information submitted in Phase IV, LA County Sanitation may claim
26 pumping acreage for an entire parcel, even where only a portion of the identified parcel was
27 actually farmed, as demonstrated in the Declaration of Ray Tremblay in Lieu of Deposition
28 Testimony for Phase IV, filed January 31, 2013 (“Tremblay Decl.”). For example, it appears

1 from the Stipulation and its reference to Mr. Tremblay's Declaration that where there is any
2 farming at all on a LA County Sanitation –owned parcel, LA County Sanitation may claim the
3 full acreage for the parcel and multiplies this full acreage by crop water duties, thus improperly
4 assuming higher water usage on the property than may have actually occurred due to farming.
5 (E.g., Exhibits B through J and Attachment 2 to Tremblay Decl.) Where Attachment 2 to the
6 Tremblay Decl. lists crops farmed, these are not correlated with the assessor's parcel numbers
7 provided in Exhibits A1 and A2, and the total acreage for each crop is not apportioned by parcel
8 numbers. AGWA cannot confirm whether or not LA County Sanitation claims the entire acreage
9 under production or only a portion of their acreage under production, thus necessitating that
10 AGWA take the deposition of LA County Sanitation witnesses.

11 AGWA further objects to the Stipulation based on the amount of return flows claimed by
12 LA County Sanitation, (see Response of LA County Sanitation to Discovery Order for Phase IV
13 Trial, pp. 5-6), as the percentage allocation of return flows applied by LA County Sanitation
14 appears unreasonably high and improperly assumes the return flow calculations contained in the
15 Summary Expert Report for Phase 3 Trial, Section IV and Appendix G, without any independent
16 verification these percentages are accurate. The Court did not make any factual findings related
17 to return flows in the Phase 3 trial. It is also unclear from LA County Sanitation's information
18 how it claims return flows from recycled water where LA County Sanitation is presently under
19 direction from the State Regional Water Quality Control Board, Lahontan Region, not to allow
20 recycled waters to return to the Basin, in accordance with Waste Discharge Requirements.
21 Further deposition testimony on this claimed percentage is necessary to clarify.

22 Finally, the Stipulation fails to state the source of water and how much groundwater is
23 actually used. LA County Sanitation claims "in-lieu" of pumping groundwater rights, without
24 providing any evidence that the surface water it is taking actually replaces the groundwater it is
25 pumping. (See Tremblay Decl., ¶¶ 41-42.) AGWA cannot verify that the surface water in lieu of
26 groundwater proportionately replaces groundwater that would be pumped otherwise with taking
27 the deposition of LA County Sanitation witnesses.

1 Dated: March 22, 2013

BROWNSTEIN HYATT FARBER SCHRECK, LLP

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3 By: _____

4 MICHAEL T. FIFE
5 BRADLEY J. HERREMA
6 ATTORNEYS FOR AGWA

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PROOF OF SERVICE

**STATE OF CALIFORNIA,
COUNTY OF SANTA BARBARA**

I am employed in the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action; my business address is: 21 E. Carrillo Street, Santa Barbara, California 93101.

On March 22, 2013, I served the foregoing document described as:

OBJECTION OF AGWA TO PUBLIC PARTIES' JOINT STIPULATION

on the interested parties in this action.

By posting it on the website by 5:00 p.m. on March 22, 2013.

This posting was reported as complete and without error.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed in Santa Barbara, California, on March 22, 2013.

**LINDA MINKY
TYPE OR PRINT NAME**


SIGNATURE