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 Government Code § 6103

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15 [See Next Page for Additional Counsel]

16
 17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 18 FOR THE COUNTY OF LOS ANGELES
 19

20 **ANTELOPE VALLEY GROUNDWATER**
 21 **CASES**

22 Included Actions:

23 Los Angeles County Waterworks District
 24 No. 40 v. Diamond Farming Co.
 25 Superior Court of California, County of
 26 Los Angeles, Case No. BC325201;

27 Los Angeles County Waterworks District
 28 No. 40 v. Diamond Farming Co.
 Superior Court of California, County of Kern,
 Case No. S-1500-CV-254-348

Wm. Bolthouse Farms, Inc. v. City of
 Lancaster, Diamond Farming Co. v. City of
 Lancaster, Diamond Farming Co. v. Palmdale
 Water Dist., Superior Court of California
 County of Riverside, consolidated actions; Case
 Nos. RIC 353 840, RIC 344 436, RIC 344 668.

Judicial Council Coordination
 Proceeding No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV 049053
 Assigned to The Honorable Jack Komar

**NOTICE OF MOTION AND MOTION
 TO STAY PROCEEDINGS FOR SIX
 MONTHS, OR, IN THE ALTERNATIVE,
 CONTINUE TRIAL SETTING
 CONFERENCE; DECLARATION OF
 JAMES R. WILLIAMS**

DATE: August 17, 2009
TIME: 9:00 a.m.
DEPT: Los Angeles Sup. Ct., Dept. 1

[Additional counsel - as follows]

Michael Duane Davis, SBN 93678
 Marlene Allen-Hammarlund, SBN 126418
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Attorneys for Antelope Valley Groundwater Agreement Association ("AGWA")

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15 Telephone: (909) 983-9393
16 Fax: (909) 391-6762
17 *Attorneys for A.V. United Mutual Group*

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TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that on August 17, 2009, at 9:00 a.m. in Department 1 of the Los Angeles Superior Court, located at 111 N. Hill Street, California 90012, the moving parties will move for an Order staying all proceedings for six months, or in the alternative, continuing the currently scheduled trial setting conference now set for August 17, 2009 to February, 2010. This Motion is brought by the following parties: City of Lancaster; Palmdale Water District; Service Rock Products Corporation, as Successor-in-interest to Owl Properties, Inc.; Sheep Creek Water Company, Inc.; Gertrude J. Van Dam and Delmar D. Van Dam and Craig Van Dam and Gary Van Dam; Antelope Valley Water Storage, LLC (Specially Appearing); Antelope Valley-East Kern Water Agency; Diamond Farming Company, a California corporation, Crystal Organic Farms, a limited liability company, Grimmway Enterprises, Inc., and Lapis Land Company, LLC; Antelope Valley Groundwater Agreement Association ("AGWA"); U.S. Borax Inc.; and A.V. United Mutual Group.

This Motion is made on the grounds that a significant number of the "principals" of the parties have made recent and significant progress in agreeing upon basic settlement deal points which will form the framework of a proposed stipulated judgment/physical solution. The principals therefore request the court stay what is becoming an increasingly costly legal proceeding so as to afford the principals an opportunity to negotiate a proposed physical solution to be implemented by the Court. This Motion is brought pursuant to the inherent powers of this Court to stay proceedings in the interests of justice, or in the alternative, pursuant to California Rules of Court, rule 3.1332.

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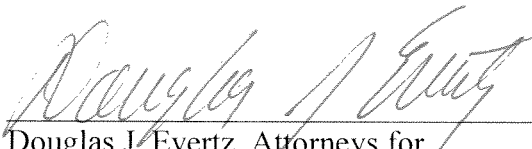
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This Motion is based upon this Notice of Motion, the accompanying Memorandum of Points and Authorities, the Declaration of James R. Williams, and upon such further evidence or argument as may be presented to the Court.

DATED: July 17, 2009

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

By: 
Douglas J. Evertz, Attorneys for
City of Lancaster

LAGERLOF SENEAL GOSNEY & KRUSE

By: /s/ Thomas Bunn III*
Thomas Bunn III, Attorneys for
Palmdale Water District

GRESHAM SAVAGE NOLAN & TILDEN, APC

By: /s/ Michael Duane Davis*
Michael Duane Davis, Attorneys for
Service Rock Products Corporation, as Successor-in-
interest to Owl Properties, Inc. and Sheep Creek Water
Company, Inc

THE LAW OFFICES OF YOUNG WOOLDRIDGE, LLP

By: /s/ Scott K. Kuney*
Scott K. Kuney, Attorneys for
Gertrude J. Van Dam and Delmar D. Van Dam and Craig
Van Dam and Gary Van Dam; Antelope Valley Water
Storage, LLC (Specially Appearing)

**Signatures to the Notice of Motion are attached following the signatures to the Memorandum of Points and Authorities*

BRUNICK, McELHANEY & BECKETT

By: /s/ William J. Brunick*
William J. Brunick, Attorneys for
Antelope Valley-East Kern Water Agency

LAW OFFICES OF LEBEAU THELEN, LLP

By: /s/ Bob H. Joyce*
Bob H. Joyce, Attorneys for
Diamond Farming Company, a California corporation,
Crystal Organic Farms, a limited liability company,
Grimmway Enterprises, Inc., and Lapis Land Company,
LLC

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Michael T. Fife*
Michael T. Fife, Attorneys for
Antelope Valley Groundwater Agreement Association
("AGWA")

MORRISON & FOERSTER, LLP

By: /s/ William M. Sloan*
William M. Sloan, Attorneys for
U.S. Borax Inc.

COVINGTON & CROWE, LLP

By: /s/ Robert M. Dougherty*
Robert M. Dougherty, Attorneys for
A.V. United Mutual Group

**Signatures to the Notice of Motion are attached following the signatures to the Memorandum of Points and Authorities*

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

This Motion is brought by the City of Lancaster; Palmdale Water District; Service Rock Products Corporation, as Successor-in-interest to Owl Properties, Inc. and Sheep Creek Water Company, Inc.; Gertrude J. Van Dam and Delmar D. Van Dam and Craig Van Dam and Gary Van Dam; Antelope Valley Water Storage, LLC (Specially Appearing); Antelope Valley-East Kern Water Agency; Diamond Farming Company, a California corporation, Crystal Organic Farms, a limited liability company, Grimmway Enterprises, Inc., and Lapis Land Company, LLC; Antelope Valley Groundwater Agreement Association ("AGWA"), U.S. Borax Inc.; and A.V. United Mutual Group ("Moving Parties"). The Moving Parties and other "principals" have made significant progress towards reaching agreement on basic deal points and the structure of a negotiated physical solution. This progress has been made through what have been labeled as the "principal only" meetings, whereby the principals/primary client contacts of each party have been meeting on a regular basis to negotiate a workable resolution of the water supply challenges facing the Antelope Valley.

The Moving Parties and their principals are, for the first time, optimistic a settlement may be reached. Dampening this optimism, however, is what was recently noted in "Defendants' Motion to Dismiss Public Water Suppliers' Cross-Complaint": "These proceedings are devolving into a free-for-all that is already visiting substantial prejudice on many of the parties."

With the growing size, complexity and, most importantly, enormous legal fees associated with this lawsuit, the Moving Parties now request the Court stay all proceedings for six months so as to afford the Principals an opportunity to craft a physical solution for ultimate presentation to the Court. Alternatively, and at a minimum, the Moving Parties request a continuance of the now scheduled August 17, 2009 Trial Setting Conference to February, 2010.

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II. HISTORY AND CURRENT STATUS OF PRINCIPAL ONLY NEGOTIATIONS.

The Moving Parties are cognizant that a number of parties have not stipulated to this Court acting in the capacity as a settlement judge. Accordingly, this Motion will not address the position of any party *vis-à-vis* settlement deal points.

Beginning January 2009, many of the “principals” (i.e., non-attorney stakeholders), began meeting on a regular basis to discuss possible avenues of settlement. (Declaration of James R. Williams “Williams Dec.”, ¶ 1.) Deal points then and now under discussion include, but are not limited to, (1) the total sustainable yield of the Basin, (2) the nature and extent of a monitoring plan, (3) whether there needs to be a ramp down of free production allowance and if so the nature and extent of a ramp down, (4) whether water rights should be quantified, (5) replacement water and other assessments, (6) calculation and ownership of return flows, (7) the manner in which to address claimed rights of dormant overlyers, (8) who/what should be the Watermaster, (9) the powers and duties of the Watermaster, (10) whether water “rights” may be transferred and, if so, where, (11) creation of management zones, (12) the manner in which to address the federal reserve rights associated with Edwards Air Force Base, and (13) groundwater banking provisions. All Principals participating in the process currently agree any settlement must be implemented by way of a court imposed Stipulated Judgment. (Williams Decl., ¶ 1.)

On January 5, 2009 many of the principals, without the presence of counsel, met for the purpose of initiating discussion to formulate a consensus settlement position. Since that time, the principals have met ten times. Approximately 26 principals have attended each meeting. The group initially outlined approximately 28 issues to be resolved and that list has grown to 32. (Williams Dec., ¶ 2.)

Going forward, as the group reaches consensus on each issue, the principals agreed to form small subcommittees to draft in layman’s terms what had been agreed upon by the parties. It is contemplated the draft documents will then be returned to the full assembly of principals for concurrence that the respective subcommittees captured the full essence and intent of the consensus position. (Williams Dec., ¶ 3.) When consensus has been reached on a sufficient number of issues, the principals will then select and direct appropriate attorneys to draft a physical

solution/stipulated judgment. The principals will then review the proposed stipulated judgment to assure it accurately reflects the understanding of the principals and, upon such confirmation, the principals will authorize their attorneys to present it to the court. (Williams Dec., ¶ 3.)

At a principals meeting held on June 3, 2009, it was decided that because agreement in concept had been reached on many of the outstanding core deal points, a six month stay of all litigation should be requested so as to afford the principals an opportunity to craft a settlement. At this meeting it was decided counsel for the City of Lancaster would be directed to prepare this motion for subsequent review and consideration by the principals attending the meeting. (Williams Decl., ¶ 4.) Another meeting of the principals was held on June 17, 2009 at which time a draft of this motion was presented. The Moving Parties and others formally supported the requested stay and the filing of this motion. (Williams Dec., ¶ 5.)

The requested stay is not brought for the purpose of delay or to advance the agenda of any group or party. Rather, the parties are cautiously optimistic a deal may be reached. The principals intend to meet every other week until their task has been completed. The Moving Parties would like to pursue this effort without incurring ever mounting legal fees necessitated by the current procedural posture and size of the case. (Williams Decl., ¶ 6.)

III. THIS COURT HAS AUTHORITY TO STAY THE LITIGATION.

Trial courts generally have the inherent power to stay proceedings in the interests of justice or to promote judicial efficiency. (*Freiberg v. City of Mission Viejo*, 33 Cal.App.4th 1484, 1489 (1995).) “Trial courts have the inherent power to stay trials . . .” (*Koch-Ash v. Superior Court*, 180 Cal.App.3d 689, 696 (1986).)

Other trial courts have imposed similar stays to afford litigants in water rights adjudications the opportunity to craft negotiated physical solutions. For example, in the early 1990s, the Mojave Water Agency served over 1,000 persons with a cross-complaint that joined substantially all water producers within the Mojave Water Basin. The cross-complaint requested a declaration the available native water supply was inadequate to meeting producer demands within the Mojave River Basin and asked the court to apportion water rights among the various water producers. The trial court stayed the litigation while a committee, composed of attorneys and engineers representing numerous water

producers throughout the Mojave Water Basin, met to negotiate settlement terms and to develop a physical solution to the water shortage problem. After negotiating for two years, the committee submitted a draft physical solution to the trial court. (*City of Barstow v. Mojave Water Agency, et al.*, 23 Cal.4th 1224, 1235 (2000).)

This is precisely the nature of the relief requested by the Moving Parties -- stay the litigation to allow an already formed group to negotiate and craft a physical solution. As part of this process, the Moving Parties will, if the Court so desires, present reports to the Court on the status of this effort. At any time should the Court conclude that appropriate progress towards developing a physical solution is not being made, the stay may be lifted.

IV. ALTERNATIVELY, IF THE COURT IS NOT INCLINED TO STAY ALL PROCEEDINGS, THE COURT SHOULD CONTINUE THE AUGUST 17, 2009 TRIAL SETTING CONFERENCE AT LEAST SIX MONTHS.

California Rules of Court, rule 3.1332 provides the court may continue any trial upon noticed motion upon a showing of good cause and that the factors to be considered by the court include whether "the interests of justice are best served by a continuance." (Cal. Rules Ct., rule 3.1332(d)(10).)

This Court previously indicated the next phase of trial will address, at a minimum, the substantive issues of safe yield and overdraft. Written discovery, expert depositions, trial preparation and ultimately trial on these issues will necessarily be expensive and time consuming. Some private entities and persons may well be unable to afford to participate in this process. Moreover, public entities, who are spending taxpayer funds in connection with this litigation, are all straining under reduced revenue and budgets.

The Moving Parties are committed to resolving the complex issues impacting the water supply of the Basin and are prepared to proceed through subsequent trial phases of the adjudication if necessary. Before proceeding with the next costly phase of trial, however, it is respectfully requested the next phase of trial be postponed so as to afford the parties an opportunity to negotiate a workable and an equitable physical solution.

1 **V. CONCLUSION.**

2 For all the foregoing reasons and authorities, the Moving Parties respectfully requests that
3 the Court stay these proceedings while the parties attempt to negotiate a physical solution to address
4 critical water supply issues impacting the Antelope Valley.

6 DATED: July 17, 2009

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

8 By: 

Douglas J. Evertz, Attorneys for
CITY OF LANCASTER

11 DATED: July __, 2009

LAGERLOF SENEAL GOSNEY & KRUSE

13 By: _____

Thomas Bunn III, Attorneys for
Palmdale Water District

16 DATED: July 13, 2009

GRESHAM SAVAGE NOLAN & TILDEN, APC

18 By: 

Michael Duane Davis, Attorneys for
Service Rock Products Corporation, as Successor-in-
interest to Owl Properties, Inc., and Sheep Creek Water
Company, Inc

21 DATED: July 14, 2009

THE LAW OFFICES OF YOUNG WOOLDRIDGE, LLP

23 By: 

Scott K. Kuney, Attorneys for
Gertrude J. Van Dam and Delmar D. Van Dam and Craig,
Van Dam and Gary Van Dam; Antelope Valley Water
Storage, LLC (Specially Appearing)

27 *(Additional signatures on following page)*

V. CONCLUSION.

For all the foregoing reasons and authorities, the Moving Parties respectfully requests that the Court stay these proceedings while the parties attempt to negotiate a physical solution to address critical water supply issues impacting the Antelope Valley.

DATED: July ____, 2009

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

By: _____

Douglas J. Evertz, Attorneys for
CITY OF LANCASTER

DATED: July 16, 2009

LAGERLOF SENEAL GOSNEY & KRUSE

By: _____

Thomas L. Bunn III
Thomas Bunn III, Attorneys for
Palmdale Water District

DATED: July ____, 2009

GRESHAM SAVAGE NOLAN & TILDEN, APC

By: _____

Michael Duane Davis, Attorneys for
Service Rock Products Corporation, as Successor-in-
interest to Owl Properties, Inc. and Sheep Creek Water
Company, Inc

DATED: July ____, 2009

THE LAW OFFICES OF YOUNG WOOLDRIDGE, LLP

By: _____

Scott K. Kuney, Attorneys for
Gertrude J. Van Dam and Delmar D. Van Dam and Craig
Van Dam and Gary Van Dam; Antelope Valley Water
Storage, LLC (Specially Appearing)

(Additional signatures on following page)

1 DATED: July 14, 2009

BRUNICK, McELHANEY & BECKETT

2
3 By: B

William J. Brunick, Attorneys for
Antelope Valley-East Kern Water Agency

4
5 DATED: July 14, 2009

LAW OFFICES OF LEBEAU THELEN, LLP

6
7
8 By: [Signature]

Bob H. Joyce, Attorneys for
Diamond Farming Company, a California corporation,
Crystal Organic Farms, a limited liability company,
Grimmway Enterprises, Inc., and Lapis Land Company,
LLC

9
10 DATED: July ____, 2009

BROWNSTEIN HYATT FARBER SCHRECK, LLP

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14 By: _____

Michael T. Fife, Attorneys for
Antelope Valley Groundwater Agreement Association
("AGWA")

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18 *(Additional signatures on following page)*

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DATED: July ____, 2009

BRUNICK, McELHANEY & BECKETT

By: _____
William J. Brunick, Attorneys for
Antelope Valley-East Kern Water Agency


DATED: July ____, 2009

LAW OFFICES OF LEBEAU THELEN, LLP

By: _____
Bob H. Joyce, Attorneys for
Diamond Farming Company, a California corporation,
Crystal Organic Farms, a limited liability company,
Grimmway Enterprises, Inc., and Lapis Land Company,
LLC

DATED: July 15, 2009

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By:  _____
Michael T. Fife, Attorneys for
Antelope Valley Groundwater Agreement Association
("AGWA")

(Additional signatures on following page)

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DATED: July 15, 2009

MORRISON & FOERSTER, LLP

By: William M. Sloan
William M. Sloan, Attorneys for
U.S. Borax Inc.

DATED: July ____, 2009

COVINGTON & CROWE, LLP

By: _____
Robert M. Dougherty, Attorneys for
A.V. United Mutual Group

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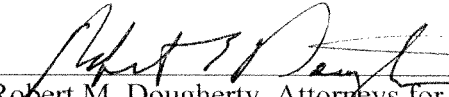
DATED: July ____, 2009

MORRISON & FOERSTER, LLP

By: _____
William M. Sloan, Attorneys for
U.S. Borax Inc.

DATED: July 16, 2009

COVINGTON & CROWE, LLP

By:  _____
Robert M. Dougherty, Attorneys for
A.V. United Mutual Group

DECLARATION OF JAMES R. WILLIAMS

I, James R. Williams, declare as follows:

I am the Director of Public Works of the City of Lancaster. This declaration is made in support of the motion to stay brought by the City of Lancaster and other parties. I have personal knowledge of the facts set forth below, and if called as a witness, I could and would testify to the following:

1. Beginning January 2009, many of the “principals” (*i.e.*, non-attorney stakeholders), began meeting on a regular basis to discuss possible avenues of settlement. Deal points then and now under discussion include, but are not limited to, (1) the total sustainable yield of the Basin, (2) the nature and extent of a monitoring plan, (3) whether there needs to be a ramp down of free production allowance and if so the nature and extent of a ramp down, (4) whether water rights should be quantified, (5) replacement water and other assessments, (6) calculation and ownership of return flows, (7) the manner in which to address claimed rights of dormant overlyers, (8) who/what should be the Watermaster, (9) the powers and duties of the Watermaster, (10) whether water “rights” may be transferred and, if so, where, (11) creation of management zones, (12) the manner in which to address the federal reserve rights associated with Edwards Air Force Base, and (13) groundwater banking provisions. All Principals participating in the process currently agree any settlement must be implemented by way of a court imposed Stipulated Judgment.

2. On January 5, 2009 many of the principals met for the purpose of initiating discussion to formulate a consensus settlement position. Since that time, the principals have met ten times. Approximately 26 principals have attended each meeting. The group initially outlined approximately 28 issues to be resolved and that list has grown to 32.

3. Going forward, as the group reaches consensus on each issue, the principals agreed to form small subcommittees to draft in layman’s terms what had been agreed upon by the parties. It is contemplated the draft documents next will be returned to the full assembly of principals for concurrence that the respective subcommittees captured the full essence and intent of the consensus position. If consensus is reached on a sufficient number of issues, the principals will select and direct appropriate attorneys to draft a physical solution/stipulated judgment. The principals

will then review the proposed stipulated judgment to assure it accurately reflects the understanding of the principals and, upon such confirmation, the principals will authorize their attorneys to present it to the court.

4. At a principals meeting held on June 3, 2009, it was decided that because an agreement in concept had been reached on many of the outstanding core deal points, a six month stay of all litigation should be requested so as to afford the principals an opportunity to craft a settlement. At this meeting it was decided I would direct Lancaster's attorney to prepare this motion for subsequent review and consideration by the principals attending the meeting.

5. Another meeting of the principals was held on June 17, 2009 at which time a draft of this motion was presented. The Moving Parties and others formally supported the requested stay and the filing of this motion.

6. The requested stay is not brought for the purpose of delay or to advance the agenda of any group or party. The parties are cautiously optimistic a deal may be reached. The principals intend to meet every other week until their task has been completed. We would like to pursue this effort without incurring ever mounting legal fees necessitated by the current procedural posture and size of the case.

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

Executed this 17th day of July, 2009, at Lancaster, California.


JAMES R. WILLIAMS

PROOF OF SERVICE

ANTELOPE VALLEY GROUNDWATER CASES

Judicial Council Coordination, Proceeding No. 4408

Santa Clara Case No. 1-05-CV 049053

Assigned to the Honorable Jack Komar

Los Angeles County Superior Court, Central, Dept. 1

I am a resident of the State of California, over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 2050 Main Street, Suite 600, Irvine, California 92614. On July 17, 2009, I served the within document(s):

**NOTICE OF MOTION AND MOTION TO STAY PROCEEDINGS FOR SIX MONTHS,
OR, IN THE ALTERNATIVE, CONTINUE TRIAL SETTING CONFERENCE;
DECLARATION OF JAMES R. WILLIAMS**

☒ by posting the document(s) listed above to the website <http://www.scefiling.org>, a dedicated link to the Antelope Valley Groundwater Cases; Santa Clara Case No. 1-05-CV 049053, Assigned to the Honorable Jack Komar, said document(s) is electronically served/distributed therewith.

☐ By transmitting via e-mail the document(s) listed above to the e-mail address(es) and/or fax number(s) set forth below on this date.

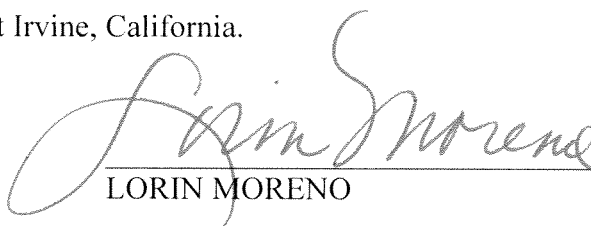
☐ by placing the document(s) listed above in a sealed Overnight Express envelope/package for overnight delivery at Irvine, California addressed as set forth below.

☐ by causing personal delivery by Nationwide Legal of the document(s) listed above, to the person(s) at the address(es) set forth below.

I am readily familiar with Luce, Forward, Hamilton & Scripps LLP's practice for collecting and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on July 17, 2009, at Irvine, California.


LORIN MORENO