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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES**

Coordination Proceeding Special Title (Rule 1550 (b)),  <b>ANTELOPE VALLEY GROUNDWATER CASES</b>	Judicial Council Coordination Proceeding No. 4408 [Assigned to the Honorable Jack Komar, Judge Santa Clara County Superior Court, Dept. 17] Santa Clara Court Case No. 1-05-CV-049053 <b>UNITED STATES' PROPOSAL FOR PHASE V (PRESCRIPTION) TRIAL</b>
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Cross-Defendant United States of America ("United States") respectfully submits  
this proposal in response to the Court's July 17, 2013, Minute Entry, requesting

Phase 5 (Prescription) Trial proposals to be submitted by noon on Monday, July  
22, 2013 . . . , including the issue of jury vs. non-jury.

1 The United States agrees with the Court's indications that prescription, including resolution of  
2 the issue of ownership of return-flows from imported water, should be the focus of the next  
3 phase of trial.<sup>1</sup>

4 As the United States has maintained throughout this adjudication, the final decree must  
5 satisfy the McCarran Amendment, 43 U.S.C. § 666, and result in a comprehensive determination  
6 of all rights to water. To that end, Phase V trial should be sufficiently comprehensive to include  
7 all parties potentially affected by claims of prescription. A complete adjudication of all  
8 prescriptive claims and defenses to prescription has many advantages. One, a trial resolving the  
9 issue of prescriptive rights may curtail or potentially even eliminate many claims to pump water  
10 from the Antelope Valley Groundwater Basin. Two, a trial resolving both all prescriptive rights  
11 and rights to return-flows from imported water, while potentially lengthy and burdensome,  
12 would encourage settlement and increase chances of a stipulated Judgment among parties.  
13 Three, in the event parties do not settle, a comprehensive decision on prescription will remove a  
14 significant hurdle in a final determination of all parties' water rights.

15 As a governmental entity immune from prescription, the United States does not take a  
16 position on a schedule for Phase V trial - recognizing that discovery may be lengthy and time-  
17 consuming. Nor does the United States take a position on whether prescription should be tried  
18 before a jury. However, the United States does support a phase of trial inclusive of all  
19 prescriptive claims and all defenses to prescription to speed the process of an eventual  
20 comprehensive water rights decree.

21 RESPECTFULLY SUBMITTED this 22nd day of July 2013.

22  
23 /s/ R. Lee Leininger  
24 R. LEE LEININGER  
25 JAMES J. DuBOIS  
26 ATTORNEYS FOR THE UNITED  
27 STATES OF AMERICA

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28 <sup>1</sup> Ownership of return flows may have bearing on parties' right of prescription and the quantity of  
water prescribed.

1 **PROOF OF SERVICE**

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3 I, Amber R Petrie, declare:

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5 I am a resident of the State of Colorado and over the age of 18 years, and not a party to the

6 within action. My business address is U.S. Department of Justice, Environment and Natural

7 Resources Section, 999 18th Street, South Terrace - Suite 370, Denver, Colorado 80202.

8 On July 22, 2013, I caused the foregoing document(s) described as: **UNITED STATES'**

9 **PROPOSAL FOR PHASE V (PRESCRIPTION) TRIAL** be served on the parties via the

10 following service:

11 ☒

12 BY ELECTRONIC SERVICE AS FOLLOWS by posting the document(s) listed

13 above to the Santa Clara website in regard to the Antelope Valley Groundwater

14 matter.

15 ☐

16 BY MAIL AS FOLLOWS (to parties so indicated on attached service list): By

17 placing true copies thereof enclosed in sealed envelopes addressed as indicated on

18 the attached service list.

19 ☐

20 BY OVERNIGHT COURIER: I caused the above-referenced document(s)

21 be delivered to FEDERAL EXPRESS for delivery to the above address(es).

22 Executed on July 22, 2013 at Denver, Colorado.

23 /s/ Amber R. Petrie

24 Amber R. Petrie

25 Legal Assistant

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