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January 29, 2013

VIA E-MAIL

Arizona Department of Environmental Quality
Attn: Henry Darwin, Director
1110 West Washington Street
Phoenix, AZ 85007
HRD@azdeq.gov

Re: Comments on Roosevelt Irrigation District's Modified Early Response
Action Work Plan (October 22, 2012)

Dear Director Darwin:

The following comments related to the Roosevelt Irrigation District's ("RID's") October 22, 2012 Modified Early Response Action ("MERA") Work Plan are submitted on behalf of BNSF Railway Company, BP West Coast Products, Kinder Morgan Energy Partners and Nucor Corporation (collectively, "Stakeholders").

To the extent that ADEQ decides to approve RID's MERA Work Plan, Stakeholders request that ADEQ specify that such approval is based solely on the requirements of A.A.C. R18-16-405. RID's MERA Work Plan includes numerous assertions related to compliance with other State and federal laws, as well as potential ancillary benefits beyond the legal requirements of A.A.C. R18-16-405, which are unsupported and unnecessary to ADEQ's evaluation of the work plan under A.A.C. R18-16-405. In fact, RID acknowledges that its work plan contains such assertions of alleged ancillary benefits and acknowledges that they are not intended to form the basis of any approval that may be forthcoming from ADEQ. *See* MERA Work Plan, p.1. Examples of RID's superfluous assertions about the MERA include, but are not limited to:

- The work plan is consistent with the goals of the National Contingency Plan,
- It is deemed legally "necessary" under A.A.C. R18-16-405.I.,
- It is consistent with A.R.S. § 49-282.06,
- It is cost-effective,
- It addresses VOCs migrating into the WVBA from West Central Phoenix,

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VIA E-MAIL

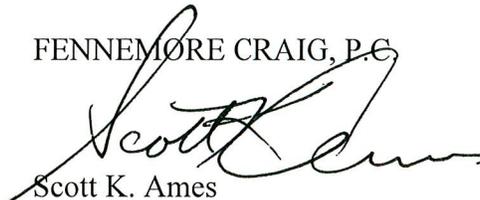
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- It will reduce the scope and cost of any remedy at the West Osborn Complex, and
- It will reduce the scope and cost of any final remedy in the WVBA.

Stakeholders are aware of no completed groundwater model or any other technical information that support RID's superfluous assertions. As a result, Stakeholders request that ADEQ limit the basis of its approval of the MERA Work Plan, if it is to be approved at all, to those required under A.A.C. R18-16-405.

Sincerely,

FENNEMORE CRAIG, P.C.

A handwritten signature in black ink, appearing to read "Scott K. Ames", is written over the typed name. The signature is fluid and cursive.

Scott K. Ames

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