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 7
 8 IN THE UNITED STATES DISTRICT COURT
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,)	CASE NO. 2:07-cv-02172-FCD-EFB
12 Plaintiff,)	
13 v.)	STIPULATION FOR FINAL
14 12.94 ACRES OF LAND IN THE)	JUDGMENT IN EMINENT DOMAIN;
15 COUNTY OF SOLANO; et al.,)	ORDER THEREON
16 Defendants.)	

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 19 Plaintiff the United States of America ("Plaintiff") and Defendants the Maher Trust, Ted
 20 Aksnes, and Solano Green Acres ("SGA"), collectively referred to as Defendants (collectively
 21 with plaintiff, "the parties"), submit the following stipulation to the Court for its approval and
 22 for entry of judgment:

23 1. This condemnation action concerns acquisition of 12.94 acres of land in the
 24 County of Solano. The subject property and the estate and interests taken by this action are
 25 both described in Schedule B of the Declaration of Taking filed October 12, 2007 (Court
 26 Docket ("CD") # 2). The United States filed a Complaint in Condemnation for the 12.94 acres
 27 and deposited estimated just compensation of \$261,000 with the district court (CD #1). On
 28 December 11, 2007, the United States was granted immediate possession and title to the 12.94

1 acres (CD #15). Most Defendants disclaimed interest in the property. (CD #40, 48, 49, 50, 57,
2 58, 59, 85). The only remaining Defendants, the Maher Trust, Ted Aksnes and SGA answered,
3 but did not assert any affirmative defenses or demand a jury. (CD #42, 63). On July 31, 2009,
4 the parties exchanged expert disclosures in compliance with Court orders and Federal Rules.
5 (CD #68-83). The United States disclosed engineer Kelly Birkes and appraiser Steve Roach,
6 who determined just compensation was \$295,000. (CD #68.2). On October 13, 2009, the
7 United States moved for summary judgment (CD #86). On December 9, 2009, the District
8 court granted the United States' motion and entered judgment for Defendants collectively for
9 \$295,000.00 (CD #104). The additional \$34,000.00 was deposited with the Court on February
10 1, 2010. (See Docket and receipt # CAE 200023407). On January 25, 2010, Defendants filed a
11 notice of appeal. (CD #107). This matter has been fully briefed in the Ninth Circuit and oral
12 argument is scheduled for April 12, 2011.

13 2. The parties hereby agree to settle and compromise each and every claim of any
14 kind, whether known or unknown, arising directly or indirectly from the acts or omissions that
15 gave rise to the above-captioned action under the terms and conditions set forth in this
16 Stipulation.

17 3. The parties request that the Clerk of the Court issue a check for \$295,000.00
18 made payable to "The Bill C. and Betty L. Maher Family Trust of 1988" and mailed to:

19 Dennis M. Viglione
20 MONTAGUE & VIGLIONE
21 1500 River Park Drive, Suite 100
Sacramento, CA 95815

22 Defendants agree to accept the \$295,000.00 as full, adequate and just compensation for the
23 taking of the estate and interests condemned and shall be in full satisfaction of any and all
24 claims of whatsoever nature against the United States of America by reason of the institution
25 and prosecution of this action.

26 4. Defendants' undersigned attorney represents that he has explained, and
27 Defendants warrant and represent that they intend, that this Stipulation shall release all existing
28 and future claims arising directly or indirectly from the acts or omissions that gave rise to the

1 above-captioned action, including claims that are unknown and unforeseen, notwithstanding
2 Section 1542 of the Civil Code of the State of California, which provides as follows:

3 A general release does not extend to claims which the creditor does not know or
4 suspect to exist in his favor at the time of executing [this] Release, which if
known by him must have materially affected his settlement with the debtor.

5 5. The parties agree that they will each bear their own costs, fees, and expenses in
6 the district court case and appeal.

7 6. Payment of the settlement amount will be from the monies already deposited into
8 the court. Defendants' attorney agrees to distribute the settlement proceeds.

9 7. The parties and their undersigned attorneys agree to execute and deliver such
10 other and further documents as may be required to carry out the terms of this Agreement,
11 including a notice of settlement with the Ninth Circuit.

12 8. Each person signing this Stipulation warrants and represents that he or she
13 possesses full authority to bind the person[s] on whose behalf he or she is signing to the terms
14 of the Stipulation.

15 9. Each person signing this Stipulation warrants and represents that no promises,
16 inducements, or other agreements not expressly contained herein have been made; that this
17 Stipulation contains the entire agreement between the parties; and that the terms of this
18 Stipulation are contractual and not mere recitals. This Stipulation may not be altered, amended,
19 modified, or otherwise changed in any respect, except by a writing duly executed by the party
20 to be charged. All prior oral understandings, agreements, and writings are superseded by this
21 Stipulation and are of no force or effect.

22 10. Each person executing this Stipulation represents that he or she has read and
23 understands its contents; that he or she executes this Stipulation voluntarily; that he or she has
24 not been influenced by any person acting on behalf of any party.

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1 11. Notwithstanding the entry of a judgment herein, the parties hereby stipulate that
2 the Honorable Frank C. Damrell, Jr., District Judge, shall retain jurisdiction to enforce the terms
3 of this compromise settlement.
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5 Respectfully submitted,

6 DATED: March 24, 2011

BENJAMIN B. WAGNER
United States Attorney

8 By: /s/ Kelli L. Taylor
9 KELLI L. TAYLOR
Assistant United States Attorney
Attorneys for the United States of America

11 DATED: March 24, 2011

MONTAGUE & VIGLIONE

13 By: /s/ Dennis M. Viglione
14 DENNIS M. VIGLIONE
Attorneys for Defendants

16 DATED: March 23, 2011

/s/ Bill C. Maher
BILL C. MAHER, Individually and as Trustee of
The Bill C. and Betty L. Maher Trust of 1988

19 DATED: March 23, 2011

/s/ Betty L. Maher
BETTY L. MAHER, Individually and as Trustee of
The Bill C. and Betty L. Maher Trust of 1988


22 DATED: March 24, 2011

/s/ Ted Aksnes
TED AKSNES, Individually and on behalf of
SOLANO GREEN ACRES, LLC

24 **ORDER**

25 IT IS SO ORDERED.

27 Date: March 25, 2011

28 
FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE