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5 Attorneys for Palmdale Water District
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

10
11 Coordination Proceeding
Special Title (Rule 1550 (b))

Judicial Council Coordination
Proceeding No. 4408

12 **ANTELOPE VALLEY GROUNDWATER**
13 **CASES**

[Assigned to The Honorable Jack Komar, Judge
Santa Clara County Superior Court, Dept. 17]

Santa Clara Court Case No. 1-05-CV-049053

**PUBLIC WATER SUPPLIERS' RESPONSE
TO SERVICE ROCK'S CASE
MANAGEMENT CONFERENCE
STATEMENT; DECLARATION OF MARK
J. WILDERMUTH; DECLARATION OF
THOMAS S. BUNN III**

Date: March 22, 2010

Time: 9:00 A.M.

Dept.: 1

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23 To the Honorable Jack Komar, and to all parties of record:

24 It is usually not appropriate to file a response to a case management conference statement.
25 However, the Public Water Suppliers feel it is necessary in this case, in order to correct several factual
26 misstatements that were asserted, without any evidentiary support, in the case management conference
27 statement of Service Rock Products Corporation, Sheep Creek Water Company, Inc., and A.V. United
28 Mutual Group. Those misstatements, and the responses thereto, are listed below.

1 **Statement** - It is undisputed that the class members have not been given notice that the cases
2 have been consolidated. (page 4, line 15)

3 **Response** - The class notices both contained the following statement: “The [class action] case
4 has been combined with other cases to determine all the groundwater rights in the Basin.” (See
5 Plaintiff Willis' Revised Order Governing Class Notice, Exhibit A, page 1 (filed 12/16/08); Notice Of
6 Posting Final Version Of Class Notice For Small Pumper Class The Public Water Suppliers, Exhibit 1,
7 page 1 (filed 6/17/09)). The Public Water Suppliers believe this statement adequately informs the
8 classes of the nature of the claims being made in the coordinated—and now consolidated—cases.

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10 **Statement** - The court and the parties seem to have ignored the rules of civil procedure. (page
11 4, line 24)

12 **Response** – There is no specificity or support for this statement, so it is difficult to respond to.
13 However, the Public Water Suppliers believe that the court has acted in accordance with the Code of
14 Civil Procedure throughout this litigation, especially in view of the powers and duties of the
15 coordination trial judge under Rule 3.541, Cal. Rules of Court.

16
17 **Statement** - No one can name the parties and claims. (page 4, line 25, and page 5, line 25)

18 **Response** – At the direction of the court, the Public Water Suppliers filed a Supplemental
19 Memorandum of Points and Authorities in Support of Motion to Transfer and to Consolidate for All
20 Purposes (filed 9/8/09), which contained a matrix of all the complaints and cross complaints (Exhibit
21 A), a summary of all the causes of action (Exhibit B), a list of all the parties and a diagram showing the
22 alignment of the parties (Exhibit C). As the court has made clear, the consolidation order did not
23 change the nature of the claims being asserted by the parties.

24
25 **Statement** - Newly appearing parties will be able to nullify the process to date. (page 5, line
26 18)

27 **Response** - The court has repeatedly stated, most recently in the consolidation order (filed
28 2/19/10, page 7, lines 4-8), that new parties are free to re-litigate issues determined to date, as to the

1 effect of those determinations on those new parties. Although the court has the power to change any
2 interim rulings made in these cases if new evidence is presented, in the meantime its determinations
3 continue to be binding on the parties that were in the case at the time those determinations were made.
4 There is no basis in the Code of Civil Procedure or otherwise for new parties to “nullify” existing
5 determinations.

6
7 **Statement** - No discovery has been conducted on historical pumping. (page 6, line 16)

8 **Response** - Not only has the court permitted such discovery, it has actually been conducted.
9 The overlying landowners and mutual water companies propounded uniform discovery requests on
10 April 21, 2009, requesting, among other things, “the historical quantity of groundwater you have
11 pumped each year from the BASIN over the RELEVANT PERIOD.” In response, the Public Water
12 Suppliers produced their historical pumping records. (See Declaration of Thomas S. Bunn III.)

13
14 **Statement** - There has been no monitoring of the basin in order to determine safe yield. (page
15 7, line 5)

16 **Response** – The basin has been extensively monitored for over 60 years. The USGS well-level
17 database contains over 38,000 records. (See Declaration of Mark J. Wildermuth).


18
19 **Statement** - Numerous businesses will be forced out of business if they are required to pay for
20 their share of water. (page 7, line 11)

21 **Response** - This has been asserted repeatedly without any evidentiary support. Further, while
22 this—if established—might conceivably be relevant to a physical solution, it has no relevance to the
23 court’s determination of safe yield and overdraft.

24 Dated: March 18, 2010

Respectfully submitted,

LAGERLOF, SENEAL, GOSNEY & KRUSE, LLP

26
27 By: 
28 Thomas S. Bunn III
Attorneys for Palmdale Water District

1 **DECLARATION OF THOMAS S. BUNN III**

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3 1. I am one of the attorneys for Palmdale Water District in these cases.

4 2. On April 21, 2009, the overlying landowners and mutual water companies propounded
5 uniform discovery on the Public Water Suppliers, including requests for admission, form
6 interrogatories, special interrogatories and requests for production.

7 3. Special Interrogatory No. 1 asked, "Please provide the historical quantity of
8 groundwater you have pumped each year from the BASIN over the RELEVANT PERIOD." The
9 relevant period was defined as January 1, 1946 to the present.

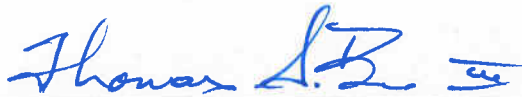
10 4. Special Interrogatory No. 2 asked, "Please provide, by well with well number, the
11 quantity of groundwater that you pumped each year from the BASIN over the RELEVANT PERIOD.
12 The information should be provided by year and by well number."

13 5. Request for Production No. 6 asked for "Any and all DOCUMENTS pertaining to
14 groundwater pumping for each well owned or operated by YOU, whether recorded on a daily, weekly,
15 monthly, or yearly basis."

16 6. In response, Palmdale Water District produced its entire database of groundwater
17 pumping.

18 7. I am informed and believe that the other Public Water Suppliers also responded by
19 producing their historical well production records.

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21 I declare under penalty of perjury under the laws of California that the foregoing is true and
22 correct, and that this declaration was executed March 18, 2010 at Pasadena, California.

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