



RICHARDS | WATSON | GERSHON

ATTORNEYS AT LAW – A PROFESSIONAL CORPORATION

355 South Grand Avenue, 40th Floor, Los Angeles, California 90071-3101
Telephone 213.626.8484 Facsimile 213.626.0078

Steven R. Orr
sorr@rwglaw.com

August 12, 2008

VIA POSTING TO COURT WEBSITE

Hon. Jack Komar
Judge of the Superior Court
161 North First Street, Department 17
San Jose, California 95113

Counsel of Record and Parties *in Propria Persona*

Re: Antelope Valley Groundwater Adjudication

Dear Judge Komar and Counsel and Parties *in Propria Persona*:

Attached is a proposed Case Management Order for the Phase 2 trial, which replaces the proposed order posted yesterday. This new draft changes the phrase “rebuttal experts” to “supplemental experts” in Sections 4, 5 and 7 so as to conform to the language of Code of Civil Procedure section 2034.280.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Orr', written over the printed name 'Steven R. Orr'.

Steven R. Orr

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

**ANTELOPE VALLEY GROUNDWATER
CASES**

Judicial Council Coordination
Proceeding No. 4408

**[PROPOSED] CASE
MANAGEMENT ORDER FOR
PHASE 2 TRIAL**

Phase 2 Trial: October 6, 2008
(Hon. Jack Komar)

[Exempt from Filing Fees Pursuant to Govt. Code
§6103]

IT IS HEREBY ORDERED:

1. The Phase 2 trial will commence at 9:00 a.m. on October 6, 2008, in Department 1 of the Superior Court of the County of Los Angeles, located at 111 North Hill Street, Los Angeles, California.

2. The Phase 2 trial will address the characteristics of the Antelope Valley Area of Adjudication (“Basin”), including whether hydrologic sub-basins exist.

3. Los Angeles County Waterworks District No. 40 shall post and file a declaration regarding the status of service of process on or before August 22, 2008.

4. As previously ordered, expert witness disclosure shall take place on August 15, 2008. Designation of supplemental experts shall take place on August 25, 2008. Said designations shall be substantially equivalent to the requirements of Code of Civil Procedure section 2034.010, *et seq.*, and include a statement as to availability for

1 deposition. In addition, any expert designation shall produce a copy of any reports
2 prepared concurrently with his or her designation.

3 A party intending to call a non-expert witness shall post the name(s) of such
4 witness(es) on the Court's website on August 15, 2008, which shall include a statement
5 as to availability for deposition.

6 5. The parties who have designated witnesses are directed to meet and confer in
7 person and/or by telephone at 12:00 p.m. on August 18, 2008, to develop a schedule for
8 the taking of depositions of the expert witnesses for the Phase 2 trial who are designated
9 on August 15, 2008. Counsel for the Los Angeles County Waterworks District No. 40 is
10 directed to provide telephone conference information to the parties by posting the same to
11 the Court's website. The purpose of the telephone conference is to develop a schedule
12 for the taking of depositions, such that such taking is concluded by September 26, 2008,
13 which is the expert witness, percipient witness and written discovery cut-off. A similar
14 telephone conference shall take place in the same manner on August 26, 2008 for the
15 supplemental expert witnesses designated on August 25, 2008.

16 Any party failing to participate in the telephone scheduling conferences or who
17 refuses to schedule their witnesses for deposition shall be deemed to have waived the
18 right to coordinate, and may thereafter have their witness' deposition set at the
19 convenience of the participating parties on 5 court days notice given pursuant to the
20 Court's Electronic Filing and Service Order. To the extent that parties are unable to
21 reach agreement as to any deposition, the Court will conduct a telephonic meet and
22 confer to be scheduled at the earliest convenient to the Court.

23 6. The parties are directed to conduct a telephone conference on August 18, 2008
24 to discuss a coordinating or liaison committee for purposes of the Phase 2 trial. Counsel
25 for the Los Angeles County Waterworks District No. 40 is directed to provide telephone
26 conference information to the parties by posting the same to the Court's website. The
27 purpose of the committee is to create a means of attempting to resolve issues quickly and
28 informally, and to streamline the presentations at trial. The existence of this committee,

1 however, shall not deprive any other party from raising issues or concerns to the other
2 parties.

3 7. Any expert or other witnesses designated by the parties on August 15, 2008
4 shall be available and prepared to provide deposition testimony, absent other agreement,
5 beginning on August 21, 2008. Any expert designated by the parties on August 25, 2008
6 shall be available and prepared to provide deposition testimony beginning on September
7 15, 2008. The parties shall make every effort to complete the depositions of the initially
8 designated experts in time for the depositions of the supplemental experts to take place
9 before the discovery cut-off directed above. More than one deposition may be scheduled
10 to take place on the same day.

11 8. Any expert or other witness who is not prepared to testify on the date agreed or
12 noticed for deposition is subject to exclusion at the time of trial.

13 9. All deponents are directed to produce their file on this matter, and any other
14 requested materials for inspection at least three business days before the date set for the
15 deposition at the expert's place of business or such location as the parties may agree.
16 Such materials may be produced in electronic format.

17 10. The parties are directed to avoid serving duplicative written discovery.

18 11. The parties are directed to meet and confer concerning any discovery dispute
19 before contacting the Court and before filing any discovery motion. If such attempts
20 prove unsuccessful, the Court will conduct a further meet and confer, either by telephone
21 or in person as the Court may direct. The parties will provide the Court with a letter in
22 advance setting forth the text of any written discovery requests and responses thereto that
23 are in dispute, or other information that will assist the Court in conducting the meet and
24 confer. The parties should contact the Court's clerk to schedule any such meet and
25 confer. The Court expects that all discovery disputes will be resolved through the meet
26 and confer process. Any party may thereafter apply *ex parte* for an order shortening time
27 and specially setting a motion to compel for hearing by providing notice thereof pursuant
28 to the Electronic Filing and Service Order.

1 12. Any party intending to participate in the Phase 2 trial must post a Notice of
2 Intention to Participate in the Phase 2 Trial on the Court's website by September 15,
3 2008. Excuse from this requirement may be given upon a showing of good cause.

4 13. The parties shall post their witness and exhibit lists on September 29, 2008.
5 The witness lists shall provide the name of the witness(es), a short summary of testimony
6 expected to be elicited, and a time estimate. The exhibit lists shall be sufficiently specific
7 as to enable the other parties to identify the exhibit prior to trial. Exhibits shall be
8 sequentially numbered, starting with the Arabic number 1. The parties shall agree as to
9 the division of exhibit numbers by September 20, 2008.

10 14. The parties shall coordinate with one another to determine the actual date and
11 time of the witnesses' testimony at trial. The parties shall make their best efforts to
12 produce all documents relevant to that witnesses' testimony prior to the witness'
13 deposition. Any other documents not previously produced, but which are intended to be
14 used at trial, shall be made available as soon as practicable.

15 15. Upon request, the parties shall provide one another with electronic copies of
16 their exhibits, except those exhibits that are not practical to provide in electronic format.

17 16. Trial briefs shall be filed and posted on or before September 25, 2008.
18 Responding trial briefs, *if any*, shall be filed at posted on or before October 2, 2008.

19 17. Any motion to exclude witnesses or exhibits, or other motions *in limine*, will
20 be heard at the commencement of the trial on October 6, 2008. Any such moving papers
21 shall be filed and posted on October 1, 2008. Any opposition papers, including
22 evidentiary objections, shall be filed and posted on October 2, 2008. Evidentiary
23 objections to evidence submitted in opposition shall be filed and posted on October 3,
24 2008. No other reply papers are allowed.

25 18. Should any party elect to use a third party provider to assist in the projection
26 or presentation of evidence, that party shall permit said third party provider to contract
27 with any other party for the use the same services provided. Third party providers, in any
28 event, shall work together to coordinate the use of equipment.

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19. Any party desiring to monitor the Phase 2 trial by telephone may do so through CourtCall, but will not be allowed to question witnesses or participate in oral argument absent prior arrangement with the Court.

20. The Court shall be provided with courtesy copies of all exhibits, except those pertaining to impeachment, preferably in three ring notebooks with numbered dividers, on or before October 3, 2008. Counsel are directed to coordinate this project with one another.

21. Prior to the commencement of each day of trial, counsel shall confer as to the order of the next day's witnesses, and shall advise the Court of the same at the commencement of that day of trial.

22. The Court will consider whether to request closing trial briefs as the Phase 2 proceeds.

DATED: _____
Judge of the Superior Court

1 **PROOF OF SERVICE**

2 I, Kelley Herrington, declare:

3 I am a resident of the State of California and over the age of eighteen years, and
4 not a party to the within action; my business address is Richards, Watson & Gershon, 355 South
5 Grand Avenue, 40th Floor, Los Angeles, California 90071. On August 12, 2008, I served the
6 within documents:

7 **[PROPOSED] CASE MANAGEMENT ORDER FOR PHASE 2 TRIAL**

- 8 by causing facsimile transmission of the document(s) listed above from (213) 626-
9 0078 to the person(s) and facsimile number(s) set forth below on this date before
10 5:00 P.M. This transmission was reported as complete and without error. A copy
11 of the transmission report(s), which was properly issued by the transmitting
12 facsimile machine, is attached. Service by facsimile has been made pursuant to a
13 prior written agreement between the parties.
- 14 by posting the document(s) listed above to the Santa Clara County Superior Court
15 website in regard to the Antelope Valley Groundwater matter.
- 16 by placing the document(s) listed above in a sealed envelope and affixing a pre-
17 paid air bill, and causing the envelope to be delivered to an agent for delivery, or
18 deposited in a box or other facility regularly maintained by , in an envelope or
19 package designated by the express service carrier, with delivery fees paid or
20 provided for, addressed to the person(s) at the address(es) set forth below.
- 21 by personally delivering the document(s) listed above to the person(s) at the
22 address(es) set forth below.
- 23 by causing personal delivery by First Legal Support Services, 1511 West Beverly
24 Boulevard, Los Angeles, California 90026 of the document(s) listed above to the
25 person(s) at the address(es) set forth below.

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

28 Executed on August 12, 2008.



Kelley Herrington