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10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

12 RICHARD A. WOOD, an individual, on behalf
13 of himself and all others similarly situated,

14 Plaintiff,

15 v.

16 LOS ANGELES COUNTY WATERWORKS
17 DISTRICT NO. 40; CITY OF LANCASTER;
18 CITY OF LOS ANGELES; CITY OF
19 PALMDALE; PALMDALE WATER
20 DISTRICT; LITTLEROCK CREEK
21 IRRIGATION DISTRICT; PALM RANCH
22 IRRIGATION DISTRICT; QUARTZ HILL
23 WATER DISTRICT; ANTELOPE VALLEY
24 WATER CO.; ROSAMOND COMMUNITY
25 SERVICE DISTRICT; MOJAVE PUBLIC
26 UTILITY DISTRICT; CALIFORNIA WATER
27 SERVICE COMPANY and DOES 1 through
28 100;

Defendants.

Case No.:

(related to JUDICIAL COUNCIL
COORDINATION PROCEEDING No. 4408;
Santa Clara Case No. 1-05-CV-049053,
Honorable Jack Komar)

CLASS ACTION COMPLAINT

REQUEST FOR JURY TRIAL

1 Plaintiff, Richard A. Wood, by his counsel, alleges on information and belief as follows:

2 **I.**

3 **NATURE OF THE ACTION**

4 1. Plaintiff brings this action on behalf of himself and the class of certain other
5 private landowners in the Antelope Valley (as defined below) seeking a judicial determination of
6 their rights to use the groundwater within the Antelope Valley Groundwater Basin (“the Basin”).
7 In addition, Plaintiff seeks damages and just compensation for himself and the Class arising from
8 the government entity defendants taking and interfering with plaintiff’s and the Class’ property
9 rights. This action is necessary in that defendants assert a common law prescriptive right to the
10 groundwater in the Basin which right they claim is superior to that of Plaintiff and the Class. By
11 definition, a prescriptive right requires a wrongful taking of non-surplus water from the Basin, in
12 an open, notorious, continuous, uninterrupted, hostile and adverse manner to the original owner
13 for the statutory period of five years. To the extent defendants fail to prove any element of
14 prescription or the evidence shows that defendants have indeed taken non-surplus water in
15 derogation of the rights of overlying landowners, plaintiff’s and the Class’s property interests
16 have been damaged and/or infringed.

17 2. As overlying landowners, Plaintiff and the Class have a property right in the water
18 within the Basin. Plaintiff and the Class also have a priority to the use of the Basin’s
19 groundwater. To the extent the Government entity defendants assert rights to that ground water
20 or have taken non-surplus groundwater in derogation of the rights of the overlying landowners.
21 Plaintiff and the Class are entitled to damages and just compensation under the Fifth and
22 Fourteenth Amendments of the United States Constitution and Article 1, Section 19 of the
23 California Constitution.

24 **II.**

25 **JURISDICTION AND VENUE**

26 3. This Court has jurisdiction over this action pursuant to the California
27 Constitution, Article XI, § 10 and under California Code of Civil Procedure (“CCP”) § 410.10.
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1 4. Venue is proper in this jurisdiction pursuant to CCP § 395 in that Plaintiff resides
2 in Los Angeles County, a number of defendants reside in this County, and a substantial part of
3 the unlawful conduct at issue herein has taken place in this County. In addition, this case is
4 related to Judicial Council Coordination Proceeding No. 4408, which is pending in this Court.

5 5. Plaintiff and the Class have suffered actual damages as a result of defendant's
6 unlawful conduct in a presently undetermined amount.

7 **III.**

8 **THE PARTIES**

9 6. Plaintiff RICHARD A. WOOD ("Wood" or "Plaintiff") resides in Lancaster,
10 California. Wood owns approximately 10 acres of property at 45763 North 90th Street East in
11 Lancaster, California, within the Basin. Plaintiff's property overlies percolating groundwater,
12 the precise extent of which is unknown.

13 7. Defendants (referred to alternatively as "Appropriators") are persons and entities
14 who claim rights to use groundwater from the Basin, whose interests are in conflict with
15 Plaintiff's interests. On information and belief, they are as follows:

16 A. Defendant LOS ANGELES COUNTY WATERWORKS DISTRICT NO.
17 40 is a public agency governed by the Los Angeles County Board of supervisors that
18 drills and pumps water in the Basin and sells such water to the public in portions of the
19 Antelope Valley.

20 B. Defendant PALMDALE WATER DISTRICT is a public agency that
21 pumps and/or provides groundwater from the Basin.

22 C. Defendant LITTLEROCK CREEK IRRIGATION DISTRICT is a public
23 agency that pumps and/or provides groundwater from the Basin.

24 D. Defendant PALM RANCH IRRIGATION DISTRICT is a public agency
25 that pumps and/or provides groundwater from the Basin.

26 E. Defendant QUARTZ HILL WATER DISTRICT is a public agency that
27 pumps and/or provides groundwater from the Basin.
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F. Defendant ANTELOPE VALLEY WATER CO. is an entity that pumps and/or provides groundwater from the Basin.

G. Defendant ROSAMOND COMMUNITY SERVICE DISTRICT is an entity that pumps and/or provides groundwater from the Basin.

H. Defendant MOJAVE PUBLIC UTILITY DISTRICT is a public agency that pumps and/or provides groundwater from the Basin.

I. Defendant CALIFORNIA WATER SERVICE COMPANY is a California Corporation that pumps and/or provides groundwater from the Basin and is added herein as Doe 1. Defendants A-I shall collectively be referred to as "Appropriators."

J. Defendant CITY OF LANCASTER is a municipal corporation located within the County of Los Angeles.

K. Defendant CITY OF PALMDALE is a municipal corporation located within the County of Los Angeles.

L. DOE DEFENDANTS 1 through 100. Plaintiff alleges on information and belief that at all relevant times DOE DEFENDANTS 1 through 100, inclusive, are persons or entities who either are currently taking or providing water from the Basin or claim rights to take groundwater from the Basin. Plaintiff is presently unaware of the true names and identities of those persons sued herein as DOE Defendants 1 through 100 and therefore sues these Defendants by these fictitious names. Plaintiff will amend this Complaint to allege the Doe Defendants' legal names and capacities when that information is ascertained.

IV.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

8. The Antelope Valley Groundwater Basin is part of the South Lahontan Hydrologic Region. The Basin underlies an extensive alluvial valley in the western Mojave Desert. The Basin is bounded on the northwest by the Garlock fault zone at the base of the Tehachapi Mountains and on the southwest by the San Andreas fault at the base of the San Gabriel Mountains. The Basin is bounded on the east by ridges and low hills that form a

1 groundwater divide and on the north by various geographic features that separate it from the
2 Fremont Valley Basin.

3 9. Average annual rainfall in the Basin ranges from 5 to 10 inches. Most of the
4 Basin's recharge comes from runoff from the surrounding mountains and hills -- in particular,
5 from the San Gabriel and Tehachapi Mountains and from hills and ridges surrounding other
6 portions of the Valley.

7 10. The Basin has two main aquifers -- an upper aquifer, which is the primary source
8 of groundwater for the Valley, and a lower aquifer. Generally, in the past, wells in the Basin
9 have been productive and have met the needs of users in conjunction with other sources of water,
10 including the State Water Project.

11 11. In recent years, however, population growth and urban demands have led to
12 increased pumping and declining groundwater levels. Plaintiff and the Class are informed and
13 believe that at some yet unidentified point in the past, the Appropriators began to extract
14 groundwater from the Antelope Valley to a point above and beyond an average annual safe yield.
15 Plaintiff and the Class are further informed and believe that future population growth and
16 demands will place increased burdens on the Basin. If the trend continues, demand may exceed
17 supply which will cause damage to private rights and ownership in real property. Presently, the
18 rights to the Basin's groundwater have not been adjudicated and there are no legal restrictions on
19 pumping. Each of the Defendants is pumping water from the Basin and /or claims an interest in
20 the Basin's groundwater. Despite the actual and potential future damage to the water supply and
21 the rights of owners of real property within the Valley, the Appropriators have knowingly
22 continued to extract groundwater from the Basin, and increased and continue to increase their
23 extractions of groundwater over time. The Appropriators continued the act of pumping with the
24 knowledge that the continued extractions were damaging, long term, the Antelope Valley and in
25 the short term, impairing the rights of the property owners.

26 12. Plaintiff and the Class are informed and believe that the Appropriators may have
27 pumped water in excess of the safe yield with the knowing intent and belief that they could take
28 by claim of prescription, without compensation, the water rights of all landowners overlying the

1 Antelope Valley. Additionally, all Appropriators continued to pump ever increasing quantities
2 of groundwater, knowing that even if their prescriptive claims failed, they could preserve the
3 right to continue their pumping under a claim of an intervening public use. Despite the knowing
4 intent to take the overlying property landowners' rights, no Appropriator took any steps to
5 inform or otherwise notify Plaintiff or the Class of their adverse and hostile claim or that their
6 pumping of groundwater was an invasion of and a taking of the landowners' property rights.

7 13. None of the Appropriators have invoked the power of eminent domain nor paid
8 any compensation to overlying owners of land located within Antelope Valley for the property
9 rights they have knowingly taken.

10 14. Various water users have instituted suit to assert rights to pump water from the
11 Basin. In particular, Defendant L.A. Waterworks District 40 and other municipal Appropriators
12 have brought suit asserting that they have prescriptive rights to pump water from the Basin,
13 which they claim are paramount and superior to the overlying rights of Plaintiff and the Class.
14 Those claims threaten Plaintiff's right to pump water on his property.

15 15. In 1983, Plaintiff purchased his ten (10) acre property in the Antelope Valley to
16 serve as his sole residence, which has continued to be the case to date. The most important and
17 fundamental aspect of his purchase was the property right to use water below his land. At all
18 relevant times, Plaintiff has extracted and used groundwater from beneath his property for
19 standard residential purposes. Plaintiff's right to use water below the surface of the land is a
20 valuable property right. Without the right to use the water below his property, the value of
21 Plaintiff's land is substantially reduced.

22 16. Plaintiff is informed and believes that defendant Appropriators have extracted so
23 much water from the Basin, by extracting non-surplus water that exceeds a safe yield for a period
24 as yet undetermined, that his ability to pump water is threatened. Plaintiff is further informed
25 and believes that the water level has fallen to such an unreasonable level that his property right in
26 the use of the water has been infringed or extinguished and his interest in the real property has
27 been impaired by the diminution of its fair market value. The Appropriators have made it
28 economically difficult, if not impossible, for his to exercise his future right to use the water

1 because they have extracted too much water from the supply in the Basin. His water rights and
2 the value in the real property have been damaged and will continue to be damaged unless this
3 court intervenes on his behalf and on behalf of all class members.

4 17. Plaintiff brings this action on behalf of the following class:

5 All private (i.e., non-governmental) persons and entities that own real property
6 within the Basin, as adjudicated, and that have been pumping on their property and have not
7 within the five year period preceding the filing of this action. The Class excludes the defendants
8 herein, any person, firm, trust, corporation, or other entity in which any defendant has a
9 controlling interest or which is related to or affiliated with any of the defendants, and the
10 representatives, heirs, affiliates, successors-in-interest or assigns of any such excluded party. The
11 Class also excludes all persons to the extent their properties are connected to a municipal water
12 system, public utility, or mutual water company from which they receive water service, as well
13 as all persons who are required by law to report their water usage to any government agency.

14 18. The Class is so numerous that joinder of all members is impracticable. Plaintiff's
15 claims are typical of the claims of the members of the Class. Plaintiff and members of the class
16 have sustained damages arising out of the conduct complained of herein.

17 19. Plaintiff will fairly and adequately protect the interests of the members of the
18 Class and Plaintiff has no interests which are contrary to or in conflict with those of the Class
19 members he seeks to represent. Plaintiff has retained competent counsel experienced in class
20 action litigation to ensure such protection.

21 20. A class action is superior to other available methods for the fair and efficient
22 adjudication of this controversy since joinder of all members is impracticable. Plaintiff knows of
23 no difficulty that will be encountered in the management of this litigation that would preclude its
24 maintenance as a class action.

25 21. There are common question of law and fact as to all members of the Class, which
26 predominate over any questions affecting solely individual members of the Class. Specifically,
27 the Class members are united in establishing (1) their priority to the use of the Basin's
28 groundwater given their capacity as overlying landowners; (2) the determination of the Basin's

1 characteristics including yield; (3) adjudication of the Public Water Suppliers' groundwater
2 rights including prescriptive rights; (4) determination of a physical solution to water shortage
3 conditions including all parties' rights to store and recover non-native water in the Basin; (5) a
4 taking, if any, under the U.S. and California Constitution; (6) damages for trespass, interference,
5 nuisance and conversion; (7) due process violations; and (8) availability of injunctive relief.

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7 **FIRST CAUSE OF ACTION**

8 **(For Declaratory Relief Against All Defendants)**

9 22. Plaintiff realleges and incorporates herein by reference each of the allegations
10 contained in the preceding paragraphs of this Complaint, and further alleges against Defendants
11 as follows:

12 23. By virtue of their property ownership, Plaintiff and the Class hold overlying rights
13 to the Basin's groundwater, which entitle them to extract that water and put it to reasonable and
14 beneficial uses on their respective properties.

15 24. Plaintiff is informed and believes, and on the basis of that information and belief
16 alleges, that each of the defendants presently extracts and/or purveys groundwater from the Basin
17 and/or asserts rights to that groundwater which conflict with the overlying rights of Plaintiff and
18 the Class.

19 25. Plaintiff is informed and believes and, on the basis of that information and belief,
20 alleges that each of the Defendants extracts groundwater primarily for non-overlying use – i.e.,
21 for use on properties other than the property on which the water is extracted. In addition, certain
22 of those defendants have asserted that they hold prescriptive rights to such water which they
23 claim are superior to the rights of Plaintiff and the Class.

24 26. Plaintiff's and the Class' present overlying uses of the Basin's
25 groundwater are superior in right to any non-overlying rights held by the Appropriator
26 Defendants.

27 27. Plaintiff's and the Class' overlying rights need to be apportioned in a fair and
28 equitable manner among all persons holding rights to the Basin's water.

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35. Article 1 Section 19 of the California Constitution provides as follows:
Private Property may be *taken or damaged* for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner.

The scope of compensable injury to property is broader in California than other States or under the U.S. Constitution. It includes a “taking” or “damage” to property. Here, Plaintiff’s and the Class’ interests have been infringed by the defendants. On information and belief, defendant Appropriators have extracted and will continue to extract non-surplus groundwater from the Basin in excess of a safe yield. Defendants allege that the production forms the basis of their claim for prescriptive rights. Defendants’ extraction of water above a safe yield has made it more difficult and expensive for Plaintiff and the Class to use the water under their properties and constitutes an invasion of Plaintiff’s property interests and therefore a taking in violation of the California Constitution. On information and belief, Plaintiff’s and the Class’ properties have been injured in the form of degradation of the water level and degradation of the quality of the water, in addition to the actual taking of non-surplus water.

36. The public entity Defendants claim priority rights to take and use the Basin’s groundwater by “prescription” and as a matter of public interest and need.

37. If and to the extent the public entities are granted rights to use the Basin’s groundwater with priority to the rights held by Plaintiff and other overlying landowners, Plaintiff and the Class are entitled to just and fair compensation pursuant to Article 1, Section 19 of the California Constitution for the diminution in fair market value of the real property. If and to the extent the public entities are not granted rights to use the Basin’s groundwater with priority to the rights held by Plaintiff and other overlying landowners, Plaintiff and the Class are entitled to just and fair compensation pursuant Article 1, Section 19 of the California Constitution for wrongful taking of water rights.

FOURTH CAUSE OF ACTION

**(Against All Defendant Appropriators For Damages Pursuant to
The United States Constitution Takings Clause)**

38. Plaintiff realleges and incorporates herein by reference each of the allegations contained in the preceding paragraphs of this Complaint, and further alleges against Defendants as follows:

39. This cause of action is brought to recover damages against the Appropriators for violation of Plaintiff's and the Class's right under the 5th and 14th Amendments of the U.S. Constitution through the Appropriator's taking of private property for public use without paying just compensation and depriving them of both substantive and procedural due process of law.

40. The Appropriators, and each of them are, and at all times mentioned in this second amended complaint were, governmental entities with the capacity to sue and be sued. The Appropriators, and each of them, were, at all times mentioned in this second amended complaint, acting under color of state law.

41. At a yet unidentified historical point in time, the Appropriators began pumping water from the Antelope Valley as permissive appropriators. Over the course of time, it is believed that the aggregate amount of water being extracted from the Valley began to exceed the safe yield. Each Appropriator continued to pump and increased its pumping of groundwater believing that given the intervention of the committed public use, no injunction would issue to restrain and/or compel the Appropriator to reduce its dependence upon such groundwater. Each Appropriator contends that despite its status as a governmental entity, it can nonetheless take private property for a public use under a theory of prescription and without compensation. Each Appropriator did not undertake any affirmative action reasonably calculated and intended to provide notice and inform any affected landowner of its adverse and hostile claim.

42. Plaintiff is informed and believes and thereon alleges that he was denied due process of law prior to the taking of his property. This violation was a direct result of the

1 knowing customs, practices, and policies of the Appropriators to continue to pump in excess of
2 the supply, to suppress the assertion of their adverse and hostile claim, and the resulting ever
3 increasing intervening public use and dependence, without acceding to Constitutional limits.

4 43. The customs, practices, and policies of the Appropriators to prescript or adversely
5 possess the property rights of property owners and/or to establish a nonenjoinable intervening
6 use amounted to deliberate indifference to the rights of persons who stand to lose their rights to
7 extract water from the Antelope Valley for use on their property through the actions of each
8 Appropriator and all of them.

9 44. As a direct and proximate result of the acts of the Appropriators, Plaintiff and the
10 Class have suffered injury, loss, and damage, including a cloud upon the title to their real
11 property, a reduction in value, and the loss of rights in the future to extract and use groundwater
12 from the Valley.

13 **FIFTH CAUSE OF ACTION**

14 **(Public and Private Nuisance Against All Defendant Appropriators)**

15 45. Plaintiff realleges and incorporates herein by reference each of the allegations
16 contained in the preceding paragraphs of this Complaint, and further alleges against Defendants
17 as follows:

18 46. The Appropriators' extractions of groundwater from the supply constitute a
19 continuing progressive nuisance within the meaning of Section 3479 of the Civil Code, in that
20 the Appropriators have interfered with the future supply of available water that is injurious to
21 Plaintiff's and the Class' rights to freely use and exercise their overlying property rights to
22 extract groundwater from the Basin. The Appropriators are attempting, through the combined
23 efforts of their pumping groundwater to take, and or alter, overlying property rights to use and
24 access the Antelope Valley supply.

25 47. The Appropriators, and each of them, have continued to and have increased their
26 pumping, despite the knowledge of the damage caused by pumping. The Appropriators have
27 refused, and continue to refuse, to stop or reduce their pumping despite the damage to the supply
28 of water. This nuisance affects a substantial number of persons in that the Appropriators claim

1 that the continued pumping in excess of the supply's safe yield is, and will, eventually cause a
2 chronic decline in water levels and the available natural water supply will be chronically
3 depleted. If the present trend continues, demand will continue to exceed supply which will
4 continue to cause a reduction in the long term supply. Additionally, the continued pumping by
5 the Appropriators under these conditions will result in the unlawful obstruction of the overlying
6 landowner's rights to use the water supply in the customary manner.

7 48. The Appropriators, and each of them, have threatened to and will, unless
8 restrained by this court, continue to pump groundwater in increasing amounts, and each and
9 every act has been, and will be, without the consent, against the will, and in violation of the
10 rights of plaintiff and the Class.

11 49. As a proximate result of the nuisance created by the Appropriators, and each of
12 them, plaintiff and the Class have been, and will be, damaged in a sum to be proven at trial.

13 50. In maintaining this nuisance, the Appropriators, and each of them are, and have
14 been, acting with full knowledge of the consequences and damage being caused and their
15 conduct is willful, oppressive, malicious and designed to interfere with and take plaintiff's right
16 to freely access the water supply in its customary manner.

17 **SIXTH CAUSE OF ACTION**

18 **(Trespass Against All Defendant Appropriators)**

19 51. Plaintiff realleges and incorporates herein by reference each of the allegations
20 contained in the preceding paragraphs of this Complaint, and further alleges against Defendants
21 as follows:

22 52. On information and belief, each Defendant alleges that it has produced more
23 water from the Basin than it has a right to produce as an Appropriator. Defendants allege that
24 this production forms the basis for their claims of prescriptive rights. To the extent that the
25 alleged production in excess of rights actually occurred, this alleged production of water
26 constitutes a trespass against plaintiff and the Class.

27 53. Defendants' use of the Basin's water has interfered with and made it more
28 difficult for plaintiff and the Class to exercise their rights.

1 54. Plaintiff requests that the Court award monetary damages to compensate for any
2 past injury that may have occurred to plaintiff and the Class by Defendants' trespass in an
3 amount to be determined at trial.

4 **SEVENTH CAUSE OF ACTION**

5 **(Conversion Against All Defendant Appropriators)**

6 55. Plaintiff realleges and incorporates herein by reference each of the allegations
7 contained in the preceding paragraphs of this Complaint, and further alleges against Defendants
8 as follows:

9 56. Plaintiff and the Class are, and at all times relevant herein were, the owners of or
10 entitled to water rights in the Basin as overlying landowners.

11 57. Defendants wrongfully interfered with Plaintiff's interests in the above-described
12 property by extracting non-surplus water that exceed a safe yield and by claiming priority over
13 overlying landowners to water rights. Defendants conduct was without notice to plaintiff or the
14 Class.

15 **EIGHTH CAUSE OF ACTION**

16 **(Against All Defendants For Violation of 42 U.S.C. § 1983)**

17 58. Plaintiff realleges and incorporates herein by reference each of the allegations
18 contained in the preceding paragraphs of this Complaint, and further alleges against Defendants
19 as follows:

20 59. In committing the acts alleged above, Defendants violated plaintiff's rights
21 guaranteed under the Constitution of the United States, including the due process clauses of the
22 5th and 14th Amendments and the Takings Clause. These rights include the right not to be
23 deprived of property with out due process by persons and entities acting under color of law.
24 These rights include the right to be free from the use of excessive force by the police.

25 60. As a direct and proximate result of defendants' conduct, and each of them,
26 including Does 1 through 100, and their agents, supervisors, managers and employees, plaintiff
27 has suffered damages as alleged in this complaint above.

NINTH CAUSE OF ACTION

(Against All Defendants For Injunctive Relief)

61. Plaintiff and the Class reallege and incorporate herein by reference each of the allegations contained in the preceding paragraphs of this Complaint, and further allege against Defendants as follows:

62. As overlying landowners, Plaintiff and the Class have superior rights to take and make reasonable and beneficial use of the Basin's groundwater.

63. By pumping and selling water from the Basin, Defendants have interfered with and made it more difficult for Plaintiff and the Class to exercise their rights to use that groundwater. If allowed to continue, Defendants' pumping from and depletion of the Basin's groundwater will further interfere with Plaintiff's and the Class's ability to exercise their lawful and superior rights as overlying landowners to make reasonable use of the Basin's groundwater.

64. Plaintiff and the Class have no adequate remedy at law.

65. Unless the Court enjoins or limits Defendants production of water from the Basin, Plaintiff and the Class will suffer irreparable injury in that they will be deprived of their rights to use and enjoy their properties.

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as follows:

1. For economic and compensatory damages according to proof at trial;
2. Declaring that Plaintiff's and the Class' overlying rights to use water from the Basin are superior and have priority vis-a-vis all non-overlying users and Appropriators;
3. Apportioning water rights from the Basin in a fair and equitable manner and enjoining any and all uses inconsistent with such apportionment;
4. Awarding Plaintiff and members of the Class damages from the public entity defendants in the full amount that will compensate Plaintiff and the Class for past and future takings by those Defendants and damages for past and future property infringement;

