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15 Attorneys for Plaintiff

16 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
17 **COUNTY OF LOS ANGELES**

18 Coordination Proceeding
19 Special Title (Rule 1550(b))

20 ANTELOPE VALLEY GROUNDWATER
21 CASES

22 RICHARD A. WOOD, an individual, on
23 behalf of himself and all others similarly
24 situated,

25 Plaintiff,

26 v.

27 LOS ANGELES COUNTY
28 WATERWORKS DISTRICT NO. 40; et al.

Defendants.

Judicial Council Coordination
Proceeding No. 4408

(Santa Clara Case No. 1-05-CV-049053,
Honorable Jack Komar)

Case No.: BC 391869

**RICHARD WOOD'S OBJECTION TO
PUBLIC WATER SUPPLIERS'
REPLY BRIEF IN SUPPORT OF
MOTION TO SIGN PROPOSED
ORDER RE JURISDICTION OVER
TRANSFEREES**

Date: June 14, 2010
Time: 9:00 a.m.
Dept.: 1

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**RICHARD WOOD'S OBJECTION TO PUBLIC WATER SUPPLIERS' REPLY
BRIEF IN SUPPORT OF MOTION TO SIGN PROPOSED ORDER RE
JURISDICTION OVER TRANSFEREES**

1 On June 7, 2010, the public water suppliers (“PWS”) filed their Reply brief regarding
2 the issue of jurisdiction over the transferees. In that Reply, the PWS changed the scope
3 of the pending Motion by submitting a new proposed order for consideration. The other
4 parties have not had the opportunity to brief the new proposed order, so it should not be
5 considered.

6 In addition to the several typographical errors, the new proposed order adds further
7 provisions that the Small Pumper Class finds objectionable. In particular, paragraph 6
8 states that “Counsel for all parties shall advise their clients, both individuals and class
9 members, of the requirements of this order.” This language requires class counsel to bear
10 the cost of mailing additional notice to the class members. In other words, the PWS have
11 made a big mistake, and now they want the class counsel to pay to clean up the mess.
12 This is inconsistent with the Court’s prior orders instructing the PWS to pay for class
13 notice, and not acceptable to counsel for the Small Pumper Class.

14
15 Additionally, the contention that C.C.P. section 368.5 solves the problem is simply
16 wrong. By its own terms, Section 368.5 is entirely discretionary: “the court may allow
17 the person . . .” (*Ruby v. Superior Court* (1951) 104 Cal.App.2d 175, 176.) This section
18 does not provide a blanket jurisdictional solution by way of an order. The transferees
19 must be identified by name, brought to the Court’s attention by way of a motion, and
20 properly served with process or class notice. (*Witkin, California Procedure 5th Ed.*,
21 Pleading § 265.) A transferor’s service of a notice or failure to do so has no impact on
22 this Court’s jurisdiction over non-parties who obtain title to real property in the
23 adjudication area. The contrary suggestion is patently wrong under both State and
24 Federal Constitutional and real property law.

25 What the Court should do instead is to require the PWS to take control over their
26 pleading, which purports to bring all landowners in the adjudication area into this lawsuit.

1 The Court should order the PWS to use their databases to identify transferees. Those
2 names should then be filed with the Court. New class members on that list should be
3 given notice of the action, and all other parties should be served with the summons and
4 cross-complaint.

5
6 DATED: June 8, 2010

LAW OFFICES OF MICHAEL D. McLACHLAN
LAW OFFICE OF DANIEL M. O'LEARY

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8
9 By: _____ //s//

10 Michael D. McLachlan
11 Attorneys for Plaintiff
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1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18
3 and am not a party to the within action. My business address is 10490 Santa Monica Boulevard,
4 Los Angeles, California 90025.

5 On June 8, 2010, I caused the foregoing document(s) described as **RICHARD WOOD’S**
6 **OBJECTION TO PUBLIC WATER SUPPLIERS’ REPLY BRIEF IN SUPPORT**
7 **OF MOTION TO SIGN PROPOSED ORDER RE JURISDICTION OVER**
8 **TRANSFEREES**

9 to be served on the parties in this action, as follows:

- 10 (X) (BY ELECTRONIC SERVICE) by posting the document(s) listed above to the Santa
11 Clara County Superior Court website: www.scefilings.org regarding the Antelope Valley
12 Groundwater matter.
- 13 () (BY U.S. MAIL) I am readily familiar with the firm’s practice of collection and
14 processing of documents for mailing. Under that practice, the above-referenced
15 document(s) were placed in sealed envelope(s) addressed to the parties as noted above,
16 with postage thereon fully prepaid and deposited such envelope(s) with the United States
17 Postal Service on the same date at Los Angeles, California, addressed to:
- 18 () (BY FEDERAL EXPRESS) I served a true and correct copy by Federal Express or other
19 overnight delivery service, for delivery on the next business day. Each copy was
20 enclosed in an envelope or package designed by the express service carrier; deposited in a
21 facility regularly maintained by the express service carrier or delivered to a courier or
22 driver authorized to receive documents on its behalf; with delivery fees paid or provided
23 for; addressed as shown on the accompanying service list.
- 24 () (BY FACSIMILE TRANSMISSION) I am readily familiar with the firm’s practice of
25 facsimile transmission of documents. It is transmitted to the recipient on the same day in
26 the ordinary course of business.
- 27 (X) (STATE) I declare under penalty of perjury under the laws of the State of California that
28 the above is true and correct.
- () (FEDERAL) I declare under penalty of perjury under the laws of the United States of
America that the foregoing is true and correct.

25 _____ //s//
26 Ana Horga

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