

1 Michael D. McLachlan (State Bar No. 181705)  
2 **LAW OFFICES OF MICHAEL D. McLACHLAN, APC**  
3 10490 Santa Monica Boulevard  
4 Los Angeles, California 90025  
5 Telephone: (310) 954-8270  
6 Facsimile: (310) 954-8271  
7 mike@mclachlanlaw.com

8 Daniel M. O'Leary (State Bar No. 175128)  
9 **LAW OFFICE OF DANIEL M. O'LEARY**  
10 10490 Santa Monica Boulevard  
11 Los Angeles, California 90025  
12 Telephone: (310) 481-2020  
13 Facsimile: (310) 481-0049  
14 dan@danolearylaw.com

15 Attorneys for Plaintiff Richard Wood and the Class

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

Coordination Proceeding  
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER  
CASES

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

Plaintiff,

v.

LOS ANGELES COUNTY  
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

**SMALL PUMPER CLASS' TRIAL  
SETTING CONFERENCE  
STATEMENT**

Date: July 9, 2012

Time: 9:00 a.m.

Dept.: 1

1 Plaintiff Richard Wood (“Wood”) submits the following statement regarding trial  
2 setting on behalf of the Small Pumper Class.

3 **A. Phases of Trial**

4 Wood concurs with the order of trial set forth by AGWA in its statement, taking  
5 the sub-phase the right to return flows first, so that the Court can set a native safe yield.  
6 Doing so may completely resolve the question of prescriptive rights, saving the Court a  
7 lengthy trial on that cause of action. After question of appropriate rights and prescription  
8 are resolved, as well as the Federal reserved right, the Court could hold a hearing as need  
9 on the elements of a physical solution, to the extent there was no universal agreement on  
10 the terms of a physical solution.

11 Wood also concurs with AGWA that the question of production should follow the  
12 other issues, as the scope of that inquiry may be greatly reduced if there is no need to put  
13 on evidence of self help. If and when the Court should wish to make determinations of  
14 water production of the various parties, Wood concurs with the suggestion of the Alston  
15 parties relative to the submission of declarations with exhibits as necessary, followed by a  
16 phase for depositions as needed and/or an evidentiary hearing.

17 **B. Timing of Trial**

18 To the extent Wood and the Class will be participating in subsequent phases of  
19 trial which involve the determination of water rights, there must be ample time afforded  
20 for the court-appointed expert to conduct that work. That timeframe will not be known  
21 until the Court approves the work and the expert has time to develop a detailed scope.

22 However, Wood does not believe that setting trial will inhibit ongoing settlement  
23 discussions, which appear to have fundamentally broken down on a number of important  
24 issues. This case is very old, and should be moved forward to trial at on a fair and  
25 sensible schedule.

26 **C. Legal Issues**

27 There are a number of legal issues that have not been resolved that may be more  
28 appropriately resolved prior to the next round of trial. The resolution of these questions

1 may greatly reduce the trial time, better inform the parties for the presentation of  
2 evidence, and reduce or eliminate the need for certain parties to participate on various  
3 issues. Some of those issues include: (1) the appropriate period to be used to establish  
4 water rights; (2) the extent to which unexercised overlying rights may continue to exist  
5 given the finding of overdraft (*see In re Long Valley* (1979) 25 Cal.3d 339, 358-59  
6 (unexercised riparian right loses priority in condition of overdraft); (3) the significance of  
7 residential production over agricultural pumping among overlying uses (*see Water Code*  
8 § 106; *Deetz v. Carter* (1965) 232 Cal.App.2d 851, 854); and (4) the priority of the  
9 Federal reserved right.

10  
11 DATED: July 6, 2012

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

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14 By:           //s// Michael D. McLachlan            
15 Michael D. McLachlan  
16 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 Blvd., Los  
4 Angeles, California 90025.

5 On July 6, 2012, I caused the foregoing document(s) described as **SMALL PUMPER**  
6 **CLASS' TRIAL SETTING CONFERENCE STATEMENT** to be served on the  
parties in this action, as follows:

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

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23 \_\_\_\_\_ //s//  
24 Michael McLachlan