

March 25, 2010

Honorable Chief Justice and Associate Justices of the Court of Appeal
Fourth Appellate District – Division 2
3389 Twelfth Street
Riverside, California 92501

Re: Wood v. Superior Court
Case No.: E050466

Dear Justices:

Real party in interest Palmdale Water District submits this informal opposition to bring certain matters to the attention of the Court. The parties reserve the right to file a formal opposition.

- One of the two principal arguments in the petition is that consolidation denies the class members due process, because the class notice did not tell them that the action concerned an adjudication of all groundwater rights in the Antelope Valley. However, petitioner did not raise this argument in his opposition to the motion below, and the argument is therefore waived. (See Exhibit 8 to the petition.)
- Even if this argument were not waived, it depends on the text of the class notice. Petitioner did not include the class notice in the exhibits to the petition. Exhibit 6 contains various iterations of the order approving the class notice, but not the notice itself. The petition, therefore, does not contain an adequate record.
- For the convenience of the Court, a copy of the class notice is attached to this letter. This notice clearly shows that the class members *were* advised that the case concerned an adjudication of all the groundwater rights in the Antelope Valley: "This Class Action lawsuit involves water rights in the Antelope Valley Groundwater Basin. . . .The case has

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been combined with other cases to determine all the groundwater rights in the Basin.”

- The petition does not comply with the Code of Civil Procedure, because it was not served by mail on the real parties in interest. The proof of service shows that the petition and exhibits were served by electronic filing on the trial court’s website. Rule 8.25, California Rules of Court, provides that any document filed in the Court of Appeal must first be served “by any method permitted by the Code of Civil Procedure.” Code of Civil Procedure Section 1010.6 and Rule 2.260, California Rules of Court, provide that the rules for electronic filing and service are applicable to *trial courts only*.

Very truly yours,



Thomas S. Bunn III

TSBIII:ced
Enclosure

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Lagerlof
Senecal
Gosney & Kruse
LLP

*****IF YOU RECEIVED A PRIOR CLASS ACTION NOTICE RELATING TO GROUNDWATER RIGHTS IN THE ANTELOPE VALLEY, THAT NOTICE RELATED TO A DIFFERENT LAWSUIT, DEALING WITH A DIFFERENT CLASS OF LANDOWNERS WITH DIFFERENT RIGHTS. *****

***** IMPORTANT: IF YOU PUMP GROUNDWATER OR YOU OR YOUR PREDECESSORS HAVE EVER PUMPED GROUNDWATER ON YOUR PROPERTY, CAREFULLY READ THIS NOTICE – THIS LAWSUIT MAY AFFECT YOUR RIGHTS TO PUMP GROUNDWATER IN THE FUTURE. *****

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

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

**NOTICE OF CLASS
ACTION FOR THE "SMALL
PUMPER" CLASS ACTION**

TO CERTAIN ANTELOPE VALLEY LANDOWNERS: CAREFULLY READ AND RESPOND TO THIS NOTICE, AS IT MAY AFFECT YOUR RIGHT TO PUMP GROUNDWATER ON YOUR PROPERTY IN THE FUTURE.

This notice is to advise you about a pending class action lawsuit, referred to as the "Small Pumper" class action. You may be a member of the Class. **PLEASE TAKE THE TIME TO READ THIS IMPORTANT LEGAL NOTICE. YOU ARE REQUIRED TO RETURN THE ATTACHED RESPONSE FORM, EITHER BY MAIL OR BY THE INTERNET, ON OR BEFORE SEPTEMBER 9, 2009.**

This Class Action lawsuit involves water rights in the Antelope Valley Groundwater Basin. Plaintiff Richard Wood brought this case to protect his right and those of other landowners in the Basin to pump water on their properties in the future. The case has been combined with other cases to determine all the groundwater rights in the Basin. The Court has not yet decided the case. This Notice is intended to inform you of the pendency of this case and advise you how you can protect your rights. You have been sent this Notice because as a property owner in the Antelope Valley your rights to pump and use groundwater on your property may be affected by this case.

ARE YOU A MEMBER OF THE CLASS?

You have been designated as a possible class member because records show that you may own improved property in the Antelope Valley. The class includes all private (i.e., non-governmental) landowners within the Antelope Valley Groundwater Basin that have pumped groundwater on their property at any time since 1946, with certain exceptions set out below.

You are **NOT in the Class** if you fall within one of the categories set forth below. **BUT YOUR RIGHTS MAY BE AFFECTED UNLESS YOU RETURN THE ATTACHED RESPONSE FORM AND MAKE CLEAR THAT YOU ARE NOT IN THE CLASS. HENCE, IT IS IMPORTANT THAT YOU RETURN THE RESPONSE FORM AS PROMPTLY AS POSSIBLE, EVEN IF YOU ARE NOT A CLASS MEMBER.**

YOU ARE NOT IN THE CLASS WITH RESPECT TO ANY GIVEN PARCEL OF PROPERTY IF THAT PARCEL FALLS WITHIN ANY OF THE FOLLOWING CATEGORIES:

1. You have pumped 25 acre-feet or more of groundwater for use on a that parcel in any calendar year since 1946; *or*
2. You are a shareholder in a mutual water company in the Antelope Valley; *or*
3. You are already a party to this litigation (but, in that event, you may elect to join the Class).

WHAT IS THE CASE ABOUT?

Under California law, property owners have a right to pump and use groundwater (water underneath the surface) on their land. In this case, however, the naturally available supply of water in the Basin may not be adequate to satisfy everyone who wants to use that water. Plaintiff Richard Wood brought this action to protect his right and that of other Antelope Valley landowners to pump and use the water under their properties and to obtain compensation for any wrongful taking of their property rights. Mr. Wood claims that he and other landowners have water rights which are superior to the rights of certain public water suppliers to use that water. The public water suppliers claim that their historical pumping has given them superior water rights. If the public water suppliers win, your rights to use the groundwater under your property may be cut back. The Court has not yet ruled on these claims.

WHAT DO YOU NEED TO DO?

YOU ARE REQUIRED TO SUBMIT the attached RESPONSE FORM, either by mail or on the internet, by September 9, 2009. The instructions for completing this form are below. All persons who receive this Notice should respond, so that the parties and Court will know whether you are a class member or not.

If you are a Class Member, you have the right to remain in the Class or exclude yourself from the Class. Class Members are defined to include all private (i.e., non-governmental) landowners within the Antelope Valley Groundwater Basin that have pumped groundwater on a given parcel of property at any time since 1946, and who does not fall within any of the exclusions set forth above. Class Members should complete and return the attached response form.

If you remain in the Class:

- You will be bound by the decision in the case, whether favorable or unfavorable.
- Plaintiff Wood and his attorneys will act as your representatives in this case, and you will not personally be obligated to pay any fees or costs out of your pocket.
- You may, but need not, hire your own lawyer at your own expense to represent you.

If you exclude your parcel(s) from the Class:

- Your parcel(s) will not be bound by any decision that affects the Class.
- But you (or your parcel) may be added to the lawsuit as an individual defendant, and you may have to represent yourself or hire a lawyer to represent you.

Please complete the response form on the website for the Small Pumper Class at <http://www.avgroundwater.com/smallpumper/ResponseForm.cfm> by September 9, 2009. Alternatively, you may complete and return the attached response form by mail no later than September 9, 2009 to the following address:

Antelope Valley Groundwater Litigation
P.O. BOX 12013
Riverside, CA 92502-9839

WHERE CAN YOU GET ADDITIONAL INFORMATION?

The complaint, certain other documents from the litigation, and some other general information are available at: <http://www.avgroundwater.com/smallpumper/wood.cfm>. You may complete and submit the response form on that website. In addition, that website has a list of answers to certain other questions you may have. That website has an e-mail address for you to obtain information if you have further questions. That website will be updated from time to time to advise you of the status of this litigation. Also, all of the documents filed in the case are available on the court's website at: <http://www.sceffiling.org/cases/casehome.jsp?caseId=19>

PLEASE DO NOT CALL OR WRITE THE COURT OR CLERK'S OFFICE. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT YOUR OWN COUNSEL, VISIT THE WEB SITES LISTED ABOVE, OR WRITE TO CLASS COUNSEL AT THE ADDRESS ABOVE.

Dated: June 26, 2009

BY ORDER OF THE SUPERIOR COURT
OF CALIFORNIA FOR THE COUNTY OF
LOS ANGELES

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and am not a party to the within action; my business address is 301 North Lake Avenue, 10th Floor, Pasadena, California 91101-5123.

On March 25, 2010, I served the document(s), described as **Informal Opposition Letter dated March 25, 2010 to Honorable Chief Justice and Associate Justices of the Court of Appeal Fourth Appellate District – Division 2** on the interested parties in this action as follows:

PER ATTACHED MAILING LIST

X (BY REGULAR MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Pasadena, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

— (VIA ELECTRONIC MAIL) Electronically filed on the Santa Clara County Superior Court's website, <http://www.scefilings.org>, on *****, pursuant to the guidelines on this case.

— (VIA FACSIMILE) On ***, I caused the above-referenced document(s) to be transmitted via facsimile to the offices of the addressee(s) as follows: A true and correct copy of the transmission report indicating transmission without error is attached hereto.

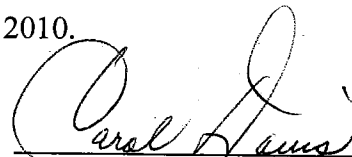
— (BY FEDERAL EXPRESS) I caused such envelope(s) to be delivered by air courier, with next day service.

— (BY PERSONAL SERVICE) I delivered such envelope(s) by hand to the offices of the addressee(s).

X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

— (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

EXECUTED at Pasadena, California on March 25, 2010.



Carol Davis
Declarant

MAILING LIST FOR CASE: E050466
Richard Wood v. Superior Court

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Richard Wood v. Superior Court

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MAILING LIST FOR CASE: E050466 (continued)
Richard Wood v. Superior Court

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