

# **EXHIBIT M**

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

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3 COUNTY OF LOS ANGELES

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6 IN RE: )  
7 ANTELOPE VALLEY GROUNDWATER ) JUDICIAL COUNCIL  
CASES. ) COORDINATION NO. 4408  
8 )  
9 ) SANTA CLARA COUNTY CASE  
10 ) NO. 1-05-CV-049053  
11 ) (FOR COURT'S USE ONLY)  
12 )

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13 REPORTER'S TRANSCRIPT OF PROCEEDINGS

14 BEFORE THE HONORABLE JACK KOMAR

15 JUDGE OF THE SUPERIOR COURT

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18 MAY 6, 2009

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20 TELECONFERENCE TO DISCUSS:

- 21 1. OBJECTIONS TO THE MAY 13, 2009 SETTLEMENT  
22 CONFERENCE GOING FORWARD,  
23 2. ISSUES RE CLASS NOTICE (WOOD PLAINTIFFS),  
24 3. AGWA'S EX PARTE APPLICATION FOR ORDER SHORTENING  
25 TIME REGARDING MOTION TO DECERTIFY, AND  
26 4. WOOD PLAINTIFF'S EX PARTE APPLICATION FOR ORDER  
27 STAYING CLASS NOTICE AND LIFTING STAY ON COURT  
28 APPOINTED EXPERT.

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28

1 HIS NAME. I JUST WANTED TO SAY WE WOULD BE HAPPY,  
2 GIVEN HIS EXPERIENCE, TO PROCEED IN FRONT OF HIM. WE  
3 THINK HE WOULD BE AN EXCELLENT CHOICE.

4 MR. EVERTZ: YOUR HONOR, THIS IS DOUG EVERTZ  
5 FOR CITY OF LANCASTER.

6 I AGREE. I THINK JUSTICE ROBIE WOULD BE AN  
7 EXCELLENT CHOICE.

8 MR. ORR: YOUR HONOR, THIS IS STEVEN ORR.

9 WE THINK IT WOULD BE AN EXCELLENT CHOICE.

10 MR. MC LACHLAN: MICHAEL MC LACHLAN FOR PUMPER  
11 CLASS.

12 I DON'T KNOW IF THE COURT SAW IT. I FILED ON  
13 BEHALF OF THE CLASS OUR POSITION ON THIS YESTERDAY,  
14 COINCIDENTALLY LISTED JUSTICE ROBIE AS OUR CHOICE. WE  
15 ARE -- OUR POSITION IS WE REALLY DON'T WANT TO WASTE  
16 THE TIME AND ENERGY IF IT IS NOT A SITTING JUDGE WITH  
17 WATER LAW EXPERIENCE, NO OFFENSE TO YOUR BRETHREN, BUT  
18 IT IS A COMPLICATED AREA HAVING HANDLED IT MYSELF. AND  
19 I JUST, I REALLY THINK WE NEED SOMEONE WHO ACTUALLY HAS  
20 SOME EXPERIENCE IN IT. SO IF WE CAN'T GET JUSTICE  
21 ROBIE THEN -- MAYBE THERE IS ANOTHER JUDGE/OFFICER IN  
22 THE STATE OF CALIFORNIA THAT SOMEBODY KNOWS OF, IT NOT  
23 THEN WE MIGHT NEED TO GO OUTSIDE THE CURRENT SITTING  
24 BENCH AND TRY TO FIND SOMEBODY WHO IS A PRIVATE  
25 MEDIATOR.

26 MR. DUNN: JEFFREY DUNN.

27 WE AGREE JUSTICE ROBIE WOULD BE A GOOD CANDIDATE  
28 TO CONDUCT THE SETTLEMENT CONFERENCE. AND WE'VE HAD

1 SOME DISCUSSIONS WITH MR. MC LACHLAN ABOUT THAT AND  
2 ALSO WITH THE PUBLIC WATER SUPPLIER GROUP.

3 THE COURT: ALL RIGHT. UNLESS SOMEBODY WOULD  
4 HAVE AN OBJECTION TO THAT I WILL ASK JUSTICE ROBIE WHEN  
5 HE RETURNS MY CALL IF HE'S WILLING TO UNDERTAKE THAT  
6 VOLUNTARY OBLIGATION. AND IF HE IS SO INCLINED I WILL  
7 ADVISE COUNSEL WE WILL DO THAT BY I THINK BOTH A MINUTE  
8 ORDER AS WELL AS A CONFERENCE, MANAGEMENT CONFERENCE ON  
9 THE TELEPHONE.

10 BUT AT THIS POINT THE -- AND I'M ASSUMING THAT  
11 TRYING TO GET HIM AVAILABLE TO DO THIS NEXT WEEK WOULD  
12 BE NOT LIKELY. SO I THINK YOU CAN ASSUME THAT THE  
13 COURT SUPERVISED SETTLEMENT CONFERENCE IS OFF  
14 CALENDAR. BUT THE PARTIES ARE ENCOURAGED TO MEET AND  
15 CONFER BY THEMSELVES IF THEY CAN DO SO.

16 AND I THINK THAT MAYBE ONE OF THE THINGS YOU  
17 MIGHT DO IS TALK ABOUT HOW TO FOCUS THE SETTLEMENT  
18 CONFERENCE SO THAT IT'S NOT STARTING FROM SCRATCH AND  
19 HITTING WHOEVER THE SETTLEMENT CONFERENCE JUDGE IS WITH  
20 A BLANKET REQUEST TO HELP US. I THINK IT SHOULD BE A  
21 FOCUSED SETTLEMENT CONFERENCE AND I THINK YOU EACH KNOW  
22 WHAT YOUR PARTICULAR FOCUS IS. AND I WOULD URGE YOU TO  
23 MEET AND CONFER, SEE IF YOU CAN AGREE AS TO HOW THAT  
24 FOCUS SHOULD OCCUR.

25 MR. MC LACHLAN: YOUR HONOR, THIS IS MIKE  
26 MC LACHLAN AGAIN FOR THE SMALL PUMPERS CLASS. A COUPLE  
27 POINTS OF CLARIFICATION. ONE, TO MY UNDERSTANDING THIS  
28 IS A VOLUNTARY SETTLEMENT CONFERENCE PROCESS, NOT A

1 MANDATORY SETTLEMENT CONFERENCE; IS THAT RIGHT?

2 THE COURT: WELL, IT WAS GOING TO BE MANDATORY  
3 FOR THE PARTIES THAT AGREED TO PARTICIPATE, TO THAT  
4 EXTENT.

5 MR. MC LACHLAN: OKAY. OUR -- WE -- THE SMALL  
6 PUMPER CLASS OBVIOUSLY INVOLVES THE PLAINTIFF CLASS AND  
7 CERTAIN NAMED PURVEYORS WITH NUMBER 8 OR 9, I BELIEVE.  
8 I HAVEN'T COUNTED THEM IN A WHILE.

9 WE WOULD LIKE TO KEEP THE PROCEEDINGS OF THE  
10 SMALL PUMPER CLASS LIMITED TO THE PARTIES IN OUR CASE  
11 AND IT WOULD BE WOOD VERSUS LA DISTRICT COURT, ET AL.  
12 AND NOT EXPANDED TO THE PARTIES IN THE IMMEDIATE  
13 ACTION, AREN'T DEFENDANTS IN THE OTHER ACTIONS, THIS  
14 ISN'T -- THIS PROCEEDING --

15 THE COURT: WELL, MR. MC LACHLAN, THAT WAS THE  
16 ORIGINAL FOCUS THAT WE STARTED ON. THAT'S WHAT WAS  
17 INTENDED. THE RECOGNITION THAT ANY SETTLEMENT THAT IS  
18 ENTERED INTO IS GOING TO NOT BE LIMITED ULTIMATELY TO  
19 THE IMPACT ON THOSE PARTIES IS GOING TO IMPACT  
20 EVERYBODY. AND AS WE DISCUSSED THE LAST TIME OBVIOUSLY  
21 ANY SETTLEMENT IN THE CLASS ACTION IS GOING TO HAVE TO  
22 HAVE A FORMAL HEARING. AND THE IMPACT ON OTHER PARTIES  
23 IS GOING TO HAVE TO BE ASCERTAINED AND THE OTHER  
24 PARTIES ARE GOING TO HAVE AN OPPORTUNITY TO OBJECT.

25 AND, FURTHERMORE, A SETTLEMENT BY ONE GROUP OF  
26 PARTIES TO THIS LITIGATION CANNOT BIND ANY OTHER  
27 PARTIES WHO WERE NOT PARTIES TO THE SETTLEMENT. SO,  
28 YOU KNOW, I DON'T THINK IT'S PARTICULARLY A PROBLEM TO

1 LIMIT THE INITIAL SETTLEMENT DISCUSSIONS BETWEEN THE  
2 WOOD CLASS AND THE PURVEYORS AND BETWEEN THE WILLIS  
3 CLASS AND THE PURVEYORS AS A SEPARATE AREA OF  
4 DISCUSSION. SO --

5 MR. MC LACHLAN: TO BE CLEAR, THE UNITED  
6 STATES IS NOT A PARTY, MICHAEL MC LACHLAN -- I DIDN'T  
7 MEAN TO EXCLUDE THE UNITED STATES BECAUSE I KNOW THEY  
8 ARE DIFFERENT -- THEY ARE NOT A PARTY IN OUR SUIT PER  
9 SE BUT IN SOME SENSE THEY KIND OF ARE. SO I DIDN'T  
10 MEAN TO EXCLUDE THEM.

11 THE COURT: NO. AND THEY WERE INCLUDED  
12 ORIGINALLY IN MY -- MY CONCERN SO -- AND I THINK THAT  
13 MR. LANGER HAS PROVIDED US WITH THEIR POSITION THAT  
14 THEY ARE VERY HAPPY TO PARTICIPATE SO THAT THEY CAN  
15 MAKE A RECOMMENDATION CONCERNING SETTLEMENT TO THE  
16 PARTIES AND HAVE TO APPROVE IT.

17 MR. FIFE: YOUR HONOR, THIS IS MICHAEL FIFE.  
18 PART OF THAT ORIGINAL DISCUSSION WAS THAT WHILE THE  
19 SETTLEMENT PROCESS WAS PARTICULARLY BETWEEN THE PUBLIC  
20 WATER SUPPLIERS AND THE SMALL PUMPERS CLASS IN  
21 PARTICULAR THAT OTHERS, IN PARTICULAR MY GROUP, WOULD  
22 BE PERMITTED TO ATTEND TO LISTEN AND TO MONITOR BUT  
23 REALLY NOT PARTICIPATE. WILL THAT STILL BE ALLOWED?

24 THE COURT: I'M GOING TO LEAVE THAT UP TO  
25 WHOEVER THE SETTLEMENT CONFERENCE JUDGE IS, MR. FIFE.  
26 THAT WAS MY INTENT AND I THOUGHT THAT IT WOULD BE  
27 USEFUL TO HAVE YOU ON BEHALF OF YOUR CLIENTS PRESENT.  
28 BUT THAT'S GOING TO BE UP TO WHOEVER IS GOING TO DO THE