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15 Attorneys for Plaintiff

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

19 ANTELOPE VALLEY GROUNDWATER
20 CASES

Judicial Council Coordination Proceeding
No. 4408
(Hon. Jack Komar)

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

Case No.: BC391869

**NOTICE OF SUBMISSION OF
[proposed] CASE MANAGEMENT
ORDER**

24 Plaintiff,

25 v.

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

28 Defendants.

29 Counsel for the proposed Small Pumpers' class action has met and conferred
30 extensively with numerous landowner counsel, as well as counsel for the purveyors. The
31 purveyors have decided to submit their own proposed case management order.

1 The proposed Case Management Order attached hereto as Exhibit A, is submitted
2 by:

3 Richard A. Wood; Diamond Farming Company and Crystal Organic Farms;
4 Gertrude Van Dam, Delbert Van Dam, Craig Van Dam, Gary Van Dam; Wagas Land
5 Company LLC; B.J. Calandri, John Calandri, John Calandri as Trustee of the John and
6 B.J. Calandri 2001 Trust, Forrest G. Godde, Forrest G. Godde as Trustee of the Forrest G.
7 Godde Trust, Lawrence A. Godde, Lawrence A. Godde and Godde Trust, Kootenai
8 Properties, Inc., Gailen Kyle, Gailen Kyle as Trustee of the Kyle Trust, James W. Kyle,
9 James W. Kyle as Trustee of the Kyle Family Trust, Julia Kyle, Wanda E. Kyle, Eugene
10 B. Nebeker, R and M Ranch, Inc., Edgar C. Ritter Paula E. Ritter, Paula E. Ritter as
11 Trustee of the Ritter Family Trust, Trust, Hines Family Trust, Malloy Family Partners,
12 Consolidated Rock Products, Calmat Land Company, Marygrace H. Santoro as Trustee
13 for the Marygrace H. Santoro Rev Trust, Marygrace H. Santoro, Helen Stathatos, Savas
14 Stathatos, Savas Stathatos as Trustee for the Stathatos Family Trust, Dennis L. &
15 Marjorie E. Groven Trust, Scott S. & Kay B. Harter, Habod Javadi, Eugene V., Beverly
16 A., & Paul S. Kindig, Paul S. & Sharon R. Kindig, Jose Maritoren Living Trust, Richard
17 H. Miner, Jeffrey L. & Nancee J. Siebert, Barry S. Munz, Terry A. Munz and Kathleen
18 M. Munz, Beverly Tobias, Leo L. Simi, White Fence Farms Mutual Water Co. No. 3.,
19 William R. Barnes & Eldora M. Barnes Family Trust of 1989, Healy Enterprises, Inc.,
20 John and Adrienne Reca, Sahara Nursery, Sal and Connie L. Cardile, Gene T. Bahlman,
21 collectively known as the Antelope Valley Ground Water Agreement Association
22 ("AGWA").

23 Wagas Land Company LLC and AGWA request that the Phase 2A trial occur in
24 Los Angeles.

25 DATED: AUGUST 1, 2008

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

26
27 By: 
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Michael D. McLachlan

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

**ANTELOPE VALLEY GROUNDWATER
CASES**

Judicial Council Coordination
Proceeding No. 4408
(Hon. Jack Komar)

**[proposed] CASE MANAGEMENT
ORDER FOR PHASE 2 TRIAL**

IT IS HEREBY ORDERED:

1. The Motion for Class Certification in the Wood class action (the “Small Pumper Class”), the Motion to Amend the Willis Certification Order (the “Dormant Class”), the status of service, and other case management related issues will be addressed on August 11, 2008, at 9:00 a.m. in Department 1 of the Los Angeles Superior Court.

1 **I. CLASS NOTICE**

2 **A. Joint Notice For Both Class Actions**

3 2. If an order issues certifying the Small Pumpers class action, counsel shall
4 meet and confer on the prompt issuance of a joint notice to be sent to all putative class
5 members. This joint proposed notice will be posted on the website by August 25. Parties
6 will have until August 28, 2008 to post objections to the proposed joint notice. If
7 objections are filed, a telephonic hearing will be held on September ____, 2008. The
8 approved joint notice will be mailed to all putative class members on or before September 4,
9 2008.

10 3. The class members will have 60 days to respond to the notice.

11 **B. Dormant Class Notice if Small Pumper Class is Not Certified**

12 4. If the Small Pumper Class is not certified, notice for the Dormant Class action
13 will be mailed on or before August 15, 2008, with 60 days for response from class
14 members.

15 **C. Jurisdiction of All Basin Landowners**

16 5. Within 30 days after the running of the 60-day class notice response period,
17 the Water Purveyors¹ shall file a report certifying that all landowners in the adjudicated
18 basin have been served, and shall specifically identify any landowners who have not been
19 served and what attempts at service have been made under Code of Civil Procedure
20 section 415.10.

21 6. The Court will set a hearing after the filing of this service report by the
22 Water Purveyors, and shall make such other orders as are necessary to secure a
23 comprehensive adjudication may be held for the Phase 2B trial (as defined below in
24

25 ¹ "Water Purveyors" means the following parties: Los Angeles County Waterworks District
26 No. 40; City Of Lancaster; City Of Palmdale; Palmdale Water District; Littlerock Creek
27 Irrigation District; Palm Ranch Irrigation District; Quartz Hill Water District; Antelope Valley
28 Water Co.; Rosamond Community Service District; Mojave Public Utility District; California
Water Service Company; Desert Lake Community Services District; and North Edwards
Water District.

1 paragraph 26). This may include, upon a proper showing by the Water Purveyors, an
2 order of service by publication of remaining unserved landowners.

3 7. As to any party who has been served with a complaint or cross-complaint in
4 these coordinated proceedings, and whose time to respond has elapsed, the parties are
5 directed to request the entry of default against those parties 10 days prior to the Phase 2B
6 trial date. In so doing, the parties shall be mindful that an answer to any of the
7 complaints or cross-complaints may serve as an answer to any other complaint or cross-
8 complaint. Thirty days prior to the Phase 2B trial date, any party intending to request the
9 entry of default against any other party shall send written notice of their intent to request
10 entry of default by first class mail to the address at the defaulting party was served, or
11 through other means reasonably intended to cause receipt 25 days prior to the Phase 2B
12 trial date.

13 8. In any event, the Phase 2B trial shall not commence until the Court has
14 jurisdiction over all landowners in the adjudicated basin.

15 **II. Trial and Pretrial Schedule for Phase 2**

16 **A. Phase 2A Trial**

17 **1. Timing, Location and Scope**

18 9. The Phase 2 trial will commence with an initial preliminary adjudication of
19 issues relating to the existence and definition of hydrologic sub-basins, if any (this
20 proceeding referred to as "Phase 2A"). Phase 2A will commence at 9:00 a.m. on October
21 6, 2008, in Department D-17 of the Superior Court of the County of Santa Clara, located
22 at 161 North First Street, San Jose, California.

23 **2. Expert Witnesses**

24 10. Expert designations for the Phase 2A trial shall take place on August 15,
25 2008. Designation of rebuttal experts shall take place on August 25, 2008. Said
26 designations shall comply with Code of Civil Procedure section 2034.010, et seq. In
27 addition, any expert designation shall produce a copy of any reports prepared
28 concurrently with his or her designation.

1 11. The parties who have designated witnesses are directed to meet and confer
2 in person and/or by telephone at 12:00 p.m. on August 18, 2008, to develop a schedule
3 for the taking of depositions of the expert witnesses for the Phase 2A trial who are
4 designated on August 15, 2008. Counsel for the Los Angeles County Waterworks
5 District No. 40 is directed to provide telephone conference information to the parties by
6 posting the same to the Court's website. The purpose of the telephone conference is to
7 develop a schedule for the taking of depositions, such that such taking is concluded by
8 September 26, 2008, which is the expert witness discovery cut-off. A similar telephone
9 conference shall take place in the same manner on August 26, 2008 for the rebuttal expert
10 witnesses designated on August 25, 2008.

11 12. Any party failing to participate in the telephone scheduling conferences or
12 who refuses to schedule their witnesses for deposition shall be deemed to have waived
13 the right to coordinate, and may thereafter have their witness' deposition set at the
14 convenience of the participating parties on 5 court days notice given pursuant to the
15 Court's Electronic Filing and Service Order. To the extent that parties are unable to
16 reach agreement as to any deposition, the Court will conduct a telephonic meet and
17 confer to be scheduled at the earliest convenient to the Court.

18 13. Any expert or other witnesses designated by the parties on August 15, 2008
19 shall be available and prepared to provide deposition testimony beginning on August 25,
20 2008. Any expert designated by the parties on August 25, 2008 shall be available and
21 prepared to provide deposition testimony beginning on September 15, 2008. The parties
22 shall make every effort to complete the depositions of the initially designated experts in
23 time for the depositions of the rebuttal experts to take place before the discovery cut-off
24 directed above. More than one deposition may be scheduled to take place on the same
25 day.

26 14. Any expert witness who is not prepared to testify on the date agreed or
27 noticed for deposition is subject to exclusion at the time of trial.
28

1 15. All deponents are directed to produce their file on this matter, and any other
2 requested materials for inspection at least five business days before the date set for the
3 deposition at the expert's place of business or such location as the parties may agree.
4 Such materials may be produced in electronic format.

5 **3. Other Pre-Trial Matters**

6 16. Any party intending to participate in the Phase 2A trial must post a Notice
7 of Intention to Participate in the Phase 2A Trial on the Court's website three weeks prior
8 to the trial date. Excuse from this requirement may be given upon a showing of good
9 cause.

10 17. The parties shall file and post trial briefs regarding the Phase 2A issues ten
11 days prior to the Phase 2A trial date. Responding trial briefs, *if any*, shall be filed and
12 posted five days before the Phase 2A trial. The Court will consider whether to request
13 closing trial briefs as the Phase 2A proceeds.

14 18. The parties shall post their witness and exhibit lists one week prior to the
15 Phase 2A trial date. The witness lists shall provide the name of the witness(es), a short
16 summary of testimony expected to be elicited, and a time estimate. The exhibit lists shall
17 be sufficiently specific as to enable the other parties to identify the exhibit prior to trial.
18 Exhibits shall be sequentially numbered, starting with the Arabic number 1. The parties
19 shall agree as to the division of exhibit numbers 20 days prior to the Phase 2A trial date.

20 19. The parties shall coordinate with one another to determine the actual date
21 and time of the witnesses' testimony at trial. The parties shall make their best efforts to
22 produce all documents relevant to that witnesses' testimony prior to the witness'
23 deposition. Any other documents not previously produced, but which are intended to be
24 used at trial, shall be made available as soon as practicable, but no later than one week
25 before trial, except as to documents to be used in good faith for impeachment purposes.

26 20. Upon request, the parties shall provide one another with electronic copies
27 of their exhibits, except those exhibits that are not practical to provide in electronic
28 format.

1 21. Any motion to exclude witnesses or exhibits, or other motions *in limine*,
2 will be heard at the commencement of the trial. Any such moving papers shall be filed
3 and posted five days prior to the Phase 2A trial date. Any opposition papers, including
4 evidentiary objections, shall be filed and posted one court day prior to the Phase 2A trial
5 date.

6 22. Should any party elect to use a third party provider to assist in the
7 projection or presentation of evidence, that party shall permit said third party provider to
8 contract with any other party for the use the same services provided. Third party
9 providers, in any event, shall work together to coordinate the use of equipment.

10 23. Any party desiring to monitor the Phase 2A trial by telephone may do so
11 through CourtCall, but will not be allowed to question witnesses or participate in oral
12 argument absent prior arrangement with the Court.

13 24. The Court shall be provided with courtesy copies of all exhibits, except
14 those pertaining to impeachment, preferably in three ring notebooks with numbered
15 dividers one court day prior to the Phase 2A trial date. Counsel are directed to coordinate
16 this project with one another.

17 25. Prior to the commencement of each day of trial, counsel shall confer as to
18 the order of the next day's witnesses, and shall advise the Court of the same at the
19 commencement of that day of trial.

20 **B. Phase 2B Trial**

21 26. The Phase 2B trial will be held in Los Angeles Superior Court and will
22 address the following issues: characteristics of the Antelope Valley Area of Adjudication
23 ("Basin"), including (a) the safe yield of the Basin, and (b) whether the Basin has been or
24 is currently in a state of overdraft. This trial is tentatively set for _____,
25 2009.

26 27. The designation of the expert witnesses for the Phase 2B trial shall occur 30
27 days after the conclusion of the Phase 2A trial, with designation of rebuttal experts 10
28 court days thereafter.

1 28. The scheduling requirements set forth in paragraphs 9 through 15 above
2 shall apply, with necessary conference calls to be set at reasonable times not later than a
3 week after the respective designation dates.

4 29. The schedule and requirements set forth above in paragraphs 16 through 25
5 shall also apply to the Phase 2B trial.

6
7 **III. MISCELLANEOUS ISSUES**

8 30. The parties are directed to conduct a telephone conference on August 19,
9 2008, to discuss a coordinating or liaison committee for purposes of the Phase 2A and
10 Phase 2B trials. Counsel for the Los Angeles County Waterworks District No. 40 is
11 directed to provide telephone conference information to the parties by posting the same to
12 the Court's website. The purpose of the committee is to create a means of attempting to
13 resolve issues quickly and informally, and to streamline the presentations at trial. The
14 existence of this committee, however, shall not deprive any other party from raising
15 issues or concerns to the other parties.

16 31. The parties are directed to avoid serving duplicative written discovery, but
17 may do so should a propounding party not pursue its rights to compel further responses to
18 deemed to be inadequate by such other party.

19 32. The parties are directed to meet and confer concerning any discovery
20 dispute before contacting the Court and before filing any discovery motion. If such
21 attempts prove unsuccessful, the Court will conduct a further meet and confer, either by
22 telephone or in person as the Court may direct. The parties will provide the Court with a
23 letter in advance setting forth the text of any written discovery requests and responses
24 thereto that are in dispute, or other information that will assist the Court in conducting the
25 meet and confer. The parties should contact the Court's clerk to schedule any such meet
26 and confer. The Court expects that all discovery disputes will be resolved through the
27 meet and confer process. Any party may thereafter apply ex parte for an order shortening
28 time and specially setting a motion to compel for hearing by providing notice thereof

1 pursuant to the Electronic Filing and Service Order.

2 33. The failure to respond to discovery in a good faith manner may result in
3 sanctions as the Court may deem appropriate. All discovery in this coordinated
4 proceeding shall be conducted according to the Code of Civil Procedure except to the
5 extent expressly provided by this Order.

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9 Dated: _____

10 Honorable Jack Komar
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1 PROOF OF SERVICE

2
3 I am a resident of the State of California and over the age of eighteen years, and
4 not a party to the within action. My business address is 523 West Sixth Street, Suite
5 215, Los Angeles, CA, 90014. On the date set forth below, I served the within
6 document(s) by posting the document(s) listed below to the Santa Clara County
7 Superior Court website in regard to the Antelope Valley Groundwater matter:

8 **NOTICE OF SUBMISSION OF [proposed] CASE MANAGEMENT ORDER**

9
10 I declare under penalty of perjury under the laws of the State of California that the
11 above is true and correct. Executed on August 1, 2008, at Los Angeles, California.
12

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14 _____
Carol Delgado
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