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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

**RICHARD WOOD'S BRIEF RE:
CONSOLIDATION ORDER**

Date: February 5, 2010
Time: 9:00 a.m.
Dept.: 1

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1 each of the class cases.

2 **C. A Comprehensive Adjudication Can be Achieved**

3 At the behest of the Public Water Suppliers, one of the predominant objectives of
4 the case has been to obtain jurisdiction over the federal defendants, pursuant to the
5 McCarran Amendment. This can be accomplished by settling the two class cases
6 resulting in a judgment in this case resolving the prescriptive claims of the Public Water
7 Suppliers, and all other claims as between the class members and the Suppliers. As the
8 amended Proposed Order correctly notes, most of these claims do not impact the rights of
9 the United States. (Order, ¶¶6-7.) Consequently, not only is consolidation improper as a
10 matter of procedure, but it does not accomplish anything (other than adversely impacting
11 the rights of the class members).

12 The McCarran issue can be adequately resolved as to the classes by a provision in
13 the class judgments giving the Court jurisdiction over the classes to enter a single
14 judgment in the “main consolidated proceeding” reflecting the rights of the class
15 members. In particular, it is contemplated that the class members would be subject to a
16 physical solution in the main action, if that were eventually to materialize. In essence,
17 the class would be subject to a contingent second judgment in the larger proceeding that
18 would reflect the aspects of the settlements with the Public Water Suppliers impacting a
19 comprehensive adjudication of the parties’ water rights.

20 **D. Comments on the Proposed Order**

21 The proposed order is an improvement over the first draft, but needs further
22 modification.

23 On page 2, lines 23 and 24, the order should read: “any such judgment must
24 expressly retain jurisdiction over the settling parties for purposes of incorporating the
25 pertinent provisions of such settlement(s) into a single judgment containing such a
26 physical solution.” This change will clarify the fact that the result of settlement would
27 likely be that the class members would be subject to two judgments, if there ultimately is
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1 a judgment entered in the “main proceeding.” The first class judgments will remain, and
2 stand in full force and effect; the second judgment will merely incorporate the relevant
3 terms of the first judgment relating to the comprehensive adjudication.

4 On page 2, line 27, the Order should be modified to reflect that all non-class
5 claims are completely consolidated. The same problem appears on page 3, paragraph 3.
6 Plaintiff also suggests that the paragraphs should be re-numbered, using letters and
7 numbers, so that the order does not contain two sets of paragraphs numbered 1 to 5, as it
8 does now. The current numbering will likely confuse the record should this Order be
9 appealed.

10 The paragraphs 5 through 8 on pages 3 through 5 appear to be beyond the scope of
11 the motion in question. Furthermore, the order does not address the form of the pleadings
12 going forward with a consolidated proceeding.

13
14 DATED: February 3, 2010

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

15
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17 By: _____//s//

18 Michael D. McLachlan
19 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 523 West Sixth Street, Suite 215,
4 Los Angeles, California 90014.

5 On February 3, 2010, I caused the foregoing document(s) described as **RICHARD**
6 **WOOD'S BRIEF RE: CONSOLIDATION ORDER**
7 to be served on the parties in this action, as follows:

8 (X) (BY ELECTRONIC SERVICE) by posting the document(s) listed above to the Santa
9 Clara County Superior Court website: www.scefiling.org regarding the Antelope Valley
10 Groundwater matter.

11 () (BY U.S. MAIL) I am readily familiar with the firm's practice of collection and
12 processing of documents for mailing. Under that practice, the above-referenced
13 document(s) were placed in sealed envelope(s) addressed to the parties as noted above,
14 with postage thereon fully prepaid and deposited such envelope(s) with the United States
15 Postal Service on the same date at Los Angeles, California, addressed to:

16 () (BY FEDERAL EXPRESS) I served a true and correct copy by Federal Express or other
17 overnight delivery service, for delivery on the next business day. Each copy was
18 enclosed in an envelope or package designed by the express service carrier; deposited in a
19 facility regularly maintained by the express service carrier or delivered to a courier or
20 driver authorized to receive documents on its behalf; with delivery fees paid or provided
21 for; addressed as shown on the accompanying service list.

22 () (BY FACSIMILE TRANSMISSION) I am readily familiar with the firm's practice of
23 facsimile transmission of documents. It is transmitted to the recipient on the same day in
24 the ordinary course of business.

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

27 () (FEDERAL) I declare under penalty of perjury under the laws of the United States of
28 America that the foregoing is true and correct.

29 _____
30 //s//
31 Carol Delgado