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9 Attorneys for Plaintiff

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

12 Coordination Proceeding
13 Special Title (Rule 1550(b))

14 ANTELOPE VALLEY GROUNDWATER
15 CASES

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

18 Plaintiff,

19 v.

20 LOS ANGELES COUNTY
21 WATERWORKS DISTRICT NO. 40; et al.

22 Defendants.

Judicial Council Coordination
Proceeding No. 4408

(Santa Clara Case No. 1-05-CV-049053,
Honorable Jack Komar)

Case No.: BC 391869

**STIPULATION AND ~~Proposed~~
ORDER RE: SMALL PUMPER
CLASS NOTICE ISSUES**

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

FILED 08 2009

John A. Clarke, Executive Officer/Clerk
By Jalon Taylor, Deputy
Jalon Taylor

24 After meeting and conferring, stipulating parties agree that substantial problems
25 likely exist with the portion of the Small Pumper Class (the "Class") mailing list covering
26 parcels inside the public water supplier service areas. The parties believe that many of
27 the parcels on this portion of the proposed Class list do not in fact meet the Class
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STIPULATION AND ORDER RE: SMALL PUMPER CLASS NOTICE ISSUES

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25 Plaintiff,

26 v.

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

Defendants.

After meeting and conferring, stipulating parties agree that substantial problems likely exist with the portion of the Small Pumper Class (the "Class") mailing list covering parcels inside the public water supplier service areas. The parties believe that many of the parcels on this portion of the proposed Class list do not in fact meet the Class

1 definition.

2 The stipulating parties further acknowledge that it is important that the Class is
3 formed in such a manner as to include, as best as is practicable, properties that conform to
4 the Class definition.

5 Based on the foregoing, the parties stipulate as follows:

- 6 1. With regard to putative Class members inside the public water supplier service
7 areas, the parties will: (a) obtain shareholder lists from the mutual water
8 companies that are party to this suit, within 15 days of this order, and will
9 remove any such names from the database; (b) meet and confer on additional
10 names that should not be on the list, including review of water supplier records
11 and further expert analysis as needed;
- 12 2. That as to the remaining parcels identified as located inside the public water
13 supplier service areas, a second notice shall be submitted to the Court for
14 approval, within 5 court days of the execution of this Order, which will be an
15 “opt-in” notice, meaning that only those property owners who affirmatively
16 respond with written response form or via the Class website will be included in
17 the Class;
- 18 3. That the questionnaire to be included in the notice will be expanded to request
19 further data to be used by the parties, Entrix, and the water supplier experts to
20 assess the actual pumping of the Class members using statistically significant
21 sampling sizes;
- 22 4. That as to the putative Class members outside the service areas, the Class
23 notice will remain an “opt-out” notice, and those Class members will receive
24 the existing Class notice, to be modified with additional water usage questions;
- 25 5. That as to the putative Class members outside the service areas, the Court-
26 appointed expert will conduct a statistically significant assessment as to the
27 percentage of the Class members actually satisfy the Class definition, and if
28 this analysis reveals an improperly high number of improper Class members,

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further efforts will be taken to identify and remove improper Class members from the Class.

6. That the Court-appointed expert, and existing experts of the public water suppliers, shall use the data generated by the Class notice response forms, supplemented as needed by further field-work, to formulate reliable estimates of the water usage of the Class.

7. The stay as to the Court appointed expert, Timothy Thompson, will be lifted and his firm will conduct such work as necessary and consistent with this order, and to the extent practicable, data gathering and field work will be conducted by cost-effective means, potentially including use of less expensive independent contractors.

DATED: May 5, 2009

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

By: _____ //s//

Michael D. McLachlan
Attorneys for Plaintiff

DATED: May 5, 2009

BEST, BEST & KRIEGER LLP

By: _____ //s//

Jeffrey V. Dunn
Attorneys for Defendants Los Angeles County
Waterworks District No. 40 and Rosamond
Community Services District

IT IS SO ORDERED.

DATED:

5-6-09

By: _____


JUDGE OF THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA

JACK KOMAR

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 May 5, 2009, I caused the foregoing document(s) described as **STIPULATION AND
[proposed] ORDER RE: SMALL PUMPER CLASS NOTICE ISSUES**

6 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 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,
12 with postage thereon fully prepaid and deposited such envelope(s) with the United States
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
16 facility regularly maintained by the express service carrier or delivered to a courier or
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
20 the above is true and correct.

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

23 _____ //s//

24 Michael McLachlan