

Michael D. McLachlan (State Bar No. 181705)  
**LAW OFFICES OF MICHAEL D. McLACHLAN, APC**  
10490 Santa Monica Boulevard  
Los Angeles, California 90025  
Telephone: (310) 954-8270  
Facsimile: (310) 954-8271  
mike@mclachlanlaw.com

Daniel M. O'Leary (State Bar No. 175128)  
**LAW OFFICE OF DANIEL M. O'LEARY**  
10490 Santa Monica Boulevard  
Los Angeles, California 90025  
Telephone: (310) 481-2020  
Facsimile: (310) 481-0049  
dan@danolearylaw.com

Attorneys for Plaintiff

**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 OPPOSITION  
TO PUBLIC WATER SUPPLIERS'  
MOTION TO SIGN PROPOSED  
ORDER RE JURISDICTION OVER  
TRANSFEREES AND JOINDER IN  
OPPOSITION OF VAN DAM  
PARTIES**

Date: June 14, 2010  
Time: 9:00 a.m.  
Dept.: 1

1 On May 26, 2010, the public water suppliers filed an untimely Motion for the Court to  
2 Sign a Proposed Order that is now two and one-half-years old (“Motion”). In that  
3 Motion, the water suppliers make no argument on the merits of the issue. They had  
4 previously suggested that the continual loss of jurisdiction over hundreds and likely  
5 thousands of properties because of real estate transfers is not of concern for purposes of  
6 McCarran Amendment jurisdiction, but then request that the Court sign an order that  
7 purports to solve this problem that is not really a problem. (*See* Motion, Exhibit A.)  
8 Plaintiff opposes the signature of this order as written, and its purported application to the  
9 class without proper notice.

10 **A. THE ACTUAL FACTS ARE DIFFERENT THAN REPRESENTED AT**  
11 **THE LAST HEARING**

12 The proposed order was submitted by counsel for Tejon Ranch on January 4,  
13 2008, and argued on January 14, 2008. At that hearing, the Court initially ordered that a  
14 lis pendens be recorded on all of the cross-defendant properties. (January 14, 2008  
15 transcript, 59:3-27.) At the insistence of the County of Los Angeles, the Court later  
16 rescinded that order. (*Id.* at 64:8- 66:26.) The Court made no mention of the proposed  
17 order, its intent to sign that order, or any portion of it being binding on the parties. All  
18 the Court stated was that “we will talk about that further at the next hearing.” (*Id.* at  
19 66:24-25.) Indeed, at that time, it was clear the Court was still entertaining the proper  
20 solution to the problem: the recordation of a lis pendens. At the end of the hearing, the  
21 Court stated as follows: “I will reconsider the lis pendens issue. And if people would  
22 brief it, I would appreciate it.” (*Id.* at 67:9-10.)

23 As the PWS correctly point out, the issue was never briefed nor raised again at any  
24 subsequent hearings, until May of 2010.

25 **B. JOINDER IN VAN DAM PARTIES OPPOSITION**

26 All of the procedural and substantive points of opposition raised in the Van Dam  
27 Parties opposition are well-taken, and Plaintiff Richard Wood joins and incorporates

1 those arguments herein. The Court has repeatedly reminded the parties that it follows the  
2 Code of Civil Procedure. The Motion was not timely filed, and should be rejected on that  
3 basis alone. At least procedurally, this case is increasingly treated with a level of  
4 informality akin to a small claims proceeding. If this Motion is considered on improper  
5 notice, such behavior will only continue in the future.

### 6 **C. ISSUES RELATED TO THE CLASS MEMBERS**

7 It is clear that the Court never signed this proposed order, which is dated January  
8 of 2008. For a litany of reasons, the Court should not sign this order now. In addition to  
9 the arguments raised in the Van Dam Opposition, there are a few others unique to the  
10 class members.

11 At the time this proposed order was filed, Richard Wood was not a party to these  
12 proceedings, and never had an opportunity to participate in the litigation of the issues  
13 addressed in the proposed order. While the proposed order states that it applies to all  
14 class members, the classes were never given notice of it because it did not and still does  
15 not exist as an enforceable order. (Motion, Ex. A, ¶ 1.) It is dubious to assume that class  
16 members could be made to comply with this order, and that innocent third-party  
17 purchasers could be bound by if the class members failed to comply with the order.  
18 Mechanically, it is foolish to think the parties would achieve anything beyond the most  
19 minimal compliance with this order, which requires the transferor to post a complicated  
20 legal notice on the court's website. But even if this order was signed, it would not cure  
21 the problem caused by hundreds if not thousands of property transfers that have already  
22 occurred during the pendency of this case.

23 It bears emphasis that the membership of the class is a group of people, not a  
24 group of parcels. When a class member sells a small pumper parcel, jurisdiction over  
25 that parcel is lost. The cure for that is periodically compare and update the existing  
26 property ownership records and send notice to the current property owners. The Court's  
27 execution of the order will do nothing to cure the leakage of class members.

1 If the public water suppliers ultimately plan to record a judgment in this case on  
2 the title of every parcel allegedly subject to this adjudication, they should expressly state  
3 that now. The posture of this case as an *in personam* action will not allow that, at least  
4 comprehensively as to all parcels. As the Court has noted, this is not *in rem* proceeding.  
5 Therefore, absent proper and timely service, the “*inter se* transfer” property owners who  
6 hold title at the time of judgment, and who are not otherwise party to this suit, will not be  
7 bound by the judgment.

8 The argument that the class members have notice of this action, and are therefore  
9 bound by any orders the Court files on the web-site is spurious, and directly contradictory  
10 to the terms of the order itself, which requires that the class members be given notice of  
11 the order. (Motion, Ex. A, ¶6 (“Counsel for all parties shall advise their clients, both  
12 individuals and class members, of the requirements of this order. To assist class counsel  
13 in this regard, a copy of this Order shall be included with the initial Notice of Class  
14 Action that will be mailed to all the class members.”) There was nothing in the class  
15 notices that informed the class members of the order, its contents, or the alleged fact that  
16 they would be bound by unknown future orders such as this one. The Public Water  
17 Suppliers missed the boat again, and now want the Court to sign an order that is  
18 meaningless to the class without further notice.

19 Additionally, there were at least 160 small pumpers who never received the mailed  
20 notice (and probably in excess of 1,000 in the Willis Class). No further attempts at  
21 service were made for these 160 small pumpers. Given the importance of the issues in  
22 this case to their real property rights, it is highly unlikely that the limited notice in the  
23 newspapers could satisfy the due process rights of these people.

24 The parties should account for the status of service of the class members, and then  
25 remedy any necessary defects now, before the next phase of trial. Pretending that this  
26 Order accomplishes anything as to the class members is simply wrong.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

By: \_\_\_\_\_  
Michael D. McLachlan  
Attorneys for Plaintiff

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 June 1, 2010, I caused the foregoing document(s) described as **RICHARD WOOD'S**  
6 **OPPOSITION TO PUBLIC WATER SUPPLIERS' MOTION TO SIGN**  
7 **PROPOSED ORDER RE JURISDICTION OVER TRANSFEREES AND**  
8 **JOINDER IN OPPOSITION OF VAN DAM PARTIES**

9 to be served on the parties in this action, as follows:

- 10 ( X ) (BY ELECTRONIC SERVICE) by posting the document(s) listed above to the Santa  
11 Clara County Superior Court website: [www.scefiling.org](http://www.scefiling.org) regarding the Antelope Valley  
12 Groundwater matter.
- 13 ( ) (BY U.S. MAIL) I am readily familiar with the firm's practice of collection and  
14 processing of documents for mailing. Under that practice, the above-referenced  
15 document(s) were placed in sealed envelope(s) addressed to the parties as noted above,  
16 with postage thereon fully prepaid and deposited such envelope(s) with the United States  
17 Postal Service on the same date at Los Angeles, California, addressed to:
- 18 ( ) (BY FEDERAL EXPRESS) I served a true and correct copy by Federal Express or other  
19 overnight delivery service, for delivery on the next business day. Each copy was  
20 enclosed in an envelope or package designed by the express service carrier; deposited in a  
21 facility regularly maintained by the express service carrier or delivered to a courier or  
22 driver authorized to receive documents on its behalf; with delivery fees paid or provided  
23 for; addressed as shown on the accompanying service list.
- 24 ( ) (BY FACSIMILE TRANSMISSION) I am readily familiar with the firm's practice of  
25 facsimile transmission of documents. It is transmitted to the recipient on the same day in  
26 the ordinary course of business.
- 27 (X) (STATE) I declare under penalty of perjury under the laws of the State of California that  
28 the above is true and correct.
- ( ) (FEDERAL) I declare under penalty of perjury under the laws of the United States of  
America that the foregoing is true and correct.

29 \_\_\_\_\_  
30 //s//  
31 Ana Horga