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Attorneys for Plaintiff Richard Wood and the Class

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

Coordination Proceeding  
Special Title (Rule 1550(b))

Judicial Council Coordination  
Proceeding No. 4408

ANTELOPE VALLEY GROUNDWATER  
CASES

Lead Case No. BC 325 201

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

Case No.: BC 391869

Plaintiff,

***EX PARTE* APPLICATION FOR  
CLARIFICATION AND  
AMENDMENT OF PHASE 4 CASE  
MANAGEMENT ORDER**

v.

Date: December 20, 2012  
Time: 8:30 a.m.  
Place: Telephonic Hearing (Courtcall)

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

Defendants.

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on December 20, 2012, at 8:30 a.m., a telephonic  
3 hearing will occur on Plaintiff Richard Wood's *Ex Parte* application for an order  
4 clarifying and amending the Case Management Order For Phase 4 Trial. The Court will  
5 participate telephonically with all interested parties.

6  
7 DATED: December 17, 2012

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10 By: //s// Michael D. McLachlan

11 Michael D. McLachlan  
12 Attorneys for Plaintiff  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **A. Requested Clarification Regarding Scope of Phase 4 Trial**

3 Some of the parties request clarification of the timeframes applicable to certain  
4 evidence at issue in the Phase 4 trial, as set forth in paragraph two of the December 12,  
5 2012 Case Management Order For Phase 4 Trial. Specifically, these parties would like to  
6 clarify that the timeframes applicable to “proof of claimed reasonable and beneficial use  
7 of water for each parcel to be adjudicated” and “claimed returned flows from imported  
8 water” are also the calendar year of 2011 and January 1 through November 20, 2012.

9 At least one other party has also requested the clarification of the term  
10 “groundwater” as used in paragraph 2 of the CMO. Water Code sections 1005.2 and  
11 1005.4, respectively pertaining to Los Angeles and Kern Counties, permit a party to use  
12 nontributary water in lieu of groundwater. In part, both sections provide as follows:

13 Cessation of or reduction in the extraction of ground water, to permit the  
14 replenishment of such ground water by the use of water from an alternate  
15 nontributary source, is hereby declared to be a reasonable beneficial use of the  
16 ground water to the extent and in the amount that water from such alternate source  
17 is applied to beneficial use, not exceeding, however, the amount of such reduction.  
18 No lapse, reduction or loss of any right in ground water, shall occur under such  
19 conditions.

20 Cal. Wat. Code, §§ 1005.2 and 1005.4(a). Hence, this party has requested that the in the  
21 relevant location, the term “groundwater” be amended to “groundwater production (or  
22 use of alternative nontributary waters in lieu thereof).”

23 **B. Requested Amendment to CMO for Phase 4 Trial**

24 There are many hundreds, and in fact likely thousands, of named parties to this  
25 adjudication, representing tens of thousands of parcels of land. Some of the parties have  
26 been active in the litigation, while countless others have been dormant to this point.  
27 Some parties believe that judicial resources should not be spent proving up current  
28 production and reasonable and beneficial use that is not disputed. Therefore, Richard  
Wood and various other parties request that the Court amend the Case Management order

1 to provide the parties the ability to agree that certain parties do not have to appear at trial  
2 in order to establish their production and/or reasonable and beneficial use for the time  
3 period in question.

4 The proposed language for the amendment is as follows:

5 The Court further orders that if a party timely complies with the Discovery  
6 Order for Phase 4 Trial by December 21, 2012 to the satisfaction of all other  
7 parties, the parties to this coordinated proceeding may agree that such party need  
8 not testify or put forth evidence to establish current groundwater production (or  
9 use of alternative nontributary waters in lieu thereof) or the reasonable and  
10 beneficial use of such water at the Phase 4 trial. To that end, if by 4:00 p.m. on  
11 January 10, 2013, no party files an objection as to a particular party's current  
12 groundwater production (or use of alternative nontributary waters in lieu thereof)  
13 then the party in question's current groundwater production (or use of alternative  
14 nontributary waters in lieu thereof) for that parcel shall be deemed as set forth in  
15 that party's discovery filing. Furthermore, if no party objects to the reasonable  
16 and beneficial use of the water on a parcel, it shall be deemed reasonable and  
17 beneficial without need for submission of evidence at the Phase 4 trial.

18  
19 DATED: December 17, 2012

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22 By: //s// Michael D. McLachlan

23 Michael D. McLachlan  
24 Attorneys for Plaintiff  
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