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

10 COORDINATED PROCEEDING) JUDICIAL COUNCIL COORDINATION
11 SPECIAL TITLE (Rule 1550(b))) PROCEEDING NO. 4408
12 ANTELOPE VALLEY GROUNDWATER)
CASES)
13 Included Actions:)
14 REBECCA LEE WILLIS, on behalf of herself) PLAINTIFF REBECCA WILLIS' NOTICE OF
15 and all others similarly situated,) MOTION AND MOTION FOR LEAVE TO
16 Plaintiff,) FILE SECOND AMENDED CLASS ACTION
17 vs.) COMPLAINT; MEMORANDUM OF POINTS
AND AUTHORITIES
18 LOS ANGELES COUNTY WATERWORKS)
DISTRICT NO. 40; et al.,) Date: May 5, 2008
19 Defendants.) Time: 9:00 a.m.
Place: Dept. 1 (L.A. Super. Ct.)
20 Los Angeles County Superior Court)
21 Case No. BC 364 553) Judge: Hon. Jack Komar
22 AND RELATED ACTIONS)
23

24 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

25 PLEASE TAKE NOTICE that, on May 5, 2008, at 9:00 a.m., or as soon thereafter as the
26 matter can be heard, in Department 1 of this Court, located at 110 North Hill Street, Los Angeles,
27 California 90012, Plaintiff Rebecca Willis, by and through her attorneys, will move this Court for
28

1 an ORDER granting her leave to file a Second Amended Class Action Complaint in the form
2 attached hereto as Exhibit A.

3
4 As discussed below, this motion is made on the grounds that good cause exists for granting
5 Plaintiff leave to amend. Moreover, granting leave to amend will not prejudice the rights of any of
6 the Defendants given the stage of the litigation. Plaintiff has met and conferred with opposing
7 counsel, and understands that defendants Los Angeles County Waterworks District No. 40 and
8 Rosamond Community Service District do not oppose this motion.

9 This motion is based on this Notice of Motion and Motion and the accompanying
10 Memorandum of Points and Authorities, and on the papers and records on file herein, and on such
11 oral and documentary evidence as may be presented at the hearing of the motion.
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13 Dated: April 11, 2008.

KRAUSE KALFAYAN BENINK &
SLAVENS LLP

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15 */s/ Ralph B. Kalfayan*
16 Ralph B. Kalfayan, Esq.
17 Attorney for Plaintiff and the Class
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I.
INTRODUCTION

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3 Plaintiff, Rebecca Willis, moves to amend her Complaint and file a Second Amended
4 Complaint (hereinafter “SAC”) on behalf of the certified class of dormant landowners. The Class
5 includes over 60,000 dormant landowners in the Antelope Valley with aggregate parcels of land that
6 span thousands of acres. The property rights of Plaintiff and the Class have been impacted by the
7 conduct of the defendants and the SAC seeks to include all available legal and equitable claims that
8 may be asserted on their behalf. There is no prejudice to the defendants and the court has once
9 permitted counsel leave to amend.
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11 The SAC includes the following changes: (1) a definition of the Class that excludes owners
12 who get water service from municipal providers and owners of large parcels of land that have been
13 served with process; (2) allegations that exclude the term “overdraft” as there has been no discovery
14 or finding on the issue; (3) a request to adjudicate water storage/banking issues as articulated by
15 Defendants in their Proposed Class Certification Order; and, (4) damage claims that are implicated
16 by the Defendants’ past and continuing conduct.
17

18 By this motion Plaintiff requests that the Court order the attached SAC be filed as proposed
19 and order an expedited briefing/hearing schedule for any challenges to the pleading. The
20 amendments are necessary in order to assert all claims on behalf of all overlying landowners and
21 fully and finally adjudicate the rights of the parties in a single proceeding.
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23 Notably, most of the new claims are already in issue in this litigation as they were raised
24 by some of the large agricultural growers such as Diamond Farming Company, Bolthouse
25 Properties, LLC, and Antelope Valley Ground Water Agreement Association in various cross-
26 complaints. Defendants have not challenged the claims in those pleadings and directly answered
27 the cross-complaints. Defendants are not prejudiced by this amendment and the liberal policy in
28 favor of amendments compels the granting of this motion.

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II.
MEMORANDUM OF POINTS AND AUTHORITIES

A. It Is In Furtherance Of Justice To Allow Plaintiff To Amend Her Complaint

This Court “may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding.” *Code.Civ.Proc. §473*. It is established judicial policy to resolve all disputes between the parties on their merits, and to liberally allow amendments to the pleadings to put all disputes at issue at the time of trial. *See, Vogel v. Thrifty Drug Co.*, (1954) 43 Cal.2d 184, 188 (“It is a basic rule of pleading in this state that amendments shall be liberally allowed so that all issues material to the just and complete disposition of a cause may be expeditiously litigated”); *See also, Wilson v. Turner Resilient Floors* (1949) 89 Cal.App.2d 589; *In re Herbst’s Estate* (1938) 26 Cal.App.2d 249.

“While a motion to permit an amendment to a pleading to be filed is one addressed to the discretion of the court, the exercise of this discretion must be sound and reasonable and not arbitrary or capricious. And it is a rare case in which 'a court will be justified in refusing a party leave to amend his pleadings so that he may properly present his case.' If the motion to amend is timely made and the granting of the motion will not prejudice the opposing party, it is error to refuse permission to amend and where the refusal also results in a party being deprived of the right to assert a meritorious cause of action or a meritorious defense, it is not only error but an abuse of discretion.”

California Cas. Gen. Ins. Co. v. Superior Ct (1985) 173 Cal.App.3d 274, 278 (citations omitted).

The judicial policy favoring amendment in the interests of justice is so strong that denial is rarely justified. This motion is timely made since it is made before the parties have conducted discovery, before notice has gone out to the Class, and before the Court has set a date for the trial. This Court may in its sound discretion allow Plaintiff to amend her complaint, regardless of the stage of the litigation. *See, Hirsu v. Superior Ct.*, (1981) 118 Cal.App.3d 486, 488-489 (“Trial courts are vested with the discretion to allow amendments to pleadings in furtherance of justice . . . that trial courts are to liberally permit such amendments, at *any* stage of the proceeding, has been

