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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – CENTRAL DISTRICT

ANTELOPE VALLEY GROUNDWATER CASES

17 **Included Actions:**
Los Angeles County Waterworks District No. 40 v.
18 Diamond Farming Co., Superior Court of
California, County of Los Angeles, Case No. BC
19 325201;

20 Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., Superior Court of
21 California, County of Kern, Case No. S-1500-CV-
22 254-348;

23 Wm. Bolthouse Farms, Inc. v. City of Lancaster,
Diamond Farming Co. v. City of Lancaster,
24 Diamond Farming Co. v. Palmdale Water Dist.,
Superior Court of California, County of Riverside,
25 Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

26 **RICHARD WOOD**, on behalf of himself and all
other similarly situated v. A.V. Materials, Inc., et
27 al., Superior Court of California, County of Los
Angeles, Case No. BC509546

Judicial Council Coordination
Proceeding
No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar

**PUBLIC WATER SUPPLIERS'
OPPOSITION TO MOTION TO
ENFORCE DUE PROCESS RIGHTS
OF THE WILLIS CLASS'**

Date: June 15, 2015
Time: 1:30 p.m.
Place: Superior Court
191 North First Street
San Jose, CA 95113

Dept: 1

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1 Los Angeles County Waterworks District No. 40, City of Palmdale, City of Lancaster,
2 Rosamond Community Services District, Littlerock Creek Irrigation District, Palm Ranch
3 Irrigation District, Desert Lake Community Services District, North Edwards Water District,
4 Palmdale Water District, Quartz Hill Water District, and California Water Service Company
5 (collectively, “Public Water Suppliers”) hereby oppose the Willis Class “Motion to Enforce Due
6 Process Rights” (“Motion”) as follows:

7 **I. THE MOTION IS PREMATURE**

8 As with the other pending Willis Class motions concerning the Proposed Judgment and
9 Physical Solution (“Proposed Physical Solution”), this Motion has a misplaced reliance upon the
10 false premise that the Proposed Physical Solution is inconsistent with a settlement agreement
11 between the Public Water Suppliers and the Willis Class (“Willis Agreement”). It is not.
12 Additionally, the motion is premature and should be denied for several reasons.

13 First, the Court has not yet made a decision on whether to approve the Proposed Physical
14 Solution and it is not binding upon its parties unless it is finally approved by the Court.

15 Second, the Willis Class has already raised similar, if not identical, due process arguments
16 in its earlier written objections to the Court’s preliminary approval of the Wood Class Settlement
17 Agreement, and which is scheduled for its final approval hearing on August 3, 2015.

18 Any determination now as to whether or not the two documents are consistent is
19 premature. Even assuming *arguendo* that this Motion should be heard before the Court makes its
20 determination on whether the Proposed Physical Solution and the Willis Settlement are
21 consistent, the Court should deny this motion because the Court approved class notice to the
22 members of the Willis Class that put them on notice that they would be subject to a physical
23 solution yet to be approved by the Court and that such notice stated that the Willis Class members
24 “will be bound by the terms of any later findings made by the Court and any Physical Solution
25 imposed by the Court” and “it is likely that there will be limits imposed on the amount of
26 pumping in the near future.” (Motion, Ex. C, ¶¶ 9,13&17 [emphasis added].)

1 **II. DUE PROCESS TO THE WILLIS CLASS HAS BEEN PROVIDED**

2 Due process protects parties from “arbitrary adjudicative procedures.” (*Ryan v. California*
3 *Interscholastic Federation-San Diego Section* (2001) 94 Cal. App. 4th 1048, 1070.) No such risk
4 exists here as the Willis Class received court-approved notice that there would be a physical
5 solution and that the class members would be bound by the physical solution to be approved by
6 the Court. (Motion, Ex. C, ¶¶ 9,13&17.)

7 The Willis Class has been a party to these coordinated and consolidated groundwater
8 adjudication proceedings since January 11, 2007. (Motion, Ex. E [Willis Amended Final
9 Judgment] at pp. 2-3.) There is no reasonable dispute that the Willis Class has been notified that
10 the Court would approve a physical solution and final judgment. Only now does the Willis Class
11 counsel claim the Willis Class’ “due process right” will be violated if the Court approves the
12 Proposed Physical Solution. The Willis Class actively participated for several years in these
13 consolidated proceedings, knew that other landowners claim a correlative share of the
14 groundwater basin’s native safe yield, and that the Willis Class settlement agreement with the
15 Public Water Suppliers provides that the parties agreed to be subject to the Court’s future
16 jurisdiction and judgment, and agreed to be bound by a physical solution that will decide how the
17 parties will use groundwater. (See generally, *id.* at Ex. E & F.)

18 When the Court consolidated the Willis Class with other actions on February 24, 2010, the
19 Court indicated the potential imposition of a physical solution:

20 It is argued by several parties that consolidating the cases will
21 require litigating against parties they did not sue and would subject
22 them to potential costs and fees in actions to which they were not
23 parties. However, the only cause of action that would affect all
24 parties to the consolidation are the declaratory relief causes of
25 action which seek a declaration of water rights (by definition,
26 correlative rights). If the basin is in overdraft (a fact still to be
27 established), the Court in each declaratory relief proceeding would
28 of necessity have to look at the totality of pumping by all parties,
 evaluate the rights of all parties who are producing water from the
 aquifer, determine whether injunctive relief was required, and
 determine what solution equity and statutory law required
 (including a potential physical solution). . . .

 Upon appropriate motion and the opportunity for all parties in
 interest to be heard, the Court may enter a final judgment approving

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any settlements, including the *Willis* and *Wood* class settlements, that finally determine all cognizable claims for relief among the settling parties for purposes of incorporating and merging the settlements into a comprehensive single judgment containing such a declaration of water rights and a physical solution.

(Motion, Ex. D [Consolidation Order] at pp. 3-5.)

Thus, by 2010, the Willis Class was on notice that its water rights are correlative to that of other landowners and the Court could adopt a physical solution or other remedies that will restrict the Willis Class members' ability to pump groundwater, and such provisions were incorporated into the Willis Class settlement with the Public Water Suppliers.

The Willis Class Settlement Agreement, in pertinent part, provides, “[t]he Settling Parties expect and intend that this Stipulation will become part of a Physical Solution entered by the Court to manage the Basin and that the Court will retain jurisdiction in the Coordinated Actions. The Settling Parties agree to be part of such a Physical Solution to the extent it is consistent with the terms of this Stipulation and to be subject to Court-administered rules and regulations consistent with California and Federal law and the terms of this Stipulation.” (Motion, Ex. F at pp. 11-12; see also, Motion, Ex. E [Amended Final Judgment Approving Willis Settlement] at ¶20.)

The Willis Class Settlement Agreement defines “Physical Solution” as “a mechanism that comprehensively resolves the competing claims to the Basin’s water and provides for the management of the Basin. The Settling Parties anticipate that this Settlement will later be incorporated into a Physical Solution.” (*Id.* at p. 7.)

After agreeing to be bound by a specific judicial process—a settlement with the Public Water Suppliers to be followed by a physical solution and final judgment—the Willis Class now claims this agreed-upon process violates its “due process rights” because the Proposed Physical Solution manages the Basin for the benefit of all groundwater users by regulating the use of groundwater in an over drafted groundwater basin. The Court should deny this Motion as premature and for the reason that the Willis Class did receive notice in the Court-approved notice

1 of settlement that the Willis Class would be bound by the physical solution to be determined by
2 the Court.

3 **III. A PLEADING IS NOT REQUIRED TO BIND THE WILLIS CLASS TO A**
4 **PHYSICAL SOLUTION**

5 The Willis Class erroneously contends that the Proposed Physical Solution “deprive[s] the
6 Willis Class landowners of their right to water,” and that all stipulating parties must file a
7 pleading against the Willis Class. (Motion at p. 5.) The contention is wrong for at least three
8 reasons.

9 First, the Proposed Physical Solution does not extinguish the Willis Class’ water rights.
10 The Proposed Physical Solution allows the Willis Class members to pump groundwater from an
11 over drafted basin subject to replacement water assessment and other procedures. (Declaration of
12 Jeffrey V. Dunn (“Dunn Decl.”) at Ex. “A” [Proposed Physical Solution], pp. 34-35.)

13 Second, as the Court indicated in its Case Consolidation Order, water rights are correlative
14 and must be viewed in relation to uses by other parties. (Motion, Ex. D [Consolidation Order] at
15 p. 3; see also, *City of Santa Maria v. Adam* (2012) 211 Cal. App. 4th 266, 279.) In its class action
16 lawsuit seeking a declaration of water rights in the consolidated proceedings, the Willis Class had
17 notice that its water rights may be impacted by other landowners’ pumping. (*Id.*)

18 Third, the motion cites no authority that requires settling parties to file a pleading against
19 other parties for a court-approved physical solution. The court need only have jurisdiction over
20 the parties for the court to conduct the process leading to a physical solution.

21 **IV. ADEQUATE NOTICE WAS PROVIDED TO THE WILLIS CLASS**

22 Contrary to the Willis Class’ arguments, notice was given to the Willis Class concerning a
23 physical solution to be approved by the Court. After holding a hearing on the Willis Class
24 Settlement Notice, which was drafted by the Willis Class counsel, the Court found that the
25 “Notice fully and accurately informed the Class of all material terms of the proposed [Willis]
26 settlement The Notice was given in an adequate and sufficient manner, constituted the best
27 notice practicable under the circumstances, and satisfied due process.” (Motion, Ex. E at ¶11.)
28

1 The Willis Settlement Notice properly notified the class members that they will be bound
2 by a physical solution and that their right to pump water may be restricted in the future. The
3 Willis Class Settlement Notice stated that “the Parties will be required to comply with the terms
4 of any Physical Solution that may be imposed by the Court to protect the Basin, and the Court
5 will not be bound by the Settling Parties’ agreements in that regard.” (Motion, Ex. C at ¶9.) The
6 Notice further informed the class members that they “will be bound by the terms of any later
7 findings made by the Court and any Physical Solution imposed by the Court” and “it is likely that
8 there will be limits imposed on the amount of pumping in the near future.” (*Id.* at ¶¶13&17
9 [emphasis added].)

10 The Willis Class has a misplaced reliance upon *Griffin v. Griffin* (1946) 327 U.S. 220, 228
11 for a claim that further notice is required for a subsequent judgment. (Motion at p. 9.) *Griffin* is
12 inapposite. In *Griffin*, a New York court entered an interlocutory judgment requiring alimony to
13 be paid. (*Id.* at 223.) The wife then sought and was granted a money judgment for the arrears of
14 unpaid alimony. (*Id.*) The money judgment was entered without actual notice or appearance by
15 the husband. (*Id.* at 228.) The Supreme Court held that due process requires notice of the
16 proceeding even though the decree indicated that “further proceedings might be taken to docket in
17 judgment form the obligation to pay installments accruing under the decree.” (*Id.* at 229.)
18 Further notice was required because the money judgment deprived the husband of the right to
19 “modify the alimony decree *nunc pro tunc*” under Section 1170 of the New York Civil Practice
20 Act. (*Id.*)

21 In contrast, the Willis Class agreed to be bound by a physical solution approved by the
22 Court. (Motion, Ex. F [Willis Class Settlement] at p. 12.) Unlike the husband in *Griffin*, the
23 Willis Class has no right to modify the Willis Class Settlement, the Willis Class Judgment, or a
24 yet-to-be court-approved physical solution consistent with the Willis Settlement. Thus, additional
25 notice to the Willis Class members of the Proposed Physical Solution is not required.

26 Even assuming *arguendo* that due process ordinarily requires further notice to be provided
27 once a final judgment has been entered or a physical solution adopted, the Willis Class has
28

1 waived that right by agreeing to be bound by a physical solution to be later approved by the
2 Court.

3 Finally, the Willis Class Settlement Agreement does not require further notice to be given
4 regarding the terms of the physical solution; the Willis Class Settlement Notice acknowledges
5 that the physical solution may, in fact, be different from the Willis Class Settlement Agreement.
6 (Motion, Ex. C at ¶9.)

7 **V. CONCLUSION**


8 For the above reasons, the Court should deny the Motion.

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Dated: June 2, 2015

BEST BEST & KRIEGER LLP

By



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PROOF OF SERVICE

I, Rosanna R. Pérez, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 300 S. Grand Avenue, 25th Floor, Los Angeles, California 90071. On June 2, 2015, I served the within document(s):

PUBLIC WATER SUPPLIERS' OPPOSITION TO MOTION TO ENFORCE DUE PROCESS RIGHTS OF THE WILLIS CLASS'

by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 2, 2015, at Los Angeles, California.


Rosanna R. Pérez

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