

1 Ralph B. Kalfayan (SBN 133464)
Lynne M. Brennan (SBN 149131)
2 KRAUSE KALFAYAN BENINK &
SLAVENS, LLP
3 550 West C Street, Suite 530
San Diego, CA 92101
4 Tel: (619) 232-0331
Fax: (619) 232-4019

5 Class Counsel for the Willis Class
6
7

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

10 ANTELOPE VALLEY
11 GROUNDWATER CASES

12 This Pleading Relates to Included Action:
REBECCA LEE WILLIS and DAVID
13 ESTRADA, on behalf of themselves and
all others similarly situated,

14 *Plaintiffs,*

15 v.
16

17 LOS ANGELES COUNTY
18 WATERWORKS DISTRICT NO. 40;
CITY OF LANCASTER; CITY OF
19 PALMDALE; PALMDALE WATER
DISTRICT; LITTLEROCK CREEK
20 IRRIGATION DISTRICT; PALM
RANCH IRRIGATION DISTRICT;
21 QUARTZ HILL WATER DISTRICT;
22 ANTELOPE VALLEY WATER CO.;
ROSAMOND COMMUNITY SERVICE
23 DISTRICT; PHELAN PINON HILL
COMMUNITY SERVICE DISTRICT; and
24 DOES 1 through 1,000;

25 *Defendants.*
26
27
28

RELATED CASE TO JUDICIAL COUNCIL
COORDINATION PROCEEDING NO. 4408

**WILLIS CLASS' RESPONSE TO POST-
TRIAL STATEMENT OF UNITED STATES
FILED ON JUNE 12, 2015**

Judge: Hon. Jack Komar

1 Immediately following the telephonic Case Management Conference on May 15, 2015,
2 the Willis Class formally withdrew its objections to the Case Management Statement of the
3 United States filed on May 13, 2015. *See*, Willis Class' Withdrawal of Objections filed May 15,
4 2015. The Willis Class' Withdrawal was based on the Court's ruling during the May 15, 2015,
5 telephonic CMC that the Willis Class' objections were overruled because the Court was enforcing
6 Paragraph C of the Willis Settlement Agreement wherein the Willis Class and the Public Water
7 Suppliers agreed to be bound by the Court's determination of the Federal Reserved Right of the
8 United States. Thus, the Willis Class agrees that the United States need not reintroduce evidence
9 at the Phase VI trial relating to the amount of its Federal Reserved Right as established by this
10 Court and set forth in Paragraph 5.1.4 of the stipulated judgment and proposed physical solution
11 ("SPPS").
12

13
14 Despite the Willis Class' Withdrawal of Objections, the United States still insisted to the
15 Court that this matter be briefed. On June 12, 2015, the United States filed a seventeen-page
16 "Post-Trial Statement" that contains irrelevant factual information and erroneous interpretations
17 of California water rights law. Because the Willis Class withdrew its objections to the amount of
18 the Federal Reserved Right established by the Court in earlier trial phases, the United States had
19 no reason to provide evidence and arguments in support of the amount of the Federal Reserved
20 Right already established by this Court. For example, although very interesting, the lengthy
21 factual discussion about the creation of Edwards Air Force Base is entirely irrelevant. Likewise,
22 the Willis Class has agreed not to challenge any evidence relating to the United States' actual use
23 of water previously submitted by the United States, so the United States did not need to include
24 evidence in its Post-Trial Statement that a swimming pool and golf course at Edwards Air Force
25 Base are "absolutely critical."
26
27

1 Moreover, the United States' discussion of the legal origins of the Federal Reserved Right
2 as stemming from "riparian law" is not only irrelevant to the Antelope Valley Groundwater
3 Adjudication, but also entirely erroneous to the extent the United States is attempting to argue
4 that the overlying rights of the Willis Class landowners can be extinguished or modified in any
5 way based on the California Supreme Court's "limitation on unexercised riparian rights."
6 Specifically, the California Supreme Court has rejected the notion that riparian law can be used
7 to modify the rights of overlying landowners' future unexercised groundwater rights:
8

9 In *Wright [v. Goleta Water District]*, 174 Cal.App.3d 74 (1985), overlying owners in a
10 groundwater basin sued to determine relative water rights in that basin. **The Court of
11 Appeal found the trial court erred in holding that a water district's appropriative
12 rights had a higher priority than the overlying owners' unexercised rights. The
13 court also held that the trial court could not define or otherwise limit an overlying
14 owner's future unexercised groundwater rights, in contrast to this court's limitation
15 of unexercised riparian rights. (*In re Waters of Long Valley Creek Stream System*
16 (1979) 25 Cal.3d 339, 358-359 (*Long Valley*)). (The *Wright* court remanded the matter for
17 reconsideration in light of *Tulare* which held that former article XIV, section 3 [now
18 article X, section 2] of the California Constitution protected the reasonable beneficial uses
19 of the riparian or overlying owner, whose water could be used by an appropriator only
20 when that owner elected not to use it.) **Contrary to respondents' contention, no
21 appellate court has endorsed an equitable apportionment solution that disregards
22 overlying owners' existing rights.****

23 *City of Barstow v. Mojave Water Agency*, 23 Cal. 4th 1224, 1248-49 (2000) (internal citations and
24 footnote omitted)(emphasis supplied).

25 As stated in the Willis Class' Withdrawal of Objections, the Willis Class reserves the right
26 to object to other provisions of the SPPS relating to the Unused Federal Reserve Right. For
27 example, the Willis Class will object at trial to Paragraph 5.1.4.1 of the SPPS which provides:
28

 In the event the United States does not Produce its entire 7,600 acre-feet in any given
Year, **the unused amount in any Year will be allocated to the Non-Overlying
Production Rights holders**, except for Boron Community Services District and West
Valley County Water District, in the following Year, in proportion to Production Rights
set forth in Exhibit 3. **This Production of unused Federal Reserved Water Right
Production does not increase any Non-Overlying Production Right holder's decreed
Non-Overlying Production Right amount or percentage . . .** (emphasis supplied).

1 There is absolutely no basis in law or equity to allocate the entire Unused Federal Reserve Right,
2 estimated at over 6,000 AF per year, to the appropriators/Public Water Suppliers. This is
3 especially true because the SPPS allocates zero of the Native Safe Yield to the Willis Class
4 (which constitutes an unequivocal breach of the Willis Settlement Agreement by the Public Water
5 Suppliers). Further, Paragraph 5.1.4.1 results in yet another breach of the Willis Settlement
6 Agreement because, despite its self-serving statement to the contrary, the production by the
7 Public Water Suppliers **does increase** the percentage of the Native Safe Yield above and beyond
8 the 15% production limit agreed to by the PWS in both the Willis Class Settlement Agreement
9 and the Wood Class Settlement Agreement. The Willis Class will submit evidence at trial that the
10 SPPS' allocation of the Unused Federal Reserve Right to the PWS is both illegal and inequitable.
11 Paragraph C of the Willis Settlement Agreement in no way limits the Willis Class' ability to
12 present this evidence at trial.
13
14

15 Dated: June 22, 2015

Respectfully submitted,

16 KRAUSE KALFAYAN BENINK &
17 SLAVENS, LLP

18
19 By: 

Ralph B. Kalfayan, Esq.
Lynne M. Brennan, Esq.
Class Counsel for the Willis Class

1 Ralph B. Kalfayan (SBN 133464)
Lynne M. Brennan (SBN 149131)
2 KRAUSE KALFAYAN BENINK &
SLAVENS, LLP
3 550 West C Street, Suite 530
San Diego, CA 92101
4 Tel: (619) 232-0331
Fax: (619) 232-4019

5 Class Counsel for the Willis Class
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES

10 ANTELOPE VALLEY
GROUNDWATER CASES

RELATED CASE TO JUDICIAL COUNCIL
COORDINATION PROCEEDING NO. 4408

11
12 This Pleading Relates to Included Action:
REBECCA LEE WILLIS and DAVID
13 ESTRADA, on behalf of themselves and
all others similarly situated,

PROOF OF SERVICE

14
15 *Plaintiffs,*

16 v.

17 LOS ANGELES COUNTY
18 WATERWORKS DISTRICT NO. 40;
CITY OF LANCASTER; CITY OF
19 PALMDALE; PALMDALE WATER
DISTRICT; LITTLEROCK CREEK
20 IRRIGATION DISTRICT; PALM
RANCH IRRIGATION DISTRICT;
21 QUARTZ HILL WATER DISTRICT;
22 ANTELOPE VALLEY WATER CO.;
ROSAMOND COMMUNITY SERVICE
23 DISTRICT; PHELAN PINON HILL
COMMUNITY SERVICE DISTRICT;
24 and DOES 1 through 1,000;

25 *Defendants.*
26
27
28

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

I, Cindy Barba, declare:

I am a citizen of the United States and employed in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Krause Kalfayan Benink & Slavens, LLP 550 West C Street, Suite 530, San Diego, California, 92101. On June 22, 2015, I caused the following document(s):

WILLIS CLASS' RESPONSE TO POST-TRIAL STATEMENT OF UNITED STATES FILED ON JUNE 12, 2015

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

(BY ELECTRONIC SERVICE) by posting the document(s) listed above to the Santa Clara County Superior Court website: www.scefiling.org regarding the Antelope Valley Groundwater matter.


(BY U.S. Mail) I am readily familiar with the firm's practice of collection and processing of documents for mailing. Under that practice, the above-referenced documents(s) were placed in sealed envelope(s) addressed to the parties as noted above, with postage thereon fully prepaid and deposited such envelope(s) with the United States Postal Service on the same date at San Diego, California, addressed to:

(BY FEDERAL EXPRESS) I served a true and correct copy by Federal Express or other overnight delivery service, for the delivery on the next business day. Each copy was enclosed in an envelope or package designed by the express service carrier; deposited in a 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.

(BY FACSIMILE TRANSMISSION) I am readily familiar with the firm's practice of facsimile transmission of documents. It is transmitted to the recipient on the same day in the ordinary course of business.

(STATE) I declare under penalty of perjury under the laws of the State of California that 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.


Cindy Barba