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

12 **ANTELOPE VALLEY**
13 **GROUNDWATER CASES**

) **JUDICIAL COUNCIL**
) **COORDINATION PROCEEDING**
) **NO. 4408**

14 This Pleading Relates to Included Action:
15 REBECCA LEE WILLIS, on behalf of herself
16 and all others similarly situated,

17 Plaintiff,

18 vs.

) **OPPOSITION OF PLAINTIFF WILLIS**
) **AND THE DORMANT LANDOWNER**
) **CLASS TO THE PUBLIC WATER**
) **SUPPLIERS' REQUEST FOR ENTRY OF**
) **ORDER GOVERNING TRANSFEREES**
) **OF PROPERTIES**

19 LOS ANGELES COUNTY WATERWORKS
20 DISTRICT NO. 40; CITY OF LANCASTER;
21 CITY OF LOS ANGELES; CITY OF
22 PALMDALE; PALMDALE WATER
23 DISTRICT; LITTLEROCK CREEK
24 IRRIGATION DISTRICT; PALM RANCH
25 IRRIGATION DISTRICT; QUARTZ HILL
26 WATER DISTRICT; ANTELOPE VALLEY
27 WATER CO.; ROSAMOND COMMUNITY
28 SERVICE DISTRICT; MOJAVE PUBLIC
UTILITY DISTRICT; and DOES 1 through
1,000;

) **JUDGE: HONORABLE JACK KOMAR**

Defendants.

) **DATE: JUNE 14, 2010**
) **TIME: 9:00 a.m.**
) **DEPT: 1**

Plaintiff Rebecca Willis and the dormant landowner class continue to object to the request by the Public Water Suppliers for entry of a revised [Proposed] Order re Jurisdiction

1 Over Transferees, which they lodged on June 7. Indeed, recognizing that they themselves
2 violated the notice requirements of the original Order they proffered, the Suppliers now
3 improperly propose a revised Order that is significantly worse than the original proposal in that
4 the Suppliers now seek to impose on Class counsel burdens that they were obligated to fulfill
5 under the original Order, but failed to perform. More significantly, the new proposal does not do
6 any more than the prior one to achieve the objective that the Court seeks, which is to bind
7 transferees. We have proposed a simple and economical means for the Suppliers to achieve that
8 objective, but, inexplicably, they refuse to follow that potentially effective route, instead
9 proposing that the Court impose burdensome and ultimately futile requirements on others.

11 The fundamental underlying facts are that the original proposed Order lodged by Tejon
12 Ranch in 2008 and then resurrected by the Suppliers' May 26, 2010 Motion required a copy of
13 the Order governing transferees to be "included with the initial Notice of Class Action" mailed to
14 all class members. Best Best & Krieger failed to include any such Order with the Notice that
15 *that they mailed to the 65,000 Willis Class members* last year, and they now seek to impose on
16 Willis Class Counsel the obligation to "advise their clients" of the requirements of the order.
17 That is fundamentally unfair as well as impracticable.¹ The Suppliers failed to include the
18 Proposed Order when they sent Notice to the Willis Class. They should have to remedy their
19 mistake by sending a new Notice to the Willis Class, notifying the class members that successors
20 are bound and that they must provide notice of the adjudication to any transferees of their
21 properties. Not only is that fair, it is the only practical approach. Willis Class counsel simply
22 cannot advise the 65,000 Willis Class members of this Order, so any provision requiring us to do
23 so would be ineffectual.
24

26 _____
27 ¹ Under California law, absent class members are not parties. Hence, the Suppliers' request is
28 inconsistent with California law, as well as unfair and impractical. *See Danzig v. Superior Court*
(1978) 87 Cal. App. 3d 604.

1 More fundamentally, it is unclear whether the notice that is provided to Willis Class
2 members can be relied upon to bind potential transferees, which is the underlying objective. The
3 reality is that most Class members will not understand and will disregard any such notice and
4 will not advise transferees of the litigation. In the absence of actual notice to them, transferees
5 may not be bound by the decisions made in the adjudication.

6
7 There is, however, a practical and simple way to ensure that transferees of properties
8 within the Basin get notice of the pendency of the litigation. In addition to notice to the Class,
9 the Suppliers should notify the approximately 30 companies that provide title insurance in the
10 Basin. Formal notice to those title companies of the claims asserted in the litigation will ensure
11 that such notice is provided to transferees as part of their title report. That approach, which we
12 suggested to the Suppliers, would be far more effective as well as far less burdensome than the
13 Order they propose.

14
15 For all of the above reasons, the Court should deny the Suppliers' request that it enter the
16 Proposed Order, at least insofar as that Order governs the Willis Class.

17 Dated: June 11, 2010

KRAUSE KALFAYAN BENINK
& SLAVENS LLP

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19
20 */s/Ralph B. Kalfayan, Esq.*
21 Ralph B. Kalfayan, Esq.
22 David B. Zlotnick, Esq.
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