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SUPERIOR COURT OF THE STATE OF CALIFORNIA

9

FOR THE COUNTY OF LOS ANGELES

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**ANTELOPE VALLEY  
GROUNDWATER CASES**

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

14

*Plaintiff,*

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v.

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

24

*Defendants.*

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RELATED CASE TO JUDICIAL COUNCIL  
COORDINATION PROCEEDING NO. 4408

**WILLIS' CLASS' CASE MANAGEMENT  
STATEMENT**

Date: August 11, 2014

Time: 10:00 am

Place: Courtroom 222

Judge: Hon. Judge Komar

1           The Willis class respectfully submits the following case management statement in  
2 advance of the August 11, 2014 hearing.

3           In its July 11, 2014 order, the Court set a date for a hearing on preliminary approval of a  
4 settlement followed by an evidentiary hearing in support of a proposed settlement and a plan for  
5 adjudicating the remaining issues for those parties that are not part of the settlement. In view of  
6 this order and the likelihood that the public water suppliers and/or the pumping overlying  
7 landowners will soon be providing the court with a proposed draft physical solution, the Willis  
8 class submits this status conference statement to bring certain matters to the court's attention prior  
9 to the hearing. As indicated in earlier status conference statements, the Willis class was not  
10 consulted in the negotiation or drafting of this proposed settlement. Rather, the public water  
11 suppliers negotiated this agreement with the pumping overlying landowners and then presented  
12 the document to Willis class counsel on a "take it or leave it" basis.

13           On June 3, 2014, Mr. Warren Wellen, Principal Deputy County Counsel for District 40,  
14 first delivered a draft Proposed Physical Solution to the Willis class counsel for review. On July  
15 11, 2014, Willis class counsel communicated his objections to the proposal and provided possible  
16 alternative solutions for resolving those objections. Counsel made clear to the public water  
17 suppliers that any agreement which subordinates or extinguishes the groundwater rights of the  
18 Willis class would not be consistent with the Willis class judgment and would be met with  
19 vigorous opposition. To date, Willis has not received a written response to its communication.  
20 However, on July 30, 2014, class counsel again reached out to the public water suppliers and was  
21 advised that District 40 *may* meet with class counsel in the near future to discuss our concerns.

22           Given that Willis class counsel was asked to maintain the terms of the proposed physical  
23 solution confidential and the agreement has not yet been presented to the court for review, any  
24 substantive objections by Willis class would be premature and thus will not be presented to the  
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1 court in this status conference statement. However, the court should be aware that neither the  
2 overlying landowners nor the public water suppliers included the Willis Class in negotiating the  
3 proposed physical solution. The Willis class remains willing to participate in a physical solution  
4 with all parties provided the agreement is consistent with the Willis Stipulation of Settlement and  
5 resulting final judgment. However, any attempts by the overlying pumping landowners and the  
6 public water suppliers to subordinate the Willis class, extinguish its groundwater rights to the  
7 native safe yield, or exclude it from the native safe yield will be opposed.

9 With respect to the hearing, the Willis class offers the following concerns to the Court.  
10 First, it does not appear that the parties will be submitting a fully executed stipulated settlement  
11 by August 11<sup>th</sup>, 2014. In that event, Willis believes it is highly irregular for the court to review  
12 and approve a proposed settlement agreement before the parties and their principals have actually  
13 endorsed and signed the agreement. The Code of Civil Procedure contemplates only signed  
14 agreements to be proffered by the parties. To do otherwise would put the court in a position of  
15 giving an advisory opinion on the substance of the agreement. *See Cal. Civ. P. Code* § 664.6;  
16 *Levy v. Superior Court* (1995) 10 Cal.4th 578 (the parties must sign a stipulation for settlement  
17 personally; the attorneys' signatures are insufficient to create an enforceable settlement). Even in  
18 the context of a class action, the named class representatives execute the document before it is  
19 presented to the court. The same holds true in bipolar non-class cases.

22 Second, if an agreement is presented to the court for review and approval it will not  
23 include the consent of the Willis class and thus by definition the agreement cannot bind the Willis  
24 class members. A stipulated settlement cannot bind a non-signatory to the agreement. *See Levy*,  
25 10 Cal. 4th at 583, 585 (stipulated settlements must be signed by the parties themselves to be  
26 enforceable); *see also Harris v. Rudin, Richman & Appel* (1999) 74 Cal.4th 299, 305 (to be  
27 binding settlement must be signed by both the party seeking enforcement and the party against  
28

1 whom it is to be enforced); *Williams v. Saunders* (1997) 55 Cal.App.4th 1158, 1163 (court could  
2 not enforce settlement agreement against party who did not participate in creation of agreement  
3 nor sign the agreement). Simply put, and without revealing the substantive terms of the  
4 agreement, the Willis class cannot agree to any settlement that excludes its class members from  
5 exercising their correlative rights to the native safe yield. The correlative rights of the Willis  
6 class have been acknowledged by the (1) landowners; (2) the public water suppliers, and (3) this  
7 court via judgment. Contradicting or eliminating the groundwater rights of the Willis class would  
8 clearly not be in the best interest of the class. Since Willis is not presently a signatory to the  
9 stipulated proposed physical solution, the Willis class cannot be bound by its terms via  
10 stipulation.  
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12 Third, if the rights of the Willis class in the context of a physical solution are not  
13 determined by stipulation then a physical solution trial (or, at least, an appropriate motion) is  
14 required for the court to adjudicate its rights. The concern however, is who or what party will take  
15 the position of an adversary at the hearing. Willis has settled with the public water suppliers; and,  
16 over the 7-plus years that Willis has participated in this litigation, *none* of the overlying  
17 landowners has ever asserted a claim adverse to her or the class. Indeed, the class has had no  
18 notice of any effort to subordinate or extinguish its correlative rights.  
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20 To be clear, the Willis Class supports the goal of achieving a complete resolution of this  
21 dispute and desires to participate in a physical solution; however, the Class cannot agree to a  
22 proposal that extinguishes its rights to the native safe yield, commoditizes the groundwater for the  
23 benefit of certain pumping landowners in the basin vis-à-vis transfer rights, in derogation of  
24 Water Code section 106, and raises serious issues relative to reasonable and beneficial use of the  
25 limited groundwater in the Basin.  
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Respectfully submitted,

/s/ Ralph B. Kalfayan  
Ralph B. Kalfayan, Esq.  
KRAUSE, KALFAYAN, BENINK &  
SLAVENS, LLP

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**PROOF OF SERVICE**

I, Amanda Friedman, 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 August 5, 2014, I caused the foregoing document(s):

**WILLIS' CLASS' CASE MANAGEMENT STATEMENT**

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.scefilings.org](http://www.scefilings.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 document(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 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.

/s/ Amanda M. Friedman  
Amanda M. Friedman