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ANTELOPE VALLEY UNITED MUTUALS GROUP; and
7 Cross-Defendants, ADAMS BENNETT INVESTMENTS, LLC;
MIRACLE IMPROVEMENT CORPORATION dba GOLDEN
8 SANDS MOBILE HOME PARK, aka GOLDEN SANDS TRAILER
PARK, named as ROE 1121; ST. ANDREW'S ABBEY, INC., named
9 as ROE 623; SERVICE ROCK PRODUCTS, L.P.; and SHEEP
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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

18 **IN AND FOR THE COUNTY OF LOS ANGELES**

19 Coordination Proceeding
20 Special Title (Rule 1550(b))

21 **ANTELOPE VALLEY GROUNDWATER**
22 **CASES**

23 Including Consolidated Actions:

} Judicial Council Coordination
Proceeding No. 4408; Santa Clara Case No. 1-
05-CV-049053
Assigned to the Honorable Jack Komar
Department 17C

} **SAINT ANDREW'S ABBEY, INC. AND**
TEJON RANCHCORP/TEJON RANCH
COMPANY'S JOINT LIMITED
RESPONSE TO WILLIS CLASS'
OPPOSITION TO STIPULATED
PROPOSED PHYSICAL SOLUTION

1 AND RELATED ACTIONS.

For Court's Use Only:
Santa Clara County; Case No. 1-05-CV-049053
(For E-Posting/E-Service Purposes Only)

Date: August 4, 2015
Time: 10:00 a.m.
Dept. LASC – Stanley Mosk
Prove-Up Trial Date: September 28, 2015

5 Saint Andrew's Abbey, Inc. (**Abbey**) and Tejon Ranchcorp/Tejon Ranch Company
6 (**Tejon**) (collectively, "**Responding Parties**"), hereby submit this Joint Limited Response to the
7 Opposition to Stipulated Proposed Physical Solution filed by the Willis Class (**Willis**) on April 7,
8 2015 as Document No. 9716.

9 **I. INTRODUCTION**

10 On April 7, 2015, Willis filed a document entitled Schedule of Objections and
11 Inconsistencies to Stipulated Proposed Physical Solution wherein Willis asserts 39 separate
12 objections to the Stipulated Proposed Physical Solution (**SPPS**). Objection No. 25 pertains to
13 Paragraph 6.4 of the **SPPS**, which permits four major landowners with land straddling the
14 adjudication boundary to use groundwater outside the adjudication area, but within the watershed
15 of the Basin. Specifically, Objection 25 states:

16 The exportation of groundwater in favor of Abbey, Borax, and Tejon is
17 contrary to law and it harms the Basin and the Willis Class. (Objections,
18 p. 9.)

19 Objection 25 is meritless for several reasons. First, Paragraph 6.4 does not permit the
20 exportation of groundwater. Second, Paragraph 6.4 is consistent with Californian law. Third,
21 Willis is not a party to the **SPPS** and lacks standing to object. Fourth, Willis, pursuant to the
22 Willis Class Stipulation of Settlement and upon entry of the Amended Final Judgment, agreed to
23 accept the Physical Solution and waived any standing it might have had to object to Paragraph
24 6.4 of the **SPPS**. Willis has not and cannot demonstrate that Paragraph 6.4 is inconsistent with
25 the Willis Amended Final Judgment. Finally, even if Willis had standing, Willis does not and
26

1 cannot show how it would be harmed by the Responding Parties' historical and continued water
2 use within the watershed of the Basin.¹

3 II. ARGUMENT

4 A. Paragraph 6.4 Is Reasonable, Pragmatic, Supported By California Law, And Does Not Harm The Basin or Willis.

5 In the Phase 1 trial the Court defined the area of adjudication to include land overlying
6 water bearing alluvium, but excluded the watershed of the Basin. Several parties, including the
7 Responding Parties and the United States, own large tracts of land straddling the adjudication
8 boundary. That is, these parties own tracts of land both inside the adjudication boundary, and
9 outside the adjudication boundary, but within the watershed of the Basin. The SPPS permits
10 these parties to use groundwater on their respective lands within the watershed of the Basin.

11 Paragraph 6.4 of the SPPS provides:

12 Paragraph 6.4 – “Injunction Against Transportation From Basin”

13 “Except upon further order of the Court, each and every Party, its
14 officers, agents, employees, successors and assigns, is ENJOINED
15 AND RESTRAINED from transporting Groundwater hereafter
16 Produced from the Basin to areas outside the Basin except as
17 provided for by the following ... **This injunction does not**
18 **prevent Saint Andrew’s Abbey, Inc., U.S. Borax and Tejon**
19 **Ranchcorp/Tejon Ranch Company from conducting business**
20 **operations on lands both inside and outside the Basin**
21 **boundary, and transporting Groundwater Produced consistent**
22 **with this Judgment for those operations and for use on those**
23 **lands outside the Basin and within the watershed of the Basin**
24 **as shown in Exhibit 9 ...” (Emphasis added).**

25 “An overlying right, ‘analogous to that of the riparian owner in a surface stream, is the
26 owner’s right to take water from the ground underneath for use on his land within the basin or
27 watershed; it is based on the ownership of the land and is appurtenant thereto.’” (*City of Barstow*
28 *v. Mojave Water Agency* (2000) 23 Cal.4th 1224, 1240-41 [quoting *California Water Service Co.*
29 *v. Edward Sidebotham & Son, Inc.* (1964) 224 Cal.App.2d 715, 725].) Although California law
30 generally prohibits the exportation of groundwater **outside** of a basin’s watershed if doing so

31 ¹ In fact, Willis' own expert Brian E. Gray, does not find any fault with Paragraph 6.4.
32 Nevertheless, the Responding Parties object to the Brian E. Gray report as inadmissible legal
33 opinion. (See *Summers v. A.L. Gilbert Co.* (1999) 69 Cal.App.4th 1155 [holding that an
34 expert opinion on matters of law is not admissible and invades the province of the Court].)

1 would materially deplete the basin supply (see *Burr v. Maclay Rancho Water Co.* (1911) 160
2 Cal. 268, 273; *Corona Foothill Lemon Co. v. Lillibridge* (1937) 8 Cal.2d 522, 525-526), there is
3 no similar prohibition within the watershed. Any water used outside the adjudication boundary,
4 but within the watershed, ultimately flows back to the Basin.

5 California law allows a court to exercise its equitable powers to impose a physical
6 solution designed to alleviate overdraft and the consequential depletion of a water supply. (*City*
7 *of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 287-288, *as modified on denial of reh'g*
8 (Dec. 21, 2012).)

9 III. CONCLUSION

10 Paragraph 6.4 of the SPSS is consistent with Californian law, is not inconsistent with the
11 Willis Judgment, and will not harm the Basin or Willis. The Court should overrule Willis'
12 objection to Paragraph 6.4 of the SPSS.

13 Dated: July 24, 2015

GRESHAM SAVAGE NOLAN & TILDEN, PC

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MOBILE HOME PARK, aka GOLDEN SANDS TRAILER PARK [ROE
1121], ST. ANDREW'S ABBEY, INC. [ROE 623], SERVICE ROCK
PRODUCTS, L.P., and SHEEP CREEK WATER COMPANY, INC.

22 Dated: July 24, 2015

KUHS & PARKER

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I am employed in the County of San Bernardino, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 550 East Hospitality Lane, Suite 300, San Bernardino, CA 92408-4205.

on the interested parties in this action in the following manner:

(X) **BY ELECTRONIC SERVICE** – I posted the document(s) listed above to the Santa Clara County Superior Court website, <http://www.scefiling.org>, in the action of the Antelope Valley Groundwater Cases,

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 24, 2015, at San Bernardino, California.


DINA SNIDER