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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:
13 REBECCA LEE WILLIS and DAVID
ESTRADA, on behalf of themselves and
14 all others similarly situated,

15 *Plaintiffs,*

16 v.

17 LOS ANGELES COUNTY
18 WATERWORKS DISTRICT NO. 40;
19 CITY OF LANCASTER; CITY OF
PALMDALE; PALMDALE WATER
20 DISTRICT; LITTLEROCK CREEK
IRRIGATION DISTRICT; PALM
21 RANCH IRRIGATION DISTRICT;
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.*
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RELATED CASE TO JUDICIAL COUNCIL
COORDINATION PROCEEDING NO. 4408

WILLIS CLASS' CASE MANAGEMENT
STATEMENT

Date: May 15, 2015
Time: 1:30 pm
Place: Court Call - Telephonic
Judge: Hon. Judge Komar

1 The Willis Class respectfully submits the following Case Management Conference
2 Statement in advance of the May 15, 2015, status conference.

3 Pursuant to the Court's May 4, 2015 Minute Order, Willis Class Counsel personally
4 appeared at an informal "meet and confer" conference with other overlying landowners and
5 public water suppliers at the offices of Best Best & Krieger in Los Angeles in an effort to
6 negotiate an equitable physical solution which may (1) address the concerns of the Basin, (2)
7 fairly allocate the groundwater rights among all the parties including the Willis Class, and (3)
8 remain consistent with the terms of the Willis Class Judgment. Unfortunately, no progress was
9 made in incorporating the rights set forth in the Willis Stipulation of Settlement and Willis Class
10 Judgment into the proposed physical solution ("SPPS") drafted by the Stipulating Parties.
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12 Unless progress is made in settlement discussions between now and the start of trial on
13 August 3rd, 2015, Willis Class Counsel will be forced to oppose each and every objectionable
14 provision in the SPPS, of which there are many. The most egregious violations of the California
15 Constitution, California law, and the Willis Class Judgment are found in the following provisions
16 of the SPPS:
17

- 18 1) Paragraphs 9.2.1 and 9.2.2 purport to illegally modify and extinguish the rights of
19 Willis Class Members to pump from the Native Safe Yield based on claims of
20 prescription already Released by the Public Water Suppliers and other baseless
21 interpretations of California law (all willful breaches of the Willis Stipulation of
22 Settlement by the PWS); these paragraphs are critical to District 40's, other PWS, and
23 other overlying owners' brazen scheme to strip the Willis Class of their undeniable
24 rights as overlying owners and are not only substantively invalid, but also are
25 procedurally invalid because it is black letter law that settling parties cannot affect the
26 rights of non-settling parties – these paragraphs are undeniable violations of that law
27 and must be stricken from the SPPS;
- 28 2) While Willis Class Members are permanently denied access to the Native Safe Yield,
other Stipulating Parties enjoy illegal or inequitable perks such as a) the guaranteed
right to pump groundwater and then remove that water from the Basin – U.S. Borax,
Tejon Ranchcorp, and Saint Andrew's Abbey; b) the guaranteed right to transfer and
carry over rights to permanently allocated groundwater – too many parties to list; and
c) the right to access thousands of acre feet of unused groundwater permanently
allocated to the United States – District 40 and a few other PWS.

1 3) The 12 Steps required to apply for New Production of groundwater which are onerous,
2 extremely expensive, and well beyond the requirements set by Los Angeles or Kern
3 Counties for obtaining a well permit; further, the decision as to whether that Willis
4 Class Member's application to pump groundwater will be approved is in the hands of
5 District 40, another PWS appointed by District 40, and AVEK.

6 When this Court looks beyond what the Wood Class would gain from Final Approval of
7 the SPPS (3 AF per Class Member and other benefits), the Court will see that the remaining
8 Stipulating Parties have intentionally, illegally, and permanently denied access to the Native Safe
9 Yield by Willis Class Members. Even further, the 12 Step process for New Production in the
10 SPPS results in Willis Class Members not being guaranteed the right to ever pump groundwater
11 underneath the land they own and have been paying taxes on for years, even decades in many
12 cases. This brazen attempt by the politically powerful signatories of the SPPS to extinguish the
13 vested property rights of 65,000 overlying owners of land in the Basin cannot be permitted by this
14 Court. If Final Approval of the SPPS "as is" is granted by this Court, the result will be an illegal
15 taking of private property rights of unprecedented and epic proportions.

16 As a practical matter, this Court is vested with the right to enter a Physical Solution.
17 However, under California law, this Court's Consolidation Order, and the terms of the Willis
18 Stipulation of Settlement and Willis Judgment, the Physical Solution must incorporate the rights
19 of Willis Class Members as set forth in the Willis Settlement and Willis Judgment. Otherwise,
20 this Court lacks jurisdiction over the 64,999 absent Willis Class Members and the Willis Class
21 must be decertified. As a further practical matter, then, Willis Class Counsel and this Court must
22 address how to incorporate the rights of the Willis Class into a Physical Solution. As this Court is
23 aware, Willis Class Counsel will present Alternative Proposed Physical Solutions ("APPS")
24 during the upcoming physical solution proceedings. The Willis Class has the right under
25 California law to present the APPS and this Court has the duty to duly consider them.

1 Willis Class counsel has already informed the Court that it will be impossible for Class
2 Counsel to effectively oppose a prove-up of the SPPS. On April 27, 2015, the parties filed their
3 witness lists and exhibit lists in connection with the prove-up proceeding set for August 3,
4 2015. The combined lists include over 280 witnesses and over 1200 exhibits. As the Court is
5 aware, Willis Class Counsel has not conducted any discovery with respect to any of these
6 witnesses or documents because these parties were never adverse to the Willis Class (with the
7 obvious exception of the Public Water Suppliers with whom the Willis Class settled all claims in
8 a Final Judgment). In addition, Willis Class Counsel was denied a Court-appointed expert to
9 determine the reasonable and beneficial use of all parties to the adjudication, determine
10 alternative proposed physical solutions, and evaluate the cost and burden of the SPPS on the
11 Willis Class. Lastly, the Willis Class has not been served with any proper notice or pleading that
12 their water rights may be modified by the Court by and through the SPPS. Mounting an effective
13 opposition to a prove-up proceeding related to a stipulation and proposed physical solution among
14 140 parties under these circumstances will be an impossible task for Willis Class Counsel. The
15 prove-up hearing or trial proceeding is fundamentally unfair and prejudicial to the Willis Class.
16 The evidence that will be presented by the stipulating parties cannot effectively be opposed by
17 any of the non-stipulating parties. The net result is a denial of substantive and procedural due
18 process for the Willis Class.
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23 Dated: May 13, 2015

KRAUSE KALFAYAN BENINK & SLAVENS, LLP

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25 By: 

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Class Counsel for the Willis Class
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