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

**ANTELOPE VALLEY
GROUNDWATER CASES**

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

Plaintiffs,

v.

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

Defendants.

RELATED CASE TO JUDICIAL COUNCIL
COORDINATION PROCEEDING NO. 4408

**WILLIS CLASS' CASE MANAGEMENT
STATEMENT**

Date: September 21, 2015
Time: 1:00 pm
Place: Court Call - Telephonic
Judge: Hon. Jack Komar

1 The Willis Class respectfully submits the following Case Management Conference
2 Statement in advance of the September 21, 2015, status conference.

3 As a direct consequence of the willful and brazen breach of the Willis Settlement
4 Agreement by the Public Water Suppliers, including the deliberate exclusion of the Willis Class
5 from settlement negotiations leading up to the stipulated proposed physical solution (“SPPS”), the
6 Willis Class and their counsel have been placed in the absurd and completely untenable position
7 of opposing the Prove Up of 140-plus Stipulating Parties at the upcoming Phase VI/Physical
8 Solution Trial. Willis Class Counsel has a fiduciary duty to the Willis Class to contest not only
9 the illegal bases for the SPPS as a matter of law, but also the factual underpinnings of the
10 Production Right of each Stipulating Party which include implied findings of “reasonable and
11 beneficial use.”
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14 Moreover, this Court owes each and every absent Willis Class Member a fiduciary duty to
15 uphold their unexercised water rights. During the first two days of the Phase VI Trial, however,
16 this Court noted its duty to uphold the “Public Interest” and referenced only the present pumpers
17 and the Public Water Suppliers’ customers. In fact, the “Public Interest” includes upholding the
18 overlying rights of taxpaying landowners who have not yet exercised their water rights. The
19 Court is obligated by its own Consolidation Order to “merge and incorporate” the Willis
20 Judgment into the physical solution ultimately adopted by this Court and, more generally, is
21 obligated by controlling California Supreme Court precedent to recognize the unexercised rights
22 of overlying landowners to pump groundwater in the future in any physical solution ultimately
23 adopted by this Court. The SPPS fails on both counts and must be modified by this Court to
24 include the rights of the Willis Class.
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1 In light of the breach by the Public Water Suppliers and the rulings of this Court,
2 incorporating the rights of the Willis Class into the physical solution ultimately adopted by this
3 Court will now require Willis Class Counsel to oppose the entirety of the “Prove Up” by the
4 Stipulating Parties and to introduce evidence from both percipient and expert witnesses. District
5 40’s CMC Statement regarding the proposed order for evidence at trial completely ignores the
6 Willis Class’ witnesses and misstates the substance of the communications of Willis Class
7 Counsel during Court-mandated meet and confer. Willis Class Counsel specifically stated that
8 we believed that our percipient and expert witnesses should testify after the witnesses called by
9 the Stipulating Parties testify. Most Stipulating Parties agreed to that order of evidence, but a few
10 objected. Nonetheless, Willis Class Counsel agreed that it made the most sense for us to call our
11 witnesses after the Stipulating Parties had called their witnesses (with the exception of Class
12 Representative David Estrada who will be called to testify out of order during the morning of
13 September 28 because he will be leaving the country for a number of weeks directly after his trial
14 testimony). Therefore, to state that Willis Class Counsel did not agree to anything during the
15 meet and confer is false. Bottom line, any Order by this Court regarding scheduling of witnesses
16 at trial must include the Willis Class’ percipient and expert witnesses. Willis Class Counsel will
17 be prepared to call their witnesses after the Stipulating Parties have called their percipient and
18 expert witnesses to testify.
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22 Regarding the admissibility into evidence of the declarations submitted during the Phase IV
23 Trial, the record is crystal clear that the **only** purpose for which those declarations were ultimately
24 admitted at trial were to establish the amount to groundwater pumping for 2011 and 2012 and
25 **nothing else**. In fact, as Wood Class Counsel set forth in detail in their CMC Statement, this Court
26 specifically ruled that “manner of use” and “reasonableness” of the groundwater pumping was **not**
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1 adjudicated during the Phase IV Trial. Furthermore, the Fifth Amended Case Management Order
2 dated May 20, 2013, confirmed the scope of the Phase IV Trial:

3 The Phase IV trial is only for the purpose of determining groundwater pumping during 2011
4 and 2012. The Phase IV Trial shall not result in any determination of any water right, or the
5 reasonableness of any party's water use or manner of applying water to the use. The Phase
6 IV Trial will not preclude any party from introducing in a later trial phase evidence to
7 support claimed water rights including, without limitation, evidence of water use in years
8 other than 2011 and 2012. All parties reserve their right to produce any evidence to support
9 their claimed water rights and make any related legal arguments including, without
10 limitation, arguments based on any applicable constitutional, statutory, or decisional
11 authority.”

12 As Willis Class Counsel has previously indicated, we are bound by the findings of the Court with
13 respect to the amount of groundwater pumping by the Stipulating Parties in 2011 and 2012.

14 Other than those specific factual findings, however, Willis Class Counsel is not bound by any
15 alleged use of groundwater by the Stipulating Parties as “reasonable and beneficial” and we have
16 the right to cross-examine each and every Stipulating Party with respect to their alleged
17 reasonable and beneficial use of groundwater. Thus, Willis Class Counsel objects to the
18 automatic admission of evidence in Phase VI of prior declarations and responses to discovery
19 generated for the purpose of the Phase IV trial.

20 Furthermore, as the Court is aware, the Willis Class did not participate in the Phase IV trial.
21 The Willis Class resolved all its claims via Judgment and the Court entered the Judgment based on
22 the Stipulation of Settlement. No landowner asserted a claim against the Willis Class and the Public
23 Water Suppliers released all claims against the Willis Class. The Willis Class had no reason to
24 participate and expected the Public Water Suppliers to honor the Judgment. Finally, the Court by
25 Order dated December 20, 2012, exempted the Willis Class from the Discovery Order in connection
26 with the Phase IV Trial. The Order provides: “The Willis Class is not subject to the December 12,
27 2012 Discovery Order since the members of the class are not pumpers.”

28 By way of compromise, however, Willis Class Counsel is willing to stipulate or not
29 object to the evidence contained in the previously-submitted declarations from Phase IV with

1 respect to **ownership** of land only. With respect to all evidence other than amount of
2 groundwater pumping for 2011 and 2012 and ownership of land in the Basin, Willis Class
3 Counsel objects to the admission of that evidence by declaration by any of the Stipulating Parties.
4 Willis Class Counsel will not waive their right to cross examine witnesses who seek to admit
5 evidence of groundwater rights, manner of use, and reasonable and beneficial use of groundwater.
6 As AVEK's expert witness Mr. Wagner accurately testified at his deposition on September 10,
7 2015, a determination of reasonable and beneficial use of groundwater requires an individualized
8 inquiry of each landowner.
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11 Evidence Code Section 355 relates to limiting instructions to juries as to the purpose for
12 particular evidence and has no application whatsoever in this nonjury proceeding. However,
13 Wood Class Counsel correctly pointed out at length that this Court made it clear on the record
14 that the **only** purpose for which the prior declarations were admitted into evidence was for the
15 2011 and 2012 amount of groundwater pumping.
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17 There is no basis in the law or equity to put the burden on Willis Class Counsel to inform
18 the 140-plus Stipulating Parties as to which particular declarations Willis Class Counsel objects to
19 and wishes to cross-examine witnesses. Rather, it is up to the Stipulating Parties to decide what
20 evidence they desire to offer at trial through their previously-designated percipient witnesses. In
21 turn, Willis Class Counsel has the right to cross-examine those witnesses at trial.
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23 **Proof of Defaults and Claims of Prescription**

24 The Public Water Suppliers do not have a "cause of action" or claim of prescription
25 against members of the Willis Class. Those claims have been fully and forever Released and
26 Dismissed via Judgment.
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1 Willis Class Counsel has noted that the Public Water Suppliers have improperly sued and
2 served members of the Willis Class. For example, the entity known as Perinatal Medical Group,
3 Inc. owns property within the area of adjudication and has never pumped groundwater. Perinatal
4 has not opted out of the Willis Class. Willis Class Counsel objects to any default entered against
5 Willis Class Members who have not opted out of the Willis Class and meet the definition of the
6 Willis Class.
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8 Furthermore, Willis Class objects to any claims of prescription in general as they may not
9 be asserted against an unexercised landowner and as admitted by the Public Water Suppliers, the
10 Basin has been in overdraft for decades while the landowners have pumped in excess of the
11 Native Safe Yield. As a matter of law, then, the Public Water Suppliers cannot assert claims of
12 prescription. The PWS' pumping did not interfere with any landowner's right in the use of
13 groundwater. The landowners' self-help is a complete defense to the PWS' claims of
14 prescription.
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16 **The SPPS**

17 The Willis Class restates its objection to the use of experts by the landowner parties and
18 Public Water Suppliers. The Willis Class was denied the right to recover expert witness fees which
19 denial has undermined the Class' ability to defend against Phase VI claims of reasonable and
20 beneficial use and reasonableness of the SPPS.
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22 The Willis Class also restates its objection to its denial of due process. The SPPS has placed
23 the Willis Class in the untenable position of defending the groundwater rights of Class Members
24 against 140 Stipulating Parties and 10 Public Water Suppliers. This adversity was created without
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1 a pleading or notice to the Class and in direct violation of the Willis Judgment.

2 Dated: September 18, 2015

Respectfully submitted,

3 KRAUSE KALFAYAN BENINK & SLAVENS, LLP

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6 By:



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Class Counsel for the Willis Class