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Class Counsel for the Willis Class

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' BRIEF REGARDING
EXPORT OF GROUNDWATER PUMPED
FROM NATIVE SAFE YIELD BY CERTAIN
STIPULATING PARTIES**

Date: October 7, 2015
Time: 9:00 am
Place: Telephonic Appearance Only

1 The Willis Class respectfully submits the following Brief Regarding Export of Groundwater
2 Pumped from Native Safe Yield by Certain Stipulating Parties in advance of the October 7, 2015,
3 Status Conference.

4 The stipulated proposed physical solution (“SPPS”) filed with the Court on March 4, 2015,
5 enjoins all Stipulating Parties from exporting water outside the Basin. However, there are
6 exceptions made to the injunction for the following Stipulating Parties: Tejon Ranchcorp/Tejon
7 Ranch Company, U.S. Borax, and Saint Andrew’s Abbey, Inc. The respective Production Rights
8 allocated to these Stipulating Parties on a *permanent basis* are as follows: 1,634 AFY; 1905 AFY;
9 102 AFY. Thus, Production Rights for these three Stipulating Parties that are exempt from the
10 entirely legal and equitable injunction against the exportation of groundwater from the Basin total
11 3,641 AFY of groundwater pumped from the Native Safe Yield. That represents 4.4 percent of the
12 NSY that is not subject to the injunction against the exportation of groundwater from the Basin.

13 It is undisputed that California law prohibits the exportation of groundwater outside of a
14 basin if doing so would materially deplete the basin supply. *See Burr v. Maclay Rancho Water Co.*,
15 160 Cal. 268, 273 (1911); *Corona Foothill Lemon Co. v. Lillibridge*, 8 Cal.2d 522, 525-526 (1937).
16 Neither the *Burr* nor the *Corona* case make any distinction between the adjudication boundary and
17 the “watershed” of a basin. Moreover, Dr. Williams did not provide any expert testimony regarding
18 the impact on the Basin using his Model with respect to groundwater exported beyond the
19 boundaries of the adjudication area. Finally, the exempted Stipulating Parties have not provided
20 any *evidence* regarding how many AFY of their permanent Production Right will be exported from
21 the Basin and whether the exportation will in fact remain “within the watershed,” even assuming
22 *arguendo* that this distinction has any legal or factual significance. When the Court examines
23 Exhibit 9 to the SPPS, the Court will no doubt notice that in many areas, the adjudication boundary
24 in red is co-terminus with the “watershed” boundary in green.

1 The Willis Class contends that allowing the exemptions to the Injunction Against
2 Exportation in the SPPS would materially deplete the basin supply, especially when the exemptions
3 provided in the SPPS include allocations of groundwater from the NSY to certain Stipulating
4 Parties *on a permanent basis*. Moreover, because the entire Native Safe Yield is allocated to the
5 Stipulating Parties on a permanent basis, there will never be any groundwater from the Native Safe
6 Yield to accommodate the undisputed correlative rights of the Willis Class to pump from the NSY.
7 Allowing any exemptions to the Injunction Against Exportation is not only contrary to law, but it
8 also entirely inequitable under these circumstances. The 3,641 AFY should be made available to
9 the Willis Class as they begin to pump from the NSY after the entry of Judgment in this case.
10

11 In any event, the Willis Class has the absolute right to cross-examine Tejon Ranch, U.S.
12 Borax, and Saint Andrew's Abbey regarding facts relating to their exportation of water pursuant to
13 the exemption they received under the SPPS. Alternatively, as this Court informed counsel for
14 Saint Andrew's Abbey, these parties can strike their exemption from the SPPS if they wish to avoid
15 cross-examination regarding this issue. Barring these parties election to strike their exemption, the
16 Willis Class respectfully requests that witnesses from Tejon Ranch, U.S. Borax, and Saint
17 Andrew's Abbey be added to the witness schedule for Thursday, October 15, 2015.
18

19 Dated: October 7, 2015

Respectfully submitted,

20 KRAUSE KALFAYAN BENINK & SLAVENS, LLP
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23 By


Ralph B. Kalfayan, Esq.

Lynne M. Brennan, Esq.

Class Counsel for the Willis Class
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Defendants.

RELATED CASE TO JUDICIAL COUNCIL
COORDINATION PROCEEDING NO. 4408

PROOF OF SERVICE

1 I, Ian D. Krupar, declare:

2 I am a citizen of the United States and employed in San Diego County, California. I am
3 over the age of eighteen years and not a party to the within-entitled action. My business address is
4 Krause Kalfayan Benink & Slavens, LLP 550 West C Street, Suite 530, San Diego, California,
5 92101. On October 6, 2015, I caused the following document(s): to be served on the parties in this
6 action, as follows:

7
8 **WILLIS CLASS' BRIEF REGARDING EXPORT OF GROUNDWATER**
9 **PUMPED FROM NATIVE SAFE YIELD BY CERTAIN STIPULATING PARTIES**

10 (X) (BY ELECTRONIC SERVICE) by posting the document(s) listed above to the Santa Clara
11 County Superior Court website: www.scefiling.org regarding the Antelope Valley Groundwater
12 matter.


13 () (BY U.S. Mail) I am readily familiar with the firm's practice of collection and processing
14 of documents for mailing. Under that practice, the above-referenced documents(s) were placed in
15 sealed envelope(s) addressed to the parties as noted above, with postage thereon fully prepaid and
16 deposited such envelope(s) with the United States Postal Service on the same date at San Diego,
17 California, addressed to:

18 () (BY FEDERAL EXPRESS) I served a true and correct copy by Federal Express or other
19 overnight delivery service, for the delivery on the next business day. Each copy was enclosed in
20 an envelope or package designed by the express service carrier; deposited in a facility regularly
21 maintained by the express service carrier or delivered to a courier or driver authorized to receive
22 documents on its behalf; with delivery fees paid or provided for; addressed as shown on the
23 accompanying service list.

24 () (BY FACSIMILE TRANSMISSION) I am readily familiar with the firm's practice of
25 facsimile transmission of documents. It is transmitted to the recipient on the same day in the
26 ordinary course of business.

27 (X) (STATE) I declare under penalty of perjury under the laws of the State of California that
28 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.

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Ian D. Krupar