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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' CASE MANAGEMENT  
STATEMENT**

Date: October 7, 2015  
Time: 9:00 am  
Place: Court Call - Telephonic  
Judge: Hon. Jack Komar

1 The Willis Class respectfully submits the following Case Management Statement in  
2 advance of the October 7, 2015, status conference regarding scheduling of trial witnesses.

3 The Willis Class reasserts its right to cross-examine Copa de Oro as this Court granted in  
4 its Minute Order dated September 4, 2015. During trial, counsel for Copa de Oro argued that the  
5 Court should reverse its Minute Order ruling because the Willis Class had allegedly “waived” its  
6 right to object to discovery responses filed by Copa de Oro in connection with the Phase IV Trial.  
7 Willis Class Counsel stated that the Willis Class was not subject to the Court’s Discovery Order  
8 regarding the Phase IV Trial and, therefore, had not waived its right to object and cross-examine a  
9 Copa de Oro witness regarding evidence relating to its water use. The specific Order referenced  
10 during trial by Willis Class Counsel is the Court’s Order Regarding Applicability of December 12,  
11 2012 Discovery Order to Willis Class dated December 20, 2012 (“Discovery Order”). The  
12 Discovery Order provides in full, “The Willis Class is not subject to the December 12, 2012  
13 Discovery Order since the members of the class are not pumpers.” Accordingly, the Willis Class’  
14 nonresponse to discovery propounded by Copa de Oro in connection with the Phase IV Trial did  
15 not result in a waiver of the Willis Class’ right to cross-examine Copa de Oro (or any other  
16 Stipulating Party). The Willis Class has a right to cross-examine Copa de Oro about its failure to  
17 produce groundwater for the past eleven (11) years and for what purpose it intends to use its  
18 *permanent allocation* of 350 AFY. Mr. Beeby’s review of Copa de Oro’s information relied solely  
19 on crop duties for crops grown by Copa de Oro back in 2000 to 2004. Mr. Beeby did not rely on  
20 any evidence that Copa de Oro intends to use its permanent allocation for “housing” as stated by  
21 counsel for Copa de Oro during oral argument at trial. Mr. Beeby’s testimony cannot be used as a  
22 finding of reasonable and beneficial use as to Copa de Oro’s Production Right and the Willis Class’  
23 right to cross-examine Copa de Oro remains intact.  
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1           Regarding Rosamond High School, the Willis Class has the right to cross-examine that  
2       Stipulating Party regarding the admitted mistake which led to a *four-fold* overstatement of water  
3       usage by Rosamond High School. The “Pre-Rampdown Production” of Rosamond High School as  
4       set forth in Exhibit 4 to the SPPS (as well as Exhibit 4 to the Beeby Deposition) is 586.4 AFY and  
5       the “Production Right” is 202.23. However, the Declaration that Rosamond High School sought  
6       to admit into evidence without being subject to cross-examination by the Willis Class states that  
7       the *actual* water production in 2011 was 122 AFY. The Willis Class asserts its right to cross-  
8       examine a witness from Rosamond High School as to how their prior Declaration relied upon by  
9       this Court and, by extension, expert witness Mr. Beeby, included a four-fold overstatement of its  
10      water production and why that Stipulating Party should have a *permanent allocation* of 202.23  
11      AFY under the SPPS when its water production was only 122 AFY. Significantly, Mr. Beeby’s  
12      analysis of whether the Production Right of Rosamond High School “made sense” was based on  
13      faulty data and, thus, cannot be used to justify the Production Right given to Rosamond High School  
14      under the SPPS. Mr. Beeby testified that he did not independently verify or question any of the  
15      data he received regarding the Stipulating Parties’ amount of water or use. The Willis Class cannot  
16      be prevented from cross-examining Rosamond High School (or any other Stipulating Party) simply  
17      because Mr. Beeby compared the given data to crop duties for growing alfalfa without doing any  
18      independent verification of their underlying data as he did with Mr. Tapia’s alleged water  
19      production.  
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23           Because Final Approval of the SPPS by this Court would affect the property rights of all  
24      Willis Class Members, those same Willis Class Members, through Willis Class Counsel, have the  
25      fundamental due process right to cross-examine all evidence submitted by the Stipulating Parties  
26      at the Phase VI/Physical Solution trial:  
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28           “A person's right to cross-examination and confrontation of witnesses against him in  
noncriminal proceedings is a part of procedural due process guaranteed by the Fifth

1       **Amendment and the Fourteenth Amendment of the federal Constitution, where**  
2       **there is a threat to life, liberty, or property.**” (*August v. Department of Motor Vehicles*  
3       (1968) 264 Cal.App.2d 52, 60, 70 Cal.Rptr. 172.)

4       *CACH LLC v. Rodgers*, 229 Cal.App.4th Supp. 1, 6-7 (2014) (emphasis supplied).

5       The scope of the Phase IV Trial did ***not*** include a determination of any water right and,  
6       therefore, Willis Class should have every opportunity to cross-examine evidence submitted by  
7       Stipulating Parties during the current Phase VI/Physical Solution Trial:

8       The Phase IV Trial is only for the purpose of determining groundwater pumping during  
9       2011 and 2012. **The Phase IV Trial shall not result in any determination of any water**  
10       **right, or the reasonableness of any party’s water use or manner of applying water to**  
11       **the use.**

12       Fifth Amended Case Management Order dated May 20, 2013 (emphasis supplied).

13       As shown by the specific declaration evidence relating to Copa de Oro and Rosamond High  
14       School, there are many areas of cross-examination that the Willis Class has the right to pursue  
15       because these Stipulating Parties (and all others) will receive a ***permanent allocation*** of the Native  
16       Safe Yield that will result in the ***permanent exclusion*** of Willis Class Members’ correlative right  
17       to pump from the Native Safe Yield in violation of both law and equity.

18       Regarding the Willis Class’ expert witnesses, Willis Class Counsel have previously posted  
19       the expert witness reports or proposed testimony of Dr. Smith, Mr. Kear, and Mr. Sunding. Willis  
20       Class Counsel has attached the expert witness report of Mr. Roach as Exhibit A to this CMC  
21       Statement for review by the Court and all Stipulating Parties. The Willis Class intends to call all  
22       four expert witnesses at trial on Wednesday, October 14, 2015.

23       Willis Class Counsel again raises with the Court the previously-filed objection to the  
24       interference by Wood Class Counsel to our request for the Court-appointed expert, Mr. Thompson,  
25       to produce documents to Willis Class Counsel as agreed during his deposition. Willis Class  
26       Counsel has narrowed the scope of documents sought from Mr. Thompson to numbers 3, 7, 7a, and  
27       8 as listed in the letter to Mr. Thompson from Willis Class Counsel dated September 18, 2015. The  
28

1 documents sought relate to underlying data for the survey referenced in Mr. Thompson's expert  
2 witness report as well as emails between the expert and Mr. McLachlan and the expert and any  
3 other attorneys involved in this adjudication. These documents were responsive to the document  
4 requests directed to Mr. Thompson, were not objected to prior to the deposition, and in fact were  
5 agreed to be produced during the deposition of Mr. Thompson. The Willis Class therefore requests  
6 this Court to order Mr. McLachlan to refrain from intervening with Willis Class Counsel's attempts  
7 to obtain these documents from Mr. Thompson by instructing Mr. Thompson not to produce such  
8 documents to Willis Class Counsel. Depending on the content of the documents obtained by Willis  
9 Class Counsel from Mr. Thompson, the Willis Class may call Mr. Thompson to testify at trial on  
10 October 15, 2015.  
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12  
13 On a final matter, Willis Class Counsel reserve the right to call Mr. Wildermuth at trial on  
14 October 15, 2015, to provide the foundational facts for the Stipulation entered into between the  
15 Willis Class and District 40 regarding the size of the Willis Class with respect to parcels, acreage,  
16 number of members.

17 Dated: October 6, 2015

Respectfully submitted,

KRAUSE KALFAYAN BENINK & SLAVENS, LLP

By:

  
Ralph B. Kalfayan, Esq.

Lynne M. Brennan, Esq.

Class Counsel for the Willis Class

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5 Class Counsel for the Willis Class  
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10 **ANTELOPE VALLEY**  
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25 *Defendants.*  
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RELATED CASE TO JUDICIAL COUNCIL  
COORDINATION PROCEEDING NO. 4408

**PROOF OF SERVICE**

1 I, Lynne M. Brennan, 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 **WILLIS CLASS' CASE MANAGEMENT STATEMENT**

8 (X) (BY ELECTRONIC SERVICE) by posting the document(s) listed above to the Santa Clara  
9 County Superior Court website: [www.scefiling.org](http://www.scefiling.org) regarding the Antelope Valley Groundwater  
10 matter.

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

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

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

25 (X) (STATE) I declare under penalty of perjury under the laws of the State of California that  
26 the above is true and correct.

27 () (FEDERAL) I declare under penalty of perjury under the laws of the United States of  
28 America that the foregoing is true and correct.

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