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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, on behalf of herself  
and all others similarly situated,

Plaintiff,

vs.

LOS ANGELES COUNTY WATERWORKS  
DISTRICT NO. 40; CITY OF LANCASTER;  
CITY OF LOS ANGELES; 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; MOJAVE PUBLIC  
UTILITY DISTRICT; and DOES 1 through  
1,000;

Defendants.

) RELATED CASE TO JUDICIAL  
) COUNCIL COORDINATION  
) PROCEEDING NO. 4408  
)

) The Honorable Jack Komar  
) Coordination Trial Judge  
)

) CLASS ACTION  
)

) CASE MANAGEMENT CONFERENCE  
) STATEMENT REGARDING CLASS  
) NOTICE  
)

) Date: November 25, 2008  
) Time: 10:30 a.m.  
) Dep't: 17 (Santa Clara County)  
)

Pursuant to the Court's Minute Order of November 5, 2008, Plaintiff Willis respectfully  
submits this Case Management Statement addressing (I) Class Notice Issues and (II) Scheduling  
and Trial Issues.

1           **I. CLASS NOTICE ISSUES**

2           The Willis Class was certified in September 2007. Then, by Order dated May 22, 2008,  
3 this Court modified the Class definition in a few minor respects, provisionally approved the  
4 proposed Notice to be sent to the Willis Class, and directed the Public Water Suppliers to  
5 “compile a list of Class Members and propose a means for disseminating the Class Notice to  
6 such persons” by August 15, 2008. The Suppliers have not complied with this Court’s Order and  
7 inexplicably continue to delay the dissemination of Class Notice. It is now over a year since the  
8 Willis Class has been certified and approximately six months since the Court provisionally  
9 approved the form of Notice to be sent to the Willis Class. Although some revisions and delays  
10 were inevitable in light of the certification of the Woods Class, it is high time that the Willis  
11 Class be provided Notice of this action.

12           **A. REVISIONS NEEDED TO THE WILLIS CLASS NOTICE**

13           Attached hereto as Exhibit A is a proposed form of Notice to the Willis Class with a few  
14 modest revisions from the form of Notice provisionally approved by the Court in May. The only  
15 substantive changes are (1) to revise the Class Definition in accord with the Court’s September  
16 2, 2008 Second Order Modifying Definition of Plaintiff Class and (2) the addition of language  
17 providing that class members may respond to the Notice either on-line or by mail.

18           **B. LOGISTICS OF SENDING THE NOTICE**

19           Plaintiff understands that the Suppliers have assembled a mailing list of all property  
20 owners in the Basin that are not being served by one of the Municipal Water Districts and that  
21 they have divided that list into improved properties (the owners of which may be presumed to be  
22 members of the Woods Class) and unimproved properties (the owners of which may be  
23 presumed to be members of the Willis Class). It should be feasible for the Suppliers to send the  
24 Notice to owners of unimproved properties within 30 days. The Suppliers should be required to  
25 use standard procedures to follow up on any Notices that are returned due to incorrect addresses  
26 or other similar problems. The Class Members should have 60 days from the mailing date in  
27 which to respond to the Notice – either online or by mail. Any opt-outs should be served with  
28 process within 30 days after class members opportunity to respond has expired.

1 The precise contents of the Class Member's website should be determined by Counsel  
2 and submitted to the Court within 20 days. It should include, at a minimum, the key pleadings  
3 and Orders in the case, the Class Notice(s), the response form(s), and a list of frequently asked  
4 questions (with answers). There should also be both an 800 number and an e-mail address  
5 through which Class Members may submit additional questions.

### 6 **C. COSTS OF NOTICE**

7 As previously agreed, the Suppliers will bear the costs of this Notice program. The  
8 Suppliers, in coordination with class counsel, should promptly advise the Court and the parties  
9 as to the details of the Notice program they contemplate -- e.g., who will handle the mailing,  
10 when it will take place, etc. Plaintiff's counsel are happy to provide any support that we can,  
11 given our prior experience with such notices.

## 12 **II. DOCUMENT DEPOSITORY**

13 To gain uniformity in document discovery, provide access to all parties, and preserve  
14 requests for confidentiality, the Willis class proposes that the website publisher hosting the  
15 electronic docket, Goltrans, also host the parties production of documents in this case. The  
16 Willis class has been working with Goltrans to establish basic guidelines and protocols for  
17 everyone to follow in producing records. A draft of the proposed protocols is attached as Exhibit  
18 B and they include provisions for electronic platforms, compliance with the Court's protective  
19 orders, bates stamping, and general organizational points. Because of the number of parties and  
20 quantity of records, the Willis class believes that this independent third party is best suited to  
21 facilitate this function.

## 22 **III. SCHEDULING AND TRIAL ISSUES**

23 Willis agrees with much that the overlying landowners have stated in their Case  
24 Management Statement. In particular, Willis agrees that the next phase of trial should address all  
25 elements of the Suppliers' prescription claims -- including basin yield, overdraft, notice, etc.  
26 That is necessary not only to better focus the proceedings, but also to respect the parties' right  
27 to a Jury trial on all issues that are elements of the prescription claim.

28 California law is clear that parties are entitled to a jury trial to resolve disputes regarding

1 the existence of prescriptive rights. Cal Judges Benchbook: Civil Proceedings Before Trial §  
2 2.77, citing *Arciero Ranches v. Meza* (1993) 17 Cal App. 4<sup>th</sup> 114, 123-26. “[I]f either the  
3 existence of the [common law property] right or the fact of its violation be disputed, [the parties]  
4 must establish that right at law; or, in other words by a jury, if one be demanded.” Id. at 124  
5 (internal quotations and citations omitted). Because the issues of yield and overdraft are  
6 aspects of the prescription claim, those issues must be tried as part of that claim before the same  
7 jury.

8 Because the next phase of trial will involve a number of complex issues, albeit ones that  
9 the parties have been investigating, the Court should allow a reasonable amount of time before  
10 commencing that phase. The court should set another case management conference to set a trial  
11 date once notice has been disseminated and opt outs have been served with process.

#### 12 **IV. CONCLUSION**

13 The Court certified the Willis Class over a year ago, and it is appropriate that the Class  
14 members be informed about the litigation and their rights. The attached Notice does so in a fair  
15 and impartial manner and in a way that is comprehensible to ordinary persons.

16 The complexities of this litigation and the certification of the Woods Class have resulted  
17 in inevitable delays in the notice process, but the Court should order the Suppliers to promptly  
18 send the attached Notice to all dormant Class members they have identified. This Notice  
19 program satisfies the requirements of Rule 3.766 and due process, and will enable the  
20 adjudication of this dispute to be comprehensive and binding.

21 Dated: November 21, 2008

KRAUSE KALFAYAN BENINK  
& SLAVENS LLP

24 /s/Ralph B. Kalfayan  
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