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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, on behalf of herself )  
and all others similarly situated, )

14 Plaintiff,

15 vs.

16 LOS ANGELES COUNTY WATERWORKS )  
17 DISTRICT NO. 40; CITY OF LANCASTER; )  
CITY OF LOS ANGELES; CITY OF )  
18 PALMDALE; PALMDALE WATER )  
DISTRICT; LITTLEROCK CREEK )  
19 IRRIGATION DISTRICT; PALM RANCH )  
IRRIGATION DISTRICT; QUARTZ HILL )  
20 WATER DISTRICT; ANTELOPE VALLEY )  
WATER CO.; ROSAMOND COMMUNITY )  
21 SERVICE DISTRICT; MOJAVE PUBLIC )  
UTILITY DISTRICT; and DOES 1 through )  
22 1,000; )

23 Defendants. )  
24

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

) The Honorable Jack Komar  
) Coordination Trial Judge

) REBECCA WILLIS' AND THE NON-  
) PUMPING LANDOWNER CLASS'  
) MEMORANDUM IN SUPPORT OF  
) PLAINTIFF RICHARD WOOD'S EX  
) PARTE APPLICATION FOR TRO

) DATE: April 2, 2009  
) TIME: 2:00 p.m.  
) PLACE: Dept. 17C

) JUDGE: Hon. Jack Komar  
)  
)  
)

25 INTRODUCTION

26 The Willis class submits this memorandum of points and authorities in  
27 support of Plaintiff Wood's Ex Parte Application for Temporary Restraining Order  
28 and Order to Show Cause Re Preliminary Injunction. For the reasons stated in

1 Plaintiff Wood's Application as well as those stated below, the Application should be  
2 granted.

### 3 BACKGROUND

4 The Antelope Valley Groundwater Agreement Association ("AGWA"), an  
5 active participant in this litigation, along with its principal and counsel, recently  
6 issued a flyer soliciting landowners to attend an April 7, 2009 "Town Hall Meeting"  
7 concerning this water adjudication. The solicitation expressly states as follows: "If  
8 you have received a class notice, and are searching for information regarding the  
9 water adjudication, please take this flyer." As the Court is aware, AGWA has  
10 opposed the certification of the classes in this adjudication. Moreover, at times,  
11 AGWA's counsel has openly stated that his clients' interests are opposed to those of  
12 the Willis class.

### 13 ARGUMENT

14 The Wood Ex Parte Application makes clear the ethical impropriety of  
15 AGWA *counsel* communicating with class members regarding this litigation. It is  
16 equally clear that AGWA and other *parties* should not engage in any such  
17 communications unless they have been authorized by Class counsel or the Court.

18 The Court has the duty and authority to protect the members of the classes  
19 and regulate communications directed to class members. Rule 3.766(d), California  
20 Rules of Court. Class counsel and other parties spent substantial effort crafting a  
21 notice that was designed to advise class members about this litigation in a neutral  
22 and impartial fashion. That notice was approved by the Court pursuant to CRC  
23 3.766(d) and has been sent to the Class at great expense and effort. AGWA's efforts  
24 to communicate with class members without judicial supervision subverts the  
25 Court's supervision of the class notice process as well as the goal of ensuring that  
26 those communications are fair and impartial.

27 In *Gainey v. Occidental Land Research* (1986) 186 Cal. App. 3d 1051, the  
28 Court of Appeal unequivocally held as follows:

1 The form and content of the notice to the class of pendency of the class  
2 action is regulated by the court. The notice is a matter of extreme import-  
3 ance, committed to the discretion of the court, not the "whim of litigants."

4 . . .  
5 Once the content of the notice has been approved by the court, the defendant  
6 cannot send out its own competing and argumentative notice and invitation  
7 to the class members to opt out. Such conduct defeats the whole point of the  
8 court's holding a hearing to approve the notice to the class. We disapprove  
9 such an end run around the court's supervisory powers.

10 Id. at 1057-58 (citations omitted)

11 It is noteworthy in that regard that AGWA has openly taken the position that  
12 its members' interests are adverse to those of the Willis class. Thus, while AGWA is  
13 not a defendant as to Willis' claims, its communications are likely not designed to  
14 benefit class members, but rather to foster its own competing interests. Thus, not  
15 only does this Town Hall undermine the Court's oversight of communications with  
16 the Class, there is a very real risk that such communications would be misleading  
17 and that the differences between AGWA's interests and those of dormant  
18 landowners would not be disclosed.

19 We emphasize that we do not seek to restrain AGWA's counsel from  
20 communicating with his clients or with other interested persons who are not  
21 represented. But communications by AGWA or its counsel with members of either  
22 certified class are highly improper.

### 23 CONCLUSION

24 For the foregoing reasons, this Court should restrain AGWA and its counsel  
25 (as well as any other parties) from initiating and having unauthorized  
26 communications with members of the Willis and Wood classes.

27 Dated: April 1, 2009

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28 /s/ Ralph Kalfayan  
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