1	Ralph B. Kalfayan, SBN 133464	
2	David B. Zlotnick, SBN 195607 KRAUSE, KALFAYAN, BENINK	
3	& SLAVENS LLP 625 Broadway, Suite 635	
4	San Diego, CA 92101 Tel: (619) 232-0331	
5	Fax: (619) 232-4019	
6	Attorneys for Plaintiff and the Class	
7		
8		
9	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
10	FOR THE COUNTY OF LOS ANGELES	
11		
12	ANTELOPE VALLEY GROUNDWATER CASES	) RELATED CASE TO JUDICIAL ) COUNCIL COORDINATION
13		) PROCEEDING NO. 4408
14	This Pleading Relates to Included Action: REBECCA LEE WILLIS, on behalf of herself	) REQUEST BY THE WILLIS CLASS TO
15	and all others similarly situated,	DISMISS THE MOJAVE PUBLIC UTILITY DISTRICT FROM THE
16	Plaintiff,	) SECOND AMENDED CLASS ACTION ) COMPLAINT; DECLARATION OF
17	VS.	) RALPH B. KALFAYAN IN SUPPORT ) THEREOF
18	LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; CITY OF LANCASTER;	) )
19	CITY OF LOS ANGELES; CITY OF PALMDALE; PALMDALE WATER	) )
20	DISTRICT; LITTLEROCK CREEK IRRIGATION DISTRICT; PALM RANCH	) )
21	IRRIGATION DISTRICT; QUARTZ HILL WATER DISTRICT; ANTELOPE VALLEY	) )
22	WATER CO.; ROSAMOND COMMUNITY SERVICE DISTRICT; MOJAVE PUBLIC	) )
23	UTILITY DISTRICT; and DOES 1 through 1,000;	) )
24	Defendants.	) )
25		
26	111	
27	111	
28	111	
		-1-

#### 

# 

## 

7 8

### 

#### Introduction

Plaintiff Rebecca Willis hereby moves the Court to dismiss Defendant Mojave
Public Utility District from the Willis Second Amended Class Action Complaint.

#### The Court should grant the request

Pursuant to Rule of Court 3.770, court approval is required for dismissal of a party in a class action. Defendant Mojave Public Utility District (hereinafter "Mojave PUD") is a named defendant in the Willis Second Amended Class Action Complaint. On August 7, 2008, counsel for the Mojave PUD, Mr. Robert W. Hartsock, confirmed in writing that neither the town of Mojave nor the boundaries of the Mojave PUD are within the area of adjudication. Counsel also represented that Mojave PUD is not a retailer or purveyor of groundwater in the Antelope Valley. Since the Willis Class is adverse to appropriators that claim prescriptive rights to the Basin's water, it is respectfully requested by the Willis Class that Defendant Mojave PUD be dismissed without prejudice from the Willis Second Amended Class Action Complaint. No direct or indirect consideration has been exchanged by the parties for this dismissal. The dismissal will not prejudice any of the members in the class. Each party is expected to bear their own fees and costs.

#### Conclusion

For the foregoing reasons, the Willis Class respectfully requests that Mojave Public Utility District be dismissed without prejudice from the Willis Second Amended Class Action Complaint.

Dated: September 29, 2009

KRAUSE KALFAYAN BENINK

& SLAVENS LLP

Ralph B. Kalfayan, Esq. David B. Zlotnick, Esq.

Attorneys for Plaintiff and the Class

#### Declaration of Ralph B. Kalfayan

I, Ralph B. Kalfayan, declare as follows:

- 1. I am an attorney at law duly licensed to practice before all courts of the State of California and a partner with the law firm of Krause, Kalfayan, Benink & Slavens, LLP who are the attorneys of record herein for the Willis Class.
- 2. On or about August 7, 2008, counsel for the Mojave Public Utility District (hereinafter the "Mojave PUD"), Mr. Robert W. Hartsock, confirmed by letter that Mojave PUD is located outside of the Jurisdictional boundaries of the Antelope Valley Area of Adjudication. Attached to my declaration is a true and correct copy of the letter dated August 7, 2008, paragraph 3. No direct or indirect consideration has been exchanged by the parties for this dismissal.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: September 29, 2009

KRAUSE KALFAYAN BENINK & SLAVENS LLP

Ralph B. Kalfayan, Esq. David B. Zlotnick, Esq.

Attorneys for Plaintiff and the Class

Gene R. McMurtrey Robert W. Hartsock James A. Worth

Isaac L. St. Lawrence Rebecca A. Bon

# LAW OFFICES McMURTREY, HARTSOCK & WORTH

A PROFESSIONAL CORPORATION

2001 22ND STREET, SUITE 100 BAKERSFIELD, CALIFORNIA 93301 AREA CODE 661 TELEPHONE 322-4417 FAX 322-8123

August 7, 2008

Ralph B. Kalfayan, Esq. Krause, Kalfayan, Benink & Slavens 625 Broadway, Suite 635 San Diego, CA 92101

RE:

Rebecca Lee Willis v. Los Angeles County Waterworks, Mojave Public Utility District, et al. (Judicial Council Coordination Proceeding No. 4408)

Dear Mr. Kalfayan:

As you are aware, this office is legal counsel to Mojave Public Utility District (Mojave PUD), one of the defendants named in the Plaintiffs' Second Amended Class Action Complaint for Damages and Equitable Relief.

As we discussed over the telephone on the afternoon of August 8, 2008, I have had an opportunity to review the Revised Order After Hearing on Jurisdictional Boundaries, dated March 12, 2007 by Judge Jack Komar (Order), and discovered that neither the town of Mojave, nor the boundaries of Mojave PUD, are within the area of adjudication (Jurisdictional Boundary) as described and depicted in the Order.

A review of the Order and the map (Map) attached as Exhibit A thereto indicates that the Jurisdictional Boundary is located approximately 10 miles to the south and approximately 7 miles to the southwest of Mojave. Mojave PUD's boundaries extend less than three miles to the southwest (from the center of town<sup>1</sup>) and less than 5 miles to the south (from the center of town). In effect, Mojave PUD is located outside of the Jurisdictional Boundaries as determined by the Court, and in fact is overlying a different groundwater basin.

Based upon our telephone call, it is my understanding that in light of the fact that Mojave PUD is not within the Jurisdictional Boundaries as determined by the Court, Plaintiff will be dismissing Mojave PUD from this litigation. I would appreciate receipt of a copy of the Request for Dismissal when sent to the court (or advised of same if filed electronically).

<sup>&</sup>lt;sup>1</sup> Town, for purposes of the discussion herein, is depicted as that area of development shown on the Map that is immediately adjacent to the airstrip located at the intersection of 11N and 12W.

Ralph B. Kalfayan, Esq. Krause, Kalfayan, Benink & Slavens August 7, 2008 Page 2

If my understanding of this matter is incorrect in any way, please contact me immediately.

As an aside, I wish to thank you for the courtesies which you have extended. I am appreciative that you (1) first contacted me by telephone regarding this matter; (2) provided me a courtesy copy of the complaint; and (3) allowed me time to review and investigate this matter. It is my belief that your courtesies and cooperation have saved us both unnecessary time and expense. Thank you again.

Sincerely,

Robert W. Hartsock

RWH:gg

cc: Mojave Public Utility District

Attn.: Bruce Gaines, General Manager