

Attorneys for Plaintiff and the Class

1 Property, which was lodged in January 2008 by (former) counsel for Tejon Ranchcorp. The
2 request is not only procedurally improper, but is also based on the erroneous suggestion that the
3 Court intended to enter the Proposed Order, but inadvertently failed to do so. In fact, the Court's
4 Minute Order of January 14, 2008 makes clear that the Court recognized that there were
5 substantial problems with the Proposed Order and deliberately declined to enter it and instead
6 continued consideration of the underlying issues. Finally, to the extent the Proposed Order
7 purports to govern absent Class Members, it is improper for many reasons – including that the
8 Public Water Suppliers never gave notice of that Order to such Class Members.
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10 1. The Suppliers' Request is Procedurally Improper.

11 The Proposed Order affects significant substantive rights of the parties as well as rights of
12 potential transferees of properties within the Basin. It was submitted only three days before the
13 upcoming Case Management Conference and was not supported by a Motion or any points and
14 authorities. A matter of this significance must be decided based on a duly noticed Motion, not
15 by way of an offhand suggestion on minimal notice.
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17 2. The Court Deliberately Declined to Enter The Proposed Order.

18 The Suppliers' papers erroneously imply that the Court approved the of the Proposed
19 Order and inadvertently failed to enter it. That is not the case. The Proposed Order was opposed
20 by many parties, and the problems with it were discussed at length at a Hearing on January 14,
21 2008. Attached hereto as Exhibit A is a copy of the Minute Order following that Hearing, which
22 makes clear that the Court did not approve the Proposed Order, but rather continued
23 consideration of it. To the best of our knowledge, the Court never approved the Proposed Order.
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25 3. The Proposed Order Is Not Appropriate to the Extent it Purports to Govern
Members of the Willis Class.

26 For at least two reasons, the Proposed Order is inappropriate to the extent that it purports
27 to govern the members of the Willis Class. First, the California Courts have consistently
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1 recognized that absent Class members are not “parties.” The Proposed Order is improper in that
2 it would treat Class Members as if they were parties and subject them to potential contempt
3 findings without adequate safeguards. Second, the Proposed Order directs the Suppliers to
4 provide a copy of the Order with the Notice to the Class, which the Suppliers failed to do. At a
5 bare minimum, the Suppliers must be required to re-notice the Class in order to provide Class
6 Members with notice of the terms of the Proposed Order.
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8 For all of the above reasons, the Court should deny the Suppliers’ request that it enter the
9 Proposed Order.

10 Dated: May 5, 2010

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