



1 The Willis class respectfully submits the following response to the Woods Class Ex Parte  
2 Application for Publication of Class Member List. As this Court is aware, the Willis Class  
3 entered into a Stipulation of Settlement (the “Settlement” or “Stipulation”) with the Public Water  
4 Suppliers (“Appropriators”) in July of 2010. The Court approved the Settlement in February  
5 2011, and entered a Final Judgment on May 13, 2011. Some of the Appropriators filed an  
6 appeal from the Final Judgment. This appeal has since been finally resolved and dismissed. The  
7 Woods Class now seeks an ex parte order from the Court compelling Willis Class counsel to file  
8 a list of all members, by parcel number, included in the Willis class. Notably, the Woods Class  
9 did not object or appeal from the Final Judgment. The Court should deny the request for the  
10 following reasons:

12 First, the law does not require a compiled list of class members as part of the Judgment.  
13 Pursuant to California Rule of Court 3.771(a), “The judgment in an action maintained as a class  
14 action must include and describe those whom the court finds to be members of the class.”  
15 Consistent with this Rule of Court the Federal Rules of Civil Procedure provides:

17 “Judgment. Whether or not favorable to the class, the judgment in a class action  
18 must: (A) for any class certified under Rule 23(b)(1) or (b)(2), include and  
19 describe those whom the court finds to be class members; and (B) for any class  
20 certified under Rule 23(b)(3), include and specify *or describe* those to whom the  
21 Rule 23(c)(2) notice was directed, who have not requested exclusion, and whom  
22 the court finds to be class members.” (Emphasis added)

23 Thus the judgment in a class action need only describe those to whom the notice was  
24 directed and who have not requested exclusion and those the court finds to be members of the  
25 class. As long as there is an adequate description, which properly identifies the members in the  
26 class, there is no requirement for an actual class list. “The description may be a generic one and  
27 should suffice for the purpose of identifying the class.” See *Settlement of Class Actions*,  
28 Newberg on Class Actions § 11:59 (2012).

Here, the class definition describes class members as follows:

“All private (i.e., non-governmental) persons and entities that own real property

1 within the Basin, as adjudicated, that are not presently pumping the water on their  
2 property and have not done so at any prior time (“the Class”). The class includes  
3 the successors-in-interest by way of purchase, gift, inheritance, or otherwise of  
4 such landowners.

5 The Class excluded the defendants herein, any person, firm, trust,  
6 corporation, or other entity in which any defendant has a controlling interest or  
7 which is related to or affiliated with any of the defendants, and the  
8 representatives, heirs, affiliates, successors-in-trust or assigns of any such  
9 excluded party. The Class also excludes all persons to the extent their properties  
are connected and receive service from a municipal water system, public utility,  
or mutual water company. The Class shall [further] exclude all property(ies) that  
are listed as ‘improved’ by the Los Angeles County or Kern County Assessor’s  
office, unless the owners of such properties declare under penalty of perjury that  
they do not pump and have never pumped water on those properties.”

10 There is no ambiguity or confusion as to who is or is not included in the class. Those that  
11 requested exclusion from the class have been identified and listed as part of an exhibit to the  
12 Final Judgment.

13 Second, Best Best & Krieger (“BBK”), counsel for Los Angeles County Waterworks  
14 District No. 40 (the “District”), maintains the current list of all Willis Class members. As the  
15 Court is aware, BBK was the designated claims administrator who handled the Notice of  
16 Settlement for the Willis Class. BBK compiled the list, mailed the notice, and currently  
17 maintains the Willis Class website. If the court believes a list is necessary, BBK should bear the  
18 burden of producing it, since it is in a better position to do so given the information it possesses  
19 and duties it has been handling. Moreover, unlike Willis, District 40 remains an active party to  
20 the litigation.

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22 Third, Woods counsel should have made reasonable efforts to meet and confer prior to  
23 filing this application. If the parties were still unable to reach agreement, Woods should have  
24 filed a motion on appropriate notice seeking the requested relief. Willis Class counsel had not  
25 planned to appear at the April 30, 2013 status conference and was surprised by the Ex Parte  
26 application given that there had been no prior request for the information, much less any attempt  
27 to meet and confer. Willis Class counsel is presently unable to appear at the status conference  
28

1 tomorrow and thus requests additional time to oppose the request if the Court is inclined to grant  
2 any part of the requested relief.

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4 Dated: April 29, 2013

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6  
7 /s/ Ralph Kalfayan  
Ralph B. Kalfayan, Esq.

8 Attorney for Plaintiff and the Class  
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