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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

**ANTELOPE VALLEY GROUNDWATER
CASES**

RICHARD A. WOOD, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

v.

**LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et
al.**

Defendants.

Judicial Council Coordination
Proceeding No. 4408

(Honorable Jack Komar)

Case No.: BC 391869

**NOTICE OF MOTION AND
MOTION TO CORRECT WILLIS
CLASS JUDGMENT *NUNC PRO
TUNC***

Date: September 29, 2015
Time: 9:00 a.m.
Dept: Room 222

1 TO THE COURT AND ALL INTERESTED PARTIES:

2 PLEASE TAKE NOTICE that on September 29, 2015, at 9 a.m., or as soon
3 thereafter as the Court may hear this matter, in Room 222 of the above-entitled
4 Court located at 111 North Hill Street, Richard Wood will and hereby does move
5 for an order correcting the Willis class judgment *nunc pro tunc* to fix a drafting
6 error that has resulted in the judgment incorporating an incorrect class
7 definition. Specifically, the judgment, both as originally entered and as modified,
8 failed to use the current class definition. Additionally, the modified judgment
9 contains a typographical error, as more fully explained below.

10 Because these are drafting errors that fail to incorporate the intention of the
11 parties or the Court in entering the judgment, they should be corrected *nunc pro*
12 *tunc* under the Court's inherent power to fix such errors.

13 The motion is based on this Notice, the attached Memorandum and
14 Exhibits, and such other and further evidence as the Court may adduce at the
15 hearing.

16 DATED: September 4, 2015 LAW OFFICES OF MICHAEL D. McLACHLAN
17 LAW OFFICE OF DANIEL M. O'LEARY
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19
20 By: _____
21 MICHAEL D. MCLACHLAN
22 Attorneys for Plaintiff Richard Wood
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On May 12, 2011, the Court entered a final judgment for the Willis Class in its action against the public water suppliers (“the Willis judgment”), which it amended on September 22, 2011. The amended judgment, unfortunately, contained an incorrect class definition. As far as moving party is aware, this mistake went unnoticed until mid-July of 2015.

The Willis judgment must contain an accurate class definition; among other things, the notice to absent class members contained the correct definition. Moreover, the parties intended the Willis judgment to bind those people, and only those people, who met the class definition. As it currently stands, the class definition in the Willis judgment is broader than the actual Willis class. Because this is a clerical error that escaped the notice of all interested parties in 2011, the Court should now correct the Willis judgment *nunc pro tunc*.

II. FACTUAL BACKGROUND

A. The Willis Class Definition

After failed attempts by the Public Water Suppliers to certify a defendant class, on September 11, 2007, the Court certified the Willis class as a plaintiff class, defined as follows:

All private (i.e., non-governmental) persons and entities that own real property within the Basin, as adjudicated, that are not presently pumping water on their property and did not do so at any time during the five years preceding January 18, 2006 (“the Class”). The Class includes the successors-in-interest by way of purchase, gift, inheritance, or otherwise of such landowners.

The Class excludes the defendants herein, any person, firm, trust, corporation, or other entity in which any defendant has a controlling interest or which is related to or affiliated with any of the defendants, and the representatives, heirs, affiliates, successors-in-interest or assigns of any such excluded party. The Class also excludes all persons to the extent their properties are connected to a municipal water system, public utility, or mutual water company

1 from which they receive or are able to receive water service, as well
2 as owners of properties within the service areas of the foregoing
3 water purveyors as to which there is a water system agreement or
4 water service agreement providing for the provision of water service
5 by such purveyors.

6 (McLachlan Decl., Ex. 1, (Order Certifying Plaintiff Class, Sept. 11, 2007).)

7 After unsuccessful efforts to locate counsel to represent the small pumpers,
8 the Public Water Suppliers subsequently moved to amend this order to exclude
9 properties on which groundwater had been pumped. (Dkt. No. 1169, January 30,
10 2008.) On May 22, 2008, the Court modified the Willis Class definition to
11 exclude the Small Pumpers:

12 All private (i.e., non-governmental) persons and entities that
13 own real property within the Basin, as adjudicated, that are not
14 presently pumping water on their property and did not do so at any
15 time during the five years preceding January 18, 2006 ("the Class").
16 The Class includes the successors-in-interest by way of purchase,
17 gift, inheritance, or otherwise of such landowners.

18 The Class excludes the defendants herein, any person, firm,
19 trust, corporation, or other entity in which any defendant has a
20 controlling interest or which is related to or affiliated with any of the
21 defendants, and the representatives, heirs, affiliates, successors-in-
22 interest or assigns of any such excluded party. The Class also
23 excludes all persons who only own property(ies) within the basin
24 that are connected to and receive water service from a municipal
25 supplier, public utility, or mutual water company. The Class
26 excludes all property(ies) that are listed as "improved" by the Los
27 Angeles County or Kern County Assessor's office, unless the owners
28 of such properties declare under penalty of perjury that they do not
pump water on their property and did not do so during the five years
preceding January 18, 2006. to the extent their properties are
connected to a municipal water system, public utility, or mutual
water company from which they receive or are able to receive water
service, as well as owners of properties within the service areas of the
foregoing water purveyors as to which there is a water system
agreement or water service agreement providing for the provision of
water service by such purveyors.

(McLachlan Decl., Ex. 2 (Plaintiff Willis' Order Modifying Class Definition), May
22, 2008, ¶ 1.)

1 On September 2, 2008, concurrently with the certification of the Small
2 Pumper Class, the Court made further clarifications to the Willis Class definition
3 at the request of and using the language drafted by the Willis Class Counsel:

4 All private (i.e., non-governmental) persons and entities that
5 own real property within the Basin, as adjudicated, that are not
6 presently pumping water on their property and did not do so at any
7 time during the five years preceding January 18, 2006 (“the Class”).
8 The Class includes the successors-in-interest by way of purchase,
9 gift, inheritance, or otherwise of such landowners.

10 The Class excludes the defendants herein, any person, firm,
11 trust, corporation, or other entity in which any defendant has a
12 controlling interest or which is related to or affiliated with any of the
13 defendants, and the representatives, heirs, affiliates, successors-in-
14 interest or assigns of any such excluded party. The Class also
15 excludes all persons who only own property(ies) within the basin
16 that are connected to and receive water service from a municipal
17 supplier, public utility, or mutual water company. The Class
[further] ***excludes 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
their property and did not do so during the five years preceding
January 18, 2006. The Willis Class shall exclude all persons ***to the***
extent they own properties within the Basin on which they have
pumped water at any time.

18 (McLachlan Decl., Ex. 3 (Plaintiff Willis’ Second Order Modifying Definition of
19 Plaintiff Class), September 2, 2008, ¶¶ 1-2 (emphasis added in bold.) In that
20 same Order, the Court made clear that “[i]n order to achieve a comprehensive,
21 binding, and lasting adjudication of the water rights at issue in this matter, it is
22 important that all landowners within the Antelope Valley Basin be made parties
23 to this proceeding.” (*Id.* at ¶ A.)

24 Thus, the Willis class definition underwent two amendments: May 22,
25 2008, and September 2, 2008.

26 In the following years, the Willis class negotiated a settlement with the
27 Public Water Suppliers. In connection with that settlement, all class members
28

1 received notice, the Court held hearings, and the Court approved the settlement.
2 The settlement required the entry of judgment.

3 On May 12, 2011, the Court entered judgment. (McLachlan Decl., Ex. 4.)

4 Paragraph 5 of the Willis judgment states:

5 “5. By Order dated September 11, 2007, the Court certified the
6 Willis Class. As amended by Orders dated May 22, 2008 and September 2,
2008, the Willis Class is defined as follows:

7 “All private (i.e., non-governmental) persons and entities that
8 own real property within the Basin, as adjudicated, that are not
9 presently pumping water on their property and have not done so at
10 any prior time (“the Class”). The Class includes the successors-in-
interest by way of purchase, gift, inheritance, or otherwise of such
landowners.

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

19 Thus, while the original Willis judgment references the two amendments to the
20 class definition, the amendments were not fully incorporated into the text. The
21 Court entered an amended Willis Judgment on September 22, 2011 that contains
22 additional mistakes:

23 “5. By Order dated September 11, 2007, the Court certified the
24 Willis Class. As amended by Orders dated May 22, 2008 and September 2,
2008, the Willis Class is defined as follows:

25 “All private (i.e., non-governmental) persons and entities that
26 own real property within the Basin, as adjudicated, that are not
27 presently pumping water on their property and have not done so at
any prior time (“the Class”). The Class includes the successors-in-
28 interest by way of purchase, gift, inheritance, or otherwise of such
landowners.

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

12 (Exhibit 5.)

13 There are two major problems with the Willis judgment:

14 One, both the judgment and amended judgment omit the final sentence
15 added to the class definition on September 2, 2008: “The Willis Class shall
16 exclude all persons to the extent they own properties within the Basin on which
17 they have pumped water at any time.”

18 Two, the amended judgment omits part of a sentence (“all property(ies)
19 that are listed as ‘improved’ by the Los Angeles County or”) that should appear
20 before “Kern County Assessor’s office.”

21 Both problems need to be fixed.

22 **III. THE COURT CAN CORRECT THE WILLIS JUDGMENT.**

23 The Court has inherent power to amend the Willis judgment. (*See*
24 *Williamson v. Plant Insulation Co.* (1994) 23 Cal.App.4th 1406, 1415-16.) Indeed,
25 it has already amended the Willis judgment once. Moreover, the Court should
26 amend the Willis judgment *nunc pro tunc*, since the deviation between the class
27 definition and the class definition included in the amended judgment is the result
28 of a clerical error.

 “The scope of orders and **judgments nunc pro tunc** in
California has consistently been described by our Supreme Court in
the following terms: ‘A court can always correct a clerical, as
distinguished from a judicial error which appears on the face of a
decree by a **nunc pro tunc** order. [Citations.] It cannot, however,

1 change an order which has become final even though made in error, if
2 in fact the order made was that intended to be made.... “The function
3 of a **nunc pro tunc** order is merely to correct the record of the
4 judgment and not to alter the judgment actually rendered—not to
make an order now for then, but to enter now for then an order
previously made.”

5 (*In re Marriage of Padgett* (2009) 172 Cal.App.3d 830, 852.)

6 Here, the intention of all interested parties was for the Willis
7 judgment to track the Willis class definition. It does not. Now that the
8 problem has been recognized, the Court should fix it.

9
10 **IV. CONCLUSION**

11 For all of the foregoing reasons, Plaintiff Richard Wood respectively
12 requests that the Court amend the Willis judgment *nunc pro tunc* to reflect the
13 actual class definition.

14 DATED: September 4, 2015 LAW OFFICES OF MICHAEL D. McLACHLAN
15 LAW OFFICE OF DANIEL M. O’LEARY

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18 By: _____
MICHAEL D. MCLACHLAN
19 Attorneys for Plaintiff Richard Wood
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1. I make this declaration of my own personal knowledge, except where stated on information and belief, and if called to testify in Court on these matters, I could do so competently. I am co-counsel of record of record for Plaintiff Richard Wood and the Class, and am duly licensed to practice law in California. I make this declaration in support of the motion to amend the Willis Class judgment.

3. Exhibit 2 is a true and correct copy of this Court's May 22, 2008 Order modifying the Willis class definition.

5. Exhibit 4 is a true and correct copy of the Willis class Judgment, entered on May 12, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th day of September 2015 at Las Vegas, Nevada.

9

MOTION TO CORRECT WILLIS CLASS JUDGMENT

Exhibit 1

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8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF LOS ANGELES
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11 Coordinated Proceeding
12 Special Title (Rule 1550(b))

Judicial Council Coordination
Proceeding No. 4408

13 ANTELOPE VALLEY GROUNDWATER
14 CASES

15 Included Actions:

16 Los Angeles County Waterworks District No.
17 40 v. Diamond Farming Co.
18 Los Angeles County Superior Court
Case No. BC 325 201

**ORDER CERTIFYING PLAINTIFF
CLASS**

19 Los Angeles County Waterworks District No.
20 40 v. Diamond Farming Co.
21 Kern County Superior Court
Case No. S-1500-CV-254-348

Hearing Date: August 20, 2007
Time: **9:00 a.m.**
Department: 1, Room 534
111 North Hill Street
Los Angeles, CA
90012

22 Wm. Bolthouse Farms, Inc. v. City of Lancaster
23 Diamond Farming Co. v. City of Lancaster
24 Diamond Farming Co. v. Palmdale Water
25 District
26 Riverside County Superior Court
Consolidated Action, Case Nos.
RIC 353 840, RIC 344 436, RIC 344 668

Judge: Hon. Jack Komar

27 Rebecca Lee Willis v. Los Angeles County
28 Waterworks District No. 40
Los Angeles County Superior Court
Case No. BC 364 553

1
2 AND RELATED CROSS-ACTIONS.
3

4 The matter having come before the Court for hearing on August 20, 2007 on Plaintiff
5 Rebecca Lee Willis' motion for class certification; and the Court having overruled the
6 objections of Diamond Farming to hearing the motion at that time; and having considered and
7 reviewed the notice of motion and motion for class certification, the points and authorities in
8 support thereof, the responsive papers filed by other parties, and having considered the file in
9 this matter and the arguments presented at the hearing on the motion, and good cause appearing
10 thereon;

11 THE COURT FINDS AS FOLLOWS:

- 12 1. The proposed Class of non-pumping landowners satisfies all of the requirements
13 of Section 382 of the California Code of Civil Procedure and due process;
- 14 2. The proposed Class is so numerous that joinder of all members would be
15 impracticable;
- 16 3. The claims asserted on behalf of Plaintiff Willis are typical of those asserted on
17 behalf of the absent Class members;
- 18 4. There are common issues of fact and law and those common issues predominate
19 over any individual issues;
- 20 5. Willis is an adequate representative of the Class in that she is actively asserting
21 her rights and those of the absent Class members, and there is no adversity or
22 conflict between Willis' claims and those of the Class;
- 23 6. Willis' counsel is adequate and capable to represent the Class;
- 24 7. Class certification is the superior means to adjudicate this matter, especially in
25 light of the need to obtain a comprehensive allocation of water rights that is
26 binding on all landowners within the Basin.

27 WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

- 28 1. The Court hereby certifies the following Class in the above action:

1 “All private (i.e., non-governmental) persons and entities that own real
2 property within the Basin, as adjudicated, that are not presently pumping water on
3 their property and did not do so at any time during the five years preceding
4 January 18, 2006 (“the Class”). The Class includes the successors-in-interest by
5 way of purchase, gift, inheritance, or otherwise of such landowners.

6 The Class excludes the defendants herein, any person, firm, trust,
7 corporation, or other entity in which any defendant has a controlling interest or
8 which is related to or affiliated with any of the defendants, and the
9 representatives, heirs, affiliates, successors-in-interest or assigns of any such
10 excluded party. The Class also excludes all persons to the extent their properties
11 are connected to a municipal water system, public utility, or mutual water
12 company from which they receive or are able to receive water service, as well as
13 owners of properties within the service areas of the foregoing water purveyors as
14 to which there is a water system agreement or water service agreement providing
15 for the provision of water service by such purveyors.”

16 2. The Court further certifies Rebecca Lee Willis as the representative of the Class
17 and the law firm of Krause, Kalfayan, Benink & Slavens LLP as counsel for the
18 class.

19 3. The Court further directs Plaintiff Willis to lodge a proposed form of notice to
20 the Class on or before September 17, 2007. Any responses shall be lodged on or
21 before September 24, 2007, and the matter will be considered by this Court at a
22 hearing on October 12, 2007 at 9:00 a.m. in Department 1 of the Los Angeles
23 County Superior Court.

24 4. The Court further directs counsel for the Municipal Purveyors to work with
25 Willis’ counsel in preparing the proposed form of notice and to seek authority
26 from their clients to pay for the costs of identifying and sending notice to the
27 members of the Class.

28 SO ORDERED.

Dated: September 11, 2007

/s/ Jack Komar

Judge of the Superior Court

Exhibit 2

FOR THE COUNTY OF LOS ANGELES

JUN 03 2008

~~COUNCIL COORDINATION~~ Deputy
NG NGUYEN N. JACOBS

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 97-0818 AM. JACOBS

PLAINTIFF WILLIS' [~~PROPOSED~~] ORDER
MODIFYING CLASS DEFINITION AND
ALLOWING PARTIES TO OPT IN TO THE
PLAINTIFF CLASS

VS.

Hearing:

Date: May 22, 2008
Time: 9:00 a.m.
Place: Dept. 1 (L.A. Super. Ct.)

Judge: Hon. Jack Komar

AND RELATED ACTIONS

The Class excludes the defendants herein, any person, firm, trust, corporation, or other entity in which any defendant has a controlling interest or which is related to or affiliated with any of the defendants, and the representatives, heirs, affiliates, successors-in-interest or assigns of any such excluded party. The Class also excludes all persons to the extent their properties are connected to a municipal water system, public utility, or mutual water company from which they receive or are able to receive water service, as well as owners of properties within the service areas

1 of the foregoing water purveyors as to which there is a water system agreement
2 or water service agreement providing for the provision of water service by such
purveyors.”

3 NOW, THEREFORE, having considered and reviewed the Motion to Modify, the points and
4 authorities in support thereof, the responsive papers filed by other parties, and having considered the
5 file in this matter and the arguments presented at the hearing on the Motion and in connection with
6 prior Class Certification proceedings, and good cause appearing thereon; THE COURT FINDS AS
7 FOLLOWS:

8 1. In order to achieve a comprehensive, binding, and lasting adjudication of the water
9 rights at issue in this matter, it is important that, to the extent possible, all present or potential users
10 of groundwater within the Antelope Valley Basin be made parties to this proceeding. The Willis
11 Class previously certified encompasses the bulk of the property in the Basin that is not owned by one
12 of the present parties to this litigation.

13 2. The Class previously certified by the Court requires modification in the following
14 respects: First, the Class should exclude all persons or entities who are already participating in this
15 litigation (other than Class Plaintiff Willis) unless those persons affirmatively choose to join the
16 Class. In addition, the exclusion from the Class of persons whose properties are connected to
17 municipal water systems, public utilities, and mutual water companies should be limited to those
18 properties that actually receive water service from such an entity.

19 3. The Class of private landowners set forth below satisfies all of the requirements of
20 Section 382 of the California Code of Civil Procedure and due process.

21 4. The proposed Class is so numerous that joinder of all members would be
22 impracticable.

23 5. The claims asserted on behalf of Plaintiff Willis are typical of those asserted on
24 behalf of the absent Class members.

25 6. The claims asserted on behalf of the Class raise common issues of fact and law, which
26 predominate over any individual issues.

27 7. Willis is an adequate representative of the Class in that she is actively asserting her
28 rights and those of the absent Class members; and there is no adversity or conflict between Willis’

1 claims and those of the Class with respect to those issues.

2 8. Willis' counsel is adequate and capable to represent the Class.

3 9. The Class of non-pumpers is ascertainable through the analysis performed by the
4 Suppliers' expert, William E. Leever, Jr., as set forth in his Declaration dated May 1, 2008. It is
5 reasonable to assume that the owners of all parcels listed as improved by the county assessors'
6 offices, which are outside the service areas of the water providers, pump groundwater for use of their
7 parcels.

8 10. Class certification is the superior means to adjudicate this matter, especially in light
9 of the need to obtain a comprehensive adjudication of water rights that is binding on all landowners
10 within the Basin.

11 WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

12 1. The Court hereby modifies its prior Class Certification order in the following
13 respects:

14 A. The Class shall exclude all persons who are already participating in this
15 litigation (other than Plaintiff Willis), but any such persons may "opt in" to the Class to the extent
16 they otherwise fall within the Class definition.

17 B. The following sentence of the Court's September 11, 2007 Class Certification
18 Order is stricken:

19 "The Class also excludes all persons to the extent their properties are connected to a
20 municipal water system, public utility, or mutual water company from which they receive
21 or are able to receive water service, as well as owners of properties within the service areas
of the foregoing water purveyors as to which there is a water system agreement or water
service agreement providing for the provision of water service by such purveyors."

22 C. The Class excludes all persons who only own property(ies) within the Basin
23 that are connected to *and* receive water service from a municipal supplier, public utility, or mutual
24 water company.

25 D. The Class shall exclude all property(ies) that are listed as "improved" by the
26 Los Angeles County or Kern County Assessor's office, unless the owners of such properties declare
27 under penalty of perjury that they do not pump water on their property and did not do so during the
28 five years preceding January 18, 2006.


1 2. The Court's prior Class Certification Order remains in full force and effect in all other
2 respects.

3 ⁹ 3. On or before 10/6/15, 2008, L.A. County Waterworks District No. 40 shall
4 compile a list of Class Members and propose a means for disseminating the Class Notice to such
5 persons, which it shall post on the case website.

6 4. The Court provisionally approves the attached form of Notice to be sent to the Class.

7 **IT IS SO ORDERED.**

8
9 Dated: May 22, 2008



HON. JACK KOMAR
JUDGE OF THE SUPERIOR COURT

Exhibit 3

1 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
2 **FOR THE COUNTY OF LOS ANGELES**

3 COORDINATED PROCEEDING
4 SPECIAL TITLE (Rule 1550(b))

JUDICIAL COUNCIL COORDINATION
PROCEEDING NQ. 4408

5 ANTELOPE VALLEY GROUNDWATER
6 CASES

Included Actions:

7 REBECCA LEE WILLIS, on behalf of herself
8 and all others similarly situated,

PLAINTIFF WILLIS' ~~PROPOSED~~
SECOND ORDER MODIFYING
DEFINITION OF PLAINTIFF CLASS

9 Plaintiff,

10 vs.

11 LOS ANGELES COUNTY WATERWORKS
12 DISTRICT NO. 40; et al.,

Hearing:

13 Defendants.

Date: August 11, 2008

Time: 9:00 a.m.

14 Los Angeles County Superior Court
15 Case No. BC 364 553

Place: Dept. 1 (L.A. Super. Ct.)

Judge: Hon. Jack Komar

16 AND RELATED ACTIONS

17 WHEREAS, this matter came before the court for Hearing on August 11, 2008, on the Public
18 Water Suppliers' Motion to Amend or Modify September 11, 2007 Order Certifying Plaintiff Willis
19 Class (the "PWS Motion"); and

20 WHEREAS, the Court had entered an Order on September 11, 2007 certifying a Plaintiff
21 Class of non-pumping landowners (the "Willis Class"); and

22 WHEREAS, by Order dated May 22, 2008 (filed on June 3, 2008), the Court modified the
23 definition of the Willis Class in certain respects;

24 NOW, THEREFORE, having considered and reviewed the PWS Motion, the points and
25 authorities in support thereof, the responsive papers filed by other parties, and having considered the
26 file in this matter and the arguments presented at the hearing on the Motion and in connection with
27 prior Class Certification proceedings, and good cause appearing thereon;

28 THE COURT FINDS AS FOLLOWS:

1 A. In order to achieve a comprehensive, binding, and lasting adjudication of the water
2 rights at issue in this matter, it is important that all landowners within the Antelope Valley Basin be
3 made parties to this proceeding. The Willis Class previously certified encompasses the bulk of the
4 property in the Basin that is not owned by one of the present parties to this litigation.

5 B. The Class previously certified by the Court requires modification to ensure that it
6 does not overlap with the Class of Small Pumpers certified by the Court on August 11, 2008. Hence
7 the Willis Class should exclude all persons or entities to the extent they own a property within the
8 Basin on which they have ever pumped water.

9 C. The Class of non-pumping landowners set forth below satisfies all of the requirements
10 of Section 382 of the California Code of Civil Procedure and due process.

11 D. The proposed Class is so numerous that joinder of all members would be
12 impracticable.

13 E.. The claims asserted on behalf of Plaintiff Willis are typical of those asserted on
14 behalf of the absent Class members.

15 F. The claims asserted on behalf of the Class raise common issues of fact and law, which
16 predominate over any individual issues.

17 G. Willis is an adequate representative of the Class in that she is actively asserting her
18 rights and those of the absent Class members; and there is no adversity or conflict between Willis'
19 claims and those of the Class with respect to those issues.

20 H. Willis' counsel is adequate and capable to represent the Class.

21 I. The Class is ascertainable through the use of existing well permit records and other
22 records, as well as studies showing the properties within the Basin that are improved. All persons
23 who own property within the Basin and have filed such well permits shall be deemed excluded from
24 the Class unless they affirmatively respond that they fall within the Class definition. In addition, all
25 persons who own developed properties within the Basin which are outside the service area of any
26 municipal water provider shall be deemed excluded from the Class unless they affirmatively respond
27 that they fall within the Class definition

28 J. Class certification is the superior means to adjudicate this matter, especially in light

1 of the need to obtain a comprehensive adjudication of water rights that is binding on all landowners
2 within the Basin.

3 WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

4 1. The Court hereby modifies its prior Class Certification order in the following
5 respects: The Willis Class shall exclude all persons to the extent they own properties within the
6 Basin on which they have pumped water at any time.

7 2. Paragraph 1.D. of the Court's Order of May 22, 2008 is hereby revised to provide as
8 follows: "The Class shall exclude all property(ies) that are listed as 'improved' by the Los Angeles
9 County or Kern County Assessor's office, unless the owners of such properties declare under penalty
10 of perjury that they do not pump and have never pumped water on those properties."

11 3. The Court's prior Class Certification Orders remain binding in all other respects.

12 **IT IS SO ORDERED.**

13
14 Dated: SEP 02 2008


HON. JACK KOMAR
JUDGE OF THE SUPERIOR COURT

Exhibit 4

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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF LOS ANGELES**
9

10 **ANTELOPE VALLEY**
11 **GROUNDWATER CASES**

) JUDICIAL COUNCIL COORDINATION
) PROCEEDING NO. 4408
)

12 This Pleading Relates to Included Action:
13 REBECCA LEE WILLIS, on behalf of
14 herself and all others similarly situated,

) CASE NO. BC 364553
)
)

15 Plaintiff,

16 vs.

) **~~PROPOSED~~ FINAL JUDGMENT**
) **APPROVING WILLIS CLASS ACTION**
) **SETTLEMENT**

17 LOS ANGELES COUNTY WATERWORKS)
18 DISTRICT NO. 40; CITY OF LANCASTER;)
19 CITY OF PALMDALE; PALMDALE
20 WATER DISTRICT; LITTLEROCK CREEK)
21 IRRIGATION DISTRICT; PALM RANCH)
22 IRRIGATION DISTRICT; QUARTZ HILL)
23 WATER DISTRICT; ANTELOPE VALLEY)
24 WATER CO.; ROSAMOND COMMUNITY)
25 SERVICE DISTRICT; PHELAN PINON)
26 HILL COMMUNITY SERVICE DISTRICT;)
27 and DOES 1 through 1,000;)

) Date:
) Time:
) Dept:
) Judge: Hon. Jack Komar
) Coordination Trial Judge
)

28 Defendants.

23 This matter has come before the Court on the Motion of Plaintiff Rebecca Lee Willis
24 (Willis) for Final Approval of the Proposed Class Action Settlement between and among
25 Rebecca Lee Willis and the Willis Class, on the one hand; and Los Angeles County Waterworks
26 District No. 40, City of Palmdale, Palmdale Water District, Littlerock Creek Irrigation District,
27 Palm Ranch Irrigation District, Quartz Hill Water District, California Water Service Company,
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1 Rosamond Community Service District, Phelan Pinon Hills Community Services District, Desert
2 Lake Community Services District, and North Edwards Water District (collectively, the “Settling
3 Defendants”), on the other hand.

4 By Order dated November 18, 2010, this Court granted Plaintiff’s Motion for
5 Preliminary Approval of the Proposed Settlement of this action and directed the sending of
6 Notice to the Willis Class. After considering all arguments and submissions for and against final
7 approval of the proposed settlement, and being fully advised in the premises, **IT IS HEREBY**
8 **ORDERED, ADJUDGED AND DECREED AS FOLLOWS, PURSUANT TO SECTIONS**
9 **382 AND 664.6 OF THE CODE OF CIVIL PROCEDURE:**
10

11 1. For over 10 years, a number of actions have been pending in the Los Angeles
12 County Superior Court and other California courts seeking an adjudication of various parties’
13 respective rights to the groundwater underlying the Antelope Valley Groundwater Basin (the
14 “Basin”).

15 2. A number of cases raising such issues were coordinated by a July 11, 2005 Order
16 of the Judicial Council and assigned to the Honorable Jack Komar of the Superior Court for the
17 County of Santa Clara (the “Court”).

18 3. The Court held an initial phase of trial on October 2006 with respect to the
19 boundaries of the Basin and issued an Order on November 3, 2006 defining the Basin for
20 purposes of the litigation.

21 4. The Willis Class Action was filed on or about January 11, 2007 to contest certain
22 public entities’ claims that those entities had obtained prescriptive rights to a portion of the
23 Basin’s groundwater. The Willis case was subsequently coordinated with the Coordinated
24 Cases.
25

26 5. By Order dated September 11, 2007, the Court certified the Willis Class. As
27

1 amended by Orders dated May 22, 2008 and September 2, 2008, the Willis Class is defined as
2 follows:

3 “All private (i.e., non-governmental) persons and entities that own real
4 property within the Basin, as adjudicated, that are not presently pumping
5 water on their property and have not done so at any prior time (“the Class”).
6 The Class includes the successors-in-interest by way of purchase, gift,
inheritance, or otherwise of such landowners.

7 The Class excludes the defendants herein, any person, firm, trust,
8 corporation, or other entity in which any defendant has a controlling interest
9 or which is related to or affiliated with any of the defendants, and the
10 representatives, heirs, affiliates, successors-in-interest or assigns of any such
11 excluded party. The Class also excludes all persons to the extent their
12 properties are connected and receive service from a municipal water system,
13 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.”

14 6. Notice of the Pendency of this action was sent to the Willis Class in or about
15 January 1, 2009 and the opt-out period (as extended) expired on August 30, 2009. Certain
16 persons who opted out were subsequently permitted to rejoin the Class.

17 7. The persons listed on Exhibit 1 hereto validly excluded themselves from the Class
18 in accordance with this Court’s prior Orders (and have not re-joined the Class) and are not bound
19 by the Settlement or this Judgment.

20 8. Counsel for the Willis Class engaged in settlement discussions with Defendants’
21 counsel during mid 2009. On September 2, 2009, counsel participated in a mediation session
22 before the Honorable Ronald Robie. That mediation resulted in an agreement in principle
23 among counsel for the Settling Parties to settle the litigation between and among their
24 respective clients, subject to appropriate approvals.

25 9. By Order dated October 28, 2009, the Court stated its intent to consolidate the
26 various Actions that were coordinated as part of JCCP No. 4008, including the Willis action. On
27 February 19, 2010, the Court entered an Order Transferring and Consolidating [the Coordinated]

1 Actions for All Purposes. As provided in the Consolidation Order, this Final Judgment shall not
2 be construed to prejudice the rights of any of the Non-Settling Parties in the Consolidated
3 Actions nor shall it prejudice the claims and defenses that the Settling Parties may assert with
4 respect to such Non-Settling Parties.

5 10. By Order dated November 18, 2010, this Court granted preliminary approval to
6 the proposed settlement of this action and directed that Notice of the Proposed Settlement be sent
7 to the Class.

8 11. Notice of the Proposed Settlement has been sent to the Willis Class by first class
9 mail in accordance with the Court's Preliminary Approval Order. Such Notice fully and
10 accurately informed the Class of all material terms of the proposed settlement and the
11 opportunity to object to or comment on the Settlement. The Notice was given in an adequate and
12 sufficient manner, constituted the best notice practicable under the circumstances, and satisfied
13 due process.

14 12. The Settling Parties and each class member have irrevocably submitted to the
15 jurisdiction of this Court for any suit, action, proceeding or dispute arising out of the Settlement
16 Agreement.

17 13. It is in the best interests of the parties and the Class Members and consistent with
18 principles of judicial economy that any dispute between any class member (including any dispute
19 as to whether any person is a class member) and any Settling Defendant which is in any way
20 related to the applicability or scope of the Settlement Agreement or the Final Judgment should be
21 presented to this Court for resolution.

22 14. The Stipulation of Settlement submitted by the Settling Parties is hereby finally
23 approved as fair, reasonable, and in the best interests of the Class, and the parties are directed to
24 consummate the Settlement in accordance with its terms.

25 15. The Complaint in the Willis Action shall be deemed dismissed with prejudice as
26 soon as this Final Judgment becomes effective under the terms of the Settlement Stipulation.

27 16. For purposes of this Final Judgment, "Released Parties" means Plaintiff Rebecca
28

1 Lee Willis and the Willis Class, as well as Defendants Los Angeles County Waterworks District
2 No. 40; The City of Palmdale; Palmdale Water District; Littlerock Creek Irrigation District; Palm
3 Ranch Irrigation District; Quartz Hill Water District; California Water Service Company;
4 Rosamond Community Service District; Phelan Pinon Hills Community Services District; Desert
5 Lake Community Services District; and North Edwards Water District.

6 17. The Court hereby orders that the Released Parties are released and forever
7 discharged from the Released Claims as more specifically provided in the Stipulation of
8 Settlement.

9 18. The Class members and their heirs, executors, administrators, successors, and
10 assigns are hereby permanently barred and enjoined from instituting, commencing, prosecuting,
11 or continuing to prosecute, either directly or indirectly, any Released Claim against any of the
12 Released Parties in any forum, other than claims to enforce the terms of the Settlement. Each
13 Class member may hereafter discover facts other than or different from those which he or she
14 knows or believes to be true with respect to the Released Claims. Nevertheless, each member of
15 the Class (except those who timely opted out) waive and fully, finally and forever settle and
16 release, upon the Settlement Agreement becoming final, any known or unknown, suspected or
17 unsuspected, contingent or noncontingent Released Claim, whether or not concealed or hidden,
18 without regard to the subsequent discovery or existence of such different or additional facts.


19 19. The Settling Defendants and their heirs, executors, administrators, successors, and
20 assigns are hereby permanently barred and enjoined from instituting, commencing, prosecuting,
21 or continuing to prosecute, either directly or indirectly, any Released Claim against any of the
22 Class Members in any forum, other than claims to enforce the terms of the Settlement. Each
23 Settling Defendant may hereafter discover facts other than or different from those which he or
24 she knows or believes to be true with respect to the Released Claims. Nevertheless, each Settling
25 Defendant waives and fully, finally and forever settles and releases, upon the Settlement
26 Agreement becoming final, any known or unknown, suspected or unsuspected, contingent or
27 noncontingent Released Claim, whether or not concealed or hidden, without regard to the

1 subsequent discovery or existence of such different or additional facts.

2 20. Without affecting the finality of this Judgment, the Court hereby reserves and
3 retains jurisdiction over this Settlement, including the administration and consummation of the
4 Settlement, as well as any action or proceeding brought to enforce the Settlement. In addition,
5 without affecting the finality of this Judgment, the Court retains jurisdiction over the Parties for
6 purposes of incorporating and merging this Judgment into a physical solution or other Judgment
7 that may ultimately be entered in the Consolidated Actions. The Settling Parties are hereby
8 deemed to have submitted irrevocably to the exclusive jurisdiction of this Court for any suit,
9 action, proceeding or dispute arising out of or relating to this Judgment or the Settlement.

10 21. The Court retains jurisdiction to consider an application by Plaintiff and Class
11 Counsel for an award of attorneys' fees and reimbursement of costs, as well as an incentive
12 award to the Representative Plaintiff, as well as any other collateral matters. Any such matters
13 shall be addressed by separate Order, and the Court retains jurisdiction to enter such further
14 Orders.

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17 Date: MAY 12, 2011



Judge of the Superior Court
HON. JACK KOMAR

Exhibit 5

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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF LOS ANGELES
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10 ANTELOPE VALLEY
11 GROUNDWATER CASES

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4408

12 This Pleading Relates to Included Action:
13 REBECCA LEE WILLIS, on behalf of
herself and all others similarly situated,

CASE NO. BC 364553

14 Plaintiff,

15 vs.

**~~{PROPOSED}~~ AMENDED FINAL
JUDGMENT APPROVING WILLIS
CLASS ACTION SETTLEMENT**

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

Date:
Time:
Dept:
Judge: Hon. Jack Komar
Coordination Trial Judge

22 Defendants.
23

24 This matter has come before the Court on the Motion of Plaintiff Rebecca Lee Willis
25 (Willis) for Final Approval of the Proposed Class Action Settlement between and among
26 Rebecca Lee Willis and the Willis Class, on the one hand; and Los Angeles County Waterworks
27 District No. 40, City of Palmdale Water District, Littlerock Creek Irrigation District, Palm
28 Ranch Irrigation District, Quartz Hill Water District, California Water Service Company,

1 Rosamond Community Service District, Phelan Pinon Hills Community Services District,
2 Desert Lake Community Services District, and North Edwards Water District (collectively, the
3 "Settling Defendants"), on the other hand.

4 By Order dated November 18, 2010, this Court granted Plaintiff's Motion for
5 Preliminary Approval of the Proposed Settlement of this action and directed the sending of
6 Notice to the Willis Class. After considering all arguments and submissions for and against
7 final approval of the proposed settlement, and being fully advised of the premises, **IT IS**
8 **HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS, PURSUANT TO**
9 **SECTIONS 382 AND 664.6 OF THE CODE OF CIVIL PROCEDURE.**

10 1. For over 10 years, a number of actions have been pending in the Los Angeles
11 County Superior Court and other California courts seeking an adjudication of the various
12 parties' respective rights to the groundwater underlying the Antelope Valley Groundwater Basin
13 (the "Basin").

14 2. A number of cases raising such issues were coordinated by a July 11, 2005 order
15 of Judicial Council and assigned to the Honorable Jack Komar of the Superior Court for the
16 County of Santa Clara (the "Court").

17 3. The Court held an initial phase of the trial on October 30, 2006 with respect to the
18 boundaries of the Basin and issued an Order on November 3, 2006 defining the Basin for
19 purposes of the litigation.

20 4. The Willis Class Action was filed on or about January 11, 2007 to contest certain
21 public entities' claims that those entities had obtained prescriptive rights to a portion of the
22 Basin's groundwater. The Willis case was subsequently coordinated with the Coordinated
23 Cases.

24 5. By Order dated September 11, 2007, the Court certified the Willis Class. As
25 amended by Orders dated May 22, 2008 and September 2, 2008, the Willis Class is defined as
26 follows:
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1 "All private (i.e., non-governmental) persons and entities that own real property
2 within the Basin, as adjudicated, that are not presently pumping water on their
3 property and have not done so at any prior time ("the Class"). The Class
4 includes the successors-in-interest by way of purchase, gift, inheritance, or
5 otherwise of such landowners.

6 The Class excludes the defendants herein, any person, firm, trust,
7 corporation, or other entity with which any defendant has a controlling interest or
8 which is related to or affiliated with any of the defendants, and the
9 representatives, heirs, affiliates, successors-in-interest or assigns of any such
10 excluded party. The Class also excludes all persons to the extent their properties
11 are connected and receive service from a municipal water system, public utility,
12 or mutual water company. The Class shall [further] exclude Kern County
13 Assessor's office, unless the owners of such properties declare under penalty of
14 perjury that they do not pump and have never pumped water on those
15 properties."

16 6. Notice of the Pendency of this action was sent to the Willis Class in or about
17 January 1, 2009 and the opt-out period (as extended) expired on August 30, 2009. Certain
18 persons who opted out were subsequently permitted to rejoin the Class.

19 7. The persons listed on Exhibit 1 hereto validly excluded themselves from the
20 Class in accordance with this Court's prior Orders (and have not re-joined the Class) and are not
21 bound by the Settlement or this Judgment.

22 8. Counsel for the Willis Class engaged in settlement discussions with Defendants'
23 counsel during mid 2009. On September 2, 2009, counsel participated in mediation session
24 before the Honorable Ronald Robie. That mediation resulted in an agreement in principle
25 among counsel for the Settling Parties to settle the litigation between and among their respective
26 clients, subject to appropriate approvals.

27 9. By Order dated October 28, 2009, the Court stated its intent to consolidate the
28 various Actions that were coordinated as part of JCCP No. 4408, including the Willis action.
On February 19, 2010, the Court entered an Order Transferring and Consolidating [the
Coordinated] Actions for All Purposes. As provided in the Consolidation Order, this Final
Judgment shall not be construed to prejudice the rights of any of the Non-Settling Parties in the
Consolidated Actions nor shall it prejudice the claims and defenses that the Settling Parties may
assert with respect to such Non-Settling Parties.

10. By Order dated November 18, 2010, this Court granted preliminary approval to

1 the proposed settlement of this action and directed that Notice of the Proposed Settlement be
2 sent to the Class.

3 11. Notice of the Proposed Settlement has been sent to the Willis Class by first class
4 mail in accordance with the Court's Preliminary Approval Order. Such Notice fully and
5 accurately informed the Class of all material terms of the proposed settlement and the
6 opportunity to object to or comment on the Settlement. The Notice was given in an adequate
7 and sufficient manner, constituted the best notice practicable under the circumstances, and
8 satisfied due process.

9 12. The Settling Parties and each class member have irrevocably submitted to the
10 jurisdiction of this Court for any suit, action, proceeding or dispute arising out of the Settlement
11 Agreement.

12 13. It is in the best interest of the parties and the Class Members and consistent with
13 principles of judicial economy that any dispute between any class member (including any
14 dispute as to whether any person is a class member) and any Settling Defendant which is in any
15 way related to the applicability or scope of the Settlement Agreement or the Final Judgment
16 should be presented to this Court for resolution.

17 14. The Stipulation of Settlement submitted by the Settling Parties is hereby finally
18 approved as fair, reasonable, and in the best interests of the Class, and the parties are directed to
19 consummate the Settlement in accordance with its terms.

20 15. The Complaint in the Willis Action shall be deemed dismissed with prejudice as
21 soon as the Final Judgment becomes effective under the terms of the Settlement Stipulation.

22 16. For purposes of this Final Judgment, "Released Parties" means Plaintiff Rebecca
23 Lee Willis and the Willis Class, as well as Defendants Los Angeles County Waterworks District
24 No. 40; The City of Palmdale; Palmdale Water District; Littlerock Creek Irrigation District;
25 Palm Ranch Irrigation District; Quartz Hill Water District; California Water Service Company;
26 Rosamond Community Services District; Phelan Pinon Hills Community Services District;
27 Desert Lake Community Services District; and North Edwards Water District.

28 17. The Court hereby orders that the Released Parties are released and forever

1 discharged from the Released Claims as more specifically provided in the Stipulation of
2 Settlement.

3 18. The Class members and their heirs, executors, administrators, successors, and
4 assigns are hereby permanently barred and enjoined from instituting, commencing, prosecuting,
5 or continuing to prosecute, either directly or indirectly, any Released Claim against any of the
6 Released Parties in any form, other than claims to enforce the terms of the Settlement. Each
7 Class member may hereafter discover facts other than or different from those which he or she
8 knows or believes to be true with respect to the Released Claims. Nevertheless, each member of
9 the Class (except those who timely opted out) waive and fully, finally and forever settle and
10 release, upon the Settlement Agreement becoming final, any known or unknown, suspected or
11 unsuspected, contingent or noncontingent Released Claim, whether or not concealed or hidden,
12 without regard to the subsequent discovery or existence of such different or additional facts.


13 19. The Settling Defendants and their heirs, executors, administrators, successors,
14 and assigns are hereby permanently barred and enjoined from instituting, commencing,
15 prosecuting, or continuing to prosecute, either directly or indirectly, any Released Claim against
16 any of the Class Members in any forum, other than claims to enforce the terms of the
17 Settlement. Each Settling Defendant may hereafter discover facts other than or different from
18 those which he or she knows or believes to be true with respect to the Released Claims.
19 Nevertheless, each Settling Defendant waives and fully, finally and forever settles and releases,
20 upon the Settlement Agreement becoming final, any known or unknown, suspected or
21 unsuspected, contingent or noncontingent Released Claim, whether or not concealed or hidden,
22 without regard to the subsequent discovery or existence of such different or additional facts.

23 20. Without affecting the finality of this Judgment, the Court hereby reserves and
24 retains jurisdiction over this Settlement, including the administration and consummation of the
25 Settlement, as well as any action or proceeding brought to enforce the Settlement. In addition,
26 without affecting the finality of this Judgment, the Court retains jurisdiction over the Parties for
27 purposes of incorporating and merging this Judgment into a physical solution or other Judgment
28 that may ultimately be entered in the Consolidated Actions. The Settling Parties are hereby

1 deemed to have submitted irrevocably to the exclusive jurisdiction of this Court for any suit,
2 action, proceeding or dispute arising out of or relating to this Judgment or the Settlement.

3 21. The Court after considering the pleadings on file herein, and the arguments of
4 counsel, awards the Willis Class attorneys fees in the amount of \$1,839,494, an incentive award
5 for Ms. Rebecca Willis in the amount of \$10,000, costs in the amount of \$65,057.68, and
6 supplemental attorneys fees in the amount of \$160,622.50. Judgment in the amount of
7 \$2,075,174.18 is hereby entered for the Willis Class against Los Angeles County Waterworks
8 District No. 40, City of Palmdale, Palmdale Water District, Littlerock Creek Irrigation District,
9 Palm Ranch Irrigation District, Quartz Hill Water District, California Water Service Company,
10 Rosamond Community Service District, Phelan Pinon Hills Community Services District,
11 Desert Lake Community Services District, and North Edwards Water District.

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14 Dated: 9.22.2011



Judge of the Superior Court
Honorable Jack Komar

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