

1 ALESHIRE & WYNDER, LLP  
DAVID J. ALESHIRE, Bar No. 65022  
2 WILLIAM W. WYNDER, Bar No. 84753  
WESLEY A. MILIBAND, Bar No. 241283  
3 18881 Von Karman Avenue, Suite 1700  
Irvine, CA 92612  
4 Telephone: (949) 223-1170  
Facsimile: (949) 223-1180  
5 daleshire@awattorneys.com  
wwynder@awattorneys.com  
6 wmiliband@awattorneys.com

7 Attorneys for Defendant and Cross-Complainant,  
Phelan Piñon Hills Community Services District  
8

9 **SUPERIOR COURT OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

11  
12 Coordination Proceeding  
Special Title (Rule 1550(b))

) Judicial Council Coordination Proceeding  
) No. 4408

13 **ANTELOPE VALLEY**  
14 **GROUNDWATER CASES**

) (For Filing Purposes Only: Santa Clara  
) County Case No.: 1-05-CV-049053)

15 Included Actions:

) Assigned for All Purposes To:  
) Judge: Hon. Jack Komar

16 *Los Angeles County Waterworks District*  
*No. 40 v.*

) (Filing Fees Exempt, Per Gov't Code § 6103)

17 *Diamond Farming Co., et al.*

18 Los Angeles County Superior Court, Case  
No. BC 325 201

) **PHELAN PIÑON HILLS COMMUNITY**  
) **SERVICES DISTRICT'S REQUEST FOR**  
) **JUDICIAL NOTICE FOR PHASE FOUR**  
) **TRIAL**

19 *Los Angeles County Waterworks District*  
*No. 40 v.*

20 *Diamond Farming Co., et al.*

21 Kern County Superior Court, Case No.  
S-1500-CV-254-348

) Phase Four Trial Date: May 28, 2013

) Time: 10:00 a.m.

) Location: Central Civil West

23 *Wm. Bolthouse Farms, Inc. v. City of*  
*Lancaster*

) 600 S. Commonwealth Avenue,

24 *Diamond Farming Co. v. City of Lancaster*

) 17th Floor, Dept. 322

25 *Diamond Farming Co. v. Palmdale Water*  
*Dist.*

) Los Angeles, California

26 Riverside County Superior Court,

27 Consolidated Action, Case Nos. RIC 353  
840, RIC 344 436, RIC 344 668

28 **AND RELATED CROSS-ACTIONS**

1 TO THE HONORABLE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF  
2 RECORD HEREIN:

3 PLEASE TAKE NOTICE that Cross-Defendant and Cross-Complainant, Phelan Piñon  
4 Hills Community Services District (“PPHCSD”), pursuant to Evidence Code §§ 452 and 453,  
5 hereby requests that the Court take judicial notice of the following items and the contents thereof  
6 (as reflected in the attached exhibits) for the Phase Four Trial:

7 1. Exhibit “A”: Certified Copy by the Registrar-Recorder/County Clerk for the  
8 County of Los Angeles of Quitclaim Deed recorded as 99-2052340.

9 2. Exhibit “B”: Certified Copy by the Local Agency Formation Commission of the  
10 County of San Bernardino of Certification of Completion for formation of Phelan Piñon Hills  
11 Community Services District.

12 Item numbers 1 and 2 above are the proper subject of judicial notice pursuant to Evidence  
13 Code § 452, subdivisions (c) and (h).

14 Evidence Code § 452(c) states that: “Judicial notice may be taken of the following matters  
15 to the extent that they are not embraced within Section 451: Official acts of the legislative,  
16 executive, and judicial departments of the United States and of any state of the United States.”  
17 Case authorities demonstrate that “official act” has a broad meaning and has been applied in  
18 various contexts. “Official acts” include records, reports, and orders of administrative agencies.  
19 (*Rodas v. Spiegel* (2001) 87 Cal.App.4<sup>th</sup> 513, 518.) A presumption exists that the official duty in  
20 acquiring data (and information) has been regularly performed. (Cal. Evid. Code § 664; *see also*,  
21 *Furman v. Department of Motor Vehicles* (2002) 100 Cal.App.4<sup>th</sup> 416, 422.) Judicial notice was  
22 taken of the Environmental Protection Agency's Office of Pesticides Programs, Pesticide  
23 Regulation Notice 96-4 as an “official act” of the federal government within the meaning of Evid.  
24 Code § 452(c). (*See, Etcheverry v. Tri-Ag Service, Inc.* (2000) 22 Cal.4<sup>th</sup> 316, *overruled on*  
25 *unrelated grounds*.) Judicial notice has also been properly taken under Evid. Code § 452(c) as to  
26 the history of legislation addressing fraud in the auto industry. (*See, Casella v. Southwest Dealer*  
27 *Services, Inc.* (2007) 157 Cal.App.4<sup>th</sup> 1127.) Proper notice was taken under Evid. Code § 452(c)  
28 of a legislative history document even though the document was ultimately of little or no help in

1 ascertaining legislative intent given uncertainty of who prepared the document and for what  
2 purpose. (*See, Lodge at Torrey Pines Partnership* (2008) 42 Cal.4th 1158, 1172 fn. 5.) The  
3 foregoing authorities demonstrate the breadth of “official act” under Evid. Code § 452(c) includes  
4 notices relating to regulations, or documents relating to legislative history, and may even include  
5 otherwise “irrelevant” documents.

6 Here, Item numbers 1 and 2 are “official acts” of the County governments because both are  
7 government publications in the form of records or reports from administrative agencies under the  
8 umbrella of the executive branch. Also, the “official” seal stamped upon each Item certifies that  
9 and authenticates the document, as an “official record” for purposes of an exception to the hearsay  
10 rule pursuant to Evidence Code § 1280 (Official Records Exception), namely because this record  
11 was produced within the scope of duty of a public employee, and the method and time of  
12 preparation are such as to indicate its trustworthiness.

13 The foregoing circumstances demonstrate that Item numbers 1 and 2 are not “reasonably  
14 subject to dispute and are capable of immediate and accurate determination by resort to sources of  
15 reasonably indisputable accuracy,” thereby allowing this Court to take judicial notice of such  
16 pursuant to Evidence Code § 452(h).

17 Ultimately, judicial notice of Items 1 and 2, and the contents thereof, as attached hereto as  
18 Exhibits A and B, respectively, is proper pursuant to Evidence Code § 452(c). Evidence Code  
19 § 453 authorizes the Court to take judicial notice as requested by PPHCSD given the sufficiency of  
20 the foregoing information. Accordingly, PPHCSD respectfully requests the Court take notice of  
21 Items 1 and 2 and the contents of the same as reflected in Exhibits A and B attached hereto.

22  
23 Dated: May 23, 2013

ALESHIRE & WYNDER, LLP

24  
25 By: 

26 Wesley A. Miliband  
27 Attorneys for Cross-Defendant and  
28 Cross-Complainant,  
Phelan Piñon Hills Community  
Services District

2  
3 **PROOF OF SERVICE**

4 I, Linda Yarvis,

5 I am employed in the County of Orange, State of California. I am over the age of 18 and  
6 not a party to the within action. My business address is 18881 Von Karman Avenue, Suite 1700,  
Irvine, CA 92612.

7 On May 24, 2013, I served the within document(s) described as **PHELAN PIÑON HILLS**  
8 **COMMUNITY SERVICES DISTRICT'S REQUEST FOR JUDICIAL NOTICE FOR**  
**PHASE FOUR TRIAL** as follows:

9  (ELECTRONIC SERVICE) By posting the document(s) listed above to the Santa Clara  
10 County Superior Court website in regard to Antelope Valley Groundwater matter pursuant to the  
Court's Clarification Order. Electronic service and electronic posting completed through  
www.scefiling.org.

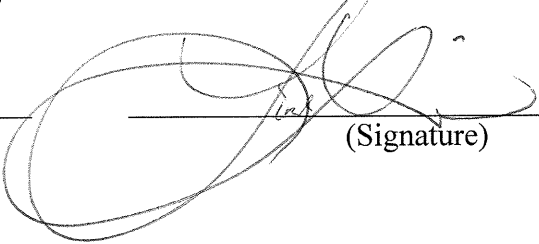
11  (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope  
12 addressed as set forth above. I placed each such envelope for collection and mailing following  
ordinary business practices. I am readily familiar with this Firm's practice for collection and  
13 processing of correspondence for mailing. Under that practice, the correspondence would be  
deposited with the United States Postal Service on that same day, with postage thereon fully  
14 prepaid at Irvine, California, in the ordinary course of business. I am aware that on motion of the  
party served, service is presumed invalid if postal cancellation date or postage meter date is more  
15 than one day after date of deposit for mailing in affidavit.

16  (BY OVERNIGHT DELIVERY) I deposited in a box or other facility regularly maintained  
by Overnight Express, an express service carrier, or delivered to a courier or driver authorized by  
17 said express service carrier to receive documents, a true copy of the foregoing document(s) in a  
sealed envelope or package designated by the express service carrier, addressed as set forth above,  
18 with fees for overnight delivery paid or provided for.

19 Executed on May 24, 2013, at Irvine, California.

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

21  
22 Linda Yarvis  
(Type or print name)

  
\_\_\_\_\_  
(Signature)