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October 30, 2014

Via Electronic Service

To All Counsel and Unrepresented Parties
Antelope Valley Groundwater Cases
(Judicial Council Coordination No. JCCP 4408)

Re: **Stipulation of Facts for Phelan Piñon Hills Community Services District
Trial Set for November 4, 2014**

Dear Counsel:

Attached for your immediate review and execution is the stipulation of facts for next week's trial. Lead counsel for formulating this stipulation have indicated their agreement to execute the stipulation. Some of you have already informally indicated to me that you will also execute. Given this trial was set on the premise that a stipulation would be made, kindly execute the stipulation and immediately post your signature or PDF your signature to me.

Thank you.

Very truly yours,

ALESHIRE & WYNDER, LLP

Wesley A. Miliband

WAM:lmy
Enclosure
(Stipulation of Facts w/ exhibits)

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7
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
11

12 Coordination Proceeding
Special Title (Rule 1550(b))
13

14 **ANTELOPE VALLEY**
GROUNDWATER CASES

15 Included Actions:

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

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

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

27 **AND RELATED CROSS-ACTIONS**
28

Case No. Judicial Council Coordination
Proceeding No. 4408

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

STIPULATION OF FACTS FOR
PHELAN PIÑON HILLS COMMUNITY
SERVICES DISTRICT TRIAL SET FOR
NOVEMBER 4, 2014

Assigned for All Purposes to:
Hon. Jack Komar

Trial Date: November 4, 2014
(Trial Related to Phelan Piñon
Hills Community Services
District)

Time: 10:00 a.m.
Location: Stanley Mosk Courthouse
111 North Hill Street
Los Angeles, California
Dept: 56 / Room 514 (5th Floor)

ALESHIRE &
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ATTORNEYS AT LAW



1 **FACTS FOR STIPULATION**

2 The Parties stipulate to the admissibility of the following stipulated facts and evidence, subject
3 only to an objection for relevancy:

4 **General Background**

5 1. The Special Districts Department of San Bernardino County (**SB County**) provides
6 administrative oversight and management to numerous departments and entities, commonly called
7 districts, that are governed by the SB County Board of Supervisors.

8 2. Up until the formation of Phelan Piñon Hills Community Services District during 2008,
9 SB County provided such oversight and management to special districts including CSA 70
10 Improvement Zone L” or “CSA 70L,” which provided water service to the Phelan/Piñon Hills areas
11 located in San Bernardino County. See **Exhibit 1**, which is a Resolution without the accompanying
12 exhibits, but the omitted pages depict Phelan Piñon Hills Community Services District’s service area
13 which has remained the same since it formation, as shown on **Exhibit 15**.

14 3. For purposes of this trial, reference in this Stipulation to SB County refers to “CSA 70
15 Improvement Zone L” or “CSA 70L,” unless otherwise specified. On or about August 31, 1998,
16 SB County received two copies of Real Estate Appraisals for parcels proposed for new well sites
17 located in Los Angeles County. See **Exhibit 2**.

18 4. On or about April 6, 1999, SB County sent a letter to Los Angeles County with five
19 original contracts enclosed for the purchase of parcels (APN 3089-021-901 and 3089-021-902) in the
20 Piñon Hills area near Pearblossom Highway and Palmdale Road. A true and correct copy of said letter
21 is attached hereto as **Exhibit 3**.

22 5. On or about June 23, 1999, Los Angeles County sent a letter to SB County stating the
23 Los Angeles County Department of Public Works needs one of these two parcels, so Los Angeles
24 County will only sell one of the parcels to SB County. A true and correct copy of said letter is
25 attached hereto as **Exhibit 4**.

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1 6. During 1999, SB County and the California Department of Health Services exchanged
2 correspondence and conducted meetings to address whether SB County was able to maintain a
3 sufficient water supply for CSA 70L. **Exhibit 5** is presented for the limited purpose of supporting
4 said communications occurred during 1999, and not for the truth of the matters contained therein.

5 7. On or about August 3, 1999, SB County approved the Purchase and Sale Agreement
6 for the acquisition of one parcel of land (APN 3089-021-902) from Los Angeles County (**Well 14**
7 **Parcel**).

8 8. On or about September 13, 1999, Los Angeles County executed a deed transferring the
9 Well 14 Parcel to SB County, a true and correct copy of which is attached hereto as **Exhibit 6**.

10 9. On or about October 5, 1999, Los Angeles County sent to SB County the original grant
11 deed for the Well 14 Parcel, with the Certificate of Acceptance attached, a true and correct copy of
12 which is attached hereto as **Exhibit 7**.

13 10. Well 14 is located on that single parcel of real property identified as Lot 32 as shown
14 on the licensed surveyors map filed in Book 74, Page 43, Record of Surveys, in the office of the
15 County Recorder of Los Angeles County, with Los Angeles County Assessor's Identification Number
16 ("AIN") 3089-021-270L, however the number on the deed from Los Angeles County to SB County
17 identifies the AIN for this parcel as 3089-021-902 due to Los Angeles County changing the AIN when
18 it conveys ownership of one of its parcels, such as the Well 14 Parcel.

19 11. On or about March 2000, SB County prepared an Initial Study entitled, Initial Study for
20 CSA 70, Zone L, Well #14 Project. Attached hereto as **Exhibit 8** is a true and correct copy of said
21 study. **Exhibit 8** is presented for the limited purpose of establishing that an Initial Study was
22 performed, and not for the truth of the matters contained therein.

23 12. On or about May 30, 2000, the California State Clearinghouse issued an
24 Acknowledgment of Receipt for the environmental documents prepared in connection with SB County
25 constructing a groundwater production well on the Well 14 Parcel, with the project referred to as the
26 "Well 14 Project." See **Exhibit 9**.

27 13. On or about June 21, 2000, the California State Clearinghouse sent a letter to
28 SB County regarding the Well 14 Project indicating the State Clearinghouse submitted the Negative



1 Declaration to State agencies for review, the review period closed, and no comments were submitted
2 regarding the Well 14 Project. See **Exhibit 10**.

3 14. On or about August 29, 2000, a Negative Declaration and Notice of Determination for
4 construction of a well for the Well 14 Project was adopted, a true and copy of which is attached hereto
5 as **Exhibit 11**.

6 15. On or about June 3, 2003, the agenda for the San Bernardino County Board of
7 Supervisors' Board Meeting included an agenda item for soliciting public bids for the drilling of Well
8 14 in order for the water system to meet State requirements for an adequate water supply. A true and
9 correct copy of the staff "report/recommendation" in support of the Well 14 Project regarding said
10 agenda item is attached hereto as **Exhibit 12**.

11 16. On or about March 4, 2004, a well completion report was signed by South West Pump
12 & Drilling, Inc. for Well 14 on the Well 14 Parcel. Well 14's identification number is
13 05N08W25J001S. Attached hereto as **Exhibit 13** is a true and correct copy of said well completion
14 report and well permit application.

15 **Phelan Piñon Hills Community Services District's Background**

16 17. Phelan Piñon Hills Community Services District (**Phelan Piñon Hills**) is a public
17 agency organized as a community services district and operating pursuant to California Government
18 Code section 61000 et seq. See **Exhibit 1**, page 2, section 2(e).

19 18. Phelan Piñon Hills was formed following an election on February 5, 2008 as part of the
20 reorganization of three SB County districts all governed by the SB County Board of Supervisors. The
21 reorganization included formation of Phelan Piñon Hills, detachment from SB County Service Area
22 56, and dissolution of (1) San Bernardino County Service Area 9 (**CSA 9**) (Phelan Parks and Street
23 Lighting); (2) County Service Area No. 70 Improvement Zone "L" (**CSA 70L**) (Water); and (3) San
24 Bernardino County Service Area 56-F1 (**CSA 56-F1**) (Piñon Hills Parks). See **Exhibit 1**, page 1.

25 19. Phelan Piñon Hills' formation was finalized on March 18, 2008 by Resolution 2994 of
26 San Bernardino Local Agency Formation Commission (**SB LAFCO**). Attached hereto as **Exhibit 14**
27 is a true and correct certified copy of SB LAFCO's Certificate of Completion of Phelan Piñon Hills'
28 formation.



1 20. As part of the reorganization, Phelan Piñon Hills became the successor agency to
2 SB County's CSA 70L, and Phelan Piñon Hills acquired among other things the rights, duties,
3 equipment, and assets, including the Well 14 Parcel and Well 14. See **Exhibit 1**, pages 2 through 4.

4 21. As part of the reorganization, Phelan Piñon Hills succeeded to the rights, obligations,
5 and interests of CSA 70L under the Judgment and Physical Solution in *City of Barstow, etc., v. City of*
6 *Adelanto, etc, et al.* and Related Cross Actions, Riverside County Superior Court Case No. 208568
7 (the **Mojave Basin Area Adjudication**). See **Exhibit 1**, page 3, section 2(e), Condition No. 8.

8 22. Phelan Piñon Hills' entire service area is within San Bernardino County and outside the
9 Antelope Valley Area of Adjudication, as depicted in **Exhibit 15**.

10 23. Well 14 is outside the boundary of the **Mojave Basin Area Adjudication**.

11 24. All of Phelan Piñon Hills water service facilities, including groundwater production
12 wells like Well 14, that are serving Phelan Piñon Hills' residents and customers were constructed by
13 or at the direction of SB County, and operated by SB County up until SB LAFCO approved the
14 reorganization and SB County transitioned everything to Phelan Piñon Hills approximately six (6)
15 months following SB LAFCO's approval.

16 25. Well 14 is the only Phelan Piñon Hills well located within the Antelope Valley
17 Adjudication Area as previously defined by the Court in the Antelope Valley Groundwater Cases.

18 26. Well 14 is located outside the existing service area and political boundary of Phelan
19 Piñon Hills .

20 27. As of the October 2014, Phelan Piñon Hills provides municipal water service to more
21 than 21,576 residents through approximately 6,778 service connections, within Phelan Piñon Hills'
22 existing service area shown in **Exhibit 15** attached hereto.

23 28. All of Phelan Piñon Hills groundwater production wells pump into a collective
24 distribution system that is interconnected with pipelines, reservoirs, and booster pumps, and the water
25 is distributed to Phelan Piñon Hills customers through its distribution system.

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1 **Well 14 Groundwater Production**

2 29. Well 14's production is as follows, by calendar year: 2004 and earlier: none; 2005
3 (beginning in September): 1.11 acre feet ("af"); 2006: 164.15 af; 2007: 20.95 af; 2008: 493.27 af;
4 2009: 558.65 af; 2010: 1,110.45 af; 2011: 1,053.14 af; 2012: 1,035.26 af; and 2013: 1,028.02.

5 30. Well 14 water was first delivered to customers on January 2006, and since then, Well
6 14 water is distributed through Phelan Piñon Hills' water system for delivery to customers.

7 31. Shortly after Well 14 came online, Well 14 was not able to operate at its full capacity
8 due to difficulty with the pump installed by or at the direction of SB County. The pump was replaced
9 toward the end of calendar year 2008, allowing Well 14 to become fully operational part way into
10 calendar year 2009.

11 32. Regular flowmeter readings are the methodology used in determining the amount of
12 groundwater produced by Well 14, with Well 14's flowmeter regularly maintained and calibrated.
13 Attached hereto as **Exhibit 16** are true and correct copies of flowmeter readings for Well 14 for
14 calendar years 2005 through December 31, 2013.

15 33. **Exhibit 16** represents Well 14's records prepared and maintained in accordance with
16 Phelan Piñon Hills' customs and practices, including recordation of the information based upon the
17 water year from October 1 through September 30. Also, attached hereto as **Exhibit 17** are true and
18 correct copies of Certificates of Accuracy for tests performed on Well 14, which speak to the accuracy
19 of Well 14's flowmeter.

20 34. Attached hereto as **Exhibit 18** are true and correct copies of the First Notice of
21 Extraction and Diversion of Water and Annual Notices of Extraction and Diversion of Water for Well
22 14 from 2005 through 2013. For purposes of this phase of trial only, Well 14 water has been since
23 2009 and continues to be reasonably and beneficially used.

24 **Phelan Piñon Hills' Water Use**

25 35. None of the water produced by Phelan Piñon Hills has ever been used within the
26 Antelope Valley Adjudication Area, except when providing some unknown quantity of water to Los
27 Angeles County and other agencies on an emergency basis to fight fires in Los Angeles County, and
28 possibly when Well 14 was being drilled, tested, and put online. Though the amount of water

1 provided on an emergency basis is not known, Phelan Piñon Hills has not incurred a water shortage as
2 a result of providing such water to Los Angeles County or other agencies.

3 36. Phelan Piñon Hills provides water for municipal use to which groundwater produced
4 by all of Phelan Piñon Hills' wells is applied, including groundwater produced by Well 14, with the
5 groundwater used almost exclusively – approximately 97% – for domestic purposes, with some
6 unknown amount of groundwater used for emergency fire protection including support to or within
7 Los Angeles County as needed.

8 37. Part of the domestic use includes outdoor irrigation, and husbandry in some instances.

9 38. Very little – approximately 3% – of water produced by Phelan Piñon Hills is used for
10 commercial purposes.

11 39. The total water demand by Phelan Piñon Hills is as follows, by calendar year: 2010:
12 2,456 af; 2011: 2,631 af; 2012: 2,649 af; and 2013: 2,838 af.

13 40. The total water supplies available to Phelan Piñon Hills (excluding water rights
14 associated with Meadowbrook Dairy Real Estate, LLC) is as follows, by calendar year: 2010: 3,022
15 af; 2011: 2,876 af; 2012: 3,021 af; 2013: 3,069 af.

16 41. During 2012, Phelan Piñon Hills acquired property and 2,335 acre feet of water rights
17 from Meadowbrook Dairy Real Estate, LLC, which is located in San Bernardino County within the
18 Oeste Subarea and subject to the Mojave Basin Area Adjudication. Neither the property nor the water
19 rights acquired by Phelan Piñon Hills are located within or immediately adjacent to Phelan Piñon
20 Hills' service area. Phelan Piñon Hills water system is not connected to the property acquired. A
21 portion of Phelan Piñon Hills' service area lies over the Oeste Subarea.

22 42. Phelan Piñon Hills does not import water, though it pays the Mojave Basin Area
23 Adjudication Watermaster fees or assessments that in part contribute to purchases of imported water.

24 43. The use of water for outdoor irrigation is limited given that many water customers
25 within Phelan Piñon Hills' service area have natural desert landscape for which outdoor irrigation is
26 not used, as illustrated in **Exhibits 19, 20, and 21** attached hereto.

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1 **Phelan Piñon Hills' Return Flow Argument**

2 44. Phelan Piñon Hills General Manager Bartz has been the General Manager for Phelan
3 Piñon Hills since 2008 and prior to that time he was General Manager for six years at Baldy Mesa
4 Water District, with prior work experience including as an engineering manager and technician.

5 45. Phelan Piñon Hills Designated Expert Harder was qualified as an expert during the
6 Phase Three Trial, and Mr. Harder's curriculum vitae is attached hereto as **Exhibit 22**.

7 46. Phelan Piñon Hills Designated Expert Harder testified during deposition that
8 groundwater will flow perpendicular to groundwater contour lines.

9 47. There is no sewer system in Phelan Piñon Hills' service area - it is 100 percent septic
10 disposal through individual septic systems.

11 48. Part of Phelan Piñon Hills' service area (as depicted in **Exhibit 16**) lies over a portion
12 of the Antelope Valley Groundwater Basin as described and illustrated in Department of Water
13 Resources Bulletin 118 (2003).

14 49. Phelan Piñon Hills distributes water to customers in that portion of Phelan Piñon Hills'
15 service area that lies over a portion of the Antelope Valley Groundwater Basin as described and
16 illustrated in Department of Water Resources Bulletin 118 (2003).

17 50. The Parties further stipulate to the admissibility, subject only to an objection for
18 relevancy, of deposition testimony or trial testimony including the following:

- 19 (a) Phase 5: Exhibit 5-PhelanCSD-22 (Figures and Tables of Thomas E. Harder):
20 Tab 8512 posted 2/3/14.
- 21 (b) Phase 5: Exhibit 5-PhelanCSD-23 (Metered Service Consumption): Tab 8512
22 posted 2/3/14.
- 23 (c) Phase 5: Exhibit 5-PhelanCSD-24 (Usage by Meter): Tab 8512 posted 2/3/14.
- 24 (d) Phase 5: Exhibit 5-PhelanCSD-25 (Return Flow Summary Table of Thomas E.
25 Harder): Tab 8512 posted 2/3/14.
- 26 (e) Phase 5: Exhibit 5-PhelanCSD-27 (Opinions of Thomas E. Harder): Tab 8663
27 posted 2/18/14.

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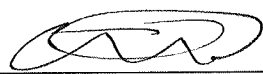
51. Trial testimony of Joseph Scalmanini, as follows:

(a) Phase Three: January 13, 2011 (Volume 4), pages 510 through 511, attached hereto as **Exhibit 23**.

(b) Phase Three: January 20, 2011 (Volume 8), pages 953 through 955 attached hereto as **Exhibit 24**.

Dated: October 30, 2014

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1 Judicial Council Coordination Proceeding No. 4408
For Filing Purposes Only: Santa Clara County Case No.: 1-05-CV-049053

2 **PROOF OF SERVICE**

3 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

4 I, Linda Yarvis,

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

7 On October 30, 2014, I served the within document(s) described as **STIPULATION OF**
8 **FACTS FOR PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT TRIAL SET**
9 **FOR NOVEMBER 4, 2014** on the interested parties in this action as follows:

10 **BY ELECTRONIC SERVICE:** By posting the document(s) listed above to the Santa Clara
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
11 www.scefiling.org.

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

13 Executed on October 30, 2014, at Irvine, California.

14
15
16 
Linda Yarvis

ALESHIRE &
WYNDER LLP
ATTORNEYS AT LAW

