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9 **SUPERIOR COURT OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES - CENTRAL DISTRICT**
11

12 Coordination Proceeding) Judicial Council Coordination Proceeding
Special Title (Rule 1550(b))) No. 4408
13)
14 **ANTELOPE VALLEY**) (For Filing Purposes Only: Santa Clara
GROUNDWATER CASES) 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.*)
Los Angeles County Superior Court, Case)
18 No. BC 325 201) **REQUEST FOR RULING ON PHELAN**
PIÑON HILLS COMMUNITY
19 *Los Angeles County Waterworks District*) **SERVICES DISTRICT'S EX PARTE**
No. 40 v.) **APPLICATION FOR AMENDMENT TO**
20 *Diamond Farming Co., et al.*) **DISCOVERY ORDER FOR PHASE 4**
Kern County Superior Court, Case No.) **TRIAL**
21 S-1500-CV-254-348)
22)
23 *Wm. Bolthouse Farms, Inc. v. City of*) **DATE: February 15, 2013**
Lancaster) **TIME: 1:30 p.m.**
24 *Diamond Farming Co. v. City of Lancaster*) **LOCATION: Via CourtCall**
Diamond Farming Co. v. Palmdale Water)
25 *Dist.*)
Riverside County Superior Court,)
26 Consolidated Action, Case Nos. RIC 353
840, RIC 344 436, RIC 344 668)
27)
28 **AND RELATED CROSS-ACTIONS**)

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

3 Phelan Piñon Hills Community Services District (“PPHCSD”) hereby submits this request
4 for the Court to grant PPHCSD’s *Ex Parte* Application filed on December 18, 2012 for hearing on
5 December 19, 2012 (“*Ex Parte* Application”). The hearing was continued with other matters to the
6 Case Management Conference on January 16, 2013 (“January 16 CMC”). During the January 16
7 CMC, counsel for PPHCSD engaged the Court in dialogue and requested a ruling on the *Ex Parte*
8 Application. The Court has not yet ruled on the *Ex Parte* Application.

9 The Court’s First Amendment To The Case Management Order For Phase 4 Trial (“Phase 4
10 CMO”) issued on January 22, 2013 moots the first part sought by the *Ex Parte* Application;
11 however, the second part is not moot. That part specifically requests that the Court explicitly
12 confirm that any claims to return flows resulting from use of *native* water (not imported water) are
13 preserved for determination during later proceedings following Phase 4.

14 Though the Phase 4 CMO states return flow claims for Phase 4 involve *imported* water,
15 PPHCSD makes its request for confirmation that *native* water return flow claims are preserved for
16 later determination, so that record is clear now and in the future. Not a single party has objected in
17 writing or verbally on the record to this request since the original request was made nearly two
18 months ago, which in this case may be a miracle for something to go without objection.

19 Accordingly, PPHCSD respectfully requests that the Court confirm that any claims to return
20 flows resulting from use of *native* water (not imported water) are preserved for determination
21 during later proceedings following Phase 4. For convenience to the Court, PPHCSD posted to the
22 Court’s website on December 18, 2012 a proposed Order regarding the same in Word format.

23 Dated: February 13, 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

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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 February 13, 2013, I served the within document(s) described as **REQUEST FOR**
8 **RULING ON PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT'S EX**
9 **PARTE APPLICATION FOR AMENDMENT TO DISCOVERY ORDER FOR PHASE 4**
10 **TRIAL** as follows:

11 (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
www.scefiling.org.

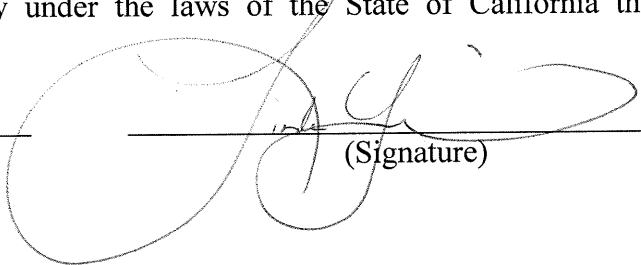
12 (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope
13 addressed as set forth above. I placed each such envelope for collection and mailing following
ordinary business practices. I am readily familiar with this Firm's practice for collection and
14 processing of correspondence for mailing. Under that practice, the correspondence would be
deposited with the United States Postal Service on that same day, with postage thereon fully
15 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
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
17 by Overnight Express, an express service carrier, or delivered to a courier or driver authorized by
said express service carrier to receive documents, a true copy of the foregoing document(s) in a
18 sealed envelope or package designated by the express service carrier, addressed as set forth above,
with fees for overnight delivery paid or provided for.

19 Executed on February 13, 2013, at Irvine, California.

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

22 Linda Yarvis
23 (Type or print name)


24 (Signature)