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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) **PHELAN PIÑON HILLS COMMUNITY**
Services District's Objection
19 *Los Angeles County Waterworks District*) **TO SECOND AMENDED [PROPOSED]**
No. 40 v.) **STATEMENT OF PARTIAL DECISION**
20 *Diamond Farming Co., et al.*) **FOR PHASE IV TRIAL ;**
Kern County Superior Court, Case No.) **DECLARATION OF WESLEY A.**
21 S-1500-CV-254-348) **MILIBAND IN SUPPORT THEREOF**
22)
23 *Wm. Bolthouse Farms, Inc. v. City of*)
Lancaster)
24 *Diamond Farming Co. v. City of Lancaster*)
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 Cross-Defendant and Cross-Complainant, Phelan Piñon Hills Community Services District
4 (“PPHCSD”), objects to the Second Amended [Proposed] Statement of Partial Decision For
5 Phase IV Trial (“Proposed Statement of Decision”), posted to the Court’s website today by
6 Los Angeles County Waterworks District No. 40 (“District No. 40”), on the grounds that the
7 Proposed Statement of Decision does not reflect the trial proceedings wherein a stipulation was
8 recited on the record between PPHCSD and Bolthouse Properties, LLC and Wm. Bolthouse Farms,
9 Inc. (the “Bolthouse Stipulation”).

10 The basis for PPHCSD’s objection is stated in detail in the Declaration of
11 Wesley A. Miliband included herein, and on that basis and otherwise provided herein, PPHCSD
12 respectfully requests the Court incorporate the Bolthouse Stipulation in the Court’s Statement of
13 Decision For Phase IV Trial. This stipulation was provided on the record and is not disputed by the
14 Bolthouse entities; rather, the drafters of the Proposed Statement of Decision have omitted this
15 stipulation for reasons currently unknown to PPHCSD. Accordingly, the Bolthouse Stipulation
16 should be included to ensure completeness and accuracy of the “record” as these complex
17 proceedings move forward, particularly when other stipulations are being included in the Proposed
18 Statement of Decision.

19
20 Dated: June 21, 2013

ALESHIRE & WYNDER, LLP

21
22 By: _____



23 Wesley A. Miliband
24 Attorneys for Cross-Defendant and
25 Cross-Complainant,
26 Phelan Piñon Hills Community
27 Services District
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1 **DECLARATION OF WESLEY A. MILIBAND**

2 I, Wesley A. Miliband, declare as follows:

3 1. I am an attorney at law duly licensed to practice before all of the courts in the State
4 of California. I am a partner with the law firm of Aleshire & Wynder, LLP, counsel of record for
5 Defendant and Cross-Complainant, Phelan Piñon Hills Community Services District (“PPHCSD”),
6 in this action. I have personal knowledge of the facts set forth in this Declaration and, if called as a
7 witness, could and would testify competently to such facts under oath.

8 2. Attached hereto as Exhibit “A” is a true and correct copy of the pertinent pages of
9 the transcript for trial proceedings conducted on May 29, 2013 (“May 29 Transcript”).

10 3. The May 29 Transcript, at page 19, line 16 and page 19, line 27 through
11 page 20, line 10, states the Bolthouse Stipulation. Accordingly, the following language
12 should be included in the Statement of Decision For The Phase IV Trial:

13 Wm. Bolthouse Farms, Inc. and Bolthouse Properties, LLP expressly agree that
14 Phelan Pinon Hills Community Services District reserves the right to challenge
15 during later proceedings or phases of trial the quantity or allocation of water
16 that either Wm. Bolthouse Farms, Inc. or Bolthouse Properties, LLP claims to
17 be used on any particular ranch.

18 4. On Monday, June 10, 2013 at 3:00 p.m. by electronic mail I wrote to Mr. Dunn,
19 legal counsel for District No. 40, providing my availability for court proceedings during the last
20 week of July and first week of August, 2013. I also included in that e-mail the language provided
21 above in paragraph 3 and I attached to that same email Exhibit “A” from paragraph 2 above.

22 5. Having not received a direct response and an amended proposed statement of
23 decision being posted to the Court’s website, I wrote again to Mr. Dunn on Monday, June 17, 2013
24 at 2:46 p.m. requesting inclusion of the Bolthouse Stipulation. To date, the Bolthouse Stipulation
25 has not been included, as it should be, thus necessitating this objection.

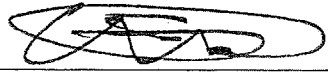
26 6. There is no reason not to include the Bolthouse Stipulation, particularly when the
27 parties to the Bolthouse Stipulation agreed to it on the record before the Court. For clarity of the

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1 record, and given other stipulations being included in the Proposed Statement of Decision, the
2 Bolthouse Stipulation needs to be included as well.

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

5 Executed on this 21st day of June 2013, at Irvine, California.

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7 _____
8 Wesley A. Miliband

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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 June 21, 2013, I served the within document(s) described as **PHELAN PIÑON HILLS**
8 **COMMUNITY SERVICES DISTRICT'S OBJECTION TO SECOND AMENDED**
9 **[PROPOSED] STATEMENT OF PARTIAL DECISION FOR PHASE IV TRIAL ;**
10 **DECLARATION OF WESLEY A. MILIBAND IN SUPPORT THEREOF** 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.

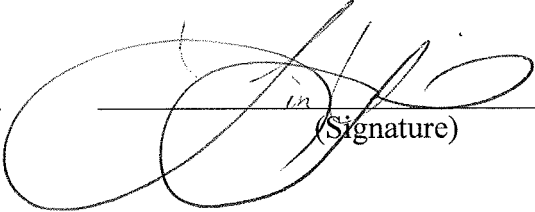
12 (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope
13 addressed as set forth above. I placed each such envelope for collection and mailing following
ordinary business practices. I am readily familiar with this Firm's practice for collection and
14 processing of correspondence 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 June 21, 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 
25 (Signature)