



May 13, 2019

FILED THROUGH TRUEFILING

Clerk of the Court of Appeal
Fifth District Court of Appeal
2424 Ventura Street
Fresno, CA 93721

Re: *Antelope Valley Groundwater Cases*
Fifth District Court of Appeal Case No. F075451

Dear Clerk of the Court of Appeal:

I am counsel of record for Phelan Piñon Hills Community Services District (“Phelan”). This correspondence is sent in response to the May 9, 2019 letter to you from Craig A. Parton, counsel for the Antelope Valley Watermaster, requesting that a briefing schedule be set for Phelan’s second Notice of Appeal filed on May 17, 2018, received by Division 2 of the Fourth District Court of Appeal on June 19, 2018 (“Phelan’s second appeal”).¹

When the Fifth District Court of Appeal issued its proposed briefing schedule for appeals in the Antelope Valley Groundwater Cases on January 15, 2019, I submitted comments on the proposed briefing schedule. Among those comments, I pointed out the existence of Phelan’s second appeal and inquired whether it was to be briefed together with Phelan’s appeal from the judgment or separately. In response, the Court, in its January 31, 2019 order setting the briefing schedule, stated: “The filing and briefing schedule for any matter encompassed by any notice of appeal not specifically identified in paragraphs 1 and 3 shall be deferred until further order of this court.” Phelan’s second appeal was not identified in paragraph 1 or 3 of the Court’s January 31, 2019 order.

Clearly, the Court has concluded that now is not the appropriate time for briefing Phelan’s second appeal. The Court has made a conscious decision to address appeals from the judgment before addressing appeals regarding post-judgment matters. This is consistent with the Court’s earlier decision to address the appeal regarding the conflict of interest claim of the Antelope Valley-East Kern Water Agency regarding counsel for Wastewater District 40, before commencing the briefing of appeals from the judgment.

¹ The notes regarding Mr. Parton’s letter in the Court’s online docket indicate Mr. Parton’s letter was filed “obo Phelan.” If “obo” is intended to mean “on behalf of,” please note this is a misinterpretation. Mr. Parton does not represent Phelan and was not acting on behalf of Phelan in sending his letter.

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Where one appeal has the potential to affect the necessity of consideration of another appeal, the Court has indicated its approach will be to defer briefing of the potentially unnecessary appeal. The Watermaster has not made a persuasive case that the Court should change its approach.

Thank you for your consideration of this response to the Watermaster's request.

Very truly yours,

ALESHIRE & WYNDER, LLP



June S. Ailin
Partner

JSA

cc: All parties to the Antelope Valley Groundwater Cases
(via *Glotrans website*)