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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT
11

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

Related Case to Judicial Council
Coordination Proceeding No. 4408

14 ANTELOPE VALLEY)
15 GROUNDWATER CASES)

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

16 Included Actions:)

**PHELAN PIÑON HILLS
COMMUNITY SERVICES DISTRICT'S
RESPONSE TO [PROPOSED] ORDER
TRANSFERRING AND
CONSOLIDATING ACTIONS FOR
ALL PURPOSES**

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

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

Judge: Honorable Jack Komar,
Coordinated Trial Judge
Date: February 5, 2010
Time: 9:00 a.m.
Dept.: 1

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)
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1 Phelan Piñon Hills Community Services District ("PPHCSD") respectfully submits the
2 following response to the [Proposed] Order Transferring and Consolidating Actions for All
3 Purposes ("Proposed Order") in this matter.

4 PPHCSD supports entry of the Proposed Order consolidating the matter, provided that
5 two additions are made to the Proposed Order in Paragraphs 5 (b) and 8.

6 PPHCSD requests the additions for the preservation of its right to present proof at trial for
7 all of the relief it has requested in its Cross- Complaint for Declaratory Relief, Injunctive and
8 Other Equitable Relief Including a Physical Solution Against all Parties. PPHCSD seeks this
9 court's declaration confirming PPHCSD's right to extract groundwater from the Antelope Valley
10 Groundwater Basin and to export such water into its service area in the Mojave Basin
11 Adjudication area, according to proof at trial. (Cross-Complaint of Phelan Community Services
12 District, Prayer, Paragraph 2, page 20, lines 5-6.)

13 PPHCSD came into existence as a public agency in March, 2008, and filed its Answer
14 and Cross Complaint in this matter December 30, 2008.

15 PPHCSD's location on the Los Angeles/San Bernardino County line poses a unique
16 situation in this adjudication. PPHCSD serves groundwater to a population of 21,000 people in
17 the unincorporated communities of Phelan and Pinon Hills, in San Bernardino County, which
18 service area lies entirely within the Mojave Adjudication area. While it is anticipated that the
19 communities of Phelan and Pinon Hills will grow westerly, into neighboring Los Angeles
20 County, PPHCSD's service area today is located entirely east of the eastern-most boundary of the
21 Antelope Valley Groundwater Basin, as defined by this Court's November 6, 2008 Order,
22 determining the boundaries of the basin following the Phase 2 trial.

23 A significant source of PPHCSD's water supply is drawn from one of its wells (Well 14)
24 which is located in Los Angeles County, within the Antelope Valley Groundwater Adjudication
25 area.

26 PPHCSD seeks relief from this court that its Well 14 remain either in the Antelope Valley
27 Groundwater Adjudication area with some arrangement for exchange, credit and/or export of
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1 water into PPHCSD's service area in the Mojave Basin Adjudication area, or that, subject to
2 proof at trial, the boundary of the Antelope Valley Groundwater Basin Adjudication area be
3 relocated by this court, and that Well 14 remain in a "No Man's Land", and not subject to any
4 groundwater adjudication.

5 No proof has been presented to date that PPHCSD's production from Well #14 (or any of
6 its wells) affects production by any other party in the Antelope Valley Groundwater Basin. Nor
7 has any evidence been submitted regarding PPHCSD's contribution to return flow. Subject to
8 proof at trial, the relief PPHCSD seeks is a determination allowing the continuation of its
9 physical export of water from the Antelope Valley Groundwater Adjudication area. To keep that
10 option available, PPHCSD proposes the following revisions to the Proposed Order:

11 Paragraphs 5 (b) and 8 of the Proposed Order should be amended to read as follows
12 [changes are in bold and underlined]:


- 13 b) Determination of correlative rights to withdraw groundwater, including
- 14 claims to:
 - 15 1. Prescription
 - 16 2. Appropriation
 - 17 3. Municipal/Domestic Priority
 - 18 4. Rights to Imported Water/Storage Rights
 - 19 5. Return Flow Rights
 - 20 6. Reasonable and Beneficial Use of Water
 - 21 7. Recycled Water
 - 22 8. Quiet Title
 - 23 9. Export of Water

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1 8. Any claim to declaratory relief regarding basin boundaries has been
2 determined by the Court by order dated November 6, 2008. To the extent any current party was
3 not a party at the time of the determination of this issue, that party may seek to reopen or,
4 consistent with the order, move to amend the basin boundary, **creating a No Man's Land, into**
5 **which no groundwater adjudication extends.**

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7 Dated: January 31, 2010

SmithTrager LLP

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11 By 
12 Susan M. Trager
13 Attorneys for Defendant and Cross-
14 Complainants Phelan Piñon Hills
15 Community Services District
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2 **PROOF OF SERVICE**

3 I, Marie W. Young, declare:

4 I am employed in the County of Orange, State of California. I am over the age of 18 and
5 am not a party to the within action; my business address is 19712 MacArthur Blvd., Suite 120,
Irvine, California 92612.

6 On February 1, 2010, I served the foregoing documents(s) described as **Phelan Piñon
7 Hills Community Services District Response to [Proposed] Order Transferring and
Consolidating Actions for All Purposes**, as follows:

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

11 _____ **(REGULAR MAIL)** By enclosing the document(s) listed in sealed envelope(s),
addressing as shown below, and placing the envelope for collection and mailing
12 following our ordinary business practices. I am readily familiar with this firm's practice
for collection and processing correspondence for mailing. On the same day that
13 correspondence is placed for collection and mailing, it is deposited in the ordinary course
of business with the United States Postal Service in a sealed envelope with postage fully
14 prepaid. 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
15 for mailing in affidavit.

16 _____ **(FEDERAL EXPRESS)** By placing the document(s) listed above in a sealed overnight
envelope, with delivery fees paid or provided for; addressed as shown below, and
17 depositing it for overnight delivery at a facility regularly maintained by the express
service carrier or delivered to a courier or driver authorized to receive documents on its
18 behalf, for delivery on the next business day.

19 _____ **(FACSIMILE)** by transmitting the document(s) listed above via facsimile to the office of
the addressee(s) shown below. A true and correct copy of the transmission report
20 indicating transmission without error is attached hereto.

21 _____ **(PERSONAL SERVICE)** By delivering the document(s) listed above in a sealed
envelope addressed to the parties as noted by hand to the offices of the addressee.
22

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

25 Executed this 1st day of February, 2010, in Irvine, California.

26 _____
27 /s/
Marie W. Young