

1 SMITH TRAGER, LLP
SUSAN M. TRAGER, Bar No. 58497
2 19712 MacArthur Blvd., Ste. 120
Irvine, CA 92612
3 Telephone: (949) 752-8971
Facsimile: (949) 863-9804
4 smt@smithtrager.com

5 ALESHIRE & WYNDER, LLP
WESLEY A. MILIBAND, Bar No. 241283
6 18881 Von Karman Avenue, Suite 400
Irvine, CA 92612
7 Telephone: (949) 223-1170
Facsimile: (949) 223-1180
8 wmliband@awattorneys.com

9 Attorneys for Defendant and Cross-Complainant,
Phelan Piñon Hills Community Services District
10

11 **SUPERIOR COURT OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES - CENTRAL DISTRICT**
13

14 Coordination Proceeding
Special Title (Rule 1550(b))
15

16 **ANTELOPE VALLEY**
GROUNDWATER CASES

17 Included Actions:

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

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

24 ///

25 ///

26 ///

27 ///

28 ///

) Judicial Council Coordination Proceeding
No. 4408

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

) Assigned for All Purposes To:
Judge: Hon. Jack Komar
Dept: 17

) (Filing Fees Exempt, Per Gov't Code § 6103)

) **CASE MANAGEMENT STATEMENT**
OF PHELAN PIÑON HILLS
COMMUNITY SERVICES DISTRICT

1 *Wm. Bolthouse Farms, Inc. v. City of*)
2 *Lancaster*)
3 *Diamond Farming Co. v. City of Lancaster*)
4 *Diamond Farming Co. v. Palmdale Water*)
5 *Dist.*)
6 Riverside County Superior Court,)
7 Consolidated Action, Case Nos. RIC 353)
8 840, RIC 344 436, RIC 344 668)
9 AND RELATED CROSS-ACTIONS)
10

11 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

12 In an effort to meet Justice Robie's target date of December 1, 2010 for the parties to reach
13 agreement on the terms of a settlement, Phelan Piñon Hills Community Services District
14 ("PPHCSD") continues to participate in settlement negotiations between the Antelope Valley
15 Mediation Principals ("Principals") and other parties, including Los Angeles County Waterworks
16 District No. 40. Negotiations include technical meetings among various experts and other
17 representatives.

18 The PPHCSD Board of Directors approved the settlement agreement with the Willis Class
19 at its September 15, 2010 Board of Directors meeting. With regard to the pending Wood Class
20 Settlement, the PPHCSD Board of Directors convened on November 3, 2010 to review the terms of
21 the proposed settlement as presented by Wood Class Attorney Michael McLachlan. Subject to two
22 conditions, both of which are under discussion, PPHCSD has approved the proposed settlement.
23 The parties continue to negotiate the two remaining conditions for settlement.

24 PPHCSD has propounded written discovery requests to a party regarding its groundwater
25 pumping and related operations. PPHCSD awaits responses to the same, which are due in
26 approximately two (2) weeks.

27 To date, various parties have noticed and taken several expert depositions, with many more
28 depositions noticed and on calendar throughout November 2010. PPHCSD anticipates expert
depositions to be completed by early December 2010 for the Phase III trial set for January 4, 2011.

///

///

1 In its Expert Witness Declaration filed July 15, 2010, PPHCSD stated its intent to call its
2 expert hydrogeologist, Thomas Harder, to testify regarding “the hydrogeological setting of the
3 PPHCSD service area, groundwater extractions from the proposed Antelope Valley Area of
4 Adjudication by the PPHCSD via Well 14, and the effects of pumping from Well 14 and other
5 PPHCSD wells on groundwater levels and groundwater flow in the proposed Antelope Valley Area
6 of adjudication.”

7 Mr. Harder’s study, however, focuses on the hydrogeologic and related conditions of the far
8 eastern and/or southeastern portions of the hydrogeologic Antelope Valley Groundwater Basin,
9 rather than the entire Antelope Valley Adjudication Area (“AVAA”) as previously defined by the
10 Court.

11 Accordingly and in deciding whether to call Mr. Harder as an expert witness during the
12 Phase III trial, PPHCSD respectfully requests to learn whether the Court intends to receive during
13 the Phase III trial – or to defer to a later trial phase – the taking of testimony and other evidence
14 sufficient for the Court to rule on the issues of: (1) Quieting title as to certain pumpers and
15 pumping, including questions as to whether one party has developed prescriptive rights as against
16 another party; (2) The determination of boundaries of management zones, or areas or subunits for
17 management purposes; and, (3) Whether a party’s use of water is an “export” based, at least in part,
18 upon distributing water pumped from one or more wells located within the AVAA to other areas of
19 the Antelope Valley Groundwater Basin and to areas outside of this Basin.

20 PPHCSD believes that it would be helpful to better understand the Court’s proposed
21 manner of proceeding on these issues so that PPHCSD (and perhaps other parties) might plan for
22 the detail and timing of the testimony that it will need to present during the Phase III trial as
23 opposed to a subsequent phase of trial.

24 ///

25 ///

26 ///

27 ///

28 ///

1 PPHCSD is currently unable to estimate the number and extent of in limine motions until
2 further expert depositions are completed.

3
4 Dated: November 12, 2010

SMITH TRAGER, LLP
SUSAN M. TRAGER

5
6 ALESHIRE & WYNDER, LLP
WESLEY A. MILIBAND

7
8 By: 

9 Wesley A. Miliband
10 Attorneys for Defendant and
11 Cross-Complainant,
12 Phelan Piñon Hills Community
13 Services District
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, Linda M. Yarvis,

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 18881 Von Karman Avenue, Suite 400, Irvine, CA 92612.

On November 15, 2010, I served the within document(s) described as **CASE MANAGEMENT STATEMENT OF PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT**, as follows:

☒ (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.

☐ (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope 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 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 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.

☐ (BY OVERNIGHT DELIVERY) I deposited in a box or other facility regularly maintained 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 sealed envelope or package designated by the express service carrier, addressed as set forth above, with fees for overnight delivery paid or provided for.

☐ (BY FAX) By transmitting a true copy of the foregoing document(s) via facsimile transmission from this Firm's sending facsimile machine, whose telephone number is (949) 223-1180, to each interested party at the facsimile machine telephone number(s) set forth above. Said transmission(s) were completed on the aforesaid date at the time stated on the transmission record issued by this Firm's sending facsimile machine. Each such transmission was reported as complete and without error and a transmission report was properly issued by this Firm's sending facsimile machine for each interested party served. A true copy of each transmission report is attached to the office copy of this proof of service and will be provided upon request.

Executed on November 15, 2010, at Irvine, California.

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

Linda Yarvis
(Type or print name)

(Signature)