

1 ALESHIRE & WYNDER, LLP
DAVID J. ALESHIRE, Bar No. 65022
2 WILLIAM W. WYNDER, Bar No. 84753
WESLEY A. MILIBAND, Bar No. 241283
3 18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
4 Telephone: (949) 223-1170
Facsimile: (949) 223-1180
5 daleshire@awattorneys.com
wwynder@awattorneys.com
6 wmiliband@awattorneys.com

7 Attorneys for Defendant and Cross-Complainant,
Phelan Piñon Hills Community Services District
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9 **SUPERIOR COURT OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES - CENTRAL DISTRICT**
11

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

13 **ANTELOPE VALLEY**
14 **GROUNDWATER CASES**

15 Included Actions:

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

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

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**

) 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
)

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

) **OBJECTION BY PHELAN PIÑON**
) **HILLS COMMUNITY SERVICES**
) **DISTRICT TO PROPOSED ORDER(S)**
) **REGARDING DISCOVERY FOR**
) **PHASE FOUR; DECLARATION OF**
) **WESLEY A. MILIBAND IN SUPPORT**
) **THEREOF**

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

3 Phelan Piñon Hills Community Services District (“PPHCSD”) hereby objects to the
4 proposed orders submitted regarding discovery for Phase Four to the extent that the proposed
5 orders do not reflect the Court’s position as stated during the Case Management Conference on
6 November 9, 2012 (“CMC”) allowing for production information to be provided for years 2005
7 through 2011.

8 During the CMC, the Court indicated that a party is “...entitled to provide as much
9 information” as desired, including for years 2005 through 2011. (Declaration of
10 Wesley A. Miliband (“Miliband Decl.”), ¶ 2, Exhibit A, Reporter’s Transcript of Proceedings from
11 November 9, 2012 (“Reporter’s Transcript”), pp. 20:8-22:6). Moreover, discovery beyond the
12 2000 through 2004 time period may be relevant to what the Court indicated it seeks in the next
13 phase of trial: “...what production of water is claimed by each party – irrespective of claims of
14 prescription, irrespective of whether parties are appropriators or overlying landowners, whether
15 they are governmental entities, or farmers...” (*Ibid.* at p. 10:16-22.)

16 To conform to the CMC, an Order involving discovery for Phase Four should state: “A
17 party may produce as much information as desired, including for years 2005 through 2011.”
18 Counsel for PPHCSD received confirmation from the “designated lead counsel” for public water
19 suppliers and overlayers that this language would be included, however, it was not included in a
20 proposed order, and other counsel has since indicated the omission was inadvertent. (Miliband
21 Decl., ¶ 3.)

22 In addition, and to conform to relevant legal authorities in determining a party’s water
23 rights including as set forth in *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224,
24 discovery beyond the 2000 through 2004 time period may be appropriate for some parties.

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1 Accordingly, PPHCSD respectfully requests that the Court's Order regarding discovery for
2 Phase Four state that production information between years 2005 through 2011 is permissible, as
3 proposed above.
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5 Dated: November 19, 2012

ALESHIRE & WYNDER, LLP
DAVID J. ALESHIRE
WILLIAM W. WYNDER
WESLEY A. MILIBAND

6
7
8 By: 

9 Wesley A. Miliband
10 Attorneys for Cross-Defendant and
11 Cross-Complainant,
12 Phelan Piñon Hills Community
13 Services District
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PROOF OF SERVICE

I, Linda 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 1700, Irvine, CA 92612.

On November 19, 2012, I served the within document(s) described as **OBJECTION BY PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT TO PROPOSED ORDER(S) REGARDING DISCOVERY FOR PHASE FOUR; DECLARATION OF WESLEY A. MILIBAND IN SUPPORT THEREOF** 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.

Executed on November 19, 2012, 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)