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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)

) **REQUEST FOR RULING ON PHELAN**
) **PIÑON HILLS COMMUNITY**
) **SERVICES DISTRICT'S EX PARTE**
) **APPLICATION FOR AMENDMENT TO**
) **DISCOVERY ORDER FOR PHASE 4**
) **TRIAL**

) **DATE: February 15, 2013**
) **TIME: 1:30 p.m.**
) **LOCATION: Via CourtCall**

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

3 Phelan Piñon Hills Community Services District ("PPHCSD") hereby submits this request
4 for the Court to grant PPHCSD's *Ex Parte* Application filed on December 18, 2012 for hearing on
5 December 19, 2012 ("*Ex Parte* Application"). The hearing was continued with other matters to the
6 Case Management Conference on January 16, 2013 ("January 16 CMC"). During the January 16
7 CMC, counsel for PPHCSD engaged the Court in dialogue and requested a ruling on the *Ex Parte*
8 Application. The Court has not yet ruled on the *Ex Parte* Application.

9 The Court's First Amendment To The Case Management Order For Phase 4 Trial ("Phase 4
10 CMO") issued on January 22, 2013 moots the first part sought by the *Ex Parte* Application;
11 however, the second part is not moot. That part specifically requests that the Court explicitly
12 confirm that any claims to return flows resulting from use of *native* water (not imported water) are
13 preserved for determination during later proceedings following Phase 4.

14 Though the Phase 4 CMO states return flow claims for Phase 4 involve *imported* water,
15 PPHCSD makes its request for confirmation that *native* water return flow claims are preserved for
16 later determination, so that record is clear now and in the future. Not a single party has objected in
17 writing or verbally on the record to this request since the original request was made nearly two
18 months ago, which in this case may be a miracle for something to go without objection.

19 Accordingly, PPHCSD respectfully requests that the Court confirm that any claims to return
20 flows resulting from use of *native* water (not imported water) are preserved for determination
21 during later proceedings following Phase 4. For convenience to the Court, PPHCSD posted to the
22 Court's website on December 18, 2012 a proposed Order regarding the same in Word format.

23 Dated: February 13, 2013

ALESHIRE & WYNDER, LLP

24
25 By: 

26 Wesley A. Miliband
27 Attorneys for Cross-Defendant and
28 Cross-Complainant,
Phelan Piñon Hills Community
Services District

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 February 13, 2013, I served the within document(s) described as **REQUEST FOR RULING ON PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT'S EX PARTE APPLICATION FOR AMENDMENT TO DISCOVERY ORDER FOR PHASE 4 TRIAL** 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.scefilings.org.

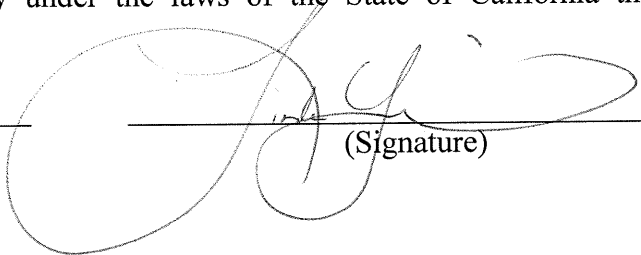
☐ (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth above. I placed each such envelope for collection and mailing following ordinary business practices. I am readily familiar with this Firm's practice for collection and processing of correspondence 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 February 13, 2013, 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)