

<b>COURT OF APPEAL, FIFTH APPELLATE DISTRICT, DIVISION</b>	COURT OF APPEAL CASE NUMBER (if known): <b>F075451</b>
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: 109498 NAME: June S. Ailin (SBN 109498) / Nicolas D. Papajohn (SBN 305364) FIRM NAME: Aleshire & Wynder, LLP STREET ADDRESS: 18881 Von Karman Avenue, Suite 1700 CITY: Irvine STATE: CA ZIP CODE: 92612 TELEPHONE NO.: 949-223-1170 FAX NO.: 949-223-1180 E-MAIL ADDRESS: jailin@awattorneys.com / npapajohn@awattorneys.com ATTORNEY FOR (name): Appellant, Phelan Piñon Hills Community Services District	<b>FOR COURT USE ONLY</b>
APPELLANT: Phelan Piñon Hills Community Serv. Dist. (JCC Proc. No. 4408) RESPONDENT: Los Angeles County Water Works District No. 40, et al.	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles</b> STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles, Ca 90012-3014 BRANCH NAME: Central District, Stanley Mosk Courthouse	
JUDGES (all who participated in case): Honorable Jack Komar	SUPERIOR COURT CASE NUMBER: <b>JCCP 4408 (1-05-CV-049053)</b>
<b>CIVIL CASE INFORMATION STATEMENT</b>	
<b>NOTE TO APPELLANT:</b> You must file this form with the clerk of the Court of Appeal within 15 days after the clerk mails you the notification of the filing of the notice of appeal required under rule 8.100(e)(1). You must attach to this form a copy of the judgment or order being appealed that shows the date it was entered (see Cal. Rules of Court, rule 8.104 for definition of "entered"). A copy of this form must also be served on the other party or parties to this appeal. (CAUTION: An appeal in a limited civil case (Code Civ. Proc., § 85) may be taken ONLY to the appellate division of the superior court (Code Civ. Proc., § 904.2) or to the superior court (Code Civ. Proc., § 116.710 [small claims cases]).	

## PART I – APPEAL INFORMATION

## A. APPEALABILITY

## 1. Appeal is from:

- ☐ Judgment after jury trial  
☐ Judgment after court trial  
☐ Default judgment  
☐ Judgment after an order granting a summary judgment motion  
☐ Judgment of dismissal under Code Civ. Proc., § 581d, 583.250, 583.360, or 583.430  
☐ Judgment of dismissal after an order sustaining a demurrer  
☒ An order after judgment under Code Civ. Proc., § 904.1(a)(2)  
☐ An order or judgment under Code Civ. Proc., § 904.1(a)(3)–(13)  
☐ Other (describe and specify code section that authorizes this appeal):

## 2. Does the judgment appealed from dispose of all causes of action, including all cross-actions between the parties?

- ☒ Yes    ☐ No (If no, please explain why the judgment is appealable):

## B. TIMELINESS OF APPEAL (Provide all applicable dates.)

1. Date of entry of judgment or order appealed from: April 26, 2018  
 2. Date that notice of entry of judgment or a copy of the judgment was served by the clerk or by a party under California Rules of Court, rule 8.104: May 25, 2018  
 3. Was a motion for new trial, for judgment notwithstanding the verdict, for reconsideration, or to vacate the judgment made and denied?

- ☐ Yes    ☒ No (If yes, please specify the type of motion):

Date notice of intention to move for new trial (if any) filed:

Date motion filed:

Date motion denied:

Date denial served:

4. Date notice of ☒ appeal or ☐ cross-appeal filed: May 17, 2018

## C. BANKRUPTCY OR OTHER STAY

Is there a related bankruptcy case or a court-ordered stay that affects this appeal?  
 (If yes, please attach a copy of the bankruptcy petition [without attachments] and any stay order.)

☐ Yes    ☒ No

## APPELLATE CASE TITLE:

Phelan Piñon Hills Comm. Svcs. Dist. v. Los Angeles Co. Water Works, et al.

## APPELLATE COURT CASE NUMBER:

F075451

- D. APPELLATE CASE HISTORY (Provide additional information, if necessary, on attachment I.D.) Is there now, or has there previously been, any appeal, writ, or other proceeding related to this case pending in any California appellate court?

☒ Yes ☐ No (If yes, insert name of appellate court): Court of Appeal, Fifth Appellate District

Appellate court case no.: F075451

Title of case: Antelope Valley Groundwater Cases

Name of trial court: Los Angeles Superior Court

Trial court case no.: JCCP No. 4408

## E. SERVICE REQUIREMENTS

Is service of documents in this matter, including a notice of appeal, petition, or brief, required on the Attorney General or other nonparty public officer or agency under California Rules of Court, rule 8.29 or a statute?

☐ Yes ☒ No (If yes, please indicate the rule or statute that applies)

☐ Rule 8.29 (e.g., constitutional challenge; state or county party)

☐ Bus. & Prof. Code, § 16750.2 (Antitrust)

☐ Bus. & Prof. Code, § 17209 (Unfair Competition Act)

☐ Bus. & Prof. Code, § 17536.5 (False advertising)

☐ Civ. Code, § 51.1 (Unruh, Ralph, or Bane Civil Rights Acts; antiboycott cause of action; sexual harassment in business or professional relations; civil rights action by district attorney)

☐ Civ. Code, § 55.2 (Disabled access to public conveyances, accommodations, and housing)

☐ Code Civ. Proc., § 1355 (Escheat)

☐ Gov. Code, § 946.6(d) (Actions against public entities)

☐ Gov. Code, § 4461 (Disabled access to public buildings)

☐ Gov. Code, § 12656(a) (False Claims Act)

☐ Health & Saf. Code, § 19954.5 (Accessible seating and accommodations)

Health & Saf. Code, § 19959.5 (Disabled access to privately funded public accommodations)

☐ Pub. Resources Code, § 21167.7 (CEQA)

☐ Other (specify statute):

**NOTE: The rule and statutory provisions listed above require service of a copy of a party's notice of appeal, petition, or brief on the Attorney General or other public officer or agency. Other statutes requiring service on the Attorney General or other public officers or agencies may also apply.**

## PART II – NATURE OF ACTION

## A. Nature of action (check all that apply):

1. ☐ Conservatorship

2. ☐ Contract

3. ☐ Eminent domain

4. ☒ Equitable action a. ☒ Declaratory relief b. ☒ Other (describe): Groundwater Basin Adjudication

5. ☐ Family law

6. ☐ Guardianship

7. ☐ Probate

8. ☐ Real property rights a. ☐ Title of real property b. ☐ Other (describe):

9. ☐ Tort

a. ☐ Medical malpractice

b. ☐ Product liability

c. ☐ Other personal injury

d. ☐ Personal property

e. ☐ Other tort (describe):

10. ☐ Trust proceedings

11. ☐ Writ proceedings in superior court

a. ☐ Mandate (Code Civ. Proc., § 1085)

b. ☐ Administrative mandate (Code Civ. Proc., § 1094.5)

c. ☐ Prohibition (Code Civ. Proc., § 1102)

d. ☐ Other (describe):

12. ☐ Other action (describe):

B. ☐ This appeal is entitled to calendar preference/priority on appeal (cite authority):



APPELLATE CASE TITLE:  
Phelan Piñon Hills Comm. Svcs. Dist. v. Los Angeles Co. Water Works, et al.

APPELLATE COURT CASE NUMBER:  
F075451

### PART III – PARTY AND ATTORNEY INFORMATION

In the spaces below or on a separate page or pages, list all the parties and all their attorneys of record who will participate in the appeal. For each party, provide all of the information requested on the left side of the page. On the right side of the page, if a party is self-represented please check the appropriate box and provide the party's mailing address, telephone number, fax number, and e-mail address. If a party is represented by an attorney, on the right side of the page, check the appropriate box and provide all of the requested information about that party's attorney.

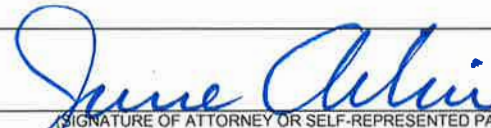
☒ Responses to Part III are attached instead of below

Name of Party:  Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address:  Telephone no.: Fax no: E-Mail address:
Name of Party:  Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address:  Telephone no.: Fax no: E-Mail address:
Name of Party:  Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address:  Telephone no.: Fax no: E-Mail address:
Name of Party:  Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address:  Telephone no.: Fax no: E-Mail address:

☐ Additional pages attached

Date: June 5, 2018

This statement is prepared and submitted by:

  
 (SIGNATURE OF ATTORNEY OR SELF-REPRESENTED PARTY)  
 JUNE S. AILIN

APPELLATE CASE TITLE:  
Phelan Piñon Hills Comm. Svcs. Dist. v. Los Angeles Co. Water Works, et al.

APPELLATE COURT CASE NUMBER:  
F075451

NOTICE TO PARTIES: A copy of this form must be served on the other party or parties to this appeal. If served by mail or personal delivery, A PARTY TO THE APPEAL MAY NOT PERFORM THE MAILING OR DELIVERY HIMSELF OR HERSELF. Electronic service is authorized only if ordered by the court or if the party served has agreed to accept electronic service. A person who is at least 18 years old must complete the information below and serve all pages of this document. When all pages of this document have been completed and a copy served, the original may then be filed with the court.

### PROOF OF SERVICE

☐ Mail

☐ Personal Service

☐ Electronic Service

1. At the time of service I was at least 18 years of age.
2. My residence or business address is (*specify*):
  
3. I mailed, personally delivered, or electronically served a copy of the *Civil Case Information Statement (Appellate)* as follows (*complete a, b, or c*):
  - a. ☐ **Mail.** I am a resident of or employed in the county where the mailing occurred and am not a party to this legal action.
    - (1) I enclosed a copy in an envelope **and**
      - (a) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
      - (b) ☐ **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that 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 prepaid.
    - (2) The envelope was addressed and mailed as follows:
      - (a) Name of person served:
      - (b) Address on envelope:
  
      - (c) Date of mailing:
      - (d) Place of mailing (*city and state*):
  - b. ☐ **Personal delivery.** I am not a party to this legal action. I personally delivered a copy as follows:
    - (1) Name of person served:
    - (2) Address where delivered:
  
    - (3) Date delivered:
    - (4) Time delivered:
  - c. ☐ **Electronic service.** My electronic service address is (*specify*):  
I electronically served a copy as follows:
    - (1) Name of person served:
    - (2) Electronic service address of person served:
    - (3) On (*date*):

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

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF DECLARANT)

**NOTICE OF  
ENTRY OF ORDER /  
ORDER AFTER HEARINGS  
ON APRIL 18, 2018**

**NOTICE OF ENTRY OF ORDER /  
ORDER AFTER HEARINGS ON APRIL 18, 2018**

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

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

MAY 25 2018

Sherri R. Carter, Executive Officer/Clerk  
By: Runako Innes, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

Coordination Proceeding  
Special Title (Rule 1550(b))

**ANTELOPE VALLEY  
GROUNDWATER CASES**

Included Actions:

*Los Angeles County Waterworks District  
No. 40 v.  
Diamond Farming Co., et al.*  
Los Angeles County Superior Court, Case No.  
No. BC 325 201  
*Los Angeles County Waterworks District  
No. 40 v.  
Diamond Farming Co., et al.*  
Kern County Superior Court, Case No.  
S-1500-CV-254-348

*Wm. Bolthouse Farms, Inc. v. City of  
Lancaster*  
*Diamond Farming Co. v. City of Lancaster*  
*Diamond Farming Co. v. Palmdale Water  
Dist.*  
Riverside County Superior Court,  
Consolidated Action, Case Nos. RIC 353  
840, RIC 344 436, RIC 344 668

**AND RELATED CROSS-ACTIONS**

Case No. Judicial Council Coordination  
Proceeding No. 4408

**NOTICE OF ENTRY OF ORDER AFTER  
HEARINGS ON APRIL 18, 2018**

**[Motion by PPHCSD Requesting  
Declaratory Relief Regarding  
Watermaster's Resolution R-18-04, Finding  
PPHCSD is Obligated to Pay Replacement  
Water Assessment Notwithstanding First  
Sentence of Judgment Section 8.3]**

Assigned for All Purposes to:  
Hon. Jack Komar

COPY

ALESHIRE &  
WYNDER, LLP  
ATTORNEYS AT LAW



1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on April 18, 2018, an Order was entered in the above entitled  
3 Court. A true and correct copy of the Court's Order is attached hereto.

4 DATED: May 25, 2018

Respectfully submitted,

5 ALESHIRE & WYNDER, LLP  
6 JUNE S. AILIN

7  
8 By:



9 JUNE S. AILIN

10 Attorneys for Defendant and Cross-Complainant  
11 Phelan Piñon Hills Community Services District  
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ALESHIRE &  
WYNDER, LLP





SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

**ANTELOPE VALLEY GROUNDWATER  
CASES**

Judicial Council Coordination  
Proceeding No. 4408

Included Consolidated Actions:

Lead Case No. BC 325 201

Los Angeles County Waterworks District No.  
40 v. Diamond Farming Co.  
Superior Court of California  
County of Los Angeles, Case No. BC 325 201

**ORDER AFTER HEARINGS ON  
APRIL 18, 2018**

Los Angeles County Waterworks District No.  
40 v. Diamond Farming Co.  
Superior Court of California, County of Kern,  
Case No. S-1500-CV-254-348

**Motion by PPHCSD Requesting  
Declaratory Relief Regarding  
Watermaster's Resolution R-18-04,  
Finding PPHCSD's is Obligated to  
Pay Replacement Water Assessment  
Notwithstanding First Sentence of  
Judgment Section 8.3.**

Wm. Bolthouse Farms, Inc. v. City of Lancaster  
Diamond Farming Co. v. City of Lancaster  
Diamond Farming Co. v. Palmdale Water Dist.  
Superior Court of California, County of  
Riverside, consolidated actions, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668

Judge: Honorable Jack Komar, Ret.

Rebecca Lee Willis v. Los Angeles County  
Waterworks District No. 40  
Superior Court of California, County of Los  
Angeles, Case No. BC 364 553

Richard A. Wood v. Los Angeles County  
Waterworks District No. 40  
Superior Court of California, County of Los  
Angeles, Case No. BC 391 869



1  
2  
3 The above-entitled matters came on regularly for hearing on April 18, 2018 at 9:00 a.m.  
4 in the Superior Court of California, County of Los Angeles, Room 222, the Honorable Jack  
5 Komar (Ret.) presiding. The appearances are as stated in the record. The Court, having read  
6 and considered the supporting and opposing papers, and having heard and considered the  
7 arguments of counsel, and good cause appearing therefore, makes the following order:

8 The subject of this coordinated matter is an adjudication of conflicting claims for water  
9 in a drought impacted, severely overdrawn aquifer in the Antelope Valley. The adjudication as  
10 a coordinated case commenced in 2005 and was completed by entry of judgment in December  
11 2015.

12 The court adjudicated the respective water rights of the residents, property owners,  
13 municipalities, public service districts, industries, farmers, and public and private water  
14 producers, and approved and adopted a remedy (physical solution) to relieve the continuing  
15 shortage of water within the basin.

16 A Judgment was signed by the court on December 23, 2015, based upon the court's  
17 findings of fact and a stipulation among most but not all of the parties to the litigation. As an  
18 integral part of the judgment, the court adopted a physical solution which most of the parties  
19 stipulated to or supported and which the court independently adopted, thereby making it  
20 binding on all the parties to the adjudication.

21 The judgment and physical solution established which parties have water rights in the  
22 adjudication area, quantifying such rights where possible, and established a process to  
23 eliminate the overdraft by which all parties having a right to pump water from the aquifer  
24 (water producers) are required to reduce their pumping from the native yield over a period of  
25 time and to pay a replacement water assessment for any water pumped which exceeds their  
26 annual and ultimately their permanent entitlement.

27 The judgment provides for a seven year period commencing in 2016 within which to  
28 bring the aquifer into balance so that annual water production does not exceed the native safe

1 yield of the aquifer. With a gradual reduction of pumping by all water producers, by the end of  
2 the rampdown period, the total amount of pumping is expected to not exceed the annual  
3 recharge, and to bring the aquifer into balance. The physical solution and Judgment  
4 established the creation of a Watermaster to manage the physical solution.

5 The motion by Defendant/Cross Complainant Phelan Pinon Hills Community Services  
6 District (hereinafter Phelan) seeks a declaration that it is entitled to the benefit of Paragraph 8.3  
7 of the physical solution (all references to paragraphs are to the numbered paragraphs in the  
8 physical solution) which provides that "during the first two years of the Rampdown Period, no  
9 producer will be subject to a replacement water assessment. The motion is opposed by the  
10 Watermaster and the Public Water Producers.

11 Phelan occupies a unique position as a party to this litigation. Phelan is a public entity,  
12 a community service district, and is charged with, among other things, a duty to provide water  
13 to its customers. It owns a single well in the Antelope Valley Adjudication area from which it  
14 obtains some of the water used to service its customers. None of its customers reside in the  
15 subject adjudication area. As is explained below, Phelan has neither appropriative nor  
16 prescriptive rights to pump or produce ground water in the adjudication area.

17 Notwithstanding that it has no correlative water right, in view of the public good and  
18 the public interest, the court deemed it equitable to permit Phelan the right to continue to pump  
19 water and export it for use of its customers with quantity limits so long as it paid for the water  
20 based upon its replacement cost and so long it was not causing damage to the aquifer. The  
21 amount of water that Phelan can pump is capped at 1200 acre feet per year based on its  
22 historical usage. See Paragraph 6.4.1.2. The essence of Phelan's theory is that because it pumps  
23 water from the aquifer it is a producer, and that Paragraph 8.3 is unqualified in its description  
24 of "producer." The Watermaster and the public water producers have opposed Phelan's  
25 interpretation of the Paragraph 8.3.

26 While Phelan points to the express language of Paragraph 8.3, as the beginning and end  
27 of the inquiry, it is necessary to look at the entirety of Paragraph 8 and all of its subparts (as  
28 well as the entirety of the physical solution, including the entire rampdown process) to

1 evaluate Phelan's position. While the first sentence in Paragraph 8.3 does specifically  
2 eliminate the replacement water assessment during the first two years of the rampdown period,  
3 and in a vacuum might appear to support Phelan's argument, the second sentence makes clear  
4 to whom the relief applies: "During years three through seven of the rampdown period, the  
5 amount that each party may produce from the native safe yield will be progressively reduced as  
6 necessary, in equal annual increments, from its Pre-rampdown production to its Production  
7 right. . . any amount produced over the required production shall be subject to the  
8 replacement water assessment." See Paragraph 9.2.

9 Parties with a prescriptive or other appropriative or "legacy" right<sup>1</sup> to produce water  
10 from the native yield are described in Paragraph 5.1 et seq., and includes the small pumper  
11 class, overlying producers, non-overlying producers ( public water suppliers with prescriptive  
12 rights) as well as the federal and state government entities. While Paragraph 3.5.30 defines a  
13 producer as a party who produces groundwater, "produce" is defined as pumping that is for  
14 reasonable and beneficial uses. Paragraph 3.5.29.

15 The issue requires interpretation of the judgment and the court approved physical  
16 solution. All parties contend that the stipulation and judgment is clear on its face although they  
17 arrive at different conclusions. No party has offered parol or extrinsic evidence to interpret the  
18 stipulation or the judgment. However, in ascertaining the intent of the judgment and the  
19 language used in its interpretation, it is necessary to consider the court's statements of  
20 decisions, the evidence upon which the court based the approval of the physical solution, and  
21 the entirety of the physical solution and the judgment.

22 The physical solution "requires quantifying the Producers' rights within the basin  
23 which will reasonably allocate the Native Safe Yield..." Paragraph 7. Phelan was found to not  
24 have any correlative or other rights to native yield. It acquired no prescriptive right,<sup>2</sup> made no  
25 reasonable and beneficial use of any water on property from which it pumped water within  
26 the adjudication area, and exported all water pumped from its single well out of the

27  
28 <sup>1</sup> Parties who protected their correlative rights by pumping water in the face of prescriptive claims.

<sup>2</sup> Phelan produced no evidence to support a prescriptive right and voluntarily dismissed a claim for prescription.

1 adjudication area for use of its customers in the Mojave Adjudication Area. See Partial  
2 Statement of Decision of February 3, 2015. The aquifer was, and has long been, in severe  
3 overdraft at the time that Phelan first commenced pumping from its well in 2005 in the  
4 adjudication area and it could not establish an appropriate right. There was no surplus of  
5 ground water. Phelan's only right to pump is under the provisions of Paragraph 6.4.1.2. See  
6 also Paragraph 3(f) of the Judgment itself.

7  
8  
9 As a party not having a right to a correlative share of the water in the aquifer, Phelan  
10 also has no obligations or other burdens or role in the rampdown process or the rampdown  
11 period. Consequently, because Phelan has no rampdown obligations, the provisions relieving a  
12 producer of the obligation to pay a water replacement assessment for pumping over its reduced  
13 pumping rights has no relevance or impact on Phelan. Only parties subject to the rampdown  
14 are required to reduce the amount of water pumped over the rampdown period at their own cost  
15 and to pay a replacement water assessment only if they pump more than their reduced right.

16 The Replacement Water Assessment as specified in Paragraph 9.2 is designed to ensure  
17 that as the various producers water rights are reduced, water used above the reduced right will  
18 result in an assessment to permit the Watermaster to replace that excess water with imported  
19 water. Phelan has no water rights, is not obligated to engage in pumping reduction, and is  
20 permitted to produce and pay for up to 1200-acre feet a year. The rampdown provisions do not  
21 apply to Phelan which has no right to produce water from the aquifer without paying for  
22 replacement water. It also has no rampdown obligations. If it uses water, it must pay for it.

23  
24 Phelan is neither a stipulating nor a supporting party to the judgment. Paragraph 5.1.10  
25 specifically provides that non-stipulating parties are subject to the judgment's terms but if such  
26 party has any water rights as determined by the court, it is subject to reduction in production to  
27 implement the physical solution, and the requirement to pay assessments, but shall not be  
28 entitled to benefits provided by the stipulation. Here, the court found that Phelan was an

1 appropriator without any water rights, but accorded it a right to pump but that it must, in effect,  
2 pay for all water pumped out of the adjudication area so that the water taken can be replaced by  
3 imported water. Phelan's water pumping right is not based on a correlative right to water in the  
4 aquifer.

5 Paragraph 6.4.1.2 in effect permits Phelan to pay for water to replace all water it pumps  
6 out of the adjudication area so long as it nets out the water pumped by water to be replaced.  
7 But that does not make Phelan a water producer of right from the native safe yield. The  
8 specific language of 6.4.2.1 permits Phelan to pump "up to 1200 acre feet a year" so long as it  
9 causes no material injury to the native safe yield and so long as it pays a water replacement  
10 assessment so that the water it removes can be returned by purchased water acquired by the  
11 Watermaster. Because Phelan has no right to pump water from the native yield without paying  
12 for the same, it is not a water producer as defined in Paragraphs 5.1 et seq.

13 The parties seeking approval of the proposed physical solution and judgment offered  
14 evidence to justify and support the proposal. The physical solution was dependent on that  
15 evidence. The rights granted to Phelan were only to be a purchaser of water so that its use  
16 could not impact the status of the aquifer. No expert opinion quantified Phelan's water use as  
17 either a plus or a minus- it was intended to have no net impact. If, as it requests, it is not  
18 required to pay for water pumped during 2016 and 2017, its pumping would contribute to the  
19 overdraft by pumping water to which it has no right.

20  
21 The expert opinions were based on the provisions of the stipulation and court's various  
22 trial phase statements of decision, subject to the specifics in the proposed judgment and the  
23 stipulation. The testimony provided justification for the efficacy of the physical solution,  
24 showing how the rampdown process would be able to bring the basin into balance within 7  
25 years. The entirety of the statements of decision and the findings of the court upon which the  
26 experts' opinions were based included findings that Phelan had no water rights (and because all  
27 water pumped by it would be replaced by water purchased by water replacement assessments,  
28 Phelan's water use was not subject to the rampdown provisions). Phelan received no burdens

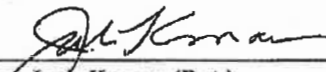
1 (other than the water assessment) and would receive no benefits from the stipulation since it  
2 had no reduction obligations and was neither a stipulating nor a supporting party to the  
3 physical solution or the judgment.

4 **CONCLUSION**

5 The court concludes that Phelan is not entitled to the provisions of Paragraph 8.3. The  
6 specification that "during the first two years of the Rampdown Period no *producer* shall be  
7 subject to a Replacement Water Assessment . . ." (emphasis added) is not unqualified. It limits  
8 the definition of "producers" to parties having a right to pump from the native yield but who  
9 also have a duty to reduce pumping.

10 **SO ORDERED.**

11  
12 Dated: April 26, 2018

13   
14 \_\_\_\_\_  
15 Hon. Jack Komar (Ret.)  
16 Judge of the Superior Court  
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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I, Judy C. Carter,

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2361 Rosecrans Ave., Suite 475, El Segundo, CA 90245.

On May 25, 2018, I served the within document(s) described as **NOTICE OF ENTRY OF ORDER AFTER HEARINGS ON APRIL 18, 2018** on the interested parties in this action as follows:

**BY ELECTRONIC SERVICE:** By posting the document(s) listed above to the Antelope Valley WaterMaster website in regard to Antelope Valley Groundwater matter with e-service to all parties listed on the websites Service List. Electronic service and electronic posting completed through [www.avwatermaster.org](http://www.avwatermaster.org) via Glotrans.

**BY OVERNIGHT DELIVERY:** I enclosed said document(s) in an envelope or package provided by the overnight service carrier and addressed to Craig Andrews Parton listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight service carrier or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents.

Craig Andrews Parton  
Price Postel & Parma  
200 E. Carrillo St., Suite 400  
Santa Barbara, CA 93101  
Tel: (805) 962-0011  
(805) 965-3978

*Attorney for Watermaster Board for the Antelope Valley Groundwater Adjudication*

**VIA OVERNIGHT MAIL**

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

Executed on May 25, 2018, at El Segundo, California.

  
Judy C. Carter



1 ANTELOPE VALLEY WATERMASTER  
2 ELECTRONIC DOCUMENT SERVICE - WWW.AVWATERMASTER.ORG  
3 c/o Glotrans  
4 2915 McClure Street  
5 Oakland, CA94609  
6 EMAIL: Support@Glotrans.com  
7

8 ANTELOPE VALLEY WATERMASTER  
9 IN AND FOR ANTELOPE VALLEY, CALIFORNIA  
10

11 Coordination Proceeding Special Title (Rule ) Antelope Valley Groundwater Cases (JCCP  
12 1550(b)) ANTELOPE VALLEY GROUNDWATER CASES ) 4408)  
13 (JCCP 4408) Included Actions: Los Angeles )  
14 County Waterworks District No. 40 ) Lead Case No.1-05-CV-049053  
15 )  
16 Plaintiff, ) Hon. Jack Komar  
17 vs. )  
18 )  
19 Diamond Farming Co. Superior Court of )  
20 California County of Los Angeles, Case No. )  
21 BC 325 201 Los Angeles County Waterworks )  
22 District No. 40 v. Diamond Farming Co. )  
23 Superior Court of California, County of )  
Kern, Case No. S-1500-CV-254-348 Wm. )  
Bolthouse Farms, Inc. v. City of Lancaster )  
Diamond Farming Co. v. City of Lancaster )  
Diamond Farming Co. v. Palmdale Water Dist. )  
Superior Court of California, County of )  
Riverside, consolidated actions, Case Nos. )  
RIC 353 840, RIC 344 436, RIC 344 668 )  
Defendant. )  
AND RELATED ACTIONS )  
PROOF OF SERVICE  
Electronic Proof of Service

14 I am employed in the County of Alameda, State of California.

15 I am over the age of 18 and not a party to the within action; my business address is 2915 McClure  
16 Street, Oakland, CA 94609.

17 The documents described on page 2 of this Electronic Proof of Service were submitted via the  
18 worldwide web on Fri. May 25, 2018 at 12:36 PM PDT and served by electronic mail notification.

19 I have reviewed the Court's Order Concerning Electronic Filing and Service of Pleading Documents and  
20 am readily familiar with the contents of said Order. Under the terms of said Order, I certify the above-described  
21 document's electronic service in the following manner:

22 The document was electronically uploaded to the Antelope Valley Watermaster's website,  
23 <http://www.avwatermaster.org>, on Fri. May 25, 2018 at 12:36 PM PDT .

An electronic mail message was transmitted to all parties on the electronic service list maintained for this  
case at [www.avwatermaster.org](http://www.avwatermaster.org). The message identified the document and provided instructions for accessing  
the document on the worldwide web.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and  
correct. Executed on May 25, 2018 at Oakland, California.

Dated: May 25, 2018

For WWW.AVWATERMASTER.ORG

Andy Jamieson

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**ANTELOPE VALLEY WATERMASTER DOCUMENTS**  
**ANVELOPE VALLEY WATERMASTER - WWW.AVWATERMASTER.ORG**

**Electronic Proof of Service**  
**Page 2**

**Document(s) submitted by June Ailin of Aleshire & Wynder, LLP on Fri. May 25, 2018 at 12:36 PM PDT**

1. Ntc:Entry of Order: NOTICE OF ENTRY OF ORDER AFTER HEARINGS ON APRIL 18, 2018

**PART III -  
PARTY AND ATTORNEY  
INFORMATION**

**(ADDITIONAL PAGE ATTACHMENT)**



## Antelope Valley Groundwater Cases (JCCP 4408)

### E-Service List

[• Help](#)

#### Antelope Valley Groundwater Cases (JCCP 4408)

Case #1-05-CV-049053

Date filed: 09/22/05

Assigned to **Superior Court Dept. 17c**

Last document submitted: 6/01/18 11:03 AM

[• Exit](#)

#### Current E-Service List as of Mon. 6/4/18 10:35 AM

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I, Judy C. Carter, am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2361 Rosecrans Ave., Suite 475, El Segundo, CA 90245.

On June 5, 2018, I served the within document(s) described as **CIVIL CASE INFORMATION STATEMENT** on the interested parties in this action as follows:

**BY ELECTRONIC SERVICE:** By posting the document(s) listed above to the Antelope Valley WaterMaster website in regard to Antelope Valley Groundwater matter with e-service to all parties listed on the websites Service List. Electronic service and electronic posting completed through [www.avwatermaster.org](http://www.avwatermaster.org) via Glotrans.

**BY ELECTRONICALLY POSTING:** to TrueFiling, the website of the State of California, Court of Appeal. The Court performed service electronically on all ECF-registered entities in this matter.

**BY OVERNIGHT DELIVERY:** I enclosed said document(s) in an envelope or package provided by the overnight service carrier and addressed to Craig Andrews Parton listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight service carrier or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents.

Craig Andrews Parton  
Price Postel & Parma  
200 E. Carrillo St., Suite 400  
Santa Barbara, CA 93101  
Tel: (805) 962-0011  
(805) 965-3978

*Attorney for Watermaster Board for the Antelope  
Valley Groundwater Adjudication*

**VIA OVERNIGHT MAIL**

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

Executed on June 5, 2018, at El Segundo, California.

  
\_\_\_\_\_  
Judy C. Carter