

Case No. F075451

**IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA
FIFTH APPELLATE DISTRICT**

ANTELOPE VALLEY GROUNDWATER CASES

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF
OPENING BRIEF OF APPELLANT PHELAN PIÑON
HILLS COMMUNITY SERVICES DISTRICT
(Appeal filed on May 17, 2018)**

On Appeal From the Superior Court for the State of
California, County of Los Angeles, Case No. JCCP 4408,
Hon. Jack Komar

ALESHIRE & WYNDER, LLP
*June S. Ailin, State Bar No. 109498
jailin@awattorneys.com
2361 Rosecrans Ave., Suite 475
El Segundo, California 90245
Tel: (310) 527.6660
Fax: (310) 532.7395

Attorneys for Appellant
PHELAN PIÑON HILLS COMMUNITY SERVICES
DISTRICT

TABLE OF CONTENTS

	<u>Page</u>
REQUEST FOR JUDICIAL NOTICE.....	4
From the Joint Appendix.....	4
From the Reporter’s Transcript	5
GROUND FOR REQUEST FOR JUDICIAL NOTICE	5
CERTIFICATE OF WORD COUNT	7
PROOF OF SERVICE	8

TABLE OF AUTHORITIES

Page(s)

State Cases

<i>Smith v. Selma Community Hospital</i> , (2010) 188 Cal.App.4th 1.....	5
<i>Stephenson v. Drever</i> , (1997) 16 Cal.4th 1167.....	5

State Statutes

Evidence Code § 452(d)(1)	5
Evidence Code § 459(a)	5

Other Authorities

California Practice Guide: Civil Appeals and Writs ¶ 4:266 (Rutter Group 2020)	5
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REQUEST FOR JUDICIAL NOTICE

Appellant Phelan Piñon Hills Community Services District (“Phelan”) respectfully requests that the Court take judicial notice of portions of the record on appeal for the following appeals: Fifth District Court of Appeal Case Nos. F082094 (filed Dec. 19, 2020, ordered published in its entirety January 7, 2021), F082469 (filed March 16, 2021, ordered published April 6, 2021), and F082492 (filed March 16, 2021, ordered published April 14, 2021) (the “Prior Cases”).

The Prior Cases were all decided on the basis of the same record. The order that is the subject of the instant appeal is an order entered after the judgment that is the subject of the Prior Cases.

The specific portions of the record on appeal in the Prior Cases as to which Phelan requests judicial notice are the following:

From the Joint Appendix

2 JA 2766

2 JA 2778-2798

2 JA 3061

2 JA 3235

55 JA 50551-50557

125 JA 122730-122737

125 JA 122897

127 JA 123832-123839

129 JA 126125-126256

176 JA 157508-157803

From the Reporter's Transcript

41 RT 22983:12-22985:10

46 RT 25332:5-25470:27

47 RT 25601:23-25658:13

48 RT 26267:5-26268:1

49 RT 26634:20-26635:7

49 RT 26885:6-11

The Court and all parties to this appeal are in possession of copies of the record for the Prior Cases.

GROUND FOR REQUEST FOR JUDICIAL NOTICE

The record in a prior appeal is a proper subject of judicial notice pursuant to Evidence Code §§ 452(d)(1) and 459(a) because it is part of the records of a court of this state. The record in a prior appeal can be incorporated by reference into the record of a later appeal or by requesting judicial notice. (California Practice Guide: Civil Appeals and Writs ¶ 4:266 (Rutter Group 2020); *Smith v. Selma Community Hospital* (2010) 188 Cal.App.4th 1, 45; *Stephenson v. Drever* (1997) 16 Cal.4th 1167; 1170 fn. 1.)

The portions of the record of the Prior Cases listed above are relevant to this appeal because the superior court relied on the record related to the Prior Cases as grounds for the order that is the subject of this appeal.

In addition, because the Prior Cases were so recently decided, and the record in those cases will also be part of the record for pending appeals from orders regarding superior court orders regarding attorneys' fees awards, the record in the Prior Cases is still readily available to the Court and reference to that record avoids unnecessary duplication. Further, while portions of the judgment that is the subject of the Prior Cases are included in the Appellant's Appendix for this appeal, reference to a single source for citations to the judgment, rather than scattered pages in the Appellant's Appendix, would be more consistent and convenient for the Court.

* * *

Accordingly, Phelan respectfully requests that the Court take judicial notice of the portions of the record in the Prior Cases listed above.

DATED: May 6, 2021

ALESHIRE & WYNDER, LLP
Attorneys At Law
JUNE S. AILIN

By: /s/ June S. Ailin
JUNE S. AILIN
Attorneys for Appellant
PHELAN PIÑON HILLS
COMMUNITY SERVICES
DISTRICT

CERTIFICATE OF WORD COUNT

[Cal. Rules of Court, Rule 8.204(c)(1)]

I certify pursuant to Rule 8.204(c) of the California Rules of Court, the attached Request for Judicial Notice in Support of Opening Brief of Phelan Piñon Hills Community Services District was produced on a computer and contains 479 words, excluding cover pages, tables of contents and authorities, and signature lines, as counted by the Microsoft Word for Office 365 word-processing program used to generate this brief.

/s/ June S. Ailin

June S. Ailin

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 18881 Von Karman Avenue, Suite 1700, Irvine, CA 92612.

On May 6, 2021, I served true copies of the following document(s) described as **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF OPENING BRIEF OF APPELLANT PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT** on the interested parties in this action as follows:

BY TRUEFILING (EFS): I electronically filed the document(s) with the Clerk of the Court by using the TrueFiling portal operated by ImageSoft, Inc. Participants in the case who are registered EFS users will be served by the TrueFiling EFS system. Participants in the case who are not registered TrueFiling EFS users will be served by mail or by other means permitted by the court rules.

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

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

Executed on May 6, 2021, at Irvine, California.

/s/ Linda Yarvis
Linda Yarvis