

BEST BEST & KRIEGER LLP

ERIC L. GARNER, Bar No. 130665
JEFFREY V. DUNN, Bar No. 131926
WENDY Y. WANG, Bar No. 228923

18101 VON KARMAN AVENUE, SUITE 1000
IRVINE, CALIFORNIA 92612

TELEPHONE: (949) 263-2600

TELECOPIER: (949) 260-0972

Attorneys for LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40

**OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES**

RICHARD D. WEISS, BAR NO. 89791

ACTING COUNTY COUNSEL

WARREN WELLEN, Bar No. 139152

PRINCIPAL DEPUTY COUNTY COUNSEL

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

TELEPHONE: (213) 974-8407

TELECOPIER: (213) 687-7337

Attorneys for LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – CENTRAL DISTRICT

**ANTELOPE VALLEY GROUNDWATER
CASES**

Included Actions:

Los Angeles County Waterworks District No.
40 v. Diamond Farming Co., Superior Court of
California, County of Los Angeles, Case No.
BC 325201;

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;

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, Case Nos. RIC 353 840,
RIC 344 436, RIC 344 668

RICHARD WOOD, on behalf of himself and
all other similarly situated v. A.V. Materials,
Inc., et al., Superior Court of California,
County of Los Angeles, Case No. BC509546

**EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103**

Judicial Council Coordination Proceeding
No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar

**LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40'S
RESPONSE TO STATEMENT BY
PHELAN PIÑON HILLS COMMUNITY
SERVICES DISTRICT FOR STATUS
CONFERENCE FOR SEPTEMBER 26,
2014**

Date: September 26, 2014

Time: 10:00 a.m.

Dept. 20

1 Los Angeles County Waterworks District No. 40 ("District No. 40") hereby responds to
2 the "Statement by Phelan Piñon Hills Community Services District ("Phelan") for Status
3 Conference for September 26, 2014" as follows:

4 On September 5, 2014, Attorneys Robert Kuhs and Tom Bunn told Mr. Miliband that they
5 would be working on revisions to proposed stipulated facts by Phelan. Since that time, those
6 individuals have been working on revisions to Phelan's proposed stipulated facts and a "redline"
7 version showing changes to the proposed stipulated facts was received by District No. 40's legal
8 counsel on Tuesday, September 23rd.

9 District No. 40's legal counsel (Mr. Dunn) reviewed the revised proposed stipulated facts
10 and discussed same with Mr. Bunn on Wednesday, September 24th. Later that day, District No.
11 40's legal counsel contacted Phelan's legal counsel to meet and confer on the revised proposed
12 stipulated facts.

13 The next morning, September 25th (today), District No. 40's legal counsel discussed the
14 "redlined" or revised version of the proposed stipulated facts with Phelan's legal counsel. The
15 discussion included a process to complete and make final the revised stipulated facts, and a
16 discussion of what Phelan claims it needs to be ready for trial on October 7th. It is District No.
17 40's position that revised stipulated facts can be completed and made final next week for the
18 consideration of those parties participating in the trial of Phelan's claims.

19 As for Phelan's repeated insistence that it cannot proceed to trial on October 7th, it is clear
20 that Phelan's case is ready for trial – and it has been ready for trial for many months. Phelan is
21 claiming it cannot go to trial only because Phelan argues it wants to take a deposition of District
22 No. 40's expert witness, Dr. Dennis Williams. But Phelan has already deposed Dr. Dennis
23 Williams months ago on January 16, 2014. District No. 40 has told Phelan that it can take the
24 deposition of Dr. Williams, again, but there has been no request from Phelan to take his
25 deposition.

26 During today's meet and confer with Phelan, legal counsel for District No. 40 explained,
27 again, that Dr. Dennis Williams will testify that there is no surplus in the Basin and no surplus
28 water within the area where Phelan pumps groundwater for export outside of the Adjudication

1 Area. Those are not new opinions by Dr. Williams but were his opinions when he was deposed
2 by Phelan's legal counsel months ago on January 16, 2014.

3 Stated simply, there is no good cause to continue to the October 7th trial date. Phelan's
4 case, in chief, is ready for trial. District No. 40 is only aware that there is one witness that would
5 testify in the Phelan trial case in defense of the Phelan claim, Dr. Dennis Williams. And he was
6 deposed on January 16, 2014 by Phelan and other parties.

7 There was some indication, in an earlier case management conference order, that Phelan
8 would file a motion in limine on whether it could present evidence of a surplus water condition as
9 part of Phelan's claim of an appropriative right. A subsequent case management conference order
10 clarified that District No. 40 could file such a motion. District No. 40 could file a short (4 or 5
11 pages) motion in limine regarding the lack of a surplus water condition in the Adjudication Area
12 as found by the Court in its Phase 3 Trial Decision, and that the lack of surplus water prevents an
13 appropriative rights claim on the part of Phelan as a matter of law. Alternatively, District No. 40
14 and other parties will raise the issue at trial without a written motion in limine.

15
16 Dated: September 25, 2014

BEST BEST & KRIEGER LLP

17
18 By


ERIC L. GARNER
JEFFREY V. DUNN
WENDY Y. WANG
Attorneys for
LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40

PROOF OF SERVICE

I, Sandra Rosales, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 300 South Grand Avenue, 25th Floor, Los Angeles, CA 90071. On September 25, 2014, I served the within document(s):

**LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40'S RESPONSE TO
STATEMENT BY PHELAN PIÑON HILLS COMMUNITY SERVICES
DISTRICT FOR STATUS CONFERENCE FOR SEPTEMBER 26, 2014**



by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 25, 2014, at Los Angeles, California.


Sandra Rosales

26345.00000\9313293.1