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SECTION 6103

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES

10
11 Coordination Proceeding
Special Title (Rule 1550(b))

Judicial Council Coordination Proceeding No.
4408

12
13 **ANTELOPE VALLEY GROUND WATER**
CASES

For Filing Purposes Only:
Santa Clara County Case No.: 1-05-CV-049053

14 Included actions:

Assigned to the
Honorable Jack Komar, Department 17

15 *Los Angeles County Waterworks District No.*
16 *40 v. Diamond Farming Co., et al.,*
17 *Los Angeles County Superior Court, Case No.*
BC 325201

ANSWER OF PHELAN PIÑON HILLS
COMMUNITY SERVICES DISTRICT TO
ALL COMPLAINTS AND ALL CROSS-
COMPLAINTS

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

21 *Wm. Bolthouse Farms, Inc. v. City of*
22 *Lancaster*

23 *Diamond Farming Co. v. City of Lancaster*
24 *Diamond Farming Co. v. Palmdale Water*
District

25 *Riverside County Superior Court,*
26 *Consolidated Action, Case Nos. RIC 353840,*
RIC 344436 and RIC 344668

27 **AND RELATED CROSS-ACTIONS**
28

1 Cross-Defendant Phelan Piñon Hills Community Services District ("Phelan") hereby answers
2 all Complaints and Cross-Complaints in these coordinated proceedings and any other Complaints or
3 Cross-Complaints that now or hereafter assert claims against Cross-Defendant.

4 **ANSWER**

5 Pursuant to Code of Civil Procedure section 431.30(d), Cross-Defendant hereby generally
6 denies each and every allegation contained in the Complaints and Cross-Complaints and further
7 denies that Plaintiffs and Cross-Complainants are entitled to any relief against Phelan.

8 **FIRST AND SEPARATE AFFIRMATIVE DEFENSE**

9 (Failure to State a Cause of Action)

10 1. The Complaints and Cross-Complaints fail to state facts sufficient to constitute a cause
11 of action.

12 **SECOND AND SEPARATE AFFIRMATIVE DEFENSE**

13 (Statute of Limitations)

14 2. Each and every cause of action contained in the Complaints and Cross-Complaints,
15 and the relief sought therein, is barred in whole or in part by applicable statutes of limitations,
16 including, but not limited to, sections 318, 319, 321, 337, 338, 339, 342 and/or 343 of the Code of
17 Civil Procedure.

18 **THIRD AND SEPARATE AFFIRMATIVE DEFENSE**

19 (Unreasonable Use of Water)

20 3. The relief requested in the Complaints and Cross-Complaints is barred by Article X,
21 section 2 of the California Constitution in that the requested relief would be wasteful and result in
22 unreasonable use, unreasonable method of use, or unreasonable method of diversion of water.

23 **FOURTH AND SEPARATE AFFIRMATIVE DEFENSE**

24 (Waiver)

25 4. Plaintiffs and Cross-Complainants have knowingly and intentionally waived any right
26 to assert some or all of the claims set forth in each and every cause of action contained in the
27 Complaints and Cross-Complaints.

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1 **FIFTH AND SEPARATE AFFIRMATIVE DEFENSE**

2 (Physical Solution)

3 5. In the event of the imposition of a physical solution or some form of declaratory relief,
4 due regard must be given to the prior and paramount nature of Phelan's rights.

5 **SIXTH AND SEPARATE AFFIRMATIVE DEFENSE**

6 (Estoppel)

7 6. Plaintiffs and Cross-Complainants by their acts and omissions are estopped from
8 asserting any of the claims upon which they seek relief.

9 **SEVENTH AND SEPARATE AFFIRMATIVE DEFENSE**

10 (Doctrine of Laches)

11 7. Some or all of Plaintiffs and Cross-Complainants' claims for relief are barred by the
12 doctrine of laches. For at least five years prior to the commencement of the instant action, the
13 Antelope Valley Groundwater Basin was in a continuous state of overdraft. That overdraft continued
14 and was exacerbated by increased domestic and agricultural production. Phelan has relied upon
15 Plaintiffs and Cross-Complainants' inaction and their failure to make a formal assertion of any prior
16 and paramount right to that of Phelan.

17 **EIGHTH AND SEPARATE AFFIRMATIVE DEFENSE**

18 (Right to Recapture Imported Water)

19 8. Phelan purchases water that is imported from outside the Basin and then distributed to
20 Phelan's customers. After use by Phelan's customers for irrigation, domestic, municipal and
21 industrial uses, a portion of the imported water percolates into the Basin and augments the native
22 supply of water in the Basin. Phelan has a right to a volume of water from the Basin equal to the
23 volume of water imported by Phelan from outside the Basin. This water augments both the Basin and
24 Phelan's water supply. This right is superior in priority to the rights claimed by Plaintiffs and Cross-
25 Complainants.

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1 **NINTH AND SEPARATE AFFIRMATIVE DEFENSE**

2 (No Interference with Water Rights)

3 9. On information and belief, Phelan's water production does not interfere in any way
4 with Plaintiffs' and Cross-Complainants' claimed water rights.

5 **TENTH AND SEPARATE AFFIRMATIVE DEFENSE**

6 (Failure to Join Necessary Parties)

7 10. Plaintiffs and Cross-Complainants have failed to join indispensable and necessary
8 parties, namely other landowners, appropriators and water producers within the Basin.

9 **ELEVENTH AND SEPARATE AFFIRMATIVE DEFENSE**

10 (Appropriative/Prescriptive Rights)

11 11. For many years, Phelan has produced groundwater from the Basin and distributed the
12 water through its water system to its customers for reasonable and beneficial uses. Phelan's
13 production of groundwater from the Basin has been open, notorious, under a claim of right, hostile to
14 any rights of Plaintiffs and Cross-Complainants, and has continued for a period of more than five
15 consecutive years during which the Basin was in a state of overdraft. By reason of Phelan's historical
16 production of groundwater, Cross-Defendant has acquired an appropriative or prescriptive right to
17 groundwater that is equal or superior in priority to that of the Plaintiffs and Cross-Complainants.

18 **TWELFTH AND SEPARATE AFFIRMATIVE DEFENSE**

19 (Right to Assert Additional Affirmative Defenses)

20 12. Phelan does not presently have sufficient knowledge or information on which to form
21 a belief as to whether it may have additional, as yet unstated, affirmative defenses. Phelan reserves
22 the right to assert additional affirmative defenses in the event discovery indicates that such defense or
23 defenses would be appropriate.

24 **THIRTEENTH AND SEPARATE AFFIRMATIVE DEFENSE**

25 (Tort Claims Act)

26 13. Plaintiffs and Cross-Complainants have failed to comply with the Tort Claims Act,
27 Government Code Section 900, *et seq.*

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1 **FOURTEENTH AND SEPARATE AFFIRMATIVE DEFENSE**

2 (Incorporation by Reference)

3 14. As permitted by the Court's Appearance Form, Phelan incorporates by reference, as if
4 fully set forth herein, each and every affirmative defense to the Complaints and/or Cross-Complaints
5 filed by any other party, whether their answers are filed before or after the filings and/or of this
6 answer.

7 **FIFTEENTH AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**

8 **(Ripeness)**

9 15. Each Complaint and Cross-Complaint and each cause of action therein is barred by the
10 fact that the matters therein stated are not ripe for decision by the Court.

11 **SIXTEENTH AFFIRMATIVE DEFENSE TO ALL CAUSES OF ACTION**

12 **(Mootness)**

13 16. Each Complaint and Cross-Complaint and each cause of action therein is barred by the
14 fact that the matters therein stated are moot.

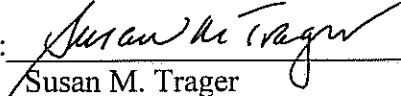
15 **PRAYER**

16 WHEREFORE, Phelan prays for relief as follows:

- 17 1. That Plaintiffs take nothing by way of their Complaints;
18 2. That Cross-Complainants take nothing by way of their Cross-Complaints;
19 3. That Phelan be awarded attorneys' fees as may be allowed by statute or law; and,
20 4. For such other and further relief as the court may deem just and proper.
21

22
23 DATED: December 30, 2008

SmithTrager LLP

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25 By: 
26 Susan M. Trager
Attorneys for Plaintiff in Intervention

27 PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT
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