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6 Attorneys for Cross-Defendants, Bolthouse Properties, LLC and Wm.  
Bolthouse Farms, Inc.,  
7

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SANTA CLARA

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11 COORDINATION PROCEEDING ) Judicial Council Coordination  
SPECIAL TITLE (Rule 1550(b)) ) Proceeding No. 4408  
12 )  
13 ANTELOPE VALLEY GROUNDWATER ) CASE NO. 1-05-CV-409053  
CASES )  
14 INCLUDED ACTIONS: )  
15 LOS ANGELES COUNTY WATERWORKS ) BOLTHOUSE PROPERTIES, LLC'S AND  
DISTRICT NO. 40 v. DIAMOND ) WM. BOLTHOUSE FARMS, INC.'S  
16 FARMING COMPANY, et al., ) OBJECTION TO MOTION FOR CLASS  
Los Angeles Superior Court ) CERTIFICATION  
17 Case No. BC325201 )  
18 LOS ANGELES COUNTY WATERWORKS )  
DISTRICT NO. 40 v. DIAMOND )  
19 FARMING COMPANY, et al., )  
Kern County Superior Court )  
20 Case No. S-1500-CV-254348 )  
21 DIAMOND FARMING COMPANY, and )  
W.M. BOLTHOUSE FARMS, INC., v. ) DATE: August 11, 2008  
22 CITY OF LANCASTER, et al., ) TIME: 9:00 a.m.  
Riverside Superior Court ) DEPT: 1  
23 Case No. RIC 344436 [c/w case )  
no. RIC 344668 and 353840] )  
24 )  
25 )  
26 )

1 Cross-Defendants, BOLTHOUSE PROPERTIES, LLC and WM.  
2 BOLTHOUSE FARMS, INC., hereby object to the Motion for Class  
3 Certification filed by Richard A. Wood. Cross-defendants hereby  
4 incorporate by reference the objections made by cross-defendants  
5 to the various Willis class certification requests, as if set  
6 forth at length verbatim herein. In the interest of brevity,  
7 given the fact that the Court has expressed its intention to  
8 allow class representation, cross-defendants raise the following  
9 additional concerns.

10 **Limitation Of Class To Five (5) Year Period Preceding Filing Of**  
11 **The Action.**

12 Limiting class members to individuals pumping within five  
13 (5) years before the filing of this consolidated action,  
14 presupposes that the only time frame in which prescription or  
15 other rights on behalf of the purveyors will be claimed, deals  
16 with the five (5) years immediately before filing of the current  
17 consolidated action. A statute of limitations issue exists as to  
18 whether the purveyors can make a claim for prescription based  
19 upon any time period preceding the filing of the consolidated  
20 action. However, if the purveyors are entitled to claim  
21 prescriptive rights based upon earlier time frames, there will be  
22 class members of the dormant class which may seek to defend such  
23 claims based in part on pumping in time periods other than the  
24 five (5) years immediately preceding the filing of this lawsuit.

25 Likewise, there may be parties in the pumping class which were  
26 not pumping during previous time periods. The result of this

1 will be two non-distinct classes with conflicting interests. As  
2 such, the class will not be ascertainable as required by *Simmons*  
3 *v. Horowitz* (1984) 151 Cal.App.3d 834, 845, and there will be no  
4 community of interest as required in the case of *Richmond v. Dart*  
5 *Industries, Inc.* (1981) 21 Cal.3d 462, 470. Finally, as a  
6 practical matter, neither class will be particularly helpful.  
7 The only time period wherein there will not be conflicting  
8 interests potentially will be the five (5) year period  
9 immediately preceding the filing of the action.

10 **Class Representatives Not Included In The Class.**

11 The class specifically excludes any current defendants in  
12 the action, excludes those connected to a municipal or mutual  
13 water systems and excludes those pumping twenty-five (25) acre  
14 feet or more per year. Without including all parties necessary  
15 to a complete adjudication of all water rights in the Antelope  
16 Valley as pleaded and prayed for by the purveyors in their Cross-  
17 Complaint, the rationale for having class representation  
18 evaporates. Further, allowing class representation where not all  
19 parties are included fails to comply with the *McCarren Act*.

20 **Suggested Approach.**

21 Regardless of how the classes are defined, they must be  
22 defined in such a way that all property owners in the Antelope  
23 Valley Groundwater Basin are either represented separately, or  
24 represented in one of the classes. Class representation should  
25 be structured so that each class is both ascertainable and has a  
26 commonality of interest. Given the fact that the causes of

1 action, for example prescription, are not clear at present in  
2 terms of when the claims are being made, classes should be  
3 structured as best as can be accomplished to avoid conflict of  
4 interest in the future.

5 In conclusion, one class should consist of non-represented  
6 pumpers, at any time on their property in the Antelope Valley.  
7 The other class should consist of persons or parties who have  
8 never pumped groundwater on their property in the Antelope  
9 Valley. This approach will be much simpler in terms of notice,  
10 is more easily ascertainable, preserves commonality of interest  
11 and will include all landowners in the Basin to avoid *McCarren*  
12 problems.

13 DATED: July 10, 2008

Respectfully submitted,

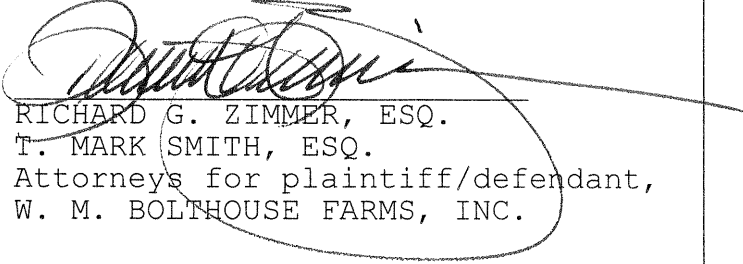
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By:

  
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