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Bolthouse Farms, Inc.,
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8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SANTA CLARA

10 * * *

11 COORDINATION PROCEEDING)	Judicial Council Coordination
SPECIAL TITLE (Rule 1550(b)))	Proceeding No. 4408
)	
12 ANTELOPE VALLEY GROUNDWATER)	CASE NO. 1-05-CV-049053
CASES)	
)	OBJECTION TO [PROPOSED] CASE
13 INCLUDED ACTIONS:)	MANAGEMENT ORDER FOR PHASE 2
)	TRIAL PREPARED BY ATTORNEYS FOR
)	CITY OF PALMDALE
14 LOS ANGELES COUNTY WATERWORKS)	
DISTRICT NO. 40 v. DIAMOND)	Phase 2 Trial: October 6, 2008
FARMING COMPANY, et al.,)	
15 Los Angeles Superior Court)	(Hon. Jack Komar)
Case No. BC325201)	
)	
16 LOS ANGELES COUNTY WATERWORKS)	
DISTRICT NO. 40 v. DIAMOND)	
FARMING COMPANY, et al.,)	
17 Kern County Superior Court)	
Case No. S-1500-CV-254348)	
)	
18 DIAMOND FARMING COMPANY, and)	
W.M. BOLTHOUSE FARMS, INC., v.)	
19 CITY OF LANCASTER, et al.,)	
Riverside Superior Court)	
Case No. RIC 344436 [c/w case no.)	
20 RIC 344668 and 353840])	
)	
21 ROSAMOND COMMUNITY SERVICES)	
DISTRICT,)	
)	
22 CROSS-COMPLAINANT,)	
)	
23)	
24)	
25)	
26)	

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 The [Proposed] Case Management Order for Phase 2 Trial
3 creates new proposed orders which were not raised and ruled upon
4 by the Court at the Hearing. Wm. Bolthouse Farms, Inc. and
5 Bolthouse Properties, LLC object to the following paragraphs of
6 the [Proposed] Case Management Order for Phase 2 Trial prepared
7 by City of Palmdale:

8 **Paragraph 2** - The Court did not order a trial on all basin
9 characteristics. To the contrary, the Court specifically
10 clarified that the Phase 2 trial would only involve the
11 characteristics of the basin related to the existence or non-
12 existence of sub-basins.

13 **Paragraph 4** - Although the Court did not retract the
14 previous time frame for disclosure of rebuttal experts, the Court
15 clearly did acknowledge a more liberal rebuttal witness
16 designation giving the landowner parties time to analyze and
17 conduct expert analysis of purveyor expert testimony and to
18 provide rebuttal testimony accordingly. Additionally, although
19 the Court advised it would like to see a list of proposed
20 witnesses, there was no order that this was to occur
21 simultaneously with designation of expert witnesses.

22 **Paragraph 5** - The Court ordered that parties meet and confer
23 regarding scheduling of expert depositions. However, no
24 particular schedule was ordered. Finally, the Court did not
25 order provisions regarding any waiver of rights to coordinate
26 and/or to call witness which were not discussed.

1 **Paragraph 6** - The Court did not order a telephonic
2 conference to discuss coordination or a liaison committee.

3 **Paragraph 7** - The Court did not make any orders regarding
4 timing of expert depositions except for the Court's comments
5 regarding liberality of expert rebuttal testimony in light of the
6 time constraints related to the current trial date.

7 **Paragraph 8** - The Court did not order that witnesses not
8 prepared to testify would be subject to exclusion at the time of
9 trial. This is contrary to the Court's comments regarding
10 hearing testimony of the purveyor expert witnesses, analyzing
11 such testimony and providing expert rebuttal testimony.

12 **Paragraph 9** - The Court did not order production of files,
13 nor did it order any time frame for doing so.

14 **Paragraph 10** - The Court did not order the parties to "avoid
15 serving duplicative written discovery." In fact, the Court
16 advised that it was not going to make that kind of an order.

17 **Paragraph 11** - The Court did not make orders at the hearing
18 regarding the meet and confer process.

19 **Paragraph 12** - The Court did not order that any party
20 intending to participate in Phase 2 must post a Notice of
21 Intention to Participate.

22 **Paragraph 13** - The Court did not order parties to post
23 witness lists and/or exhibit lists on September 29, 2008.
24 Further, given the Court's comments regarding liberally allowing
25 evaluation of purveyor expert testimony, analysis of same and
26

1 providing expert rebuttal testimony, additional witnesses and/or
2 exhibit may be necessary.

3 **Paragraph 14** - The Court did not make orders regarding
4 coordination of witnesses, nor with regard to production of
5 documents relevant to their testimony. The parties clearly will
6 want to coordinate these matters. However, in terms of
7 documents, see response to Paragraph 13, above.

8 **Paragraph 15** - The Court did not make an order regarding
9 provision of electronic copies of exhibits.

10 **Paragraph 16** - The Court did not order a schedule for
11 preparation and submission of trial briefs.

12 **Paragraph 17** - The Court did not make any orders regarding
13 motions in limine.

14 **Paragraph 18** - The Court did not make any order regarding
15 third party assistance regarding presentation of evidence.

16 **Paragraph 19** - The Court did not make any orders regarding
17 Phase 2 telephonic trial monitoring, other than advising that
18 parties may monitor by telephone if they decide to do so.

19 **Paragraph 20** - The Court did not make any orders regarding
20 how it would like exhibits prepared, kept or numbered.

21 **Paragraph 21** - The Court did not make any orders regarding
22 the next day's witnesses.

23 **Paragraph 22** - The Court did not make any orders regarding
24 potential closing trial briefs.

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1 Wm. Bolthouse Farms, Inc. and Bolthouse Properties, LLC
2 object to creation of additional proposed orders which were not
3 raised at the hearing. An Alternate [Proposed] Case Management
4 Order is attached hereto, which more accurately sets forth what
5 was ordered by the Court.

6 DATED: August 12, 2008

Respectfully submitted,
CLIFFORD & BROWN

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By: 
RICHARD G. ZIMMER, ESQ.
T. MARK SMITH, ESQ.
Attorneys for Cross-Defendant,
BOLTHOUSE PROPERTIES, LLC and
WM. BOLTHOUSE FARMS, INC.

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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)
CASES ,)

CASE NO.: 1-05-CV-049053

ALTERNATE [PROPOSED] CASE
MANAGEMENT ORDER FOR PHASE 2
TRIAL

14)
15 INCLUDED ACTIONS:, LOS ANGELES)
COUNTY WATERWORKS DISTRICT NO.)
16 40 v. DIAMOND FARMING COMPANY,)
17 et al.,)
Los Angeles Superior Court Case)
18 No. BC325201,)

Phase 2 Trial: October 6, 2008
(Hon. Jack Komar)

19 LOS ANGELES COUNTY WATERWORKS)
DISTRICT NO. 40 v. DIAMOND)
20 FARMING COMPANY, et al. ,)
21 Kern County Superior Court Case)
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22)
23 DIAMOND FARMING COMPANY, and)
W.M. BOLTHOUSE FARMS, INC., v.)
24 CITY OF LANCASTER, et al.,)
Riverside Superior Court Case)
25 No. RIC 344436 [c/w case no.)
26 RIC 344668 and 353840] ,)

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1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 Wm. Bolthouse Farms, Inc. and Bolthouse Properties, LLC
3 submit this Alternate [Proposed] Case Management Order for Phase
4 2 Trial in conjunction with their Objection to [Proposed] Case
5 Management Order for Phase 2 Trial Prepared by Attorneys for City
6 of Palmdale. The Alternate [Proposed] Case Management Order set
7 forth below more accurately reflects the Court's orders in this
8 matter as follows:
9

10 1. Class Certification Motion granted as per the Court's
11 comments on the record. Counsel for Richard Wood to prepare and
12 submit an Order regarding defined class and counsel for Willis to
13 prepare and submit Order defining its class.
14

15 2. City of Palmdale's Demurrer to Willis Second Amended
16 Complaint is overruled as to the Third and Fourth Causes of
17 Action. The Court stays proceedings as to the issues discussed
18 on the record.
19

20 3. Rebecca Lee Willis' Motion to Strike Affirmative
21 Defenses is denied as per the Court's comments on the record.
22

23 4. The Court and counsel are to confer at the next hearing
24 regarding the form of notice for the classes. Attorney Jeffrey
25 Dunn is to prepare and submit a declaration on the status of
26 service of process.
27

28 5. The Phase 2 Trial will be regarding the characteristics
of the basin which relate to the existence or non-existence of

1 sub-basins. Trial will be held in the Los Angeles County
2 Superior Court.

3 6. The Motion to Continue Trial, brought by plaintiff
4 Richard Wood, is denied.
5

6 7. Prior to the commencement of trial, lay witnesses will
7 be identified by any party intending to call a lay witness.
8 Expert designation will be pursuant to California *Code of Civil*
9 *Procedure*, Section 2034. However, given the lack of discovery
10 and time constraints related to the Phase 2 Trial, liberality
11 will be given to allow any party to analyze and respond to expert
12 testimony given at trial on the issue of sub-basins, and to
13 present expert rebuttal testimony and documents in rebuttal to
14 such evidence presented at the Phase 2 Trial.
15

16 8. The Phase 2 Trial will be conducted in one week
17 increments so as to allow the attorneys and witnesses to plan
18 their calendars accordingly. The initial week of trial will be
19 conducted from October 6, 2008 through October 10, 2008. Further
20 trial and/or rebuttal testimony will be scheduled following the
21 completion of the first week of trial.
22

23 9. There is no stay on discovery.
24

25 10. The purveyor parties will post a document identifying
26 the hard drive and/or any other documents they advised the Court
27 that they have in their possession and which they said they
28 offered to provide to other counsel so that all counsel may

1 request a copy. The copy will be provided to any counsel
2 requesting it, in an electronically readable format.

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DATED: _____

By _____

JACK KOMAR
JUDGE OF THE SUPERIOR COURT

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PROOF OF SERVICE (C.C.P. §1013a, 2015.5)
Antelope Valley Groundwater Cases
Judicial Counsel Coordination Proceeding No. 4408
Santa Clara County Superior Court Case No. 1-05-CV-049053

I am employed in the County of Kern, State of California. I am over the age of 18 and not a party to the within action; my business address is 1430 Truxtun Avenue, Bakersfield, CA 93301.

On August 13, 2008, I served the foregoing document(s) entitled:

**BOLTHOUSE PROPERTIES, LLC'S AND WM. BOLTHOUSE FARMS, INC.'S
OBJECTION TO [PROPOSED] CASE MANAGEMENT ORDER FOR PHASE 2 TRIAL
PREPARED BY ATTORNEYS FOR CITY OF PALMDALE; ALTERNATE [PROPOSED]
CASE MANAGEMENT ORDER FOR PHASE 2 TRIAL**

— by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

— by placing _ the original, _ a true copy thereof, enclosed in a sealed enveloped addressed as follows:

X BY SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX LITIGATION PURSUANT TO CLARIFICATION ORDER DATED OCTOBER 27, 2005.

Executed on August 13, 2008, at Bakersfield, California.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

— (Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.



NANETTE MAXEY
2455-2