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8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SANTA CLARA

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11 COORDINATION PROCEEDING) Judicial Council Coordination
12 SPECIAL TITLE (Rule 1550(b))) Proceeding No. 4408
13)
14 ANTELOPE VALLEY GROUNDWATER) CASE NO. 1-05-CV-049053
15 CASES)
16)
17 INCLUDED ACTIONS:)
18) [PROPOSED] AGENDA FOR CASE
19 LOS ANGELES COUNTY WATERWORKS) MANAGEMENT CONFERENCE
20 DISTRICT NO. 40 v. DIAMOND)
21 FARMING COMPANY, et al.,)
22 Los Angeles Superior Court)
23 Case No. BC325201)
24)
25 LOS ANGELES COUNTY WATERWORKS)
26 DISTRICT NO. 40 v. DIAMOND)
FARMING COMPANY, et al.,) DATE: April 28, 2006
Kern County Superior Court) TIME: 10:00 a.m.
Case No. S-1500-CV-254348) DEPT: D-1, Room 534
DIAMOND FARMING COMPANY, and)
W.M. BOLTHOUSE FARMS, INC., v.) Location:
CITY OF LANCASTER, et al.,)
Riverside Superior Court) Los Angeles Superior Court
Case No. RIC 344436 [c/w case no.) Central District
RIC 344668 and 353840]) 111 North Hill Street
Los Angeles, CA 90012
ROSAMOND COMMUNITY SERVICES)
DISTRICT,)
CROSS-COMPLAINANT,)

1 CONFIRMATION OF MEANING AND PURPOSE OF AREA OF ADJUDICATION

2 Various parties seem to use different terms to describe what
3 will be tried in Phase I. Some parties use the term "area of
4 adjudication." Others use the term "basin boundaries." Some use
5 both terms. All parties appear to be in agreement that whatever
6 terms are used, Phase I of this matter will determine which
7 parties will be joined. Based upon the Court's previous
8 comments, it appears the Court is in agreement that the first
9 Phase of trial should be to determine which parties should be
10 joined.

11 Although some might consider the definition applied to the
12 Phase I area to be insignificant, the term does have considerable
13 significance. An area of adjudication for purposes of a
14 meaningful adjudication of the Antelope Valley is a question
15 which needs to be considered carefully to confirm that all proper
16 parties and land are before the Court to fully adjudicate all
17 water rights in the Antelope Valley. Basin boundaries on the
18 other hand, is generally a hydrologic term defining an
19 underground aquifer which is subject to inflow and outflow from
20 surrounding areas. This term in the hydrologic sense is more
21 properly before the Court in Phase II, which we understand will
22 consist of determining the character of the basin.

23 The Antelope Valley groundwater basin is recharged by the
24 entire Antelope Valley watershed with water flowing generally
25 down gradient from the mountains to the foothills, to the lower
26 areas of the groundwater basin. Overlying landowners pumping on

1 ground up gradient from the geologic groundwater basin will
2 affect groundwater volume and flow which ultimately makes its way
3 down gradient into the groundwater basin. The up gradient
4 overlying landowner has a similar ability to affect groundwater
5 flow in the same way that an upstream riparian owner can affect
6 downstream riparian flow.

7 For purposes of an area of adjudication for the procedural
8 purpose of determining the parties and land which needs to be
9 included in the lawsuit, up gradient overlying landowners,
10 including those who are pumping, who have pumped in the past, and
11 who have not yet pumped, need to be included in order to obtain a
12 complete adjudication of water rights in the Antelope Valley.
13 Failing to include such parties would leave pockets of un-
14 adjudicated ground in the Antelope Valley which most likely would
15 lead to future disputes over water and the control of water. For
16 example, if up gradient landowners are left out of the
17 adjudication they are free to pump, divert or otherwise impede
18 water flowing down gradient into the basin without the Court
19 having any continuing jurisdiction and/or control over such
20 parties and land. Future lawsuits would be expected and
21 unavoidable especially considering the future population growth
22 which will occur in the Antelope Valley.

23
24 **MODEL PLEADINGS UNNECESSARY AND TIMECONSUMING**

25 Model pleadings are unnecessary, time-consuming and not cost
26 effective. Because the causes of action and claims of the

1 various parties will be different, and because there will be a
2 great deal of dispute as to how each party would like to frame
3 the facts and issues, agreed upon model pleadings will be so
4 general that they will not be helpful. Model pleadings can be
5 avoided in this manner.

6 The parties can stipulate that the original Riverside
7 pleadings have made all necessary averments to place all
8 landowner property, and or leases, before the court *in rem*, that
9 all parties have filed cross complaints against all other parties
10 and that all parties have filed appropriate Answers to the cross
11 complaints raising all appropriate affirmative defenses.
12 Thereafter, each party can file a pleading with the Court
13 outlining the specific causes of action and claims being made by
14 that specific party. If necessary, based upon these specialized
15 and individualized pleadings by each party, other parties can
16 demur, move to strike or take other appropriate action as
17 necessary. The Court will rule on such challenges and the
18 remaining causes of action will be at issue in the case.
19 Thereafter, discovery will be conducted between the parties on
20 these causes of action and claims. Finally, the various causes
21 of action and claims can be tried in phases if necessary with
22 similar causes of action and claims being tried together.

23
24 **DISCOVERY SCHEDULE FOR PHASE I**

25 Once the Court clarifies the area for the Phase I trial is
26 in fact an area of adjudication to determine which parties and

1 land will be included in the lawsuit for procedural purposes, the
2 parties may more readily agree regarding what geographical areas
3 should be included. If the parties cannot agree, trial can be
4 conducted in July as the Court has suggested. However, the Court
5 should set a litigation schedule including dates for discovery,
6 depositions, expert depositions, etc., leading up to the trial
7 date in July, and set a date for the trial itself.

8
9 **CONCLUSION**

10 The first phase of this litigation should be to determine
11 the area of adjudication. This area should be sufficiently
12 inclusive so as to include all land from which water can, or
13 could in the future, be pumped which would otherwise make its way
14 into the Antelope Valley groundwater basin. After the parties
15 make clear what causes of action and claims they intend to make
16 in this litigation, subsequent phases can be arranged in a
17 logical manner to try similar issues and claims together.

18
19 DATED: April 26, 2006

Respectfully submitted,

20 CLIFFORD & BROWN

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22 By: 

RICHARD G. ZIMMER, ESQ.

T. MARK SMITH, ESQ.

Attorneys for

BOLTHOUSE PROPERTIES, LLC

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PROOF OF SERVICE

STATE OF CALIFORNIA COUNTY OF KERN:

I am a resident of the County aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 1430 Truxtun Avenue, Suite 900, Bakersfield, California, 93301.

On April 26, 2006, I served the [PROPOSED] AGENDA FOR CASE MANAGEMENT CONFERENCE on the interested parties in said action.

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

() VIA FACSIMILE - [C.C.P. § 1013(e)]; - The telephone number of the sending facsimile machine was (661) 322-3508. The telephone(s) number of the receiving facsimile machine(s) is listed below. The Court, Rule 2004 and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), the machine was caused to print a transmission record of the transmission, a copy of which is attached hereto.

() VIA OVERNIGHT DELIVERY on the date below stated, pursuant to CCP §1013(c)(d), I deposited such envelope with delivery fees fully prepaid with CALIFORNIA OVERNIGHT.

() BY MAIL I am readily familiar with the business' practice for collection and processing of correspondence and documents for mailing with the United States Postal Service. Under that practice, the correspondence and documents would be deposited with the United States Postal Service that same day, with postage thereon fully prepaid, in the ordinary course of business at Bakersfield, California.

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

Executed on April 26, 2006, at Bakersfield, California.

Kathleen Bettes
KATHLEEN BETTES