

1 **RICHARD G. ZIMMER - SBN 107263**
2 **T. MARK SMITH - SBN 162370**
3 **CLIFFORD & BROWN**
4 **A Professional Corporation**
5 **Attorneys at Law**
6 **Bank of America Building**
7 **1430 Truxtun Avenue, Suite 900**
8 **Bakersfield, CA 93301-5230**
9 **(661) 322-6023**

10 Attorneys for Bolthouse Properties, LLC and Wm. Bolthouse Farms, Inc.,

11 **SUPERIOR COURT OF CALIFORNIA**

12 **COUNTY OF SANTA CLARA**

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14 **COORDINATION PROCEEDING) Judicial Council Coordination Proceeding**
15 **SPECIAL TITLE (Rule 1550(b))) No. 4408**
16 **ANTELOPE VALLEY GROUNDWATER) CASE NO. 1-05-CV-409053**
17 **CASES)**
18 **INCLUDED ACTIONS:)**
19 **LOS ANGELES COUNTY) BOLTHOUSE PROPERTIES, LLC'S**
20 **WATERWORKS DISTRICT NO. 40 v.) AND WM. BOLTHOUSE FARMS,**
21 **DIAMOND FARMING COMPANY, et al.,) INC.'S OPPOSITION TO LOS**
22 **Los Angeles Superior Court Case No.) ANGELES COUNTY WATERWORKS**
23 **BC325201) DISTRICT NO. 40'S NOTICE OF**
24 **LOS ANGELES COUNTY) MOTION AND MOTION FOR LEGAL**
25 **WATERWORKS DISTRICT NO. 40 v.) FINDINGS ON WATER CODE**
26 **DIAMOND FARMING COMPANY, et al.,) REQUIREMENTS TO REPORT**
27 **Kern County Superior Court Case No. S-) EXTRACTIONS OF GROUNDWATER**
28 **1500-CV-254348) IN LOS ANGELES COUNTY AND**
) JOINDERS IN OPPOSITIONS OF
) COUNTY SANITATION DISTRICTS
) NOS. 14 AND 30 OF LOS ANGELES
) COUNTY AND STATE OF
) CALIFORNIA, ET AL'S
) DATE: February 14, 2012
) TIME: 9:00 a.m.
) DEPT: 1515
29 **DIAMOND FARMING COMPANY, and)**
30 **W.M. BOLTHOUSE FARMS, INC., v.)**
31 **CITY OF LANCASTER, et al.,)**
32 **Riverside Superior Court)**
33 **Case No. RIC 344436 [c/w case no. RIC)**
34 **344668 and 353840])**

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1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that Bolthouse Properties, LLC and Wm. Bolthouse Farms,
3 Inc. (hereinafter “Bolthouse”) hereby oppose Los Angeles County Waterworks District No.
4 40’s Notice of Motion and Motion for Legal Findings on Water Code Requirements to Report
5 Extractions of Groundwater in Los Angeles County. This Opposition is based upon the
6 following:

7 **JOINDER IN OPPOSITIONS**

8 Bolthouse hereby joins in the Oppositions/Objections to Los Angeles County
9 Waterworks district No. 40’s Motion for legal Findings on Water Code Requirements to Report
10 Extractions of Groundwater in Los Angeles County, filed by County Sanitation District Nos. 14
11 and 20 of Los Angeles County and State of California, Santa Monica Mounts Conservancy and
12 50th District Agricultural Association.

13 **THE REQUEST FOR LEGAL FINDINGS ON WATER CODE**
14 **REQUIREMENTS LACKS LEGAL AND FACTUAL CONTEXT**
15 **AND IS THEREFORE PREMATURE**

16 Request is made to make legal findings regarding *Water Code* sections in the absence of
17 any factual context in the lawsuit and without any legal context. The language of the statutes is
18 not in dispute. However, application of the statutes to the factual circumstances in the
19 underlying action and the legal ramifications of same, are in dispute by numerous parties.
20 Without identification of the factual context within which interpretation of the statute is
21 requested, it would be difficult for this Court to speculate how the parties intend to use this
22 statute. Likewise, without factual context, it would be difficult to speculate as to what legal
23 ramifications the statutes have. The moving party is requesting the Court speculate regarding
24 how the statutes are intended to be applied both factually and legally and to prejudge the
25 evidence which will be offered by the parties.. As such, the findings requested are
26 inappropriate.

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1 **ENGAGING IN THE PROCESS OF MAKING PRE-TRIAL FINDINGS**
2 **REGARDING EITHER STATUTORY AND/OR CASE LAW IN THE ABSENCE**
3 **OF ANY DEFINED FACTUAL CONTEXT AND WITHOUT EVIDENCE,**
4 **WILL LEAD TO A MULTIPLICITY OF SIMILAR QUESTS BY ALL**
5 **PARTIES FOR SUCH LEGAL FINDINGS**

6 Numerous parties have particular legal issues which they claim support their claims for
7 water allocation and which they claim bar or reduce another party's claims to water allocation.
8 Although the moving party suggests that "the largest and most divisive allocation dispute is the
9 legal issue: Whether Water Code section 4999 *et seq* applies in these coordination
10 proceedings.", Bolthouse respectfully disagrees. There are numerous issues, including alleged
11 federal reserve rights, prescription and return flows which from the view of landowners are
12 much more divisive than reporting issues. Each of these issues has multiple sub-issues related
13 to which the parties could request findings from this Court on both statutory and case law
14 interpretation. If the moving party has the opportunity to request discrete findings on statutory
15 interpretation and/or application of controlling case law, then other parties must have a similar
16 right to raise and litigate such issues before the Court in advance of trial.

17 **THE REQUEST FOR FINDINGS WILL DISRUPT THE SETTLEMENT**
18 **PROCESS AND DIVERT ATTENTION OF THE ATTORNEYS TO A**
19 **VIRTUALLY UNENDING TASK OF HAVING THIS COURT MAKE**
20 **LEGAL FINDINGS ON STATUTORY AND/OR CASE LAW**

21 All the parties have been diligently working toward a resolution of the case with Justice
22 Robie. All parties have made arguments at mediation involving overlying rights, appropriative
23 rights, prescription, return flows, public entity rights, federal reserve rights, correlative rights,
24 legal remedies, and the allocation process under current law. All parties are taking into
25 consideration these numerous claims and arguments and factoring these issues into their
26 evaluation of the terms upon which they are willing to settle the case. No one party's legal
27 claim in mediation is more important than another to the end that one party's legal issue should
28 be resolved by this Court as a pre-judgment, pre-trial finding to the exclusion of others.

1 Diverting the attention of the party attorneys away from the settlement process, and into a
2 drawn out determination of statutory and/or case law interpretation and with regard to facts
3 which have not yet been fully discovered, analyzed and/or litigated, would disrupt the
4 mediation process.

5 **AUTHORITY CITED FOR ENGAGING IN THIS PROCESS IS TENUOUS**

6 As noted above, the moving party requests interpretation of a series of statutes in the
7 absence of legal and/or factual context. While the trial court undeniably in a complex litigation
8 action has discretion with regard to management of the proceedings, the moving party has
9 provided no specific authority for making the findings requested, in the absence of legal and
10 factual context.

11 **CONCLUSION**

12 The parties are closer than ever to reaching an agreement with regard to allocation.
13 Hearing the current request for findings at this time, and additional requests for findings which
14 undoubtedly will follow, will disrupt this process.

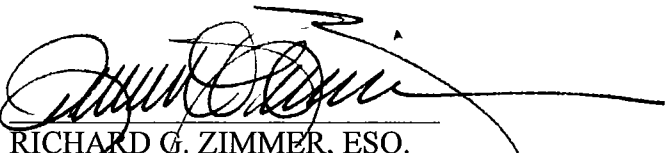
15 For the foregoing reasons, Bolthouse respectfully requests the Court deny the requests
16 for findings.

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18 DATED: January 31, 2012

Respectfully submitted.

19 CLIFFORD & BROWN

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21 By:


22 RICHARD G. ZIMMER, ESQ.
23 Attorneys for BOLTHOUSE PROPertes,
24 LLC and WM. BOLTHOUSE FARMS, INC

