

1 RICHARD G. ZIMMER - SBN 107263
T. MARK SMITH - SBN 162370
2 CLIFFORD & BROWN
3 A Professional Corporation
Attorneys at Law
4 Bank of America Building
1430 Truxtun Avenue, Suite 900
5 Bakersfield, CA 93301-5230
(661) 322-6023
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7 Attorneys for Bolthouse Properties, LLC and Wm. Bolthouse Farms, Inc.,

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SANTA CLARA

10 * * *

11 COORDINATION PROCEEDING) Judicial Council Coordination Proceeding
12 SPECIAL TITLE (Rule 1550(b))) No. 4408
)
13 ANTELOPE VALLEY GROUNDWATER) CASE NO. 1-05-CV-409053
14 CASES) Trial Date: 02/11/13
)
15 INCLUDED ACTIONS:)
)
16 LOS ANGELES COUNTY)
WATERWORKS DISTRICT NO. 40 v.)
17 DIAMOND FARMING COMPANY, et al.,) **BOLTHOUSE PROPERTIES, LLC'S**
Los Angeles Superior Court Case No.) **AND WM. BOLTHOUSE FARMS,**
18 BC325201) **INC.'S OBJECTION TO DEPOSITION**
) **NOTICES FILED BY THE DISTRICT 40**
19 LOS ANGELES COUNTY)
20 WATERWORKS DISTRICT NO. 40 v.)
DIAMOND FARMING COMPANY, et al.,)
21 Kern County Superior Court Case No. S-)
1500-CV-254348)
22)
23 DIAMOND FARMING COMPANY, and)
W.M. BOLTHOUSE FARMS, INC., v.)
24 CITY OF LANCASTER, et al.,)
Riverside Superior Court)
25 Case No. RIC 344436 [c/w case no. RIC)
344668 and 353840])
26)
27)

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

2 **PLEASE TAKE NOTICE** that objection is hereby made to the Notice of Depositions
3 filed by Los Angeles County Waterworks District 40, in conjunction with Quartz Hill Water
4 District, Littlerock Creek Irrigation District, Palm Ranch Irrigation District and Palmdale Water
5 District (hereinafter "District 40") on January 7, 2013 on the grounds that the deposition notices
6 do not comply with the *Code of Civil Procedure*, on the grounds that the depositions scheduled
7 cannot meaningfully be accomplished in the timeframe scheduled, on the grounds that the
8 scheduling will prevent parties from attending the depositions and on the grounds that scheduling
9 the depositions every day between now and January 31, 2013 will not allow time for depositions
10 by any other parties.

11 **THE DEPOSITION NOTICE DOES NOT COMPLY WITH CODE OF CIVIL**

12 **PROCEDURE, SECTION 2024.020**

13 *Code of Civil Procedure*, Section 2024.020 provides as follows:

14 **"Right of Parties to Specified Time Frames for Completion of
15 Discovery; Effect of Postponement or Continuance.**

16 (a) Except as otherwise provided in this chapter, any party
17 shall be entitled as a matter of right to complete discovery
18 proceedings on or before the 30th day, and to have motions
concerning discovery heard on or before the 15th day, before the
date initially set for the trial of the action." (Emphasis added.)

19 The Notices of Deposition set by the District 40 do not allow completion of discovery
20 before the 30th day before trial and do not allow time for motions to be heard before the 15th day
21 before trial, and are therefore untimely.

22 **THE DEPOSITION NOTICES DO NOT COMPLY WITH CODE OF CIVIL**

23 **PROCEDURE, SECTION 2024.030**

24 *Code of Civil Procedure*, Section 2024.030 provides as follows:

25 **"Right of Parties to Specified Time Frames for Completion of
26 Discovery Relating to Expert Witness.**

27 Any party shall be entitled as a matter of right to complete
28 discovery proceedings pertaining to a witness identified under
Chapter 18 (commencing with Section 2034.010) on or before the
15th day, and to have motions concerning that discovery heard on or

1 before the 10th day before the date initially set for the trial in the
2 action.” (Emphasis added.)

3 The Deposition Notices of the District 40 do not comply with Section 2024.030 because
4 they do not require completion of expert depositions by the 15th day before trial and do not provide
5 time to have motions regarding such experts heard before the 10th day before trial.

6 **THE DEPOSITIONS CANNOT BE COMPLETED**

7 **WITHIN THE TIME SCHEDULED**

8 The District 40 has noticed approximately one hundred thirty-nine (139) depositions
9 starting on January 10, 2013 and ending on January 31, 2013. Multiple depositions are set on the
10 same day. Some days have as many as thirteen (13) depositions scheduled, including expert
11 witnesses. This deposition schedule is patently unfeasible. Even if the depositions could be
12 completed within the time scheduled, it is doubtful all of the witnesses will present as scheduled
13 and doubtful all of the depositions can be completed within the time allowed. If the depositions
14 are not completed, including cross examination, the depositions cannot be used at trial, wasting
15 attorney and witness time and preventing parties from presenting or defending their cases.

16 **THE DEPOSITIONS NOTICED BY THE DISTRICT 40 LEAVE**

17 **NO TIME FOR COMPLETION OF DEPOSITIONS BY OTHER PARTIES**

18 The depositions set by the District 40 deal primarily with landowner groundwater
19 pumping. Other issues, including, but not limited to return flow rights and Federal Reserve rights,
20 are at issue. The deposition schedule leaves no time for depositions by any other parties on any
21 other issues other than landowner pumping.

22 **THE SCHEDULED DEPOSITIONS WILL DENY THE PARTIES**

23 **DUE PROCESS OF LAW**

24 The lawsuit involves the rights of all parties in the litigation. There are no two sides or
25 three sides to the litigation. All parties have an interest in not only the amount they are claiming
26 but the amounts that other individuals are claiming. Parties have a right to attend all of the
27 depositions if they desire. It is not possible to attend all of the depositions at once. Additionally,
28 parties would be precluded from attending expert depositions based upon the current schedule.

1 Accordingly, the District 40's schedule denies each party due process of law and the ability to
2 attend depositions.

3 Additionally, there will be no time for investigation, further depositions, dispositive
4 motions, expert review, further discovery based upon the depositions set, and for motions
5 regarding witnesses or experts. Finally, there will be virtually no time to obtain deposition
6 transcripts and to properly prepare for trial given the short time between the potential completion
7 of depositions and the trial date.

8
9 DATED: January 8, 2013

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11 CLIFFORD & BROWN

12 By: 

13 RICHARD G. ZIMMER, ESQ.
14 Attorneys for BOLTHOUSE PROPERTES,
15 LLC and WM. BOLTHOUSE FARMS, INC.
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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 January 8, 2013, I served the foregoing document(s) entitled:

**BOLTHOUSE PROPERTIES, LLC'S AND WM. BOLTHOUSE FARMS, INC.'S
OBJECTION TO DEPOSITION NOTICES FILED BY DISTRICT 40**

— 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-FILED IN COMPLEX LITIGATION PURSUANT TO CLARIFICATION ORDER DATED OCTOBER 27, 2005.**

Executed on January 8, 2013, 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