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7

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 )  
13 ANTELOPE VALLEY GROUNDWATER ) CASE NO. 1-05-CV-409053  
CASES )  
14 INCLUDED ACTIONS: ) **BOLTHOUSE PROPERTIES, LLC'S AND**  
 ) **WM. BOLTHOUSE FARMS, INC.'S**  
15 LOS ANGELES COUNTY WATERWORKS ) **OPPOSITION TO MOTION FOR**  
DISTRICT NO. 40 v. DIAMOND ) **PROTECTIVE ORDER FILED BY**  
16 FARMING COMPANY, et al., ) **LITTLEROCK CREEK IRRIGATION**  
Los Angeles Superior Court ) **DISTRICT, PALM RANCH IRRIGATION**  
17 Case No. BC325201 ) **DISTRICT, CALIFORNIA SERVICE**  
 ) **WATER COMPANY, CITY OF**  
18 LOS ANGELES COUNTY WATERWORKS ) **LANCASTER, PALMDALE WATER**  
DISTRICT NO. 40 v. DIAMOND ) **DISTRICT AND QUARTZ HILL WATER**  
19 FARMING COMPANY, et al., ) **DISTRICT**  
Kern County Superior Court )  
20 Case No. S-1500-CV-254348 )  
21 DIAMOND FARMING COMPANY, and )  
W.M. BOLTHOUSE FARMS, INC., v. )  
22 CITY OF LANCASTER, et al., )  
Riverside Superior Court ) DATE: OCTOBER 16, 2007  
23 Case No. RIC 344436 [c/w case ) TIME: 9:00 a.m.  
no. RIC 344668 and 353840] ) DEPT: 1  
24 )  
25 )  
26 )

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BOLTHOUSE PROPERTIES, LLC'S AND WM. BOLTHOUSE FARMS, INC.'S OPPOSITION TO MOTION FOR PROTECTIVE ORDER FILED BY LITTLEROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT, CALIFORNIA SERVICE WATER COMPANY, CITY OF LANCASTER, PALMDALE WATER DISTRICT AND QUARTZ HILL WATER DISTRICT

1 I. INTRODUCTION

2 In this litigation, each Water Purveyor has alleged a claim  
3 of prescriptive rights in Bolthouse property and that of all  
4 named parties as well as all overlying property owners within the  
5 established jurisdictional boundary. On December 2, 2005, at the  
6 scheduled Case Management Conference, counsel for Diamond Farming  
7 specifically asked this court if there was any prohibition  
8 against initiating discovery. This court affirmed that there was  
9 no problem. (See Declaration of Bob H. Joyce in Support of this  
10 Opposition and Exhibit "A" thereto.) On December 2, 2005, none  
11 of the Water Purveyors objected and none sought to then limit  
12 discovery. Thereafter, on May 22, 2007, the public water  
13 suppliers (including all of the moving parties herein)  
14 collectively served a First Set of Special Interrogatories.  
15 Responses to that discovery were propounded.

16 On August 15, 2007, Bolthouse Properties, LLC and Wm.  
17 Bolthouse Farms, Inc. (collectively "Bolthouse") served its  
18 Request for Admissions [Set One], Form Interrogatories [Set One],  
19 Special Interrogatories [Set One], and Request for Production of  
20 documents [Set One]. On September 14, 2007, Los Angeles County  
21 Waterworks District No. 40 and Rosamond Community Services  
22 District served objections to each separate Request for Admission,  
23 Special Interrogatory and Request for Production of Documents,  
24 with the exception of a handful of responses. The same repeated  
25 objection consisted of the following response:

1 "Objection. The request is premature, burdensome and  
2 oppressive. This request seeks information concerning  
3 defendant class members and the court has not yet  
4 completed its defendant class certification process."

5 The remaining moving parties herein, did not provide any  
6 responses to Bolthouse's Request for Admissions [Set One], Form  
7 Interrogatories [Set One], Special Interrogatories [Set One], and  
8 Request for Production of documents [Set One], but brought the  
9 instant motion.

10 The moving parties now concede that the discovery is both  
11 material and relevant. **"The Water Purveyors do not contest the  
12 landowner's rights to this information."** (See Motion, p. 6,  
13 lines 9-10.)

14 On September 13, 2007, the present motion seeking a  
15 protective order was filed by LITTLE ROCK CREEK IRRIGATION  
16 DISTRICT, PALM RANCH IRRIGATION DISTRICT, CALIFORNIA SERVICE  
17 WATER COMPANY, CITY OF LANCASTER, PALMDALE WATER DISTRICT AND  
18 QUARTZ HILL WATER DISTRICT (collectively "Water Purveyors"). The  
19 focus of this motion is admittedly not on the content of the  
20 discovery sought as the Water Purveyors admit that the  
21 information is relevant to the action and that Bolthouse is  
22 entitled to the information.<sup>1</sup> Nonetheless, they have filed this  
23 belated motion unjustly seeking a court order to limit the  
24 ability of the landowners to conduct discovery while retaining  
25 their own discovery rights. (See Motion, p. 7, line 1-4.)

26 As set forth below, this motion filed by the Water Purveyors

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<sup>1</sup> "The Water Purveyors do not contest the landowner's right to this information. The

1 must be denied as it is untimely and does not comport with the  
2 *Code of Civil Procedure*. The delay has prejudiced Bolthouse.  
3 Granting any part of this motion would be unjust and prejudicial  
4 to the overlying landowner's rights in this case.

5 The order sought would not advance the objectives of complex  
6 litigation procedures and this court's management of this case,  
7 but would retard and delay pretrial resolution of issues.

8 "The complex litigation procedure is intended to  
9 facilitate pretrial resolution of evidentiary and other  
10 issues, and to minimize the time and expense of lengthy  
or multiple trials. [Citations.]" (*Rutherford v.*  
*Owens-Illinois* (1997) 16 Cal.4<sup>th</sup> 952,967.)

11 "The purposes of California's discovery statutes are  
12 well known. They are intended, among other things, to  
13 assist the parties and the trier of fact to  
ascertaining the truth; to encourage settlement by  
14 educating the parties as to the strengths of their  
claims and defenses; to expedite and facilitate  
15 preparation and trial; to prevent delay; and to  
safeguard against surprise." (*Beverly Hosp. v.*  
*Superior Court* (1993) 19 Cal.App.4<sup>th</sup> 1289, 1294.)

16 If, and to the extent, this court grants any part of this  
17 motion, Bolthouse requests that it only be granted as to the  
18 moving parties herein and that any party who is not a moving  
19 party remain subject to the discovery pursuant to the *Code of*  
20 *Civil Procedure*.

## 21 II. ARGUMENT

### 22 A. The Water Purveyors' Motion Seeking A Protective Order Is 23 Untimely

24 The timing limitations for the filing of a Motion for  
25

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26 **Water Purveyors agree that this information should be provided fully and fairly at the  
appropriate time.**" (See Motion, P. 6, Lines 9-10.)

1 Protective Order is governed by multiple statutes<sup>2</sup> all of which  
2 reiterate the same basic rule:

3 "When [discovery has been served], the responding party  
4 may promptly move for a protective order. This motion  
5 shall be accompanied by a meet and confer declaration  
6 under Section 2016.040 . . . . The court, for good  
7 cause shown, may make any order that justice requires  
8 to protect any party from unwarranted annoyance,  
9 embarrassment, oppression, or undue burden and  
10 expense."

11 The word "promptly" is not specifically defined in the  
12 statute but, has a well-established meaning in common parlance.  
13 The dictionary defines it as "1. Being ready and quick to act as  
14 occasion demands; 2. performed readily or immediately."  
15 (Merriam-Websters Collegiate Dictionary 10<sup>th</sup> Edition (1993).)  
16 The evidence that is before the court shows that the moving  
17 parties were anything but prompt. They did not raise the issue  
18 or object at the Case Management Conference on December 2, 2005.  
19 They did not move for a protective order when served with the  
20 discovery.

21 The prompt requirement set forth in the statute is designed  
22 to balance the statutory burdens placed on the parties. When a  
23 party is commanded to promptly move for a protective order, the  
24 burden is on that party to show good cause as to why the  
25 propounding parties discovery should be denied. (*Southern  
26 California Edison Co. v. Superior Court of Los Angeles County*  
27 (1972) 7 Cal.3d 832, 843.) Under this statutory scheme, the

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<sup>2</sup> Code of Civil Procedure, Sections 2017.020, 2019.030, 2030.090, 2031.060 and  
2033.080

1 responding party can shift that burden of foregoing the  
2 protections afforded by the motion for protective order and  
3 assert objections to the discovery. When, as in this case, the  
4 party seeking to deny another's rights to discovery, elects to  
5 wait the statutory time frame for the response, it has thereafter  
6 waived its rights to bring that motion. This is borne out by the  
7 fact that once a party's deadline to act has expired, they cannot  
8 thereafter seek court intervention to have the expired date  
9 extended. (*People v. Am. Sur. Ins. Co.* (1999) 75 Cal.App.4<sup>th</sup>  
10 719, 727.)

11 "Common sense compels the conclusion that a trial court  
12 cannot extend a time period that has already expired.  
13 We must use common sense when construing a statute."  
(*Id.*)

14 Under the statutory scheme, this motion should have been  
15 made after the discovery was served. (This is especially true  
16 when the discovery is conceded to be both material and relevant.)

17 **B. The Motion Fails To State The Elements Required To Grant A**  
18 **Protective Order**

19 In order for this court to exercise its discretion and make  
20 a protective order, this court must first find that the Water  
21 Purveyors have shown good cause for the order and that the  
22 discovery propounded constitutes an "unwarranted annoyance,  
23 embarrassment, or oppression, or undue burden and expense."  
24 Neither of these elements have been shown in the moving papers.

25 **1. Good Cause**

26 The element of "good cause" is required by each and every

1 discovery statute governing the issuance of protective orders.  
2 (See *Code of Civil Procedure, Sections 2030.090, 2031.060 and*  
3 *2033.080.*) The burden of showing "good cause" for a protective  
4 order rests on the party seeking to deny the other's discovery  
5 right. (*Southern California Edison Co. v. Superior Court of Los*  
6 *Angeles County, supra, 7 Cal.3d, at p. 843.*)

7 "[G]ood cause which must be shown should be such that  
8 will satisfy an impartial tribunal that the request may  
9 be granted without abuse of the inherent rights of the  
adversary." (*Greyhound Corp. v. Superior Court of*  
*Merced County (1961) 56 Cal.2d 355, 388.*)

10 Despite being a required element, the Water Purveyors do not  
11 address "good cause" in their moving papers. To the extent it  
12 can be argued that the Water Purveyors have inferentially made a  
13 case for "good cause" they have intermingled their arguments with  
14 the second required element, that the discovery constitutes an  
15 "unwarranted annoyance, embarrassment, or oppression, or undue  
16 burden and expense." These arguments however fall short of the  
17 pleading and proof required to grant the relief sought by their  
18 motion.

19 **2) The Water Purveyors Have Failed To Show That**  
20 **Bolthouse's Discovery Constitutes An "Unwarranted,**  
21 **Annoyance, Embarrassment, Or Opression, Or Undue Burden**  
**and Expense"**

22 By waiting the statutory time and then responding to  
23 Bolthouse's discovery, the Water Purveyors have created a  
24 situation where they have limited the basis upon which they can  
25 contest the discovery. It has been a long understood  
26 interpretation of the discovery statutes that a party's failure

1 to assert an objection to discovery within the time provided by  
2 the statutes ordinarily results in a waiver of his right to  
3 assert that objection. (*Willis v. Superior Court* (1980) 112  
4 Cal.App.3d 277, 289 fn. 3.) As quoted above, the Water Purveyors  
5 raised only two objections that may be considered, those are  
6 burden and oppression. All other objections are waived including  
7 the now asserted relevance claim asserted in Part B of the  
8 motion.

9 "There is no provision for the subsequent filing of  
10 objections. . . . it could not, in the absence of a  
11 showing of good cause for relief from default, file  
12 further objections. It follows that the only grounds  
13 that existed at the time the trial court made its  
14 order, and on which it could then predicate the same,  
15 were the grounds stated in Pacific's objections as  
16 originally filed." (*Coy v. Superior Court of Contra*  
17 *Costa County* (1962) 58 Cal.2d 210, 217.)

18 While this case discusses the statutory language of the  
19 Discovery Statutes prior to the most recent amendments, its rule  
20 still holds true today. The Water Purveyors waived any objection  
21 to this discovery not asserted in their original responses,  
22 therefore only the objections of burden and oppression will be  
23 addressed.

24 **a. Burden**

25 The Water Purveyors inferentially argue that the discovery  
26 creates an undue burden on them because the information sought is  
27 voluminous and not "directly" relevant to what they perceive to  
28 be the current phase of the trial. This is an improper standard  
29 to evaluate burden.

30 "[S]ome burden is inherent in all demands for



1 discovery. The objection of burden is valid only when  
2 that burden is demonstrated to result in injustice.  
3 Hence, the trial court is not empowered to sustain an  
4 objection in toto, when the same is predicated upon  
5 burden, unless such is the only method of rendering  
6 substantial justice." (*West Pico Furniture Co. v.*  
7 *Superior Court of Los Angeles County* (1961) 56 Cal.2d  
8 407, 418.)

9 "The fact alone that the response to an interrogatory  
10 may be expensive and burdensome does not justify a  
11 refusal to answer." (*Alpine Mut. Water Co. v. Superior*  
12 *Court of Ventura County* (1968) 259 Cal.App.2d 45, 55.)

13 The Water Purveyors cannot show that the discovery would  
14 result in injustice. They have conceded its relevancy. The  
15 Water Purveyors have delayed bringing this motion. The Water  
16 Purveyors concede that Bolthouse is entitled to this information  
17 sought. Bolthouse does not object to a reasonable time within  
18 which to provide the discovery responses, and a reasonable time  
19 should be provided so long as a date certain is set.

20 The Water Purveyors' relevance argument was waived,  
21 contradicts the concession of relevancy, and is a misstatement of  
22 the discovery statutes and should therefore be ignored. *Code of*  
23 *Civil Procedure, Section 2017.010* provides as follows:

24 "Unless otherwise limited by order of the court in  
25 accordance with this title, any party may obtain  
26 discovery regarding any matter, not privileged, that is  
relevant to the subject matter involved in the pending  
action or to the determination of any motion made in  
that action, if the matter either is itself admissible  
in evidence or appears reasonably calculated to lead to  
the discovery of admissible evidence. Discovery may  
relate to the claim or defense of the party seeking  
discovery or of any other party to the action . . . ."

27 Bolthouse's discovery is conceded to be relevant to the  
28 subject matter. Depending on the responses provided by the Water

1 Purveyors, Bolthouse may seek to de-certify the now certified  
2 class. Bolthouse intends to seek a summary adjudication of the  
3 prescription claims asserted. Staying this discovery until the  
4 prescription issue is set for trial will delay and prejudice  
5 Bolthouse's rights to bring these motions.

6 "Good cause for disclosure might be a party's inability  
7 to prepare its claim or defense because he cannot  
8 obtain the information elsewhere." (*Hernandez v.*  
9 *Superior Court* (2003) 112 Cal.App.4<sup>th</sup> 285, 298.)

10 **b. Oppression**

11 The Water Purveyors have failed to provide the court with  
12 any evidence upon which a finding of oppression can be made.

13 "[T]o support an objection of oppression there must be  
14 some showing either of an intent to create an  
15 unreasonable burden or that the ultimate effect of the  
16 burden is incommensurate with the result sought."  
17 (*West Pico Furniture Co. v. Superior Court of Los*  
18 *Angeles County* (1961) 56 Cal.2d 407, 417.)

19 The Water Purveyors have made no showing of an ill intent by  
20 Bolthouse. On the contrary, the Water Purveyors acknowledge that  
21 the discovery seeks information to which Bolthouse is entitled.  
22 Bolthouse's offer to reasonably extend the time to respond  
23 confirms there was no ill intent.

24 "While it is true that the trial court has a broad  
25 discretion in passing on an objection that there has  
26 been harassment and oppression (*Cembrook v Superior*  
*Court*, 56 Cal.2d 423, 427), such discretion is not  
absolute. As was said in *Cembrook*, such discretion  
does not authorize the trial court "to make blanket  
orders barring disclosure in toto when the factual  
situation indicates that a just and equitable order  
could be made that would authorize disclosure with  
limitations." (*Coy v. Superior Court of Contra Costa*  
*County* (1962) 58 Cal.2d 210, 221-222.)

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1     **C.    While The Court Has The Discretion To Manage Discovery In**  
2     **Complex Cases, That Discretion Is Not Unlimited**

3           The Public Water Purveyors focus the premise of their motion  
4     on the discretion granted a court in complex litigation to manage  
5     the case.  From this assertion the Public Water Purveyors then  
6     make the illogical inference that this discretion allows the  
7     court to ignore a statutory scheme and make any order requested.  
8     This claim is contrary to the intent and objective of the complex  
9     litigation rules.

10           "The complex litigation procedure is intended to  
11     facilitate pretrial resolution of evidentiary and other  
12     issues, and to minimize the time and expense of lengthy  
13     or multiple trials.  [Citations.]"  (*Rutherford v.*  
14     *Owens-Illinois* (1997) 16 Cal.4<sup>th</sup> 953, 967.)

15           To delay the time for responses to the discovery will hinder  
16     not further these objectives.  The Public Water Purveyors cite to  
17     several cases that cite, the now repealed, *subsection (f) of*  
18     *Standards of Judicial Administration §19*.  The Public Water  
19     Purveyors loose interpretation of these cases attempts to mislead  
20     the court and overstate the court's discretionary decision making  
21     powers.

22           The current version of *Standard 3.10* provides, in  
23     pertinent party:

24           "(a)   **Judicial management.**  In complex litigation,  
25     judicial management should begin early and be applied  
26     continuously and actively, based on knowledge of the  
27     circumstances of each case . . . .

28           "(d)   **Establishing time limits.**  Time limits should be  
29     regularly used to expedite major phases of complex  
30     litigation.  Time limits should be established early,  
31     tailored to the circumstances of each case, firmly and

1 fairly maintained, and accompanied by other methods of  
2 sound judicial management.

3 "(e) **Preparation for trial.** Litigants in complex  
4 litigation cases should be required to minimize  
evidentiary disputes and to organize efficiently their  
exhibits and other evidence before trial.

5 "(f) **Dilatory tactics.** Judges involved in complex  
6 litigation should be sensitive to dilatory or abusive  
litigation tactics and should be prepared to invoke  
7 disciplinary procedures for violations."

8 When these standards are read with *Rule of Court 3.541*<sup>3</sup>, it  
9 is clear the court is empowered to establish time limits for the  
10 various phases of the litigation including discovery pursuant to  
11 a set procedure. However, the court's discretion for setting  
12 timetables for discovery should fulfill the objective to  
13 "expedite" not delay the litigation.

14 This court has held multiple case management conferences in  
15 which the Public Water Purveyors have participated and submitted  
16 proposed orders. They have not previously requested that this  
17 court set a discovery schedule. When the issue of discovery was  
18 specifically raised by counsel for Diamond during the December  
19 20065 Case Management Conference, they did not then, or any time  
20 thereafter, request that the court limit or establish a discovery  
21 schedule. The discovery process to date has been governed by the  
22 procedures specified in the *Code of Civil Procedure*.

23 The court's discretion is further limited when there is a  
24 procedure set forth in a statute or rule of court. The Supreme  
25

26 <sup>3</sup> Prior to January 1, 2007, the pronouncement in *Rule 3.541(a)* was apart of the  
judicial standard *Section 19* lettered as *subdivision (e)*.

1 Court has stated:

2 "Courts have inherent power, as well as power under  
3 section 187 of the Code of Civil Procedure, to adopt  
4 any suitable method of practice, both in ordinary  
5 actions and special proceedings, if the procedure is  
6 not specified by statute or by rules adopted by the  
7 Judicial Council." (*Citizens Utilities Co. v. Superior  
8 Court of Santa Cruz County* (1963) 59 Cal.2d 805, 813;  
9 See also *Rutherford v. Owens-Illinois, supra*, 16  
10 Cal.4<sup>th</sup> at p. 967.)

11 The discovery act is generally viewed as comprehensive and  
12 exclusive. (*Zellerino v. Brown* (1991) 235 Cal.App.3d 1097,  
13 1104.) The time limits for the filing of this Motion for a  
14 Protective Order are set forth in the discovery act. None of the  
15 authority cited by the Public Water Purveyors suggest that this  
16 court should, through discretion, ignore the "promptly" time  
17 limit set forth in the Code. The exercise of the court's  
18 discretion to grant the relief sought is not unlimited and must  
19 be exercised with reason.

20 In *Greyhound Corp. v. Superior Court* (1961) 56 Cal.2d 344,  
21 the Supreme Court set forth the correct test to be employed in  
22 properly allocating the burden of discovery between the parties.

23 The *Greyhound* court stated:

24 "To constitute a proper exercise of discretion, the  
25 factual determination of the trial court should clearly  
26 and unequivocally be based upon the following legal  
concepts:

"1. The legislative purposes above set forth are not to  
be subverted under the guise of the exercise of  
discretion;

"2. Those purposes are to be given effect rather than  
thwarted, to the end that discovery is encouraged;

"3. When disputed facts provide a basis for the

1 exercise of discretion, those facts should be liberally  
2 construed in favor of discovery, rather than in the  
most limited and restrictive manner possible;

3 "4. Although the statutory limitations on discovery  
4 must be applied when the facts so warrant, exercise of  
5 discretion does not authorize extension thereof beyond  
6 the limits expressed by the Legislature;

7 "5. There is no room for judicial discretion in those  
8 situations not included in the statutes but asserted as  
9 general limitations on the privileges conferred. Such  
10 situations, however, may be subject to judicial  
11 discretion under the statutory power to prevent abuse  
12 and advance the ends of justice;

13 "6. The power to prevent abuse which is bestowed on the  
14 trial court by the provisions of section 2019,  
15 subdivision (b)(1), is the power to exercise discretion  
16 based upon the factual showing made. When the record  
17 indicates facts on which the court exercised its  
18 discretion, that exercise will not be disturbed on  
19 appeal; when the facts are undisputed, or there is but  
20 one reasonable interpretation thereof, the question  
ceases to be fact, and is one of law;

21 "7. The trial courts in exercising their discretion  
22 should keep in mind that the Legislature has suggested  
23 that, where possible, the courts should impose partial  
24 limitations rather than outright denial of discovery;

25 "8. In the exercise of its discretion the court should  
26 weigh the relative importance of the information sought  
against the hardship which its production might entail,  
and it must weigh the relative ability of the parties  
to obtain the information before requiring the  
adversary to bear the burden or cost of production,  
keeping in mind the statutory admonition of entering an  
order consistent with justice." (*Id.*, at pp. 383-384.)

A fair evaluation of each of these concepts leads to the  
conclusion that the discovery should be allowed. The outright  
delay of Bolthouse's discovery as proposed by the Public Water  
Purveyors would result in subverting and thwarting the  
legislative purpose of the discovery act.

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1 "The purposes of California's discovery statutes are  
2 well known. They are intended, among other things, to  
3 assist the parties and the trier of fact in  
4 ascertaining the truth; to encourage settlement by  
5 educating the parties as to the strengths of their  
6 claims and defenses; to expedite and facilitate  
7 preparation and trial; to prevent delay; and to  
8 safeguard against surprise." (*Beverly Hosp. v.*  
9 *Superior Court* (1993) 19 Cal.App.4<sup>th</sup> 1289, 1294.)

10 It would also be counterproductive to the stated goal of  
11 expediting complex litigation to allow the Public Water  
12 Purveyors' delay and thus evade responding to the discovery.

13 **III. CONCLUSION**

14 "The complex litigation procedure is intended to  
15 facilitate pretrial resolution of evidentiary and other  
16 issues, and to minimize the time and expense of lengthy  
17 or multiple trials. [Citations.]" (*Rutherford v.*  
18 *Owens-Illinois* (1997) 16 Cal.4<sup>th</sup> 953, 967.)

19 The exercise of discretion must strive to "expedite" not  
20 delay complex litigation. As conceded, **"The Water Purveyors do  
21 not contest the landowner's right to this information. The Water  
22 Purveyors agree that this information should be provided fully  
23 and fairly at the appropriate time. The Water Purveyors  
24 contemplate propounding responses to this discovery as instructed  
25 by the court."** (Motion, p. 6, lines 9-12.) The only issue  
26 raised by the Motion is: When must the responses to the discovery  
be served?


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This court should set a date certain within which the Water Purveyors must "fully and fairly" provide responses.

DATED: October 8, 2007

CLIFFORD & BROWN

By:   
RICHARD G. ZIMMER, ESQ.  
T. MARK SMITH, ESQ.  
Attorneys for Plaintiffs/  
Defendants/Cross-Defendants,  
Bolthouse Properties, 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 October 9, 2007, I served the foregoing document(s) entitled:

**BOLTHOUSE PROPERTIES, LLC'S AND WM. BOLTHOUSE FARMS, INC.'S  
OPPOSITION TO MOTION FOR PROTECTIVE ORDER FILED BY LITTLE ROCK  
CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT,  
CALIFORNIA SERVICE WATER COMPANY, CITY OF LANCASTER, PALMDALE  
WATER DISTRICT AND QUARTZ HILL WATER DISTRICT**

XX 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 October 9, 2007, 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