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Bolthouse Farms, Inc.,
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:)
15 LOS ANGELES COUNTY WATERWORKS)
DISTRICT NO. 40 v. DIAMOND)
16 FARMING COMPANY, et al.,) CASE MANAGEMENT STATEMENT
Los Angeles Superior Court) OF BOLTHOUSE PROPERTIES, LLC
17 Case No. BC325201) AND WM. BOLTHOUSE FARMS, INC.
18 LOS ANGELES COUNTY WATERWORKS)
DISTRICT NO. 40 v. DIAMOND)
19 FARMING COMPANY, et al.,)
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.,) DATE: November 5, 2007
Riverside Superior Court) TIME: 9:00 a.m.
23 Case No. RIC 344436 [c/w case) DEPT: 1
no. RIC 344668 and 353840]
24)
25)
26)

1 BOLHOUSE PROPERTIES, LLC and WM. BOLTHOUSE FARMS, INC.
2 (hereinafter referred to as "Bolthouse") provide the following
3 input regarding potential bifurcation of the action:

4 Bolthouse Farms has been seeking redress in a Court of law
5 for claims of alleged prescription for roughly eight (8) years.
6 Bolthouse Farms and Diamond Farming have expended great sums of
7 money attempting to quiet title to their properties and to force
8 the public water providers to either prove claims of prescription
9 or to have the Court issue a declaration that no such claims have
10 been proved. The public water purveyors delayed the Riverside
11 action over and over in order to avoid their burden of proving
12 claims of alleged prescription or other challenge to the
13 overlying right of Bolthouse and Diamond to reasonably pump and
14 use water on their properties.

15 In this consolidated action which has now been in existence
16 for two (2) years, very little of substance has been
17 accomplished. Although a rough area of adjudication has been
18 determined by the Court, the public water suppliers have done
19 virtually nothing regarding serving the parties they know will be
20 involved in the lawsuit. Bolthouse Properties, LLC and Wm.
21 Bolthouse Farms, Inc. request that the Court order the public
22 water suppliers to serve all parties to the action no later than
23 December 31, 2007.

24 The Court is entertaining the idea of multiple phasing of
25 the case. Bolthouse requests that phasing be kept to a minimum
26 in light of the extreme injustice to Bolthouse and Diamond caused

1 by the public water providers derailing the Riverside action and
2 expanding the scope of the lawsuit dramatically. Bolthouse
3 suggests that rather than phasing factual issues which are not
4 determinative of any cause of action, the Court should phase the
5 matter in such a way as to dispose of as many causes of action as
6 possible in each phase.

7 Bolthouse suggests the case be comprised of two phases. In
8 the first phase, the public water providers, along with any other
9 party claiming a right to water use adverse to the water use of
10 overlying landowners, must prove such adverse claims. For
11 example, prescription would be one of the alleged adverse claims
12 proffered by the public water providers.

13 My necessity in the first phase, the public water producers
14 will be required to prove the nature and character of the basin,
15 the water balance of the basin including safe yield, prescriptive
16 water use by the various parties, whether such use was
17 reasonable, etc. Accordingly, there will be no need to have
18 separate trials on the sub issues. Additionally, the case will
19 be litigated in an economically and time sensitive manner which
20 will afford overlying landowners the finality they require to
21 plan business operations and will provide the finality necessary
22 for the public water producers to evaluate future construction,
23 water needs, water banking, etc.

24 If the public water producers prove that the basin is
25 currently in overdraft and in need of a physical solution, the
26 second phase of trial would require the public water producers to

1 prove up the factual and legal basis for a potential physical
2 solution which properly prioritizes water rights pursuant to the
3 California Supreme Court's direction in the Mojave case and will
4 allow notice and opportunity to be heard by all other parties
5 with regard to any proposed physical solution.

6 **CONCLUSION**

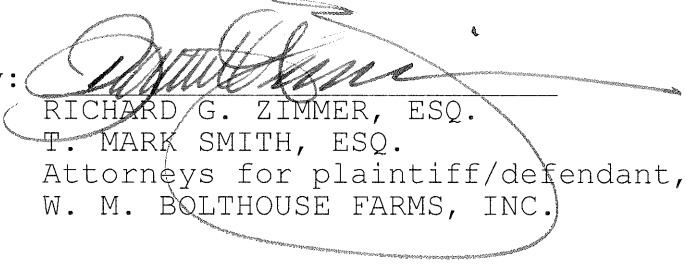
7 Bolthouse and Diamond Farming, along with the other parties
8 to this case, are entitled to prompt resolution of the claims
9 before the Court. Prompt resolution will conserve judicial
10 resources, conserve party resources, give finality to the parties
11 for planning purposes and further the ends of justice.

12 The Court's consideration of these issues is respectfully
13 requested and appreciated.

14 DATED: October 23, 2007

CLIFFORD & BROWN

15
16 By:


RICHARD G. ZIMMER, ESQ.
T. MARK SMITH, ESQ.
Attorneys for plaintiff/defendant,
W. M. BOLTHOUSE FARMS, INC.

1 **PROOF OF SERVICE (C.C.P. §1013a, 2015.5)**

2 *Antelope Valley Groundwater Cases*
3 *Judicial Counsel Coordination Proceeding No. 4408*
4 *Santa Clara County Superior Court Case No. 1-05-CV-049053*

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

7 On October 23, 2007, I served the foregoing document(s) entitled:

8 **CASE MANAGEMENT STATEMENT OF BOLTHOUSE PROPERTIES, LLC AND WM.
9 BOLTHOUSE FARMS, INC.**

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

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

14 X **BY SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX
15 LITIGATION PURSUANT TO CLARIFICATION ORDER DATED OCTOBER
16 27, 2005.**

17 Executed on October 23, 2007, at Bakersfield, California.

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

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

22 
23 NANETTE MAXEY
24 2455-2
25
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