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8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

10 * * *

11 COORDINATION PROCEEDING
SPECIAL TITLE (Rule 1550(b))

12 ANTELOPE VALLEY GROUNDWATER
13 CASES

14 INCLUDED ACTIONS:

15 LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40 v. DIAMOND FARMING
16 COMPANY, et al.,
Los Angeles Superior Court Case No. BC325201

17 LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40 v. DIAMOND FARMING
18 COMPANY, et al.,
19 Kern County Superior Court Case No. S-1500-
CV-254348

20 DIAMOND FARMING COMPANY, and W.M.
21 BOLTHOUSE FARMS, INC., v. CITY OF
LANCASTER, et al.,
22 Riverside Superior Court Case No. RIC 344436
[c/w case no. RIC 344668 and 353840]
23

24 AND RELATED ACTIONS.

25 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

26 PLEASE TAKE NOTICE that defendants, BOLTHOUSE PROPERTIES, LLC and WM.
27 BOLTHOUSE FARMS, INC. (hereinafter “BOLTHOUSE”) move in limine for an order preventing
28 experts from testifying to the hearsay opinions of other experts.

JUDICIAL COUNCIL COORDINATION PROCEEDING
No. 4408

CASE NO. 1-05-CV-049053
Action Filed: October 26, 2005

**BOLTHOUSE PROPERTIES, LLC’S AND
WM. BOLTHOUSE FARMS, INC.’S
MOTION IN LIMINE NO. 1 TO PREVENT
EXPERTS FROM TESTIFYING TO
HEARSAY OPINIONS OF OTHER
EXPERTS**

Phase 5

Trial Date: February 10, 2014
Time: 9:00 a.m.
Dept: Old Dept. 1

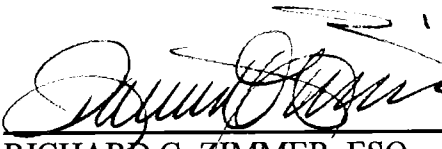
1 An expert may properly base an opinion on facts personally observed by an expert and upon
2 data reviewed by such an expert. (*Behr v. County of Santa Cruz* (1959) 172 Cal.App.2nd 697.) An
3 expert may also rely upon hearsay in forming opinions. However, the expert may not simply relate
4 an out-of-court opinion of another expert. (*Whitfield v. Roth* (1974) 10 Cal.3d 874.)

5 The rationale for not allowing one expert to simply repeat the hearsay opinion of another
6 expert lies in the fact that the hearsay opinion of a non-testifying expert could simply be stated by a
7 testifying expert thereby avoiding any cross-examination of the non-testifying expert including the
8 basis for such opinions. Assuming the non-testifying expert does testify and provide such opinions,
9 having another expert simply repeat such hearsay opinions would be cumulative and irrelevant.

10 During the Phase 3 trial, the purveyor parties attempted to introduce the opinions of non-
11 testifying experts through the use of testifying experts. The landowner parties objected to this
12 attempt to place the opinions of non-testifying experts into evidence. This court properly ruled that
13 hearsay evidence, including the opinions of other non-testifying experts, was not being admitted for
14 the truth, but rather, solely accepted as a basis for the testifying expert's opinion. Accordingly,
15 BOLTHOUSE requests the Court order that testifying experts be instructed not to include in their
16 testimony the opinions of non-designated, non-testifying experts.

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18 DATED: January 24, 2014

CLIFFORD & BROWN

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20 By 
21 RICHARD G. ZIMMER, ESQ.
22 T. MARK SMITH, ESQ.
23 Attorneys for BOLTHOUSE PROPERTIES, LLC
24 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, Suite 900, Bakersfield, CA 93301.

On January 24, 2014, I served the foregoing document(s) entitled:

**BOLTHOUSE PROPERTIES, LLC'S AND WM. BOLTHOUSE FARMS, INC.'S
MOTION IN LIMINE NO. 1 TO PREVENT EXPERTS FROM TESTIFYING TO
HEARSAY OPINIONS OF OTHER EXPERTS**

by placing the document listed above to the Santa Clara Superior Court website in regard to the Antelope Valley Groundwater Matter. All parties listed on the Santa Clara Superior Court in regard to the Antelope Valley Groundwater Matter are hereby incorporated within by this reference.

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

Executed on January 24, 2014, 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.


SUE HAYS
{2455-2}